



TORONTO POLICE SERVICES BOARD

COLLECTION, USE AND REPORTING OF DEMOGRAPHIC STATISTICS

DATE APPROVED	October 18, 2007	Minute No: P332/07
DATE(S) AMENDED	September 23, 2010 November 15, 2010 May 11, 2011	Minute No: P247/10 Minute No: P292/10 Minute No: P114/11
DATE REVIEWED	November 15, 2010 May 11, 2011	Minute No: P292/10 Minute No: P114/11
REPORTING REQUIREMENT	As set out below	
LEGISLATION	<i>Police Services Act</i> , R.S.O. 1990, c.P.15, as amended, s. 31(1)(c). <i>Ontario Human Rights Code</i> , R.S.O. 1990, c. H.19.	
DERIVATION	Rule 4.3.9 – Release of Statistics	

Toronto is one of the most diverse cities in the world. The Toronto Police Services Board embraces the diversity of the City of Toronto.

The Board is committed to ensuring that the Toronto Police Service will provide services in partnership with all the communities of the City and in a way that is equitable, respectful, inclusive and culturally competent.

The Board is committed to improving services to the public. Based on the principle that only what is measured can be effectively managed, the Board believes that it is important to collect, use and report statistics related to the grounds prohibited under the Ontario *Human Rights Code*.

The Board acknowledges that no single statistic is or should be determinative of how deployment decisions are made; rather, such decisions should be based on a combination of considerations because safety in a neighbourhood or the experience of policing by a community depends on an intersectionality of factors.

The Board categorically opposes the misuse of statistics in a manner that stigmatizes any community.

The Board requires that this policy be implemented in keeping with the Ontario *Human Rights Code* and the *Municipal Freedom of Information and Protection of Privacy Act*. Therefore, in developing and implementing this policy, the Board is committed to working in consultation with the Ontario Human Rights Commission and the Office of the Information and Privacy Commissioner.

The Toronto Police Service will be permitted to collect, use and report statistics related to the grounds prohibited under the Ontario *Human Rights Code*, i.e., race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability, as necessary and appropriate.

It is the policy of the Toronto Police Services Board that:

1. The Chief of Police will ensure that the Service establishes a procedure for the collection, use and reporting of statistics related to the grounds prohibited under the Ontario Human Rights Code, i.e., race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, family status or disability, and that the procedure include provisions to maintain appropriate degrees of confidentiality;
2. The Chief of Police will ensure that the statistics are not to be used by the Service, under any circumstances, to stigmatize, ascribe criminality to, make value judgments on or otherwise stereotype any community based on group characteristics;
3. The Chief of Police will report on the collection and use of statistics from time to time as may be required by the Board.

Board Members

4. The Board and Board Members will not use statistics under any circumstances, to stigmatize, ascribe criminality to, make value judgments on or otherwise stereotype any community based on group characteristics.

**THIS IS AN EXTRACT FROM THE MINUTES OF THE SPECIAL PUBLIC MEETING
OF THE TORONTO POLICE SERVICES BOARD HELD ON
NOVEMBER 18, 2013**

#P277. POLICE CARDING AND THE ISSUE OF PROFILING

The Board was in receipt of the following report November 11, 2013 from Alok Mukherjee, Chair:

Subject: POLICE CARDING AND THE ISSUE OF PROFILING

Recommendations:

It is recommended that the Toronto Police Services Board approve the following principles to be included in a Board policy on the documentation of contacts with members of the public otherwise known as “carding,” and profiling:

1. The Board rejects and does not condone any individual or institutional policing practice that results in profiling generally and racial profiling specifically, whether intentionally or by impact, against individuals because of their membership of particular groups identified by characteristics including, but not limited to, race, ethnicity, sex, sexual orientation, age, disability and socio-economic status. Therefore, the purpose of this policy is to eliminate conscious or unconscious profiling of individuals as a result of the practice of carding while supporting the legitimate collection and retention of information needed for *bona fide* investigative purposes.
2. Gathering and retention of contact information under clearly defined circumstances, based on *bona fide* reasons and proper supervision can be a legitimate tool for effective police work related to criminal investigation and crime prevention.
3. Consistent with the principles of policing contained in the *Police Service Act* (“the Act,” the Ontario *Human Rights Code* and the Board’s policies on Race and Ethnocultural Equity, Human Rights as well as Collection, Use and Reporting of Demographic Statistics, such information will be based on *bona fide* investigative reasons and include only those elements of an individual’s background that are demonstrably relevant to specific police investigations.

