

**INTERIM REPORT**

# A COLLECTIVE IMPACT

**Interim report on the inquiry into racial profiling  
and racial discrimination of Black persons by the  
Toronto Police Service**





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Ontario Human Rights Commission

ISBN: 978-1-4868-2996-5 (Print)

978-1-4868-2997-2 (HTML)

978-1-4868-2998-9 (PDF)

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Available in various formats on request

Also available online: [www.ohrc.on.ca](http://www.ohrc.on.ca)

Disponible en français



**Ontario  
Human Rights Commission**  
**Commission ontarienne des  
droits de la personne**



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## Executive summary

Between 2013 and 2017, a Black person in Toronto was nearly 20 times more likely than a White person to be involved in a fatal shooting by the Toronto Police Service (TPS). Despite making up only 8.8% of Toronto's population, data obtained by the Ontario Human Rights Commission (OHRC) from the Special Investigations Unit (SIU) shows that Black people were over-represented in use of force cases (28.8%), shootings (36%), deadly encounters (61.5%) and fatal shootings (70%). Black men make up 4.1% of Toronto's population, yet were complainants in a quarter of SIU cases alleging sexual assault by TPS officers.

SIU Director's Reports reveal a lack of legal basis for police stopping or detaining Black civilians in the first place; inappropriate or unjustified searches during encounters; and unnecessary charges or arrests. The information analyzed by the OHRC also raises broader concerns about officer misconduct, transparency and accountability. Courts and arms-length oversight bodies have found that TPS officers have sometimes provided biased and untrustworthy testimony, have inappropriately tried to stop the recording of incidents and/or have failed to cooperate with the SIU.

The OHRC spoke directly to approximately 130 individuals in Black communities. It heard first-hand about their experiences with the TPS and the resulting fear, trauma, humiliation, mistrust and expectations of negative treatment by police. Even where individuals did not have first-hand experiences, high profile incidents or experiences of friends and family reinforced community distrust. For example, one individual observed:

The Dafonte Miller matter affects everyone in the community because it was so egregious and it was hidden and was allowed to be hidden for so long until someone else brought it forward... [it] is a collective experience...someone in your family has experienced some sort of trauma with the police - so it always brings you back to that event... it's a collective impact...

Last year, the OHRC launched its inquiry into racial profiling and racial discrimination of Black persons by the TPS to help build trust between the police and Black communities. The goal of the inquiry was to pinpoint problem areas and make recommendations. This Interim Report describes what the OHRC has done to date. It provides findings relating to SIU investigations of police use of force resulting in serious injury or death, describes the lived experiences of Black individuals, and offers highlights of legal decisions.

The Interim Report findings go some way towards explaining why trust between the TPS and Black communities remains fractured, despite decades of protests, reports, recommendations and commitments related to anti-Black racism. It confirms the long-standing concern of Black communities that they are over-represented in incidents of serious injury and deadly force involving the TPS. It demonstrates that the more serious the police conduct and lethal the outcome, the greater the over-representation. It reveals

serious use of force in interactions where there was a lack of a legal basis for police stops and/or detentions of Black civilians in the first place, and inappropriate or unjustified searches of Black civilians.

Building trust between police and the community should be a top priority for everyone, not just Toronto's Black communities. There is a clear link between public confidence in policing and public safety. People are less likely to cooperate with police investigations and provide testimony in court if they have negative perceptions of police. Without trust, police cannot provide proactive, intelligence-based policing, and this has profound consequences for our justice system. It also has a significant impact on the cost effectiveness of Toronto police services which cost over one billion dollars annually.

In a city where over half the population identifies as "visible minorities," one of the most effective ways for police to build trust is to respect human rights. Police must hold themselves to the same high standards that we expect of other public institutions. That is the essence of the rule of law. The TPS and Toronto Police Services Board (TPSB) must be proactive in fulfilling their obligations under Ontario's *Human Rights Code*. They must take steps to both prevent and remedy racial discrimination, particularly when they are on notice that there may be a problem.

Overall, the OHRC has serious concerns about racial profiling and racial discrimination of Black people by the TPS in use of force incidents; stops, questioning and searches; and charges.

The TPS share some of these concerns. Nearly ten years ago, then-Chief Bill Blair acknowledged that racial bias exists within the TPS. Since then the TPS has made some efforts to "assess and address issues of racial profiling and bias in community engagements (at both the individual and systemic levels) to enable the delivery of bias-free police services." In 2013, the TPS noted that "effectively addressing and eliminating bias in policing has arguably been one of the most challenging and important undertakings in the history of the Service." The TPSB publicly supported the OHRC's inquiry when it was publicly launched in November 2017.

Nearly a year into its inquiry, the OHRC is releasing an Interim Report outlining some of its findings, concerns, next steps and suggested actions. The Interim Report will inform Ontario's ongoing consultations on policing and police oversight reform and encourage the TPS and TPSB to do more to address human rights issues.

The OHRC will continue its efforts to analyze data received from the TPS, TPSB and SIU, hear directly from diverse Black individuals, and determine whether and where other problem areas exist. The OHRC will release a final inquiry report with findings, recommendations and next steps.

In advance of the release of its Final Report, given the interim findings, the OHRC calls on:

1. The TPS and TPSB to acknowledge that the racial disparities and community experiences outlined in this Interim Report raise serious concerns.
2. The TPS and TPSB to continue to support the OHRC's inquiry into racial profiling and racial discrimination of Black persons.
3. The TPSB to require the TPS to collect and publicly report on race-based data on all stops, searches, and use of force incidents.
4. Ontario to implement recommendations in the *Report of the Independent Police Oversight Review*.
5. The City of Toronto to implement recommendations in the *Toronto Action Plan to Confront Anti-Black Racism*.

## I. Introduction

In 1988, Lester Donaldson, a Black man diagnosed with schizophrenia, was shot and killed in his rooming house by a Toronto Police Service (TPS) officer. The police said they were responding to a call of a man holding hostages, but found Mr. Donaldson alone in his room. He was shot for allegedly lunging at the officer with a knife. The officer was charged with manslaughter, but was later acquitted.<sup>1</sup>

The Black Action Defense Committee was formed in the wake of Mr. Donaldson's death and 600 people demonstrated in front of 13 Division where the officer worked. Mr. Donaldson's death contributed to the establishment of the SIU in 1990.<sup>2</sup>

Since this time, numerous task forces, studies, inquiries, and Court and tribunal decisions have confirmed that there is anti-Black racism in policing.<sup>3</sup>

The TPS itself has acknowledged that racial bias exists within the TPS.<sup>4</sup> The City of Toronto has stated that "Black Torontonians face many disparities related to law enforcement"<sup>5</sup> and "they are disproportionately impacted by racial profiling and over-policing."<sup>6</sup> Mayor Tory has recently acknowledged that "...more work is still needed to examine how we can improve police services, policies and procedures that contribute to discrimination and racial profiling."<sup>7</sup>

Despite these reviews, recommendations, decisions and acknowledgments, concerns with racial discrimination against Black people and police accountability have persisted and were exacerbated by the 2015 death of Andrew Loku.

Concerns of Black communities<sup>8</sup> led the Ontario Human Rights Commission (OHRC) to start an inquiry into racial profiling and racial discrimination of Black persons by the TPS. This inquiry is focused on particular activities between January 1, 2010 and June 30, 2017, to determine their impact on Black communities, including: stop and question practices; use of force; arrests and charges and forms and conditions of release for various offence categories.<sup>9</sup>

The inquiry will also examine the TPS and Toronto Police Service Board's (TPSB) culture, training, policies, procedures and accountability mechanisms relating to racial profiling and racial discrimination.

This inquiry is different from past initiatives by the OHRC and others because it combines the lived experiences of Black communities with analysis of documents and data that the OHRC has been able to obtain through its inquiry powers under s. 31 of the Ontario *Human Rights Code* (the *Code*).<sup>10</sup>

Its goal is to pinpoint problem areas and make strong recommendations, which, if properly implemented, will set the stage to build trust between Black communities and police. Trust is the foundation to building relationships, and as the TPS has recognized, relationships are the key to strong and effective policing.

The OHRC's inquiry is ongoing and there is more work to do over the coming months. It needs to analyze documents and data provided by the TPS, further analyze the data of the Special Investigations Unit (SIU), and continue outreach to Black communities. The OHRC will also assess if it should take further steps under the *Code* to address any issues identified.

This interim report is the first step towards the OHRC's ultimate goal. It describes what the OHRC has done to date. It provides findings relating to SIU investigations of police use of force resulting in serious injury or death, describes the lived experiences Black communities have shared during the OHRC's community engagement, and offers a review of legal decisions. The OHRC has spoken to approximately 130 individuals in Black communities across Toronto.

The interim report on the work and findings to date shows that there are deeply concerning racial disparities in use of force incidents that result in serious injury or death. It confirms the long-standing concern of Black communities that they are over-represented in incidents of serious injury and deadly force involving the TPS. It demonstrates that the more serious the police conduct and lethal the outcome, the greater that over-representation. It reveals serious use of force in interactions where there was a lack of a legal basis for police stops and/or detentions of Black civilians in the first place, and inappropriate or unjustified searches of Black civilians. It also highlights the SIU's concerns about TPS co-operation with the SIU.

These racial differences and concerns call for an explanation by the TPS and TPSB, one that goes beyond simply relying on the fact that the SIU did not lay criminal charges. The TPS and TPSB also need to take steps to proactively address the impact this reality has on the trust and confidence that Black communities have in law enforcement in Canada's largest and most diverse city. The results to date also underscore the need to move forward with measures to improve police oversight and accountability.

## **II. Background and context**

### **a) The OHRC's work on racism in policing**

State action, including policing, is subject to the rule of law. The *Code* is part of the rule of law and promotes individual human rights and dignity. The *Code* prohibits discrimination against people based on race, ancestry, colour, creed, place of origin and ethnic origin, among other grounds, in policing services.<sup>11</sup> Racial profiling<sup>12</sup> and racial discrimination against Black people can be based on one or more of these grounds. Courts and tribunals have repeatedly recognized that racial profiling is a systemic problem in policing.<sup>13</sup>

There is also a socially significant intersection between race and mental health that may affect officer decisions about use of force. There are stereotypes about Black people regarding violence and criminality, and concerns that police are more likely to use force in their interactions with Black people. Furthermore, people with mental health disabilities may be more likely to be subject to officer use of force because of responses to police instructions or behaviours that may seem unusual, unpredictable or inappropriate, or due to police reliance on stereotypical assumptions about dangerousness or violence.<sup>14</sup>

The OHRC's mission is to promote and enforce human rights, engage in relationships that embody the principles of dignity and respect, and create a culture of human rights compliance and accountability. The OHRC accomplishes its mission by exposing and challenging systemic discrimination, and examining incidents or conditions of tension or conflict from a human rights perspective, through education, policy development, public inquiries and litigation.<sup>15</sup> The OHRC's public inquiry powers under s. 31 of the *Code* include but are not limited to:

- The power to request the production of documents or things
- The power to question a person on matters that may be relevant to the inquiry
- The ability to use expert assistance to carry out the inquiry.

Combatting racial discrimination in policing, including racial profiling, has been at the core of the OHRC's work for over 15 years. The OHRC has created resources to help police services identify, monitor and reduce racial discrimination, including guides to collecting human rights-based data and creating organizational change; *Paying the Price*, the OHRC's 2003 report on its inquiry into the effects of racial profiling; and *Under suspicion*, the OHRC's 2017 research and consultation report on racial profiling that will shape its forthcoming policy and guidelines on racial profiling.<sup>16</sup> The OHRC has also made submissions to the government and independent reviewers outlining the need for changes in laws to promote accountability for systemic discrimination in policing, address carding and make communities safer.<sup>17</sup>

The OHRC has worked directly with the TPS and TPSB on issues of discrimination. In 2007, the OHRC entered into a three-year *Human Rights Project Charter* with the TPS and TPSB which aimed to embed human rights in all aspects of police operations.<sup>18</sup> But, as the OHRC did not have control over developing, prioritizing or implementing the recommendations, the Project Charter failed to enhance independent monitoring or accountability for systemic racial discrimination.

The OHRC was also involved with the TPS throughout various stages of the Police and Community Engagement Review (PACER) which began in 2012 and which led to a Report in 2013 that identified 31 Recommendations intended to ensure fair and bias free policing.<sup>19</sup> Upon the release of the report in 2013, the OHRC participated on a community consultation committee to support implementation of the report's recommendations, and provided direct input into specific initiatives that emerged from the implementation activity. OHRC's participation on the committee continued until 2018.

The OHRC has also made deputations urging the TPSB to address racial discrimination.<sup>20</sup> Finally, the OHRC has been engaged in litigation challenging racial discrimination by the TPS.<sup>21</sup>

Two years ago, the OHRC attempted to intervene at the Toronto Police Service Disciplinary Tribunal in the “Neptune 4” matter to ensure that racial profiling would be addressed. An Office of the Independent Police Review Director (OIPRD) complaint was filed after four Black teens were arrested at gunpoint by two TPS officers in 2011; their charges were later withdrawn. The encounter was caught on Toronto Community Housing Corporation security cameras. A version posted by the Toronto Star shows one of the teens being punched and pulled to the ground. The OIPRD found that charges of officer misconduct were warranted. The OIPRD highlighted that, according to the officers and the youth, the youth “were not misbehaving in any manner.” The OHRC was denied leave to intervene on jurisdictional grounds.<sup>22</sup>

## **b) Toronto’s Black population**

According to the 2016 Census, the population of Toronto was 2,731,571. “Visible minorities” made up 51.5% of population. The largest “visible minority” groups were South Asian, Chinese and Black, who made up 12.6%, 11.1% and 8.8% of the population respectively.<sup>23</sup> There were 239,850 Black people in Toronto.<sup>24</sup>

## **c) Recent concerns about anti-Black racism in policing in Toronto<sup>25</sup>**

In 2015, Andrew Loku, a Black man who lived in an apartment complex with units leased by the Canadian Mental Health Association, was shot and killed by a TPS officer. According to the SIU, he was shot seconds after the officer saw Mr. Loku holding a hammer in the hallway of the building.<sup>26</sup>

Black Lives Matter Toronto organized protests outside of TPS headquarters and at Queen’s Park in March and April of 2016, challenging racially biased policing and calling for an inquest into the death of Mr. Loku after the SIU did not find grounds to lay criminal charges against the officer.<sup>27</sup> Mr. Loku’s death contributed to the appointment of the Honourable Michael H. Tulloch, a judge of the Court of Appeal for Ontario, to review and make recommendations related to police oversight in Ontario.<sup>28</sup>

In 2015, the OHRC conducted a survey based on a non-random sample and gathered 1,503 responses from across Ontario. The results were published in *Under Suspicion* and most survey respondents came from the Toronto and Central region of Ontario.<sup>29</sup> 25.9% of Black respondents reported being stopped and questioned by police and having information

recorded “unconnected to any specific traffic violation, criminal investigation or specific suspect description.”<sup>30</sup> Of the survey respondents who reported being racially profiled six or more times in the last 12 months, and reported being racially profiled by police, almost half (21) were Black.<sup>31</sup>

The OHRC also heard that some people may be exposed to racial profiling based on their unique intersection of identities. For example, Black male youth may be more likely to be singled out repeatedly by police because of stereotypes about being involved with crime.

Truthfully all my friends have been through the same things I have been through. It has become second nature to be aware of the police... [It's a] clear violation, but position of power leaves us to just accept this treatment as normal (Black male, age 20-24).<sup>32</sup>

In 2017, the Environics Institute for Survey Research, in partnership with the United Way of Toronto and York Region, the YMCA of Greater Toronto, and Ryerson’s Diversity Institute released the Black Experience Project, a study of the Greater Toronto Area’s Black community. The study sample was based on 1,504 interviews of people who identified as Black or of African heritage. The project raised significant concerns about anti-Black racism in policing. For example, of Black men aged 25 – 44 who were interviewed, 60% reported being harassed or treated rudely by the police, and 79% reported being stopped in public places by the police.<sup>33</sup>

## d) Policing and police oversight in Toronto

### Toronto Police Service and Chief of Police

The duties of police services in Ontario, including the TPS, are set out in the *Police Services Act*.<sup>34</sup> They include preventing crime, enforcing laws and responding to emergencies.<sup>35</sup> The HRTO and the Court of Appeal for Ontario have held that these duties also include respecting human rights and complying with the *Code*, for example by not engaging in racial discrimination in delivering police services.<sup>36</sup>

The Chief of Police oversees the operation of the police service in accordance with the *Police Services Act* as well as the objectives, priorities and policies established by the Toronto Police Services Board (TPSB). The Chief reports to the TPSB and must obey its lawful orders and directions.<sup>37</sup>

The TPS is the largest municipal police service in Canada and employs approximately 5,000 officers and more than 2,200 civilian staff.<sup>38</sup> It has a 2018 budget of 1.005 billion dollars.<sup>39</sup>

Mark Saunders has been the Chief of the TPS since 2015. The Honourable Bill Blair was the Chief of the TPS between 2005 and 2015.

In 2009, then-Chief Blair acknowledged that racial bias exists within the Toronto Police.<sup>40</sup> A goal of TPS's 2013 Police and Community Engagement Review (PACER) Report was to "assess and address issues of racial profiling and bias in community engagements (at both the individual and systemic levels) to enable the delivery of bias-free police services." The report further stated that "effectively addressing and eliminating bias in policing has arguably been one of the most challenging and important undertakings in the history of the Service."<sup>41</sup>

The OHRC acknowledges that the TPS has implemented a number of initiatives between January 1, 2010 to June 30, 2017 to address racial discrimination and racial profiling of Black people, including PACER. The OHRC will analyze these initiatives in its final report.

### **Toronto Police Services Board**

The TPSB is a civilian board that oversees how policing is provided in Toronto. It is responsible for the "provision of adequate and effective police services." It has the authority to set objectives and priorities, establish policies for the effective management of the police force, and direct the Chief of Police and monitor his performance.<sup>42</sup>

Like police officers and the Chief, the TPSB is required to provide a service environment free of discrimination. The Chief and the TPSB are jointly liable for the discriminatory actions of TPS officers and have a joint responsibility for compliance with the *Code*.<sup>43</sup>

Dr. Alok Mukherjee was the Chair of the TPSB between 2005 and 2015. Andy Pringle has been the Chair of the TPSB since Dr. Mukherjee's retirement in 2015. Mayor John Tory is also a member of the TPSB.

In 2016, the Transformation Task Force, co-chaired by Chief Saunders and Chair Pringle, acknowledged that as Toronto grows, it will continue to "face challenges related not only to crime and social disorder, but also...discrimination [and] systemic racism."<sup>44</sup>

The OHRC recognizes that the TPSB has implemented a number of initiatives between January 1, 2010 to June 30, 2017 to address racial discrimination and racial profiling of Black people, including a Human Rights Policy. The OHRC will analyze these initiatives in its final report.

### **The City of Toronto**

In 2017, Toronto City Council adopted<sup>45</sup> the *Toronto Action Plan to Confront Anti-Black Racism*. Mayor John Tory acknowledged that "[a]nti-Black racism exists in Toronto" and its elimination must be the City's goal. The plan stated that "Black Torontonians face many

disparities related to law enforcement” and “they are disproportionately impacted by racial profiling and over-policing.”<sup>46</sup>

Recommendations and actions in the plan include:<sup>47</sup>

1. Implement measures to stop racial profiling and over-policing of Black Torontonians
  - Review the decision not to destroy the previously collected carding data
  - Review use of force protocols from an Anti-Black Racism Analysis
  - Review police and community training, including Community Crisis Response Programs, to include use of force issues
  - Strengthen protocols for police response to Emotionally Disturbed Persons (EDP) and report regularly on police-EDP interactions, using an Anti-Black Racism Analysis.
2. Build a more transparent, accountable and effective police oversight system to better serve Black Torontonians and to strengthen community trust in police
  - Mandate the collection and public reporting of race-based data for greater transparency
  - Review and overhaul the Professional Standards for discipline at the Toronto Police Service
  - Convene a Community and Police Eliminating Anti-Black Racism Team (CAPE-ABR Team) of community and police leaders as a resource to inform the development and implementation of actions related to policing and the justice system.
3. Invest in alternative models that create better safety outcomes for Black Torontonians
  - Work with community partners to build a coordinated strategy to advance police accountability and community capacity to respond to policing and the criminal justice system, including translation, expansion, and dissemination of “know your rights” information
  - Use an Anti-Black Racism Analysis to develop and implement alternative models of policing that focus on community engagement.

### **The Special Investigations Unit**

The SIU is a civilian body and arms-length agency of the Ministry of the Attorney General with jurisdiction extending to all police officers in Ontario. The SIU’s mandate is set out in the *Police Services Act*. Its mandate is to conduct investigations into the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers, including allegations of sexual assault. It has the power to investigate police officers and lay criminal charges if there are reasonable grounds to do so.<sup>48</sup>

“Serious injuries” are defined by the SIU as:

“Serious injuries” shall include those that are likely to interfere with the health or comfort of the victim and are more than merely transient or trifling in nature and will include serious injury resulting from sexual assault. “Serious Injury” shall initially be presumed when the victim is admitted to hospital, suffers a fracture to a limb, rib or vertebrae or to the skull, suffers burns to a major portion of the body or loses any portion of the body or suffers loss of vision or hearing, or alleges sexual assault.<sup>49</sup>

The SIU does not have a mandate to investigate discrimination or officer misconduct. The SIU does not have the authority to investigate alleged violations of the *Code* or other forms of improper conduct, make findings of discrimination, or lay disciplinary charges for officer misconduct that proceed to a disciplinary hearing.<sup>50</sup>

### **The Office of the Independent Police Review Director**

The OIPRD oversees all public complaints about police in Ontario, and conducts systemic reviews related to public complaints.<sup>51</sup>

Discrimination under the *Code* is one form of misconduct that can give rise to a public complaint insofar as it is a subset of discreditable conduct.<sup>52</sup>

### **Independent Police Oversight Review and the *Safer Ontario Act***

In April of 2016, Justice Tulloch completed his Independent Police Oversight Review. This review provided a framework that would allow for better monitoring and accountability for systemic discrimination. He recommended that there be, among other things:<sup>53</sup>

- Demographic data collection by police oversight bodies
- Independent prosecution and adjudication of public complaints, with interventions by third parties
- The ability of the OIPRD to initiate investigations in the public interest, even if no complaint is filed
- The ability of the SIU to comment on and refer conduct matters to the OIPRD
- Mandatory social and cultural competency training for staff, developed and delivered in partnership with Indigenous and other community organizations
- Recruitment to ensure that staff and leadership more closely reflect the communities they serve
- SIU discretion to conduct an investigation into any criminal matter when such an investigation is in the public interest. When deciding whether an investigation is in the public interest, the SIU should consider, among other things, if the matter is potentially aggravated by systemic racism or discrimination.

He also made several recommendations that more broadly support the principles of transparency and accountability in police oversight, including that:<sup>54</sup>

- The general requirement of the duty to cooperate with the SIU, as well as the timing of that requirement, be set out in legislation
- The SIU release the director's reports to the public in cases that do not result in a criminal charge
- The SIU release to the public the officer's name, offence charged and timing of the charge, and details about the officer's next court appearance in cases that result in a criminal charge.

The *Ontario Special Investigations Unit Act, 2018*,<sup>55</sup> *Policing Oversight Act*<sup>56</sup> and *Safer Ontario Act*<sup>57</sup> codified many of these recommendations.<sup>58</sup> After the provincial election in June 2018, the new Government put implementation of the new laws on hold pending further consultation with stakeholders. In August 2018, the OHRC provided a submission to the new government encouraging timely implementation of the legislative reforms.<sup>59</sup>

### III. Progress of the inquiry

Activity	Date
OHRC Commissioners approve the inquiry	March 2017
Retain Dr. Scot Wortley from the University of Toronto to provide expert assistance	March 2017
Complete case-law review	June 2017
Send inquiry letters to TPS, TPSB and SIU (see Appendix C)	June 2017
Release of terms of reference (see Appendix B)	November 2017
Publicly launch the inquiry	November 2017
Subsequent requests to the TPS for data and documents	July 2017 – September 2018
Receive and input SIU case information into data collection template	September 2017 – July 2018
Preliminary analysis of SIU data by Dr. Wortley	July – November 2018
Receive data and documents from the TPS	November 2017 – October 2018
Meeting with the TPSB regarding TPS production of data and documents	January 2018
Three meetings with TPS technical staff and TPS Counsel to better understand their data systems and how to link use of force with race and other case-related information	February and March 2018
Receive documents from the TPSB	September 2017 and April 23, 2018
Outreach to Black communities	Ongoing
Provide briefings on Interim Report findings to Black community leaders, the SIU, TPS and TPSB, and the Government of Ontario	October – November 2018
Launch Interim Report on the inquiry	December 10, 2018

## a) Outreach to Black communities in Toronto

As part of the inquiry process, the OHRC committed to “receive information from affected individuals, interested groups and organizations.”<sup>60</sup> Recognizing the diversity within Black communities, the OHRC put out a public call for organizations and individuals to discuss their experiences of anti-Black racism involving the TPS. A dedicated phone line and email was set up to receive submissions. On the advice of Black community leaders, the OHRC worked with a number of organizations serving Black communities and/or challenging anti-Black racism to hold focus groups and gather experiences of Black persons with the TPS that fall within the scope of the inquiry.

The OHRC met with approximately 130 individuals from Black communities, including in Malvern, Central Etobicoke, Jane and Finch, and York South-Weston. The majority spoke to the OHRC as part of focus groups that were co-organized with these organizations, which identified and reached out to the participants. The OHRC also arranged further meetings with individuals who wanted to share their stories outside of focus groups. The OHRC’s outreach is ongoing, and it will continue to hold focus groups and interviews and meet with representatives from Black communities, and community and advocacy groups across Toronto.

## b) Documents and data requested from the TPS, TPSB and SIU

The OHRC requested a broad range of data and documents from the TPS, TPSB and SIU pertaining to the period between January 1, 2010 and June 30, 2017 (see Appendix C – Inquiry letters). Overall, the OHRC has received data and documents from the TPS, TPSB and SIU that are responsive to our requests. That said, the OHRC expects to seek additional data or documents or question representatives from the TPS, TPSB and/or SIU on matters that are or may be relevant to the inquiry.

### TPS

The TPS provided some procedures and reports in the early months of the inquiry but took several more months to produce data and other documents. The OHRC began to receive data and documents on an accelerated basis after publicly launching the inquiry and calling upon the TPS to fully cooperate with our inquiry. Data and documents responsive to the OHRC’s requests were supplied in phases and on an ongoing basis (see Appendix D – Status of OHRC requests).

To date, the TPS has not:

- Produced unique civilian or incident identifiers unless they already existed in the carding/street check or charge, arrest and release data
- Linked use of force reports with general occurrence reports
- Produced free text fields from carding/street check data.

The OHRC also met with TPS technical staff and TPS counsel on three occasions in February and March of 2018 to better understand their data systems and how to link use of force with race and other case-related information.

### **TPSB**

The TPSB produced policies, reports, minutes and other documents that are responsive to the OHRC's requests (see Appendix D – Status of OHRC requests).

### **SIU**

The OHRC received and analyzed about four and half years of SIU data regarding the TPS.

The OHRC requested information from SIU cases that were opened and closed between January 1, 2010 and June 30, 2017 as well as investigations that were ongoing for at least six months as at June 30, 2017. Important information for the analysis prior to January 1, 2013 was not available electronically, so the OHRC restricted its analysis to January 1, 2013 to June 30, 2017. The SIU provided the requested information, except case information from ongoing investigations or cases where the subject officers were before the criminal courts (see Appendix D – Status of OHRC requests). Five cases were before the courts at the time of data collection.

## **IV. Findings**

### **a) Review of SIU case information involving the TPS**

#### **1. Methodology**

The OHRC retained Dr. Scot Wortley, an Associate Professor at the University of Toronto's Centre for Criminology and Sociological Studies, to analyze the SIU data. Dr. Wortley's expertise includes racial profiling and social science methodology. He has been qualified as an expert by the Ontario Superior Court of Justice,<sup>61</sup> Canadian Human Rights Tribunal<sup>62</sup> and Human Rights Tribunal of Ontario.<sup>63</sup>

Dr. Wortley analyzed data from two periods: January 1, 2000 to June 6, 2006 and January 1, 2013 to June 30, 2017. The 2000-2006 data was previously collected and coded by Dr. Wortley in 2006 as part of the Ipperwash inquiry.<sup>64</sup> The 2013-2017 data was collected and coded by the OHRC as part of this inquiry.

From 2000-2006 and 2013-2017, much of the information gathered was from SIU Director's Reports, which provide detailed information on each SIU investigation, including the time, date and location of the incident, characteristics of the civilian or civilians involved, the cause of injury or death, a description of the circumstances surrounding the incident, and the justification behind the Director's decision to charge subject officers with a criminal offence or clear them of criminal wrongdoing. From 2000-2006 and 2013-2017, the SIU did not provide case information from ongoing investigations or cases where the subject officers were before the criminal courts.

The SIU did not collect race-based data between 2000 and 2006 or between 2013 and 2017. Between 2000 and 2006, race was determined by relying on case photographs, interviews with SIU investigators, SIU investigator notes and/or photographs of the civilian that appeared in the media.

Between 2013 and 2017, race was determined by relying on SIU investigator notes, case photographs, media coverage, social media and/or TPS documents (i.e. officer notes, General Occurrence Reports, TPS charge documents, incident summaries). In the majority of cases (77.4%), race was determined by examining SIU investigator notes and TPS documents. In other words, the OHRC relied extensively on how investigators and officers recorded race (i.e. their perceptions of race). Perceptions of race are at the heart of racial profiling.<sup>65</sup> In a minority of cases, the OHRC had to determine race itself by examining SIU photos (16.5%), media coverage (2.5%) and social media (0.8%). The OHRC acknowledges that there could be a small margin of error. However, as indicated in the Wortley Report, the OHRC employed a "conservative coding strategy" when determining race.

The SIU conducted 246 investigations involving the TPS between 2000 and 2006. However, 59 of these cases were "closed by memo" soon after the files were opened. Investigations are "closed by memo" when, early in investigations, the SIU determines that the civilian injury was not serious enough to meet the threshold for the SIU's jurisdiction or was not directly caused by police activity. Therefore, the final sample analyzed was 187 completed investigations.

The SIU conducted 319 investigations involving the TPS between 2013 and 2017. However, 75 of these cases were "closed by memo" and not analyzed, leaving 244 completed investigations. The OHRC was not provided with SIU case information for five cases involving subject officers that were before the criminal courts.

Dr. Wortley used population estimates from the 2006 and 2016 censuses to identify the representation of racial groups in SIU investigations from 2000-2006 and 2013-2017 respectively.

For a more detailed explanation of the methodology, see Dr. Wortley's Preliminary Report *Race and Police Use of Force: An Examination of Special Investigations Unit Cases involving the Toronto Police Service* (Wortley Report) in Appendix E.

## **2. Wortley Report findings**

The Wortley Report confirms that Black people are much more likely to have force used against them by the TPS that results in serious injury or death. Black people are “grossly over-represented” in SIU cases that involve police use of force<sup>66</sup> and “little [has] changed” since the early 2000s.

The data is disturbing and raises serious concerns about racial discrimination in use of force.

