



TTC Status Update – Ombudsman Recommendations

Date: September 24, 2019

To: TTC Board

From: Chief People Officer

Summary

The TTC is committed to ensuring its workplaces and transit services reflect and meet the needs of Toronto's increasingly diverse population, including the 1.7 million customers that the TTC proudly serves each day.

Through the TTC's Respect and Dignity Policy, and ongoing education on human rights, diversity and inclusion, our employees are to treat each other and our customers with respect and dignity, and actively promote a workplace and service environment that is free from any form of discrimination or harassment.

However, through recent events, we acknowledge that the public's concerns regarding racial profiling and anti-Black racism in transit enforcement activities should be taken seriously, and we recognize that we must be proactive in addressing these concerns to restore public trust and confidence across all aspects of the TTC's operation.

This report summarizes initial steps taken towards developing a work plan to proactively enhance the TTC's efforts to combat all forms of racism, including anti-Black racism, anti-Indigenous racism, Islamophobia, Anti-Semitism and other forms of racism against racialized groups, through a comprehensive, system-wide Anti-Racism Strategy. This strategy will begin with the adoption of the Toronto Action Plan to Confront Anti-Black Racism, and also include the development of a framework to ensure the appropriate collection and analysis of race-based data in enforcement activities. In addition, the TTC has taken interim steps towards implementation of the Ombudsman Toronto's recommendations under the July 9, 2019 Enquiry Report. These steps include simplifying the Transit Fare Inspector complaint process, and strengthening the independence of complaint investigations. The TTC will return to the Board with an update on its progress in Q1 2020.

Recommendations

It is recommended that the TTC Board:

1. Accept all recommendations contained within the *Ombudsman Toronto Enquiry Report: Review of the Toronto Transit Commission's Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors*, and the July 16, 2019 decision of City Council (Attachment 2)

2. Adopt the Toronto Action Plan to Confront Anti-Black Racism.
3. Endorse the TTC's commitment to develop a system-wide Anti-Racism Strategy.
4. Direct staff to report back to the TTC Board in Q1 2020 on the status of implementing the recommendations outlined in the Ombudsman's report and City Council motions.
5. Forward this report to Ombudsman Toronto and the City of Toronto's Confronting Anti-Black Racism Unit for information.

Financial Summary

The development and implementation of an Anti-Racism Strategy, with the adoption of the Toronto Action Plan to Confront Anti-Black Racism as its foundation, will require new funding to undertake the start-up activities and establish the ongoing capacity for implementation of various anti-racism initiatives across the TTC. This will include focused efforts on policy review and development using the City of Toronto's Anti-Black Racism Analysis Tool; public awareness and community engagement; recruitment and advancement; research and public reporting (including race-based data collection and analysis); and staff learning. The total cost to establish a Race Relations Unit is currently being developed and will be submitted for consideration with the TTC's 2020 Operating Budget submission. Given the critical need to proceed immediately, the TTC will be absorbing any key start-up costs to ensure work can begin, such as anti-Black racism training for all TTC employees.

New funding will also be required to implement the Ombudsman's recommendations. Work is underway to determine the capacity and resourcing requirements for an independent investigative unit for public complaints against the TTC Transit Enforcement Unit. The total cost to establish this new unit will be submitted for consideration with the TTC's 2020 Operating Budget submission. The TTC is exploring its ability to absorb any critical start-up costs in the interim.

Equity/Accessibility Matters

The TTC recognizes that concerns regarding potential racial profiling, anti-Black racism and racial inequities in transit services, including transit enforcement activities, have been raised. The TTC is taking immediate action to proactively develop a plan to enhance its efforts to combat racism through a comprehensive, system-wide Anti-Racism Strategy, with specific actions to address anti-Black racism.

The TTC is, and will continue, to engage experts and leaders in addressing direct and systemic racism, including the City of Toronto's Confronting Anti-Black Racism Unit and the Ontario Human Rights Commission, to assist in the development of a strategy to eliminate racial discrimination and racial disparities in the delivery of TTC services.

The TTC will also be consulting with Toronto's various racialized communities, including the city's diverse Black communities, to learn more about the experiences of racialized

customers when using the TTC, concerns about racial profiling and data collection in transit enforcement activities, and ideas about how to address and prevent racism on and within the TTC. These public consultations, combined with an anti-racism analysis of the TTC's policies and procedures, will help inform its Anti-Racism Strategy.

Decision History

At its April 11, 2019 meeting, the TTC Board adopted a member motion requesting a report on policies and procedures in place to govern the enforcement, training, collection, retention, access, sharing and destruction of personal information collected as part of the fare inspection program.

Notice of Motion – Request for Report on Policies Regarding the Collection of Personal Information (Fare Inspection Program):

http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2019/April_11/Reports/Decisions/22_Request_for_Report_on_Policies_Personal_Information_Fare_.pdf

At its meeting on July 16, 17 and 18, 2019, City Council had before it the *Ombudsman Toronto Enquiry Report: Review of the Toronto Transit Commission's Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors*. City Council adopted the recommendations contained within the Ombudsman Toronto report, and further directed the TTC to adopt the Toronto Action Plan to Confront Anti-Black Racism and work with the Confronting Anti-Black Racism Unit to address racism through ongoing learning and development initiatives. In addition, City Council requested that the TTC Board direct the TTC Chief Executive Officer to report to the Executive Committee in Q1 2020 on the status of implementation of the Ombudsman's recommendations.

Ombudsman Toronto Enquiry Report: Review of the Toronto Transit Commission's Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.2>

Issue Background

In March and July 2019, the Toronto Star published articles that raised concerns about the TTC Transit Enforcement Unit's practice of collecting and documenting customer data, including race-related data, following a by-law infraction, and that racialized customers were disproportionately being targeted by the TTC.

As a result, the TTC Board directed staff to report back on the policies and procedures currently in place governing the enforcement, training, collection, retention, access, sharing and destruction of all personal information collected as part of the TTC's fare inspection program. The TTC Board also requested that the report include an Equity Impact Evaluation of the demographic information of those individuals who have had their information collected in the past two years.

In addition, on July 9, 2019, the Ombudsman issued a report (Attachment 2) of their review of the TTC's investigation of a February 18, 2018 incident involving three Transit

Fare Inspectors and a Black customer. The Ombudsman identified concerns with the TTC's investigation and made recommendations to improve the TTC's ability to conduct investigations in a fair and effective way, and to enhance public trust in the investigation process. The Ombudsman's recommendations were adopted by City Council, as follows:

1. The TTC develop a plan to structurally strengthen the independence of its internal investigations of the Transit Enforcement Unit;
2. The TTC strengthen its documentation of the Unit Complaints Coordinator terms of reference and mandate;
3. The TTC revise its Transit Fare Inspector and Transit Enforcement Officer investigation procedures to include provisions relating to retaining external investigators as recommended;
4. The TTC ensure that the standard of proof applied to investigations of Transit Fare Inspectors is based on a balance of probabilities (completed);
5. The TTC develop policies and procedures for the appropriate use of unbiased and objective expert witnesses in its Transit Fare Inspector and Transit Enforcement Officer investigation procedures; and
6. The TTC develop a plan to provide additional workplace investigation training to its internal investigators.

The TTC has accepted all six recommendations. Underlying the Ombudsman's report was a suggestion to change the culture of the Transit Enforcement Unit and to ensure and protect against racial bias in the process. The TTC also committed to implementing a broad and comprehensive Anti-Racism Strategy, aimed directly at preventing racial profiling. This includes:

- Retaining third parties to conduct an independent review of the TTC's Transit Enforcement Unit historical data collection policies and practices, and to develop a new framework for the collection of race-based data for prevention of systemic discrimination.
- Adopting the City of Toronto's Action Plan to Confront Anti Black Racism, including staff training on anti-Black racism.
- Conducting an ongoing review of TTC policies, including Transit Enforcement Unit policies and practices, using the City's Anti-Black Racism Analysis.
- Holding public consultations with members of impacted communities.
- Convening an Anti-Racism Task Force.
- Developing and implementing an updated anti-racism training program for all employees, including Senior Management, Transit Fare Inspectors and Transit Enforcement Officers, with particular emphasis on addressing anti-Black racism. This training will take a top-down approach, starting with TTC senior leaders in September 2019.
- Engaging in public awareness emphasizing the TTC's commitment to eliminate racism, including anti-Black racism, and to promote a racism-free transit experience for all of its customers and employees.

Comments

The TTC acknowledges the concerns that the public has about racism at the TTC. As the TTC is beginning to explore and revamp the culture of its Transit Enforcement Unit, and how to effectively reduce lost revenue¹, the TTC has an opportunity to ensure that a new framework is put in place that, addresses the Black communities' and the broader public concerns of racism, is accountable, enhances public trust and confidence in the TTC, and makes the TTC a safe space for all users.

In moving towards these goals, the TTC has developed a number of focus areas as outlined below:

1) SYSTEM-WIDE ANTI-RACISM STRATEGY

Our CEO, with the support of TTC's Executive Team, is committed to developing and implementing a system-wide anti-racism strategy to prevent racial bias, racial profiling and anti-Black racism, and builds trust with Black and racialized communities. Our Anti-Racism Strategy will be woven into all key areas of the TTC's business, including strategic leadership, research (including data collection and analysis), human resources management and stakeholder engagement.² We will involve Toronto's Black and racialized communities leveraging their experiences, insights and solutions.

The TTC recognizes that systemic change of this nature requires time and consultation with many groups including anti-racism leaders, educators, community groups and organizations. Our intent is not to find a band-aid solution, but to find an effective solution that addresses the concerns and meets the needs of our diverse ridership.

The TTC has begun to engage outside experts and leaders in addressing all forms of racism to help develop a framework for a future work plan to develop an anti-racism strategy. It will focus on, among other things: racist attitudes, prejudice, stereotyping and racial discrimination in the TTC's policies and practices. Embedded in this strategy will be work to address anti-Black racism through our adoption of the Toronto Action Plan to Confront Anti-Black Racism.

Toronto Action Plan to Confront Anti-Black Racism (Attachment 3)

The TTC is partnering with the City of Toronto's Confronting Anti Black Racism (CABR) Unit to develop a work plan to implement the Toronto Action Plan's interventions including:

- Public education and Stakeholder engagement;
- Staff learning, policy review and development, including a review of Transit Enforcement Unit policies and practices using an Anti-Black Racism Analysis;

¹ In response to the Auditor General's 2018 Audit Work Plan Report, dated October 12, 2017.

² Bobby Siu, "Ending Racial Profiling" in L.Foster, L. Jacobs, B. Siu and S. Azmi, eds, *Racial Profiling and Human Rights in Canada: the New Legal Landscape* (Toronto: Irwin Law Inc.,2018) 299 at 308.

- Staff recruitment and advancement, and youth mentorship and employment;
- Research (including race-based data collection and analysis); and
- Collaborative Service Planning and Community Investment.

The TTC will be consulting with leaders and experts to help it engage with Black and racialized community groups and organizations to learn about their experiences with TTC staff, capture their ideas on how the TTC can address racism, and rebuild trust. These community consultations will inform the TTC's Anti-Racism Strategy.

In addition, the TTC will be establishing and convening racially diverse working groups to develop multi-year work plans, and to identify resources required to implement the actions under each of the above-noted interventions.

The TTC has taken immediate steps, in collaboration with the CABR Unit, to address anti-Black racism and to build public trust and confidence. These include:

1. Addressing Anti-Black Racism training for all TTC Executives. This took place on September 12;
2. Addressing Anti-Black Racism training for TTC Trainers from Employee Development, Operations Training Centre and Transit Enforcement Unit, beginning in October 2019;
3. Addressing Anti-Black Racism training for the Special Constable and Transit Fare Inspector new recruit classes scheduled for September and October 2019; and
4. Developing a plan for public education and public consultations with diverse racialized communities in consultation with third-party experts who have lived racialized experience.

The TTC is also working to develop a plan with the CABR Unit to deliver Addressing Anti-Black Racism training to all employees. This training will be evaluated to determine its effectiveness in addressing and preventing racism in the TTC. The CABR Unit will provide an external evaluation of the training consisting of a pre-test, post-test and a six-month follow up assessment to measure knowledge transfer.

The TTC has also been invited to join the City of Toronto's Leads Circle to collaborate with other City staff to combat anti-Black racism and advance the Toronto Action Plan.

It is important to note that anti-Black racism training and membership to the City Leads Circle are only the most immediate of the interventions the TTC is undertaking. The TTC understands that embedding an Anti-Racism Strategy requires a comprehensive, multifaceted approach that changes organizational culture for activity, such as training, to effectively achieve better outcomes and experiences for diversity, equity, inclusion and overall human rights.

The TTC intends to report back to the Board with an update on its progress in Q1 2020. The TTC will work closely and collaboratively with the Confronting Anti-Black Racism Unit for the duration of its first five-year Toronto Action Plan to Confront Anti-Black Racism (2018 to 2022).

2) COLLECTION OF RACE-BASED DATA FOR THE MONITORING AND PREVENTION OF RACIAL DISPARITIES AND SYSTEMIC DISCRIMINATION

The TTC recognizes the importance of collecting, analyzing, public reporting and maintaining data to effectively monitor for racial discrimination, identify and remove systemic barriers, ameliorate historical disadvantage and promote equity.

However, the Transit Enforcement Unit has, in the past, when issuing a “caution” for a by-law infraction, relied on the collection of customer data using “718” forms, which resemble cards originally used by Toronto Police Service for the purposes of “carding” or street checks. As of March 6, 2019, the TTC discontinued use of the 718 form, and stopped issuing, collecting, and tracking written warnings pending further review.

Current Transit Enforcement Unit Policies, Procedures and Legislation

Attachment 1 summarizes the Transit Enforcement Unit’s (TEU) current methods of recording information, including their need, use and retention period.

Personal information is recorded by either a Transit Fare Inspector (TFI) or a Transit Enforcement Officer (TEO), who have discretion to issue a caution or a ticket to customers if they engage in a by-law infraction. TFIs are authorized to issue tickets under the *Provincial Offences Act*. TEOs are Special Constables who derive their powers under the *Police Services Act*, and are also “peace officers” within the meaning of section 2 of the *Criminal Code of Canada*. TEOs also have enforcement powers in respect of the *Trespass to Property Act*, *Liquor License Act* and *Mental Health Act*.

With regards to the collection of human-rights-related data, the TTC is governed by the following legislation and policies: Ontario’s *Human Rights Code*, the *Ontario Human Rights Commission’s (OHRC) Policy and Guidelines on Racism and Racial Discrimination*, the *OHRC Guidelines for Collecting Data on Enumerated Grounds under the Code*, the *MFIPPA*, the *Information and Privacy Commissioner’s (IPC) Protocols on De-identification of Data*, and the *Canadian Charter of Rights and Freedoms*.

The Government of Ontario has also established Data Standards for the Identification and Monitoring of Systemic Racism under section 6(1) of the *Anti-Racism Act, 2017* which permit, among other things, the use of participant observer information for the collection of race-based data in law enforcement. While these standards do not apply to the TTC, they are instructive, and will be used by the TTC, where appropriate, when developing and implementing a program to identify, monitor and eliminate systemic racism as they were developed in consultation with the IPC and OHRC.

Independent Review

It is important for the TTC to collect, analyze and maintain data that will allow it to prevent and/or address systemic discrimination, and ensure that the data collection standards for TEOs and TFIs align with the requirements of privacy and human rights legislation in Ontario.

In order to address the public's concerns of racial profiling and anti-Black racism, and to promote public trust in the process, the TTC is engaging third party subject matter experts to conduct a racial equity assessment of the TEU's data collection practices, including:

1. An independent review and analysis of the use of historical enforcement data from both enforcement and human rights perspectives, including examining data quality issues and identifying additional data insights;
2. A review of existing data collection practices and policies and develop a framework for the collection, analysis and retention of race-based data for equity purposes that will eliminate bias within the system;
3. A series of focus groups with diverse TTC users;
4. A survey of TTC users to document their experiences with TTC staff, and opinions with respect to race-based data collection and eliminating bias;
5. A series of focus groups with diverse TTC employees to document their experiences and opinions on race-based data collection in transit enforcement activities, and ensure that the voices of TTC employees are included in all reform efforts, help identify obstacles to change, identify commonalities between TTC staff and the community members and assist in the development of policy initiatives; and
6. A final report synthesizing the results of various components discussed above and providing recommendations and strategies designed to eliminate racial bias in transit enforcement activities.

Data collection and analysis is a significant component of the TTC's Anti-Racism Strategy, and the TTC will report back to the Board on our progress prior to the end of Q1 2020.

3) OMBUDSMAN'S RECOMMENDATIONS

The Ombudsman Enquiry Report dated July 9, 2019, made the following recommendations to enhance public trust in the TTC's public complaints and investigation process:

1. To develop a plan to structurally strengthen the independence of its internal investigations of the TEU;
2. To strengthen its documentation of the Unit Complaints Coordinator's terms of reference and mandate;
3. To revise its TFI and TEO investigation procedures to include provisions relating to retaining external investigators as recommended;
4. To ensure that the standard of proof applied to investigations of TFIs is based on a balance of probabilities (completed);
5. To develop policies and procedures for the appropriate use of unbiased and objective expert witnesses in TTC's TFI and TEO investigation procedures; and
6. To develop a plan to provide additional workplace investigation training to its internal investigators.

The TTC has accepted all six recommendations from the Ombudsman's Report and is working diligently on a plan to structurally strengthen the independence of internal investigations of the Transit Enforcement Unit. This work will also take into account the

recommendations relating to public complaints made by the Toronto Ombudsman in their 2017 Report. The TTC recognizes that the development of this plan, which will include updated complaint and investigation procedures, will take time and consultation with key stakeholders, including the Toronto Ombudsman.

As we work toward full implementation of the Ombudsman's recommendations, the TTC has taken interim measures to alleviate some of the immediate concerns raised by the Ombudsman.

The TTC has streamlined the complaint process for TFIs making the process easier to understand for customers by eliminating the distinction between a concern and a complaint to ensure all issues raised by customers are both documented and dealt with in a fair and impartial manner.

An interim Unit Complaints Coordinator (UCC) with no previous connection to the TEU has been appointed, thereby addressing the concern of a perception of bias as raised by the Ombudsman. In addition to their experience investigating the conduct of those in positions of power, they have also recently received workplace investigation training from Rubin Thomlinson LLP, a leading expert in human rights and workplace investigations. The interim UCC will be responsible for conducting investigations into allegations against TFIs of minor infractions of the TEU Code of Conduct. All allegations of serious misconduct against TFIs, which include, but are not limited to, human rights, harassment, discrimination, use of force and violence will, in the interim, be investigated by third-party investigators, managed through the TTC's Diversity and Human Rights Department. This is an interim arrangement pending the development and approval of a plan that establishes a new independent, dedicated team of internal investigators to conduct investigations of TEU misconduct complaints made by the public.