It is further recommended that the Board policy on the documentation of contacts with members of the public and profiling include a direction to the Chief of Police (“the Chief”) to develop procedures to ensure that:

4. *Bona fide* criteria are established for the collection and retention of contact information, and clear direction is provided for the monitoring and supervision of individual members’ practice including specific provisions for dealing with deviation from the criteria.
5. Consistent with the principles of policing contained in the *Police Service Act* (“the Act”), the Ontario *Human Rights Code* and the Board’s policies on Race and Ethnocultural Equity, Human Rights as well as Collection, Use and Reporting of Demographic Statistics, such information will be based on *bona fide* investigative reasons and include

only those elements of an individual's background that are demonstrably relevant to specific police investigations.

6. This information will be retained in the police database for a period of five years, except in circumstances where there is a legitimate investigative reason to retain the information for a longer period. Retention beyond the prescribed five-year period will be authorized on a case-by-case basis by the Chief.
7. In those exceptional circumstances where information is retained beyond the prescribed retention period, access to such information will be given only to those Service members who are so authorized by the Chief.
8. Collection of contact information through the issuance of any card or note which documents contacts with members of the community ("contact cards") will not be used to measure performance and productivity of individual members of the Toronto Police Service ("the Service").
9. Statistics related to the issuance of contact cards by individual members of the Service will be reviewed by the Service and the members' Unit Commanders on a monthly basis and in the instance where an individual member's practice is found to deviate significantly from the general pattern established by the statistics, the member will be subject to review and appropriate remedial action taken.

It is further recommended that the Board policy on the documentation of contacts with members of the public and profiling include a reporting requirement as follows:

10. The Chief will submit a public report to the Board in January, May and September of each year on the number of contact cards issued by members of each Division and specialized Unit, broken down by race, ethnicity, sex, age, sexual orientation, disability of the subject and any other relevant grounds protected under the Ontario *Human Rights Code*. The report will provide general reasons for which contact cards were issued.

It is further recommended that subsequent to the development and approval of the formal Board policy on the documentation of contacts with members of the public and profiling, the Board direct that the Chief will:

11. Implement a comprehensive communication plan to ensure that this Board policy, and related procedures, are known to all members of the Service and widely publicized in the community.
12. Implement an appropriate training, communication and monitoring plan to ensure full Service-wide compliance with this policy and related procedures.
13. Provide full details of his procedure with respect to collection and retention of contact information to the Board within three (3) months from the approval of this policy by the Board.
14. Provide to the Board for its review within three (3) months from the approval of this policy any new tool that is developed for the consistent collection and recording of contact information.

15. Immediately conduct a review of the existing Service database to identify contact card information pertaining to individuals where there is no *bona fide* investigative justification for retaining such information, and purge such information within six (6) months from the approval of this policy by the Board.
16. Undertake an immediate review of the practices associated with the Toronto Anti-Violence Intervention Strategy (“TAVIS”) with a view to ensuring that these practices are consistent with the principles of policing contained in the *Police Service Act*, the Ontario *Human Rights Code* and the Board’s Race and Ethnocultural Equity as well as Human Rights policies.
17. Verify to the Board by a public report due no later than six (6) months from the approval of the Board policy that these actions have been completed.

It is further recommended that subsequent to the development and approval of the formal Board policy on the documentation of contacts with members of the public and profiling, the Board:

18. Request that, one (1) year later, the Auditor General of the City of Toronto undertake a comprehensive audit of the implementation of the Board’s directions and of the changes in practice implemented by the Chief as a result of his Police and Community Engagement Review (P.A.C.E.R) report with a view to assessing their impact on the practice of carding by members of the Toronto Police Service, with follow-up reports as deemed appropriate by the Auditor General.

Financial Implications:

The financial impact associated with the implementation of these recommendations is not known at this time.