Dr. Wortley notes that over-representation of Black civilians appeared to increase with seriousness of police conduct. In 2016, Black people made up 8.8% of the Toronto population. However, from 2013-2017, they made up:

- 25.4% (62)<sup>67</sup> of SIU investigations
- 28.8% (36) of police use of force cases
- 36% (9) of police shootings
- 61.5% (8) of police use of force cases that resulted in civilian death
- 70% (7) of police shootings that resulted in civilian death.

These numbers demonstrate that Black people are disproportionately represented in incidents involving TPS use of force that resulted in serious injury or death.

Dr. Wortley also analyzed SIU case-rates, which allow for a direct comparison of the experience of White people and Black people even though the population of White people in Toronto is greater than the population of Black people.<sup>68</sup> Between 2013 and 2017, a Black person was far more likely than a White person to be involved in an incident involving Toronto Police use of force that resulted in serious injury or death. A Black person was:

- 3.1 times more likely than a White person to be involved in a SIU investigation
- 3.6 times more likely than a White person to be involved in a police use of force case
- 4.9 times more likely than a White person to be involved in a police shooting that resulted in serious civilian injury or death
- 11.3 times more likely than a White person to be involved in a police use of force case that resulted in civilian death
- 19.5 times more likely than a White person to be involved in a police shooting that resulted in civilian death.

Regardless of race, most civilians from 2013 to 2017 who were involved in police use of force cases were unarmed (67%) at the time of their encounter with the TPS. Overall, a higher proportion of White people had a weapon in police use of force cases. While a higher proportion of Black people had a gun (8.3% of Black people vs. 3.6% of White people) or a knife (16.7% of Black people vs. 14.7% of White people) in police use of force cases, a higher proportion of White people had a gun (20% of White people vs. 11.1% of Black people) in police shootings.

Although there were more allegations of Black people (41.7%) resisting arrest than White people (25.5%), White people were more likely to have a criminal record (54.5%) and to have allegedly threatened or attacked police (61.8%) than Black people (44.4% – criminal record; 44.4% – threatened or attacked police).

From 2013-2017, according to SIU reports, most civilians (70.4%) were not exhibiting mental health issues at the time of their encounter with the TPS that involved use of force. However, a large proportion of use of force cases involved people exhibiting mental health issues (29.6%).

Dr. Wortley's analysis suggests that White people are "most often exposed to police use of force when experiencing a mental health crisis." White people are over-represented in use of force cases where the civilian was exhibiting mental health issues.<sup>69</sup> Like White people, Black people are over-represented in use of force cases where the civilian was exhibiting mental health issues.<sup>70</sup> However, unlike White people, Black people are over-represented in use of force cases in which no mental health issue was noted.<sup>71</sup>

Black males were also significantly over-represented in sexual assault investigations. From 2013 to 2017, Black males were 6.1 times more likely to appear as a complainant in a SIU sexual assault investigation than their presence in the population would predict. They were:

- 5.3 times more likely than Black females to appear as a complainant in a SIU sexual assault investigation
- 6.4 times more likely than White males to appear as a complainant in a SIU sexual assault investigation.

Male complainants alleged that they were sexually assaulted during police frisks or strip searches. This is consistent with comments by the Supreme Court of Canada that "[w]omen and minorities in particular may have a real fear of strip searches and may experience such a search as equivalent to a sexual assault."<sup>72</sup>

From 2013 to 2017, Black females also were 1.3 times more likely than White females to appear as a complainant in a SIU sexual assault investigation.

TPS officers were cleared of criminal wrongdoing in over 90% of all SIU investigations across both periods, and investigation outcomes did not vary significantly by race. Finally, in a “significant minority” of SIU cases, the SIU Director noted problems with police cooperation. These problems were no more likely when investigating a case involving a Black civilian.

### **3. SIU Director’s Reports**

The OHRC also reviewed SIU Director’s Reports for investigations involving Black people from January 1, 2013 to June 30, 2017. These Reports contain an incident narrative and the SIU’s analysis which provide insight into the experiences of members of Black communities during encounters with TPS officers that resulted in serious injury, death or alleged sexual assault. These Reports also describe the experience of the SIU in investigating some of these encounters, and highlight some of the challenges that SIU investigators may face.

The OHRC observed several themes related to the TPS and Black civilians, including the fact that the SIU stated in a number of cases that there was:

- A lack of legal basis for police stopping and/or detaining the civilian at the beginning of the encounter
- Police conducting inappropriate or unjustified searches of the civilian during the encounter
- Police laying charges against the civilian that are without merit
- A lack of cooperation by police during the investigation by the SIU.

The OHRC has not compared the experiences of Black persons described in the SIU Director’s Reports with those of other groups to see whether SIU investigations involving Black persons are more likely to reveal such concerns.

#### **a. Lack of legal basis for stops and/or detentions**

The SIU Director determined that there appeared to be no legal basis for the police to stop and/or detain Black civilians in several cases.<sup>73</sup> For example:

- In August, 2013, two TAVIS (Toronto Anti-Violence Intervention Strategy)<sup>74</sup> officers spotted a Black man and his friend in a park and decided to stop them for an investigation. The officers stated that they stopped the man because he was in a park in which drugs were a problem, and passed a knapsack to his friend. In his report, the SIU Director found that the officer likely did not have reasonable suspicion that the man was engaged in criminal activity and that the detention of the complainant appeared to be unlawful.

- In March 2015, three TPS officers on bike patrol stopped a Black man for an investigation. The officers stated they were investigating him for drug activity because they believed they had seen the man toss away something that could be drugs, and because he was walking “with a purpose” and trying to avoid looking at the officers. The SIU Director commented in his report: “There is much that is disconcerting about this case. It is quite arguable, for starters, that the officers did not have lawful grounds justifying [the Complainant’s] initial detention. The problem is that [the subject officer] appears to have proceeded on the basis of a hunch fed by nothing more than having observed [the Complainant] appear to “discard” an object as he made his way on foot... something less, in my view, than the type of objectively discernible circumstances capable of giving rise to a reasonable suspicion.”
- In February 2013, a Black man was detained and arrested in a night club during a drug investigation. The police stated that the civilian was detained because he matched the description of a suspect that the police were searching for as part of a criminal investigation. However, the SIU Director questioned this reason after finding that the civilian did not actually resemble the description of the suspect from the witness officers’ notes. The Director’s Report noted: “[The detective’s] justification for physically detaining [the complainant] was that [the complainant] was black and wearing plaid, which [the detective] recalled were included in the description he was provided for one of the targets. Given that [the detective] lost his notes containing this description, it is not possible to confirm the precise description he was referring to at the time. The description other witness officers received for the same target was that he was brown, accompanied by a variety of other features that clearly did not match [the complainant].”

### **b. Inappropriate and unjustified searches**

In several cases, the SIU Director questioned the legality of TPS officer searches of Black civilians.<sup>75</sup> For example:

- In March 2015, police stopped and searched a Black man for drugs, despite his protest to the detention and search. In his report, the Director questioned the legal basis for stopping him, and commented on the subsequent search: “I am also not persuaded that the pat down search that ensued was lawful.”
- In January 2013, a Black man was riding his bicycle when he was stopped by TAVIS officers. Two officers held each of his arms while a third officer asked him whether he had anything on his person. He responded in the negative. The subject officer then grabbed and pulled his shorts and underpants down to his ankles, leaving his genitals exposed to the public for approximately one minute. During this time, the three officers stood laughing at him. The SIU Director found that the strip search was unnecessary, and that it was carried out in an improper way (i.e. in public view).<sup>76</sup> In his report, the SIU Director stated: “There would appear to be no justification for this strip

search.” He further stated: “The stripping of [the complainant’s] shorts and underpants in public view was a complete violation of his rights.” Additionally, at the man’s trial, the trial judge found the strip search was an “egregious violation” of the complainant’s *Charter* rights against unreasonable search and seizure and arbitrary detention.

### **c. Arrests/charges without merit**

Some SIU investigations involving members of Black communities describe police arresting or charging the civilian, without a proper legal basis.<sup>77</sup> For example:

- In May 2015, a Black male was arrested based on information that he had a firearm. Ultimately, no firearm was found. In his letter to the chief of police, the SIU Director noted that “the Complainant was charged with assault with intent to resist arrest even though nothing before the charging officer supported it.” He further stated that “Baseless charges – even if quickly withdrawn by the Crown – prejudice the accused and undermine the integrity of the justice system.”
- In February 2015, a Black male was arrested by two officers outside a night club after refusing to leave the area. In his report, the SIU Director noted that the officer who chose to provide a statement to the SIU<sup>78</sup> had difficulty identifying the predicate offence justifying the arrest. The Director took issue with the officer’s assertions of grounds under the *Trespass to Property Act* because the complainant was on public property at the time of the arrest. The Director also questioned the officer’s assertions of grounds to arrest the complainant for public intoxication under the *Liquor Licence Act*, stating that “an arrest for that offense is not made out in the absence of significant intoxication and a real safety threat posed by the arrestee, neither of which appears to have been in evidence at the time.”

### **d. Lack of cooperation with the SIU investigation**

In many SIU investigations the SIU Director described difficulties in conducting the investigation due to a lack of cooperation by TPS officers. However, as noted in the Wortley Report, it appears that these problems were no more likely when investigating a case involving a Black civilian. Nonetheless, individual cases may still involve possible racial discrimination.

Some of the issues identified related to improper SIU notification by the police. The *Police Services Act* and regulations require police to immediately notify the SIU of incidents where there is a serious injury or death involving police.<sup>79</sup> However, the SIU Director noted in several investigations involving Black civilians that the police did not notify the SIU, that the

notification was delayed, or that there was another problem with the notification, such as misleading content. For example:

- In an investigation into the custody injury of a Black male in February 2013, the SIU Director noted in his report that a witness officer's notes contained evidence that on the same day the complainant was injured the police were aware that the complainant may have suffered a serious injury. However, the police did not notify the SIU. The SIU was not notified of the injury until four days later and was notified by the complainant himself, not by the police.
- In an investigation into an injury sustained by a Black man during an arrest in September 2015, the SIU Director stated: "it should be noted that [the complainant's] injuries appear to have been diagnosed well in advance of the TPS notifying the SIU." The SIU was not notified until more than nine hours after the complainant was transferred to a trauma centre hospital and diagnosed with a fractured spine.
- In an investigation into the injury of a Black male during an arrest in May 2015, the SIU Director noted in his letter to the Chief of Police: "The notification to the SIU was misleading in its description of the Complainant's arrest and cast the Complainant in a disfavorable light, again without foundation." The Director stated that this action "threatened to impede the SIU investigation and raise questions about the reliability of TPS information."
- The SIU investigated the high profile case of Dafonte Miller, a 19-year-old Black male who alleges that he was beaten with a metal pipe by an off-duty TPS officer for no justifiable reason on December 28, 2016. The SIU investigated and laid charges against the TPS officer and his brother for aggravated assault, assault with a weapon and public mischief. The OHRC does not have access to the SIU investigation because the matter is currently before the courts. However, Mr. Miller's complaint to the OIPRD alleges that, although the TPS was made aware of his serious injuries, including a broken nose, broken orbital bone, bruised ribs, a fractured wrist, loss of all vision in his left eye and reduced vision in his right eye, the TPS failed to notify the SIU. The SIU was notified by Mr. Miller and his counsel on April 27, 2017, almost four months after Mr. Miller was injured. Mr. Miller makes several other allegations regarding TPS conduct, including: discrimination, a lack of legal basis for the officer to stop and question him, an unjustified search, unnecessary and excessive force used against him, and additional problems with the TPS investigation into this incident (for example, that the investigation was conducted, in part, by the officer's father).<sup>80</sup>

Problems with police cooperation were also noted while investigations were underway. The SIU Director raised a variety of issues including witness officers refusing to answer questions, officers not completing notes or destroying them, and police attempting to access security camera footage while a SIU investigation was in progress, all of which contravene regulations under the *Police Services Act*.<sup>81</sup> For example:

- In his report on the investigation into the injury of a Black male during an arrest in February 2013, the SIU Director stated: "In sum, this investigation was a highly

unsatisfactory one.” He asked the Chief of Police to discipline a witness officer for refusing to answer a question from the SIU, a breach of a regulation. The SIU Director also stated that another witness officer destroyed his original notes, a breach of a TPS policy on memo books. The SIU Director further noted that many of the witness officers interviewed had not completed their notes until the day after the incident, an apparent breach of regulations.

- In the investigation into the police shooting death of Andrew Loku, a Black male, in July 2015, the SIU Director noted difficulties with the investigation including the police accessing video surveillance footage before the SIU arrived on scene. At the time of writing his report, the SIU Director commented that he had not yet heard an adequate explanation for why [the police officer] saw fit to attempt to review and download the video recordings captured by the cameras situated where the shooting occurred. In his report, the SIU Director stated: “I note for the record that this case is another example in which the post-incident conduct of some officers threatened to publicly compromise the credibility of the SIU’s investigation.”

## **b) OHRC engagement with Black communities and review of decisions**

As indicated above, the OHRC met with approximately 130 individuals in Black communities. The majority spoke to the OHRC as part of focus groups that were co-organized by other organizations. These organizations identified and reached out to the participants. A few individuals chose to provide further details about their experiences in private conversations with the OHRC.

The goal of the focus groups was to hear about interactions between members of Black communities and the TPS that fall within the scope of the inquiry. The focus groups covered topics of trust, stop and question practices/carding, aggression/use of force, the impact of race in certain charges and conditions for release, and recommendations to address racial profiling.

The OHRC acknowledges that the responses may not reflect positive interactions that may have taken place with the TPS. However, many participants overwhelmingly felt a sense of mistrust with the TPS. Also, some recounted specific interactions with the TPS and/or experiences of their family and friends that contributed to feelings of fear/trauma, humiliation, lack of trust and expectations of negative police treatment.

Outreach to Black communities has allowed the OHRC to better understand the lived experiences of Black communities and their concerns regarding racial profiling and racial discrimination by the TPS.

We also reviewed decisions of the Courts and the HRTO made between 2010 and 2017 where there were findings of racial discrimination and/or racial profiling, along with decisions of the OIPRD. Examining these cases has been important to understand when and how racial discrimination may occur against Black people by the TPS.

Through our review of case law and community engagement, we have been able to better understand the lived experiences that lay at the heart of Black communities' concerns about racial profiling and discrimination by the Toronto Police. Themes that have emerged from these engagements include:

- Unnecessary stops, questions and searches by the TPS
- The use of excessive force by the TPS
- The laying of unnecessary charges.

## **1. Unnecessary stops, questioning and searches**

### **Court and tribunal findings**

Courts and tribunals have heard evidence and made findings of racial profiling and racial discrimination of Black persons by the Toronto Police in stops, questioning and searches. That is, race was a factor in Black people being stopped, questioned and/or searched.

For example, in a civil suit against the TPSB, the Divisional Court determined that a Black man was stopped and searched, among other things, because of his race. He was spotted by two police officers while walking home from prayers in January 2011, and stopped because one of the arresting officers suspected that he was violating bail terms by walking alone, and for potentially having a weapon because his hands were in his pockets.<sup>82</sup> His hands were in his pockets because he did not have gloves and it was cold outside. The officers stopped the man and asked him questions. They testified that he was hostile to police and refused to take his hands out of his pockets. One of the officers, among other things, emptied his pockets and handcuffed him, leaving his hands exposed to the cold for about 20 minutes. He was not charged with any offence.

The trial judge found that the detention was unlawful, the search of his pockets was a breach of his right under the *Charter of Rights and Freedoms* to be free from unreasonable search, and that his rights were violated when he was not told why he was detained or given his right to counsel upon being detained. The police officers were also found to have lied when the Court questioned them about their behaviour. The Plaintiff was awarded \$5,000 in general damages for the battery, \$4,000 for the *Charter* breaches and \$18,000 in punitive damages. The trial judge did not find that there was racial profiling, which was appealed. The Divisional Court accepted the appeal and found that there was racial profiling. The Divisional Court increased the damage award to \$50,000 for the *Charter* breaches and \$25,000 in punitive damages and stated:<sup>83</sup>

The only reasonable inference to be drawn from the fact that both officers, without any reasonable basis, suspected the Appellant of criminal behaviour, is that their views of the Appellant were coloured by the fact that he was black and by their unconscious or conscious beliefs that black men have a propensity for criminal behaviour. This is the essence of racial profiling.

In this case, the officers' unreasonable beliefs about the Appellant caused them to assault the Appellant, unreasonably search him and forcibly restrain him. In other words, instead of presuming his innocence, they assumed and acted as if he were guilty and dangerous. He must be violating his bail and he must be carrying a gun. These assumptions, for which there is no explanation other than the colour of the Appellant's skin, caused them to blatantly and aggressively violate the Appellant's constitutional rights.

Similarly the Ontario Court of Justice found that a December 2015 traffic stop of a Black man was “aggressive” and “verbally abusive.”<sup>84</sup> The individual was stopped after midnight by two TPS officers for apparently not stopping at a red light before making a right turn from Eglinton Avenue onto Oakwood Avenue. The man then made a left turn into a laneway where he was pulled over. He was charged with refusing to provide a breath sample and breach of probation. The Court acquitted him and found that there were egregious violations of his *Charter* rights.<sup>85</sup>

With the assistance of dashcam video, the Court found that the police used the *Highway Traffic Act* stop as a “pretext” to conduct a further investigation. The detention, which began lawfully, became unlawful. One of the officers banged on the man’s car and yelled at him to open the door. The other officer ordered him to exit the car because it was a “high drug area” and threatened to drag him out through the passenger window. The officers failed to ask for his documents or accept the documents he offered. Remaining calm and respectful, he reminded the officers that they should give him a ticket if all that he did was fail to stop at a red light before making a right turn. At one point, the officers walked away from his car. When they returned to the car, one officer stated that she could smell alcohol, yet the window remained closed (the man indicated earlier that it was broken). He refused to provide a breath sample. No drugs or weapons were found in his car.<sup>86</sup>

The Court found it troubling that the officers justified their actions based on the location of the stop.<sup>87</sup>

Every individual is entitled to equal treatment under the law and not be subjected to uneven or heavy handed police tactics based on a stereotypical presumption that all individuals in a certain area must be involved in, or have a connection to criminal activity in the area. It does not matter if the person being investigated is in a neighborhood considered to be affluent and crime-free or an area considered to be high crime.

## Lived experience of Black communities in Toronto

In our discussions with members of Black communities, the OHRC heard frequent complaints of police officers conducting unnecessary stops, questioning and searches. Most of the people the OHRC spoke to felt that it was because of the colour of their skin.

The OHRC heard about instances where socio-economic status and race may intersect. For example, while driving, Black individuals reported being pulled over more often and questioned by the TPS if they drove a nice car, were in a predominantly White area or had other males in the car.<sup>88</sup>

In other instances, Black individuals reported they were stopped while walking, because they “matched the description” of another suspect.<sup>89</sup>

One Black youth described a 2017 incident where he was running to school, excited for a special event. As he neared the school, he heard sirens when a TPS vehicle pulled up beside him. An officer approached the Black youth and asked him to have a seat on the curb with his hands behind his back. The youth asked the officer why he was stopped and was told that there had been an incident nearby and that he matched the description of the suspect and because he was seen running with his sweater hood up over his head. The officer asked the youth for his information and released him shortly after. The incident took place in full view of the Black youth’s school yard where students were assembled.

I was feeling embarrassed. This is not who I am. This is not who I want to be. After that, people were looking at me different like I was a criminal or some type of thug.<sup>90</sup>

Another individual said he had just come back from watching *Macbeth* as part of a school trip. While waiting at the bus stop on his way home, a TPS officer drove past him and then made a U-turn to come and speak to him.

...long story short he said there was a robbery across the street and I fit the description...I find it’s always the same thing... I always match the description. They never tell you what the description is. The description is you.<sup>91</sup>

One individual described crossing the street with 15 other individuals approximately two years ago, and being the only one flagged down by the TPS.

I went over and [the officer] said, “Can I have your papers please?” It was the first time since I moved here that someone asked me for my identification papers, except while driving...

He left me there on the sidewalk and went into his car to enter the data... Obviously, he didn't find anything, because I don't sell drugs... He came back with a[n] \$85 ticket, and that was the first time I heard the word jaywalking... there were other pedestrians doing the same thing but he did not stop any of them.

I was the only one who was stopped, which is why I said, you stopped me because I am Black.<sup>92</sup>

Another individual described an incident four years ago when he was approximately 14 years old. He was running around the neighborhood as part of a game he was playing with his friends when TPS officers stopped and arrested him. According to the individual, the officers thought he had a gun or had stolen something and was trying to run away. They stopped him, arrested him for allegedly having a gun and stealing and eventually let him go. "... They asked for my name and asked me why I was wearing all black." He was released after he explained he was playing a game with his friends.<sup>93</sup>

In early 2018, on his way home after work, a Black man told us he was stopped and questioned by two TPS officers on the street just outside his workplace. They asked him if he had any "weed" on him. He said no, but then was asked for his identification and to consent to a search. A search of his hoodie, pants and shoes all took place on the sidewalk in full view of onlookers and his work colleagues. He was then let go. On his way home he reported thinking:

... I hope I don't get stopped again on my way home now.<sup>94</sup>

The OHRC heard about an incident in 2011 where the TPS followed a car with a Black driver and passenger before stopping it. The passenger told us that both of them were detained, searched and questioned by the officers. When the passenger asked why he was being subject to police action, he recalled being told by the officer who detained him "If you don't shut up, I'm going to punch your teeth in." He was placed in the back of the police cruiser while the driver was questioned separately. The passenger remembered being asked for his name, birthdate and address, and the officer searching his information on the squad car computer before he and the driver were let go:<sup>95</sup>

I felt captured... they didn't have the right to pull [us] over, search [or] question. No probable cause... didn't break [the] *Highway Traffic Act*... There was nothing wrong with the car...

Finally, one Black youth told the OHRC that he was singled out and subjected to a random search by TPS officers. The officers told the youth they were investigating a report of a robbery in the area. The suspect was allegedly wearing a jacket that was similar to the one the

youth was wearing that day. The youth recalled the officer's hand on his gun throughout his search. The youth told us he was used to incidents like this, and that it was "normal" and just "going to happen."<sup>96</sup>

## 2. Excessive force

### Court, tribunal and police oversight body findings

There are confirmed court and tribunal findings of racial discrimination in TPS officer use of force.

In *Elmardy*, the Ontario Superior Court of Justice held that the plaintiff was punched in the face and forcibly restrained in 2011 because he was Black. The use of force followed the discriminatory stop described above.<sup>97</sup>

In September 2016, a Black man was arrested after he stabbed a man in the cheek in a downtown Toronto restaurant. Once he was arrested, handcuffed, and seated in the back seat of the cruiser, in-car video evidence showed a Toronto Police officer pepper spraying him. He also suffered lacerations to his face after being struck by the officer's baton during the arrest.<sup>98</sup>

The Ontario Court of Justice concluded that the officer used excessive force; the video evidence showed clear "police brutality" and the facial strikes with the baton were not necessary to effect the arrest. The Court stayed the charges of assault police, possession of a knife, possession of cocaine, and uttering threats as a result of the excessive force and its significant harm.<sup>99</sup> The man was found guilty of assault with a weapon and threatening death because of the incident with the other man.<sup>100</sup>

In April 2018, the Toronto Star released a portion of the in-car camera footage that was presented at his trial. The video shows him crying out in pain, pleading for help, saying he cannot breathe, and asking the officers if he is going to die.<sup>101</sup>

In January 2017, officers were caught on video stomping on and tasing a Black man even though it appeared he was not resisting arrest. The incident reportedly began when police received a call about a man spitting at an employee at a homeless shelter in downtown Toronto. Witnesses said the man began punching the officer in the face. When backup arrived, he was placed in the back of a cruiser. According to a TPS spokesperson, he kicked out the window of the cruiser and bit an officer. The spokesperson claimed that the subsequent force used by officers was justified. The man was charged with nine offences.<sup>102</sup>

The video was recorded by a bystander who filed a complaint with the OIPRD. The OIPRD substantiated four allegations of misconduct in its report, including that a Sergeant used excessive force.<sup>103</sup> The OIPRD found:

- The individual was tasered six times while handcuffed. He did not move. For the majority of this time, he was “handcuffed to the rear, prone face down on the ground, and being physically controlled by four officers.” He was also shackled at some point.
- The Sergeant’s stomping on his leg and taser use were not justified as a response in the event that he moved his head in an attempt to bite an officer.
- The Sergeant engaged in discreditable conduct by improperly ordering another officer to interfere with the bystander’s lawful presence at, and recording of, the incident. The Sergeant yelled at the officer to “Get that guy out of my face.” The comment was made in reference to the bystander recording the incident.
- Two officers engaged in discreditable conduct through their statements to the bystander:
  - One officer told the bystander: “You’re a witness we’ll have to seize your phone.” The bystander was 20 feet away and not interfering with police activity. The officer’s interactions with him were “solely for the purpose of intimidating” him to either move where he could no longer record or stop recording.
  - The other officer’s suggestion to the bystander that the individual had AIDS and that he may be infected was “disgusting.” The officer also intimidated the bystander when he stated “Stop recording or I’ll seize your phone as evidence and then you’re going to lose your phone.”

In 2014, the Ontario Court of Justice found that a Black man committed the following offences: obstruction, impersonation and possession of marijuana.<sup>104</sup> He was arrested because he was intoxicated in a public place in January 2012. He was acquitted of assault police and threatening an officer. With the assistance of video, the Court found that he was the victim of excessive force during booking and in the holding cell of 43 Division in Scarborough. The Court stayed the remaining charges as a result of the serious misconduct committed by the officers.<sup>105</sup>

The Court found that a TPS officer assaulted the man during booking when the officer bent his palm towards his forearm and raised his arm up behind his back and squeezed. It was a deliberate attempt to stop him from complaining about his injured eye to the officer.<sup>106</sup>

The Court held that excessive force was used on the man in his cell by the four officers who took him there, and who colluded and lied in their evidence in an effort to justify their behavior. The officers inappropriately reacted to the man being verbally abusive. One officer grabbed his head twice and pushed it down towards his lap. Three of the officers then leaned into the corner on top of the individual. All four officers assaulted and further

injured him in the cell while he was shackled, restrained by both arms, already injured, and defenseless. His injuries were significant. Medical records showed that he had concussive recurring headaches, abrasions and bruising to his head, swelling of his left eye, neck stiffness and cervical strain.<sup>107</sup>

### **Lived experience of Black communities in Toronto**

Several individuals the OHRC spoke to believed they were the victim of excessive force by TPS officers.

One person described playing basketball late one night in 2010 or 2011, when he was approached by several TPS officers. The officers shone their flashlights on him and his friends and asked them to explain what they were doing out so late at night. The individual chose not to answer and instead continued to play basketball. He remembered a flashlight being shone in his eyes before he was punched in the jaw by an officer:

*I didn't see it coming at all because I was blinded.<sup>108</sup>*

His attempt to fight back was met with a takedown by several officers who punched him, hit his head and brought him to the ground. He said that the officers kicked him, twisted his genitalia and hurt his leg. They handcuffed him and then asked for his information. After approximately 15-20 minutes, the officers let him go and told him to go home. After the incident, he tried to file a report at the police station but was told that his complaint would get thrown out:

*I cried and had a whole outburst after that and punched everything. I was crying after they let me go and was walking toward the building and was crying. I never cried before that.*

In another incident, a mother described a raid on her house in 2014 where her son was stomped on, his face injured and racial slurs were used by a TPS officer. He was handcuffed and taken to the hospital for medical treatment and was then released without charges. During the raid, another son was grabbed and handcuffed at gunpoint. The officers pulled his pants down, and asked "Where are the guns?" The mother recounted that, when her son responded that there were no guns, he was told that if they found a gun his entire family would go to jail. No weapons were found, no arrests were made, and no charges were laid. All of the sons identify as young Black men.

The family described being severely traumatized. The mother stated:

...It was scary and you got a guy standing there with a big gun stepping on his face and you can't see how much pressure he's putting but I can hear [him].

...[the worst part] was seeing [my son] assaulted and not being able to see him afterward – them bringing me down separately to [my other son] and not knowing what was going on upstairs and then [they bring him] down and almost passing out – he was passing out looking pale. Made me feel terrible, terrible, terrible. I was terrified as a mother. Then he was going in an ambulance. I'm thinking he's in good hands but he was in the hands of the TPS... I could have gone with [him] but I was worried about what was going on in my house with the rest of the boys – that torn feeling like should I go or should I stay based on how out of control it was getting – it was terrifying.

Her son stated:

...I'm still dealing with the back pain that is all stemming from this incident – I still have back pain to this day and I was very athletic and active – since this I haven't been the same person at all – even my attitude and standing up to the police, I used to do that but I find myself questioning whether I can say anything or am I going to get arrested... I'm still shaking because it's a traumatic thing...<sup>109</sup>

### **3. Unnecessary charges**

#### **Courts and tribunal findings**

In *R v Thompson*, the Court held that the “real reason for the stop was racial profiling.”<sup>110</sup> Justice Hogan concluded that the detentions of the vehicle and a Black man were arbitrary, there were no reasonable and probable grounds on which to base an arrest or search his pocket, he was not advised of the reason for the detention or that he was under arrest, and the force used against the man was unnecessary.<sup>111</sup> The charges for possession of marijuana and failure to comply with a recognizance were dismissed. He was also found not guilty of assaulting a police officer.

The man was a passenger in a car that was stopped by a TPS officer in September 2011. The police officer testified that the car had not signalled when switching lanes, and once he had come in line with the vehicle, he noted the rear passenger was not wearing a seat belt. When stopped, the man came out of the vehicle as the officer got out of his, prompting a physical confrontation. The officer attempted to get his hands out of his pockets and a

physical struggle ensued. At some point during the struggle, he was able to free himself from his jacket and fled. The officer subsequently found marijuana in his jacket, and he was later arrested and charged with possession of marijuana and failure to comply with a recognizance along with assaulting a police officer.<sup>112</sup>

Justice Hogan found:<sup>113</sup>

...upon seeing this older vehicle being driven by three young, black males Constable Crawford's immediate conclusion despite the lack of any evidence, was that they were up to something – other than minor HTA violations... it was more probable than not that there was no articulable cause for the stop but that the real reason for the stop was racial profiling.

### **Lived experience of Black communities in Toronto**

In one of the OHRC's outreach sessions, an individual described an incident in 2010 or 2011 when he was driving a group of Black youth who were part of an after-school program that he coordinated. He recalls being followed by a TPS cruiser for a couple of kilometers until his car was stopped. The police checked his license, but also peered into the car and noticed that one of the youth was not wearing a seatbelt. One of the officers opened the door closest to this youth and asked for his identification along with the others in the car. They were all subsequently searched. During this time, a few other TPS cruisers appeared on the scene. In the end, they were all let go and the youth who was not wearing his seatbelt was issued a ticket.<sup>114</sup>

[It] turned into a parade, cop car after cop car. It's embarrassing... it's like we were a gang, this big [police stop] was happening, and it was nothing. Just a seatbelt.<sup>115</sup>

Another youth described an incident in grade 10 when he was asked to step outside of class. Two TPS officers were waiting for him and he was arrested and taken away. He was told he was arrested for armed robbery and drug possession. While in custody, he said the police went to search his house, and later realized it was a different person with the "same facial structure." He told us he kept thinking about his mom...

