



## Ottawa Police Services Board

### Minutes 25

Monday, 28 November, 2016, 4:00 PM

Champlain Room 110 Laurier Ave. West

Wendy Fedec, Executive Director

(613) 560-1270

Wendy.Fedec@ottawa.ca

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**Present:** Councillor E. El-Chantiry (Chair), J. Durrell (Vice Chair), Councillor A. Hubley, C. Nicholson, L.A. Smallwood, Councillor T. Tierney, S. Valiquet

#### CEREMONIAL ACTIVITIES / ANNOUNCEMENTS

a) SWEARING IN OF NEW BOARD MEMBER A. HUBLEY

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Mr. Rick O'Connor, City Clerk & Solicitor, invited Councillor Allan Hubley to join him at the podium to be sworn in as a new member of the Ottawa Police Services Board. Councillor Hubley then took the Oath of Office and was congratulated on becoming a Board member.

#### CONFIRMATION OF AGENDA

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**That the Ottawa Police Services Board confirm the Agenda of the 28 November 2016 meeting.**

CARRIED

## CONFIRMATION OF MINUTES

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**That the Ottawa Police Services Board confirm the Minutes of the 24 October 2016 and 7 November 2016 meetings.**

CARRIED

## DECLARATIONS OF INTEREST

There were no declarations of interest.

## ITEMS OF BUSINESS

### 1. CHIEF'S VERBAL REPORT

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Chief Bordeleau reported on the following items: Robbery Unit, K9, Marijuana Dispensaries, Crime Prevention Week and Safety Awards, November 24<sup>th</sup> Traffic Stop Meeting, Update on Regulated Interactions, and the Grey Cup. A copy of the Chief's verbal report is available [online](#).

The Chief advised the Board that Deputy Chief Keeley will be taking leave starting December 3<sup>rd</sup> until his retirement date of January 31, 2017. He congratulated the Deputy on his 31 year career in policing and thanked him for the many contributions he has made to the Ottawa Police Service and this community. Chair El-Chantiry added his thanks and appreciation to Deputy Chief Keeley on behalf of the Board. The Deputy Chief extended his deepest gratitude to the Board for the opportunity to serve and thanked the Service members for the privilege of serving with them.

**That the Ottawa Police Services Board receive this report for information.**

RECEIVED

### 2. 2017 DRAFT OPERATING AND CAPITAL BUDGETS: PUBLIC DELEGATIONS AND APPROVAL

Budget document previously distributed

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Chair El-Chantiry noted there have been three previous public meetings at which Councillors and members of the public were invited to discuss the Budget. Today the Board heard from the following delegations, whose comments are summarized.

**Councillor R. Brockington**, Ward 16, River, had four concerns: 1) not enough resources are directed to speeding and aggressive driving; 2) the cost estimate for Ottawa 2017 celebrations is a 'best guess' and there is no guarantee the costs will

be recovered; 3) another risk is the \$2 million efficiency target with only \$1 million identified to date; and 4) will units responding to shootings and homicides be adequately resourced if these crimes continue to rise, and will police continue to work proactively with him and the community on these issues?

**Councillor Keith Egli**, Ward 9, Knoxdale-Merivale, expressed concern about the new deployment model that will see a 33% decrease in the number of community police officers. He wondered if there was some way to maintain the current complement of community police officers to allow them to remain in the community.

**Mr. Norman Moyer**, Lowertown Community Association, explained the community needs a better understanding of what's happening with crime trends in order to fulfill their role as partners in combating crime. Currently it is difficult to receive consistent data. He asked if the new budget includes the opportunity to improve the information flow to communities.

**Councillor Diane Deans**, Ward 10, Gloucester-Southgate, worried that the 2017 budget as presented is not achievable. Gun violence and traffic enforcement are serious issues and she is not convinced the necessary resources have been allocated. The Councillor believes this budget is filled with risk and asked if the Board is satisfied this budget is achievable and good for the community.

**Councillor Jeff Leiper, Ward**, Ward 15 Kitchissippi, wished to express his concerns about traffic enforcement. Residents are frustrated and asking that more resources be used for enforcement to ensure all road users follow the rules. When considering the passage of this budget, he asked that members keep this foremost in mind.