Background/Purpose:

The purpose of this report is to recommend principles for a policy and measures to address issues related to the practice of carding individuals with whom members of the Toronto Police Service interact. Carding is the police practice of completing a documentation containing information about the individual with whom a contact occurred, and of entering that documentation in a police database. It is claimed that this practice is very useful in dealing with violent crimes because it provides police with a valuable intelligence database. As a result of this belief, information is gathered and retained even about individuals who are not suspects in or subjects of a criminal investigation, but who are identified by their identity or background.

Interaction with the public is, no doubt, integral to policing; through such interaction police officers serving Toronto’s neighbourhoods and the Service as a whole gain valuable intelligence which assists them in investigating and preventing crime and keeping the community safe. In certain circumstances, retention of information regarding that contact can serve a legitimate policing purpose. It is essential, however, that this practice is implemented in a way that does not have a disproportionate, negative impact on members of any group within the society because of factors including, but not limited to, race, ethnicity, sex, sexual orientation, age and socio-economic status.

Of particular concern in this regard is the long-standing view that young Black Torontonians and, to a lesser extent, youth from other racialized backgrounds as well as poor youth are disproportionately carded without legitimate reasons, leading to concerns about “profiling.” It has been claimed that profiling unjustifiably criminalizes and/or stigmatizes innocent members of certain social groups, especially Blacks, is contrary to the *Ontario Human Rights Code* as well as the principles of the *Police Services Act*, and, finally, does not serve any useful public safety purpose. On the contrary, it may undermine that purpose by sowing the seeds of distrust towards the police in large segments of the community.

There has been substantial discussion of this issue by academics, inquiry commissions and journalists over many years. Of particular note are the periodic investigative articles published by the *Toronto Star* newspaper since 2002. The most recent such examination is contained in the *Toronto Star* series of Saturday, September 28 and Sunday, September 29, 2013.

An extensive analysis by the *Toronto Star* of the practice of carding since 2008 to 2012 suggests a very disturbing trend. It shows that carding reached a historic height in 2007, the year marked by the so-called “summer of the gun,” and has remained at unprecedented levels in the following five years.

This is disturbing because these are also the years when the Board and the Service have acknowledged that police interaction with community should not result in a disproportionate, negative impact on any group and have taken several actions to prevent this impact.

Therefore, the Board has an obligation to use its statutory authority and powers as interpreted by the Supreme Court to give the Service a clear policy direction in regard to carding as it relates to racial and other forms of profiling.

The Board derives its authority to enact these directions from the following provisions of the *Ontario Police Services Act* (“the *Act*”):

Declaration of principles

1. Police services shall be provided throughout Ontario in accordance with the following principles:

2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.

3. The need for co-operation between the providers of police services and the communities they serve.

5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.

Responsibilities of boards

31. (1) A board is responsible for the provision of adequate and effective police services in the municipality and shall,

(c) establish policies for the effective management of the police force;

(e) direct the chief of police and monitor his or her performance;

There can be no question that the principles in section 1 of the *Act* are intended to be overarching. As such, the responsibilities of the Board enumerated in section 31 (1) of the *Act* must be interpreted within the framework of those principles. This is such a fundamental

consideration that the Supreme Court of Canada has acknowledged that the Board “arguably” had a positive duty to act where matters of great public significance are involved.

In its 2003 decision in *Odhavji Estate v. Woodhouse*, the Supreme Court recognized “the Board’s broad discretion to determine what objectives and priorities to pursue, or what policies to enact in pursuit of those objectives.” According to the highest court, “courts should be loath to interfere with the Board’s broad discretion.” Nevertheless, the Supreme Court also recognized that there were circumstances when the Board could be considered to have “a positive obligation” to take action. In such circumstances, the Board would be “required” to act and, by implication, be subject to judicial scrutiny if it failed to do so. The court said:

66 It is possible . . . that circumstances might arise in which the Board is required to address a particular problem in order to discharge its statutory obligation to provide adequate and effective police service. If there was evidence, for example, of a widespread problem in respect of the excessive use of force in the detention of visible minorities, the Board arguably is under a positive obligation to combat racism and the resultant use of excessive force.

I would suggest that the issue of profiling due to excessive and disproportionate issuance and retention of contact card information involving racialized and poor youth by the Service meets the threshold for “a positive obligation” to act as established by the Supreme Court.

