



MISSING AND MISSED

**Report of The Independent Civilian Review
into Missing Person Investigations**

The Honourable Gloria J. Epstein
Independent Reviewer

VOLUME I

Executive Summary
and Recommendations

VOLUME II

Investigations

VOLUME III

Relationships: The Police
and Communities

VOLUME IV

Recommendations, Conclusion,
and Appendices

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The Independent Civilian Review into Missing Person Investigations respectfully acknowledges that our work took place in Toronto on the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples. We also acknowledge that Toronto is covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands. Toronto is now home to many diverse First Nations, Inuit and Métis peoples, to whom we are grateful for the opportunity to meet, to work and to feel safe together.

Statement for cover design:

This is a thoughtful moment in time, silhouetted against a spectrum of colours that layer, blend, and contrast to create beauty. Inclusive, interjective beauty. The duality of looking both forward and backwards carries that weighted emotion where sadness gives way to hope. The design incorporates the 2018 Progress Pride Flag design of Daniel Quasar. His rendition combines the Transgender Pride Flag created by Monica Helms and the original Pride Flag created by artist Gilbert Baker. Designs have undergone revisions since its debut in 1978.

~ Sarah Currie

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Chapter 10

TORONTO'S COMMUNITIES SPEAK

In this chapter, I describe what I learned from the Review's extensive community outreach and engagement strategy. Through stakeholder meetings, one-on-one dialogue, a two-day policy roundtable, a town hall meeting, and the Review's detailed Community Engagement Survey, I came to understand the perspectives, lived experiences, and recommendations of community members. The Review also received written submissions from a number of organizations that I refer to in my commentary to the recommendations set out in Chapter 15.

Community Outreach and Engagement

In Chapter 1, I outline the Review's public outreach and engagement strategy, designed to provide all groups, organizations, and members of the public with many ways to contribute to the issues set out in the Review's Terms of Reference. At the risk of some repetition, I will reintroduce here the key components of the Review's strategy.

Meetings with Stakeholders and Affected Community Members

In mid-May 2019, my team and I began to meet with stakeholder groups. These meetings were designed to allow those interested to share perspectives, experiences, and recommendations, and almost all of them took place in community spaces. Some of these groups approached the Review, while the Community Advisory Group and the Review's outreach team identified and reached out to others. I also met one-on-one with community members, confidentially, when it was important to do so to guarantee a safe and supportive environment. I personally met with hundreds of individuals – some more than once. No request to meet, at any time, at any location, or in any circumstances, was turned down.

The community members and groups I met with were extremely diverse in perspective and lived experience. It was important for me to hear not only from those who work with diverse communities, many of whom were also members of those communities, but also directly from the most marginalized and vulnerable members of those communities whose voices often remain

unheard. It was also important that I hear from those who are sharply critical of the Toronto Police Service (the Service), those who are more positive, and those in between. Simply put, my consultations were not defined by how “mainstream” or “unconventional” the views expressed would be.

During this process, I heard from members of the LGBTQ2S+ communities; Indigenous, Black, South Asian, and other racialized communities; those who did not self-identify as visible minorities; the homeless and underhoused; trans individuals; sex workers; those struggling with or surviving mental health and addiction issues or living in poverty; those who are HIV/AIDS positive; immigrants and refugees, some with precarious legal status; representatives of neighbourhood associations; and the loved ones of those who have gone missing. Throughout this Report, I refer to members of the LGBTQ2S+ communities, rather than community, in recognition of the fact that there is no monolithic LGBTQ2S+ community, just as there is no single Black community or Indigenous community. For example, within the LGBTQ2S+ umbrella are multiple communities, some of whom self-describe as white or privileged; some as trans and marginalized; and some as queer, asexual, bisexual, BDSM, or two-spirited. I was truly honoured to hear from so many of them.

As I reflect in Chapter 12, it was also important to recognize that community members should rarely be defined by a single identifier. Virtually all individuals intersect with multiple communities that affect their perspective and lived experience. I have striven to capture this concept of intersectionality in my recommendations (see Chapter 15).

Online Survey

Almost one thousand community members participated in an anonymous online Community Engagement Survey open from mid-November 2019 to the end of May 2020. The Review widely publicized the survey, and the response was gratifying (see Appendix E to this Report).

Written Submissions or Anonymous Comments

The Review invited all members of the public to make written submissions or, if they preferred, to submit anonymous electronic comments through a portal on the Review’s website. As I indicate above, the Review also invited a wide range of organizations to provide written submissions.