In addition, the TTC is exploring ways to make the TEU public complaint process easier and more accessible for TTC customers. For instance, the TTC is looking to have its TFI and TEO complaint form accessible online, through www.ttc.ca, providing a customer with the option to submit a complaint to the TTC in writing if they prefer to do so.

The TTC continues to work towards full implementation of the Ombudsman's recommendations to ensure accountability of the TEU to all TTC customers, and to enhance public trust in the TEU complaints and investigation procedures. The TTC will report on its progress to the Board prior to the end of Q1 2020.

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Attachments

Attachment 1 - TEU Methods of Recording

Attachment 2 - Ombudsman Toronto Enquiry Report, Review of TTC's Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors, dated July 11, 2019

Attachment 3 – Toronto Action Plan to Confront Anti-Black Racism

Attachment 1

The following table breaks down the methods of recording, their need, use, and current retention period.

Table: Methods of Recording

Data Type	Need	Use	Current Retention Period
Memorandum Book Notes	To document all activities of officer's work day. Includes a record of hours worked, location assigned etc. and all investigative information collected in the course of assigned duties. This includes information used to generate incident reports, records of arrest, charges and any other relevant information including but not limited to wanted parties, missing persons, or persons of interest.	The Memorandum Book notes are a single location to document information. The information is then transferred into reports as appropriate. The Memorandum Book is also used by officers to refresh their memory for the purpose of giving evidence in a court of law.	Termination +20 Years
Investigative Forms (General Occurrence, Records of arrest, Use of force reports, property/ evidence records)	Documents to record incidents investigated and or reported to the TTC. Support investigations brought before the courts.	Provided to TPS as part of the Special Constable contract. Provided to courts where charges are laid Used to investigate complaints of officer conduct. Used to conduct performance evaluations and training. Used as part of the audit process. Used to track continuity of evidence and property.	Termination + 20 years
Provincial Offences Tickets	Record of charges laid under the <i>Provincial Offences Act</i> . Officer copy has independent	Used to commence proceedings in Provincial Court.	Current Year + 3 Years

Attachment 1

Data Type	Need	Use	Current Retention Period
	Notes for court purposes.	Officer copy used to refresh memory of events in court.	
TTC Form 718 (<u>no longer in use</u>)	Record personal information on persons investigated for offences where no charges laid.	Information entered into SCS data base. Intended to be used to track repeat offenders. No mobile access. Not easily accessible in the field to make enforcement decisions.	Termination +20 Years



Ombudsman Toronto Enquiry Report

Review of the TTC's Investigation
of a February 18, 2018 Incident
Involving Transit Fare Inspectors

July 9, 2019

Susan E. Opler, Ombudsman

Genevieve Currie, Ombudsman Investigations Counsel

Luke Brown, Ombudsman Investigator, Interim Director

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EXECUTIVE SUMMARY

The Enquiry

On February 18, 2018, three Toronto Transit Commission ("TTC") Transit Fare Inspectors forcibly detained a young Black man on a streetcar platform at St. Clair Avenue West and Bathurst Street. Witnesses, the media and members of the public wanted to know why the fare inspectors detained him, whether they used unnecessary force and whether anti-Black racism was a factor.

The Ombudsman called on the TTC to investigate the incident and pledged that her office would ensure that the TTC's investigation was appropriately thorough, fair and transparent and that its conclusions were reasonable.

The TTC's public investigation report concluded there was insufficient evidence to support any allegation of misconduct (with one exception, that one fare inspector inappropriately smiled at the young man).

The Ombudsman Toronto team conducted a detailed review of the TTC's investigation report, the contents of the TTC's investigation file, media reports, video documentation from various sources, and relevant corporate documents, policies, and procedures. We also interviewed the two TTC investigators.

We did not investigate the underlying incident. Because the facts of the February 18, 2018 incident are now the subject of a court action, we have not made findings about what happened that day, including whether any of the fare inspectors discriminated against the young man or did anything else wrong.

Findings

Our Enquiry revealed that while the TTC's investigation had many good features, it fell short in several important ways. In particular, we found that the TTC's investigation did not:

- ask enough questions
- make clear findings of fact
- apply the correct standard of proof in some of its analysis
- transparently analyze the evidence in light of the TTC's expectation that fare inspectors will disengage from potentially difficult situations
- transparently analyze evidence that could have supported a finding of unconscious racial bias
- ensure adequate independence for the internal investigator for fare inspector complaints

Overall, we found that the TTC's investigation into this incident was not adequately thorough, fair and transparent. We therefore could not find that its conclusions were reasonable.

Ombudsman Toronto made six recommendations to improve the TTC's ability to conduct investigations in a fair and effective way and to enhance public trust in the process.

Ensure that Investigations are Independent and Impartial

- 1) The TTC should develop a plan to strengthen the independence of its internal investigations of the Transit Enforcement Unit.
- 2) The TTC should strengthen its documentation of the Unit Complaints Coordinator's terms of reference and their role and mandate.
- 3) The TTC should also consider creating a protocol for retaining external investigators in appropriate cases.

Clarify the Standard of Proof

- 4) All relevant TTC policies and training should clearly state that the standard of proof that applies in investigations of complaints about Transit Fare Inspectors is proof on a balance of probabilities.

Use Expert Opinions Appropriately

- 5) The TTC should document in its investigation policies and procedures that any expert witness it retains should not have ties to the TTC. The expert witness should provide written confirmation that they understand they are being asked for a fair, objective and non-partisan opinion. Furthermore, the TTC should demonstrate that the expert witness prepared their opinion without the TTC's assistance.

Investigator Training

- 6) The TTC should develop a plan to provide additional training to its internal investigators to equip them with the necessary tools to conduct an investigation fairly and independently.

TTC management agrees with the recommendations and has committed to implementing them by December 31, 2019.

Follow Up

Ombudsman Toronto will follow up until we are satisfied that implementation is complete.

The Broader Context

This is not the first time Ombudsman Toronto has reviewed the TTC's oversight of its Transit Enforcement Unit. Beginning in 2015, Ombudsman Toronto conducted a large systemic investigation, followed up on recommendations made in that investigation and looked into additional complaints and concerns about the unit. After four years of work,

we remain concerned about the TTC's oversight of this unit, and have broader questions about the structure and culture of the unit.

We raised these issues with the TTC, and we emphasized how important it is to be proactive in addressing the public's concerns in order to maintain public trust and confidence. In response, the TTC has decided to implement a broad and comprehensive anti-racism strategy, aimed directly at preventing racial profiling. It also plans to implement changes to shift the structure and culture of the Transit Enforcement Unit from a culture of enforcement and compliance to one based on rider security, service, respect and dignity.

INTRODUCTION

The Incident

1. On February 18, 2018, three Toronto Transit Commission ("TTC") Transit Fare Inspectors forcibly detained a young Black man on a streetcar platform at St. Clair Avenue West and Bathurst Street.
2. A member of the public posted video footage taken near the end of the incident, showing the young man pinned face down on the ground by both fare inspectors and Toronto Police Service officers who came to assist. In the video, the young man can be heard crying "I didn't do anything though" and "you're hurting me, you're hurting me, you're hurting me."
3. The media reported that witnesses believed fare inspectors had detained the young man for not paying his fare and that police had found the young man had not committed any offence and immediately released him.
4. Witnesses, the media, members of the public and the Ombudsman expressed concern about reports of what had happened and wanted to know why fare inspectors detained this young man, whether they used unnecessary force and whether anti-Black racism was a factor.

TTC and Toronto Police Service Investigations

5. On February 21, 2018, Ombudsman Susan Opler wrote to the TTC's Acting Chief Executive Officer¹ requesting information about the TTC's plans to investigate the incident.
6. On February 23, 2018, the TTC publicly confirmed that it would investigate the incident, including allegations of racial discrimination, unauthorized use of force, and acting in a manner likely to bring discredit upon the reputation of the TTC.
7. Also on February 23, 2018, the Toronto Police Service told the TTC it would investigate the incident and decide whether any criminal charges should be laid against the fare inspectors.
8. In March 2018, the young man started a lawsuit against the TTC, the fare inspectors and police officers involved in the incident and the Toronto Police Services Board.

¹ On July 10, 2018, the TTC's Board of Directors selected Rick Leary, then Acting Chief Executive Officer, to become Chief Executive Officer.

9. On April 23, 2018, the Toronto Police Service told the TTC it would not lay criminal charges against the three fare inspectors.
10. On July 4, 2018, the TTC publicly released its 95 page investigation report² and video footage of the incident from two cameras inside the streetcar, with faces blurred to protect privacy.
11. The TTC investigation concluded there was insufficient evidence to support any allegation of misconduct with one exception. It found that one of the three fare inspectors involved (referred to in this report as "Inspector 1") had smiled at the young man "during a tense interaction." The investigation found this smile was inconsistent with TTC and community expectations and found to be discreditable conduct.
12. The TTC also announced that Inspector 1 had left his employment with the TTC for unrelated reasons.

Focus of the Ombudsman Toronto Enquiry: the TTC's Investigation

13. On the same day the TTC released its investigation report, the Ombudsman announced that Ombudsman Toronto would review the TTC's investigation to examine whether it was appropriately thorough, fair and transparent and whether its conclusions were reasonable based on the evidence.
14. We committed to reviewing the TTC's investigation but not the underlying incident. Because the facts of February 18, 2018 are now the subject of a court action, we have not made findings about what happened that day. Specifically, we have not determined whether the fare inspectors engaged in racial discrimination or misconduct of any other kind.
15. It was important for the TTC to get this investigation right. There was widespread concern about this incident and the TTC needed to answer the public's questions about what happened and why. More broadly, the TTC had to show the public it is capable of investigating concerns about its employees' conduct, identifying any problems and fixing them.
16. A thorough and fair investigation was particularly important in this context, where fare inspectors exercise legal authority to issue tickets at their discretion and, in certain limited circumstances, may also use force and arrest people in the course

² Toronto Transit Commission, *Toronto Transit Commission Investigation Report: Investigation into Incident dated February 18, 2018 Involving Transit Fare Inspectors* (June 28, 2018) [TTC Investigation Report], online: Toronto Transit Commission [https://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2018/July 27/Reports/16 Investigation into Incident Involving Transit Fare Inspec.pdf](https://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2018/July%2027/Reports/16%20Investigation%20into%20Incident%20Involving%20Transit%20Fare%20Inspector.pdf)

of their work. The TTC must hold its employees accountable for any misuse of these powers.

17. The importance of this public accountability was heightened by the public concern that this incident may have involved anti-Black racism.
18. We know that anti-Black racism exists in the City of Toronto.³ We also know that anti-Black racism is extremely damaging – particularly to people who experience it personally but also to organizations in which it exists and to society as a whole.
19. All City of Toronto organizations, including the TTC, must demonstrate that they stand against anti-Black racism, by proactively working to eradicate it and by thoroughly investigating allegations of anti-Black racism when they arise. Where they find that anti-Black racism was a factor in an incident, it is essential that they take steps to address it and to prevent it from happening again.
20. Ultimately, the TTC exists to serve the public and its effective operation relies on public co-operation, confidence and trust. Part of this depends on the public knowing that the TTC properly investigates concerns about use of authority, force and racism.
21. After a comprehensive review, we found that the TTC's investigation of this incident, while commendable in many respects, fell short in several important ways. This report sets out the basis for this finding and makes recommendations to improve future investigations.

³ See for example City of Toronto, *Toronto Action Plan to Confront Anti-Black Racism* (December 2017), online: City of Toronto <https://www.toronto.ca/legdocs/mmis/2017/ex/bgrd/backgroundfile-109127.pdf>, *R v. Brown* (2003), CanLII 52142 (ON CA) at paras. 7-8, online: CanLII <https://www.canlii.org/en/on/onca/doc/2003/2003canlii52142/2003canlii52142.html?resultIndex=6>, *Elmardy v. Toronto Police Services Board* (2017), CanLII 2074 (ON SC), online: CanLII <https://www.canlii.org/en/on/onscdc/doc/2017/2017onsc2074/2017onsc2074.html?autocompleteStr=elmardy&autocompletePos=1> and *R v. Parks* (1993), CanLII 3383 (ON CA), online: CanLII <https://www.canlii.org/en/on/onca/doc/1993/1993canlii3383/1993canlii3383.html?resultIndex=2>

BACKGROUND

The Transit Enforcement Unit

22. The TTC's Transit Enforcement Unit is responsible for protecting the safety and integrity of the third largest transit system in North America, which provides more than 530 million passenger trips annually.⁴ The unit employs both Transit Enforcement Officers and Transit Fare Inspectors.
23. Transit Enforcement Officers are designated special constables by the Toronto Police Services Board. They have powers similar to police officers to enforce laws on TTC property and are authorized to carry and use handcuffs, batons and pepper spray.
24. Transit Fare Inspectors inspect rider proof of payment and have the power to issue provincial offences tickets. They are not special constables. They carry no weapons.

Ombudsman Toronto's Past Investigation of TTC Oversight of the Transit Enforcement Unit

25. Sparked by a different incident captured on social media in 2015 involving Transit Enforcement Officers, Ombudsman Toronto spent more than two years informally gathering information and eventually conducting a formal Investigation into the TTC's training, oversight and public reporting relating to the Transit Enforcement Unit.
26. In April 2017, we released a comprehensive Investigation report⁵ making 26 recommendations to the TTC about its oversight of the unit, including that it:
 - amend policies and training materials to clearly outline the importance of de-escalation as an alternative to the use of force
 - ensure both Transit Fare Inspectors and Transit Enforcement Officers receive regular training on responding to people affected by mental illness or in emotional distress
 - improve public reporting about use of force incidents

⁴ TTC's 2017 Operating Statistics, online: Toronto Transit Commission https://www.ttc.ca/About_the_TTC/Operating_Statistics/2017/section_two.jsp

⁵ Ombudsman Toronto, *An Investigation into the Toronto Transit Commission's Oversight of its Transit Enforcement Unit* (April 2017), online: Ombudsman Toronto <https://www.ombudsmantoronto.ca/Investigative-Work/Investigative-Reports/Investigation-Reports>

- confirm that the TTC may investigate the conduct of Transit Fare Inspectors and Transit Enforcement Officers even where there has been no complaint by a member of the public
- consider developing a TTC policy on the exercise of discretion by Transit Fare Inspectors and Transit Enforcement Officers.

27. The TTC accepted all 26 recommendations and we continue to monitor their implementation, which is not yet complete.

The TTC's Investigation of the February 18, 2018 Incident

28. The same day that videos of the incident surfaced online, the Head of the Transit Enforcement Unit asked the TTC's internal investigator, the Unit Complaints Coordinator, to investigate whether one of the Transit Fare Inspectors involved (Inspector 1) used unauthorized force during the incident.

29. The Unit Complaints Coordinator promptly expanded the scope of the investigation to include the public's expressed concerns about racial discrimination as well as the conduct of the two other fare inspectors involved.

30. The Unit Complaints Coordinator also promptly asked for a Human Rights Consultant from the TTC's Diversity and Human Rights Division to help with the investigation.

31. The Human Rights Consultant and the Unit Complaints Coordinator told us that the Human Rights Consultant's role was to "provide a consultation" to the Unit Complaints Coordinator about only the allegations of discriminatory or harassing conduct contravening the TTC's Respect and Dignity Policy. As the Unit Complaints Coordinator explained to witnesses, however, the findings in the report would be his.

32. To provide this consultation, the Human Rights Consultant actively participated in the investigation process, including the fact gathering, analysis and report-writing phases.

33. Collectively, we refer to the Unit Complaints Coordinator and the Human Rights Consultant as "the TTC investigators."

34. In undertaking this investigation, the TTC investigators:

- identified the issues to be investigated
- identified the persons involved and several witnesses to the incident and requested information from them
- obtained relevant documents, including video evidence, records generated by the TTC about the incident, and training materials
- sought and obtained an expert opinion about Inspector 1's conduct
- personally interviewed the three fare inspectors and some other witnesses

- considered the evidence
- prepared a report setting out their conclusions.

OMBUDSMAN TORONTO'S ENQUIRY

Focus

35. In reviewing the TTC's investigation, the Ombudsman Toronto team focussed on two questions:
- Was the TTC's investigation appropriately thorough, fair and transparent?
 - Were the TTC's conclusions reasonable, based on the available evidence?

Method

36. The Ombudsman Toronto team reviewed:
- the TTC's investigation report, dated June 28, 2018
 - media reports of the incident and TTC investigation
 - video documentation of the incident, from the TTC and media sources
 - the TTC's relevant corporate documents, including policies and procedures
 - the TTC's extensive investigation file and related emails, including:
 - notes, reports, and statements
 - training and personnel records
 - correspondence with their expert
 - correspondence with witnesses
 - recordings of witness interviews
37. The Ombudsman Toronto team also interviewed the two TTC investigators.

OMBUDSMAN TORONTO COMMENDS THE TTC FOR SOME ASPECTS OF ITS INVESTIGATION

38. The Ombudsman Toronto team found that the TTC's investigation had many good features. We commend the TTC for the following:
- Even before there was a decision to investigate, the TTC retained all video evidence from its cameras relating to this incident.
 - The TTC promptly initiated an internal investigation.
 - The Unit Complaints Coordinator promptly reviewed the information available and exercised his authority to broaden the scope of the investigation to include additional issues.

- The Unit Complaints Coordinator promptly requested special assistance from the TTC's Diversity and Human Rights Department with respect to allegations of discrimination and harassment.
- The TTC investigators diligently attempted to obtain all available TTC records relating to the incident and the fare inspectors involved.
- The TTC investigators carefully identified all TTC employees who might have information relevant to the incident. They required each of these employees to provide a written statement and also interviewed many of them.
- TTC investigators made efforts (ultimately unsuccessful) to locate a member of the public who had posted video of the incident to social media and had spoken to journalists about witnessing the incident.
- The TTC devoted considerable resources to this investigation.
- The TTC investigators prioritized the investigation and completed it quickly.
- The TTC investigators acted diligently and in good faith throughout the course of the investigation.
- The TTC publicly disclosed the report and video evidence of the incident.
- The TTC maintained detailed records of the investigation.
- The TTC, including the TTC investigators, regularly updated the Ombudsman about the status of its investigation and co-operated fully with every request by Ombudsman Toronto during the course of our review.