Discussion:

Through its policies – including, in particular, the Race and Ethnocultural Equity Policy, the Human Rights Policy and the Policy on Collection, Reporting and Use of Demographic Statistics – the Board has made very clear its position that discriminatory policing, whether by intent or impact, is unacceptable, against the law and will not be tolerated.

Profiling, especially racial profiling, is a form of discriminatory policing. It has been the subject of considerable research, analysis and discussion. Disproportionate carding of members of a group, identifiable by race, ethnicity, sex, age and/or socio-economic status, even when it is not deliberately targeted, may constitute a form of discriminatory policing in terms of its impact and, as such, a breach of Board policies as well as the law.

Beyond the legal aspect, the Board must take a serious view of the issue of discriminatory policing from a public interest perspective as well. To the extent that public safety and community well-being are the overarching goals to which the community expects the police to contribute along with other institutions, such as education, housing and public health, those goals apply to all members of society regardless of their race, age or socio-economic status. It would be ironic if those goals were sought for some at the expense of others.

In an in-depth examination of contact cards issued by members of the Toronto Police Service during the years 2008-2012 in the course of interactions with members of the public, published on Saturday, September 28 and Sunday, September 29, 2013, the *Toronto Star* has found that there has been a significant increase in the magnitude of contact card activity since 2007. It found, further, that young Black Torontonians and, to a lesser extent, young Brown and poor white residents were given more contact cards than the rest of the population. These reports are based on data obtained from the police database and compared against Statistics Canada population statistics.

The *Star* provides a breakdown of the data by patrol zones and individual police officers.

While it is generally accepted that such data, properly collected using valid criteria, can serve an important investigative purpose, the Service's practice causes concern due to its sheer size and apparent disproportional impact. Academics, researchers and concerned members of the community have expressed serious reservation that the practice may even be counter-productive in so far as it has a negative impact on community trust and confidence in the police.

For the Board, this is a matter of serious concern because the practice appears to run counter to its stated position with respect to the issuance of contact cards and retention of information, a practice popularly referred to as "profiling."

At its meeting on April 5, 2012, the Board considered a report from me, dated March 12, 2012 and titled "Collection of Demographic Statistics," which contained a series of recommendations to address the issue (Minute No. P56/012 refers). These recommendations were approved, among others and, based on representations from members of the community a Board committee called the Street Checks Sub-Committee was established in 2013.

At the same time, the Service announced that it had undertaken a comprehensive internal review of the practice.

It is in the context of these efforts, based on the law and Board policies, that the findings published in the September 28-29, 2013 editions of the *Toronto Star* suggesting a continuing and ever-growing practice are disconcerting. They create a distinct impression that efforts of the past decade to ensure that carding does not have a discriminatory impact may have been ineffective.

At the Board meeting of October 7, 2013, the Service made a public presentation of the 31 recommendations it planned to introduce by way of a new approach to gathering and retaining carding information (Min. No. 244/13 refers). The Service contends that these recommendations will address the issue of racial and other profiling.

In conjunction with the operational changes the Service proposes to make, the Board, in its role as the oversight and governing body for policing in Toronto, must now take action to deal with the continuing discriminatory impact, give policy direction with respect to disposition of data retained from previous years and implement measures to ensure accountability to prevent any continuation of a discriminatory practice.

It has been suggested in some quarters that restrictions on carding will have a chilling effect on front-line policing as officers may be unwilling to gather and fill out information. It has been further suggested that should this happen, violent crime will rise.

I must strenuously reject these suggestions; surely, the Service, with all the intelligence, expertise and experience at its disposal, has the means and the ability to develop effective policing strategies without negatively affecting large numbers of innocent people from particular racialized and other backgrounds.

These are, of course, not the only actions taken to address the issue of the disproportionate carding, or profiling, of members of certain backgrounds. A review of previous efforts shows that the Board and the Service have been attempting to address the issue of profiling for many years. Racial profiling by police has been a serious concern in the community since at least the 1970s.

History/Context

Profiling as a result of the police practice of carding is a challenge that faces policing in many jurisdictions around the world. In Toronto, it has been a subject of considerable attention. Of note, besides the *Toronto Star* reports of 2002, 2010, 2012 and 2013, are such recent examinations as Ontario Human Rights Commission report, "Paying the Price: The Human Cost of Racial Profiling" (2002); Carol Tator and Frances Henry, ed., *Racial Profiling in Canada* (2006); and Roy McMurtry and Alving Curling's review, "Review of Roots of Youth Violence" (2008).