**Councillor Mathieu Fleury**, Ward 12, Rideau-Vanier, expressed concern about the re-alignment and the speed with which change is happening. He asked when the new deployment model will be presented so councillors can discuss it with their communities.

Chief Bordeleau and Director General D. Frazer responded to the concerns raised. Members of the Police Services Board then asked a number of questions, which were responded to by staff. Following discussion, the Board considered the recommendation before them:

**That the Ottawa Police Services Board:**

- 1. Approve the 2017 Draft Operating and Capital Budgets.**
- 2. Direct the Executive Director to forward the Budgets to City Council for approval.**

CARRIED

**3. HUMAN RIGHTS AND RACIAL PROFILING POLICY: ANNUAL REPORT**

Chief's report

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The Board heard from the following delegations, both of whom spoke about the Traffic Stop Race Data Collection Project Report and expressed concern that the Police Service has not recognized the report's findings as a clear indication of racial profiling. Mr. Jones also called for a need to record race data on pedestrian stops.

[Chief Commissioner Ms. Renu Mandhane](#), Ontario Human Rights Commission, accompanied by Mr. R. Gregg, Senior Policy Analyst (a copy of the deputation is attached).

[Mr. Danardo Jones](#), Director, Legal Services, African Canadian Legal Clinic (a copy of the presentation is attached).

Several Board members thanked the speakers and assured them of the very strong commitment the Board and Police Service has to addressing the concerns raised by the report. Chief Bordeleau also responded to their concerns.

**That the Ottawa Police Services Board receive this report for information.**

RECEIVED

**4. OPS GENDER EQUALITY AUDIT**

Chief's report

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Chief Bordeleau introduced the report on the Gender Audit and provided background information. As part of a settlement with the Ontario Human Rights Commission (OHRC) to resolve a complaint filed by a female Ottawa Police Service (OPS) officer, the OPS agreed to undertake a series of actions. The first two phases had to be delivered to the OHRC by November 4, 2016. Chief Bordeleau stated the results show the Service has a significant amount of work to do to support female employees and ensure they have equal opportunities.

Dr. Carina Fieldeldey-Van Dijk, President of ePsy Consultancy, who analyzed the 2012 OPS Workforce Census and conducted the Gender Audit, made the presentation (held on file with the Board Executive Director and available online) on the results of Phase 1 and Phase 2. She was accompanied by Director General D. Frazer, Director of Human Resources M. Rathwell, and Supt. S. Bell, Chief Human Resources Officer.

Following the presentation, staff responded to questions from the Board members.

**That the Ottawa Police Services Board receive this presentation for information.**

RECEIVED

5. 2017 POLICE SERVICES BOARD MEETING SCHEDULE

Executive Director's report

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**That the Ottawa Police Services Board approve the 2017 meeting schedule.**

CARRIED

6. OUTSTANDING BOARD INQUIRIES & MOTIONS: NOVEMBER 2016

Executive Director's report

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**That the Ottawa Police Services Board receive this report for information.**

RECEIVED

7. LETTERS OF COMMENDATION

Chief's report

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**That the Ottawa Police Services Board receive this report for information.**

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CONSIDERATION OF MOTION TO MOVE IN CAMERA

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Moved by C. Nicholson

**That the Ottawa Police Services Board adjourn the public portion of its meeting to move In Camera to discuss confidential items pertaining to legal and personnel matters in accordance with Section 35(4)(b) of the *Police***

***Services Act.***

CARRIED

ADJOURNMENT

The meeting adjourned at 6:40 p.m.

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W. Fedec  
Executive Director