How she was going to take it, because I didn't do anything. She'd be stressing and crying. I got to my house and it was messy, and I had to clean it myself.<sup>116</sup>

## 4. Impact

Racial profiling has a negative impact on Black communities from a historic and social perspective – it reinforces social exclusion and marginalization.<sup>117</sup> Racial profiling also contributes to the over-representation of Black people in the criminal justice system.<sup>118</sup> This reality is grounded in history:

It is a little known fact that Black people were considered “property” well into the 1800s here in Canada. Canada has its own legacy of slavery, notwithstanding Lieutenant Governor John Graves Simcoe’s call in 1792 for an end to its “practice.” A system of slave patrols, sanctioned by the United States Congress’ Fugitive Slave Act of 1850, pursued slaves and monitored Black people in general as far north as Canada.

It is within this historical context that the Black communities’ relationship with the police was formed and initially defined.<sup>119</sup>

Social science research shows that on an individual level, Black people often feel humiliation, fear, anger, frustration and helplessness as a result of perceived racial profiling. Frequent exposure to police stop and search activities can have a negative impact on mental health.<sup>120</sup>

Anti-Black racism has furthered mistrust in police within Black communities, which has profound consequences for the functioning of the justice system and public safety. People with poor perceptions of the justice system are less likely to report crime, cooperate with police investigations and provide testimony in court.<sup>121</sup> As the Divisional Court noted in *Elmardy*, “racial profiling has a serious impact on the credibility and effectiveness of our police services. It has led to distrust and injustice. It must stop.”<sup>122</sup>

The OHRC heard about some of these same harms in our community engagement. For example, through unnecessary stops, questioning and searches, to the use of excessive force and laying of unnecessary charges, individuals expressed fear, trauma, humiliation, lack of trust and expectations of negative treatment by TPS.

Personal interactions, experiences of friends and family, and high profile incidents have shaped these sentiments. One community organizer observed:

The Dafonte Miller matter affects everyone in the community because it was so egregious and it was hidden and was allowed to be hidden for so long until someone else brought it forward... The thing that happens to the Black community that I’m not sure happens to any other ethno-centric group... [it] is a collective

experience – because for sure, someone in your family has experienced some sort of trauma with the police – so it always brings you back to that event... it's a collective impact that it has...<sup>123</sup>

As indicated earlier, the OHRC heard about anti-Black racism in policing being normalized:

To be honest, it was normal. It's not heartbreaking, or 'I can't believe this just happened' – It happens. I've seen it happen to my friends...<sup>124</sup>

Another youth told the OHRC that it was “normal” and just “going to happen.”<sup>125</sup>

Similarly, at the launch of the inquiry, a HairStory Youth Advisor stated when referring to racial profiling: “I'm tired – I know a lot of people are tired.”<sup>126</sup>

The OHRC's outreach revealed a lack of trust in the TPS that is a deeply embedded based on personal experiences or the experiences of friends and family:

I would say as a whole I don't trust the Toronto Police. One reason is a lot of police that police the neighborhoods have never lived in the neighborhoods. They come to police areas that are maybe high priority but I really don't think they actually care about what's going on.<sup>127</sup>

One community organizer describing the lack of trust between the TPS and the Black community said:

Right from day one in all community engagements, a theme that keeps coming up with great numbers and volumes is the lack of trust with policing services, and all of the various individual and collective experiences that informed that shared sentiment.<sup>128</sup>

A written submission from a community organization stated:

Negative interactions or lack of trust were identified as coming from perceptions of threat, mistreatment or negative interactions with TPS.

Some participants felt that they would rather endanger themselves if they are being attacked or in need of protection because they feel TPS would not act in a fair or helpful manner (e.g. during a break in). Many participants fear being seen by TPS as the suspect rather than the victim of a crime and ending up being arrested, beaten, shot or forced to make a false confession.<sup>129</sup>

One participant stated:

I think we need to be very careful when we talk about trust, because the police are supposed to 'serve and protect.' It's written on their vehicles. When we ask for information, it's their job to give it to us. When we are in danger, they're supposed to protect us. Now, when we're face to face with a police officer, and the officer mistreats us, where is the trust?<sup>130</sup>

## V. Areas of concern

The SIU data the OHRC has analyzed to date as part of our inquiry confirms that Black people are more likely to have force used against them that results in serious injury or death. Together with the other information analyzed, the OHRC has serious concerns about racial profiling and racial discrimination against Black people by the TPS in use of force; stops, questioning and searches; and charges.

The data and information that forms the basis of this Interim Report is disturbing, and calls for an explanation from the TPS and TPSB.

The SIU data confirms the long-standing perception of Black communities that Black people are much more likely to have force used against them by the TPS that results in serious injury or death; the more serious the police conduct and lethal the outcome, the greater the over-representation.

Several accounts of incidents involving Black people investigated by the SIU in Director's Reports appear to be consistent with racial profiling and/or racial discrimination. The SIU reports reveal a lack of legal basis for police stopping and/or detaining Black civilians in the first place; inappropriate or unjustified searches during encounters; and needless charges or arrests – all point to extra scrutiny and invasive contact with TPS officers. Similar trends emerged in Court, HRTO and OIPRD decisions and in the OHRC's community outreach.

The information gathered also raises broader concerns about officer misconduct, transparency and accountability. Courts, the OIPRD and the SIU have found that TPS officers have sometimes provided biased and untrustworthy testimony; have inappropriately tried to stop the recording of incidents; and/or have failed to cooperate with the SIU.

The OHRC recognizes that the vast majority of SIU investigations do not result in criminal charges against the subject officer or officers. However, that does not dispose of the OHRC's concerns or end matters from a human rights perspective for several reasons.

First, the SIU is looking for criminal wrongdoing, not discrimination. The SIU does not have the authority to investigate alleged violations of the *Code* or other forms of improper conduct; make findings of discrimination; or lay disciplinary charges for officer misconduct that proceed to a disciplinary hearing.<sup>131</sup>

A discrimination analysis instead asks whether the whole interaction between a Black person and police would have unfolded the same way had it been a White person. It considers whether race was one factor in the decision to use force or the amount of force used. It does so using a civil standard of proof, a balance of probabilities, rather than the criminal standard of beyond a reasonable doubt. A discrimination analysis also considers whether systemic practices are at play such as “officer deployment, intelligence gathering activities, and stopping people who are perceived to be ‘out of place’ in the neighborhood.”<sup>132</sup>

Second, conduct investigated by the SIU that does not result in laying criminal charges against the officer, can still be consistent with discrimination. In other words, discriminatory police conduct that violates the *Code* may not necessarily result in criminal charges. For example, a SIU investigation may reveal facts that suggest that an officer’s questioning of a Black person was consistent with racial profiling, but the SIU may find that the interaction evolved to a point that there were reasonable grounds to conclude that the subject officer used force lawfully.<sup>133</sup> In fact, our review of SIU accounts found examples where the SIU noted such concerns with officer conduct, even though criminal charges were not laid against the officer.

Therefore, the fact that the SIU cleared the officers in most investigations does not explain gross over-representation of Black persons in SIU investigations or the many other concerns noted in this report.

The OHRC’s findings call for an explanation from the TPS and TPSB. Organizations need to be proactive in fulfilling their obligations under the *Code*. They must take steps to both prevent and remedy discrimination, particularly when they are on notice that there may be a problem. The *Code* “is not solely reactive and complaint-based but ‘intended to transform social relations and institutions to secure substantive equality in practice.’ The requirement to act proactively, monitor... culture and systems, take preventative measures to ensure equality, identify and remove barriers, take positive steps to identify and remedy the adverse effects of practices and policies that appear neutral on their face, is well-documented in the cases and Commission policies.”<sup>134</sup>

The TPS has been aware of the long-standing concerns of Black communities, findings of racial discrimination by the Courts and HRTO and has even gone as far as acknowledging the existence of racial bias within the TPS. The TPS has the required information to compile the quantitative data the OHRC analyzed. The TPSB has the authority to order the TPS to do so.

## VI. Interim actions

While the final report will include detailed recommendations, in the interim, the OHRC calls on:

1. The TPS and TPSB to acknowledge that racial disparities and community experiences outlined in this Interim Report raise serious concerns.
2. The TPS and TPSB to continue to support the OHRC's Inquiry into racial profiling and racial discrimination of Black persons by the TPS.
3. The TPSB to require the TPS to collect and publicly report on race-based data on all stops, searches, and use of force incidents.<sup>135</sup>
4. Ontario to implement recommendations in the *Report of the Independent Police Oversight Review*.
5. The City of Toronto to implement recommendations in the *Toronto Action Plan to Confront Anti-Black Racism*.

## VII. Next steps

The OHRC will continue to examine quantitative and qualitative data to determine whether and where problem areas exist. The OHRC intends to further analyze the SIU data to see, for example, if there are patterns in use of force incidents that flowed from initial police action that was proactive (e.g. a police stop) or reactive (e.g. a call for service) and to further understand intersections with age, mental health, socio-economic status and sex.

SIU cases account for only a small percentage of use of force incidents involving police. Many serious forms of force do not meet the SIU's threshold which focuses on the nature of the physical injury to the civilian (e.g. broken bones meet the threshold but severe bruises or lacerations may not). "Lower-level" use of force incidents can still have significant physical and emotional impacts on the person subjected to it. In the next phase of the inquiry, we will look at lower-level use of force incidents involving the TPS.

Ongoing work is necessary for the OHRC to begin analyzing TPS data. Despite repeated calls for the TPS and TPSB to collect and report on race-based data, current TPS data systems are generally not set up to determine the impact of race. Thus, data that would allow us to analyze race generally needs to be linked and compiled. This work will happen in the coming months.

In addition to lower-level use of force incidents, the OHRC will analyze data received on carding, certain charges and arrests, and conditions and forms of release for adults. The OHRC will also take steps to gain access to youth data through a judicial application.

The OHRC will examine the TPS's and TPSB's culture, training, policies, procedures and accountability mechanisms.

Finally, the OHRC will continue to engage with Black communities and hold focus groups to gather first-hand accounts within the scope of the inquiry. And while we have heard from some TPS officers, we will continue our efforts to engage with police leaders, officers, associations and organizations. As we know, and acknowledged in *Under Suspicion*,<sup>136</sup> all perspectives are important in understanding these issues.<sup>137</sup>

All of this work will lead to a final inquiry report, with findings, recommendations and any next steps.

## Appendix A: Timeline

### Racial discrimination and racial profiling of Black persons by the TPS, and OHRC initiatives related to the Toronto Police

*Note: With the exception of Sammy Yatim, all of the victims included below were Black. This is not an exhaustive list of incidents and activities.*

#### 1978

- Andrew “Buddy” Evans, 24, was killed by a Toronto Police officer at a nightclub on King Street West. A coroner’s inquest did not find wrongdoing on the officer’s part.

#### 1979

- Albert Johnson, 35, was shot and killed in his apartment by two Toronto Police officers. The officers were both charged with manslaughter, but were acquitted in November 1980.
- Michael Sargeant was killed by Toronto Police officer.

#### 1985

- Leander Savoury was killed by Toronto Police officer.

#### 1988

- Lester Donaldson, 44, was shot and killed in his rooming house by a Toronto Police officer. The police said they were responding to a call of a man holding hostages, but found Donaldson alone in his room. He was shot for allegedly lunging at the officer with a knife. The officer was charged with manslaughter, but was later acquitted.
- Dudley Laws, Charles Roach, Sherona Hall and Lennox Farrell founded the Black Action Defence Committee, in response to police shootings of Black people.
- The Ontario government created the Race Relations and Policing Task Force in response to the killing of Lester Donaldson and Michael Wade Lawson. Clare Lewis, then Public Complaints Commissioner of Metropolitan Toronto Police, was appointed to head the task force. The task force was empowered “to address promptly the very serious concerns of visible minority communities respecting the interaction of the police community with their own.” The taskforce recommended that officers whose performance indicates that they have difficulty addressing race relations issues be required to attend training and that their performance be formally monitored and they create an award for officers who exhibit skill in identifying race relations in the course of their duties.

## 1989

- Sophia Cook, a 23-year-old Black woman, was temporarily paralyzed after being shot in the back by a Toronto Police officer while sitting in a car. Cook had taken a ride in an allegedly stolen car after she had missed her bus. The officer was acquitted in 1994 of the charge of careless use of a firearm.

## 1990

- Marlon Neil, an unarmed 16-year-old, was shot and seriously injured by a Toronto Police officer. Neil was pulled over after fleeing a radar trap and was shot for holding what appeared to be a gun. He was holding the emergency brake. The officer was found not guilty in 1991 of charges of criminal negligence causing bodily harm, attempted murder and aggravated assault.
- The *Police Services Act* was amended to create the Special Investigations Unit (SIU). The SIU was responsible for carrying out “criminal investigations into circumstances involving police and civilians that have resulted in serious injury, death or allegations of sexual assault.”

## 1991

- Jonathan Howell, 24, was shot and seriously injured by a Toronto Police officer. The shot left Howell with permanent brain damage. The officer was found guilty of the charge of careless use of a firearm, and was given an absolute discharge.
- Royan Bagnaut, 21, was shot and seriously injured by a Toronto Police officer. The officer was charged with criminal negligence causing bodily harm, but was acquitted in 1993.

## 1992

- Raymond Lawrence, 22, was shot and killed by two Peel Regional police officers.
- Two days after Lawrence’s death, several hundred Canadians took to Yonge Street to protest police brutality. The media referred to the event as the Yonge Street Riot or the Yonge Street Uprising.
- The Ontario government established the Commission on Systemic Racism in the Ontario Criminal Justice System. The Commission’s mandate was to study and make recommendations on all facets of Ontario’s criminal justice system.
- The Ontario government appointed Stephen Lewis to investigate the root causes of the uprising by a multi-racial group of people following the death of Raymond Lawrence. The resulting Report of the Advisor on Race Relations to the Premier of Ontario, Bob Rae, concluded that visible minorities, particularly African Canadians, experienced discrimination in policing and the criminal justice system.

**1993**

- Ian Coley was killed by a Toronto Police officer.

**1994**

- Albert Moses, 41, was shot and killed in his room in downtown Toronto by Toronto Police officers. The SIU did not lay charges.

**1995**

- The Commission on Systemic Racism in the Ontario Criminal Justice System released its 450-page report. One of its recommendations was to develop guidelines for the exercise of police discretion to stop and question people, with the goal of eliminating differential treatment of Black and other racialized people. The Commission recommended that the guidelines be enforced by monitoring (through feedback from the community).

**1996**

- Tommy Anthony Barnett, 22, was shot and killed by a Toronto Police officer for allegedly unsheathing a sword. Barnett was shot four times in the chest. The SIU did not lay charges.
- Andrew Bramwell, 24, was shot and killed by a Toronto Police officer.

**1999**

- Henry Musaka, 26, was fatally shot. Musaka was shot twice in the head and once in the chest by Toronto police officers with the emergency task force, who were responding to an allegation that Musaka had taken a St. Michael hospital doctor hostage. An unloaded pellet gun was later recovered from the deceased.

**2002**

- The Toronto Star's "Singled Out" series was first released. The series used crime data from 1996-2002, obtained through a freedom of information request, to identify differential treatment of Black persons by the Toronto Police Service. The Star's investigation also uncovered the "Driving While Black" phenomenon where Black persons were disproportionately charged for "out-of-sight" driving offences.
- In response to the Toronto Star's findings, then-Chief of Toronto Police Julian Fantino stated: "We do not do racial profiling. We do not deal with people on the basis of their ethnicity, their race or any other factor. We're not perfect people but you're barking up the wrong tree. There's no racism... it seems that, according to some people, no matter what honest efforts people make, there are always those who are intent on causing trouble."

- On the eve of International Human Rights Day, the OHRC announced that it would conduct an inquiry into the effects of racial profiling on individuals, families, communities and society as a whole.

### 2003

- The OHRC's inquiry into the effects of racial profiling was officially launched. The inquiry report, [Paying the Price – The human cost of racial profiling](#), raised public awareness about the social cost of racial profiling and recommended action for police. The report recommended, among other things, that persons in positions of leadership in Ontario, including government officials, accept and acknowledge the existence of racial profiling and show a willingness to take action to combat it. Further, it recommended that where anecdotal evidence of racial profiling exists, the organization involved should collect data to monitor its occurrence and to identify measures to combat it.
- The Association of Black Law Enforcers (ABLE) acknowledged the existence of racial profiling, stating: "A.B.L.E. acknowledges that the vast majority of Law Enforcement Officers in our Country perform their duties in a professional, honourable and ethical manner. We believe this because we are also these Officers. At the same time, we accept the presence of the Law Enforcement phenomenon known as Racial Profiling. As Black and Minority Officers, we live in two worlds that allow us to intimately understand the issues that affect our Community and our profession."
- Then-Toronto Police Chief Julian Fantino continued to deny the existence of racial profiling.

### 2005

- The OHRC released its [Policy and guidelines on racism and racial discrimination](#). The OHRC defined racial profiling and highlighted factors that pointed to racial profiling.

### 2006

- Roger Shallow, a 37-year-old Black crown attorney, was arrested for causing a disturbance and resisting arrest by Toronto Police officers. Shallow filed a discrimination/racism-related complaint with the Human Rights Tribunal of Ontario, against the Toronto Police Services Board and five officers.

### 2007

- Human Rights Project Charter: The OHRC, Toronto Police Service and Toronto Police Services Board agreed to embark on the [Human Rights Project Charter](#). This agreement arose from a proposed settlement of several human rights complaints against the TPS. The three-year project was designed to help the TPSB and the TPS identify and eliminate discrimination in the hiring and employment of TPS members and in the services the TPS delivered to the public. The OHRC's role included

providing advice to the TPS and TPSB on their ongoing human rights organizational change initiatives, working with sub-committees to develop human rights organizational change recommendations, and monitoring and reporting on progress.

- Then-Premier Dalton McGuinty appointed former Chief Justice and Attorney General Roy McMurtry and former Speaker of the Legislature Alvin Curling as Co-Chairs to conduct a Review of the Roots of Youth Violence.

## 2008

- The five-volume report of the [\*Review of the Roots of Youth Violence\*](#) was published. This report outlined the societal conditions that are root causes of violence involving youth. It also identified key barriers to thriving, including poverty, racism, inaccessible and inadequate community design, failures of the education and justice systems, health issues, family issues, a lack of youth voice, and a lack of economic opportunity.

## 2009

- *Phipps v Toronto Police Services Board*, 2009 HRTO 877: The Human Rights Tribunal of Ontario found a Black letter carrier was racially profiled by Toronto Police while delivering mail.
- *Abbott v Toronto Police Services Board*, 2009 HRTO 1909: The Human Rights Tribunal of Ontario found that a Black woman experienced discrimination because of her race and gender during an encounter with a Toronto Police officer. The Tribunal found that a routine traffic stop would not have escalated to a physical confrontation with seven tickets being issued had the woman been White.
- *R v Ahmed*, [2009] OJ No. 5092 (SCJ): The Ontario Superior Court of Justice found the evidence of two Toronto Police officers unreliable and that the defendant, Mr. Ahmed, was investigated and arbitrarily detained because of his race.
- Then-Toronto Police William Blair acknowledged that racial bias exists within the Toronto Police Service.
- The Office of the Independent Police Review Director (OIPRD) was established under the *Police Services Act*.

## 2010

- Alexander Manon, 18, died in custody of Toronto Police officers. A coroner's inquest found that the "cause of death was positional asphyxia after the chase and exertion." The SIU did not lay charges.
- Human Rights Project Charter: The OHRC, TPS and TPSB's Human Rights Project Charter agreement ended. The TPS and TPSB did not follow the OHRC's advice on accountability for racial profiling, which included the recommendation that there be race-based data collection on stops. Among other things, the OHRC also

recommended providing human rights, equity and diversity training and ongoing professional development for all employees, to give employees the skills and knowledge to create a working environment that fully complies with norms established by the *Human Rights Code*, and that is anti-racist, non-discriminatory, professional, respectful, diverse and inclusive.

- Reyal Jensen Jardine-Douglas, 25, died after being shot several times by a Toronto Police officer. Jardine-Douglas had mental health issues, and it was his family who had called the police for help to get him admitted to the hospital. The SIU did not lay criminal charges.
- Eric Osawe, 26, was killed in his Etobicoke apartment by a Toronto Police officer. Following the SIU investigation, the officer was charged with manslaughter, which was later upgraded to second-degree murder. In 2013, the charge was dismissed at the preliminary hearing.
- At its September Board meeting, the TPSB passed a motion that removed a prohibition, instituted in 1989, on collecting and analyzing police service data relating to race and other *Code* grounds.

### 2011

- The OHRC released [\*Human rights and policing: creating and sustaining organizational change\*](#), built on the experience gained from the Toronto Police Service, Toronto Police Services Board, and OHRC's Human Rights Project Charter initiative. The guide provides, among other things, a foundation for fostering and sustaining inclusive police services and preventing human rights violations before they happen. It recommends various steps related to police service delivery, such as collecting human rights-based data on service delivery, and including human rights considerations in performance management.

### 2012

- Then-Toronto Police Chief William Blair directed the Chief's Internal Organization Review (CIOR) to examine all aspects of the Toronto Police Service related to community engagement, and specifically the Field Information Report (FIR) process. This review was the foundation for Phase II of the Police and Community Engagement Review (PACER). The PACER report focused on how the Toronto Police Service could enhance public trust and safety, while delivering bias-free service.
- Michael Eligon, 29, was fatally shot by a Toronto Police officer. Eligon was being held at the Toronto East General Hospital for mental health concerns, and was killed while holding a pair of scissors. The SIU did not lay criminal charges.
- Frank Anthony Berry, 48, was fatally shot by Toronto Police officers. The officers discharged two bullets, hitting Berry in the torso, because they believed that he was approaching them with a knife. The object was later discovered to be a pair of scissors. The SIU did not lay criminal charges.

- The Toronto Star’s “Known to Police” series was first released. The series used crime data, obtained through a freedom of information request, to show that Black people are grossly over-represented in the Toronto Police Service’s carding data, among other things. The investigation also revealed that Black persons are more likely to be carded in affluent, mostly White areas of Toronto.
- *Maynard v Toronto Police Services Board*, 2012 HRTO 1220: The Human Rights Tribunal of Ontario found that race was a factor in suspect selection and the takedown at gunpoint of a Black man. The Tribunal found that the explanations the TPS officer offered did not fully address his conduct toward Mr. Maynard, and that the incident happened in part because Mr. Maynard was a young Black man. The OHRC was a party in this claim.

## 2013

- [The OHRC made a deputation to TPSB](#), and sent letters to the TPSB Chair outlining recommendations on carding. The OHRC recommended that the Board stop the practice of carding until policies and procedures were fully developed and completely and transparently assessed against the Ontario *Human Rights Code* and the Canadian *Charter of Rights and Freedoms*.
- *Claybourn v Toronto Police Services Board*, 2013 HRTO 1298: Based in part on the OHRC’s submissions, the HRTO found that filing a complaint about a police officer’s conduct with the OIPRD does not prevent someone from also filing a human rights application alleging discrimination.
- The Toronto Star released another analysis of Toronto Police Service data, as part of its “Known to Police” series. Between January 1, 2013 and November 13, 2013, Black people remained more likely to be carded in each of the city’s patrol zones. In July 2013, there was a 75% drop in the number of contact cards filled out. This was at the same time that the TPS required officers to provide receipts to people who were carded. However, the proportion of contact cards filled out for Black persons went up to 27.4%, compared to 23.3% before the drop in 2013.
- Then-TPSB Chair Dr. Alok Mukherjee submitted a report (Mukherjee Report) to the board on “police carding and the issue of profiling.” The report included an overview of several decades’ worth of reports and studies on racial profiling and tension over police stops in Toronto. The report also made 18 recommendations for the board to direct to then-Chief William Blair.
- The TPSB invited public comment on the Police and Community Engagement Review (PACER) and Mukherjee reports. The OHRC made a deputation to the TPSB and restated its position that the TPS must stop carding until policies and procedures are fully developed and assessed against the *Code* and *Charter of Rights and Freedoms*. The OHRC was critical of the PACER report because, among other things: there was a lack of information about how contact card data was being used; there was no indication that individuals stopped would be told that they were free to

leave; and it appeared that being in a high-crime neighborhood was enough to justify a street check.

- Sammy Yatim, 18, was fatally shot by a Toronto Police officer. Yatim was brandishing a three-inch knife while in an empty streetcar. The officer shot him eight times, six of which reportedly occurred once Yatim had already fallen to the ground. The SIU laid charges and the officer was later convicted of second-degree murder.

## 2014

- The OHRC delivered several deputations to the Toronto Police Services Board (TPSB) on carding. The TPSB passed a Policy on Community Contacts.
- The OHRC began a public education initiative on human rights systems, carding and racial profiling through a series of events with community and advocacy groups.
- *R v A.K.*, 2014 ONCJ 374: The Ontario Court of Justice found that a Black youth, who was arbitrarily detained, carded, dropped face first to the ground and searched, had his Charter rights breached, specifically sections 8, 9 and 10 of the Charter. The Court acquitted him of all charges.
- Human Rights Project Charter: Ryerson University's Diversity Institute conducted an independent evaluation of the Human Rights Project Charter. Forty-six Project Charter participants and key stakeholders were interviewed. Many interviewees noted the absence of a targeted strategy to combat racial profiling. The Diversity Institute recommended, among other things, that the Toronto Police Service improve overall data collection and analysis systems, including taking steps to improve self-identification rates and collecting demographic information on respondents on both internal and external surveys.
- The Toronto Police Services Board retained Logical Outcomes to provide a report measuring the impact of the Board's "Community Contacts" policy. The report, entitled "A Community-Based Assessment of Police Contact Carding in 31 Division" (CAPP Report), found, among other things, that African Canadians were over-represented in stops in 31 Division; African Canadians did not feel free to leave or assert their right to leave when stopped and questioned by TPS officers, and that people in 31 Division overwhelmingly believed that TPS officers engage in racial profiling.
- The OHRC delivered a deputation to the Toronto Police Services Board on the findings of the CAPP Report. The OHRC stated that the TPS and TPSB's work on racial profiling must: recognize that reform is long overdue; be transparent and provide the community with meaningful information; advance a rights-based approach to community policing that improves public trust and cooperation with the TPS; and demonstrate real accountability, up to and including dismissal, when officer behaviour is consistent with racial profiling.

- Daniel Clause, 33, was killed by a Toronto Police officer after being shot four times. The officer who stopped Clause at a community housing complex thought he matched the description of an armed individual who had committed robbery. At the coroner's inquest, the officer testified that he shot Clause after he had reached and pointed a gun in the officer's direction. The gun was later discovered to be a pellet gun. The SIU did not lay charges.

## 2015

- Then-Toronto Police Chief Bill Blair suspended carding on January 1st. The move came after the December 2014 TPSB meeting where the board passed a motion asking the Chief to finalize carding procedures by February 2015, in line with the board's community contacts policy – which emphasized citizens' rights, including the right to walk away from the encounter if the person was not being investigated for a specific crime. At the June 18, 2015 TPSB meeting, newly-appointed Chief Mark Saunders confirmed that the suspension meant that contacts were not being entered from memo books into the police database. The TPSB passed a revised carding policy. The OHRC provided a deputation in advance of the Board's decision to pass the revised policy, citing various concerns.
- *R v Smith*, 2015 ONSC 3548: The Ontario Superior Court found that Mr. Smith was stopped by Toronto Police officers because he was a young Black male driving a Mercedes in an area known for gangs, drugs and guns. The Court found the stop was racially motivated, amounting to violations of Smith's ss. 8 and 9 *Charter* rights. The evidence against Smith was excluded, and he was acquitted of all charges.
- The OHRC sought intervener status in a matter before the Toronto Police Service Disciplinary Tribunal. In this case, often called the "Neptune 4 case", two officers were charged with misconduct in the high-profile gunpoint arrest of four Black teens on Toronto Community Housing property. The OHRC requested to intervene to make sure the Disciplinary Tribunal considered racial profiling – an issue, the OHRC contended, was a clear factor in the officers' alleged misconduct.
- Andrew Loku was shot and killed by a Toronto Police officer. Loku was shot in the hallway of his residential building, seconds after the officer saw him holding a hammer. The apartment complex Loku lived in was affiliated with the Canadian Mental Health Association.
- Kwasi Skene-Peters, 21, was killed by Toronto Police officers in Toronto's entertainment district. At the time of his death, Toronto police had a Canada-wide warrant out for Mr. Skene-Peters who was wanted in connection to a crime committed less than a month before his death. The SIU found the two Toronto officers to have acted in self-defence, and that Skene-Peters fired on the officers first. A coroner's inquest will examine the events surrounding and leading up to his death.

- The OHRC began a year-long consultation to learn more about the nature of racial profiling across Ontario, and help organizations, individuals and communities identify, address and prevent racial profiling.
- The Ontario government announced it will standardize and regulate police street checks. The OHRC provided submissions to the Ministry of Community Safety and Correctional Services on street checks.

### 2016

- In March, the Government of Ontario released a new regulation on street checks, O. Reg. 58/16: Collection of Identifying Information in Certain Circumstances – Prohibition and Duties.
- Alexander Wetlaufer, 21, was shot and killed by Toronto Police officers, who were responding to a report of a man armed with a gun. Wetlaufer was found in possession of a gun, and was shot three times by three officers after not responding to their request to put it down. After his death, the police found that Wetlaufer’s weapon was a BB gun. The SIU did not lay charges.
- In April, Black Lives Matter-Toronto organized a community protest outside of the Toronto Police Service headquarters and Queen’s Park, to call for an inquest into the death of Andrew Loku after the SIU did not find grounds to lay criminal charges against the subject officer.
- The OHRC’s motion to intervene in the Toronto Police Service disciplinary hearing in the “Neptune 4” case on the gunpoint arrest of four Black teenagers on Toronto Community Housing property was denied on jurisdictional grounds.
- The provincial government announced its review of the *Police Services Act* as part of its Strategy for a Safer Ontario (SSO). The OHRC provided a series of recommendations to the government that were endorsed by over 20 community and advocacy groups.
- The United Nations Working Group of Experts on People of African Descent expressed serious concerns about systemic anti-Black racism in the criminal justice system in Canada.
- The OHRC provided a submission to the Independent Review of Police Oversight Bodies commissioned by the Government of Ontario. The subsequent report submitted to the Ministry of the Attorney General by the Honourable Justice Michael H. Tulloch put forth a series of recommendations aimed at building public trust in law enforcement, and ultimately increasing public safety.
- *R v Ohenhen*, 2016 ONSC: The Superior Court of Ontario found no legal basis for Toronto Police officers’ detention, arrest, and search of a Black man. The Court found the officers had breached the man’s ss. 8, 9 and 10(a) and (b) *Charter* rights, excluded the evidence against Mr. Ohenhen, and acquitted him of all charges.

- *R v Thompson*, [2016] OJ No. 2118: The Ontario Court of Justice found the stop of a Black man was racially motivated, and a result of racial profiling. The evidence from the illegal stop was excluded, and the charges against Mr. Thompson were dismissed.
- Dafonte Miller, 19, suffered serious injuries after being beaten in Durham region by an off-duty Toronto Police officer and his brother. Despite the involvement of an off-duty officer, neither the Toronto Police Service nor the Durham Police Service notified the SIU. Miller's lawyer later notified the SIU who laid charges against the officer and his brother.