In fact, the matter has been on the public agenda for a much longer period of time, as documented in a 2003 Toronto Police Service report, "Policing a World Within a City." An excerpt from this report providing an overview of the history of these earlier efforts is to be found in Appendix A.

Discriminatory policing – and in particular, involving Black Canadians – has been the focus of concern, criticism and study since at least 1975 when the late Wilson Head conducted his study entitled, *The Black Presence in the Canadian Mosaic: A Study of Perception and the Practice of Discrimination Against Blacks in Metropolitan Toronto*. Since then, there have been several others, including Walter Pitman's 1977 task force report commissioned by the Toronto City Council, *Now Is Not Too Late*, Dr Reva Gerstein's 1980 study of the credibility of the police to provide fair and just services to members of Toronto's Black community, numerous studies commissioned by the Police Services Board and the Police Service in the 1990s, and the 1992 audit of race relations practices of the Metropolitan Toronto Police Force by the Metropolitan Toronto Auditor Allan Andrews. At the same time, the province, too, began paying attention to the issue through the 1989 Race Relations and Policing Task Force chaired by Clare Lewis, the 1992 study of anti-Black racism conducted by Stephen Lewis, and the 1992 Royal Commission on Systemic Racism in the Criminal Justice System co-chaired by David Cole and Margaret Gittens.

As a result of and in response to all of this work, the Board and the Service carried out many initiatives. These included the establishment in 1989 of a Race Relations Policy by the Board, attention to police training, changes in procedures related to police conduct and focus on improving police-community relations, among others. The focus was on "moving forward together," to borrow the title of a report prepared in 1995 containing responses to all of the recommendations made by different authors. The intent was to demonstrate that the Race Relations Policy adopted in 1989 had a meaningful impact on every aspect of organizational life.

Yet, in a presentation to the Board's Race Relations Sub-Committee on December 6, 1999, based on a survey of police stops carried out in 1994, University of Toronto Criminology Professor Scot Wortley pointed out that Black respondents were more likely to have been stopped by police than others. This information was relayed to the Board, during its January 26, 2000 meeting, and the Board requested a response from Chief Boothby about strategies on police stops. This was received at the February 24, 2000 Board meeting.

To the extent that carding is related to police stops, then, it has been considered by the Board and the Service for the last two decades as the source of a serious problem that had not been resolved by the strategies implemented in prior years. This was supported by the first *Toronto Star* "Race and Crime" series of October 19, 20 and 26, 2002. It reinforced and supported the findings of Professor Wortley's 1999 presentation. Further support came from the Ontario Human Rights

Commission's report, "Paying the Price: The Human Cost of Racial Profiling," which was presented to the Board by Chief Commissioner Keith Norton on May 27, 2004.

Beginning in 2005, new efforts began to deal with this issue, as the following chronology of Board response to carding and the issue of profiling demonstrates.

Recent Response to Carding and the Issue of Profiling, 2003-2013 – A Chronology

Date	Action
January 2003	TPS Report: "Policing a World Within a City"
September 2003	Draft Report of the Board/Service Race Relations Joint Working Group (not published or approved by the Board) questioning the existence of racial profiling in police contacts
May 27, 2004	Presentation to Board by Keith Norton, Chief Commissioner of the Ontario Human Rights Commission, "Paying the Price: The Human Cost of Racial Profiling" and adoption by the Board of several recommendations to address the issue
March 8, 2005	Board direction on mandatory Name Badges
June 21, 2004	Board direction on in-car cameras in patrol cars
March 26, 2006	Approval of Board Policy on Race and Ethnocultural Equity Replaced the former Race Relations Policy, with focus on outcomes; contains specific reference to police stops; requires review of all procedures to ensure they are consistent with this policy and regular evaluation and reporting on the implementation of the policy
March 22, 2007	Human Rights Charter Project A comprehensive organization change project initiated jointly by the Board, the Service and the Ontario Human Rights Commission to ensure, through policy, procedures, training and monitoring of results, that all practices of the organization are consistent with the requirements of the Ontario <i>Human Rights Code</i>
October 18, 2007	Board Policy on Collection, Use and Reporting of Demographic Statistics (Amended in September 23 and November 15, 2010 and again on May 11, 2011)
February 12, 2009	"Aboriginal Policing – Statement of Commitment and Guiding Principles"
March 25, 2010	Approval, in principle, of a comprehensive Board Policy on Human Rights (final policy in effect since June 15, 2012)
April 5, 2012	Chair's Report of March 12, 2012 with a series of recommendations to address the issue, titled "Collection of Demographic Statistics"