PROBLEMS WITH THE TTC'S INVESTIGATION

39. Despite all of the above, however, Ombudsman Toronto found that the TTC's investigation fell short in six important areas:
- It should have asked more questions
 - It should have identified important facts in dispute and made clear factual findings
 - It applied the wrong standard of proof in some of its analysis
 - It did not clearly analyze two important issues: the TTC's expectation that TFIs disengage and evidence of possible unconscious racial bias
 - The TTC's expert witness was not independent and did not adequately review what happened

- There are not enough structural safeguards to ensure the Unit Complaints Coordinator's independence and impartiality

40. We address each of these areas below.

1) The TTC investigation should have asked more questions

41. The TTC investigation should have more thoroughly probed what actually happened during this incident and why. Also, it should have sought out more sources of information.

It did not probe how the event began

42. The incident began on a westbound St. Clair streetcar about 4:30pm on a Sunday. The three fare inspectors had finished their shift and were riding the streetcar, returning to their headquarters at the Hillcrest Yard (on Bathurst St. south of St. Clair Avenue West) before heading home. They were not checking proof of payment.

43. The young man stepped onto the streetcar at a middle door at St. Clair West station and stood directly across from where Inspector 1 was standing, facing him. The other two fare inspectors were standing farther back in the streetcar.

44. One key question the investigators needed to answer was: How did this incident begin? They needed to determine how and when Inspector 1 and the young man began to interact. This was critical to determining whether Inspector 1 unfairly singled out the young man for extra attention.

45. The TTC investigators did not do enough to critically evaluate the evidence Inspector 1 provided about how the incident began.

46. According to Inspector 1, the incident began with the young man entering the streetcar, standing directly across from Inspector 1 and staring at him for a prolonged period of time before Inspector 1 reacted. According to Inspector 1, he spoke to the young man simply to try to break the tension, because the young man had been staring at him non-stop.

47. The video shows otherwise. It clearly shows that Inspector 1 spoke to the young man *within two seconds* of the young man stepping on the streetcar.

48. After briefly looking away, Inspector 1 then continued to look directly at the young man for more than a minute and spoke to him five more times.

49. The TTC investigators did not address this key discrepancy. They should have asked Inspector 1 more questions about why he almost immediately began speaking to the young man and they should have analyzed the implications of this, if any.

50. Evidence about how quickly Inspector 1 formed any perceptions about the young man and acted on them was relevant to several important issues the TTC investigators had to investigate:

- whether racism – conscious or unconscious – was a factor in Inspector 1's actions
- whether Inspector 1 acted in a manner consistent with TTC and community expectations
- whether Inspector 1's stated perception of the young man as intimidating or threatening was objectively reasonable
- whether Inspector 1's version of events was credible and reliable

TTC investigators did not ask Inspector 1 enough questions about opportunities to disengage or move away

51. Transit Fare Inspectors are trained to disengage from people they perceive as threatening or uncooperative and it is the TTC's clearly understood expectation that they do so. Inspector 1 did not do that here. The TTC investigators did not ask Inspector 1 enough questions to explore whether he complied with this training and expectation and if not, why not.

52. For example, Inspector 1 told the TTC investigators that the idea of moving away from the young man during the first few minutes on the streetcar never entered his mind. They did not ask him why not.

53. The TTC investigators said in their report that Inspector 1 did not move away because he found the young man's behaviour "unusual," "threatening" and "intimidating", which made Inspector 1 "very uncomfortable." He was therefore afraid to turn his back to the young man because "he had concerns for his safety."

54. The TTC investigators should have asked Inspector 1 more questions to explore whether, when and why he became afraid to turn his back on the young man, before the investigators made these statements in their report.

55. Further, the TTC investigators should have asked Inspector 1 whether he could have moved away from the young man without turning his back and if not, why not. Before Inspector 1's interview, another fare inspector told the TTC investigators that disengaging from a potentially threatening situation and "not turning your back" are not mutually exclusive; they can be done at the same time.

56. The TTC investigators also did not adequately explore:

- Why Inspector 1 allowed a number of other patrons, including an elderly woman and some young children, to remain in the immediate area, if he

perceived a potentially dangerous situation which he believed made it unsafe to turn his back or move away

- Why he did not call for help from Transit Enforcement Officers, an option he said was available in such situations

57. Prior to interviewing Inspector 1, the TTC interviewers had already interviewed a Transit Fare Inspector supervisor. Based on the supervisor's understanding of the incident (which came from the fare inspectors involved), the supervisor raised questions about whether there were things Inspector 1 could have done to avoid the situation escalating, like going to the back of the streetcar to create distance or getting off earlier. The supervisor also said that if Inspector 1 felt unsafe, the supervisor did not know why Inspector 1 did not call for help from a Transit Enforcement Officer and/or clear the area.
58. Exploring why Inspector 1 did not disengage or move away was important because if Inspector 1 had moved away from the young man at the outset, the incident might have ended there. It is very possible that the violent interaction that followed would have been avoided entirely.

The TTC investigators did not explore evidence of other possibilities about how the incident started

59. A thorough investigation requires investigators to consider the evidence with an open mind, considering different possibilities or theories of what happened in order to determine the facts. The TTC investigators did not do so in the following areas.

The young man said he was listening to music and not paying attention to the TFIs

60. After the TTC investigators had interviewed the fare inspectors and other witnesses, the young man gave the investigators a written statement explaining what happened from his perspective. He said that he was listening to music on his headphones and not paying much attention to the fare inspectors since he had paid his fare. This suggests he may not have answered Inspector 1's questions at least in part because he did not hear them. This contrasts directly with Inspector 1's evidence that the young man was "emotionally disturbed" and/or "trying to intimidate" Inspector 1 with a "dead stare."
61. This evidence from the young man also directly conflicted with Inspector 1's evidence that he saw the young man wearing headphones around his neck (i.e. not on his ears).
62. The video does not clearly show where the young man wore his headphones. It shows only that he was wearing a hooded jacket with a high collar that covered his head and neck.

63. The TTC investigators did not ask any follow up questions of the other fare inspectors or Civilian Witness 3 about whether they were able to see if the young man was wearing headphones and, if so, where they were positioned. The TTC investigators similarly did not ask any follow up questions of Inspector 1 to explore his ability to see where the young man was wearing headphones.

Inspector 1 might have behaved as he did to show that he would not be intimidated

64. A TTC witness who heard about the incident from Inspector 1 and other witnesses soon after it happened told the TTC investigators that he believed the young man was trying to intimidate Inspector 1. This TTC witness believed that Inspector 1 had spoken to the young man to show that he was not intimidated. This TTC witness said Transit Fare Inspectors and Transit Enforcement Officers need to project an aura of not being intimidated; their job requires it.
65. Other witnesses from the Transit Enforcement Unit also provided evidence consistent with this theory to the TTC investigators.
66. Despite this, the TTC investigators did not address this possible interpretation of what happened in their report. If they did not accept it, they should have explained why.

The TTC investigators did not give the young man an adequate opportunity to respond to Inspector 1's evidence or to allegations about the young man's own past conduct that they considered during the investigation

67. In cases where there is conflicting evidence, particularly between the accounts of an alleged victim and an alleged perpetrator, it is important for investigators to give each person an opportunity to know what the other says about key aspects of what happened, and to respond. This is a matter of procedural fairness.
68. The TTC investigators did not give the young man an adequate opportunity to respond to Inspector 1's version of events, including Inspector 1's evidence about how events initially unfolded, which differed from what the video shows.

69. Further, other fare inspectors not involved in this incident gave the TTC investigators information about allegations concerning the young man's past conduct. The TTC investigators did not inform the young man about these allegations or give him an adequate opportunity to respond to them. They referred to these allegations in their report, which was unfair to the young man and contrary to TTC policy.⁶

The TTC investigators should have made more efforts to gather evidence from anyone with relevant information and should have considered all the information they had

70. Given the seriousness of the allegations, the number of witnesses seen in the videos and the level of public concern, the TTC should have publicly invited members of the public to come forward with information. Both TTC investigators told us they thought someone had done so. Unfortunately, this did not happen.
71. The TTC investigators should have made more efforts to gather evidence from a member of the public that can be seen on video watching the initial encounter between Inspector 1 and the young man and remaining nearby while Inspector 1 spoke to the young man. This person was travelling with a witness the investigators spoke to (Civilian Witness 3) and was well known to that witness. The TTC investigators made no attempt to try to contact this witness. They should have done so, because of the crucial need to determine what actually happened during the early part of the incident.
72. The TTC investigators also should have more clearly documented and referred to evidence that a different member of the public provided. If they felt they needed more detail, they should have made additional efforts to follow up with this witness.
- This person told the Unit Complaints Coordinator by telephone what they did and observed while the fare inspectors were detaining the young man and afterwards, when this person stayed with the young man. This witness described injuries suffered by the young man and criticized the behaviour of TTC employees. In particular, this witness said the fare inspectors did not say what they were doing or why they were on top of the young man. The witness also said "I think he was twisting his arm or something."
 - The Unit Complaints Coordinator asked clarifying questions of this person during their call and saved an audio recording, but did not make any written

⁶ Section 10 of the TTC's *Transit Fare Inspector Complaints Procedure*: "...Complaints shall be investigated on the merit and substance of the evidence and shall not involve inquiry into the background of the Complainant for the sole purpose of undermining the credibility of the Complainant." Online: Toronto Transit Commission https://www.ttc.ca/PDF/Riding_the_TTC/Complaints%20Procedure%20for%20Transit%20Fare%20Inspectors%20-%20Oct.%2011%2C%20.pdf

notes as he did when he spoke to another witness by telephone. The Unit Complaints Coordinator asked this witness to provide him with a written statement of their evidence and followed up with an email providing his contact information. The witness said they would try to provide a written statement but could not do so for at least a week and that they found it "hard to write these things." When this person did not send him a written statement as requested, the Unit Complaints Coordinator made one follow up call, leaving a voicemail. He did not hear further from this person.

- Despite the absence of a written statement, the TTC investigators had this person's evidence recorded in their file, from the telephone call. This evidence was relevant because if it was found credible and reliable, it could have corroborated the young man's evidence, including his evidence that a fare inspector held and twisted his left arm. However the TTC investigation report makes no mention whatsoever of this evidence.

73. The TTC investigators should have requested the Toronto Police Service officers' notes. The notes would have provided important detail about what participants and witnesses told police immediately following the incident. The Unit Complaints Coordinator told us that police routinely share these records with the TTC when he is investigating an incident involving Transit Enforcement Officers. These records would be equally useful for Transit Fare Inspector investigations and the TTC should at least try to obtain them in cases like this one, where there are serious allegations of misconduct.

2) The TTC investigation should have identified the important facts in dispute and made clear factual findings

74. In conducting their investigation, the TTC investigators' task was to gather information/evidence, make findings of fact (i.e. determine what happened) and then make a decision on each of the ultimate issues they had to decide, namely whether the fare inspectors:

- discriminated against the young man on the basis of race;
- used unauthorized force; and/or
- otherwise acted in a manner likely to bring discredit upon the reputation of the TTC.

75. They also needed to provide reasons for their decision on each issue.

76. To do this, it was necessary to first identify the factual "what happened" questions required to decide each issue. Where the evidence on a relevant fact was in dispute or was unclear, they needed to state and explain their factual finding, with reference to the evidence. Once they determined what the facts were, they could then decide the issues before them.

77. In this investigation, however, the TTC investigators did not consistently identify the facts in dispute and make clear findings of fact.

78. When we asked the Unit Complaints Coordinator what findings of fact he made about particular areas of disputed evidence, he told us he did not make clear findings about what happened and when. He said that in his investigations, he only makes findings about the ultimate issue of whether employees have breached their code of conduct and does not make findings about "the specifics of things."
79. In response to our questions about particular events, he said "the video is my findings with respect to what happened". However, the video directly conflicts with what Inspector 1 told the TTC investigators about the first few minutes of the encounter. Despite this fact, the investigation report repeats Inspector 1's version of events without any explanation.
80. Specifically, in both the "Background" and "Analysis" sections,⁷ the report appears to adopt as fact Inspector 1's evidence that as soon as the young man got on the streetcar, the young man began staring continuously at Inspector 1. The report states that Inspector 1 looked away to try to break the stare and did not speak to the young man until the streetcar was en route to the Bathurst Street platform. According to the video and the TTC investigators' summary of it, the streetcar did not leave St. Clair Station, or was not "en route," until two minutes after the young man boarded the streetcar. This is consistent with their summary of Inspector 1's evidence that he did not speak to the young man until after "almost a minute of non-stop staring."
81. The video clearly shows however that Inspector 1 started to speak to the young man within two seconds of the young man boarding the streetcar. The TTC investigation report does not squarely address this important conflict and does not resolve it with a clear finding of fact.
82. As another example, the TTC's investigation report contains conflicting findings about why the young man left the streetcar. On page 61, the report rejects the young man's evidence that he got off the streetcar to go to a restaurant and states that he "appears to take purposeful steps forward off the streetcar to bring him face-to-face with [Inspector 1]." However, on page 67, the report says "There is no available evidence that [Inspector 1]'s act of smiling led or contributed to the outcome of this incident. At the approximate time [Inspector 1] smiles, the [young man] states he was exiting the TTC streetcar to go to a restaurant."
83. In other words, instead of making the required finding of fact about why the young man got off the streetcar (since it was a fact in dispute on which there was conflicting evidence), the investigation rejected his evidence that he was going to a restaurant for one part of its analysis, and accepted it for another part. This made no sense.

⁷ TTC Investigation Report, *supra* note 2 at pages 8, 66, and 75 to 78.

84. The TTC investigation also did not make findings of fact on the important factual questions of whether, why and when Inspector 1 was afraid to turn his back to the young man, or whether such a fear was reasonable in the circumstances.
85. This required assessing Inspector 1's credibility with reference to other relevant evidence. The TTC investigators should have made clear factual findings on these important points, and should have provided reasons for those findings.

3) The TTC investigation applied the wrong standard of proof in some of its analysis

86. Before making a finding of fact, an investigator must consider how much proof is required to make that finding.
87. Different amounts of proof are required in different settings. How much proof is required is called the "standard of proof."
88. Two different TTC policies applied to this investigation, each one appearing to require a different standard of proof.
89. Under the TTC Respect and Dignity Policy, the TTC investigators were required to make findings about whether the evidence established discrimination or harassment on a *balance of probabilities*. In other words, they needed to decide whether discrimination or harassment was more likely than not to have occurred.
90. This is the usual standard of proof for cases other than criminal cases, which require proof at a higher standard, *beyond a reasonable doubt*.
91. The investigators used the balance of probabilities standard of proof in their discrimination analysis, which was correct and appropriate in the circumstances.
92. According to the TTC Transit Fare Inspector Complaints Procedure, however, the Unit Complaints Coordinator was to determine whether there were *reasonable grounds to believe* that misconduct had occurred.
93. Reasonable grounds to believe is a lower standard of proof than the balance of probabilities. Courts have described it as requiring an honest belief supported by objective facts, or more than a suspicion or opinion, based on evidence. It requires less evidence than the balance of probabilities standard.
94. The reasonable grounds to believe standard of proof is commonly used when a regulatory body is deciding following investigation whether to lay a formal misconduct charge against a member, for example in the police context. We are not aware of any disciplinary context in which the reasonable and probable grounds standard is used to make a finding of misconduct.

95. The Unit Complaints Coordinator told us he applied the reasonable grounds to believe standard of proof, as specified in the Transit Fare Inspector Complaints Procedure.
96. He was confused, however, about what it required. He told us that as he understood it, the reasonable grounds standard is "generally higher" than the balance of probabilities, although he also said it all depends on the case. He was mistaken. As a matter of law, the reasonable grounds standard always requires less proof than a balance of probabilities, not more.
97. In any event, it does not make sense that the policy would require only reasonable grounds to make a positive finding of misconduct, in the absence of a two-stage process like the one in the police context. The Transit Fare Inspector Complaints Procedure should require proof on a balance of probabilities for a finding of misconduct.

4) The TTC investigation did not clearly analyze two important issues

The importance of the TTC expectation that Transit Fare Inspectors will disengage

98. The TTC investigation report only discusses TTC expectations of what fare inspectors should do when they cannot avoid physical conflict. It does not clearly address the TTC expectation and Transit Fare Inspector training that fare inspectors must avoid physical conflicts in the first place.
99. As mentioned above, the TTC investigators had clear evidence that fare inspectors are expected to disengage from people they perceive as threatening or uncooperative. The fare inspectors involved, their supervisor and the person responsible for the training for Transit Fare Inspectors all confirmed this.
100. The TTC investigation report omitted much of this evidence. Instead, the investigators should have included it and analyzed whether in this case, the fare inspectors met this TTC expectation or if not, why not.

Evidence that could have supported a finding of unconscious racial bias

101. The TTC committed to investigate whether the young man's race was a factor in how the TFIs treated him. This was a question of whether racial profiling occurred.
102. The Ontario Human Rights 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."⁸

103. The TTC investigation report correctly notes that to make a finding of discrimination, there is "no need to establish an intention or motivation to discriminate" and "[t]here need not be direct evidence of discrimination; discrimination will more often be proven by circumstantial evidence and inference."⁹
104. The TTC investigators had to consider not only whether there was evidence of *intentional* racism, but also whether there was evidence of *unintentional* racism. As observed by the Ontario Human Rights Commission in its 2003 racial profiling inquiry report, "practical experience and psychology both confirm that anyone can stereotype, even people who are well meaning and not overtly biased."¹⁰
105. One way unintentional racism can occur is through *unconscious bias*. This term refers to the phenomenon that can occur when, upon seeing certain physical characteristics like someone's skin colour, an observer's brain sends them messages that this person is more likely to be or act in a certain way.
106. For example, upon seeing certain skin colours, the observer's brain may signal that the person they are looking at is more or less likely to be violent, angry, intelligent, or mentally stable or to engage in criminal behaviours. Because it is unconscious, the observer will be entirely unaware their brain is making such judgments and will have no intention of doing so.
107. Someone's lack of awareness of their biases does not however excuse any acts of discrimination they commit because of them. Investigators must therefore examine all evidence of possible unconscious bias and determine whether it was a factor in what happened.
108. In this case, there was evidence that could have supported a finding of unconscious bias on the part of Inspector 1 and others. The TTC investigators did not identify or analyze this evidence in their report.

⁸ Ontario Human Rights Commission, *What is Racial Profiling? (fact sheet)*, online: Ontario Human Rights Commission <http://www.ohrc.on.ca/en/what-racial-profiling-fact-sheet>

⁹ *TTC Investigation Report*, *supra* note 2 at p.75.

¹⁰ Ontario Human Rights Commission, *Paying the Price: the human cost of racial profiling* (2003) online at <http://www.ohrc.on.ca/en/book/export/html/2472>. See also *R v. Brown*, *supra* note 3 at para. 8 and *R v. Elmardy*, *supra* note 3 at para. 16.