## 2017

- Andrew Henry, 43, was arrested after allegedly assaulting Toronto Police officers. While he was face-down on the pavement, he was Tasered twice and repeatedly stomped on by a Toronto Police sergeant. The OIPRD investigation found misconduct by several officers including excessive use of force by the sergeant, neglect of duty for failing to activate in-car camera systems and microphones upon arriving at the scene, and discreditable conduct for how officers spoke to a bystander who was filming the event. A Discipline Hearing will be held for the sergeant who used excessive force.
- The OHRC released [\*Under Suspicion: Research and consultation report on racial profiling in Ontario\*](#). The report confirmed that racial profiling is a daily reality that damages communities and undermines trust in public institutions. For this report, the OHRC combined social science research with lived experiences gained through consultations with over 1,600 individuals and organizations.
- *Elmardy v Toronto Police Services Board*, 2017 ONSC 2074: In a civil proceeding, the Superior Court of Ontario found that a Toronto Police officer committed battery against Mr. Elmardy, and violated his ss. 8, 9 and 10 constitutional rights under the Canadian *Charter of Rights and Freedoms*. He was awarded \$25,000 in punitive damages for the police conduct. Elmardy appealed the decision and argued that the trial judge should have made a finding that he was racially profiled and the damages were not enough to deter and punish police officers who engage in racial profiling. The Divisional Court agreed and awarded Elmardy damages of \$80,000. To date, this is the largest damage award in history for a victim of racial profiling.
- The Ontario government introduced the *Safer Ontario Act*, 2017, comprehensive public safety legislation that, if passed, would represent the largest policing transformation in a generation. The proposed legislation would modernize the police accountability system in the province, among other things.

## Appendix B: Terms of reference

### OHRC inquiry into racial discrimination and racial profiling of Black persons by the Toronto Police Service

The Ontario Human Rights Commission (OHRC) is the provincial statutory agency responsible for advancing human rights and preventing systemic discrimination in Ontario. The OHRC has broad powers under the Ontario *Human Rights Code* (*Code*) to initiate inquiries in the public interest, monitor and report on human rights issues, and engage in litigation, including by filing applications with the Human Rights Tribunal of Ontario and intervening in other legal proceedings.

The OHRC's [2017-2022 Strategic Plan](#) identifies enforcing human rights in the criminal justice system as one of four strategic priorities. The OHRC is working towards ending racial profiling and discrimination in all police practices, increasing human rights accountability in policing and making human rights competence a requirement for the police.

For over a decade, the OHRC has raised concerns about anti-Black racism in policing in Toronto. Carding and other practices that have a disproportionate negative impact on Black persons have eroded trust in police, which is essential to effective policing, and ultimately, public safety.

The OHRC is conducting a public interest inquiry into potential racial profiling of and racial discrimination against Black persons by the Toronto Police Service (TPS). This inquiry is being carried out under the OHRC's powers pursuant to section 31 of the *Code* which include but are not limited to:

- The power to request the production of documents or things;
- The power to question a person on matters that may be relevant to the inquiry; subject only to the person's right to counsel; and
- The ability to use expert assistance to carry out the inquiry.

#### Scope of the inquiry

1. The OHRC will inquire into the following practices and activities of the TPS between January 1, 2010 and June 30, 2017 to assess whether they are consistent with racial profiling and racial discrimination against Black persons:
  - a. Stop and question practices of the TPS.
  - b. Use of force by the TPS.
  - c. Arrests and charges by the TPS and forms and conditions of release applied by the TPS in relation to certain categories of offences:
    - i. Out-of-sight driving offences;
    - ii. Simple drug possession;

- iii. Obstructing a police officer, assaulting a police officer, assaulting a police officer to resist arrest, and uttering threats against a police officer;
  - iv. Loitering, causing a disturbance and trespassing; and
  - v. Failing to comply with a bail condition or undertaking to a police officer.
2. The OHRC will inquire into the possible disproportionate impact of the above activities on Black persons and communities.
3. The inquiry will examine the TPS's and Toronto Police Services Board's (TPSB) culture, training, policies, procedures and accountability mechanisms relating to racial profiling and racial discrimination.
4. The OHRC will also examine whether the TPS and TPSB have developed systems to review whether stop and question, use of force, arrests and charges, and release practices disproportionately impact racialized people.
5. The OHRC will inquire into how the TPS and TPSB respond to findings by the Human Rights Tribunal of Ontario, civil courts, and criminal courts that its officers have engaged in racial discrimination or racial profiling.
6. The OHRC may examine and report on any other circumstance relevant to potential racial profiling of and racial discrimination against Black persons by the TPS that may arise during the course of the inquiry.

### **Inquiry process**

7. To carry out the inquiry, the OHRC will:
  - a. seek documents and data including from the TPS, TPSB and the Special Investigations Unit (SIU);
  - b. Conduct research, including interjurisdictional research;
  - c. Retain experts;
  - d. Consult with key stakeholders; and
  - e. Receive information from affected individuals, interested groups and organizations.
8. The OHRC will report publicly on the inquiry process, its findings and recommendations. The OHRC will provide an opportunity for the TPS and TPSB to respond to the inquiry's findings and recommendations before making the report public.

9. The OHRC will also assess the need to take further steps available to it under the *Code* to address any issues identified.
10. Any revisions to these Terms of Reference will be posted publicly.

### **Privacy**

11. The OHRC recognizes the potential vulnerability of affected individuals and the sensitivity of the information it will receive during the course of the inquiry.
12. The OHRC will take all reasonable steps to conduct any interviews in a manner that protects the security of the person interviewed and respects their confidentiality. The OHRC will not disclose personal information of affected individuals without informed consent.
13. The OHRC will take all reasonable steps to ensure that personal information that is gathered from individuals, the TPS, the TPSB or the SIU is treated confidentially and in accordance with the *Freedom of Information and Protection of Privacy Act (FIPPA)*.
14. The OHRC will be governed by its [Protection of Personal Information and Privacy Safeguards Policy](#) and will take all reasonable steps to prevent unauthorized access, use or disclosure of personal information as directed by *FIPPA*.
15. The OHRC will destroy any personal information as soon as reasonably possible after it is no longer required.

## Appendix C: Inquiry letters

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June 30, 2017

Tony Loparco  
Director  
Special Investigations Unit  
5090 Commerce Boulevard  
Mississauga, Ontario  
L4W 5M4

Dear Director Loparco:

### **RE: Ontario Human Rights Commission Inquiry**

For over a decade, the Ontario Human Rights Commission (OHRC) has raised concerns about anti-Black racism in policing in Toronto. Carding and other practices that have a disproportionate negative impact on Black persons have eroded trust in police, which is essential to effective policing, and ultimately, public safety.

Under the authority of section 31 of the Ontario *Human Rights Code* (*Code*) the OHRC is conducting an inquiry into potential racial profiling of, and racial discrimination against, Black persons, including in use of force, by the Toronto Police Service (TPS).

The Special Investigations Unit (SIU) has documents and things that are relevant to this inquiry. Pursuant to subsections 31(7) and 31(8) of the *Code* (see Appendix 'A'), the OHRC seeks documents and things from the SIU pertaining to all SIU investigations of TPS officers that were initiated, completed, and closed between January 1, 2010 and June 30, 2017 and ongoing SIU investigations of TPS officers that were commenced on or before December 31, 2016.

The OHRC requests the full and complete investigative file of every case when the SIU:

- a) Fully investigated and laid criminal charges against the officer;
- b) Fully investigated and determined that charges were not appropriate; and
- c) Is engaged in an ongoing investigation.

The full and complete investigative file includes, but is not limited to: notes, statements, photographs, pictures, diagrams, medical records, video recordings, audio recordings and all other documents and things created or acquired by the SIU during the course of its investigation.

The OHRC also requests any SIU letters to the Chief of the TPS, responding letters from the Chief of the TPS, and the full and complete SIU Director's report.

Under section 31 of the *Code* (see Appendix 'A'), the SIU is obligated to produce the above-noted documents and things and provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form.

Pursuant to section 31 of the *Code*, and subsections 38(2), 39(1), and 42(1) of the *Freedom of Information and Protection of Privacy Act*, the OHRC is authorized to receive personal information in an inquiry.

To begin the process of providing the above-noted documents and things and assistance to the OHRC, please have your staff contact Sunil Gurmukh (Counsel, Legal Services and Inquiries - Tel: 416-314-4519) and Reema Khawja (Counsel, Legal Services and Inquiries - Tel: 416-326-9870) by no later than July 21, 2017.

We look forward to working with you and receiving your assistance in accordance with the requirements of the *Code*. In keeping with the OHRC's commitment to public accountability and its duties in serving the people of Ontario, this letter and your response may be made public in the future.

Sincerely,

Renu Mandhane, B.A., J.D., LL.M.  
Chief Commissioner

cc: Hon. Yasir Naqvi, Attorney General  
Hon. Marie-France Lalonde, Minister of Community Safety and Correctional Services  
Ali Arlani, Assistant Deputy Attorney General  
Tony Loparco, Director of the Special Investigations Unit  
OHRC Commissioners

## Appendix 'A'

### Inquiries

31. (1) The Commission may conduct an inquiry under this section for the purpose of carrying out its functions under this Act if the Commission believes it is in the public interest to do so. 2006, c. 30, s. 4.

### Conduct of inquiry

(2) An inquiry may be conducted under this section by any person who is appointed by the Commission to carry out inquiries under this section. 2006, c. 30, s. 4.

### Production of certificate

(3) A person conducting an inquiry under this section shall produce proof of their appointment upon request. 2006, c. 30, s. 4.

### Entry

(4) A person conducting an inquiry under this section may, without warrant, enter any lands or any building, structure or premises where the person has reason to believe there may be documents, things or information relevant to the inquiry. 2006, c. 30, s. 4.

### Time of entry

(5) The power to enter a place under subsection (4) may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours. 2006, c. 30, s. 4.

### Dwellings

(6) A person conducting an inquiry under this section shall not enter into a place or part of a place that is a dwelling without the consent of the occupant. 2006, c. 30, s. 4.

### Powers on inquiry

- (7) A person conducting an inquiry may,
- (a) request the production for inspection and examination of documents or things that are or may be relevant to the inquiry;
  - (b) upon giving a receipt for it, remove from a place documents produced in response to a request under clause (a) for the purpose of making copies or extracts;
  - (c) question a person on matters that are or may be relevant to the inquiry, subject to the person's right to have counsel or a personal representative present during such questioning and exclude from the questioning any person who may be adverse in interest to the inquiry;
  - (d) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document in readable form;
  - (e) take measurements or record by any means the physical dimensions of a place;
  - (f) take photographs, video recordings or other visual or audio recordings of the interior or exterior of a place; and
  - (g) require that a place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, inquiry or test. 2006, c. 30, s. 4.

Written demand

(8) A demand that a document or thing be produced must be in writing and must include a statement of the nature of the document or thing required. 2006, c. 30, s. 4.

Assistance

(9) A person conducting an inquiry may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inquiry. 2006, c. 30, s. 4.

Use of force prohibited

(10) A person conducting an inquiry shall not use force to enter and search premises under this section. 2006, c. 30, s. 4.

Obligation to produce and assist

(11) A person who is requested to produce a document or thing under clause (7) (a) shall produce it and shall, on request by the person conducting the inquiry, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form. 2006, c. 30, s. 4.

Return of removed things

(12) A person conducting an inquiry who removes any document or thing from a place under clause (7) (b) shall,

- (a) make it available to the person from whom it was removed, on request, at a time and place convenient for both that person and the person conducting the inquiry; and
- (b) return it to the person from whom it was removed within a reasonable time. 2006, c. 30, s. 4.

Admissibility of copies

(13) A copy of a document certified by a person conducting an inquiry to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2006, c. 30, s. 4.

Obstruction

(14) No person shall obstruct or interfere with a person conducting an inquiry under this section. 2006, c. 30, s. 4.

Section Amendments with date in force (d/m/y)

2006, c. 30, s. 4 - 30/06/2008

Search warrant

31.1 (1) The Commission may authorize a person to apply to a justice of the peace for a warrant to enter a place and conduct a search of the place if,

- (a) a person conducting an inquiry under [section 31](#) has been denied entry to any place or asked to leave a place before concluding a search;

(b) a person conducting an inquiry under [section 31](#) made a request for documents or things and the request was refused; or

(c) an inquiry under [section 31](#) is otherwise obstructed or prevented. 2006, c. 30, s. 4.

#### Same

(2) Upon application by a person authorized under subsection (1) to do so, a justice of the peace may issue a warrant under this section if he or she is satisfied on information under oath or affirmation that the warrant is necessary for the purposes of carrying out the inquiry under [section 31](#). 2006, c. 30, s. 4.

#### Powers

(3) A warrant obtained under subsection (2) may authorize a person named in the warrant, upon producing proof of his or her appointment,

(a) to enter any place specified in the warrant, including a dwelling; and

(b) to do any of the things specified in the warrant. 2006, c. 30, s. 4.

#### Conditions on search warrant

(4) A warrant obtained under subsection (2) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2006, c. 30, s. 4.

#### Time of execution

(5) An entry under a warrant issued under this section shall be made at such reasonable times as may be specified in the warrant. 2006, c. 30, s. 4.

#### Expiry of warrant

(6) A warrant issued under this section shall name a date of expiry, which shall be no later than 15 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 15 days, upon application without notice by the person named in the warrant. 2006, c. 30, s. 4.

#### Use of force

(7) The person authorized to execute the warrant may call upon police officers for assistance in executing the warrant and the person may use whatever force is reasonably necessary to execute the warrant. 2006, c. 30, s. 4.

#### Obstruction prohibited

(8) No person shall obstruct or hinder a person in the execution of a warrant issued under this section. 2006, c. 30, s. 4.

#### Application

(9) [Subsections 31 \(11\), \(12\) and \(13\)](#) apply with necessary modifications to an inquiry carried out pursuant to a warrant issued under this section. 2006, c. 30, s. 4.

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June 30, 2017

Mark Saunders  
Chief  
Toronto Police Service  
40 College Street  
Toronto, ON M5G 2J3

Andrew Pringle  
Chair  
Toronto Police Services Board  
40 College Street  
Toronto, ON M5G 2J3

Dear Chief Saunders and Chair Pringle:

**RE: Ontario Human Rights Commission Inquiry**

For over a decade, the Ontario Human Rights Commission (OHRC) has raised concerns about anti-Black racism in policing in Toronto. Carding and other practices that have a disproportionate negative impact on Black persons have eroded trust in police, which is essential to effective policing, and ultimately, public safety. Our shared values of public trust and safety depend on a new and progressive approach, grounded in the principles in Ontario's *Human Rights Code (Code)* and accountability for racial discrimination.

Under the authority of section 31 of *Code*, the OHRC is conducting an inquiry into potential racial profiling of, and racial discrimination against, Black persons by the Toronto Police Service (TPS).

Pursuant to subsections 31(7) and 31(8) of the *Code* (see Appendix 'A'), the OHRC requests that the TPS and/or Toronto Police Services Board (TPSB) produce documents and things itemized in numbers 1-14 below pertaining to the period between January 1, 2010 and June 30, 2017.

The OHRC's request includes data that may be held in, but not limited to, the following databases: Criminal Injuries Processing System (CIPS), Field Information Report (FIR), and Versadex. Data requested should be produced in Microsoft Access and linked such that:

- Each incident has a unique identifier;
- Each civilian has a unique identifier (please note that their personal information must still be produced); and
- Incident-based unique identifiers, civilian unique identifiers, names, and dates of birth are formatted consistently throughout.

The OHRC requests that the TPS and/or TPSB produce the following documents and things:

1. Manuals, record layouts, guides, instructions, variable labels, value labels, list of fields, field definitions and all other background documents relevant to the following databases:
  - a. CIPS;
  - b. FIR; and
  - c. Versadex.
2. Any other manuals, record layouts, guides, instructions, variable labels, value labels, list of fields, field definitions and background documents not included in (1) that provide guidance on database input and output of the information contained in (3), (4) and (7) by the TPS.
3. All data, including notes, comments, synopses, and information in free-text fields, including from the "circumstances of investigation" field, recorded during the period between January 1, 2010 and June 30, 2017 on "Person Investigated Cards" (Form 172), "Field Information Reports" (Form 208), "Community Inquiry Reports" (Form 306), "Regulated Interaction Reports", "Community Contacts", "Community Inquiries", "Community Safety Notes", "Community Engagements", "Contact Cards" and "Street Checks" completed or conducted by TPS officers, whether or not they would have been categorized as "Regulated Interaction Reports" had they been submitted on or after January 1, 2017. The patrol zone that the stop took place in and the patrol zone of the civilian's residence should also be included.
4. All data, including notes, comments, narratives, and information in free-text fields, recorded on Use of Force Reports (Form 1 in R.R.O. 1990, Reg. 926) submitted by TPS officers between January 1, 2010 and June 30, 2017, and all data on any records of arrest, occurrence reports, injury reports, and General Offense Reports associated with the incidents where the use of force occurred.
5. Documents and things that describe whether, how and when the information in (3) and (4) is currently stored and accessed during investigations, patrol work and for

other purposes by the TPS and/or other police services. This includes storage and access in the Police Information Portal.

6. Documents and things that describe whether, how, and when the information in (3) and (4) was stored and accessed during investigations, patrol work and for other purposes by the TPS and/or other police services between January 1, 2010 and June 30, 2017. This includes storage and access in the Police Information Portal.
7. Data from charges laid and any accompanying arrests made, including form of release/release type and charge disposition where available, between January 1, 2010 and June 30, 2017 for the following charges:
  - a. Driving while under suspension, contrary to s. 53(1) and s. 53(1.1) of the *Highway Traffic Act*; driving without a valid licence, contrary to s. 32 of the *Highway Traffic Act*; failure to carry a licence and surrender a licence for reasonable inspection, contrary to s. 33(1) and s. 33(2) of the *Highway Traffic Act*; failure to provide reasonable identification on a failure to surrender a licence, contrary to s. 33(3) of the *Highway Traffic Act*; failure to change address or name, contrary to s.9(2) and s. 9(3) of the *Highway Traffic Act*; displaying a licence that has been suspended, altered etc., contrary to s. 35(1) of the *Highway Traffic Act*; driving without a valid permit, contrary to s. 7(1)(a) of the *Highway Traffic Act*; failure to carry a permit, contrary to s. 7(5) of the *Highway Traffic Act*; operating a motor vehicle without insurance, contrary to s. 2(1) of the *Compulsory Automobile Insurance Act*; and failure to carry an insurance card, contrary to s. 3(1) of the *Compulsory Automobile Insurance Act*. Data on any accompanying charges laid under the *Criminal Code*, *Controlled Drugs and Substances Act*, and provincial statutes and regulations subject to the *Provincial Offences Act*, for each of the charges listed above, must also be included.
  - b. Charges for possession of a substance, contrary to s. 4(1) of the *Controlled Drugs and Substances Act*, broken down by type of substance. Data on any accompanying charges laid under the *Criminal Code*, *Controlled Drugs and Substances Act*, and provincial statutes and regulations subject to the *Provincial Offences Act* must also be included.
  - c. Resisting or wilfully obstructing a public officer or a peace officer, contrary to s. 129(a) of the *Criminal Code*; assaulting a public officer or a peace officer, contrary to s. 270(1)(a) of the *Criminal Code*; assaulting a person with intent to resist or prevent the lawful arrest or detention of himself or another person, contrary to s. 270(1)(b) of the *Criminal Code*; and uttering threats, contrary to s. 264.1(1) of the *Criminal Code*. Data on any accompanying charges laid under the *Criminal Code*, *Controlled Drugs and Substances Act*, and provincial statutes and regulations subject to the *Provincial Offences Act*, for each of the charges listed above, must also be included.

- d. Loitering, contrary to s. 175(1)(c) of the *Criminal Code*, and s.3(a)(3) of chapter 608 (Parks) of the *Toronto Municipal Code*. Data on any accompanying charges laid under the *Criminal Code*, *Controlled Drugs and Substances Act*, and provincial statutes and regulations subject to the *Provincial Offences Act*, for each of the charges listed above, must also be included.
  - e. Causing a disturbance, contrary to s. 175(1)(a) of the *Criminal Code*; and disturbing the peace, contrary to s. 175(1)(d) of the *Criminal Code*. Data on any accompanying charges laid under the *Criminal Code*, *Controlled Drugs and Substances Act*, and provincial statutes and regulations subject to the *Provincial Offences Act*, for each of the charges listed above, must also be included.
  - f. Trespassing, contrary to s. 2(1)(a) and (b) of the *Trespass to Property Act*; and trespassing at night, contrary to s. 177 of the *Criminal Code*. Data on any accompanying charges laid under the *Criminal Code*, *Controlled Drugs and Substances Act*, and provincial statutes and regulations subject to the *Provincial Offences Act*, for each of the charges listed above, must also be included.
  - g. Failure to comply with a condition of undertaking or recognizance, contrary to s.145(3) of the *Criminal Code*; and failure to comply with conditions of an undertaking, contrary to s. 145(5.1) of the *Criminal Code*. Data on any accompanying charges laid under the *Criminal Code*, *Controlled Drugs and Substances Act*, and provincial statutes and regulations subject to the *Provincial Offences Act*, for each of the charges listed above, must also be included.
8. Policies, procedures, standing orders, directives, agreements, protocols, training materials and any other documents and things from January 1, 2010 to June 30, 2017, including any updates made during this period, that provide guidance on:
- a. Officer use of force;
  - b. Body-worn cameras;
  - c. In-car camera systems;
  - d. Recordings taken by bystanders or witnesses;
  - e. Any of the offences listed in (7);
  - f. Forms of release;
  - g. Arrest processes;
  - h. Racial profiling, racial discrimination, and racial harassment
  - i. "Person Investigated Cards" (Form 172), "Field Information Reports" (Form 208), "Community Inquiry Reports" (Form 306), "Regulated Interaction Reports", "Community Contacts", "Community Inquiries", "Community Safety Notes", "Community Engagements", "Contact Cards" and "Street Checks";
  - j. Bias;
  - k. Cultural competency; and
  - l. The Toronto Anti-Violence Intervention Strategy (TAVIS).

9. Letters, memorandums of understanding or other agreements authorizing the TPS to act as agents for the Toronto Community Housing Corporation to enforce the *Trespass to Property Act*.
10. Documents and things, including research undertaken or commissioned by the TPS or TPSB, from January 1, 2010 to June 30, 2017 that may demonstrate that the TPS and/or TPSB have analyzed or developed systems to review whether the following TPS practices disproportionately impact racialized people:
  - a. Use of force;
  - b. Stop and question;
  - c. Charging;
  - d. Arrest; and
  - e. Release.
11. Documents and things from January 1, 2010 to June 30, 2017 that may demonstrate how the TPS and/or TPSB respond to or address racial profiling or racial discrimination involving TPS officers, including findings of racial profiling or racial discrimination in decisions of the Human Rights Tribunal of Ontario, civil courts and criminal courts, from a disciplinary perspective.
12. Documents and things that demonstrate whether and how the TPS and/or TPSB responded to or addressed the findings in *Abbott v. Toronto Police Services Board*, 2009 HRTO 1909; *McKay v. Toronto Police Services Board*, 2011 HRTO 499; *Maynard v. Toronto Police Services Board*, 2012 HRTO 1220; *Shaw v. Phipps*, 2012 ONCA 155; *R. v. Ahmed*, [2009] O.J. No. 5092 (S.C.J.); *R. v. K.(A.)*, 2014 ONCJ 374; *R. v. Smith*, 2015 ONSC 3548; *R. v. Thompson*, [2016] O.J. No. 2118 (Ont. C.J.); *R. v. Ohenhen*, 2016 ONSC 5782; and *Elmardy v. Toronto Police Services Board*, 2017 ONSC 2074; from a disciplinary perspective.
13. Documents and things from January 1, 2010 to June 30, 2017 that may evaluate TPS and/or TPSB anti-racism initiatives in service delivery.
14. The annual violent crime rate and total crime rate in each of Toronto's patrol zones between 2010 and 2017.

Pursuant to section 31 of the *Code*, subsections 38(2) and 39(1) of the *Freedom of Information and Protection of Privacy Act* and section 32 of the *Municipal Freedom of Information and Protection of Privacy Act*, the OHRC is authorized to receive personal information in an inquiry. We will work with you to address any issues raised by production of personal information covered by the *Youth Criminal Justice Act*.

Under section 31 of the *Code*, the TPS and TPSB are obligated to produce the above-noted documents and things and provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form.

To begin the process of providing assistance and the above-noted documents and things to the OHRC in a suitable format, please have your staff contact Sunil Gurmukh (Counsel, Legal Services and Inquiries - Tel: 416-314-4519) and Reema Khawja (Counsel, Legal Services and Inquiries - Tel: 416-326-9870), by no later than July 21, 2017.

We look forward to working with you and receiving your assistance in accordance with the requirements of the *Code*. In keeping with the OHRC's commitment to public accountability and its duties in serving the people of Ontario, this letter and your response may be made public in the future.

Sincerely,

Renu Mandhane, B.A., J.D., LL.M.  
Chief Commissioner

cc: Hon. Yasir Naqvi, Attorney General  
Hon. Marie-France Lalonde, Minister of Community Safety and Correctional Services  
Ali Arlani, Assistant Deputy Attorney General  
Tony Loparco, Director of the Special Investigations Unit  
OHRC Commissioners

## **Appendix 'A'**

### **Inquiries**

31. (1) The Commission may conduct an inquiry under this section for the purpose of carrying out its functions under this Act if the Commission believes it is in the public interest to do so. 2006, c. 30, s. 4.

### **Conduct of inquiry**

(2) An inquiry may be conducted under this section by any person who is appointed by the Commission to carry out inquiries under this section. 2006, c. 30, s. 4.

### **Production of certificate**

(3) A person conducting an inquiry under this section shall produce proof of their appointment upon request. 2006, c. 30, s. 4.

#### Entry

(4) A person conducting an inquiry under this section may, without warrant, enter any lands or any building, structure or premises where the person has reason to believe there may be documents, things or information relevant to the inquiry. 2006, c. 30, s. 4.

#### Time of entry

(5) The power to enter a place under subsection (4) may be exercised only during the place's regular business hours or, if it does not have regular business hours, during daylight hours. 2006, c. 30, s. 4.

#### Dwellings

(6) A person conducting an inquiry under this section shall not enter into a place or part of a place that is a dwelling without the consent of the occupant. 2006, c. 30, s. 4.

#### Powers on inquiry

- (7) A person conducting an inquiry may,
- (a) request the production for inspection and examination of documents or things that are or may be relevant to the inquiry;
  - (b) upon giving a receipt for it, remove from a place documents produced in response to a request under clause (a) for the purpose of making copies or extracts;
  - (c) question a person on matters that are or may be relevant to the inquiry, subject to the person's right to have counsel or a personal representative present during such questioning and exclude from the questioning any person who may be adverse in interest to the inquiry;
  - (d) use any data storage, processing or retrieval device or system used in carrying on business in the place in order to produce a document in readable form;
  - (e) take measurements or record by any means the physical dimensions of a place;
  - (f) take photographs, video recordings or other visual or audio recordings of the interior or exterior of a place; and
  - (g) require that a place or part thereof not be disturbed for a reasonable period of time for the purposes of carrying out an examination, inquiry or test. 2006, c. 30, s. 4.

#### Written demand

(8) A demand that a document or thing be produced must be in writing and must include a statement of the nature of the document or thing required. 2006, c. 30, s. 4.

#### Assistance

(9) A person conducting an inquiry may be accompanied by any person who has special, expert or professional knowledge and who may be of assistance in carrying out the inquiry. 2006, c. 30, s. 4.

#### Use of force prohibited

(10) A person conducting an inquiry shall not use force to enter and search premises under this section. 2006, c. 30, s. 4.

Obligation to produce and assist

(11) A person who is requested to produce a document or thing under clause (7) (a) shall produce it and shall, on request by the person conducting the inquiry, provide any assistance that is reasonably necessary, including assistance in using any data storage, processing or retrieval device or system, to produce a document in readable form. 2006, c. 30, s. 4.

Return of removed things

(12) A person conducting an inquiry who removes any document or thing from a place under clause (7) (b) shall,

(a) make it available to the person from whom it was removed, on request, at a time and place convenient for both that person and the person conducting the inquiry; and

(b) return it to the person from whom it was removed within a reasonable time. 2006, c. 30, s. 4.

Admissibility of copies

(13) A copy of a document certified by a person conducting an inquiry to be a true copy of the original is admissible in evidence to the same extent as the original and has the same evidentiary value. 2006, c. 30, s. 4.

Obstruction

(14) No person shall obstruct or interfere with a person conducting an inquiry under this section. 2006, c. 30, s. 4.

Section Amendments with date in force (d/m/y)

2006, c. 30, s. 4 - 30/06/2008

Search warrant

31.1 (1) The Commission may authorize a person to apply to a justice of the peace for a warrant to enter a place and conduct a search of the place if,

(a) a person conducting an inquiry under section 31 has been denied entry to any place or asked to leave a place before concluding a search;

(b) a person conducting an inquiry under section 31 made a request for documents or things and the request was refused; or

(c) an inquiry under section 31 is otherwise obstructed or prevented. 2006, c. 30, s. 4.

Same

(2) Upon application by a person authorized under subsection (1) to do so, a justice of the peace may issue a warrant under this section if he or she is satisfied on information under oath or affirmation that the warrant is necessary for the purposes of carrying out the inquiry under section 31. 2006, c. 30, s. 4.

Powers

(3) A warrant obtained under subsection (2) may authorize a person named in the warrant, upon producing proof of his or her appointment,

- (a) to enter any place specified in the warrant, including a dwelling; and
- (b) to do any of the things specified in the warrant. 2006, c. 30, s. 4.

Conditions on search warrant

(4) A warrant obtained under subsection (2) shall contain such conditions as the justice of the peace considers advisable to ensure that any search authorized by the warrant is reasonable in the circumstances. 2006, c. 30, s. 4.

Time of execution

(5) An entry under a warrant issued under this section shall be made at such reasonable times as may be specified in the warrant. 2006, c. 30, s. 4.

Expiry of warrant

(6) A warrant issued under this section shall name a date of expiry, which shall be no later than 15 days after the warrant is issued, but a justice of the peace may extend the date of expiry for an additional period of no more than 15 days, upon application without notice by the person named in the warrant. 2006, c. 30, s. 4.

Use of force

(7) The person authorized to execute the warrant may call upon police officers for assistance in executing the warrant and the person may use whatever force is reasonably necessary to execute the warrant. 2006, c. 30, s. 4.

Obstruction prohibited

(8) No person shall obstruct or hinder a person in the execution of a warrant issued under this section. 2006, c. 30, s. 4.

Application

(9) Subsections 31 (11), (12) and (13) apply with necessary modifications to an inquiry carried out pursuant to a warrant issued under this section. 2006, c. 30, s. 4.

**From:** CCO Mail  
**Sent:** July-06-17 2:06 PM  
**To:** 'Mark Saunders'; 'TPSB Board'  
**Cc:** 'Yasir Naqvi'; 'Marie-France Lalonde'; 'Ali Arlani'; 'Tony Loparco'; COMMISSIONERS  
**Subject:** RE: Ontario Human Rights Commission Inquiry

Dear Chief Saunders and Chair Pringle:

The OHRC's letter dated June 30, 2017 mistakenly refers to the "Criminal Injuries Processing System". It should have referred to the "Criminal Information Processing System".