January 23, 2013	Establishment of Street Checks Sub-Committee
April 25, 2013	Direction to the Chief of Police to provide a receipt to every individual for whom a card is created, as an interim measure, pending further changes

However, the 2008 review, “Roots of Youth Violence,” by former Ontario Chief Justice Roy McMurtry and former Speaker of the Ontario Legislature Alvin Curling, as well as subsequent reports in the *Toronto Star* of 2010 and 2012 showed that disproportionate carding of Black youth or profiling persisted.

Analysis of Police Carding Data by Toronto Star – 2001-2012

Date	Finding
<p>Oct. 19, 20, & 26, 2002</p> <p>Part 1: http://www.thestar.com/news/gta/kenowntopolice/singled-out.html Board reaction story: http://www.thestar.com/news/gta/raceandcrime/analysis-raises-board-hackles.html Black arrest rates: http://www.thestar.com/news/gta/raceandcrime/black-arrest-rates-highest.html</p>	<p>Toronto Star “Race & crime” series</p> <p>This series used Toronto police CIPS arrest and charge data as its foundation and found that blacks in certain circumstances were treated more harshly than whites in terms of being held for bail more often, and were charged to a higher degree with certain driving offences that would have come to light following a traffic stop. It also examined who was being charged for serious violent crimes and found young black males, many of whom were born in Jamaica, were disproportionately represented.</p>
<p>Feb. 6, 7, & 15, 2010</p> <p>http://www.thestar.com/news/gta/raceandcrime.html</p>	<p>Toronto Star “Race matters”</p> <p>This series revisited the CIPS analysis and found little had changed. It also for the first time examined contact cards from MANIX and FIR databases and showed black and brown-skinned people are carded at higher rates.</p>
<p>March 10, 11, 2012</p> <p>http://www.thestar.com/news/gta/kenowntopolice.html</p>	<p>Toronto Star “Known to police”</p> <p>Another re-visit of CIPS analysis and again there was little change. An analysis of FIR shows carding is on the rise and no change in who is being carded. The Star, looking at who is carded and where, asks the question of whether it is possible that police in certain pockets of the city have stopped, questioned and documented every young man of colour who lives there.</p>

It was in this context that the Board approved a series of further measures in late 2012 and early 2013, including the establishment of the Street Checks Sub-Committee and the direction to provide receipts to those with whom contact had been made by police. At the same time, the Service announced its comprehensive internal review of the practice of carding.

In addition to recommending the provision of receipts, the Street Checks Sub-Committee held a community consultation, summarized and posted on the Board's website, submissions from members of the public and held numerous discussions with senior members of the Service engaged in the review ordered by the Chief.

Need for Further Board Action

This most recent analysis by the *Star* of September 28-29, 2013 is more extensive than the previous ones. It is also the most disconcerting in that it shows that at the very time when the Board and the Service were establishing stronger policies and procedures, implementing enhanced training and education, and going through a comprehensive process to change organizational culture and practices through the Human Rights Charter Project, carding – especially carding of Black and Brown youth and poor white youth – was at an all-time high continually year after year.

To be sure, in two of those years, there had been a significant spike in violent crime that required the gathering of intelligence through community engagement. However, the fact remains that, on one hand, overall, crime was declining during this period and, on the other, information about a disproportionate number of racialized and poor youth was being collected and stored in the police database.

A consideration of this paradox raises a number of questions, such as:

1. What was the place of high volume carding in the Service's strategies for controlling violent crime?
2. How widespread and routine was the use of carding as a measure of productivity and performance?
3. What explicit attention was paid to Board policies in the development and implementation of policing strategies?
4. With respect to the TAVIS program, what mandate and directions were given to those responsible for managing it? Was it so results-driven that there were no parameters set consistent with the Board policies referenced above? What was the nature of monitoring and supervision of TAVIS initiated actions?
5. Beyond TAVIS, what was the nature and quality of supervision and monitoring in the Service from the top ranks to the lowest ranks of management? Did people truly exercise supervision at each level? Did they monitor results regularly? Did they hold each other accountable for complying with Board policies?