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E. El-Chantiry  
Chair

**Ontario Human  
Rights Commission**

**Commission ontarienne  
des droits de la personne**



**Deputation by Renu Mandhane, Chief Commissioner**

**Ontario Human Rights Commission**

**to the Ottawa Police Services Board**

**On the OPS Traffic Stop Data Report Deputation to OPSB**

**November 28, 2016**

Check against delivery

## Introduction

- Thank you for the opportunity to talk about the OPS's Traffic Stop Race Data Collection Project.
- My deputation will be available online this afternoon, and the Ontario Human Rights Commission's full report with our analysis of the findings will be available on our website tomorrow.
- This project was based on a 2012 settlement between the Ottawa Police Services Board and the Commission, after Chad Aiken, a young Black man, filed a human rights complaint alleging racial profiling.
- As part of the settlement, the OPS agreed that its officers would collect race-based data on traffic stops for two years beginning in 2013.
- The OPS fully complied with the settlement and even went beyond what was required in its data collection efforts, resulting in a comprehensive police data collection initiative.
- But collecting data is just one part of the story – and it is secondary to the devastating personal experiences of people like Chad Aiken whose rights are often ignored, and who face great personal risk, all because of the colour of their skin or their religion.
- Racial profiling can cause trauma and lasting damage...
  - There is no pleasure in simple tasks like driving to the corner store or walking down the street when you know there is a good chance that you will be pulled over or stopped, even if you have done nothing wrong.
  - There is a pervasive fear and anxiety that takes hold when police look at you with suspicion – again even if you have done nothing wrong.
  - And you are hesitant to challenge the way you are being treated, or even to come forward to report crimes, because police hold the power in your interaction.
- All too often when people like Mr. Aiken come forward to speak about racial discrimination, they are dismissed as being overly sensitive or not having enough proof that their experience is systemic – the “a few bad apples” defence.
- This quick dismissal or denial of the lived experience of racialized and Indigenous people has resulted in a renewed focus on human rights data collection as the means to prove that “racism is real.”



- That is why it is so disappointing to the Commission and racialized communities, when institutions continue to deny the existence of systemic racism in the face of clear quantitative data – data that supports the qualitative data like Mr. Aiken’s personal experience.

## **Results suggest racial profiling**

- And that’s why we are disappointed by recent comments that the OPS data does not “prove” racial profiling.
- Especially when considered together with the personal accounts that led to the data being collected in the first place, the findings are alarming, are entirely consistent with racial profiling, and cannot and should not be easily explained away.
- The researchers found that Black and Middle Eastern people experienced disproportionately high incidences of traffic stops, just as Mr. Aiken alleged in his human rights application.
- Black drivers were stopped 2.3 times more than you would expect based on their driving population, and Middle Eastern drivers were stopped 3.3 times more often.
- In fact, even “Middle Eastern” female drivers were stopped almost three times more than representation in the driving population.
- This was the highest disproportion of any of the women included in the review.
- Young male Black drivers aged 16-24, were stopped 8.3 times more than would be expected based on their driving population.
- And young male Middle Eastern drivers were stopped 12 times more.
- Another concern is the result of the traffic stops of Black, Indigenous, Middle Eastern and other racialized drivers.
- The researchers concluded that “there was a greater propensity that these four racialized minority groups were traffic-stopped for nothing serious enough to be warned or charged, when compared with the White group.”
- We see this as another indicator that systemic racial profiling may be at play.

## **Does the data “prove” racial profiling?**

- The OPS and others have asserted that the researchers’ findings do not “prove” racial profiling.
- However, the research was not designed to prove causation, nor could quantitative research on its own generally prove that systemic racism is the cause of disparities.
- But the significant degree of disproportions uncovered by the data – especially when combined with the accounts of Mr. Aiken and many other racialized people – cannot be explained away by non-discriminatory factors alone.
- The results from the OPS data collection project must be interpreted in the context of the historical relationship between police and racialized and Indigenous communities in Ottawa and in Canada more generally.
- In many recent cases, courts and tribunals have found racial profiling to be behind seemingly neutral police interactions with racialized and Indigenous peoples.
- They have accepted that racial profiling can rarely be identified by direct evidence, and will more often be established by circumstantial evidence and inference.
- The high disproportionalities found in this report are just the kind of strong circumstantial evidence decision-makers are talking about when looking at racial profiling.

## **What does “consistent with systemic racial profiling” mean?**

- In some cases, the racial disproportionality in traffic stops could be explained by individual officer bias, whether implicit or explicit.
- Implicit officer bias stems from unconscious stereotypes, and explicit bias arises from conscious stereotypes.
- Courts and tribunals have recognized that racial stereotyping will usually be the result of subtle unconscious beliefs, biases and prejudices.
- Less well understood is that racial profiling often arises from systemic or institutionalized discrimination.
- The results are more likely explained by systemic racial profiling.
- When the Commission talks about systemic racial profiling, we are talking about policies and practices, and organizational culture that are part of the social or administrative structure of an organization.