My apologies for any inconvenience this may have caused.

Sincerely,

Renu Mandhane B.A., J.D., LL.M.  
Chief Commissioner  
Office of the Chief Commissioner  
Ontario Human Rights Commission  
180 Dundas Street West, Suite 900,  
Toronto, ON M7A 2R9

**From:** CCO Mail  
**Sent:** June-30-17 10:00 AM  
**To:** 'Mark Saunders'; 'TPSB Board'  
**Cc:** 'Yasir Naqvi'; 'Marie-France Lalonde'; 'Ali Arlani'; 'Tony Loparco'; COMMISSIONERS  
**Subject:** Ontario Human Rights Commission Inquiry

Dear Chief Saunders and Chair Pringle,

Please see letter attached.

Sincerely,

Renu Mandhane B.A., J.D., LL.M.  
Chief Commissioner  
Office of the Chief Commissioner  
Ontario Human Rights Commission  
180 Dundas Street West, Suite 900,  
Toronto, ON M7A 2R9

## Appendix D: Status of OHRC requests

### SIU

OHRC request	OHRC request date	SIU response	SIU response date
The full investigative files of TPS officers that were initiated, completed, and closed between January 1, 2010 and June 30, 2017 and ongoing SIU investigations of TPS officers that were commenced on or before December 31, 2016	June 30, 2017	The OHRC received information from investigative files (with the exception of cases before the courts and active investigations) electronically for cases initiated, completed and closed between 2013 and 2017.	The OHRC received the information on an ongoing basis between September 2017 and July 2018

### TPSB

OHRC request	OHRC request date	TPSB response	TPSB response date
<p>1. Policies, procedures, orders, training materials and other documents and things from January 1, 2010 to June 30, 2017, including any updates made during this period, that provide guidance on:</p> <ul style="list-style-type: none"> <li>• Officer use of force</li> <li>• Body-worn cameras</li> <li>• In-car camera systems</li> <li>• Recordings taken by bystanders or witnesses</li> <li>• The particular offences listed by the OHRC</li> <li>• Forms of release</li> <li>• Racial profiling, racial discrimination and racial harassment</li> </ul>	June 30, 2017	The TPSB provided relevant policies, reports, minutes and other documents in its possession.	September 5, 2017 and April 23, 2018

<ul style="list-style-type: none"> <li>• Carding/street checks</li> <li>• Bias</li> <li>• Cultural competency</li> <li>• TAVIS</li> </ul> <p>2. Documents and things from January 1, 2010 to June 30, 2017 that may evaluate TPS and/or TPSB anti-racism initiatives in service delivery</p>			
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## TPS

OHRC request or modified request	OHRC request date	TPS response	TPS response date
<p>1. Manuals, definitions, variable and value labels, guides, instructions and other background documents that are relevant to the Criminal Information Processing System, Field Information Report and Versadex databases, or provide guidance on database input and output of carding/street checks, use of force, the data on charges and arrests sought</p>	<p>June 30, 2017</p>	<p>The TPS provided relevant documents in its possession.</p> <p>The TPS provided written descriptions of the variables and value codes regarding the data produced to date.</p>	<p>December 18, 2017 and February 27, 2018</p> <p>September 4, 2018</p>
<p>2. Carding/street checks submitted by TPS officers between January 1, 2010 and June 30, 2017</p>	<p>June 30, 2017</p>	<p>The OHRC received adult carding data between January 1, 2010 and November 6, 2013.</p> <p>The OHRC received adult carding data between November 6, 2013 and June 30, 2018.</p>	<p>February 1, 2018</p> <p>September 4, 2018</p>

3. Use of Force Reports and data from related General Occurrence Reports between January 1, 2010 and June 30, 2017	June 30, 2017		
4. Modified request: Use of Force Reports from July 1, 2016 to June 30, 2017, linked to General Occurrence Reports	November 8, 2017	The OHRC received Use of Force Reports from July 1, 2016 to June 30, 2017.	December 18, 2017
5. Additional request: Illness/Injury Reports	March 8, 2018	The OHRC received January 1, 2015 – June 30, 2017 Illness/Injury Reports.	April 11, 2018
6. General Occurrence Reports corresponding to the Injury Reports from January 1, 2015 to June 30, 2017	July 25, 2018	The OHRC received the General Occurrence Reports corresponding to the Injury Reports from January 1, 2015 to June 30, 2017.	September 4, 2018
7. Documents and things that describe whether, how and when the information in (3) and (4) is currently stored and accessed and was stored and accessed between January 1, 2010 and June 30, 2017	June 30, 2017	The TPS provided documents that included its use of force procedures, reports to the TPSB on access to historical carding data from the first two quarters of 2017, and the Chief's 2012 Internal Organizational Review related to carding. The TPS advised the OHRC how carding data was viewable.	December 18, 2017, February 9, 2018, October 2, 2018
8. Data from charges laid and any accompanying charges and arrests made, including form of release/release type between January 1, 2010 and June 30, 2017 for the following charges/offence categories: a. Out-of-sight driving offences, e.g. driving without a license or	June 30, 2017	The OHRC received adult charge, arrest and release data.	February 1, 2018

<p>insurance</p> <p>b. Simple drug possession</p> <p>c. Obstructing a police officer, assaulting a police officer, assaulting a police officer to resist arrest, and uttering threats against a police officer</p> <p>d. Loitering, causing a disturbance and trespassing</p> <p>e. Failing to comply with a bail condition or condition of release required by a police officer</p>			
<p>9. Policies, procedures, orders, training materials and other documents and things from January 1, 2010 to June 30, 2017, including any updates made during this period, that provide guidance on:</p> <ul style="list-style-type: none"> <li>• Officer use of force</li> <li>• Body-worn cameras</li> <li>• In-car camera systems</li> <li>• Recordings taken by bystanders or witnesses</li> <li>• The particular offences listed by the OHRC</li> <li>• Forms of release</li> <li>• Racial profiling, racial discrimination and racial harassment</li> <li>• Carding/street checks</li> <li>• Bias</li> <li>• Cultural competency</li> <li>• TAVIS</li> </ul>	<p>June 30, 2017</p>	<p>The TPS provided relevant documents in its possession.</p>	<p>February 27, March 6, April 27, 2018</p>

10. Additional forms and procedures for performance and accountability in place between January 1, 2010 and June 30, 2017	July 25, 2018	The OHRC received these documents.	September 2, 2018
11. Letters, memorandums of understanding or other agreement authorizing the TPS to act as agents for the Toronto Community Housing Corporation to enforce the <i>Trespass to Property Act</i>	June 30, 2017	The TPS did not provide these documents as a result of its resources.	December 18, 2017
12. Modified request: Agreements for two complexes as a starting point	July 25, 2018	The TPS provided relevant documents regarding the following divisions: 11-14, 22, 23, 31-33, 41-43, 53-55	September 2, 2018
13. Documents and things, including research undertaken or commissioned by the TPS from January 1, 2010 to June 30, 2017 that may demonstrate that the TPS has analyzed or developed systems to review whether the following TPS practices disproportionately impact racialized people: a. Use of force b. Stop and question c. Charging d. Arrest e. Release	June 30, 2017	The TPS provided, among other things, reports on community focus groups held for the TPS, signed research agreements with external parties and materials related to the Project Charter.	December 18, 2017; February 9 and 27, 2018
14. Documents and things from January 1, 2010 to June 30, 2017 that may demonstrate how the TPS responds to addresses racial profiling or racial discrimination involving	June 30, 2017	The TPS refused to provide any disciplinary information that arises under Part V of the <i>Police Services Act</i> .  The TPS did provide Business Plans, Service	December 17, 2017  February 9, 2018

<p>TPS officers, including findings in decisions of the HRTO, civil courts and criminal courts, from a disciplinary perspective</p> <p>15. Documents and things that demonstrate whether and how the TPS responded to or addressed the findings in specific cases</p>		<p>Performance Reports, Project Charter documents and the DiversiPro report on intercultural competence.</p>	
<p>16. Modified request: Aggregated data by year between 2010 and 2017 on the number of officers who were found by the TPS to have engaged in racial profiling, racial discrimination or racial harassment as a result of findings of racial profiling or racial discrimination in decisions of the Human Rights Tribunal of Ontario, civil courts, and criminal courts A summary of the range of disciplinary actions taken by the TPS in relation to the officers above without revealing information about the officers</p>	<p>July 25, 2018</p>	<p>The TPS provided responsive information.</p>	<p>October 2, 2018</p>
<p>17. Decisions of the Toronto Police Service Disciplinary Tribunal related to the conduct of the officers where there have been findings in specific cases</p>	<p>July 25, 2018</p>	<p>The TPS asked for a list of officer names. The OHRC provided this list on September 6, 2018.</p>	<p>September 2, 2018</p>

18. Documents and things from January 1, 2010 to June 30, 2017 that may evaluate TPS and/or TPSB anti-racism initiatives in service delivery	June 30, 2017	The TPS sent its strategy management environmental scans between 2010 and 2013.	December 17, 2017
19. Annual violent crime rate and total crime rate in each of Toronto's patrol zones between 2010 and 2017	June 30, 2017	<p>The TPS provided crime rates and crime counts by patrol zone for crimes against persons and property.</p> <p>The TPS provided instructions on how to use its TPS Crime App.</p>	<p>November 17, 2017</p> <p>March 6, 2018</p>

## Appendix E: Wortley Report

# **Race and Police Use of Force: An Examination of Special Investigations Unit Cases Involving the Toronto Police Service**

**PRELIMINARY REPORT** by **Dr. Scot Wortley**,  
Centre for Criminology and Sociolegal Studies,  
University of Toronto

**Submitted to the OHRC:** November 2018

## Introduction

- This document provides a preliminary analysis of police use of force cases involving the Toronto Police Service (TPS);
- All cases included in this study were investigated by the Government of Ontario's Special Investigations Unit (SIU);
- The SIU is a civilian police oversight agency with a mandate to investigate police-involved incidents that result in the death or serious injury of a civilian and allegations of sexual assault;
- The study is designed to address the following five research questions with respect to the TPS: 1) To what extent are Black people represented in police use of force incidents? 2) To what extent are Black people represented in police use of force cases – including police shootings? 3) To what extent do cases involving Black civilians differ from cases involving civilians from other racial groups? 4) What proportion of SIU investigations result in criminal charges against police officers? And 5) What proportion of SIU cases experience problems with police cooperation?

## Methodology

- The current study examined SIU investigations related to the TPS over two periods of time: 1) January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006; and 2) January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017. The inclusion of data over two time periods permits a trend analysis of how police use of force has – or has not – changed over time;
- During both time periods the research team was not provided with information about SIU investigations that were still open or cases that were before the criminal courts at the time of data collection;
- The 2000-2006 data was collected as part of a larger study on police use of force commissioned by the African Canadian Legal Clinic and the Government of Ontario's Ipperwash Inquiry (see Wortley 2006);
- The 2000-2006 study is based on the examination of data from SIU Director's Reports. A Director's Report provides detailed information on each SIU investigation, including the time, date and location of the incident, the personal characteristics of the civilian or civilians involved, the cause of civilian injury or death, a description of the circumstances surrounding the incident, and the justification behind the Director's decision to either charge subject officers with a criminal offence or clear them of any criminal wrongdoing;

- During the 2000-2006 period the SIU completed 1,113 investigations across the province. One data record was produced for each civilian involved in a SIU investigation;
- During this period the SIU conducted 246 investigations involving the TPS. However, 59 of these TPS cases were “closed by memo” soon after the file had been opened. SIU investigations are “closed by memo” when, early in the investigation, it is determined that the civilian injury is not serious enough to meet the SIU mandate or was not directly caused by police activity;
- The final 2000-2006 sample includes 187 SIU investigations, all involving the Toronto Police Service, that were completed over this six and a half-year period;
- By 2013, SIU investigation materials had been digitized. The research team was granted access to these case materials – including Director’s Reports, officer notes and witness statements – from January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017;
- Between 2013 and 2017, the SIU opened investigations into 319 incidents involving the TPS. However, 75 of these cases were “closed by memo” shortly after the file had been opened. As a result, the 2013-2017 sample includes 244 SIU investigations, all involving the TPS, that were completed over this four-year period;
- The data template used to collect information about each investigation is provided in Appendix A. Important variables include the time, date and location of the incident, the cause of civilian death or injury, the nature of the injury, civilian characteristics (including age, gender, race, mental health, criminal record, etc.), number of subject officers, number of witness officers, the characteristics of subject and witness officers, the actions of the civilian at the time of the incident, weapons use by civilians and case outcome;

### Measuring civilian race

- It should be noted that the racial background of civilians is not regularly recorded by SIU investigators. That is, there was no intentional or organized effort by the SIU to collect racial statistics *per se*;
- The research team, therefore, had to rely on a variety of other methods to make this determination, including: 1) case photographs; 2) police records (i.e., general occurrence reports); 3) interviews with the SIU investigators; and 4) photographs of the civilian that appeared in newspaper coverage of the incident;
- Using these methods, we were able to identify the civilian’s racial background in 86.1% of the 2000-2006 cases and 87.3% of the 2013-2017 cases;

- Table A compares how civilian race was identified during both the 2000-2006 and 2013-2017 study periods;
- During the 2000-2006 timeframe, the majority of racial identifications (59.9%) were made from photographs taken directly from SIU case files. By contrast, during the 2013-2017 period, only 16.5% of racial IDs were made via SIU case photos. Unfortunately, most of the digitized case materials received from the SIU did not contain photos;
- During the 2013-2017 study period, civilian race was most likely to be derived from official TPS documents (General Occurrence reports, Arrest reports, Injury reports, etc.) or SIU investigator notes. By contrast, during the 2000-2006 period, only 12.3% of racial identifications were made from SIU investigator notes. None (0.0%) were made through TPS documents;
- In 2000-2006, 9.6% of all racial identifications were made via interviews or discussions with the SIU investigators responsible for the case. During the second time period, we did not have the opportunity to consult directly with SIU investigators;
- In a small number of cases, civilian race was identified via media coverage of the SIU case or social media;

**TABLE A: How race of complainant was identified, SIU Investigations, 2000-2006 and 2013-2017 Study Periods**

Method of Racial Identification	2000-2006 Study Period		2013-2017 Study Period	
	Number	Percent	Number	Percent
<b>SIU Photos</b>	112	59.9	16	16.5
<b>SIU Investigator Notes</b>	23	12.3	75	30.7
<b>Discussions with SIU Investigators</b>	18	9.6	0	0.0
<b>TPS Documents</b>	0	0.0	114	46.7
<b>Media Coverage</b>	8	4.3	6	2.5
<b>Social Media</b>	0	0.0	2	0.8
<b>Race not Identified</b>	26	13.9	31	12.7
<b>Sample Size</b>	187	100.0	244	100.0

- For purposes of the current analysis we only identify three major racial groups: 1) White; 2) Black and 3) Other racial minority;
- For the 2013-2017 study period, the “Other Minority” category includes civilians who were identified as “Brown” or “Brown-skinned” in TPS reports. Although we know they are not “White,” the exact racial identity of these individuals is impossible to determine.

Brown-skinned people could come from a number of different racial backgrounds including South Asian, Hispanic, West Asian, mixed race, etc.;

- Indeed, it is quite possible that some civilians who self-identify as “Black” were incorrectly coded as “Brown-skinned” by the police. If this is the case, the actual number of “Black” people appearing in SIU cases may be greater than the numbers presented below;<sup>1</sup>
- For example, due to our conservative coding strategy, all 13 of the civilians identified as “Brown-skinned” by TPS documents were put into the “Other Minority” category. However, if we had placed them into the “Black” category, the number of Black civilians appearing in 2013-2017 SIU cases would have jumped from 62 to 75 individuals -- or from 25.4% to 30.7% of the cases;

### Measuring racial disparity

- Tables 1 through 17 compare the representation of different racial groups in Toronto with their representation in SIU investigations;
- For the 2000-2006 sample, population estimates were derived from the 2006 Canadian Census. For the 2013-2017 sample, estimates were derived from the 2016 Canadian Census (Statistics Canada 2016);
- Estimates for the White population were calculated by taking the total population estimate for Toronto and deducting the total visible minority population and the total Indigenous population;
- Odds ratios and SIU case rates were calculated to determine the representation of specific racial groups in SIU investigations;
- Odds ratios were calculated by dividing the percent of all SIU cases involving a particular racial group by their percent representation in the general population. An odds ratio approaching 1.00 indicates that a racial group is neither over or under-represented in SIU cases. An odds ratio less than 1.00 indicates that the group is under-represented in SIU cases. An odds ratio greater than 1.00 indicates that the group is over-represented. For example, an odds ratio of 2.00 indicates that a group is twice as

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<sup>1</sup> My analysis of TPS street check data, for example, reveals inconsistent coding of Black and Brown individuals by TPS officers. For example, the same individual might be labelled “Black” during some street checks, but “Brown” during others. We did not observe such inconsistencies with respect to White civilians. Furthermore, we also found that immigrants from North Africa (Somalia, Ethiopia, etc.), most of whom identify as Black or African, were often labelled “Brown” by TPS officers.

prevalent in SIU cases as they are in the general population. By contrast, an odds ratio of 0.50 indicates that a group is 50% less represented in SIU investigations than their proportion of the general population would predict;

- There is no set standard for determining when racial disproportionality (i.e., the over or under-representation of a particular racial group with respect to a specific social outcome) is cause for concern. For example, in the Ottawa Traffic Stop study, the authors used the 20% rule (or an Odds Ratio of 1.20 or higher) to determine when a group was significantly over-represented with respect to involuntary police contact (Foster et al, 2016). For the purposes of this study we have used a higher threshold of 50%. In other words, for the purposes of the present analysis, an Odds Ratio of 1.50 or higher will be used to determine whether racial disproportionality is noteworthy or not;
- At times we will discuss the notion of “gross” racial disparity. For the purposes of this report, a gross racial disparity exists when the level of over-representation is 200% or greater (i.e., as indicated by an Odds Ratio of 3.00 or higher). In these cases, a particular racial group would be three times more prevalent in SIU investigations than their presence in the general Toronto population would predict;
- The SIU case rate (per 100,000) was calculated by dividing the total number of SIU cases per group by their population estimate and multiplying that figure by 100,000. The rate indicates the number of people, per 100,000 population, that were involved in a SIU investigation during the two study periods. This case rate allows us to directly compare the experiences of racial groups of varying size. For example, if Group A has a case rate of 10 per 100,000 and Group B has a rate of 5 per 100,000, we can accurately state that members of Group A are twice as likely to become involved in a SIU investigation as the members of Group B;
- We must stress that the figures presented in the following tables are based on Census projections and the *total population* of SIU investigations over two study periods. These are not figures based on a random sample and therefore are not subject to the rules of probability theory. In other words, the observed racial differences do not have to be tested for statistical significance. All the racial differences documented in these tables should therefore be interpreted as “real” differences;
- Finally, it should be noted that the odds ratios and SIU case rates presented below are likely conservative. In other words, they may slightly under-estimate the true level of racial disparity in police use of force cases. The issue involves the use of 2006 census estimates for the entire 2000-2006 study period and the use of 2016 census estimates for the entire 2013-2017 study period;

- Previous research suggests that Toronto's Black and other minority population is increasing at a faster rate than the White population. Thus, using 2006 Census estimates to measure the Black/other minority population in 2000 may slightly over-estimate the population size of these groups for that year -- and slightly under-estimate the size of the White population. This would serve to reduce the size of the racial differences that appear in the SIU data. In other words, the racial disparities outlined in this report may be smaller than the racial disparities that actually exist with respect to SIU investigations;

## **Findings**

- Table 1 and Table 2 reveal that Black people are significantly over-represented in TPS SIU cases;
- From 2000-2006, Black people were involved in 30.5% of all SIU investigations, even though they represented only 8.3% of Toronto's population. These figures produce an Odds Ratio of 3.67. In other words, during this period, Black people were 3.67 times more likely to appear in SIU investigations than their presence in the general population would predict. By contrast, both Whites and other minorities are under-represented;
- From 2000-2006, the Black SIU investigation rate (27.33 per 100,000) was 4.6 times greater than the White rate (5.95 per 100,000) and 10.6 times greater than the rate for other racial minorities (2.58);
- The results suggest that little changed between 2000-2006 and 2013-2017;
- Overall, Black representation in SIU investigations dropped slightly from 30.5% to 25.4%. Nonetheless, Black people are still 2.58 times more likely to appear in SIU investigations than their representation in the general population would predict;
- From 2013-2017, both Whites and other minorities were, once again, under-represented in SIU cases;
- From 2013-2017, the Black SIU investigation rate (25.65 per 100,000) was 3.1 times higher than the White rate (8.17 per 100,000) and 6.9 times higher than the rate for other racial minorities (3.68 per 100,000);
- The vast majority of SIU investigations involved male civilians. From 2000-2006, 84.0% of SIU investigations involved males. From 2013-2017 this figure drops slightly to 83.6%;
- With respect to the intersection of race and gender, the data reveal that Black males are especially over-represented in SIU cases. From 2000-2006, Black males represented only 3.8% of the Toronto population, but accounted for 27.8% of all SIU investigations.

In other words, during this period, Black males were 7.3 times more likely to appear in a SIU investigation than their presence in the Toronto population would predict;

- By contrast, between 2000-2006, Black females were under-represented in SIU investigations (4.6% of the general population but only 2.7% of SIU investigations);
- From 2013-2017, Black males represented only 4.1% of the Toronto population, but 23.7% of all SIU investigations. In other words, during this period, Black males were 5.8 times more likely to appear in a SIU investigation than their presence in the Toronto population would predict;
- By contrast, between 2013-2017, Black females were under-represented in SIU investigations (4.8% of the general population but only 1.6% of SIU investigations);
- The results reveal that Black males have, by far, the highest SIU investigation rates (see Figures One and Two). From 2000-2006, the Black male SIU investigation rate (54.53 per 100,000) was 5.2 times greater than the rate for White males (10.44) and 12.7 times greater than the rate for other minority males (4.29 per 100,000);
- Female SIU investigation rates are much lower than the rates for men. However, from 2000-2006, the SIU rate for Black women (4.42 per 100,000) was higher than the rate for White women (1.95 per 100,000) and women from other minority backgrounds (0.99 per 100,000);
- From 2013-2017, the Black male SIU investigation rate (52.78 per 100,000) remained 3.7 times higher than the White male rate (14.14 per 100,000) and 7.7 times higher than the rate for males from other racial minority backgrounds (6.81 per 100,000);
- During the 2013-2017 period, the SIU investigation rate for females remained much lower than the rate for men. However, Black females continued to have a higher rate (3.07 per 100,000) than White females (2.90 per 100,000) or females from other racial backgrounds (0.82 per 100,000);

### Cause of civilian injury

- A major part of the SIU mandate is to determine the exact cause of civilian injury. The SIU determines cause of injury through interviews with subject and witness officers, interviews with the complainant, interviews with civilian witnesses, video surveillance and the collection of physical evidence;

- It must be stressed that the data presented in Table 3 represent SIU determinations or conclusions about cause of harm. These determinations are not without conflict. For example, a civilian may claim that they were injured because the police threw them off a balcony. The police, by contrast, may claim that the person jumped off the balcony to escape apprehension. If the SIU decides that the police version of events is valid, this case would be categorized as “injury not caused by police” rather than “police use of force”;
- From 2000-2006, 23.5% of all SIU cases involved civilian deaths or injuries that were not directly caused by police activity (see Table 3). This figure drops to 21.3% from 2013-2017. In these cases, injuries could have been self-inflicted (i.e., suicide), pre-existing (i.e., caused by a fight between civilians that occurred prior to police arrival) or caused by civilian attempts to flee police (i.e., a civilian suffered a heart attack while running from police);
- From 2000-2006, 23.0% of all SIU investigations involved traffic accidents. A high proportion of these accidents took place during police pursuits. From 2013-2017, this figure dropped to only 12.7%. This noticeable decline in traffic accidents may reflect new regulations and strategies governing how police conduct pursuits;
- From 2000-2006, only 14 SIU investigations (7.5% of all cases) involved allegations of sexual assault. This figure jumps to 36 investigations (14.8% of all cases) in 2013-2017. It is unclear whether this increase represents an actual increase in police sexual assaults, or an increased willingness of civilians to report allegations of sexual assault to the SIU;
- From 2000-2006, 46.0% of all SIU investigations involved police use of force: 12.8% of all cases involved police use of firearms and 33.2% involved other types of force (including the use of tasers, batons, pepper spray, etc.);
- From 2013 to 2017, 51.2% of all SIU investigations involved police use of force: 10.2% involved a police firearm and 41.0% involved other types of force; batons, tasers and pepper spray;
- The SIU investigated 24 police shootings (12.8% of all cases) from 2000-2006 and 25 police shootings from 2013-2017 (10.2% of all cases);
- The SIU investigated an average of 4 shootings per year from 2000-2006, compared to an average of 6.25 shootings per year from 2013-2017;

## Civilian injury not caused by police

- The data reveal that Black people are over-represented in SIU investigations in which it was concluded that the police did not cause civilian injury or death (see Tables 4 and 5);
- From 2000-2006, Black people were 2.73 times more likely to appear in these types of SIU investigation than their presence in the general population would predict;
- From 2013-2017, they were 2.41 times more likely to be involved in “injury not caused by police” cases than their presence in the general population would predict;
- Over both time periods, White and other racial minority civilians are either under-represented in “injury not caused by police cases” or their representation in these types of SIU investigation approximates their representation in the general population;
- From 2000-2006, the Black rate of involvement in “injury not caused by police” cases (4.79 per 100,000) was 4.2 times higher than the White rate (1.13 per 100,000) and 3.9 times higher than the rate for other racial minorities (1.24 per 100,000);
- From 2013-2017, the Black rate of involvement in “injury not caused by police” cases (4.59 per 100,000) was 2.3 times higher than the White rate (1.96 per 100,000) and 7.65 times higher than the rate for other racial minorities;

## Civilian injury caused by police-involved traffic accidents

- Black people are over-represented in SIU investigations in which civilian injuries were caused by police-involved traffic accidents (see Tables 6 and 7). However, the level of Black over-representation in these types of SIU investigation dropped noticeably between 2000-2006 and 2013-2017;
- From 2000-2006, Black people were involved in 25.6% of “traffic accident” cases, even though they represented only 8.3% of the general population. In other words, during this time frame, Black people were 3.08 times more likely to appear in SIU “traffic” investigations than their presence in the general Toronto population would predict;
- From 2013-2017, Black people were involved in 12.9% of SIU traffic-related investigations, even though they represented only 8.8% of the general Toronto population. Thus, during this period, Black people were 1.47 times more likely to appear in traffic-related SIU investigations than their presence in the population would predict;
- During both time periods, White and other racial minority citizens are significantly under-represented in SIU investigations that involve traffic accidents;

- From 2000-2006, the Black rate of “traffic-related” SIU investigation (5.27 per 100,000) was 5.9 times greater than the White rate (0.90 per 100,000) and 6.3 times greater than the rate for other racial minorities (0.83 per 100,000);
- From 2013-2017, the Black rate of “traffic-related” SIU investigation (1.47 per 100,000) was 2.01 times higher than the White rate (0.83 per 100,000) and 9.8 times greater than the rate for other racial minorities;

## **Sexual assault cases**

- Black people are significantly over-represented in SIU sexual assault investigations (see Tables 8 and 9);
- From 2000-2006, Black people were involved in 21.4% of sexual assault investigations, even though they made up only 8.3% of the general Toronto population. In other words, Black people were 2.58 times more likely to appear in SIU sexual assault investigations than their presence in the population would predict;
- From 2013-2017, Black people were involved in 30.6% of sexual assault investigations, even though they made up 8.8% of the general Toronto population. In other words, Black people were 3.48 times more likely to appear in SIU investigations than their presence in the general population would predict;
- During both time periods, other racial minorities were significantly under-represented in SIU sexual assault investigations. White civilians, on the other hand, were slightly over-represented in 2000-2006 sexual assault cases (Odds Ratio=1.21) and slightly under-represented in 2013-2017 cases (Odds Ratio=0.90);
- From 2000-2006, the Black rate of SIU sexual assault investigation (1.44 per 100,000) was 2.1 times greater than the White rate (0.68 per 100,000) and 6.9 times greater than the rate for other racial minorities (0.21 per 100,000);
- From 2013-2017, the Black rate of SIU sexual assault investigation (4.57 per 100,000) was 3.8 times greater than the White rate (1.21 per 100,000) and 13.4 times greater than the rate for other racial minorities;
- From 2000-2006, eleven of the fourteen SIU sexual assault investigations (78.6%) involved female civilians. Only three sexual assault investigations (21.4%) involved males;
- By contrast, during the 2013 to 2017 period, the majority of SIU sexual assault investigations (58.3%) involved male complainants and only 41.7% involved females;

- From 2000-2006, Black males represented 3.8% of the Toronto population, but accounted for 7.1% of all SIU sexual assault investigations. In other words, during this period, Black males were only slightly more likely to appear in a SIU sexual assault investigation than their presence in the Toronto population would predict;
- Between 2000-2006, Black females were also slightly over-represented in SIU investigations (4.6% of the general population, 14.2% of SIU sexual assault investigations);
- From 2013-2017, Black males represented only 4.1% of the Toronto population, but were involved in 25.0% of all SIU sexual assault investigations. In other words, during this period, Black males were 6.1 times more likely to appear in a SIU sexual assault investigation than their presence in the Toronto population would predict;
- By contrast, between 2013-2017, Black females were only slightly over-represented in SIU investigations (4.8% of the general population and 5.5% of SIU sexual assault investigations);
- From 2000-2006, Black females had the highest SIU sexual assault investigation rate (1.77 per 100,000), followed by White females (1.10), Black males (1.05) and White males (0.33);
- From 2013-2017, however, Black males had by far the highest sexual assault investigation rate (see Figures 3 and 4). During this period, the Black male sexual assault investigation rate (8.19 per 100,000) was 5.3 times greater than the rate for Black females (1.54 per 100,000) and 6.7 times greater than the rate for White women (1.22 per 100,000);
- As noted above, the number of SIU sexual assault investigations jumped from 14 in 2000-2006 to 36 in 2013-2017. Much of this increase appears to be related to male complainants who allege that they were sexually assaulted during police frisks or strip-searches. A disproportionate number of these complainants are Black males;

### Police use of force cases

- Black people are grossly over-represented in SIU investigations that involve police use of force (see Tables 10 and 11);
- From 2000-2006, Black people were involved in 38.4% of use of force cases, even though they represent only 8.3% of Toronto's general population. In other words, Black people were 4.63 times more likely to appear in SIU use of force investigations than their presence in the general population would predict;