109. We find the TTC investigation should have clearly analyzed whether the following evidence could have supported a finding of unconscious racial bias:
- Did Inspector 1 immediately form a perception of the young man that he was "not ok" when he got on the streetcar (since Inspector 1 asked the young man if he was ok approximately two seconds after the young man entered)? If so, why? Was Inspector 1 forming such a perception so quickly circumstantial evidence of unconscious bias?
 - Was it objectively reasonable for Inspector 1 or anyone else to form the perception that the young man was "not ok" because he did not immediately answer a question about whether he was ok? What assumptions underlie the statement by the TTC investigators at p.78 of their report that "Information questions require attention and reasonable answers"? Is a young Black man required to answer such a question from a uniformed fare inspector within two seconds of stepping onto a streetcar in Toronto, without any objective basis for the question being asked?
 - Why did participants and witnesses claim to see the young man doing threatening things that the video shows he was not doing?
 - Inspector 1 and another fare inspector on the streetcar both gave evidence that one or both of the young man's hands were clenched both on and off the streetcar. In fact, the video shows the young man's fingers hanging down at his side or extended off the Presto machine, not clenched.
 - Inspector 1 and Civilian Witness 3 both said the Customer's hands were in his pockets or otherwise out of sight on the streetcar, while the video shows that in fact they were dangling below his sleeves or off the Presto machine.
 - Why did Inspector 1 and Civilian Witness 3 both fear the Customer might have a weapon?
 - Civilian Witness 3 told TTC investigators that they were afraid the young man might have a weapon because he looked angry, had his hands in his pockets and because of "the social context we are in."
 - When asked to explain "social context", Civilian Witness 3 said: "Social context of, like, individuals who have weapons in public areas, it happens throughout the world. You become hyper aware of this."
 - In response to a question from the investigators about the young man's skin colour, Civilian Witness 3 described the young man as being of "maybe" Middle Eastern origin, and that "I'm like 50%, can't remember exactly, don't think he was dark dark Black."

- Why did several witnesses describe the young man's body position as unusually motionless despite the fact he can be seen to be moving several times in the video?

110. We have included references to Civilian Witness 3's evidence because, in addition to assessing whether the evidence supported a finding of unconscious bias on the part of the fare inspectors, the TTC investigators also should have considered whether unconscious bias might have affected the reliability of the evidence of other witnesses.
111. This was particularly important with respect to Civilian Witness 3, because the TTC investigators said in their report that they gave "much weight" to Civilian Witness 3's evidence, in particular, the description of the Customer's stare as "angry and threatening" and "intimidating." On the other hand, the three fare inspectors described the young man's expression during the same time period as "neutral," "blank," "emotionless" and in a "dead stare."
112. We repeat that Ombudsman Toronto did not make any findings about what conclusions the TTC investigators should have reached after analyzing and weighing this evidence. Our finding is that the TTC investigators should have transparently disclosed the evidence in their report and explained how they assessed it.

5) The TTC's expert witness was not independent and his written opinion was not based on an adequate review of the evidence

113. We identified several concerns about the expert opinion the TTC investigation relied on in determining that Inspector 1's use of force was appropriate.
114. Generally speaking, witnesses can provide evidence about their observations and experiences but cannot express opinions. The exception to this rule is that a qualified expert witness may give an opinion on relevant matters outside the decision maker's knowledge and experience.
115. Arguably, there was no need for an expert opinion in this case. There was ample evidence available about the TTC's policies on use of force and the training fare inspectors get on the subject. The current Unit Complaints Coordinator has extensive experience with use of force and told us that he does not always seek an expert opinion when he investigates complaints involving use of force.
116. Presumably because of the seriousness of the allegations here and the extent of public concern, the Unit Complaints Coordinator nonetheless decided to seek an expert opinion about the use of force. This was not unreasonable.

117. Having decided to seek an expert opinion, however, it was essential that the Unit Complaints Coordinator:
- obtain an independent and impartial opinion, having considered any issues of possible bias; and
 - ask the expert to consider all the relevant evidence before reaching and expressing a conclusion about the appropriateness of the use of force.

Concern that the expert was not independent or objective

118. The TTC's expert opinion came from the owner of the company on contract with the TTC to develop and deliver training to Transit Enforcement Unit members on use of force, among other things. His company has continuing contracts to provide training and consultation to the TTC.
119. That fact raises concerns about this witness's ability to independently and objectively provide an expert opinion about whether fare inspectors trained by his company acted properly and in accordance with their training.
120. The Unit Complaints Coordinator told us he did not consider the issue of bias with respect to his expert witness.
121. While this witness could and did provide factual evidence about the training his company developed and delivers to fare inspectors on use of force, the TTC should not have relied on him to provide an opinion about what happened in this case without directly addressing his ability to be impartial and objective.

Problems with the expert opinion

122. The expert witness also had insufficient evidence upon which to base an opinion.
123. The Unit Complaints Coordinator asked the expert witness for his opinion about Inspector 1's use of force based only on Inspector 1's written statement and video evidence. He did not provide the expert witness information about what other witnesses, including the young man, said had happened or the additional evidence that Inspector 1 gave during his interview with investigators.
124. The Unit Complaints Coordinator told us he knew the expert had reviewed some video evidence before providing an opinion, but he did not know whether the expert had reviewed all the available video evidence.
125. Instead of asking the witness to write an opinion, the Unit Complaints Coordinator drafted the opinion for the expert after meeting with him, and sent it to him for review. The witness responded and asked for minor changes to the wording of the first paragraph. The Unit Complaints Coordinator should have asked the expert to draft his own opinion.

126. The expert opinion drafted by the Unit Complaints Coordinator did not identify the evidence the expert had reviewed or the facts or assumptions on which it was based. Further, it did not clearly identify what actions Inspector 1 took that the witness thought were proportional and within the scope of his training, or address whether the witness considered whether Inspector 1 followed his training to disengage.

6) There are not enough structural safeguards to ensure the Unit Complaints Coordinator's independence and impartiality

127. When an organization investigates incidents involving its own people, the public needs to have confidence that the investigation will be fair and impartial. Personal and professional ties between investigators and those they have to investigate may call this into question. We therefore considered whether the TTC has taken adequate steps to ensure the independence of its internal investigators.
128. We found there were significant differences between the Human Rights Consultant and Unit Complaints Coordinator roles that could affect their ability to conduct impartial investigations.
129. The TTC needs to do more to ensure the independence of the Unit Complaints Coordinator role.

The Human Rights Consultant

130. The Human Rights Consultant is an employee of the Diversity and Human Rights Department, which reports to a different member of the TTC executive team than does the Transit Enforcement Unit. Having an investigator report to a different executive than the unit they investigate helps avoid potential conflicts or opportunities for an investigation to be influenced by those with an interest in the outcome.
131. The Human Rights Consultant's team works in a different location from the TTC employees they investigate.
132. The Human Rights Consultant has no work or personal ties to the employees he investigates. He told us that before undertaking this investigation, he had had almost no contact with any members of the Transit Enforcement Unit.
133. The Human Rights Consultant told us he avoids socializing or interacting with TTC employees except for work-related purposes, in order to maintain his impartiality.

The Unit Complaints Coordinator

134. Like the Human Rights Consultant, the Unit Complaints Coordinator reports to a different member of the executive team than does the Transit Enforcement Unit. He told us that no member of the TTC management team has ever challenged or attempted to influence his findings.

135. In contrast to the Human Rights Consultant, however, the Unit Complaints Coordinator's office is on the same floor as the Transit Enforcement Unit, whose members he investigates. He shares common space with its members and sees them at work on a daily basis.
136. The current Unit Complaints Coordinator also has a long history of employment within the unit he investigates. He was the Acting Head of the Transit Enforcement Unit for over a year in 2013 and 2014, at the time when the Transit Fare Inspector role was developed. Before that, he had been a member of the unit for more than a decade.
137. Inevitably, the Unit Complaints Coordinator knows many members of the unit and has developed relationships with some. He told us he does not regularly socialize at work, but acknowledged he very occasionally will have lunch with certain members of the unit or attend retirements. We saw during our document review that the Unit Complaints Coordinator and some members of the Transit Enforcement Unit management were on friendly terms and called each other by nicknames.
138. This absence of structural independence raises concerns of actual and perceived bias on the part of the Unit Complaints Coordinator in favour of the Transit Enforcement Unit. Even if the Unit Complaints Coordinator is scrupulously careful not to let his relationship with the unit and its members affect his objectivity, the perception of possible bias is harmful to public trust.

Interactions with Legal, Executive Management and Others

139. The TTC investigators provided information to and received information from the TTC legal department, TTC management and insurance adjusters throughout the course of their investigation.
140. Some of the information exchanged made its way into the investigation file and some did not.
141. Some communications between the Unit Complaints Coordinator and Legal were marked as privileged and we understand Legal was providing advice to the Unit Complaints Coordinator. Given the limited nature of our Enquiry and the context of litigation between the young man and the TTC, we did not ask about the details of these interactions.
142. We asked the TTC investigators if anyone from these areas attempted to influence their findings and they said no. Nonetheless, such communications with investigators whose job is to be impartial can raise concerns about actual or perceived bias. For this reasons, investigators need clear and documented boundaries for such communications.

Possible Evidence of Confirmation Bias

143. If there are insufficient structural safeguards to ensure that an internal investigator's role is independent and impartial, there is a risk of confirmation bias.
144. Confirmation bias occurs when an investigator starts an investigation with a preferred outcome in mind and then filters the evidence through that lens, emphasizing the evidence that supports that outcome and minimizing the evidence that does not support it. In the case of internal investigators, the concern is that they may filter the evidence in a way that exonerates their colleagues or employer or implicates or ignores the complainant and their evidence.
145. As in the discussion of unconscious racial bias above, confirmation bias can occur unintentionally, without the investigator realizing it is happening. The TTC investigators told us they take their impartiality very seriously and we accept that they try very hard to be objective and impartial.
146. In this case, however, we found some signs of possible confirmation bias:
 - The Unit Complaints Coordinator did not document in his investigation file the evidence obtained from the witness who was at the scene during the young man's detention, who criticized the fare inspectors and said "I think he was twisting his arm or something." The Unit Complaints Coordinator also made no reference to this witness' evidence in the report. To the contrary, the report specifically stated "... there is no evidence to support that the [fare inspectors], while waiting for [police] to arrive, did anything other than hold the Customer in place by leveraging their own body weight and muscle."
 - The Unit Complaints Coordinator asked for a written expert opinion supporting Inspector 1's use of force before he had interviewed Inspector 1 and other witnesses about what happened. He told the expert witness at the time that he wanted the expert opinion to give "more weight" to his report.
 - The TTC investigators accepted Inspector 1's evidence about the timing of his interaction with the young man over the video evidence which shows that Inspector 1 spoke to the young man within two seconds, without looking away. This occurred despite the Unit Complaints Coordinator telling us that he relied heavily on the video.
 - The TTC investigation report omitted reference to the evidence from the expert trainer and the Transit Fare Inspector supervisor that fare inspectors are taught and expected not to engage customers in volatile situations.
 - The report included two pages of evidence of alleged past conduct of the young man. This evidence was entirely irrelevant to the issues in this case and prejudicial to the young man. The fare inspectors involved all told the TTC investigators they did not know the young man at the time of the

incident, so any alleged past incidents were irrelevant to their conduct at the time.

- The report critically analyzed the young man's credibility in detail, but did not apply the same level of rigour to the analysis of the credibility of the fare inspectors and Civilian Witness 3.

SUMMARY OF FINDINGS

147. The TTC had a difficult task in conducting this investigation. We appreciate that investigators must make many judgment calls in a real world setting with timing and practical pressures. After the fact, it is easy to suggest that something could or should have been done differently. As an oversight body, we therefore do not require a standard of perfection, but of reasonableness.
148. In isolation, some of the problems we identified with the TTC's investigation might not have compromised the overall fairness of the process or reasonableness of its conclusions.
149. However, some of the problems were very serious. We are particularly concerned that the TTC investigation did not:
- ask enough questions
 - make clear findings of fact
 - apply the correct standard of proof in some of its analysis
 - transparently analyze the evidence in light of the TTC's expectation that fare inspectors will disengage from potentially difficult situations
 - transparently analyze evidence that could have supported a finding of unconscious racial bias
 - ensure adequate independence for the Unit Complaints Coordinator
150. Taking all of these problems into account, we conclude that the TTC's investigation into this incident was not adequately thorough, fair and transparent. We therefore cannot find that its conclusions were reasonable.
151. Not having investigated the incident, we are not able to say what the conclusions of an adequately thorough, fair and transparent investigation would have been. The incident itself is currently the subject of litigation between the young man and the TTC and many of the issues the TTC's investigation considered are raised in that litigation. A court is being asked to decide them.
152. It is important for the TTC to be able to investigate complaints and concerns about the Transit Enforcement Unit and its employees and it should continue to do so. Based on our findings, however, some changes are necessary. By implementing our recommendations below, the TTC will enhance its ability to conduct these investigations in a fair and effective way in which the public can have confidence.

RECOMMENDATIONS

153. In consideration of our findings, we make the following recommendations:

Ensure that Unit Complaints Coordinator Investigations are Independent and Impartial

- 1) The TTC should develop a plan to structurally strengthen the independence of its internal investigations of the Transit Enforcement Unit. This plan should include moving the Unit Complaints Coordinator away from the unit's physical location and reducing or eliminating personal and professional ties between the Unit Complaints Coordinator and support staff on one hand and the unit on the other.
- 2) The TTC should strengthen its documentation of the Unit Complaints Coordinator's terms of reference and their role and mandate. It should include what kind of information, if any, the Unit Complaints Coordinator will exchange with TTC management and/or the TTC legal department and for what purpose(s).
- 3) The TTC should also consider creating a protocol for retaining external investigators in appropriate cases, for example where there is intense public interest or where senior staff members are involved in the incident(s) under investigation.

Clarify the Standard of Proof

- 4) All relevant TTC policies and training should clearly state that the standard of proof that applies in investigations of complaints about Transit Fare Inspectors is proof on a balance of probabilities.

Use Expert Opinions Appropriately

- 5) The TTC should document in its investigation policies and procedures that:
 - As a best practice, when the TTC engages an expert to provide an opinion in an investigation, it should select someone without ties to the TTC.
 - The TTC should also require any expert witness to provide written confirmation that they understand they are being asked for a fair, objective and non-partisan opinion.
 - The TTC should provide all relevant evidence to the expert witness for their review and should have the witness prepare the opinion without assistance

from investigators. The opinion itself should reflect that these steps were taken.

Investigator Training

- 6) The TTC should develop a plan to provide additional training to its internal investigators, in particular with respect to:
- identifying the issues and the facts in dispute
 - procedural fairness
 - preventing unconscious confirmation bias
 - investigating unconscious bias/racial profiling
 - making and explaining factual findings by considering and weighing all relevant evidence
 - the standard of proof
 - effectively communicating the results of an investigation in a report

Timeframe for Implementation

154. The TTC should implement all of these recommendations by December 31, 2019.

TTC MANAGEMENT'S RESPONSE

155. As a matter of procedural fairness, we shared a draft of this report with the TTC investigators and TTC management and gave them an opportunity to make representations on it.
156. TTC management agrees with the recommendations in this report and has committed to implementing them by December 31, 2019. See Appendix "A."

FOLLOW UP

157. Ombudsman Toronto will follow up until we are satisfied that implementation is complete.

THE BROADER CONTEXT

Ombudsman Toronto started examining the TTC's oversight of its Transit Enforcement Unit in early 2015 in the wake of a violent incident at Union Station involving two Transit Enforcement Officers and two members of the public. In the four years since, we have conducted and publicly reported on a large systemic investigation into the TTC's oversight of the Transit Enforcement Unit, followed up on recommendations we made in that investigation, and investigated additional concerns and complaints about the unit, including this one.

After four years of work in this area, we remain concerned about the TTC's oversight of this unit. Our findings and conclusions in this report outline some of the basis for this concern.

We also have broader questions about the structure and culture of the unit and its ability to deliver truly fair and equitable public services as currently organized.

In February, 2019 we began a series of informal discussions with TTC leadership to discuss these concerns. We have found the TTC leaders we have worked with to be open to looking at these issues and to our constructive approach to holding them accountable in doing so.

TTC Management has informed us that they plan to take action in the following areas:

Demonstrating Fair Treatment and Ensuring Public Trust: Developing a Comprehensive Anti-Racism Strategy

The TTC is one of the largest transit organizations in North America. It operates in the City of Toronto, whose motto is "Diversity Our Strength." The TTC can and should be a leader in ensuring and assuring the public that racial profiling has no place in how its staff treat people.

While we did not make any finding of racial profiling in this case (we did not investigate the incident), we did find that the investigation did not transparently analyze possible evidence of racial profiling.

What is clear is that following the incident, there was broadly expressed public concern that racial profiling may have played a role in what happened. We have heard the same concern expressed in other cases involving the Transit Enforcement Unit.

A public perception that racial profiling exists in an organization, even if unfounded, is deeply harmful to that organization and to the public's trust in it.

The TTC has decided to implement a system-wide anti-racism strategy, aimed directly at preventing racial profiling. We discussed the fact that such a strategy should cover all aspects of the TTC's operation and should be woven into key areas including strategic leadership, research (including data collection and analysis), human resources management and stakeholder engagement.¹¹

¹¹ Bobby Siu, "Ending Racial Profiling" in L. Foster, L. Jacobs, B. Siu and S. Azmi, eds, *Racial Profiling and Human Rights in Canada: the New Legal Landscape* (Toronto: Irwin Law Inc., 2018) 299 at 308

The TTC has enthusiastically welcomed our suggestion that it engage outside expertise to help it develop and implement this strategy and that it consult with the City's Confronting Anti-Black Racism Unit. We understand that this work is already underway.

We applaud the TTC's stated commitment to take bold and proactive steps to ensure and show the public that its employees treat all people equitably, with dignity and respect. We encourage it to move quickly on this important initiative.

Changing the Transit Enforcement Unit's Structure and Culture

The TTC told us during our investigation of its oversight of the Transit Enforcement Unit that the unit was in the process of a broad culture shift, away from a traditional policing model towards a model based in security and customer service. Based on our observations since then, however, it appears that this shift has stalled or stopped. In our view, the result has been harmful to the TTC and to its relationship with the public.

Employees of the Transit Enforcement Unit have very difficult jobs and the continuing lack of clarity about what is expected of them only makes their jobs harder.

The TTC says it is considering our suggestion that it rename the Transit Enforcement Unit, to align with its stated goal to adopt a service-based posture rather than an enforcement or compliance-based posture and to make the TTC's expectations clear to both unit members and the public.