Questions like these raise the issue of accountability and responsibility throughout the organization. That is to say, profiling as a form of discriminatory policing – even if by impact rather than intent – should not be seen as a problem of bad behaviour on the part of some individuals. It needs to be seen as the result of systemic practices involving policing strategies.

The Board needs to gain a clear understanding of this systemic issue. And as the Board seeks to do so, it is imperative that it take a clear policy position and establish a stricter framework with respect to the practice itself.

Efforts until now have been focused largely on controlling and changing individual behaviour through training, education, communication, community engagement and discipline. These are important and necessary; however, they have clearly not been successful in bringing an end to profiling. Stronger, systemic measures are needed to overcome an unacceptable pattern of profiling that persists stubbornly. And those measures must include a clear direction with respect to acceptable practices related to outcomes and to accountability, supervision and monitoring. That is what the recommendations contained in this report provide.

It is fair to say that in focusing attention on individual behavior, there has been insufficient consideration of policing strategies and their impact. The intent behind these recommendations is to recognize that profiling is, or can be, the result of strategies used to deal with crime. The recommendations, therefore, emphasize accountability, supervision and monitoring.

Conclusion:

It is, therefore, recommended that the Toronto Police Services Board approve the following principles to be included in a Board policy on the documentation of contacts with members of the public otherwise known as “carding,” and profiling:

1. The Board rejects and does not condone any individual or institutional policing practice that results in profiling generally and racial profiling specifically, whether intentionally or by impact, against individuals because of their membership of particular groups identified by characteristics including, but not limited to, race, ethnicity, sex, sexual orientation, age, disability and socio-economic status. Therefore, the purpose of this policy is to eliminate conscious or unconscious profiling of individuals as a result of the practice of carding while supporting the legitimate collection and retention of information needed for *bona fide* investigative purposes.
2. Gathering and retention of contact information under clearly defined circumstances, based on *bona fide* reasons and proper supervision can be a legitimate tool for effective police work related to criminal investigation and crime prevention.
3. Consistent with the principles of policing contained in the *Police Service Act* (“the Act,” the Ontario *Human Rights Code* and the Board’s policies on Race and Ethnocultural Equity, Human Rights as well as Collection, Use and Reporting of Demographic Statistics, such information will be based on *bona fide* investigative reasons and include only those elements of an individual’s background that are demonstrably relevant to specific police investigations.

It is further recommended that the Board policy on the documentation of contacts with members of the public and profiling include a direction to the Chief of Police (“the Chief”) to develop procedures to ensure that:

4. *Bona fide* criteria are established for the collection and retention of contact information, and clear direction is provided for the monitoring and supervision of individual members’ practice including specific provisions for dealing with deviation from the criteria.

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7. In those exceptional circumstances where information is retained beyond the prescribed retention period, access to such information will be given only to those Service members who are so authorized by the Chief.
8. Collection of contact information through the issuance of any card or note which documents contacts with members of the community (“contact cards”) will not be used to measure performance and productivity of individual members of the Toronto Police Service (“the Service”).
9. Statistics related to the issuance of contact cards by individual members of the Service will be reviewed by the Service and the members’ Unit Commanders on a monthly basis and in the instance where an individual member’s practice is found to deviate significantly from the general pattern established by the statistics, the member will be subject to review and appropriate remedial action taken.

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10. The Chief will submit a public report to the Board in January, May and September of each year on the number of contact cards issued by members of each Division and specialized Unit, broken down by race, ethnicity, sex, age, sexual orientation, disability of the subject and any other relevant grounds protected under the Ontario *Human Rights Code*. The report will provide general reasons for which contact cards were issued.

It is further recommended that subsequent to the development and approval of the formal Board policy on the documentation of contacts with members of the public and profiling, the Board direct that the Chief will:

11. Implement a comprehensive communication plan to ensure that this Board policy, and related procedures, are known to all members of the Service and widely publicized in the community.
12. Implement an appropriate training, communication and monitoring plan to ensure full Service-wide compliance with this policy and related procedures.
13. Provide full details of his procedure with respect to collection and retention of contact information to the Board within three (3) months from the approval of this policy by the Board.