- From 2013-2017, Black people were involved in 28.8% of SIU use of force cases, even though they represented only 8.8% of the general population. In other words, Black people were 3.27 times more likely to appear in SIU use of force investigations than their presence in the general population would predict;
- By contrast, White and other racial minority citizens are both under-represented in police use of force cases;
- From 2000-2006, the Black “use of force” investigation rate (15.82 per 100,000) was 4.9 times greater than the White rate (3.24 per 100,000) and 51.0 times greater than the rate for other racial minority groups (0.31 per 100,000);
- From 2013-2017, the Black “use of force” investigation rate (15.01 per 100,000) was 3.6 times higher than the White rate (4.16 per 100,000) and 5.8 times greater than the rate for other racial minorities (2.57 per 100,000);
- The vast majority of SIU use of force investigations (over 90% for both time periods) involve male civilians;
- The data suggest that Black males are particularly over-represented in police use of force cases (see Figures 5 and 6). From 2000 to 2006, Black males were involved in 34.9% of all SIU use of force cases, even though they represented only 3.8% of Toronto’s population. In other words, Black males were 9.2 times more likely to be involved in a SIU use of force investigation than their presence in the general population would predict;
- From 2013-2017, Black males were involved in 28.8% of all SIU use of force investigations, even though they represented just 4.1% of the population. In other words, during this period, Black males were 7.0 times more likely to appear in a SIU use of force investigation than their presence in the general population would predict;
- From 2000-2006, the Black male use of force investigation rate (31.46 per 100,000) was five times greater than the rate for White males (6.32 per 100,000), twelve times greater than the rate for Black females, and 71.5 times greater than the rate for White females;
- From 2013-2017, the Black male use of force investigation rate (32.76 per 100,000) was 4.1 times greater than the rate for White males (7.95 per 100,000) and 43.1 times greater than the rate for White females (0.76 per 100,000). During this period, no Black females were involved in a SIU use of force investigation (rate=0.0 per 100,000);

## Police shooting cases

- Black people are grossly over-represented in SIU shooting investigations that involve the Toronto Police Service (see Tables 12 and 13);
- From 2000-2006, Black people were involved in 54.2% of shooting cases, even though they represent only 8.3% of the population. In other words, Black people were 6.53 times more likely to appear in SIU shooting investigations than their presence in the general Toronto population would predict;
- From 2013-2017, Black people were involved in 36.0% of shooting cases, even though they represented only 8.8% of the Toronto population. In other words, Black people were 4.09 times more likely to appear in SIU shooting investigations than their presence in the general population would predict;
- By contrast, White people and the members of other racial minority groups, are noticeably under-represented in police shooting investigations;
- From 2000-2006, the Black shooting investigation rate (6.23 per 100,000) was 9.2 times higher than the White rate (0.68 per 100,000) and 29.7 times higher than the rate for other racial minorities (0.21 per 100,000);
- From 2013-2017, the Black shooting investigation rate (3.75 per 100,000) was 4.9 times higher than the White rate (0.76 per 100,000) and 7.3 times greater than the rate for other racial minorities (0.51 per 100,000);

## Police use of force cases that resulted in civilian death

- This section of the report provides an analysis of all police use of force cases that resulted in the death of the civilian. The data presented in this section includes police shootings as well as deaths that were caused by other types of force (i.e., taser, baton, physical attacks, etc.);
- Black people are grossly over-represented in SIU “police use of force” investigations that resulted in civilian death (see Tables 14 and 15);
- From 2000-2006, Black people were involved in 46.6% of all use of force cases that resulted in civilian death, even though they represented only 8.3% of the Toronto population. In other words, Black people were 5.61 times more likely to be involved in a SIU “death” investigation than their representation in the general population would predict;

- From 2013-2017, Black people were involved in 61.5% of all use of force cases that resulted in civilian death, even though they represented only 8.8% of the general Toronto population. In other words, Black people were seven times more likely to be involved in a SIU “death” investigation than their presence in the general population would predict;
- By contrast, over the two time periods, both White and other racial minority citizens are under-represented in police use of force cases that resulted in civilian death;
- From 2000-2006, the Black use of force “death” rate (3.36 per 100,000) was 6.3 times higher than the White rate (0.53 per 100,000) and 33.6 times greater than the rate for other racial minorities;
- From 2013-2017, the Black use of force “death” rate (3.34 per 100,000) was 11.3 times greater than the White rate (0.30 per 100,000) and 37.1 times greater than the rate for other racial minorities;

### Police shooting deaths

- This section of the report includes an analysis of all civilian deaths that were caused by a police shooting (i.e., police use of a firearm). It excludes cases where death was not caused by a firearm;
- Black people are grossly over-represented in SIU investigations involving police shooting deaths (see Tables 16 and 17);
- From 2000-2006, Black people represented 77.8% of all shooting deaths involving the Toronto Police Service, even though they represented only 8.3% of Toronto’s population at that time. In other words, according to SIU records, Black people were 9.4 times more likely to be involved in a police shooting death than their representation in the general population would predict;
- From 2013-2017, Black people represented 70.0% of all police shooting deaths, even though they made up only 8.8% of Toronto’s population. In other words, during this period, Black people were approximately eight times more likely to be involved in a police shooting death than their presence in the general population would predict;
- Over both time periods, both White and other racial minority civilians are under-represented in police shooting deaths;

- From 2000-2006, the Black police shooting death rate (3.36 per 100,000) was 48 times greater than the White rate (0.07 per 100,000) and 33.6 times higher than the rate for other racial minorities (0.10 per 100,000);
- From 2013-2017, the Black police shooting death rate (2.92 per 100,000) was 19.5 times higher than the White rate (0.15 per 100,000) and 32.4 times greater than the rate for other racial minority groups (0.09 per 100,000);

### **Civilian actions at time of use of force encounter**

- Tables 18 and 19 present information on alleged civilian behaviour at the time of the encounter that led to police use of force;
- It should be noted that this information reflects SIU conclusions. Alternative interpretations of events do exist. For example, in some cases, civilians claim that they were assaulted by the police for “no reason.” The police, by contrast, claim that they only used force because they were first threatened or assaulted by the civilian. In most cases, the SIU seems to prefer the police versions of events;
- The results suggest that, in most use of force cases, the civilian either threatened or assaulted the police officer or was resisting arrest. In a small minority of cases force was used because the civilian was trying to flee from the police or avoid police apprehension;
- Few racial differences emerged with respect to civilian behaviour. However, during the 2000-2006 period, a slightly higher percentage of Black cases (18.2%) than White cases (9.3%) involved civilian flight from the police;
- During the 2013-2017 period, cases involving White civilians were more likely to involve threats/assaults against the police (61.8%) than cases involving Black civilians (44.4%). By contrast, cases involving Black civilians were more likely to involve allegations of resisting arrest (41.7%) than cases involving White (25.5%) or other minority civilians (20.0%);

### **Possession of a weapon**

- In most use of force cases the civilian was not in possession of weapon at the time of their encounter with police (see Tables 20 and 21). This situation exists across the two study time periods;

- From 2000-2006, White civilians involved in police use of force investigations (74.4%) were more likely to be weapon-less than their Black counterparts (54.5%). By contrast, Black civilians were more likely than Whites to be in possession of a gun (24.2% vs. 7.0%) or a knife (15.2% vs. 4.7%);
- From 2013-2017, Black civilians (66.7%) were slightly more likely to be without a weapon than their White counterparts (63.6%). However, compared to White civilians, Black civilians were slightly more likely to be in possession of a gun (8.3% vs. 3.6%) or a knife (16.7% vs. 14.7%). White civilians, by contrast, were more likely to be in possession of other types of weapons (18.2%) than Black civilians (8.3%);

### **Possession of a weapon during police shootings**

- According to SIU investigations, civilians were in possession of a weapon during approximately 90% of all police shooting cases. This is consistent across the two study periods (see Tables 22 and 23);
- During the 2000-2006 period, Black civilians were more likely to be in possession of a firearm (53.8%) than White civilians (33.3%). Rates of knife possession were almost identical between Blacks and Whites (23.1% and 22.2% respectively). However, White civilians (33.3%) were more likely to be in possession of “other types” of weapon (33.3%) than Black civilians (15.4%);
- During the 2013-2017 period, White civilians (20.0%) were slightly more likely to be in possession of a firearm than their Black counterparts (11.1%). Blacks, however, were more likely to be in possession of a knife (44.4%) than Whites (20.0%);

### **Civilian criminal history at time of police use of force incidents**

- Most civilians involved in police use of force investigations did not have a criminal record at the time of their encounter with the police. This pattern exists for both study periods (see Tables 24 and 25);
- During the 2000-2006 period, Black civilians involved in use of force cases were only slightly more likely to have a previous criminal record (48.5%) than their White counterparts (41.9%);
- During the 2013-2017 period, White civilians involved in police use of force investigations were slightly more likely to have a previous criminal record (54.5%) than Black civilians (44.4%) or civilians from other racial backgrounds (33.3%);

## Civilian mental health at time of police use of force incidents

- SIU investigations note whether the civilian was experiencing a mental health issue – or was in a mental health crisis – during their encounter with the police;
- In most use of force cases, civilians were not exhibiting mental health issues at the time of their encounter with police. This pattern persists during both study periods;
- During the 2000-2007 study period, SIU case files reveal that a third of all use of force investigations (34.9%) involved a civilian who was experiencing a mental crisis or issue at the time of their interaction with the police. This figure drops slightly, to 29.6%, during the 2013-2017 time period;
- However, our analysis reveals that White civilians involved in SIU investigations were more likely to be in mental health crisis than Black or other racial minority civilians (see Tables 26 and 27);
- During the 2000-2006 period, 37.2% of White civilians were exhibiting mental health problems at the time of their encounter with the police, compared to 30.3% of Black civilians;
- During the 2013-2017 period, 43.6% of White civilians were exhibiting mental health issues at the time of their encounter with police, compared to only 16.7% of Black civilians and 20.0% of civilians from other racial minority backgrounds;
- Further analysis reveals that Black civilians are grossly over-represented in use of force cases in which no mental health crisis was flagged. From 2013-2017, for example, Black people represented only 8.8% of the general population, but 34.1% of civilians involved in SIU use of force cases in which no mental health issues were noted (Odds Ratio=3.87);
- Black civilians are also over-represented in SIU use of force cases where mental health issues were identified. During the 2013-2017 period, Black civilians represented only 8.8% of the general Toronto population, but were involved in 16.2% of use of force cases in which a mental health issue was noted (Odds Ratio=1.84);
- White civilians, by contrast, are over-represented in use of force cases that involve civilians who were identified as being in mental health crisis, and under-represented in cases in which no mental health issues were noted;
- For example, during the 2013-2017 period, White people represented 48.4% of Toronto's general population, but were involved in 64.9% of use of force cases in which a mental health issue was noted (Odds Ratio=1.34). By contrast, White people were

involved in only 35.2% of use of force cases in which there was no apparent mental health crisis (Odds Ratio=0.71);

- These results suggest that White people are most often exposed to police use of force when experiencing a mental health crisis. Indeed, in the majority of use of force cases involving White civilians, mental health issues were cited by the SIU investigation. By contrast, mental health issues were not noted in the majority of use of force cases involving Black civilians. In other words, the data suggest that, compared to White people, Black people do not have to be experiencing a mental health issue to be subject to police use of force;

### **Civilian impairment at time of police encounter**

- Most civilians involved in use of force cases were not impaired by alcohol or drugs at the time of their encounter with police. However, SIU investigations reveal that White civilians were more likely to be intoxicated than Black or other minority civilians (see Tables 28 and 29);
- During the 2000-2006 period, 44.2% of White civilians were intoxicated or impaired during their encounter with police, compared to only 12.1% of Black civilians;
- During the 2013-2017 period, 49.1% of White civilians were intoxicated or impaired by alcohol or drugs during their encounter with police, compared to only 25.0% of Black civilians;

### **Outcomes of SIU investigations**

- Very few SIU investigations result in criminal charges against police officers. Results do not vary significantly by the race of the civilian (see Tables 30 to 34). Indeed, regardless of race, over 90% of SIU cases result in the officers being cleared of wrongdoing;
- During the 2000-2006 period, only 6.3% of all SIU cases involving White civilians resulted in charges, compared to 1.8% of cases involving Black complainants and 0.0% of cases involving civilians from other racial minority backgrounds (Table 30);
- Similarly, during the 2013-2017 period, only 3.7% of cases involving White civilians resulted in charges, compared to 1.6% of cases involving Black and 4.7% of cases involving other minorities (Tables 31);

- The results are similar with respect to SIU use of force investigations. During the 2000-2006 period, only 2 out of 43 use of force cases involving White civilians (4.7%) resulted in charges against the officers. Likewise, only one out of the 33 use of force cases involving Black civilians (3.0%) resulted in a charge (see Table 32);
- During the 2013-2017 period, only 2 of the 55 use of force cases involving White civilians resulted in charges (3.6%). Similarly, only one of the 36 cases involving Black civilians (2.8%) and two of the 30 cases involving other minorities (6.7%) resulted in charges against the subject officers (see Table 33);
- It should be noted that the 2013-2017 numbers, discussed above, do not include criminal charges, laid by the SIU, that are still before the courts. Our records indicate that there are currently 8 such cases. This would increase the total number of charges laid by the SIU, during this time frame, from seven to fifteen;

### **Problems with police cooperation**

- Our analysis reveals that, in some investigations, the SIU Director noted problems with police cooperation. Problematic investigations do not appear to be related to the race of the civilian (see Tables 34 to 37);
- During the 2000-2006 period, the Director noted problems with police cooperation in 13.9% of all SIU investigations involving White civilians, compared to 10.5% of cases involving Black civilians and 16.0% of cases involving people from other racial minority backgrounds (see Table 34);
- During the 2013 to 2017 period, the Director noted problems with police cooperation in 8.3% of cases involving White civilians, 9.7% of investigations involving Black civilians and 7.0% of cases involving people from other racial minority backgrounds (see Table 35);
- The numbers are similar when we examine SIU use of force investigations in isolation. During the 2000-2006 period, the Director noted problems with 20.9% of TPS use of force investigations involving White civilians and 15.2% of cases involving Black civilians. Problems were not noted with respect to any of the investigations involving other racial minorities (Table 36);
- During the 2013-2017 period, the SIU Director noted problems with 16.7% of the use of force investigations involving Black civilians, 10.9% of the cases involving White civilians and 6.7% of the cases involving other minority civilians (Table 37);

## Summary

- Black civilians are over-represented in all types of SIU investigation;
- Black over-representation appears to increase with case seriousness. For example, Black people are more over-represented in police shooting cases than cases involving other types of force. Similarly, Black people are more over-represented in SIU death investigations than SIU injury investigations;
- The circumstances surrounding police use of force cases vary little by race. However, according to the results of SIU investigations, White civilians are more likely to have threatened or assaulted the police than Black civilians. Black civilians, on the other hand, are more likely to have resisted arrest than their White counterparts;
- In general, most civilians involved in police use of force cases were unarmed at the time of their encounter with the police. However, Black civilians were slightly more likely to have been found in possession of a gun or knife than White civilians. White civilians were more likely to be in possession of other types of weapons (i.e., a bat, crowbar, etc.);
- Use of force cases involving White civilians are more likely to involve a mental health crisis than cases involving Black civilians;
- Use of force cases involving White civilians are more likely to involve extreme intoxication or impairment than cases involving Black civilians;
- Police officers are cleared of wrongdoing in over 95% of all SIU investigations involving the Toronto Police Service. Only a small minority of cases result in charges against subject officers. Investigation outcomes do not vary significantly by civilian race;
- A significant minority of use of force cases experienced problems with TPS cooperation. Problematic investigations appear to be unrelated to civilian race;

## Next steps

- A 2007 general population survey of Toronto residents found that 78% of Black people feel that the police are more likely to use physical force against Black people than White people. Interestingly, 46.7% of White and 44.4% of Asian respondents are of the same opinion (see Wortley and Owusu-Bempah 2016). Preliminary results from an analysis of SIU use of force investigations are quite consistent with these survey results;
- The results presented above reveal that Black civilians are grossly over-represented in SIU use of force cases that involve the Toronto Police Service;

- The cause of Black over-representation in police use of force statistics, of course, is subject to interpretation and debate. Indeed, while some may view the data as evidence of overt, implicit or systemic racial bias, others will interpret it as evidence that Black people are more likely to be engaged in criminal activity and thus more likely to become subject to “legitimate” police use of force;
- Additional analysis, to be presented in the final report, will explore how other factors – civilian age, civilian social class, geographic location of police encounters, reactive and proactive policing practices, etc. – may help explain racial disparities in SIU use of force cases;
- The final report will also present a series of multivariate analyses to determine whether race impacts the degree of force used by the police – and the seriousness of civilian injury – after controlling for other theoretically relevant variables;
- The final report will conclude by: 1) Outlining a number of explanatory models that may help explain racial disparities in police use of force; 2) Outlining study limitations and future research needs; and 3) Providing recommendations that could reduce police use of force incidents, reduce racial differences in police use of force and improve public confidence in policing services.

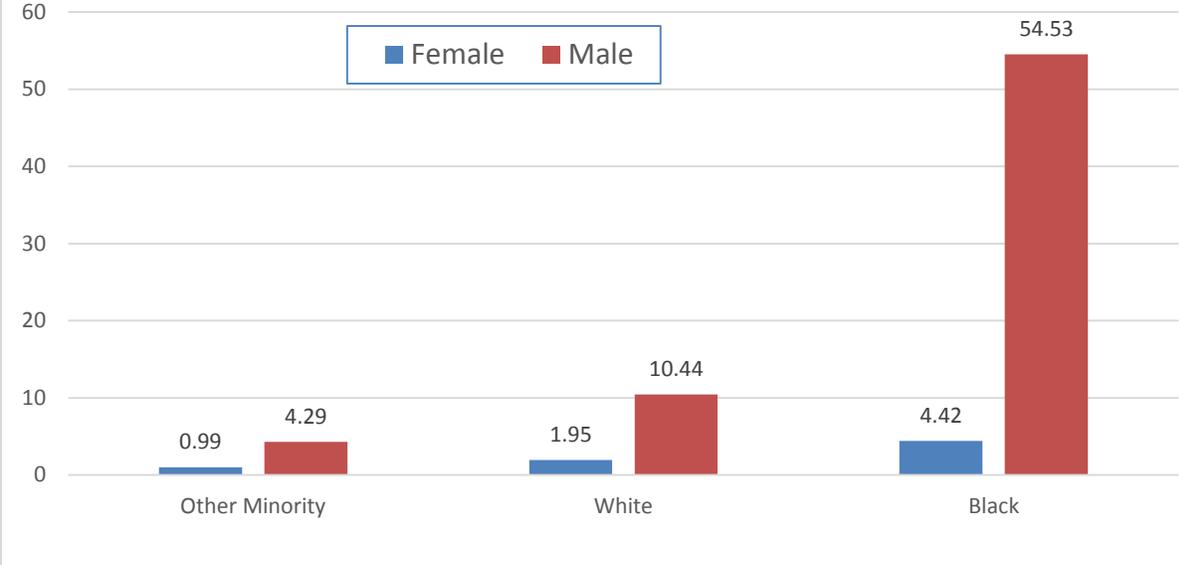
**TABLE ONE:**  
**Total SIU investigations involving the Toronto Police Service, by race of civilian,**  
**January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,327,151	53.0	79	42.2	0.79	5.95
<b>Black</b>	208,555	8.3	57	30.5	3.67	27.33
<b>Other Minority</b>	967,675	38.7	25	13.5	0.35	2.58
<b>Unknown</b>	----	----	26	13.9	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>187</b>	<b>100.0</b>	<b>----</b>	<b>7.47</b>

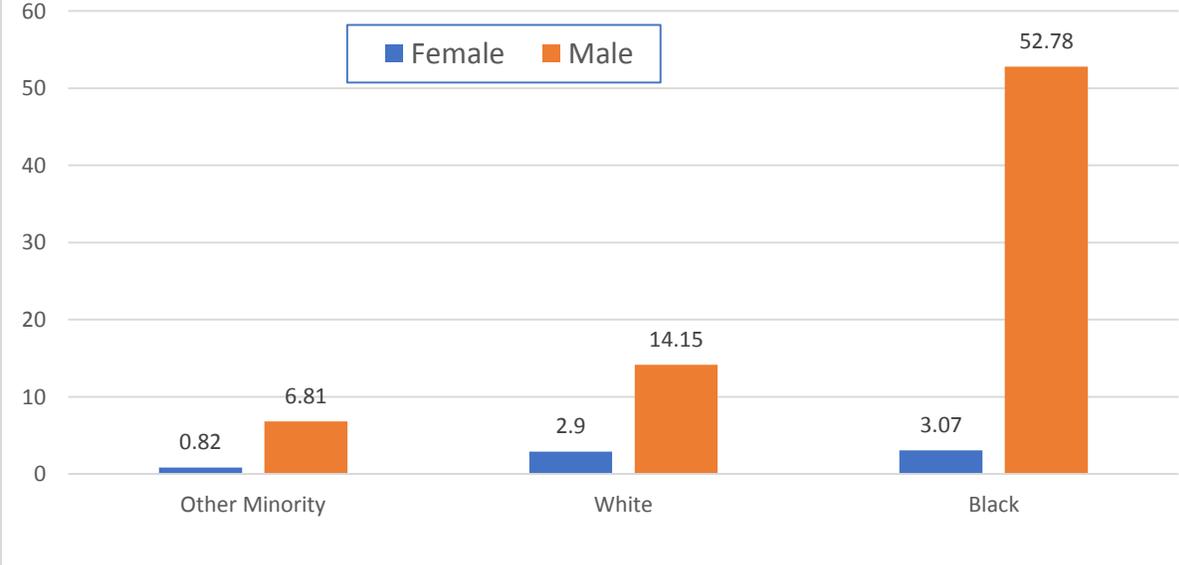
**TABLE TWO:**  
**Total SIU Investigations involving the Toronto Police Service, by race of civilian,**  
**January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,322,656	48.4	108	44.3	0.91	8.17
<b>Black</b>	239,850	8.8	62	25.4	2.89	25.65
<b>Other Minority</b>	1,169,065	42.8	43	17.6	0.41	3.68
<b>Unknown</b>	----	----	31	12.7	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>244</b>	<b>100.0</b>	<b>----</b>	<b>8.93</b>

**Figure One: SIU investigation rates (per 100,000), by race and gender, 2000-2006**



**Figure Two: SIU investigation rates (per 100,000), by race and gender, 2013-2017**



**TABLE THREE:**  
**Cause of civilian harm, as determined by SIU investigations,**  
**2000-2006 and 2013-2017 study periods**

Cause of Civilian Harm	2000-2006		2013-2017	
	Number	Percent	Number	Percent
Harm not caused by Police	44	23.5	52	21.3
Traffic Accident	43	23.0	31	12.7
Sexual Assault	14	7.5	36	14.8
Police Use of Force	62	33.2	100	41.0
Police Shooting	24	12.8	25	10.2
<b>TOTAL</b>	<b>187</b>	<b>100.0</b>	<b>244</b>	<b>100.0</b>

**TABLE FOUR:**  
**SIU investigations involving the Toronto Police Service in which civilian injuries were determined  
*not* to be caused by the police, by race of civilian, January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,327,151	53.0	15	34.1	0.64	1.13
<b>Black</b>	208,555	8.3	10	22.7	2.73	4.79
<b>Other Minority</b>	967,675	38.7	12	27.3	0.71	1.24
<b>Unknown</b>	----	----	7	15.9	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>44</b>	<b>100.0</b>	<b>----</b>	<b>1.76</b>

**TABLE FIVE:**  
**SIU investigations involving the Toronto Police Service in which civilian injuries were determined  
*not* to be caused by the police, by race of civilian, January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,322,656	48.4	26	50.0	1.03	1.96
<b>Black</b>	239,850	8.8	11	21.2	2.41	4.59
<b>Other Minority</b>	1,169,065	42.8	7	13.5	0.32	0.60
<b>Unknown</b>	----	----	8	15.4	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>52</b>	<b>100.0</b>	<b>----</b>	<b>1.90</b>

**TABLE SIX:**  
**SIU investigations of the Toronto Police Service involving traffic accidents (including accidents caused by police pursuits), by race of civilian, January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
White	1,327,151	53.0	12	27.9	0.53	0.90
Black	208,555	8.3	11	25.6	3.08	5.27
Other Minority	967,675	38.7	8	18.6	0.48	0.83
Unknown	----	----	12	27.9	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>43</b>	<b>100.0</b>	<b>----</b>	<b>1.72</b>

**TABLE SEVEN:**  
**SIU investigations of the Toronto Police Service involving traffic accidents (including accidents caused by police pursuits), by race of civilian, January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
White	1,322,656	48.4	11	35.5	0.73	0.83
Black	239,850	8.8	4	12.9	1.47	1.67
Other Minority	1,169,065	42.8	2	6.5	0.15	0.17
Unknown	----	----	14	45.2	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>31</b>	<b>100.0</b>	<b>----</b>	<b>1.13</b>

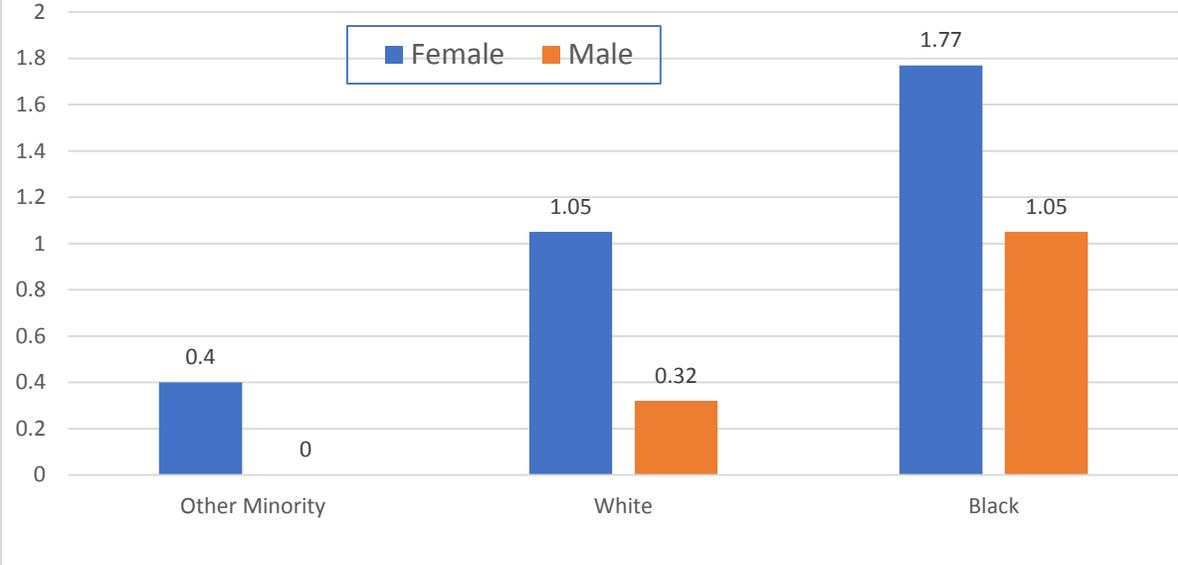
**TABLE EIGHT:**  
**SIU investigations of the Toronto Police Service involving allegations of sexual assault,**  
**by race of civilian, January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
White	1,327,151	53.0	9	64.3	1.21	0.68
Black	208,555	8.3	3	21.4	2.58	1.44
Other Minority	967,675	38.7	2	14.3	0.37	0.21
Unknown	----	----	0	0.0	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>14</b>	<b>100.9</b>	<b>----</b>	<b>0.56</b>

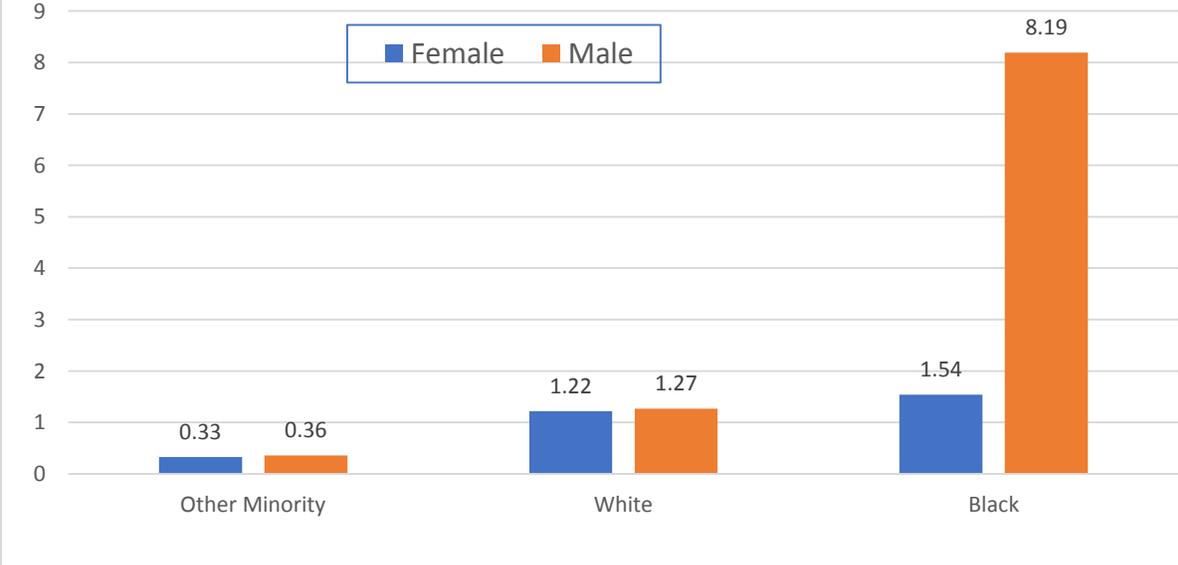
**TABLE NINE:**  
**SIU Investigations of the Toronto Police Service involving allegations of sexual assault,**  
**by race of civilian, January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
White	1,322,656	48.4	16	44.4	0.92	1.21
Black	239,850	8.8	11	30.6	3.48	4.57
Other Minority	1,169,065	42.8	4	11.1	0.26	0.34
Unknown	----	----	5	13.9	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>36</b>	<b>100.0</b>	<b>----</b>	<b>1.32</b>