In moving the Transit Enforcement Unit to a service-based focus, we understand that the TTC intends to review and revamp all aspects of the unit's operations, including staff recruitment, training, policies and procedures and complaints process. Currently, the unit's operations are all based on examples drawn from the world of policing.

We strongly reiterate the recommendation we made in our 2017 Investigation report that the TTC consider developing a policy to guide Transit Fare Inspectors in the exercise of discretion.

Every day, Transit Fare Inspectors use discretion in deciding whether to issue a ticket to someone who cannot produce proof of payment. Treating people fairly and equitably will usually require consideration of why someone did not pay their fare. Irrelevant and/or prejudicial considerations must play absolutely no role.

The TTC has told us it is committed to selecting, training and holding accountable all members of the Transit Enforcement Unit to do their work with an emphasis on strong communication and de-escalation skills, treating all people with respect and dignity, always starting with the position of trying to help and using force only as an absolute last resort.

It is also looking at ways to move away from considering complaints about TFIs through a police-like lens of "misconduct" to a customer service and fairness lens.

CONCLUSION

158. This report has set out how the TTC's investigation of the February 18, 2018 incident fell short of what the public should reasonably expect. The TTC needs to take concrete steps to improve future investigations.
159. As this report has also discussed, the TTC has decided to seize an important opportunity to be a leader among transit agencies in two areas which we believe are essential to earning and maintaining public trust:
- Developing a broad and comprehensive anti-racism strategy to address public concerns about racial profiling, and
 - Changing the structure and culture of the Transit Enforcement Unit from a culture of enforcement and compliance to one based on rider security, service, respect and dignity.
160. In our view, based on our extensive work with the TTC, the need for all of these steps is compelling. The time for action is now.

(Original signed)

Susan E. Opler
Ombudsman

Appendix A



Toronto Transit Commission
1000 Yonge Street, Toronto, ON M4B 1Y2
416-393-7000

June 21, 2019

Ms. Susan Opler
Ombudsman
City of Toronto
375 University Avenue, Suite 203
Toronto, Ontario M5G 2J5

Dear Ms. Opler:

Re: Ombudsman Toronto Enquiry Report: Review of the TTC's Investigation of a February 18, 2018 Incident Involving Fare Inspectors

I have reviewed your report on your review of the TTC's investigation of the February 18, 2018 incident. The TTC agrees with the recommendations in your report and have set out a timeline to implement all recommendations by December 31, 2019. Attached is our management response outlining in more detail the implementation plan for each recommendation.

In addition to the recommendations, we appreciate the opportunity that you have identified for the TTC to become a leader among transit agencies in developing a comprehensive anti-racism strategy for the organization.

Thank you for the opportunity to comment. We would also like to thank you and your staff for the many helpful comments and suggestions throughout this process.

We will consult with your office prior to finalizing and implementing the recommendations in the report and we look forward to working in partnership with your office to advance work on the anti-racism strategy.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Richard J. Leary'.

Richard J. Leary
Chief Executive Officer
Toronto Transit Commission

Jays Robinson, Chair
Ann Hickey, O.C., Vice-Chair
Richard J. Leary, Chief Executive Officer

Brad Bradford, Commissioner
Shelley Carroll, Commissioner
Joanne De Laurentiis, Commissioner
Jim Karygiannis, Commissioner

Ron Lalonde, Commissioner
Jennifer McKeivie, Commissioner
Denzil Minnan-Wong, Commissioner
Jule Osborne, Commissioner

Ombudsman Toronto's Enquiry Report
Review of the TTC's Investigation of the February 18, 2018 incident involving Transit Fare Inspectors

Rec #	Section	Recommendation	Agree	Comments	Implementation Timeline
1	153(1)	TTC should develop a plan to structurally strengthen the independence of its internal investigations of the Transit Enforcement Unit. This plan should include moving the Unit Complaints Coordinator away from the unit's physical location and reducing or eliminating personal and professional ties between the Unit Complaints Coordinator and support staff on one hand and the unit on the other.	Agree	TTC will be developing a plan to structurally strengthen the independence of its internal investigations of the Transit Enforcement Unit.	December 31, 2019
2	153(2)	The TTC should strengthen its documentation of the Unit Complaints Coordinator's terms of reference and their role and mandate. It should include what kind of information, if any, the Unit Complaints Coordinator will exchange with TTC management and/or the TTC legal department and for what purpose(s).	Agree	TTC will be implementing the recommendation to strengthen its documentation of the Unit Complaints Coordinator terms of reference and mandate.	December 31, 2019

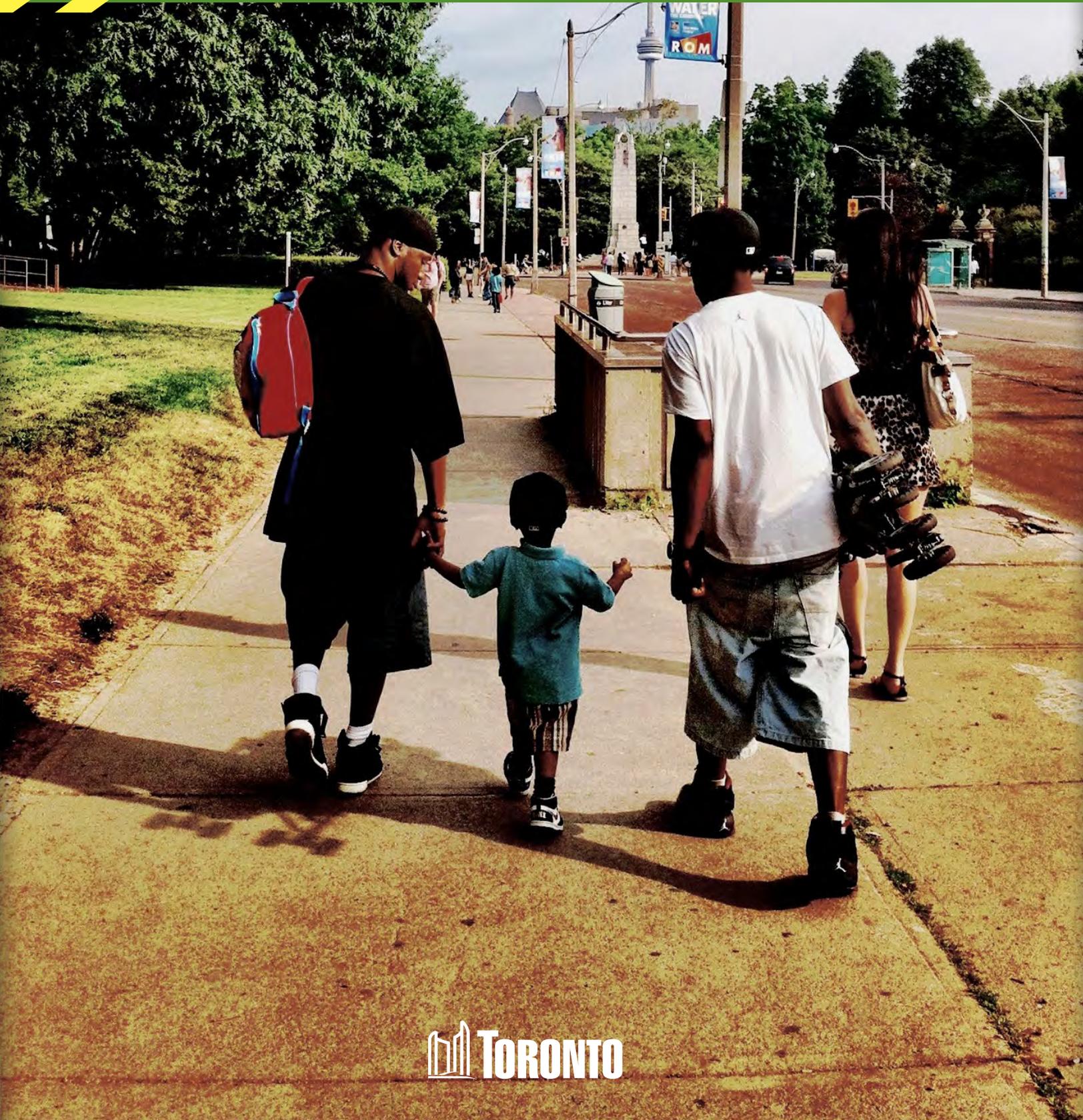
Rec #	Section	Recommendation	Agree	Comments	Implementation Timeline
3	153(3)	The TTC should also consider creating a protocol for retaining external investigators in appropriate cases, for example where there is intense public interest or where senior staff members are involved in the incident(s) under investigation.	Agree	TTC will be revising its Transit Fare Inspector and Transit Enforcement Officer investigation procedures to include provisions relating to retaining external investigators as recommended.	December 31, 2019
4	153(4)	All relevant policies and training should clearly state that the standard of proof that applies in investigations of complaints about Transit Fare Inspectors is proof on a balance of probabilities.	Agree	TTC will be implementing the recommendation to ensure that standard of proof applied to investigations of TFIs is based on a balance of probabilities	July 15, 2019
5	153(5)	The TTC should document in its investigation policies and procedures that: <ul style="list-style-type: none"> As a best practice, when the TTC engages an expert to provide an opinion in an investigation, it should select someone without ties to the TTC The TTC should also require any expert witness to provide written confirmation that they 	Agree	TTC will be implementing the recommendation in its investigation procedures.	December 31, 2019

Rec #	Section	Recommendation	Agree	Comments	Implementation Timeline
		<p>understand they are being asked for a fair, objective and non-partisan opinion.</p> <ul style="list-style-type: none"> The TTC should provide all relevant evidence to the expert witness for their review and should have the witness prepare the opinion without the assistance from investigators. The opinion itself should reflect that these steps were taken. 			
6	154(6)	<p>The TTC should develop a plan to provide additional training to its internal investigators, in particular with respect to:</p> <ul style="list-style-type: none"> identifying the issues and the facts in dispute procedural fairness preventing unconscious confirmation bias investigating unconscious bias/racial profiling making and explaining factual findings by considering and weighing all relevant evidence the standard of proof 	Agree	TTC will be implementing the recommendation and developing a plan to provide additional training to its internal investigators.	December 31, 2019

Rec #	Section	Recommendation	Agree	Comments	Implementation Timeline
		<ul style="list-style-type: none"><li data-bbox="695 423 1003 511">effectively communicating the results of the investigation in a report			



TORONTO ACTION PLAN TO CONFRONT ANTI-BLACK RACISM





MAYOR JOHN TORY

Anti-Black racism exists in Toronto.

I believe this is an important statement for the Mayor of Toronto to make, as we strive for inclusion and to live by our values as the most diverse city in the world.

Eradicating anti-Black racism – although difficult – must be our goal in Toronto, because it stands as an obstacle to building a truly fair and just city.

I understand that members of our city's Black communities are tired of being asked to recount their own experiences of racism and the experiences of their ancestors and children.

We know these experiences are real and we know we must take action. And so

we embarked on an initiative to engage Toronto's Black communities in developing a Toronto Action Plan to Confront Anti-Black Racism: five years of initiatives to address systemic barriers that exist across the city.

As part of this process, we took the many reports on racism that have been written over the past 41 years and put their recommendations in front of people for discussion, through 41 Community Conversations held by the City in partnership with community organizations. We wanted to know which actions Toronto's Black communities felt would make the greatest difference in their lives.

These conversations drew more than 800 participants who shared their experiences, their priorities and their concerns.

I attended four of those discussions myself. I listened to community members in Rexdale, Jane and Finch, Scarborough, and Weston Mt. Dennis. I listened to fathers and mothers, small business owners on Eglinton West, and I went to Black CAP and listened to members of the queer and trans community.

I listened to people describe what it feels like to have someone follow you around a store.

I heard very thoughtful comments about the presence of uniformed police in schools and whether this program is really meeting its goals.

I heard parents and students talk about the lack of Black teachers. I heard people discuss the higher rates of unemployment experienced by young Black men in our neighbourhoods and the dramatically higher percentage of young Black men in the justice system.

I listened, and I learned.

And now, we have presented an Action Plan with five themes, 22 recommendations and some 80 actions the City will undertake.

This is a real plan and I am committed to acting on it.

In fact, the work has already begun.

As some first steps, I met with senior staff, including Black leaders in the Toronto Public Service to begin identifying systemic barriers inside City Hall. I heard a lot about the culture change that needs to happen here, starting with comprehensive training of staff to recognise, understand and shift anti-Black racism thinking and practice. Aided by community expertise, this work will help seed systemic change that will positively impact service planning, policy development and customer service.

We continue to invest in Black youth. In October, Council approved a \$400,000 investment in Black community-led

initiatives to support Black youth leadership development, through the Black Youth Leadership Project Grant to Confront Anti-Black Racism. A community Leadership Panel was recruited this fall with the investments going into community in 2018.

We're making capital investments in two important youth development initiatives focused on the arts – The Remix Project and Nia Centre for the Arts to help these important skill development initiatives have stable community spaces from which to serve our young people.

These complement continued youth employment initiatives to support youth who have been affected by the criminal justice system and to provide them with access to growing sectors of opportunity.

There are many more steps to be taken, but we are getting started right away, and I hope you see this as an indication of my intention to lead, and to act.

What I heard most of all in these sessions was the simple, heartfelt desire on the part of adults to see better things for the next generation, often their own children. Young people told me of their desire to have a fair chance and a life in Toronto free from racism and discrimination.

Listening to this, I know that our objective must be no less than to bring an end to acts of discrimination based on race, an end to stereotyping and marginalization, the introduction of systemic changes to eradicate racism, and a focus on providing the same opportunities to all of our residents.

This won't be easy or instantaneous, but I pledge to lead, to work within government and in partnership with Toronto's Black communities to forge a city where our values and goals are matched by reality.

Mayor John Tory

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CHILDREN & YOUTH DEVELOPMENT



HEALTH & COMMUNITY SERVICES



JOB OPPORTUNITIES & INCOME SUPPORTS



POLICING & THE JUSTICE SYSTEM



COMMUNITY ENGAGEMENT & BLACK LEADERSHIP



EXECUTIVE SUMMARY

Toronto is the most diverse city in the world. However, the experiences of Black Torontonians and studies continue to show that anti-Black racism still exists in this city, affecting the life chances of more than 200,000 people of African descent who call Toronto home.

Anti-Black racism is policies and practices embedded in Canadian institutions that reflect and reinforce beliefs, attitudes, prejudice, stereotyping and/or discrimination that is directed at people of African descent and is rooted in their unique history and experience of enslavement and colonization here in Canada.

The legacy of anti-Black racism lies in the current social, economic, and political marginalization of Torontonians of African descent. It is experienced as a lack of opportunity, poor health and mental health

outcomes, poor education outcomes, higher rates of precarious employment and unemployment, significant poverty, and overrepresentation in the criminal justice, mental health, and child welfare systems.

To begin confronting anti-Black racism in Toronto, the City of Toronto partnered with Black leaders and organizations to create and implement a four-phase process. Phase one was the development and launch of the Toronto For All campaign in November 2016, naming and challenging anti-Black racism for public education. Phase two was the review of 41 years' worth of research and recommendations about addressing anti-Black racism in Toronto. This review created the foundation for 41 Community Conversations in phase three to determine how best to take meaningful action going forward. Conversations ran from January to March 2017. Black Torontonians reviewed a

draft action plan at a citywide workshop in May 2017 and provided feedback. In Phase four, City staff and subject matter experts from across Toronto's Black communities worked together to create multi-year work plans and to identify resource requirements to begin implementation.

The Toronto Action Plan to Confront Anti-Black Racism is the result of this collaborative effort between the City of Toronto and Black Torontonians to take corrective action.

This five-year plan leverages the talents, knowledge, and experiences of Black residents and Black organizations as partners in making municipal services, spaces and policies fully inclusive and accessible to Black Torontonians in both intent and in practice. The Action Plan includes 22 recommendations and 80 actions to address five issue areas:

1. Children & Youth Development
2. Health & Community Services
3. Job Opportunities & Income Supports
4. Policing & The Justice System
5. Community Engagement & Black Leadership

This Action Plan intentionally aims to impact levers within the City of Toronto's influence, including the following priority actions within municipal jurisdiction:

- Recruitment, hiring, promotion and training at the City
- Meaningful, sustained investments in Black youth mentorship and employment
- Consistent investment in critical Black-led community services
- Transformative policy development using an Anti-Black Racism Analysis.

The Toronto Action Plan to Confront Anti-Black Racism will be implemented over a five-year term, beginning in 2018. Implementation will be based on five annual work plans, starting in Year One (2018), and a corresponding progress report. For each year of implementation, an annual work plan will be created by City staff, in collaboration with community members and submitted to City Council for approval. Each annual work plan will contain key priorities and initiatives to advance the inclusion of Black Torontonians. An annual progress report for each implementation year will be reported publicly to help ensure continued improvement and community accountability. The establishment of the Anti-Black Racism Partnership & Accountability Circle comprised of diverse Torontonians of African descent to support the implementation of the Action Plan in collaborative, transparent, effective and accountable ways will be key to these efforts.





INTRODUCTION

“Despite Canada’s reputation for promoting multiculturalism and diversity... Canada’s history of enslavement, racial segregation, and marginalization, has had a deleterious impact on people of African descent which must be addressed in partnership with communities.”

- United Nations’ Working Group of Experts on People of African Descent, October 2016

Torontonians of African descent are contributing to all areas of city life – adding their talents and assets to make Toronto stronger, more vibrant, and more successful.

Toronto is the most diverse city in the world. However, the experiences of Black Torontonians and study after study continues to show that anti-Black racism still exists in Toronto, affecting the life chances of more than 200,000 Black people who call Toronto home.

The legacy of anti-Black racism lies in the current social, economic, and political marginalization of Black Torontonians. It is experienced as a lack of opportunity, poor health and mental health outcomes, poor education outcomes, lower socio-economic status, precarious employment, higher unemployment, significant poverty rates, and overrepresentation in the criminal justice, mental health, and child welfare systems.

Anti-Black racism is policies and practices embedded in Canadian institutions that reflect and reinforce beliefs, attitudes, prejudice, stereotyping and/or discrimination that is directed at people of African descent and is rooted in their unique history and experience of enslavement and colonization here in Canada.

Anti-Black racism is micro (as seen in day-to-day interactions) and it is structural (as seen in laws and policies that govern this city).

Anti-Black racism is deeply entrenched in Canadian institutions, policies and practices, often making this particular form of racism appear normal or invisible to the larger society. This makes it more difficult for Black people to name their specific experiences of anti-Black racism. Often doing so comes with severe consequences such as loss of employment, targeting, isolation, violence, and emotional and spiritual injuries.