- These may appear neutral, but may result in situations where racialized or Indigenous peoples tend to be singled out for greater scrutiny.
- These policies or practices may be the product of unconscious racial biases. □
- While these practices may not have been *designed* to specifically target particular racialized groups, the data shows that this was the *outcome*.
- Examples where bias could be at play include routine or “normal” policing practices, such as officer deployment, intelligence gathering activities, and stopping people who are perceived to be “out of place” in a neighbourhood.
- For example, suggestions that the deployment of more officers is needed in “highcrime” areas or that residents in priority neighbourhoods want police to be active and visible cannot justify stop practices that have a disparate *impact* on racialized people.
- In short, when communities ask you to be present in their neighbourhoods, this cannot result in over-broad policing of innocent people, and it cannot lead to fishing expeditions.
- In fact, a police deployment strategy that leads to greater traffic stops for racialized people in “high crime” areas is likely itself be a form of systemic racial profiling.
- Greater numbers of traffic patrols in racialized neighbourhoods means that racialized people are more likely to be targeted for minor offences, such as traffic offences, compared to White people in other neighbourhoods who may be committing the same offences.
- These actions, especially when repeated regularly, can have a disturbing impact on the dignity of racialized people – as we saw with Mr. Aiken’s experience.
- We simply cannot cause some of the most marginalized people in our society to live in fear and hopelessness.

### **Misconceptions about racial profiling, systemic racism**

- Our opinion about the data is based on our deep experience working on the issue of racial profiling in policing for more than decade.
- Throughout this time, there have been many misunderstandings about what racial profiling actually means.
- When we talk about “systemic racial profiling,” police leaders sometimes think we are calling police officers racist.

- We are not.
- The Commission 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.
- Racial profiling is a particularly damaging form of racial discrimination; and it undermines the relationship between police and racialized and Indigenous individuals, families and communities – just as Mr. Aiken’s trust was undermined.
- Lack of trust in policing has negative implications for the justice system, including the risk of people not reporting crime and not cooperating with police.
- In short, racial profiling has a huge potential to undermine public safety.

### **Strategic planning**

- As part of our own strategic planning process, the OHRC recently consulted nearly 300 individuals representing more than 80 community and advocacy groups across Ontario, independent officers of the legislature and other stakeholders.
- Throughout this process, we consistently heard concerns about systemic discrimination in policing, especially related to African Canadians, Muslim and Arab Canadians, other racialized communities, Indigenous peoples, and people with mental health disabilities.
- So we are making work related to removing systemic discrimination in the criminal justice sector one of our priorities.

### **Others are also concerned about racial profiling: U.N.**

- And we’re not the only organization that is concerned about racial profiling in policing and the criminal justice system in general.
- I note that the African Canadian Legal Clinic is also before you today to speak about systemic racism in policing.
- And the United Nations Working Group of Experts on People of African Descent, who visited Ottawa last month, found “clear evidence that racial profiling is endemic in the strategies and practices used by law enforcement.”
- The working group urged the Government to “develop and implement an African Canadian Justice Strategy to address the anti-Black racism and discrimination within the criminal justice system.”

### **Tulloch review**

- The Ontario government is also concerned about what's happening in our communities, and has appointed Justice Tulloch of the Court of Appeal for Ontario to review the Office of the Independent Police Review Director, Special Investigations Unit and the Ontario Civilian Police Commission.
- The government's appointment of Justice Tulloch was called in part in response to growing concerns about the increasingly strained relationship between police and community.
- Concerns that are being heard loud and clear in Ottawa in light of recent high-profile incidents.

### **Need for action now**

- Although other decision-makers are at various stages in their work on systemic racial profiling, there is some work that the Ottawa Police Service needs to do now.
- The results of the data report highlight the need for all police services across Ontario, including the OPS, to put in place meaningful and effective measures to prevent and eliminate all forms of racial profiling.
- And the OPS needs to step up and acknowledge that something is wrong, and commit to doing something about it.
- Positive change must come from the police themselves, from the chief and board on down.
- Police chiefs and boards must...
  - Acknowledge systemic discrimination in policing
  - Collect data to identify the many circumstances where racial profiling occurs
  - Enact policies and procedures to eliminate discrimination
  - Encourage independent monitoring and accountability
  - And discipline officers who engage in discrimination.
- These are the steps I'm urging you to take today.
- I encourage you to re-conceptualize your idea of community policing.
- Holding meetings is not enough – you also need ongoing, frequent and meaningful dialogue between officers specifically attached to specific areas and the residents who live in them.
- Ideally, these officers would reflect the communities they serve.