**Figure Three: SIU Sexual assault investigation rates (per 100,000), by race and gender, 2000-2006**



**Figure Four: SIU sexual assault investigation rates (per 100,000), by race and gender, 2013-2017**

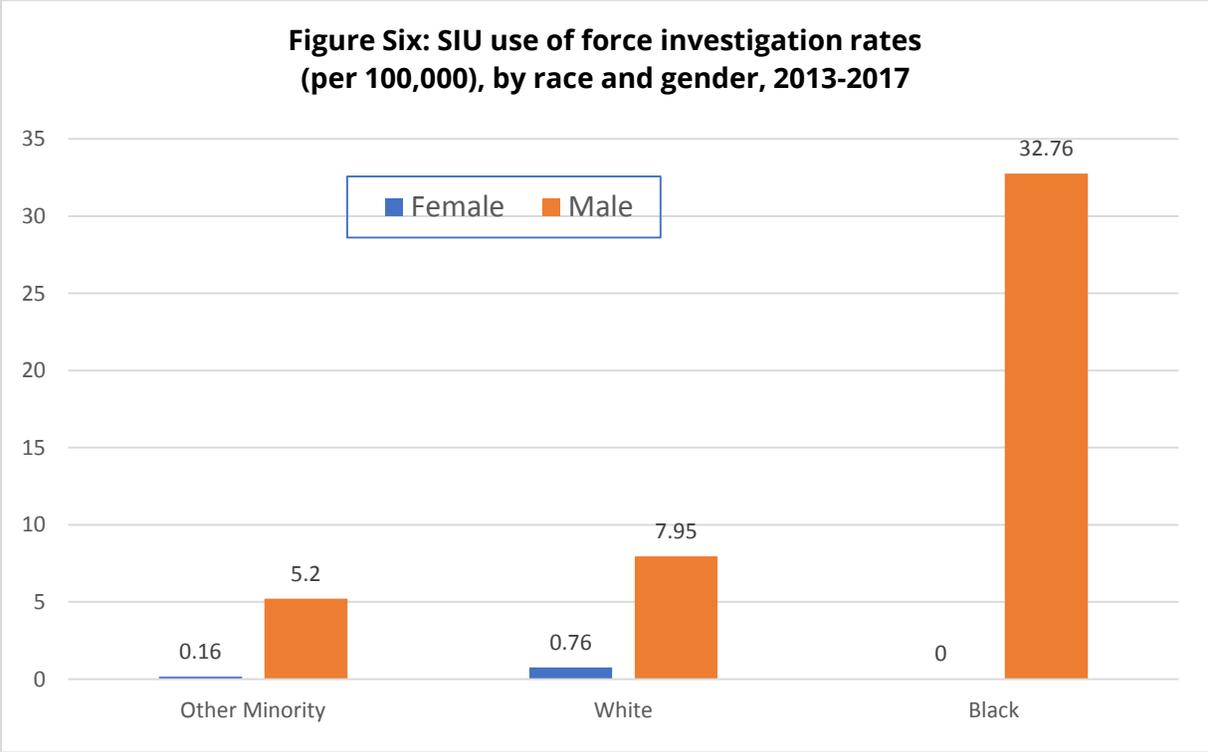
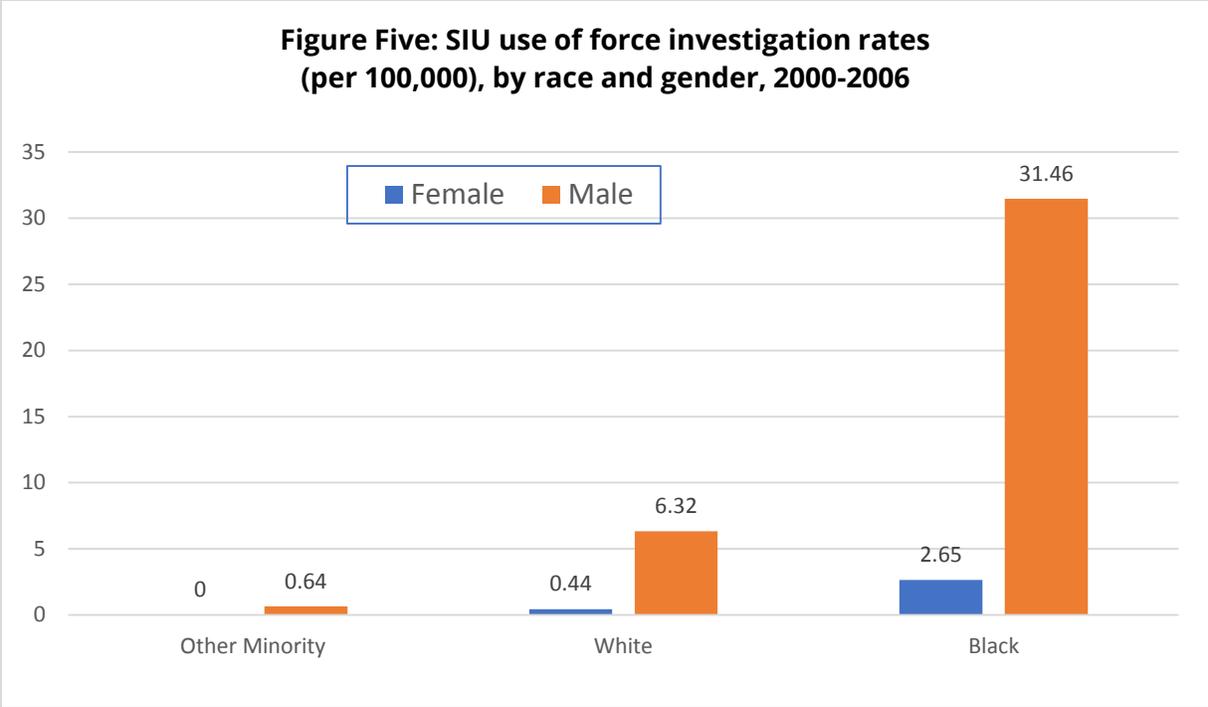


**TABLE TEN:**  
**SIU investigations of the Toronto Police Service involving police use of force,**  
**by race of civilian, January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,327,151	53.0	43	50.0	0.94	3.24
<b>Black</b>	208,555	8.3	33	38.4	4.63	15.82
<b>Other Minority</b>	967,675	38.7	3	3.5	0.09	0.31
<b>Unknown</b>	----	----	7	8.1	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>86</b>	<b>100.0</b>	<b>----</b>	<b>3.43</b>

**TABLE ELEVEN:**  
**SIU investigations of the Toronto Police Service involving police use of force,**  
**by race of civilian, January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,322,656	48.4	55	44.0	0.91	4.16
<b>Black</b>	239,850	8.8	36	28.8	3.27	15.01
<b>Other Minority</b>	1,169,065	42.8	30	24.0	0.56	2.57
<b>Unknown</b>	----	----	4	3.2	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>125</b>	<b>100.0</b>	<b>----</b>	<b>4.58</b>



**TABLE TWELVE:**  
**SIU Investigations of Toronto Police Service shootings,**  
**by race of civilian, January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,327,151	53.0	9	37.5	0.71	0.68
<b>Black</b>	208,555	8.3	13	54.2	6.53	6.23
<b>Other Minority</b>	967,675	38.7	2	8.3	0.21	0.21
<b>Unknown</b>	----	----	0	0/0	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>24</b>	<b>100.0</b>	<b>----</b>	<b>0.96</b>

**TABLE THIRTEEN:**  
**SIU Investigations of the Toronto Police Service shootings,**  
**by race of civilian, January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,322,656	48.4	10	40.0	0.83	0.76
<b>Black</b>	239,850	8.8	9	36.0	4.09	3.75
<b>Other Minority</b>	1,169,065	42.8	6	24.0	0.56	0.51
<b>Unknown</b>	----	----	0	0.0	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>25</b>	<b>100.0</b>	<b>----</b>	<b>0.91</b>

**TABLE FOURTEEN:**  
**SIU Investigations of civilian deaths caused by police use of force, by race of civilian,**  
**Toronto Police Service, January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,327,151	53.0	7	46.6	0.88	0.53
<b>Black</b>	208,555	8.3	7	46.6	5.61	3.36
<b>Other Minority</b>	967,675	38.7	1	6.7	0.17	0.10
<b>Unknown</b>	----	----	0	0.0	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>15</b>	<b>100/0</b>	<b>----</b>	<b>0.60</b>

**TABLE FIFTEEN:**  
**SIU Investigations of civilian deaths caused by police use of force, by race of civilian,**  
**Toronto Police Service, January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,322,656	48.4	4	30.8	0.64	0.30
<b>Black</b>	239,850	8.8	8	61.5	6.99	3.34
<b>Other Minority</b>	1,169,065	42.8	1	7.7	0.18	0.09
<b>Unknown</b>	----	----	0	0.0	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>13</b>	<b>100/0</b>	<b>----</b>	<b>0.48</b>

**TABLE SIXTEEN:**  
**SIU investigations of civilian deaths caused by police shootings, by race of civilian,**  
**Toronto Police Service, January 1<sup>st</sup>, 2000 to June 6<sup>th</sup>, 2006**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,327,151	53.0	1	11.1	0.21	0.07
<b>Black</b>	208,555	8.3	7	77.8	9.37	3.36
<b>Other Minority</b>	967,675	38.7	1	11.1	0.29	0.10
<b>Unknown</b>	----	----	0	0.0	----	----
<b>TOTAL</b>	<b>2,503,381</b>	<b>100.0</b>	<b>9</b>	<b>100.0</b>	<b>----</b>	<b>0.36</b>

**TABLE SEVENTEEN:**  
**SIU investigations of civilian deaths caused by police shootings, by race of civilian,**  
**Toronto Police Service, January 1<sup>st</sup>, 2013 to June 30<sup>th</sup>, 2017**

Racial Group	Population Estimate	Percent of Population	Number of SIU Investigations	Percent of SIU Investigations	Odds Ratio	SIU Investigation Rate (per 100,000)
<b>White</b>	1,322,656	48.4	2	20.0	0.41	0.15
<b>Black</b>	239,850	8.8	7	70.0	7.95	2.92
<b>Other Minority</b>	1,169,065	42.8	1	10.0	0.23	0.09
<b>Unknown</b>	----	----	0	----	----	----
<b>TOTAL</b>	<b>2,731,571</b>	<b>100.0</b>	<b>10</b>	<b>100.0</b>	<b>----</b>	<b>0.37</b>

**TABLE EIGHTEEN:**  
**Civilian actions at the time of police encounter (as concluded by the SIU),**  
**SIU use of force investigations, Toronto Police Service, 2000 to 2006**

Civilian Actions At Time of Incident	White	Black	Other Minority	Race Unknown
Threatened or Attacked Police	39.5	36.4	66.7	57.1
Resisted Arrest	34.9	33.3	33.3	28.6
Flee Police	9.3	18.2	0.0	14.3
Not Determined	8.1	4.7	0.0	0.0
<b>Sample Size</b>	<b>43</b>	<b>33</b>	<b>3</b>	<b>7</b>

Ch-square=4.457; df=9; p > .879

**TABLE NINETEEN:**  
**Civilian actions at the time of police encounter (as concluded by the SIU),**  
**SIU use of force investigations, Toronto Police Service, 2013 to 2017**

Civilian Actions At Time of Incident	White	Black	Other Minority	Race Unknown
Threatened or Attacked Police	61.8	44.4	56.7	25.0
Resisted Arrest	25.5	41.7	20.0	50.0
Flee Police	5.5	8.3	10.0	0.0
Not Determined	7.3	5.6	13.3	25.0
<b>Sample Size</b>	<b>55</b>	<b>36</b>	<b>30</b>	<b>4</b>

Ch-square=8.844; df=9; p > .452

**TABLE TWENTY:**

**Civilian possession of a weapon at the time of police encounter (as concluded by the SIU), SIU use of force investigations, Toronto Police Service, 2000 to 2006**

Civilian Weapon At Time of Incident	White	Black	Other Minority	Race Unknown
No Weapon	74.4	54.5	33.3	100.0
Gun	7.0	24.2	0.0	0.0
Knife	4.7	15.2	66.7	0.0
Other Weapon	14.0	6.1	0.0	0.0
<b>Sample Size</b>	<b>43</b>	<b>33</b>	<b>3</b>	<b>7</b>

Ch-square=22.713; df=9; p > .007

**TABLE TWENTY-ONE:**

**Civilian possession of a weapon at the time of police encounter (as concluded by the SIU), SIU use of force investigations, Toronto Police Service, 2013 to 2017**

Civilian Weapon At Time of Incident	White	Black	Other Minority	Race Unknown
No Weapon	63.6	66.7	70.0	100.0
Gun	3.6	8.3	3.3	0.0
Knife	14.5	16.7	16.7	0.0
Other Weapon	18.2	8.3	10.0	0.0
<b>Sample Size</b>	<b>55</b>	<b>36</b>	<b>30</b>	<b>4</b>

Ch-square=5.417; df= 9; p > .797

**TABLE TWENTY-TWO:  
Civilian possession of a weapon at the time of police encounter  
(as concluded by the SIU), SIU shooting investigations,  
Toronto Police Service, 2000 to 2006**

Civilian Weapon at Time of Incident	White	Black	Other Minority
No Weapon	11.1	7.7	0.0
Gun	33.3	53.8	0.0
Knife	22.2	23.1	100.0
Other Weapon	33.3	15.4	0.0
<b>Sample Size</b>	<b>9</b>	<b>13</b>	<b>2</b>

Ch-square=6.734; df=6; p > .346

**TABLE TWENTY-THREE:  
Civilian possession of a weapon at the time of police encounter  
(as concluded by the SIU), SIU shooting investigations,  
Toronto Police Service, 2013 to 2017**

Civilian Weapon at Time Of Incident	White	Black	Other Minority
No Weapon	10.0	11.1	16.7
Gun	20.0	11.1	16.7
Knife	20.0	44.4	50.0
Other Weapon	50.0	33.2	16.7
<b>Sample Size</b>	<b>10</b>	<b>9</b>	<b>6</b>

Ch-square=2.785; df=6; p > .797

**TABLE TWENTY-FOUR:**  
**Percent of civilians with an existing criminal record at the time of police encounter, by racial group, SIU use of force investigations, Toronto Police Service, 2000 to 2006**

Civilian Criminal Record at Time of Incident	White	Black	Other Minority	Race Unknown
No Criminal Record	58.1	51.5	66.7	57.1
Criminal Record	41.9	48.5	33.3	42.9
<b>Sample Size</b>	<b>43</b>	<b>33</b>	<b>3</b>	<b>7</b>

Ch-square=0.490; df=3; p > .921

**TABLE TWENTY-FIVE:**  
**Percent of civilians with an existing criminal record at the time of police encounter, by racial group, SIU use of force investigations, Toronto Police Service, 2013 to 2017**

Civilian Criminal Record at Time of Incident	White	Black	Other Minority	Race Unknown
No Criminal Record	45.5	55.6	66.7	75.0
Criminal Record	54.5	44.4	33.3	25.0
<b>Sample Size</b>	<b>55</b>	<b>36</b>	<b>30</b>	<b>4</b>

Ch-square=4.298; df=3; p > .231

**TABLE TWENTY-SIX:**  
**Percent of civilians experiencing a mental health crisis**  
**at the time of police encounter, by racial group,**  
**SIU use of force Investigations, Toronto Police Service, 2000 to 2006**

Mental Health at Time Of Incident	White	Black	Other Minority	Race Unknown
No Issues Noted	62.8	69.7	66.7	57.1
Mental Health Issues Noted	37.2	30.3	33.3	42.9
<b>Sample Size</b>	<b>43</b>	<b>33</b>	<b>3</b>	<b>7</b>

Ch-square=0.606; df=3; p > .895

**TABLE TWENTY-SEVEN:**  
**Percent of civilians experiencing a mental health crisis**  
**at the time of police encounter, by racial group,**  
**SIU use of force investigations, Toronto Police Service, 2013 to 2017**

Mental Health at Time Of Incident	White	Black	Other Minority	Race Unknown
No Issues Noted	56.4	83.3	80.0	75.0
Mental Health Issues Noted	43.6	16.7	20.0	25.0
<b>Sample Size</b>	<b>55</b>	<b>36</b>	<b>30</b>	<b>4</b>

Ch-square=9.457; df=3; p > .024

**TABLE TWENTY-EIGHT:**  
**Percent of civilians who were impaired by drugs or alcohol**  
**at the time of police encounter, by racial group,**  
**SIU use of force investigations, Toronto Police Service,**  
**2000 to 2006**

<b>Impairment at Time of Incident</b>	<b>White</b>	<b>Black</b>	<b>Other Minority</b>	<b>Race Unknown</b>
Not Impaired	55.8	87.9	66.7	71.4
Impaired	44.2	12.1	33.3	28.6
<b>Sample Size</b>	<b>43</b>	<b>33</b>	<b>3</b>	<b>7</b>

Ch-square=9.124; df=3; p > .028

**TABLE TWENTY-NINE:**  
**Percent of civilians who were impaired by drugs or alcohol**  
**at the time of police encounter, by racial group,**  
**SIU use of force investigations, Toronto Police Service,**  
**2013 to 2017**

<b>Impairment at Time Of Incident</b>	<b>White</b>	<b>Black</b>	<b>Other Minority</b>	<b>Race Unknown</b>
Not Impaired	50.9	75.0	60.0	50.0
Impaired	49.1	25.0	40.0	50.0
<b>Sample Size</b>	<b>55</b>	<b>36</b>	<b>30</b>	<b>4</b>

Ch-square=5.439; df=3; p > .143

**TABLE THIRTY:**  
**Outcome of all SIU investigations, by racial group,**  
**Toronto Police Service, 2000 to 2006**

Case Outcome	White	Black	Other Minority	Race Unknown
Officers Cleared (no charges)	93.7	98.2	100.0	100.0
Officers Charged	6.3	1.8	0.0	0.0
<b>Sample Size</b>	<b>79</b>	<b>57</b>	<b>25</b>	<b>26</b>

Ch-square=4.556; df=3; p > .207

**TABLE THIRTY-ONE:**  
**Outcome of all SIU investigations, by racial group,**  
**Toronto Police Service, 2013 to 2017**

Case Outcome	White	Black	Other Minority	Race Unknown
Officers Cleared (no charges)	96.3	98.4	95.3	100.0
Officers Charged	3.7	1.6	4.7	0.0
<b>Sample Size</b>	<b>108</b>	<b>62</b>	<b>43</b>	<b>31</b>

Ch-square=2.062; df=3; p > .567

**TABLE THIRTY-TWO:  
Outcome of SIU use of force investigations, by racial group,  
Toronto Police Service, 2000 to 2006**

Case Outcome	White	Black	Other Minority	Race Unknown
Officers Cleared (no charges)	95.3	97.0	100.0	100.0
Officers Charged	4.7	3.0	0.0	0.0
<b>Sample Size</b>	<b>43</b>	<b>33</b>	<b>3</b>	<b>7</b>

Ch-square=0.555; df=3; p > .907

**TABLE THIRTY-THREE:  
Outcome of SIU use of force investigations, by racial group,  
Toronto Police Service, 2013 to 2017**

Case Outcome	White	Black	Other Minority	Race Unknown
Officers Cleared (no charges)	96.4	97.2	93.3	100.0
Officers Charged	3.6	2.8	6.7	0.0
<b>Sample Size</b>	<b>55</b>	<b>36</b>	<b>30</b>	<b>4</b>

Ch-square=0.881; df=3; p > .830

**TABLE THIRTY-FOUR:**  
**Percent of all SIU investigations that experienced**  
**problems with police cooperation, by racial group,**  
**Toronto Police Service, 2000 to 2006**

<b>Problems with SIU Investigation</b>	<b>White</b>	<b>Black</b>	<b>Other Minority</b>	<b>Race Unknown</b>
No Problems Noted	86.1	89.5	84.0	76.9
Problems Noted	13.9	10.5	16.0	23.1
<b>Sample Size</b>	<b>79</b>	<b>57</b>	<b>25</b>	<b>26</b>

Chi-square=2.343; df=3; p > .504

**TABLE THIRTY-FIVE:**  
**Percent of all SIU investigations that experienced**  
**problems with police cooperation, by racial group,**  
**Toronto Police Service, 2013 to 2017**

<b>Problems with SIU Investigations</b>	<b>White</b>	<b>Black</b>	<b>Other Minority</b>	<b>Race Unknown</b>
No Problems Noted	91.7	90.3	93.0	90.3
Problems Noted	8.3	9.7	7.0	9.7
<b>Sample Size</b>	<b>108</b>	<b>62</b>	<b>43</b>	<b>31</b>

Chi-square=0.291; df=3; p > .962

**TABLE THIRTY-SIX**  
**Percent of SIU use of force investigations that experienced**  
**problems with police cooperation, by racial group,**  
**Toronto Police Service, 2000 to 2006**

<b>Problems with SIU Investigation</b>	<b>White</b>	<b>Black</b>	<b>Other Minority</b>	<b>Race Unknown</b>
No Problems Noted	79.1	84.8	100.0	85.7
Problems Noted	20.9	15.2	0.0	14.3
<b>Sample Size</b>	<b>43</b>	<b>33</b>	<b>3</b>	<b>7</b>

Ch-square=01.166; df=3; p > .761

**TABLE THIRTY-SEVEN:**  
**Percent of SIU use of force investigations that experienced**  
**problems with police cooperation, by racial group,**  
**Toronto Police Service, 2013 to 2017**

<b>Problems with SIU Investigations</b>	<b>White</b>	<b>Black</b>	<b>Other Minority</b>	<b>Race Unknown</b>
No Problems Noted	89.1	83.3	93.3	100.0
Problems Noted	10.9	16.7	6.7	0.0
<b>Sample Size</b>	<b>55</b>	<b>36</b>	<b>30</b>	<b>4</b>

Ch-square=2.211; df=3; p > .530

## References

Foster, Lorne, Les Jacobs and Bobby Siu. 2016. *Race Data and Traffic Stops in Ottawa, 2013-2015: A Report on Ottawa and the Police Districts*. Ottawa: Ottawa Police Service [www.ottawapolice.ca/en/news-and-community/Traffic-Stop-Race-Data-Collection-ProjectTSRDCP.asp](http://www.ottawapolice.ca/en/news-and-community/Traffic-Stop-Race-Data-Collection-ProjectTSRDCP.asp).

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Wortley, Scot and Akwasi Owusu-Bempah. 2016. "Crime and Justice: The Experiences of Black Canadians." Pp. 140-167 in Barbara Perry (Ed.) *Diversity, Crime and Justice in Canada: 2<sup>nd</sup> Edition*. New York: Oxford University Press.

## Endnotes

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<sup>1</sup> Jacques Gallant, "SIU's creation came amidst racially-charged atmosphere," *Toronto Star*, (18 April, 2016), online: [www.thestar.com/news/gta/2016/04/18/siu-creation-came-amidst-racially-charged-atmosphere.html](http://www.thestar.com/news/gta/2016/04/18/siu-creation-came-amidst-racially-charged-atmosphere.html); Ontario, *Report of the Independent Police Oversight Review* (Ontario: Queen's Printer, 2017) at 96-97 (Reviewer: The Honourable Michael H. Tulloch) [*Tulloch Report*].

<sup>2</sup> *Ibid.*

<sup>3</sup> The OHRC's Timeline of racial discrimination and racial profiling of Black persons by the Toronto Police Service and OHRC initiatives related to the Toronto Police Service and Toronto Police Services Board for more detail: [www.ohrc.on.ca/en/timeline-tps](http://www.ohrc.on.ca/en/timeline-tps); See Appendix A.

<sup>4</sup> Robin Doolittle, "Racial Bias Exists on Police Force, Chief Says." *Toronto Star*, (30 September, 2009), online: [www.thestar.com/news/gta/2009/09/30/racial\\_bias\\_exists\\_on\\_police\\_force\\_chief\\_says.html](http://www.thestar.com/news/gta/2009/09/30/racial_bias_exists_on_police_force_chief_says.html) [Doolittle]

<sup>5</sup> City of Toronto "Action Plan to Confront Anti-Black Racism," (2018), [www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-109127.pdf](http://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-109127.pdf) at Executive Summary and 33-35 [*Toronto Action Plan*].

<sup>6</sup> *Ibid.*

<sup>7</sup> Canadian Press "Ontario Human Rights Commission Probing Toronto Police 'racial profiling'" (Nov 30 2017) online: <https://torontosun.com/news/local-news/ontario-human-rights-commission-probing-toronto-police-racial-profiling>

<sup>8</sup> The OHRC uses the term "Black communities" to reflect the diversity of Black people in Toronto. "The Greater Toronto Area (GTA) is home to more than 400,000 individuals who self-identify as 'Black,' comprising seven percent of the region's population, and almost half of Canada's total Black population. Diversity within the Black population is not only related to country of origin, but also to language, religion, socioeconomic status, and time of migration – all of which become evident in cultural variation." For example, participants of the Black Experience Project expressed "a variety of ethnic or cultural identities, including Caribbean- and African-based identities." [The Black Experience Project In the GTA: Overview Report](http://www.environicsinstitute.org/docs/default-source/project-documents/black-experience-project-gta/black-experience-project-gta---1-overview-report.pdf?sfvrsn=553ba3_2) (July 2017) at 7,31. Online: [www.environicsinstitute.org/docs/default-source/project-documents/black-experience-project-gta/black-experience-project-gta---1-overview-report.pdf?sfvrsn=553ba3\\_2](http://www.environicsinstitute.org/docs/default-source/project-documents/black-experience-project-gta/black-experience-project-gta---1-overview-report.pdf?sfvrsn=553ba3_2) [*Black Experience Project Overview Report*].

<sup>9</sup> OHRC Terms of Reference, Inquiry into Racial Discrimination and Racial Profiling of Black Persons by the Toronto Police Service, (30 November, 2017), online: [www.ohrc.on.ca/en/terms-reference-tps](http://www.ohrc.on.ca/en/terms-reference-tps); See Appendix B [OHRC Terms of Reference].

<sup>10</sup> *Human Rights Code*, RSO 1990, c H19, s 31 [*Code*].

<sup>11</sup> *Ibid.*, s 1.

<sup>12</sup> The OHRC currently defines racial profiling as "any action undertaken for reasons of safety, security or public protection that relies on stereotypes about race, colour, ethnicity, ancestry, religion or place of origin – rather than on reasonable suspicion – to single out an individual for greater scrutiny or different treatment." The OHRC is considering modifying its definition of racial profiling in its forthcoming policy. Ontario Human Rights Commission, *Under suspicion: Research and consultation report on racial profiling in Ontario* (2017) at 16, online: [www.ohrc.on.ca/en/under-suspicion-research-and-consultation-report-racial-profiling-ontario](http://www.ohrc.on.ca/en/under-suspicion-research-and-consultation-report-racial-profiling-ontario) [*Under suspicion*].

<sup>13</sup> For example, in *Nassiah v Peel (Regional Municipality) Services Board*, 2007 HRTO 14 (CanLII) at para 134 [*Nassiah*], the HRTO stated:

...this form of racial discrimination is not the result of isolated acts of individual “bad apples” but part of a systemic bias in many police forces.

In *Peart v Peel Regional Police Services*, 2006 CanLII 37566 at para 94 (Ont C.A.) [*Peart*], the Ontario Court of Appeal said:

... racism operates in the criminal justice system...[there] has come an acceptance by the courts that racial profiling occurs and is a day-to-day reality in the lives of those minorities affected by it.

See also *R v Golden*, 2001 SCC 83 at para. 83; *R. v Brown* (2003), 64 O.R. (3d) 161 (Ont C.A.) at para. 9 [*Brown*]; *R. v R.D.S.*, [1997] 3 SCR 484 at paras. 46–47 [*R.D.S.*].

<sup>14</sup> Ontario Human Rights Commission, *Submission of the OHRC to the Ministry of Community Safety and Correctional Services on the Strategy for a Safer Ontario* (2016) at 21-24, online: [www.ohrc.on.ca/en/strategy-safer-ontario-%E2%80%93-ohrc-submission-mcscs](http://www.ohrc.on.ca/en/strategy-safer-ontario-%E2%80%93-ohrc-submission-mcscs) [*Strategy for a Safer Ontario Submission*].

<sup>15</sup> Ontario Human Rights Commission “Strategic Plan 2017 -2022” online: [www.ohrc.on.ca/en/ontario-human-rights-commission-strategic-plan-2017-%E2%80%93-2022](http://www.ohrc.on.ca/en/ontario-human-rights-commission-strategic-plan-2017-%E2%80%93-2022); *Code, supra*, s.29.

<sup>16</sup> Resources include:

- *Under suspicion, supra*.
- Ontario Human Rights Commission “*Human rights and policing: Creating and sustaining organizational change*” (2011) online: [www.ohrc.on.ca/en/human-rights-and-policing-creating-and-sustaining-organizational-change](http://www.ohrc.on.ca/en/human-rights-and-policing-creating-and-sustaining-organizational-change)
- Ontario Human Rights Commission *Count me In! Collecting human rights-based data* (2009) online: [www.ohrc.on.ca/sites/default/files/attachments/Count\\_me\\_in%21\\_Collecting\\_human\\_rights\\_based\\_data.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/Count_me_in%21_Collecting_human_rights_based_data.pdf)
- Ontario Human Rights Commission *Policy and guidelines on racism and racial discrimination* (June 2005) online: [www.ohrc.on.ca/sites/default/files/attachments/Policy\\_and\\_guidelines\\_on\\_racism\\_and\\_racial\\_discrimination.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/Policy_and_guidelines_on_racism_and_racial_discrimination.pdf) [*Policy on Racism*]
- Ontario Human Rights Commission *Paying the price: The human cost of racial profiling – Inquiry Report* (2003) online: [www.ohrc.on.ca/sites/default/files/attachments/Paying\\_the\\_price%3A\\_The\\_human\\_cost\\_of\\_racial\\_profiling.pdf](http://www.ohrc.on.ca/sites/default/files/attachments/Paying_the_price%3A_The_human_cost_of_racial_profiling.pdf)

<sup>17</sup> Submissions include:

- Ontario Human Rights Commission “[OHRC Submission to the Independent Street Checks Review](http://www.ohrc.on.ca/en/ohrc-submission-independent-street-checks-review)” (May 1, 2018) online: [www.ohrc.on.ca/en/ohrc-submission-independent-street-checks-review](http://www.ohrc.on.ca/en/ohrc-submission-independent-street-checks-review)
- Ontario Human Rights Commission “*OHRC Independent Review of Police Oversight Bodies*” (November 2016) online: [www.ohrc.on.ca/en/ohrc-submission-independent-review-police-oversight-bodies](http://www.ohrc.on.ca/en/ohrc-submission-independent-review-police-oversight-bodies)

- Ontario Human Rights Commission “OHRC Submission to the Ministry of Community Safety and Correctional Services” (April 2016) online: [www.ohrc.on.ca/en/strategy-safer-ontario-%E2%80%93-ohrc-submission-mcscs](http://www.ohrc.on.ca/en/strategy-safer-ontario-%E2%80%93-ohrc-submission-mcscs)
- Ontario Human Rights Commission “OHRC Submission to the Ministry of Community Safety and Correctional Services on street checks” (August 11, 2015) online: [www.ohrc.on.ca/en/ohrc-submission-ministry-community-safety-and-correctional-services-street-checks](http://www.ohrc.on.ca/en/ohrc-submission-ministry-community-safety-and-correctional-services-street-checks)
- OHRC submission to the Office of the Independent Police Review Director’s systemic review of OPP practices for DNA sampling (April 2014) online: [www.ohrc.on.ca/en/ohrc-submission-office-independent-police-review-director%E2%80%99s-systemic-review-opp-practices-dna](http://www.ohrc.on.ca/en/ohrc-submission-office-independent-police-review-director%E2%80%99s-systemic-review-opp-practices-dna)
- “Submission of the Ontario Human Rights Commission to the Independent Review of the use of lethal force by the Toronto Police Service” (February 2014) online: [www.ohrc.on.ca/en/submission-ontario-human-rights-commission-independent-review-use-lethal-force-toronto-police](http://www.ohrc.on.ca/en/submission-ontario-human-rights-commission-independent-review-use-lethal-force-toronto-police)
- “Submission of the OHRC to the Ombudsman’s Investigation into the direction provided to police by the Ministry of Community Safety and Correctional Services for de-escalating conflict situations” (July 2014) online: [www.ohrc.on.ca/en/submission-ohrc-ombudsman%E2%80%99s-investigation-direction-provided-police-ministry-community-safety-and](http://www.ohrc.on.ca/en/submission-ohrc-ombudsman%E2%80%99s-investigation-direction-provided-police-ministry-community-safety-and)

<sup>18</sup> Diversity Institute, Ryerson University, *Evaluation of the Human Rights Project Charter* (2014), online: Ryerson University [www.ryerson.ca/content/dam/diversity/reports/HRPC\\_Report\\_WEB\\_2014.pdf](http://www.ryerson.ca/content/dam/diversity/reports/HRPC_Report_WEB_2014.pdf).