Policy Roundtable

On August 18 and 19, 2020, 33 community leaders and policing experts from around the globe participated, by invitation, in a policy roundtable to provide

their perspectives and recommendations on systemic issues identified by the Review. Mr. Sandler and Jane Farrow, our public consultation lead, spearheaded the policy roundtable's plenary sessions, while members of the Community Advisory Group facilitated its small group sessions. Participants are listed in Appendix B to this Report.

Town Hall Meeting

On October 14, 2020, the Review held a public town hall meeting. We described our work up to that date and outlined the key data from the recently completed survey. Most important, this meeting provided yet another opportunity for people to express their views – in this instance, in a public setting. The video of the town hall meeting can be viewed on the Review's website.

In summary, the Review's outreach and engagement plan was rewarded by an overwhelming response. As I indicate above, about one thousand people filled out the survey alone. Hundreds of people spoke to me, including representatives of many organizations. I was deeply touched by the willingness of so many individuals to share their intimate and moving experiences with me. Out of respect for them all, and to enable them to speak candidly, I promised that I would not attribute their comments to them in this Report unless I sought and received their permission. Although some of them would undoubtedly have granted such permission, I have not generally asked for it, in the hope that no participant will experience any unnecessary pain. I am most grateful for contributions from all the participants. As they can see, their comments have figured prominently in my recommendations.

Meetings with Stakeholders and Affected Community Members

I met with a large number of organizations and community members as part of the Review's outreach and engagement, including representatives of about 45 organizations. The organizations are listed in Appendix D. I will not pretend to set out exhaustively what I was told during these many sessions, but certain overlapping themes emerged. In the pages that follow, I will highlight these themes in quotations set off from the text with a marginal line.

Organizationally, we continue to work on our relationship with the police because we do believe it is a very important one. I think that the police are under a tremendous amount of pressure. But there needs to be a seismic shift and demonstrable change in the culture, the organization,

and I think too the leadership of the police for our community to even begin to reach out a hand to say we're even open to a conversation. I think people have just felt abused for decades.

The Flawed Relationship the Service Has with Diverse Communities

A number of community members are deeply distrustful of the police. They describe how a legacy of overpolicing and underprotection has led to a strained relationship between their communities and the police. Many members of the LGBTQ2S+ communities, for example, refer to the legacy of criminalization, citing the bathhouse raids in 1981 and other critical events I describe in Chapter 14. They regard this history as not merely a “legacy” issue but an ongoing systemic issue tied to discrimination against, among others, LGBTQ2S+, Black, and Indigenous community members.

One lawyer explained that many of his racialized clients reported having numerous negative interactions with the police, such as unnecessary traffic stops and carding. The personal experiences of these clients, combined with their hearing about negative interactions with the police from friends, cause them to believe that the police will not help them. I heard that fear of the police is perpetuated even among people who have had no direct experience with the police: “Everybody tells stories, and there is just a tremendous amount of fear.”

One member of Toronto’s Black community told me of his deep distrust of the police:

As long as I remember being young, myself and my siblings, there was always a conversation about police. Here’s what you need to do, here’s what you need to not do, here’s how you need to dress, here’s how you need to act. In the 24 years since, there hasn’t been that much to get me to switch my mindset. Therefore, that distrust is so caked and embedded within me it influences how I walk through life, it influences how I engage in life, and it will probably impact me for the rest of my life. That reality doesn’t change if the police implement a new outreach program. The distrust is so embedded, unless there is an avenue to dream up alternatives, it will always be – you don’t trust enough, you don’t give enough.

A number of community members believe that the Service has not committed to, let alone implemented, recommendations from past reviews. They are disillusioned with the Service and pessimistic about its ability to make meaningful change. Some people told me that although the Service has made changes to improve its relationship with communities, these changes

have not produced the systemic results they hoped for. They believe that the Service still doesn't appreciate how intimidating their presence can be, and that most community members feel very vulnerable in their interactions with the police. One participant observed that the police see people at their very worst. The view of the police as intimidating was certainly not shared by everyone, but it was particularly prominent among those who are most vulnerable.

There might be aspects of this that is just a bad system, but I think these bad systems are experienced differently by different populations or perceived differently. Individuals who are already marginalized will perceive that same bad system more adversely, where people who are more empowered will say, fine, I'll call back next Thursday ... and the Thursday after that.