- This will require targeted recruitment of racialized and Indigenous officers.
- In this way, crime prevention would be centered around partnerships with the community and shared goals.
- While community consultation is important, it does not replace actively reassessing core policing activities that result in the kind of disproportions we see in the data report.
- So beyond the steps the OPS is proposing, it needs to dig deeper to examine itself and reassess its activities.
- For the required systemic change to happen, it is important that police services don't focus their efforts on denying racial profiling and managing community expectations.
- Instead, they must publicly commit to changing their practices, developing a human rights organization change plan, and then doing the hard work required to make that happen.

### **Accountability throughout the system**

- Police services can only succeed if they have the support and the trust of the communities they serve.
- The Data Collection Project provides evidence of inequitable practices that are likely eroding that trust.
- As members of the Ottawa Police Services Board, you are in the position to put a vision in place for respecting human rights – and to hold officers accountable when they are not respected.
- At the board level, I call on you to mandate human rights-based data collection, like the traffic stop data, to measure and evaluate the extent to which the OPS is meeting its human rights obligations.
- It is critical for the Board to set up an independent monitoring committee to look at the OPS's compliance with its policy on racial profiling, and evaluate the OPS's progress as a measure over time.
- I call on you to take corrective action to address systemic discrimination.
- Pursuing accountability is not about placing blame.
- Powerful institutions must accept responsibility when things go wrong – this is a key way to rebuild trust and make our communities safer.

### **Accountability – Sjaarda**

- I'm not asking for anything new here.
- The OPS has a history as a leader in collecting human rights-based data to build accountability.
- For example, also on the agenda today is discussion of data collected as part a human rights settlement relating to gender equity in the service.
- We were pleased to see that the OPS has conducted a gender audit which reaffirmed that it has work to do to improve women's equality in the OPS and identified areas of particular concern.
- Gender audits and similar initiatives allow organizations to determine if there are systemic barriers affecting *Code*-protected groups and to identify what they are.
- Perhaps what we are most pleased about is how the OPS has acknowledged that it has systemic issues to address to ensure gender equality.
- The OPS has met the requirements of the first deadline in the Minutes of Settlement, and has made a clear commitment to fulfill the remaining requirements.
- We call on the OPS to take the same steps in dealing with the Traffic Stop Data Report.
- We urge you to look beyond the numbers to the systemic issues that are clearly at play.
- We urge you to acknowledge and be accountable for your policies, procedures, and operations which are making it possible for racial profiling to happen.
- And we urge you to look at your organizational culture to make sure it is a culture of inclusion, not one of inadvertent exclusion.
- The Commission is actively monitoring the steps that the Ottawa Police Service is taking to deal with the issues of racial profiling.
- As always, we would be happy to provide strategic advice to help you meet your legal obligation to provide non-discriminatory police services to the diverse community you serve.
- It's the least we can do for Chad Aiken and everyone else who has not enjoyed the same rights that all Ontarians are entitled to.
- Thank you.

## AFRICAN CANADIAN LEGAL CLINIC

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### Deputation to the Ottawa Police Service Board

November 28, 2016

Established in 1994, the African Canadian Legal Clinic (“**ACLC**”) is a community-based not-for-profit organization with a mandate to combat anti-Black racism in Ontario. The ACLC strongly denounces the researchers’ reluctance to conclude that the Ottawa Police Service (“OPS”) is engaged in Anti-Black racial profiling – a fact which is borne out in the findings of the Traffic Stop Race Collection Data Collection Project (“**TSRDCP**”)

Racism, and in particular anti-Black racism, is one of the many barriers to substantive equality in Canadian society. Anti-Black racism is any conscious or unconscious feelings, attitudes, and behaviours, that subject African Canadians to greater scrutiny, negative treatment, and harassment based on race-based stereotypes and prejudices. One of the most insidious practices of anti-Black racism is racial profiling. Racial profiling occurs when police officers use race as a marker of distinction in the exercise of their statutory discretion. As a consequence, Black communities are over-policed and their members over-charged, prosecuted, convicted and incarcerated because of stereotypical and prejudicial enforcement strategies.