<sup>19</sup> Toronto Police Service, *Toronto Police Service – The Police and Community Engagement Review (The PACER Report) Phase II – Internal Report and Recommendations* (2013) online: Toronto Police Service [www.torontopolice.on.ca/publications/files/reports/2013pacerreport.pdf](http://www.torontopolice.on.ca/publications/files/reports/2013pacerreport.pdf) [PACER Report]

<sup>20</sup> Deputations

- “Deputation to Toronto Police Services Board re: community contacts policy” (April 24, 2014) online: [www.ohrc.on.ca/en/news\\_centre/deputation-toronto-police-services-board-re-community-contacts-policy-april-24-2014](http://www.ohrc.on.ca/en/news_centre/deputation-toronto-police-services-board-re-community-contacts-policy-april-24-2014)
- “TPS racial profiling and carding: OHRC deputation at November 18, 2013 public meeting inviting public comment on PACER report and Mukherjee report” (November 18, 2013) online: [http://www.ohrc.on.ca/en/news\\_centre/tps-racial-profiling-and-carding-ohrc-deputation-november-18-2013-public-meeting-inviting-public](http://www.ohrc.on.ca/en/news_centre/tps-racial-profiling-and-carding-ohrc-deputation-november-18-2013-public-meeting-inviting-public)
- “OHRC Written Deputation on: Policy on Community Engagements Procedure 04-14: Community Engagements” (April 2, 2015) online: [http://www.ohrc.on.ca/en/news\\_centre/ohrc-written-deputation-policy-community-engagements-procedure-04-14-community-engagements](http://www.ohrc.on.ca/en/news_centre/ohrc-written-deputation-policy-community-engagements-procedure-04-14-community-engagements)
- “Toronto Police Service racial profiling and carding: deputation to Toronto Police Services Board” (April 8, 2014) online: [www.ohrc.on.ca/en/news\\_centre/toronto-police-service-racial-profiling-and-carding-deputation-toronto-police-services-board](http://www.ohrc.on.ca/en/news_centre/toronto-police-service-racial-profiling-and-carding-deputation-toronto-police-services-board)
- “Deputation by Interim Chief Commissioner Ruth Goba – Toronto Police Services Board” (June 17, 2015) online: [www.ohrc.on.ca/en/news\\_centre/deputation-interim-chief-commissioner-ruth-goba-toronto-police-services-board-june-18-2015](http://www.ohrc.on.ca/en/news_centre/deputation-interim-chief-commissioner-ruth-goba-toronto-police-services-board-june-18-2015)

<sup>21</sup> *Shaw v Phipps*, 2010 ONSC 3884 (Div. Ct.) [*Phipps* Div. Ct.], *aff’d* 2012 ONCA 155 [*Phipps* CA]; *Maynard v Toronto Police Services Board*, 2012 HRTO 1220 [*Maynard*]; Ontario Human Rights

Commission (February 1, 2016) "OHRC intervenes in racial profiling and discriminatory use of force case" online: [www.ohrc.on.ca/en/news\\_centre/ohrc-intervenes-racial-profiling-and-discriminatory-use-force-case](http://www.ohrc.on.ca/en/news_centre/ohrc-intervenes-racial-profiling-and-discriminatory-use-force-case);

Ontario Human Rights Commission, "OHRC calls on police prosecutor to address racial profiling in Neptune 4 case" (June 11, 2016) online: [www.ohrc.on.ca/en/news\\_centre/ohrc-calls-police-prosecutor-address-racial-profiling-neptune-4-case](http://www.ohrc.on.ca/en/news_centre/ohrc-calls-police-prosecutor-address-racial-profiling-neptune-4-case); Ontario Human Rights Commission, "OHRC seeks leave to intervene in racial profiling case" online: [www.ohrc.on.ca/en/news\\_centre/ohrc-seeks-leave-intervene-racial-profiling-case](http://www.ohrc.on.ca/en/news_centre/ohrc-seeks-leave-intervene-racial-profiling-case).

<sup>22</sup> *Ibid*, Neptune 4.

<sup>23</sup> Statistics Canada, *Focus on Geography Series, 2016 Census – Census Subdivision of Toronto, City (CSD) - Ontario*, Statistics Canada Catalogue no. 98-404-X2016001,(Ottawa: Statistics Canada, 2016), [www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-csd-eng.cfm?LANG=Eng&GK=CSD&GC=3520005&TOPIC=1](http://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-csd-eng.cfm?LANG=Eng&GK=CSD&GC=3520005&TOPIC=1); Note: Dr. Wortley advised that the tables downloaded from Statistics Canada identified that Black people make up 8.8% of the Toronto population in 2016. This is the number he used in his report. See Appendix E.

<sup>24</sup> Statistics Canada, *Focus on Geography Series, 2016 Census – Census Subdivision of Toronto, City (CSD) - Ontario*, Statistics Canada Catalogue no. 98-404-X2016001,(Ottawa: Statistics Canada, 2016), [www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-CSD-Eng.cfm?TOPIC=7&LANG=Eng&GK=CSD&GC=3520005](http://www12.statcan.gc.ca/census-recensement/2016/as-sa/fogs-spg/Facts-CSD-Eng.cfm?TOPIC=7&LANG=Eng&GK=CSD&GC=3520005).

<sup>25</sup> This is a brief summary. See Appendix A.

<sup>26</sup> Wendy Gillis, "Andrew Loku inquest urged by Canadian Mental Health Association", *Toronto Star*, (7 April, 2016), online: [www.thestar.com/news/crime/2016/04/07/andrew-loku-inquest-urged-by-canadian-mental-health-association.html](http://www.thestar.com/news/crime/2016/04/07/andrew-loku-inquest-urged-by-canadian-mental-health-association.html); Robert Benzie, "Revealed: Secret SIU report into Andrew Loku's death," *Toronto Star*, (29 April, 2016), online: [www.thestar.com/news/queenspark/2016/04/29/revealed-secret-siu-report-into-andrew-lokus-death.html](http://www.thestar.com/news/queenspark/2016/04/29/revealed-secret-siu-report-into-andrew-lokus-death.html).

<sup>27</sup> Joshua Freeman, "Black Lives Matter Welcomes Loku Inquest, Says More Work Ahead", (17 April, 2016), online: [www.cp24.com/news/black-lives-matter-welcomes-loku-inquest-says-more-work-ahead-1.2862978](http://www.cp24.com/news/black-lives-matter-welcomes-loku-inquest-says-more-work-ahead-1.2862978).

<sup>28</sup> *Tulloch Report, supra*, at p. 97.

<sup>29</sup> *Under Suspicion, supra*, at p. 115.

<sup>30</sup> *Ibid*, at p. 19 and 38.

<sup>31</sup> *Ibid*, at p. 43.

<sup>32</sup> *Ibid*, at p 43 and online: [www.ohrc.on.ca/en/under-suspicion-concerns-about-racial-profiling-police](http://www.ohrc.on.ca/en/under-suspicion-concerns-about-racial-profiling-police).

<sup>33</sup> "The Black Experience Project in the GTA: Overview Report" (July 2017) online: [www.environicsinstitute.org/docs/default-source/project-documents/black-experience-project-gta/black-experience-project-gta---1-overview-report.pdf?sfvrsn=553ba3\\_2](http://www.environicsinstitute.org/docs/default-source/project-documents/black-experience-project-gta/black-experience-project-gta---1-overview-report.pdf?sfvrsn=553ba3_2) [*Black Experience Project Overview Report*].

<sup>34</sup> *Police Services Act*, R.S.O. 1990, c. P.15

<sup>35</sup> *Ibid*, s. 4(2).

<sup>36</sup> *Phipps v Toronto Police Services Board*, 2009 HRTO 1604 [*Phipps HRTO*]; *Phipps Div. Ct., Phipps CA, supra*.

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<sup>37</sup> *Police Services Act*, *supra*, s. 41(1).

<sup>38</sup> “Brief History of the Toronto Police Service”, online: Toronto Police Service [www.torontopolice.on.ca/careers/history.php](http://www.torontopolice.on.ca/careers/history.php).

<sup>39</sup> Betsy Powell, “Billion Dollar Budget Approved for Police Services in Toronto”, *Toronto Star*, (26 October, 2017), online: [www.thestar.com/news/city\\_hall/2017/10/26/a-billion-dollar-budget-approved-for-police-services-in-toronto.html](http://www.thestar.com/news/city_hall/2017/10/26/a-billion-dollar-budget-approved-for-police-services-in-toronto.html).

<sup>40</sup> *Doolittle*, *supra*.

<sup>41</sup> *PACER Report*, *supra*, at 4 and 6.

<sup>42</sup> *Police Services Act*, *supra*, s. 31.

<sup>43</sup> *Phipps HRTO*, *supra*; *Phipps Div. Ct.*, *supra*.

<sup>44</sup> Toronto Police Service and Toronto Police Services Board, *The Way Forward: Modernizing Community Safety in Toronto (Interim Report)* (June, 2016), [www.torontopolice.on.ca/TheWayForward/files/action-plan.pdf](http://www.torontopolice.on.ca/TheWayForward/files/action-plan.pdf).

<sup>45</sup> City of Toronto Confronting Anti-Black Racism Unit (CARB), [www.toronto.ca/community-people/get-involved/community/toronto-for-all/anti-black-racism/](http://www.toronto.ca/community-people/get-involved/community/toronto-for-all/anti-black-racism/); <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2017.EX29.11>.

<sup>46</sup> *Toronto Action Plan*, *supra*, at Executive Summary and 33-35.

<sup>47</sup> *Ibid.*

<sup>48</sup> *Police Services Act*, *supra*, s. 113.

<sup>49</sup> The definition of “serious injury” was developed by the SIU’s first director, the Honourable John Osler, and continues to be used to this day [www.siu.on.ca/en/faq.php](http://www.siu.on.ca/en/faq.php)

<sup>50</sup> The objective of every SIU investigation is to determine whether there is evidence of criminal wrongdoing on the part of the police. It is not to determine whether the involved officer(s) may have committed some lesser offence, such as the breach of a provincial law or professional misconduct under the Code of Conduct of police officers; [www.siu.on.ca/en/what\\_we\\_do.php](http://www.siu.on.ca/en/what_we_do.php); *OHRC Submission to the Independent Review of Police Oversight Bodies*, *supra*.

<sup>51</sup> *Police Services Act*, *supra*, ss. 26.1, 27; [www.oiprd.on.ca/EN/Investigations/Pages/Systemic-Reviews.aspx](http://www.oiprd.on.ca/EN/Investigations/Pages/Systemic-Reviews.aspx).

<sup>52</sup> *Ibid*, s. 80(1)(a); O. Reg 268/10, s. 30(1); For more information, see *OHRC Submission to the Independent Review of Police Oversight Bodies*, *supra*.

<sup>53</sup> *Tulloch Report*, *supra*.

<sup>54</sup> *Ibid.*

<sup>55</sup> The *Police Oversight Act, 2018*, *Ontario Special Investigations Unit Act, 2018*, *Police Services Act, 2018*, and *Ontario Policing Discipline Tribunal Act* are all schedules of the *Safer Ontario Act, 2018* S.O. 2018, c. 3, Sch. 4.

<sup>56</sup> *Ibid*, Sch. 2.

<sup>57</sup> *Safer Ontario Act, S.O. 2018, c. 3*. The *Police Oversight Act, 2018*, being schedule 2 to the *Safer Ontario Act, S.O. 2018, c. 3*. ; *Ontario Special Investigations Unit Act, 2018*, being Schedule 4 to the *Safer Ontario Act, S.O. 2018, c. 3*.; *Police Services Act, 2018*, being Schedule 1 to the *Safer Ontario Act, S.O. 2018, c. 3*.; *Ontario Policing Discipline Tribunal Act, 2018*, being Schedule 3 to the *Safer Ontario Act, S.O. 2018, c. 3*.

<sup>58</sup> *Ibid.* For example, the *Police Oversight Act, 2018* required the SIU to notify the Complaints Director of any complaint or issue raised during a SIU investigation that may constitute misconduct (see s. 39(1)). The Complaints Director may cause an investigation to be done in these circumstances (see s. 63(1)). The *Ontario Special Investigations Unit Act, 2018* set out a duty to comply with a direction or request received from the SIU Director in relation to an investigation, immediately or as otherwise specified in the *Act*, unless it is unlawful or impractical to do so. Independent investigation, prosecution and adjudication are set out in ss. 81 and 82 of the *Police Oversight Act* and independent adjudication is set out in the *Ontario Policing Discipline Tribunal Act, 2018*. The *Police Services Act, 2018* required every municipal council that maintains a police services board to prepare and approve a diversity plan to ensure that members of the board appointed by the council are representative of the diversity of the municipality's population (see s. 28(1)).

<sup>59</sup> Letter from the Ontario Human Rights Commission to the Attorney General and Minister for Community Safety and Corrections, (29 August, 2018), regarding Police Reform and Oversight – *Safer Ontario Act, 2018*, [www.ohrc.on.ca/en/police-reform-and-oversight-safer-ontario-act-2018](http://www.ohrc.on.ca/en/police-reform-and-oversight-safer-ontario-act-2018)

<sup>60</sup> OHRC Terms of Reference, Appendix B.

<sup>61</sup> *Smith v Canada Customs and Revenue Agency*, [2004] OJ No 3410 at para. 70; *R. v Douse*, [2009] OJ No 2874 at para. 104.

<sup>62</sup> *Tahmourpour v Canada (RCMP)*, [2008] C.H.R.D. No. 10 at para. 31

<sup>63</sup> *Nassiah supra*, at para. 23; *Maynard, supra*, at paras. 139 and 142.

<sup>64</sup> Scot Wortley, "Police use of Force in Ontario: An Examination of Data from the Special Investigations Unit, Final Report" (2006) Research project conducted on behalf of the African Canadian Legal Clinic for submission to the Ipperwash Inquiry; [www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy\\_part/projects/pdf/AfricanCanadianClinicIpperwashProject\\_SIUStudybyScotWortley.pdf](http://www.attorneygeneral.jus.gov.on.ca/inquiries/ipperwash/policy_part/projects/pdf/AfricanCanadianClinicIpperwashProject_SIUStudybyScotWortley.pdf).

<sup>65</sup> *Policy on Race* at p 20: "In order to prove an allegation of profiling, it must be shown that the person alleged to have profiled had some opportunity to observe or presume the race of the complainant."

<sup>66</sup> Police use of force cases are where the SIU determined that the cause of civilian injury or death was "police use of force." This includes police shootings, and other types of force (for example: batons, tasers and pepper spray). See page 8 and 9 of the Wortley Report at Appendix E.

<sup>67</sup> The numbers in parentheses represent the actual number of individuals.

<sup>68</sup> The SIU case-rate is calculated by dividing the total number of SIU cases per racial group by their population estimate and multiplying that figure by 100,000. The rate indicates the number of people, per 100,000 population, that were involved in a SIU investigation. See page 6 of the Wortley Report, at Appendix E.

<sup>69</sup> Dr. Wortley found that White people make up 48.4% of the Toronto population but 64.9% of use of force cases in which a mental health issue was noted. See Wortley Report at Appendix E.

<sup>70</sup> Black people make up 8.8% of the Toronto population and 16.2% of use of force cases in which a mental health issue was noted. See Wortley Report at Appendix E.

<sup>71</sup> Black people make up 8.8% of the Toronto population, and 34.1% of use of force cases in which no mental health issue was noted. See Wortley Report at Appendix E.

<sup>72</sup> *Golden, supra*.

<sup>73</sup> The police are permitted to approach someone on the street and ask general questions. However, they are only allowed to detain a person if they have reasonable grounds to believe, or suspect, that the person is involved in a criminal offence; *R v Mann*, 2004 SCC 52, [2004] 3 SCR 59. [*R v Mann*] Detention occurs when a person is being physically or psychologically restrained, meaning the person reasonably believes that they are not free to walk away; *R v Grant*, 2009 SCC 32, [2009] 2 SCR 353. [*R v Grant*].

<sup>74</sup> TAVIS was a specialized TPS unit established in 2006. TAVIS increased "on-the-ground" TPS presence in high-priority neighbourhoods with the stated goal of reducing violence; increasing safety; and improving the quality of life for community members in high-risk neighbourhoods. Many criticized TAVIS for its use of carding and other measures which increased tensions between police and communities. As of January 2017 TAVIS was disbanded.

<sup>75</sup> When a person is lawfully detained by police, the police may conduct a protective pat down search if the officer believes on reasonable grounds that his or her own safety, or the safety of others, is at risk; *R v Mann*, *supra*. If a person has been lawfully arrested, the police can conduct a search for safety reasons as well as to preserve evidence related to the offence; *R v Caslake*, [1998] 1 SCR 51.

<sup>76</sup> The Supreme Court of Canada has found that strip searches are inherently humiliating and degrading and are not to be carried out routinely. There must be reasonable and probable grounds to carry out a strip search and the strip search must be carried out in a reasonable manner. The expectation is that where a strip search is justified, it will be done at a police station. Strip searches in public are only allowed in the most exceptional circumstances; *R v Golden*, *supra*.

<sup>77</sup> The police can arrest someone without a warrant where they have reasonable grounds to believe the person has committed, is committing, or is about to commit an indictable offence; *Criminal Code*, RSC, 1985, c C-46, s 495. Those grounds must also be justifiable from an objective point of view; *R v Storrey*, [1990] 1 SCR 241.

<sup>78</sup> The second officer chose not to give a statement to the SIU.

<sup>79</sup> *Conduct and Duties of Police Officers respecting investigations by the Special Investigations Unit*, O Reg 267/10.

<sup>80</sup> Complaint of Dafonte Miller, (2017), OIPRD TPS Complaint, E-file # E-201708151603116254, OIPRDD DRPS Complaint E-file # E-201708151600096215, Schedule "A".

<sup>81</sup> O Reg 267/10 *supra*, s 4: "The chief of police shall ensure that, pending the SIU taking charge of the scene of the incident, the police force secures the scene in a manner consistent with all standing orders, policies and usual practice of the police force for serious incidents;" s 5: "The SIU shall be the lead investigator in the investigation of the incident and shall have priority over any police force in the investigation;" ss 8(1): "Subject to subsections (2) and (5) and section 10, immediately upon receiving a request for an interview by the SIU, and no later than 24 hours after the request if there are appropriate grounds for delay, a witness officer shall meet with the SIU and answer all its questions;" ss 9(1): "witness officer shall complete in full the notes on the incident in accordance with his or her duty and, subject to subsection (4) and section 10, shall provide the notes to the chief of police within 24 hours after a request for the notes is made by the SIU."

<sup>82</sup> *Elmardy v Toronto (City) Police Services Board*, 2015 ONSC 2952; 2017 ONSC 2074.

<sup>83</sup> *Elmardy v Toronto (City) Police Services Board*, 2017 ONSC 2074 at paras. 19 and 20.

<sup>84</sup> *R v Blackburn* (11 January, 2017), Toronto (Ont Ct J) (Unreported).

<sup>85</sup> *Ibid.*

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<sup>86</sup> *Ibid.*

<sup>87</sup> *Ibid.*, at para. 87; The Court also expressed concern that the officers' microphones were turned off, in violation of TPS procedure, just before the demand for a breath sample was made. A male voice was heard when backup arrived saying "Turn your microphone off." Furthermore, the Court held that the officer's testimony was "materially inconsistent, embellished and appeared to be contrived at times. Key parts of her testimony appear at odds with other reliable evidence such as the events captured on the in-car camera."

<sup>88</sup> Written Submission of an organization which took part in the OHRC's outreach

<sup>89</sup> Statement from Focus Group.

<sup>90</sup> Statement from Focus Group.

<sup>91</sup> Statement from Focus Group.

<sup>92</sup> Statement from Focus Group. Please note that the statement was provided in French and has been translated.

<sup>93</sup> Statement from Focus Groups.

<sup>94</sup> Statement from outreach interview.

<sup>95</sup> Statement from outreach interview.

<sup>96</sup> Statement from Focus Group.

<sup>97</sup> *Elmardy, supra.*

<sup>98</sup> *R v Hines*, 2018 ONCJ 197.

<sup>99</sup> *Ibid.*; The Court also found a breach of the TPS Policy and Procedures Manual regarding in-car camera systems because no audio or video was available from the first vehicle on the scene. Finally, the testimony of a Constable (who arrived at the scene after Hines was handcuffed but not yet in the cruiser) was found to be "biased" and "untrustworthy," because his testimony and notes from the date of the incident were falsified to "justify the actions of his fellow officer."

<sup>100</sup> *R. v. Hines*, 2018 ONCJ 375.

<sup>101</sup> Wendy Gillis, "Please I'm Begging You Guys; Toronto Police Video Shows Man Arrested Pleading for Help," *Toronto Star*, (6 April, 2018), online: [www.thestar.com/news/gta/2018/04/06/please-im-begging-you-guys-toronto-police-video-shows-arrested-man-pleading-for-help.html](http://www.thestar.com/news/gta/2018/04/06/please-im-begging-you-guys-toronto-police-video-shows-arrested-man-pleading-for-help.html).

<sup>102</sup> Suspect facing 9 charges after allegedly punching officer, sparking violent arrest caught on video", (25 January, 2017) <https://toronto.citynews.ca/2017/01/24/suspect-facing-9-charges-after-allegedly-punching-officer-sparking-violent-arrest-caught-on-video/>.

<sup>103</sup> The OIPRD also found that six officers engaged in neglect of duty by failing to activate the in-car camera system microphones upon arriving at the scene contrary to police orders; OIPRD Investigation Report re complaint of Waseem Khan (July 21, 2017).

<sup>104</sup> Jennifer Pagliaro, "Judge Finds Police Lied, Exaggerated and Colluded About Cellblock Assaults Captured on Video," *Toronto Star*, (20 March, 2014), online: [www.thestar.com/news/crime/2014/03/20/judge\\_finds\\_police\\_lied\\_exaggerated\\_and\\_colluded\\_about\\_cellblock\\_assaults\\_captured\\_on\\_video.html](http://www.thestar.com/news/crime/2014/03/20/judge_finds_police_lied_exaggerated_and_colluded_about_cellblock_assaults_captured_on_video.html); [www.thestar.com/news/crime/2014/04/14/video\\_of\\_cellblock\\_police\\_assault\\_against\\_toronto\\_man\\_made\\_public.html](http://www.thestar.com/news/crime/2014/04/14/video_of_cellblock_police_assault_against_toronto_man_made_public.html).

<sup>105</sup> *R v Young*, 2014 ONCJ 129; 2014 ONCJ 171.

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<sup>106</sup> *Ibid.*

<sup>107</sup> *Ibid*; *R v Young*, 2014 ONCJ 171.

<sup>108</sup> Statement from Outreach interview.

<sup>109</sup> Statement from Outreach interview.

<sup>110</sup> *R v Thompson*, [2016] O.J. No. 2118 (H.C.J.).

<sup>111</sup> *Ibid.*

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> Statement from Focus Group.

<sup>115</sup> Statement from Focus Group.

<sup>116</sup> Statement from Focus Group.

<sup>117</sup> For example, in 2011, the Quebec Human Rights Commission found that many Black respondents felt they did not have the right to circulate or socialize in public without being subject to police scrutiny.; See also *Paying the Price supra*; Robyn Maynard, *Policing Black Lives: State Violence in Canada from Slavery to the Present* (Winnipeg: Fernwood Publishing, 2017) at p 89 citing CDPJ (Commission des droits de la personne et des droits de la jeunesse Québec) "Enquete sur les Allègations de Discriminations Raciale dans l'industrie Du Taxi A Montréal: Rapport Final." (1984).

<sup>118</sup> Scot Wortley & Akwasi Owusu-Bempah, "Crime and Justice: The Experiences of Black Canadians" in Barbara Perry, ed, *Diversity, Crime and Justice in Canada* (New York: Oxford University Press, 2011) 127.

<sup>119</sup> *Tulloch Report, supra*, at p 26.

<sup>120</sup> Harris, David. 2002. *Profiles in Injustice: Why Racial Profiling Cannot Work*. New York: New Press; Tator, Carol and Frances Henry. 2006. *Racial Profiling in Canada: Challenging the Myth of a Few Bad Apples*. Toronto: University of Toronto Press; Bradford, Ben. 2011. "Convergence, Not Divergence? Trends and Trajectories in Public Contact and Confidence in the Police." *British Journal of Criminology* 51: 179-200; *Paying the Price, supra*.

<sup>121</sup> *Strategy for a Safer Ontario Submission, supra*.

<sup>122</sup> *Elmardy, supra*.

<sup>123</sup> Statement from Outreach Interview.

<sup>124</sup> Statement from Outreach Interview.

<sup>125</sup> Statement from Focus Group.

<sup>126</sup> Statement from HairStory Youth Advisory (delivered at the OHRC's launch of its Public interest inquiry into racial profiling and racial discrimination by the Toronto Police Service, 30 November, 2017) Wendy Gillis "Human Rights Commission launching inquiry into racial profiling by Toronto police" online: [www.thestar.com/news/crime/2017/11/30/human-rights-commission-launching-inquiry-into-racial-profiling-by-toronto-police.html](http://www.thestar.com/news/crime/2017/11/30/human-rights-commission-launching-inquiry-into-racial-profiling-by-toronto-police.html). (November 30, 2017). .

<sup>127</sup> Statement from Focus Group.

<sup>128</sup> Statement from Focus Group.

<sup>129</sup> Written Submission to the OHRC by an organization

<sup>130</sup> Statement from Focus Group. Please note that the statement was provided in French and has been translated.

<sup>131</sup> The objective of every SIU investigation is to determine whether there is evidence of criminal wrongdoing on the part of the police. It is not to determine whether the involved officer(s) may have committed some lesser offence, such as the breach of a provincial law or professional misconduct under the Code of Conduct of police officers; [www.siu.on.ca/en/what\\_we\\_do.php](http://www.siu.on.ca/en/what_we_do.php); *OHRC Submission to the Independent Review of Police Oversight Bodies*, *supra*.

<sup>132</sup> Ontario Human Rights Commission, *Response to the Race Data and Traffic Stops in Ottawa Report* (2016), online: [www.ohrc.on.ca/en/book/export/html/19676](http://www.ohrc.on.ca/en/book/export/html/19676)

<sup>133</sup> *OHRC Submission to the Independent Review of Police Oversight Bodies*, *supra*.

<sup>134</sup> *Association of Ontario Midwives v Ontario (Health and Long-Term Care)*, 2018 HRTO 1335 at para 309.

<sup>135</sup> In 1989, the Race Relations and Policing Task force in Ontario recommended that use of force reports be sent to a central depository "...where the data may be analyzed for significant trends. This process would provide statistics which are currently unavailable on factors such as the percentage of visible minorities subjected to police force." Lewis Clare, *The Report of the Race Relations and Policing Task Force* (1989) online: [https://archive.org/details/mag\\_00066901](https://archive.org/details/mag_00066901) at p. 50, 51, 65, 83, 145, and 168. The call for race-based data collection has continued in several reports and recommendations over the years. See for example: *Royal Commission on the Donald Marshall, Jr., Prosecution* (December 1989) online at [https://novascotia.ca/just/marshall\\_inquiry/\\_docs/Royal%20Commission%20on%20the%20Donald%20Marshall%20Jr%20Prosecution\\_findings.pdf](https://novascotia.ca/just/marshall_inquiry/_docs/Royal%20Commission%20on%20the%20Donald%20Marshall%20Jr%20Prosecution_findings.pdf); M. Gittens et al., *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (Toronto: Queen's Printer for Ontario, 1995) at 403-406; Toronto Police Services Board "Board Policy on the Collection, Use and Reporting of Demographic Statistics" (Minutes of the Public Meeting of the TPSB, September 23, 2010) and Toronto Police Services Board "Collection of Demographic Statistics" (Minutes of the Public Meeting of the TPSB, April 5, 2012) [Following the reports of Alok Mukherjee, August 17, 2010 and March 12, 2012]; Foster Lorne, Jacobs Les and Siu Bobby, *Race Data and Traffic Stops in Ottawa, 2013-2015: A Report on Ottawa and the Police Districts* (October 2016) at p. 6 online: [www.ottawapolice.ca/en/about-us/resources/.TSRDGP\\_York\\_Research\\_Report.pdf](http://www.ottawapolice.ca/en/about-us/resources/.TSRDGP_York_Research_Report.pdf); Tulloch Report, *supra*, s. 11.200; Office of the Chief Coroner, Jury Recommendations *Inquest into the death of Andrew Loku* (June 30, 2017) at p. 29 - 32, 34 online:

[www.mcscs.jus.gov.on.ca/english/Deathinvestigations/Inquests/Verdictsandrecommendations/OCCInquestLoku2017.html](http://www.mcscs.jus.gov.on.ca/english/Deathinvestigations/Inquests/Verdictsandrecommendations/OCCInquestLoku2017.html); United Nations, *Report of the Working Group of Experts on People of African Descent on its mission to Canada* (August 16, 2017) at para 77, 78, 86, 91(e) online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/239/61/PDF/G1723961.pdf?OpenElement>

<sup>136</sup> *Under Suspicion*, *supra*.

<sup>137</sup> In 1989, the Race Relations and Policing Task force in Ontario recommended that use of force reports be sent to a central depository "...where the data may be analyzed for significant trends. This process would provide statistics which are currently unavailable on factors such as the percentage of visible minorities subjected to police force." Clare, Lewis *The report of the Race Relations and Policing Task Force* (1989) online: [https://archive.org/details/mag\\_00066901](https://archive.org/details/mag_00066901) at p. 50, 51, 65, 83, 145, and 168. The call for race-based data collection has continued in several reports and recommendations over the years. See for example: *Royal Commission on the Donald Marshall, Jr., Prosecution* (December 1989) online at [https://novascotia.ca/just/marshall\\_inquiry/\\_docs/Royal Commission on the Donald Marshall Jr Prosecution\\_finding](https://novascotia.ca/just/marshall_inquiry/_docs/Royal Commission on the Donald Marshall Jr Prosecution_finding); M. Gittens et al., *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (Toronto: Queen's Printer for Ontario, 1995) at 403-406; Foster, Lorne;

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Jacobs, Les; Siu, Bobby *Race Data and Traffic Stops in Ottawa, 2013-2015: A Report on Ottawa and the Police Districts* (October 2016) at p. 6 online: [www.ottawapolice.ca/en/about-us/resources/.TSRDCP\\_York\\_Research\\_Report.pdf](http://www.ottawapolice.ca/en/about-us/resources/.TSRDCP_York_Research_Report.pdf); Tulloch Report, *supra*, s. 11.200; Office of the Chief Coroner, Jury Recommendations *Inquest into the death of Andrew Loku* (June 30, 2017) at p. 29 - 32, 34 online: [www.mcscs.jus.gov.on.ca/english/Deathinvestigations/Inquests/Verdictsandrecommendations/OCCInquestLoku2017.html](http://www.mcscs.jus.gov.on.ca/english/Deathinvestigations/Inquests/Verdictsandrecommendations/OCCInquestLoku2017.html); United Nations, *Report of the Working Group of Experts on People of African Descent on its mission to Canada* (August 16, 2017) at para 77, 78, 86, 91(e) online: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/239/61/PDF/G1723961.pdf?OpenElement>.