14. Provide to the Board for its review within three (3) months from the approval of this policy any new tool that is developed for the consistent collection and recording of contact information.
15. Immediately conduct a review of the existing Service database to identify contact card information pertaining to individuals where there is no *bona fide* investigative justification for retaining such information, and purge such information within six (6) months from the approval of this policy by the Board.
16. Undertake an immediate review of the practices associated with the Toronto Anti-Violence Intervention Strategy (“TAVIS”) with a view to ensuring that these practices are consistent with the principles of policing contained in the *Police Service Act*, the Ontario *Human Rights Code* and the Board’s Race and Ethnocultural Equity as well as Human Rights policies.
17. Verify to the Board by a public report due no later than six (6) months from the approval of the Board policy that these actions have been completed.

It is further recommended that subsequent to the development and approval of the formal Board policy on the documentation of contacts with members of the public and profiling, the Board:

18. Request that, one (1) year later, the Auditor General of the City of Toronto undertake a comprehensive audit of the implementation of the Board’s directions and of the changes in practice implemented by the Chief as a result of his Police and Community Engagement Review (P.A.C.E.R) report with a view to assessing their impact on the practice of carding by members of the Toronto Police Service, with follow-up reports as deemed appropriate by the Auditor General.

The Board was also in receipt of a copy of Minute No. P244/13 from the meeting held on October 07, 2013, with respect to the Toronto Police Service - Police and Community Engagement Review (PACER). A copy of the Minute is appended to this Minute for information.

The following persons were in attendance and delivered deputations to the Board:

- **Veronica Salvatierra, Youth Criminal Justice Worker, St. Stephen’s Community House ***
- **Peter Rosenthal ***
- **Howard Morton, The Law Union of Ontario ***
- **Wyndham Bettencourt-McCarthy ***
- **Derek Moran ***
- **Dianne Carter and Shaheen Azmi, Ontario Human Rights Commission ***
- **Joy Bullen ***
- **Maurice Stone ***
- **Knia Singh ***
- **Knia Singh, Osgoode Society Against Institutional Injustice**

- Emma Julian
- Bev Salmon *
- Noa Mendelsohn Aviv, Director, Equality Program, Canadian Civil Liberties Association
- Paul Copeland *
- William Rosemberg
- Kingsley Gilliam, Black Action Defence Committee *
- Anna Willats, Toronto Police Accountability Coalition *
- Ben Lau, Co-Chair, Chinese Community Consultative Committee *
- Kris Langenfeld *
- Audrey Nakintu, Justice is Not Colour Blind *
- Roger Love, Advice Counsel, African Canadian Legal Clinic
- Miguel Avila
- Desmond Cole

*written submission also provided; copy on file in the Board office.

Ms. Bettencourt-McCarthy also provided the Board with a copy of her report *Reforming Carding Procedures, An Alternative Policing Model for the Toronto Police Service*. A copy of the report is on file in the Board office.

The Board was also in receipt of written submissions from:

- Dahn Batchelor, Criminology and Criminal Law Consultant
- Rand Schmidt
- Bill Closs
- Jim Roche

Copies of the foregoing written submissions are on file in the Board office.

Following the deputations, the Board had a discussion with Deputy Chief Sloly with respect to some of the issues raised by the deputants.

The Board noted that several deputants had referred to the three legal opinions that were provided to the TPS. Chair Mukherjee asked whether the TPS would release the names of the lawyers who provided the opinions.

Deputy Chief Sloly advised the Board that he was permitted to identify the three lawyers who had provided Chief Blair with opinions. They are:

- Don McLeod, former defence counsel and recently appointed to the Ontario Court of Justice
- Murray Segal, Murray D. Segal Professional Corporation
- Alan Gold, Alan D. Gold Professional Corporation

The Board discussed the timeline for further discussions regarding the development of a policy on contacts with members of the public. The Board subsequently approved the following Motions:

- 1. THAT the Board receive the deputations and written submissions;**
- 2. THAT the Board receive the foregoing report from the Chair and the copy of Minute No. P244/13; and**
- 3. THAT the Board hold a special meeting prior to the end of December 2013 in order to consider a position on this matter.**

Moved by: M. Thompson