The ongoing reality of anti-Black racism in Toronto stands as an obstacle to a truly fair and just city.

The City of Toronto, as a government, has a duty to make decisions and take actions that help Toronto become an inclusive and prosperous place for everyone.

Examples of the many disparities Black Torontonians face:

- Black Torontonians are victims of 85% of hate crimes in Toronto where racism is the motivating factor¹
- 42% of children in the care of the Children’s Aid Society of Toronto are Black, five times their representation in the overall population²
- Black students become “early leavers” of high school at higher rates – 23% compared to 12% of white students³
- Torontonians of African descent have an unemployment rate of 13%, nearly two times the provincial rate⁴
- 27% of all carding incidents are focused on Black Torontonians, three times their representation in the overall Toronto population⁵
- Black women and girls are one of the fastest growing incarcerated groups⁶

BUILDING AN EFFECTIVE PLAN

An effective action plan to confront anti-Black racism in Toronto requires the work and ideas of many people. It must be built in community, leveraging the experiences, insights and solutions of Black Torontonians.

In 2016, as the City of Toronto embarked on a process to acknowledge anti-Black racism in Toronto and develop a comprehensive plan to address it, we tried to do things a little differently. We were guided by three principles that emerged from a meeting Mayor Tory held with Black leaders in April 2016 following protests by Black Lives Matter Toronto: (1) build on existing research and recommendations, (2) partner with the community, and (3), engage young leadership in the process.

Instead of writing yet one more report, we reviewed the many reports already written by Black leaders, activists, educators, community groups, and public servants over the past 41 years as our starting point. We analyzed them and grouped over 113 recommendations into five themes:

1. Children & Youth Development
2. Health & Community Services
3. Job Opportunities & Income Supports
4. Policing & The Justice System
5. Community Engagement & Black Leadership

Then we partnered with 18 community agencies serving Toronto's diverse Black communities to host 41 Community Conversations from January to March, 2017. We shared these recommendations. Had they been acted upon? Are they still relevant? What actions still need to be taken?

We engaged 15 young leaders to guide the Community Conversations and capture community ideas. More than 800 Black Torontonians, from

across the city – young and elder, Caribbean and Continental African, Black queer and Black trans youth and adults, Francophone women, parents and caregivers, community workers, artists, and business and faith leaders – shared with us how they would like to build on the past recommendations to achieve meaningful action today.

City staff worked with the community facilitators to analyze and compile these community ideas into a Draft Action Plan. City of Toronto divisions reviewed the Draft Action Plan for clarifications and additions from their service and policy perspectives. The resulting Draft Action Plan was presented to Black community leaders, organizers and residents on May 13, 2017 in a feedback workshop hosted by Mayor Tory at Toronto City Hall. This community feedback was used to refine and finalize the recommendations and actions.

In phase four, from September 5 to September 30, 2017, Black community workers, advocates, business leaders and experts joined City staff from across divisions and agencies in five Expert Working Groups supported by Black process facilitators. The Expert Working Groups convened to develop multi-year work plans and to identify resources required to implement actions. Additionally, five Black subject matter experts with strong Anti-Black Racism Analysis assisted eight City divisions and one agency to complete the same task. Collaborative meetings, informed by research into existing effective models, also supported the development of the Anti-Black Racism Partnership and Accountability Circle.

The Toronto Action Plan to Confront Anti-Black Racism is the result of this collaborative effort between the City of Toronto and Torontonians of African descent.



Public Education to Confront Anti-Black Racism

On November 2, 2016, the City of Toronto and its partner, OCASI-Ontario Council of Agencies Serving Immigrants, launched a public education campaign to raise awareness about anti-Black racism in Toronto, and to equip people with the means to identify it, question it and challenge it.

The campaign built on the anti-Black racism work of Black leaders, activists, educators, and community groups and organizations, present and past.

As a form of public education, this second installment of the Toronto For All campaign was meant to provoke, make Torontonians think, and start and continue a conversation about anti-Black racism in our city. The first Toronto For All public education campaign ran in summer 2016 naming and challenging Islamophobia in Toronto.

From June until August 2017, Toronto For All featured a public education campaign challenging the racism and transphobia experienced by racialized trans youth.

Toronto's Black communities are comprised of diverse people of African descent facing many different challenges. To be effective, efforts to address anti-Black racism must also examine the experiences, needs and assets of Black residents who are also members of other equity-seeking groups, including women, youth, newcomers, queer and transgender people, Francophones, people affected by the justice system, people with disabilities, and people living with HIV/AIDS.

TERMINOLOGY

Toronto's communities of African descent are diverse. There are as many Black experiences in Toronto as there are Black Torontonians.

In September 2017, the City convened a focus group of diverse Torontonians of African descent, including community leaders and City staff, to ask what terminology should be used in the Action Plan.

Identity and language use evolves in communities as people create and resurrect terminology to communicate their complex lived experiences. When talking about a group of residents, it is mandatory that the City use self-determined terminology, that is, language that residents use to describe themselves and that they feel comfortable with the City using to describe them and their identities.

The use of self-determined terminology is of particular importance in the historical and ongoing colonial relationship that exists between the City and Black Torontonians, if City efforts are to be collaborative, transparent, effective, and accountable.

Participants shared their thoughts, feelings, and experiences with terminology, and settled on these interchangeable and universal terms:

- Torontonians of African descent;
- Black Torontonians;
- Canadians of African descent; and,
- African Canadians.



"My identity is rooted in the stories that the men and women in my family have passed on to me on claiming the right and the space to live with dignity. These

men and women passed on different understandings of 'self' in relation to land, community, country, nation and our place in the world as 'Africans'. A common thread in what has been passed on to me is the necessity of simply having roots. Whether they be based on geography, culture or ancestry, the purpose remains the same: shaping your image of 'self' through the narratives of a collective you relate to rather than having to defend your right for being against a world in which you will never see yourself reflected. So whether we call ourselves 'African', 'Caribbean', 'African-Canadian', 'Black', the calling remains the same: a life with dignity. And this is why I remain undecided, because all these claims are valid."

- Clara Ganemtore

"I stand by my perspective to use People of African descent and or Canadians of African descent, as oppose to African Canadian, African Caribbean Black, or Black. No other grouping in society has been labeled or deemed a colour for the exceptions of us. Kwame Nkrumah said, "I am not African because I was born in Africa, but because (like all other African Peoples on the continent or abroad) Africa was born inside of me."

- Brianna Lerato Mokwele

Awareness of my Black heritage started at a very young age. I was born in Panama, and raised in one of its Americanized regions (the Canal Zone), while attending a private Catholic school in the Spanish speaking part of the city. Gaining acceptance, as well as a sense of belonging, often presented itself as a challenge due to me internalizing the idea that my cultural identity didn't always parallel with that of my racial one (being Black). I developed these sentiments because I primarily spoke Spanish, yet I had an English surname; American sports and politics were daily conversations since my dad was a reporter; at home, we customarily ate a wide selection of cuisine from my grandparents' islands; and, I was able to enjoy a variety of musical genres, such as pop, merengue, soca and reggae. Upon immigrating to Canada, I discovered my unique and rich blend of Caribbean and Hispanic heritage, and began to understand the African influence and traditions on my diverse cultural and racial identities; therefore, I embrace myself as a Canadian of African Descent."

- **Fenicia Lewis-Dowlin**

"Like everyone else, my identities are complex and intersecting. This means that how I identify myself always depends on the context - it depends on what's at stake. I do not have any fundamental issues with being "Black" because I understand what the term meant in terms of Black Power, Black Panthers, and so on. It was a statement of radical self-determination. However, for this particular time and place (right here, right now), I will assert that I'm African Canadian. This is what binds us socially and politically, whatever our specific nationality or place of birth ... that we are of African descent and we are unapologetic in asserting, claiming and living our varied African-ness."

-**Dr. Winston Husbands**

"I prefer the term African Canadian. Like all other immigrant groups who have come to North America, the term African Canadian links us to a concrete place (in this case a continent rather than a country) that defines

our ancestral home, our cultural heritage and our shared history."

- **Elisabeth Guilbaud-Cox**

"Growing up in Toronto, and often the only Black boy in class, I was often called the Jamaican kid. In the summer months, our parents would send us to Jamaica, Ocho Rios, and when playing with kids my age I was often called the Canadian kid, from foreign. As an adult I have the same experiences when traveling; being called an African, African American, American, Caribbean, Canadian, and Black. Today I am pleased to claim all these labels, assumptions and definitions because being black is complex in this world but nonetheless I am Canadian."

- **Okeima Lawrence**

"Being African or of African descent is not experience, geopolitical, place of birth or where my parents were born. For me it is ancestral. And here is a great example that would resonate with many. In 2007 a certain man declared to the world that he would be running for office, not just any office but the office of the leader of the free world, He was born in Hawaii, to a mother of Irish descent and a Kenyan. He lived in Hawaii Chicago and he even spent years living in Indonesia. Yet when he describes himself he never, speaks of his experience of being a step son of an Indonesian father or of being partly Hawaiian, or even preference of being black. He calls himself an AFRICAN AMERICAN through and through. All of his experiences regardless. Let's be like Barack Obama who embraced his ancestry and did not shrink from it, didn't spin it as being a biracial person but took pride in his history and reality."

- **Kola Iluyomade**

"Our ancestors were from Africa, they may have been taken by others, or they may have left willingly, to populate other parts of the world. That history makes us African, whether we accept that fact or not. We now live in Canada... I think that makes us Canadians of African descent."

- **Lindis Collins-Bacchus**



MUNICIPAL LEVERS FOR CHANGE

Eradicating anti-Black racism is not a task that a municipal governments alone can do. This is collective work. It requires mutually reinforcing efforts from all orders of government, institutions, businesses, schools, community agencies and individuals. That is how sustainable, long-term, societal impact will be achieved.

Through this Action Plan, the City is stepping forward as one key actor in this collective work to take leadership to enact municipal levers under our influence to increase positive outcomes for Torontonians of African descent.

The City of Toronto has direct administrative responsibility over a number of critical systems that affect Toronto residents on a daily basis:

- The City is one of the largest employers in

Toronto, with a wide variety of professional positions and entry-level jobs with pathways to middle income earnings

- The City supports Canada's financial and business capital, as one of the most business-friendly cities in North America with more than 89,800 businesses operating from Toronto
- The City owns a large portion of the housing stock, through the largest landlord in Canada, Toronto Community Housing, home to 110,000 Torontonians, and provides support to other social and affordable housing providers in Toronto for low-income and vulnerable residents
- Through recreation infrastructure, the City supports the second largest system after the school system for social inclusion for children and youth

- Through local planning and community service investments, the City has intimate knowledge of 140 neighbourhoods and leads place-based planning with community partners
- Through the Toronto Police, the City operates the frontline service to the criminal justice system
- The City operates the crisis support systems for Toronto residents through Fire, Paramedics, Police, and shelters

These are important systems that our municipal government provides to its residents. They need to be leveraged to create a fair, accessible and supportive city for all Toronto residents.

The recommendations and actions contained in this five year plan leverages these and other municipal levers. During implementation City staff and community members, through the newly established Anti-Black Racism Partnership and Accountability Circle, will determine key annual priorities and related initiatives to advance the inclusion of Black Torontonians. The focus is not a developing a set of new activities - the focus will be on taking actions that will most effectively support equitable outcomes for Torontonians of African descent. This requires the City to collect race-based disaggregated data and to focus on monitoring and evaluating progress, ending practices and initiatives that are not delivering positive outcomes and reprioritize resources into things that work.





VISION AND PRINCIPLES

PURPOSE

The City of Toronto works to ensure that policies and practices are truly inclusive, and meet the needs of Toronto residents to live well and contribute to the city's vibrancy and prosperity.

Like all Toronto residents, Torontonians of African descent want to live in a city where the services and spaces meant to serve all residents are also accessible to them – this requires removing anti-Black bias, prejudice, and discrimination.

Black residents want to be afforded the same life chances and opportunities to participate

as all other Torontonians. Currently, measures to achieve universal equity often fail to effectively serve Black Torontonians, leading to disparities and disproportionately negative outcomes. Targeting equity measures for Torontonians of African descent will ensure they have access to the full benefits of living in this city, like other Torontonians.

The Toronto Action Plan to Confront Anti-Black Racism lays out actions to help ensure that municipal services, spaces and policies become fully inclusive and accessible to Black Torontonians in both intent and in practice.

The Toronto Action Plan to Confront Anti-Black Racism is a five-year plan to leverage the talents, knowledge, experiences, and capacities of Black people and Black organizations as partners in strengthening the quality of life of Black Torontonians and the city at large.

The Action Plan includes 22 recommendations and 80 actions across five themes: Children & Youth Development, Health & Community Services, Job Opportunities & Income Supports, Policing & the Justice System, and Community Engagement & Black Leadership.

- Some actions leverage Black cultural knowledge and practices to better support positive child and youth development.
- Some actions require targeted communication and outreach to ensure Black communities are reached by universal service efforts and job opportunities.
- Some actions assess current policies, practices and structures to identify anti-Black bias and take corrective and preventative actions.
- And in other cases, actions are about piloting new approaches and sustainably investing in programs and organizations that are already achieving successful outcomes.

BENEFIT TO ALL

Whenever governments and service providers work to target the removal of systemic barriers experienced by the most disadvantaged communities, all residents benefit. The Toronto Action Plan to Confront Anti-Black Racism follows this approach of targeted universalism. The actions, when taken as a whole and executed fully, will benefit all Torontonians, especially other Toronto communities experiencing racism and marginalization.



Toronto is a city where Black residents have access to the life chances and opportunities enjoyed by other Torontonians. We will become a city in which no Torontonian is denied access to resources or participation due to anti-Black racism, and where the knowledge, skills and talents of residents of African descent are fully engaged in leading our vibrant and thriving city.

PRINCIPLES

The implementation of the Toronto Action Plan to Confront Anti-Black Racism will be guided by the following three principles:

Partner with Black Communities

Black Torontonians are contributing to all areas of city life – adding their talents and assets to make the city stronger, more vibrant, and more successful. They actively co-developed this Action Plan with a vision of co-leadership and collective impact. The successful implementation of the Toronto Action Plan to Confront Anti-Black Racism necessitates shared leadership and ownership with Black people and Black organizations, as well as action from non-Black people and institutions.

Engage the Diveristy of Toronto's Black Communities

Torontonians of African descent are a diverse people, comprising many communities. And yet, all Black people in Toronto experience anti-Black racism. In our Community Conversations, we heard from Black elders

and youth, women, queer and trans youth, francophone women, people living with HIV, young fathers, and newcomers, and established residents from the Continental African and Caribbean communities. The diversity of Black identity and experience must remain at the heart of the Toronto Action Plan to Confront Anti-Black Racism.

Drive Systemic Change

Anti-Black racism and discrimination are systemic and require fundamental changes in policy and practice across institutions within and beyond municipal government. While individuals may experience interpersonal acts of racism, it is the structural barriers to equal opportunity that cause the most harm. To drive systemic change, the Toronto Action Plan to Confront Anti-Black Racism must be taken as a whole and executed fully. Comprehensively targeting the removal of systemic barriers will improve the lives of Black Torontonians, other Toronto communities experiencing racism and marginalization, and all Toronto residents.





THE ANTI-BLACK RACISM ANALYSIS

The Toronto Action Plan to Confront Anti-Black Racism requires the use of an Anti-Black Racism Analysis as it is named in the execution of 11 actions specifically, and to the full implementation of all 22 recommendations and 80 actions.

Anti-Black racism is policies and practices embedded in Canadian institutions that reflect and reinforce beliefs, attitudes, prejudice, stereotyping and/or discrimination that is directed at people of African descent

and is rooted in their unique history and experience of enslavement and colonization in Canada.

An Anti-Black Racism Analysis is the application of this understanding of anti-Black racism to the planning, development, operation, resource allocation and evaluation of policies, services, practices, and spaces, with the intent of achieving transformative change.

An Anti-Black Racism Analysis applies an understanding that:

- Anti-Black racism is rooted in historic and ongoing systems,
- Anti-Black racism is micro (as seen in day-to-day interactions between City staff and Torontonians of African descent) and it is structural (as seen in policies and practices that govern this city),
- Anti-Black racism is deeply entrenched in Canadian institutions, often making anti-Black policies and practices appear invisible to non-Black people,
- Toronto's communities of African descent are diverse,
- Torontonians' experiences of anti-Black racism are uniquely shaped by their combined experiences of marginalization, and intersectionality is necessary to address anti-Black racism effectively,
- An equity approach of targeted universalism will identify and remove systemic barriers affecting people of African descent, while benefitting other disadvantaged communities and the city at large, and
- The elimination of anti-Black racism in Toronto requires fundamental transformative changes in policy and practice, across institutions within and beyond municipal government.

The Toronto Action Plan necessitates that non-Black people and institutions learn to utilize an Anti-Black Racism Analysis to target the removal of systemic barriers and leverage the experiences, knowledge, capacities, and talents of diverse Black Torontonians and Black organizations in shared leadership at all levels of implementation.

The City's emerging Equity Lens will include an Anti-Black Racism Analysis for regular application in all initiatives by City staff. Operationalizing an Anti-Black Racism Analysis is critical for the implementation of the Toronto Action Plan to Confront Anti-Black Racism to be impactful and effective.

OPERATIONAL QUESTIONS



The following operational questions will guide the use of an Anti-Black Racism Analysis to create, implement, and evaluate a City initiative:

1. **Diversity:** Does the initiative engage with the diversity of Toronto's Black communities, including geographic, income, and other social differences?
2. **Collaboration:** Does the initiative prioritize collaboration with Toronto's communities of African descent and use an interdivisional approach across City divisions?
3. **Relationship-Building:** Is the initiative building relationships between diverse Black communities and the City that are intentional and reciprocal?
4. **Accountability:** Does the initiative demonstrate accountability to Toronto's communities of African descent and to its internal commitments by maintaining a clear and legitimate decision-making process?
5. **Transparency:** Is the initiative transparent to Torontonians of African descent, including resource and political implications?
6. **Accessibility:** Does the initiative use non-academic and non-bureaucratic language and employ multimedia and alternate formats to communicate with Black Torontonians in accessible ways?
7. **Creativity and Openness:** Is the initiative creative and open to change and experimentation to meet the historic, current, and emerging needs of Torontonians of African descent?
8. **Sustainability:** Is the initiative sustainable over time and responsive to the changing needs of Toronto's Black communities?
9. **Responsiveness:** Does the initiative conduct ongoing checks, use continuous improvement, and ensure City flexibility in response to feedback from Black communities?