Most, but not all, of my community engagement predated George Floyd's death and the heightened discourse around the "defunding the police" movement that followed that event and others too. A number of individuals, though clearly not a majority, feel that the relationship between the Service and Toronto's diverse communities is beyond repair. They believe the Service's failure to appropriately investigate the disappearances of Bruce McArthur's gay, mostly racialized victims shows that cultural sensitivity training and greater diversity in policing ranks have not been successful. They cite many instances of discriminatory conduct directed against marginalized and vulnerable community members. Ultimately, they assert that the police should be replaced by community organizations and that financial resources devoted to the police should be redirected to such communities.

It's a bit of a fallacy that they solve problems. It's a bit of a fallacy that they serve our community. It's a bit of a fallacy that they provide protection. So, I don't know if I could name something that they do that couldn't be done better by community supports or community services.

I refer above to the criminalization of vulnerable community members. I was advised that criminalization creates an inevitably tense relationship between the police and some communities. The continuing criminalization of certain sexual activities, non-disclosure of HIV status to sexual partners, possession of illicit drugs, and concerns about the police attempting to enforce immigration laws were also cited as exacerbating the already troubled relationship between the police and affected communities. A number of participants indicated that, if they were in danger, going to the police would be

a “last option” because of their fear of being arrested or being targeted themselves. Individuals working for community organizations reflected on how their clients who have been involved in the criminal justice system find themselves in an adversarial relationship with the Service and are unlikely to trust the police with their own safety. I repeatedly heard about the anxiety associated with potential criminal charges and the barriers this fear creates in reporting matters to the police.

Gosh, I would love to know when what I am doing is actually illegal and actually a thing I’ll be prosecuted for and when it isn’t. Because then I can deal with the police with a sense of calm and confidence.

When I met with those living with mental health issues who showed courage in sharing their stories with me, they conveyed their discomfort in ever going to the police for fear of being involuntarily committed under mental health legislation. Mental health workers were especially wary about calling police to assist someone in crisis because they do not believe the police will necessarily de-escalate an incident or show restraint in their use of force. Some of these individuals also expressed concerns about exposure to criminal or immigration charges. Clients of one HIV/AIDS advocacy organization said they feared that the police will disclose or record their status, thereby “outing” them.

The distrust felt by many vulnerable community members affects the relationship between the police and community organizations that seek police assistance. As someone who works with youth and the homeless reflected:

That’s a tightrope that we walk all the time. We want to work with the police, we want their support, we want to be helpful up to a point, but we don’t want to be seen as an arm of the police, because then young people won’t trust us. So that’s a delicate balance.

In addition to the fears already described, some community members feel fundamentally misunderstood by the police. One organization’s clients who knew McArthur did not feel they could come forward to police:

So, our clients who knew him would not come forward. They didn’t know whether they should identify themselves to police as to their relationship to the serial killer for fear that they would somehow be linked or associated with his actions. That was really the premise of some of the concern for a small group of clients. They were very worried about what that would mean

for them personally, if they had had any association with McArthur and did not trust that police would know how to manage that and understand that relationship.

Some communities have come to rely on themselves for safety because they do not feel protected or served by the police. A member of Toronto's BDSM community explained: "We have so many safety mechanisms within our community because we don't expect the mainstream ones to ever really serve us."

A common theme that emerged during the stakeholder meetings was that a number of members of Toronto's diverse communities do not feel that the police see them as "whole people" or as equal members of the community. They worry that if they approach the police, they will be reduced to their mental health status, their criminal record, or their HIV status. I also learned that many community members do not feel they are trusted by the police when they do come forward.

Many community members expressed the view that the police bear the onus to build or rebuild trust:

Because of that history of no relationships, fractured relationships, broken relationships, broken promises, violations, all of that swatch of history ... in order for that bridge of trust to be built, there will need to be a differential carriage of responsibility on the part of the police to do that. Because both folks don't come equally to the table, sharing the sense of inequality and history. So, you don't just call a meeting, and because there's a meeting that's called, the overture has been made and everybody will come. There will be more that the police would need to do to build that relationship.

In contrast, other community members were much more positive about the Service and their own interactions with officers. They believe that the levels of mistrust expressed are not shared by many Torontonians, including members of the LGBTQ2S+ communities. I address this divergence of views in this chapter's Summary and Findings.

The various opinions about the Service are manifested in other ways too. For example, in recent years uniformed members of the Service have not been permitted to march in the Pride parade. Some members of the communities see no role for uniformed officers in the parade. At the other end of the spectrum, some would like to see officers participate in Pride and be supported by Pride, particularly LGBTQ2S+ officers already working in a challenging environment. Still others point to the Service's response to the disappearances

of McArthur’s victims and to recent events such as Project Marie¹ as proof that the Service must demonstrate tangible improvements in how it relates to the LGBTQ2S+ communities, and to marginalized and vulnerable groups generally, before uniformed officers are permitted to march in the Pride parade.