Racial profiling, it is submitted, is an investigate tool utilized by the OPS in its dealings with Black Ottawans. This conclusion is consistent with the TSRDCP, despite the researchers’ reluctance to determine causality based on the data. It is intellectual dishonesty to draw any other conclusion. The ACLC submits that the data highlights that the OPS is engaged in anti-Black racial profiling. The time for pedantic academic debates on the contours of racial profiling must come to an end. Furthermore, scholars and academicians do not have a monopoly on defining racial profiling. Anti-Black racism, particularly racial profiling, is an experiential phenomenon, thus it is the observations and perceptions of the targeted group that must be tabulated and analyzed. The TSRDCP researchers, however, relied on the observations and



perceptions of the police. Police officers in uniform do not experience racial profiling. They do, however, mete it out at alarming rates. It is time for a methodological shift. Anti-Black racial profiling by the OPS is a reality.

It is submitted that the researchers' reluctance to conclude this from the data does not erase this evil; instead it minimizes and trivializes it. Arguably, the researchers' reluctance may actually serve to bolster and justify racial profiling. The OPS can now tout that this is proof that its officers engage in bias-neutral policing. This is simply not the case. Anti-Black racial profiling has existed in Ottawa for decades a fact which is borne out in the data. There is also ample anecdotal and qualitative evidence to substantiate same. Mr. Chad Aiken's case merely shone light on a practice that existed in the dark and almost exclusively in 'darker' communities.

The researchers used the "commute-to-work" population as the benchmark for measuring incidences of traffic stops, despite the obvious under-representation of Black Ottawans in the labour force. What is noteworthy is the fact that even with this questionable benchmark, the data still disclosed disproportionately higher incidences of traffic stops among racialized Ottawans, particularly Black drivers. One can only imagine what a true benchmark, particularly one that included pedestrian stops would reveal.

Racial profiling is not just experienced by Black motorists, as Blacks in any form of movement are subject to race-based policing. Stacy Bonds, a Black woman, who was savagely beaten and strip searched in front of male Ottawa police officers is a case in point. Ms. Bonds was merely standing up in the market district in downtown Ottawa when she was detained and questioned for, of all things, being intoxicated. When she dared to ask why she was being detained and questioned, she was arrested and brought to the police station where she was beaten and humiliated; all of which was caught on camera. And to further dehumanize her, she was charged with assaulting a peace officer - a charge that was ultimately thrown out by the court. Ms. Bonds' story is not remarkable, it is a frequent occurrence.

In conclusion, the ACLC would submit that the researchers' reluctance to conclude that the data points to racial profiling sets a very dangerous precedent. It absolves a Police Service that, according to the researchers' own data, disproportionately stops Black motorists, and in many cases with no final action. Essentially, a disproportionate amount of Black motorists are stopped based on police suspicion, and when that suspicion bears no fruit they are 'let go' without any final action – i.e. traffic tickets, *Criminal Code* charges, etc. If the data is not conclusive proof of racial profiling by the OPS, then the researchers' are either inept, or worse 'milking' this issue to secure further opportunities to research and consult on their

recommendations. Only when the OPS acknowledge that its officers engage in anti-Black policing will there be any meaningful changes.

### **Recommendations**

1. The ACLC would recommend that the OPS Board, despite the researchers' insistence, conclude from the data there is enough evidence that anti-Black racial profiling is a reality within the OPS.
2. Secondly, that the OPS engage in a genuine and extensive study that includes pedestrian stops.
3. Thirdly, it is recommended that the OPS undertake to institute mandatory anti-Black racism training to all front line police officers.
4. Fourth, it is recommended that the OPS engage in a transparent disciplinary process that aims to ameliorate the obvious anti-Black racial profiling within its ranks.

And lastly, institute meaningful sanctions that, inter alia, remove officers engaged in racial profiling off the front lines until they have achieved the requisite cultural competency required to police Blacks and the neighbourhoods that many of them reside in.

*Promoting Justice, Defending Equality, Building Community*