ANTI-BLACK RACISM PARTNERSHIP & ACCOUNTABILITY CIRCLE

The Toronto Action Plan to Confront Anti-Black Racism is a five-year plan that leverages the talents, knowledge, and experiences of Black residents and Black organizations as partners in making municipal services, spaces and policies fully inclusive and accessible to Torontonians of African descent in both intent and in practice. The Action Plan mandates shared leadership and ownership with people with lived experiences of anti-Black racism at every stage of implementation.

MANDATE

The Anti-Black Racism Partnership & Accountability Circle will guide and support the full implementation of the Toronto Action Plan to Confront Anti-Black Racism in ways that are collaborative, transparent, effective, and accountable to Torontonians of African descent. The Anti-Black Racism Partnership & Accountability Circle will partner with the City on municipal efforts to help the City of Toronto better serve Torontonians of African descent. The Circle will:

1. Provide guidance and advice to City staff in the planning, implementation, evaluation and reporting of the Toronto Action Plan to Confront Anti-Black Racism;
2. Contribute insight, analysis, information, and strategy to City service and policy planning that impacts outcomes for Torontonians of African Descent;
3. Advise on areas where the City should be taking a lead, facilitating or convening to effectively advance positive outcomes for Torontonians of African Descent;

4. Support partnership development with Black communities, leaders, organizations and institutions to advance positive outcomes for Torontonians of African Descent; and,
5. Facilitate transparent and effective communication and engagement with Toronto's communities of African descent.

VALUES, PRINCIPLES & PRACTICE

The proposed model is informed by Indigenous African values, principles, and practices and builds on key learnings from the best practices of other partnership and accountability models, such as the African Nova Scotian Affairs and the Toronto Indigenous Health Advisory Circle (TIHAC). This partnership and accountability model proposes intentionally balancing western and Indigenous traditions to ensure professional excellence in implementation of the Action Plan.

COMPOSITION

The Anti-Black Racism Partnership & Accountability Circle is intended to be inclusive and reflect the diversity of Torontonians of African descent. Membership of the Circle is comprised of 12 Torontonians of African descent with diverse lived experience, education, professional expertise, and historical knowledge of anti-Black racism in Toronto:

- 4 elders who represent wisdom of community to hold the integrity of the

- Circle's principles, values and practices;
- 4 youth with diverse lived experience; and,
- 4 people who represent key stakeholder groups of African Toronto communities.

The Circle is supported by one independent, community facilitator of African descent with strong capacity in organizational development, governance and Indigenous African cultures to act as the bridge between the community and City.

SCOPE & TERM

The Circle will focus their work on supervising and supporting City activities and community engagement towards the full implementation of all 22 recommendations and 81 actions, from 2018-2022.

SUPPORT

Secretariat support is provided by Social Development, Finance & Administration Division.

Circle members will receive an honorarium and be supported by standard City accessibility supports of community engagement – TTC tokens, child minding, ASL interpretation, and refreshments at meetings.

INITIATING ACTION

THE 2018 Work Plan Priorities include work to develop the Circle through broad and open outreach and refinement of operating principles and practices with the founding Circle members.





CHILDREN & YOUTH DEVELOPMENT

Over 88,000 Black children and youth, ages 0-24 live in Toronto.⁷ While dedicated parents and strong communities are raising many thriving Black children, as a whole, Black children and youth face many disparities.

Forty-two percent of children in care are Black children.⁸ Black youth have higher drop out and expulsion rates than other Toronto children.⁹ At 23%, the unemployment rate of Black youth in Toronto is two times higher

than the national average.¹⁰ And Black youth report often feeling unwelcome or unsupported in many of the programs that are funded to assist them.

Changes are needed to ensure that Black children and youth, including those who identify as queer and transgender, have access to the programs, protections, and supports that all children and youth need to grow up healthy, safe, and confident.

RECOMMENDATION

1. **Increase access to high-quality programs for Black children and youth**

ACTIONS

- 1.1 Develop and implement training on effective programming for Black children and youth, using an Anti-Black Racism Analysis
- 1.2 Increase supply and variety of culturally appropriate before- and after-school programs with clear learning objectives, including STEAM (science, technology, engineering, arts and math) programs
- 1.3 Support effective Black youth leadership programs, including rites of passage, civic and community leadership
- 1.4 Increase hiring of Black Torontonians and partnerships with diverse Black communities to ensure that children and youth programs reflect the diversity of the communities they serve
- 1.5 Develop and implement intergenerational and cultural connections through Black mentorship initiatives

RECOMMENDATION

2. **Meet the specific needs and aspirations of Black queer and trans youth**

ACTIONS

- 2.1 Consult on and invest in meeting the specific needs and aspirations of Black queer and trans youth
- 2.2 Expand resources for Black queer and trans services providers
- 2.3 Work with parents of African descent, service providers and youth to create culturally relevant education and support services for parents of Black queer and trans children and youth

RECOMMENDATION

3. **Advocate for better protection and supports for Black children and youth**

ACTIONS

- 3.1 Communicate to the Province and the school boards the need for education improvements that support safe and effective learning for students of African descent
- 3.2 Communicate to the Province the need for improvements to the Child Welfare System to better serve and support children and youth of African descent
- 3.3 Collaborate with Provincial and Federal institutions to ensure Black newcomer children reuniting with their parents/caregivers are enrolled in schools and supported





“Why are Black families living in poverty and they are not collecting race-based statistics sufficiently enough so you can actually look at the trends?”

- **Notisha Massaquoi**,

Executive Director of Women’s Health in Women’s Hands, a community health centre for women of African descent and racialized women in Toronto

“What needs to be immediately addressed is how anti-Black racism impacts the social and economic mobility of young Black people.”

- **Surrana Sandy**,

Executive Director of Skills for Change, a community organization for immigrants and refugees serving many of Toronto’s communities of African descent





HEALTH & COMMUNITY SERVICES

Anti-Black racism continues to impact the health and wellbeing of Black Torontonians. Compared to non-racialized people, Toronto's Black residents report higher rates of pain and discomfort, high blood pressure and obesity.¹¹

Limited access to relevant, safe, affordable, and effective health and community services remain a challenge for Black residents and families living in Toronto.

Black Torontonians often experience a 'service desert' in their neighbourhoods and when

services are available, many Black residents report that although these services are funded to support all Torontonians, they often are inadequate in meeting the needs of Black residents.

Changes are needed to reduce health inequalities and improve the wellbeing of Black Torontonians. The City, especially working in concert with the Province of Ontario, can take action to meet existing and emerging community health and community service needs.

RECOMMENDATION

- 4. Improve the quality and availability of City-programmed community mental health services for Black Torontonians**

ACTIONS

- 4.1 Work with the Province to support training for community mental health and addiction treatment service providers using an Anti-Black Racism Analysis
- 4.2 Work collaboratively with Black communities and the Province to leverage Black cultural knowledge to lead and provide more mental health services across the city for Torontonians of African descent, including clinics, on-call counsellors, harm reduction programs and supports for post traumatic stress disorder

RECOMMENDATION

- 5. Improve the quality and effectiveness of health and community services for Black Torontonians**

ACTIONS

- 5.1 Increase stable funding to Black community organizations providing essential services to better meet the needs and aspirations of Black Torontonians
- 5.2 Replicate and expand effective models of Black-led health and community services to under-served neighbourhoods and populations of Black Torontonians
- 5.3 Regularly update 211 directory with community-based services for Black Torontonians

RECOMMENDATION

6. **Strengthen the accountability of health and community services for Black Torontonians**

ACTIONS

- 6.1 Outreach, recruit and hire from diverse Black communities to increase number and retention of health, social and community workers of African descent
- 6.2 Develop and implement an outreach initiative to recruit and train diverse Black Torontonians for leadership and governance roles in health and community organizations
- 6.3 Advocate and coordinate with funders to require the collection and public reporting of health and community service data disaggregated by race and other characteristics
- 6.4 Advocate and coordinate with funders to invest in community capacity to comply with the collection of data disaggregated by race

RECOMMENDATION

7. **Improve the quality of recreation services for Black Torontonians**

ACTIONS

- 7.1 Improve recreation spaces in neighbourhoods with high proportions of residents of African descent
- 7.2 Regularly engage with diverse Black Torontonians on how to expand and improve recreational programming and facilities

RECOMMENDATION

8. Improve food access for low-income Black Torontonians

ACTIONS

- 8.1 Apply an Anti-Black Racism Analysis to improve the programming of the Toronto Food Strategy and Toronto Agricultural Program

RECOMMENDATION

9. Improve support models to better address the specific needs of Black seniors, newcomers, people living with HIV/AIDs, people with disabilities, and Francophone women

ACTIONS

- 9.1 Ensure seniors of African descent are represented in the Version 2.0 of the Toronto Seniors Strategy
- 9.2 Increase settlement sector knowledge of programs and services for Black newcomers
- 9.3 Ensure Black newcomers are represented in the Toronto Newcomer Strategy and the Integrating Cities Charter
- 9.4 Communicate with the Province the need for greater funding support for Black organizations that provide services for people of African descent living with HIV/AIDS
- 9.5 Apply an Anti-Black Racism Analysis as the City implements AODA and other steps to accommodate people with disabilities
- 9.6 Provide culturally appropriate supports to address violence against women of African descent in Francophone communities

RECOMMENDATION

10. Improve shelter and housing conditions to better support Black Torontonians

ACTIONS

- 10.1 Advance the recommendations of Tenants First, including improving the quality of Toronto Community Housing through a revised tenant-focused service delivery model that better serves families, youth and vulnerable tenants, including seniors, with a stable funding formula
- 10.2 Apply an Anti-Black Racism Analysis to shelter standards and procedures
- 10.3 Ensure shelter staff are trained on anti-Black racism as a trigger to mental illness
- 10.4 Create safe spaces within new LGBTQ2S shelters for Black queer and trans youth
- 10.5 Collect race-based data on homelessness, particularly on the needs of Black queer and trans youth for shelters support services planning
- 10.6 Create safe spaces within women's and family shelters for women of African descent
- 10.7 Apply an Anti-Black Racism Analysis to the Rent Supplement provision process to support equitable access to rent supplement program
- 10.8 Apply an Anti-Black Racism Analysis to the Eviction Prevention Framework in the 2017-2018 Eviction Prevention Strategy



“There’s a lot of mental things that happen with us just trying to go through our regular day and how we find employment, how we seek education, how we raise our children.

We have to start the conversation from a place where we understand and accept that racism and anti-Black racism is woven into the fabric of the society that we live in.”

- **Dwayne Morgan**,

an award-winning spoken word artist and a father who participated in the conversation organized by Young and Potential Fathers, a community organization providing direct support to young African Canadian fathers in Toronto

“We are encouraged by the fact that there is a specific focus on a particular aspect of our oppression, our struggles around anti-Black racism and naming it, and agreeing that it has a particular kind of identification that is deeper and more pernicious than racism, in general, because it’s connected to a history of slavery and white supremacy and colonization. It’s reflected in all the areas that we struggle with.”

- **Nene Kwasi Kafele**,

a longtime community advocate who participated in the conversation hosted by the African Canadian Mental Health Coalition





JOB OPPORTUNITIES & INCOME SUPPORTS

Black Torontonians experience lower graduation rates, higher rates of unemployment, and are more likely to be living in poverty than the general population in the city. Black families are about three times more likely to be living on low incomes than white families.¹² 48% of Black children live in families with incomes of less than \$30,000 a year compared to only 9% of non-racialized children.¹³ Low income rates are highest among third and later generations of Black residents within the Toronto Census Metropolitan Area than other population groups.¹⁴

Black Torontonians have an unemployment rate of 13%, nearly two times the provincial rate.¹⁵ Reviewing national trends, the United Nations' Working Group of Experts on People of African Descent concluded its official visit to Canada in fall 2016 noting

anti-Black racism in the country's labour market. For example, they found a much higher unemployment rate for Black women at 11% compared to 7% for the general Canadian population, and when employed, Black women make 37% less than white men and 15% less than their white female counterparts.¹⁶ Black residents are often concentrated in part-time and precarious work that is inadequate to meet their basic needs and fails to leverage their talents.

To move Black Torontonians out of poverty, the City of Toronto can take actions to create effective pathways for training and employment across sectors, create strong mentorship programs that build up networks for Black youth, and provide supports for Black-owned businesses to grow and compete.

RECOMMENDATION

11. **Increase employment and training opportunities for Black Torontonians at the City of Toronto**

ACTIONS

- 11.1 Outreach to, recruit and hire diverse Black people to increase the number and retention of employees of African descent at the City of Toronto
- 11.2 Engage diverse Black experts and community members to develop Anti-Black Racism training for all City staff and leaders with a focus in the areas of Human Resources practices, including recruitment, hiring, and retention
- 11.3 Include socio-demographics, including race and gender identity, as part of the City's Count Yourself In employee survey
- 11.4 Enhance current City internship programs to include youth of African descent, including Black queer and trans youth
- 11.5 Engage Black City staff to create a Black Staff Network to support professional development and engagement

RECOMMENDATION

12. **Provide mentorship programs as a pathway to employment and promotion for Black Torontonians**

ACTIONS

- 12.1 Leverage federal and provincial funding to create career-based mentorship programs for Black youth to support skill development and the building of professional networks

RECOMMENDATION

13. **Improve access to high-quality training and employment programs for Black youth**

ACTIONS

- 13.1 Work with public and private sectors to create effective career pathways for Black youth by leveraging federal and provincial youth employment funding and addressing the specific needs of young women, young Francophones, youth who have been incarcerated, and queer and trans youth from Toronto's communities of African descent
- 13.2 Host employment fairs and skills development programs in community hubs and Black-focused agencies
- 13.3 Provide free police reference checks, training and certifications for Black youth to access volunteering and entry-level jobs
- 13.4 Target a City-administered youth employment program, funded by the federal and/or provincial governments, to support Black youth with criminal records and integrate funding for these youth to apply for record suspensions
- 13.5 Champion inclusive and equitable hiring practices among non-profit and private sector employers that focus the use of police reference checks, including vulnerable sector checks, only for circumstances where there is a legal obligation
- 13.6 Advocate to the provincial and federal governments to remove barriers to applying for criminal record suspensions

RECOMMENDATION

14. **Improve job quality and income supports for precariously employed Black Torontonians**

ACTIONS

- 14.1 Continue to advocate to the Ontario government to raise social assistance rates

RECOMMENDATION

15. **Support Black-owned businesses to better compete and thrive in Toronto**

ACTIONS

- 15.1 Target Black-owned businesses and social enterprises for outreach, training and vendor networking as part of the City of Toronto Social Procurement Program
- 15.2 Support the start-up and incubation of Black-owned businesses
- 15.3 Target development supports for businesses owned by Black women, Francophones, and people who were formerly incarcerated



POLICING & THE JUSTICE SYSTEM

For over a decade now, Black Torontonians have been the second most targeted community for hate crimes in the city. In 2016, Black residents were victims of 85% of hate crimes in Toronto where racism was the motivating factor.¹⁷ Yet, lack of community trust in police means many incidents of anti-Black harassment and violence go unreported.¹⁸

Black Torontonians face many disparities related to law enforcement. They are disproportionately impacted by racial profiling and over-policing, and over-represented in federal and provincial prisons. Twenty-seven percent (27%) of all carding incidents are focused on Black Torontonians, three times their representation in the overall

Toronto population.¹⁹ Over the last 10 years, the number of federally incarcerated Black people has increased by 75%, now accounting for 9.3% of the total federal population despite representing just 2.9% of the Canadian population.²⁰ Black women and girls are one of the fastest growing incarcerated groups.²¹

Changes are needed to restore community trust, accountability and effectiveness to policing and the justice system. At the municipal level, actions can be taken by the City and the Toronto Police Service to end racial profiling, train police officers to confront anti-Black racism, and invest in alternative models to achieve community safety and restorative justice.

RECOMMENDATION

16. Implement measures to stop racial profiling and over-policing of Black Torontonians

ACTIONS

- 16.1 Review communication strategies with communities of African descent about the ongoing elimination of carding as a policing practice
- 16.2 Review the decision not to destroy the previously collected carding data
- 16.3 Review use of force protocols from an Anti-Black Racism Analysis
- 16.4 Review police and community training, including Community Crisis Response Programs, to include use of force issues
- 16.5 Improve training to equip Law Enforcement Officers with knowledge and skills to better protect and serve diverse people of African descent
- 16.6 Strengthen protocols for police response to Emotionally Disturbed Persons (EDP) and report regularly on police-EDP interactions, using an Anti-Black Racism Analysis
- 16.7 Communicate to the Province the need for improvements to policing and the justice system to better serve and protect people of African descent

RECOMMENDATION

- 17. Build a more transparent, accountable and effective police oversight system to better serve Black Torontonians and to strengthen community trust in police**

ACTIONS

- 17.1 Mandate the collection and public reporting of race-based data for greater transparency
- 17.2 Review and overhaul the Professional Standards for discipline at the Toronto Police Service
- 17.3 Strengthen community capacity to report and police capacity to investigate Islamophobic, transphobic and anti-Black hate crimes through a Community Police Hate Crimes Advisory Committee
- 17.4 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

RECOMMENDATION

- 18. Invest in alternative models that create better safety outcomes for Black Torontonians**

ACTIONS

- 18.1 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

- 18.2 Use an Anti-Black Racism Analysis to develop and implement alternative models of policing that focus on community engagement
- 18.3 Use effective alternative models to incarceration such as the use of restorative justice models developed and implemented with elders in Black communities





COMMUNITY ENGAGEMENT & BLACK LEADERSHIP

Toronto has a long and rich history of Black leadership, community engagement and innovation. From the first Black man to be elected to Canadian public office, Toronto City Council, in 1894, to ground-breaking civil rights lawyers, activists and educators. For decades, Toronto's Black leaders founded ground-breaking organizations that championed social, economic and political inclusion for Black Torontonians. The Black Action Defence League, Third World Books, the African Canadian Legal Clinic, Women's Hands in Women's Health, and now, Black Lives Matter Toronto, are just a few.

Persistent, systemic racism and anti-Black bias has required Toronto's Black parents, young

people, and leaders in faith communities, business and labour to challenge uneven policies and practices creating barriers in their daily lives.

For over 41 years, Black communities have been organizing for meaningful engagement in the decisions that affect them and their children. They have asked for equitable investment in Black-led organizations to strengthen the social, economic, civic and spiritual capacity of Black Torontonians. Few sustainable investments have occurred.

The successful implementation of the Toronto Action Plan to Confront Anti-Black Racism necessitates shared leadership.

RECOMMENDATION

19. **Increase opportunities for Black Torontonians to participate in City decision-making**

ACTIONS

- 19.1 Outreach, recruit and appoint diverse people of African descent to City agencies, boards and commissions
- 19.2 Outreach, recruit and appoint diverse people of African descent to program-level advisories in City divisions
- 19.3 Engage City staff of African descent to provide guidance and leadership to the full implementation of the Toronto Action Plan to Confront Anti-Black Racism
- 19.4 Review and revise the City's complaint processes to ensure that anti-Black racism is addressed at all phases and is aligned with related City instruments, policies and regulations
- 19.5 Advertise the City's complaint processes in communities of African descent

RECOMMENDATION

20. **Make City spaces more accessible and welcoming to Black Torontonians**

ACTIONS

- 20.1 Leverage City spaces to create a Black community hub in partnership with Black service providers
- 20.2 Conduct an audit using an Anti-Black Racism Analysis to evaluate City spaces and programs

RECOMMENDATION

21. **Invest in Black arts and culture**

ACTIONS

- 21.1 Report the economic impacts from City-funded, major community festivals
- 21.2 Actively engage Black advice to review routes, sites and security and increase the sustainability of Black cultural festivals
- 21.3 Increase stable funding and supports for Black arts and culture
- 21.4 Outreach to diverse people of African descent to share information about City grants processes, applications and deadlines

RECOMMENDATION

22. **Provide public education on issues of anti-Black racism in Toronto**

ACTIONS

- 22.1 Repeat and expand the public education campaign on Anti-Black Racism
- 22.2 Provide public education on how anti-Black racism negatively impacts the health of people of African descent including being a trigger for mental illness



INTERGOVERNMENTAL COOPERATION

During the process to develop the Toronto Action Plan, Black Torontonians shared recommendations and actions that fall within the jurisdiction of the Province of Ontario. These include calls for:

- Improvements to the Education System to support safe and effective learning for Black children and youth
- Improvements to the Child Welfare System to better serve and support Black children and youth
- Improvements to the quality and availability of mental health services, and the effectiveness of community and health services for Black Ontarians
- Expanding access to high-quality mentorship, training and employment programs for Black youth

Improvements to job quality and income supports for precariously employed Black Ontarians

- Improvements to human rights protection and employment equity for Black Ontarians
- The implementation of measures to stop racial profiling and over-policing of Black Ontarians
- The development of a more transparent, accountable and effective police oversight system to better serve Black people and to strengthen community trust in police to serve and protect them.

The collective work of eradicating anti-Black racism must involve the collaboration of all orders of government, institutions, business, schools, community agencies, and individuals.



NEXT STEPS

The Toronto Action Plan to Confront Anti-Black Racism will be implemented over a five-year term, 2018 to 2022. Implementation will be based on five annual work plans, starting in Year One (2018), and a corresponding progress report.

For each year of implementation:

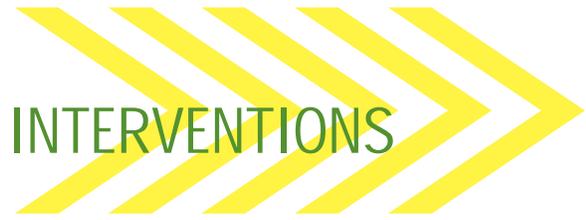
An annual work plan will be created by City staff, in collaboration with community members and submitted to City Council for approval.

Each annual work plan will contain key

priorities and initiatives to advance the equitable outcomes for Torontonians of African Descent.

Work plans also include a mix of initiatives that can be completed within existing resources and others requiring new investments. New resources will be sought through the City's budget process on an annual basis.

An annual progress report will be reported publicly to help ensure continued improvement and community accountability.



INTERVENTIONS

An intervention is an act of intentional involvement to interrupt a negative situation in order to improve it.

The 80 actions of the Action Plan are summarized into nine Interventions meant to intentionally interrupt anti-Black bias and discrimination in policies and practices in order to improve conditions and opportunities for Black Torontonians, and by extension, benefit all Torontonians:

- **Staff Learning:** Train staff using an Anti-Black Racism Analysis
- **Staff Recruitment & Advancement:** Recruit staff from diverse Black communities
- **Race-Based Data:** Collect and report on race-based data
- **Collaborative Service Planning:** Collaborate with people of African descent to improve systems
- **Community Investment:** Invest in community resources
- **Youth Mentorship & Employment:** Prioritize mentorship for youth of African descent
- **Public Education:** Provide civics and public education using an Anti-Black Racism Analysis
- **Policy Development:** Develop policy using an Anti-Black Racism Analysis
- **Intergovernmental Advocacy:** Advocate for recommendations to the Province

The establishment of the Anti-Black Racism Partnership & Accountability Circle comprised of diverse Torontonians of African descent to support the implementation of the Toronto Action Plan to Confront Anti-Black Racism in collaborative, transparent, effective and accountable to the community ways is key to these efforts.

City-community collaboration has been key to developing the Toronto Action Plan to Confront Anti-Black Racism. City-community collaboration will be critical to implementing the Plan and ensuring that the actions that are implemented work towards creating equitable outcomes for Torontonians of African descent.

Join us!

City staff have begun the work planning for implementation based on these interventions. Interventions provide a proactive thematic grouping for actions in the Action Plan. They allow City staff and supporting community members to look for common solutions across a set of actions and integrate those solutions where relevant in order to have the most meaningful impact.

SUMMARY CHART

Issue	#	Recommendation	#	Actions	City of Toronto
CHILDREN & YOUTH DEVELOPMENT	1	Increase access to high quality programs for Black children and youth	1.1	Develop and implement training on effective programming for Black children and youth, through an Anti-Black Racism Lens	CS, EDHR, HR, PFR, SDFA, TPH
			1.2	Increase supply and variety of culturally appropriate before and after school programs with clear learning objectives, including STEAM (science, technology, engineering, arts and math) programs	CS, PFR, SDFA
			1.3	Support effective Black youth leadership programs, including rites of passage, civic and community leadership	CS, HR, PFR, SDFA, S&CP, TPH
			1.4	Increase hiring of Black Torontonians and partnerships with diverse Black communities to ensure that children and youth programs reflect the diversity of the communities they serve	CS, HR, PFR, SDFA, TPH
			1.5	Develop and implement intergenerational and cultural connections through Black mentorship initiatives	CS, EDHR, PFR, SDFA, TCHC
	2	Meet the specific needs and aspirations of Black queer and trans youth	2.1	Consult on and invest in meeting the specific needs and aspirations of Black queer and trans youth	CS, EDHR, PFR, SDFA, TPH
			2.2	Expand resources for Black queer and trans services providers	SDFA, TPH
			2.3	Work with Black parents, service providers and youth to create culturally relevant education and support services for parents of Black queer and trans children and youth	CS, PFR, SDFA, TPH, EDHR
	3	Advocate for better protection and supports for Black children and youth	3.1	Communicate to the Province and the school boards the need for education improvements that support safe and effective learning for Black students	S&CP, SDFA
			3.2	Communicate to the Province the need for improvements to the Child Welfare System to better serve and support Black children and youth	S&CP, SDFA
			3.3	Collaborate with provincial and federal institutions to ensure Black newcomer children reuniting with their parents/caregivers are enrolled in schools and supported	SDFA

Issue	#	Recommendation	#	Actions	City of Toronto
HEALTH & COMMUNITY SERVICES	4	Improve the quality and availability of City-programmed community mental health services for Black Torontonians	4.1	Work with the Province to support training for community mental health and addiction treatment service providers using an Anti-Black Racism Analysis	SDFA, TPH
			4.2	Work collaboratively with Black communities and the Province to leverage Black cultural knowledge to lead and provide more mental health and addiction treatment services across the city for Torontonians of African descent, including clinics, on call counsellors, harm reduction programs and supports for post-traumatic stress disorder	SDFA, TPH
	5	Improve the quality and effectiveness of health and community services for Black Torontonians	5.1	Increase stable funding to Black community organizations providing essential services to better meet the needs and aspirations of Black Torontonians	SDFA, TPH
			5.2	Replicate and expand effective models of Black-led health and community services to underserved neighbourhoods and populations of Black Torontonians	SDFA, TPH
			5.3	Regularly update 211 directory with community-based services for Black Torontonians	SDFA.
	6	Strengthen the accountability of health and community services for Black Torontonians	6.1	Outreach, recruit and hire from diverse Black communities to increase number and retention of health, social & community workers of African descent	TPH
			6.2	Develop and implement an outreach initiative to recruit and support diverse Black Torontonians for leadership and governance roles in health and community organizations	PFR, SDFA, TPH
			6.3	Advocate and coordinate with funders to require the collection and public reporting of health and community service data disaggregated by race and other characteristics	HR, SDFA, TPH
			6.4	Advocate and coordinate with funders to invest in community capacity to comply with the collection of data disaggregated by race	HR, SDFA, TPH
	7	Improve the quality of recreation services for Black Torontonians	7.1	Improve recreation spaces in neighbourhoods with high proportions of Black residents	PFR
			7.2	Regularly engage with diverse Black Torontonians on how to expand and improve recreational programming and facilities	PFR
	8	Improve food access for low-income Black Torontonians	8.1	Apply an Anti-Black Racism Lens to improve the programming of the Toronto Food Strategy and Toronto Agricultural Program	SDFA, TPH

Issue	#	Recommendation	#	Actions	City of Toronto
HEALTH & COMMUNITY SERVICES	9	Improve support models to better address the specific needs of Black seniors, newcomers, people living with HIV/AIDs, people with disabilities, and Francophone women	9.1	Ensure seniors of African descent are represented in Version 2.0 of the Toronto Seniors Strategy	SDFA, TPH
			9.2	Increase settlement sector knowledge of programs and services for Black newcomers	SDFA
			9.3	Ensure Black newcomers are represented in the Toronto Newcomer Strategy and the Integrating Cities Charter	SDFA
			9.4	Communicate with the Province the need for greater funding support for Black organizations that provide services for people of African descent living with HIV/AIDS	TPH
			9.5	Apply an Anti-Black Racism Analysis as the City implements AODA and other steps to accommodate people with disabilities	EDHR, HR
			9.6	Provide culturally appropriate supports to address violence against women of African descent in Francophone communities	SDFA, TPH
	10	Improve shelter and housing conditions to better support Black Torontonians	10.1	Advance the recommendations of Tenants First, including improving the quality of Toronto Community Housing through a revised tenant-focused service delivery model that better serves families, youth and vulnerable tenants, including seniors, with a stable funding formula	SDFA, SSHA, TCHC
			10.2	Apply an Anti-Black Racism Analysis to shelter standards and procedures	SSHA, TPH
			10.3	Ensure shelter staff are trained on anti-Black racism as a trigger to mental illness	SSHA, HR
			10.4	Create safe spaces within new LGBTQ2S shelters for Black queer and trans youth	SSHA
			10.5	Collect race-based data on homelessness, particularly on the needs of Black queer and trans youth for shelters support services planning	SSHA
			10.6	Create safe spaces within women's and family shelters for women of African descent	SSHA
			10.7	Apply an Anti-Black Racism Analysis to the Rent Supplement provision process to support equitable access to rent supplement program	SSHA
			10.8	Apply an Anti-Black Racism Analysis to the Eviction Prevention Framework in the 2017-2018 Eviction Prevention Strategy	SSHA

Issue	#	Recommendation	#	Actions	City of Toronto
JOB OPPORTUNITIES & INCOME SUPPORTS	11	Increase employment and training opportunities for Black Torontonians at the City of Toronto	11.1	Outreach to, recruit and hire diverse Black people to increase the number and retention of employees of African descent at the City of Toronto	HR, EDHR, SDFA
			11.2	Engage diverse Black experts and community members to develop Anti-Black Racism training for all City staff and leaders with a focus in the areas of Human Resources practices, including recruitment, hiring, and retention	HR, EDHR, SDFA
			11.3	Include socio-demographics, including race and gender identity, as part of the City's Count Yourself In employee survey	EDHR, HR, SDFA
			11.4	Enhance current City internship programs to include youth of African descent, including Black queer and trans youth	EDC, SDFA, TCHC, TPH, TPL
			11.5	Engage Black City staff to create a Black Staff Network to support professional development and engagement	SDFA
	12	Provide mentorship programs as a pathway to employment and promotion for Black Torontonians	12.1	Leverage federal and provincial funding to create career-based mentorship programs for Black youth to support skill development and the building of professional networks	EDC, SDFA, TCHC, TESS, TPL
	13	Improve access to high-quality training and employment programs for Black youth	13.1	Work with public and private sectors to remove systemic barriers in order to create effective career pathways for Black youth by leveraging federal and provincial youth employment funding and addressing the specific needs of young women, young Francophones, youth with criminal records, and queer and trans youth from Toronto's communities of African descent	EDC, SDFA, TESS, TCHC, TPL
			13.2	Host employment fairs and skills development programs in community hubs and Black-focused agencies	PFR, SDFA, TESS
			13.3	Provide free police reference checks, training and certifications for Black youth to access volunteering and entry-level jobs	HR, SDFA, TESS, TPS
			13.4	Target a City-administered youth employment program, funded by federal and/or provincial governments to support Black youth with criminal records and integrate funding for these youth to apply for record suspensions	SDFA, TESS
			13.5	Champion inclusive and equitable hiring practices among non-profit and private sector employers that focus the use of police reference checks, including vulnerable sector checks, only for circumstances where there is a legal obligation	EDHR, HR, SDFA, TESS
			13.6	Advocate to the provincial and federal governments to remove barriers to applying for criminal record suspensions	SDFA, TESS

Issue	#	Recommendation	#	Actions	City of Toronto
JOB OPPORTUNITIES & INCOME SUPPORTS	14	Improve job quality and income supports for precariously employed Black Torontonians	14.1	Continue to advocate to the Ontario government to raise social assistance rates	TESS
	15	Support Black-owned businesses to better compete and thrive in Toronto	15.1	Target Black-owned businesses and social enterprises for outreach, training and vendor networking as part of the City of Toronto Social Procurement Program	EDC, PMMD, SDFA, TESS
			15.2	Support the start-up and incubation of Black-owned businesses	EDC
			15.3	Target development supports for businesses owned by Black women, Francophones, and people who were formerly incarcerated	EDC

Issue	#	Recommendation	#	Actions	City of Toronto
POLICING & THE JUSTICE SYSTEM	16	Implement measures to stop racial profiling and over-policing of Black Torontonians	16.1	Review communication strategies with communities of African descent about the ongoing elimination of carding as a policing practice	TPS
			16.2	Review the decision not to destroy the previously collected carding data	TPS
			16.3	Review police use of force protocols from an Anti-Black Racism Analysis	TPS
			16.4	Review police and community training, including Community Crisis Response Programs, to include use of force issues	SDFA, TPS
			16.5	Improve training to equip Law Enforcement Officers with knowledge and skills to better protect and serve diverse people of African descent	SDFA, TPS
			16.6	Strengthen protocols for police response to people in crisis and report regularly on police-people in crisis interactions, using an Anti-Black Racism Analysis	TPS
			16.7	Communicate to the Province the need for improvements to policing and the justice system to better serve and protect people of African descent	TPS
	17	Build a more transparent, accountable and effective police oversight system to better serve Black Torontonians and to strengthen community trust in police to serve and protect them	17.1	Mandate the collection and public reporting of race-based data for greater transparency	TPS
			17.2	Review and overhaul the Professional Standards for discipline at the Toronto Police Service	TPS
			17.3	Strengthen community capacity to report and police capacity to investigate Islamophobic, transphobic and anti-Black hate crimes through a Community Police Hate Crimes Advisory Committee	TPS
			17.4	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	TPS
	18	Invest in alternative models that create better safety outcomes for Black Torontonians	18.1	Work with community partners to build a coordinated strategy to advance police accountability and community capacity to respond to policing and the justice system, including translation, expansion, and dissemination of "know your rights" information	TPS
			18.2	Use an Anti-Black Racism Analysis to develop and implement alternative models of policing that focus on community engagement	TPS
			18.3	Use effective alternative models to incarceration such as the use of restorative justice models developed and implemented with elders in Black communities	TPS

Issue	#	Recommendation	#	Actions	City of Toronto
COMMUNITY ENGAGEMENT & BLACK LEADERSHIP	19	Increase opportunities for Black Torontonians to participate in City decision-making	19.1	Outreach, recruit and appoint diverse people of African descent to City agencies, boards and commissions	Clerks, EDHR, S&CP, SDFA
			19.2	Outreach, recruit and appoint diverse people of African descent to program-level advisories in City divisions	EDHR, SDFA
			19.3	Engage City staff of African descent to provide guidance and leadership to the full implementation of the Toronto Action Plan to Confront Anti-Black Racism	SDFA
			19.4	Review and revise the City's complaint processes to ensure that anti-Black racism is addressed at all phases and is aligned with related City instruments, policies, and regulations	CCO, Clerks, EDHR, HR, SDFA, S&CP
			19.5	Advertise the City's complaint processes in communities of African descent	CCO, Clerks, EDHR, HR, SDFA, S&CP
	20	Make City spaces more accessible and welcoming to Black Torontonians	20.1	Leverage City spaces to create a Black community hub in partnership with Black service providers	RES, SDFA
			20.2	Conduct an audit using an Anti-Black Racism Analysis to evaluate City spaces and programs	Facilities, Security, SDFA, PFR, TPL
	21	Invest in Black arts and culture	21.1	Report the economic impacts from City-funded, major community festivals	EDC, SDFA
			21.2	Actively engage Black community advice to review routes, sites and security and increase the sustainability of Black cultural festivals	EDC
			21.3	Increase stable funding and supports for Black arts and culture	EDC
			21.4	Outreach to diverse people of African descent to share information about City grants processes for applications and deadlines	EDC, SDFA, TPH
	22	Provide public education on issues of anti-Black racism in Toronto	22.1	Repeat and expand the public education campaign on Anti-Black Racism	EDHR, Facilities, HR, Strat Comm, SDFA
			22.2	Provide public education on how anti-Black racism negatively impacts the health of people of African descent including being a trigger for mental illness	SDFA, TPH

LEGEND: City Divisions, Agencies, and Commissions

CCO	Chief Corporate Officer – Customer Service Centre of Excellence	SDFA	Social Development, Finance, and Administration
Clerks	City Clerk's Office	Security	Corporate Security
CS	Children's Services	SSHA	Shelter, Support, and Housing Administration
EDC	Economic Development and Culture	Strat Comm	Strategic Communications
EDHR	Equity, Diversity & Human Rights	SSHA	Shelter, Support, and Housing Administration
Facilities	Facilities Management	TCHC	Toronto Community Housing Corporation
HR	Human Resources	TESS	Toronto Employment & Social Services
PFR	Parks, Forestry and Recreation	TPH	Toronto Public Health
PMMD	Purchasing and Material Management Division	TPL	Toronto Public Library
RES	Real Estate Services	TPS	Toronto Police Service
S&CP	Strategic & Corporate Policy		



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