In summary, a difficult relationship exists between the Service and many members of the diverse communities who participated in the Review’s community engagements. Unfortunately, this mistrust augments existing barriers, undermines confidence in the Service, and ultimately affects the quality of policing offered, especially in relation to marginalized and vulnerable communities.

Inconsistency in Police Interactions

Many participants lamented the inconsistent quality of service the Service provides. They described both positive and negative interactions with the police, dependent largely on the officer who responds. I realize it is hardly surprising that officers have uneven skills sets, competencies, and attitudes. However, the theme that officers respond in inconsistent ways reflects the point that community members do not perceive negative interactions with the police to be isolated or infrequent events. Rather, they feel they are not guaranteed a standard level of service. They expressed concern that front-line officers often do not have the tools, skills, or compassion to deal appropriately with their urgent needs. Participants described a number of disturbing interactions. I wish to make it clear that I have made no findings specific to each interaction because I am not in a position to do so.

These accounts, however, speak collectively to pronounced inconsistencies in service provided by the police and to existing perceptions that can reinforce and exacerbate existing mistrust. I also heard that the negative interactions described can dissuade people from depending on the police at all. One professional stated she doesn’t know how to advise her clients to “just call the police” because she is never sure how the police will respond – whether they will make an arrest and what the implications of an arrest will be.

On June 4th of this year there were some altercations with preachers in the Church-Wellesley neighbourhood. It took four calls to police and over 45 minutes for them to arrive. In that time, there was a trans individual who was physically hurt, quite seriously to the point of

¹ See Chapter 14.

having to be taken to the hospital. Just this year, we had another call to the police. There was a community member in our space who was having a bit of a mental health crisis, but we needed to inform the police in relation to the safety of other people in the building. The police arrived. This was a 100-pound trans woman who was thrown down our stairs with five officers on top of her. The woman repeatedly said, “I can’t breathe, I can’t breathe” – there were five officers on top of this individual who refused to get off. It wasn’t until one of our managers on duty actually said, “What the fuck are you doing?” And an officer turned around and said, “If you didn’t want us here, you shouldn’t have called us.”

It is important to include here that some community members described instances when Toronto police officers responded to their situations with compassion and empathy:

I was on my way to a funeral with my mom and I got lost and I ended up in my old neighbourhood in Etobicoke. So, I walked up to a police car, and he rolls down the window. I was crying and so upset, and even though I was angry and yelling at him, he was understanding and he drove me to the funeral home. They didn’t make me feel uncomfortable. [Just]because I’m mentally delinquent I shouldn’t be treated like shit.

The challenge is to promote an environment in which officers are more likely to respond with compassion and understanding, or, to adopt a phrase used by the federal ombudsperson for victims of crime, with “cultural humility” – that is, by their feeling comfortable with not knowing while being open and ready to learn (see my recommendations on this point in Chapter 15).

And it’s not easy also to change culture. This is the most difficult. When I hear people say they are giving information in cultural competency, well, nobody is competent in culture. Because culture is huge and vast. So people cannot be competent in any culture. So you just live with it, you try to understand pieces of each one and then work and go for it ... It’s not going to be easy for police people to understand that or for [us] to understand them, but we have to compromise.

Greater Use of Community Policing

Despite these levels of mistrust, many community members were supportive of community-based police officers – liaison officers and neighbourhood

community officers. They regarded the neighbourhood community officer program, which I describe in greater detail in Chapter 14, as a positive development in policing with the capacity to build trust.

We have seen some police officers in the neighbourhood who are around more often. You actually see people talking to them. It boils down to relationship building. You don't see them as someone who's just law enforcement.

Some community service providers described the complicated relationship their organizations have with the Service. One person told me that her organization makes a conscious effort to avoid calling 911 for fear of the way clients will be treated. They and many others prefer contacting the neighbourhood community officers in their area when they need police assistance. They believe these officers provide them with better support. Some wanted to see liaison and neighbourhood community officers more highly valued within the Service, with greater resources devoted toward community policing. Some cited examples of the liaison officer being disconnected from the Service's policing activities.

In organizations that are seeking to make change, sometimes you put in an individual role that is your community engagement liaison, your access and equity liaison, but that role isn't really invested with any authority or decision-making power to advance action and change. So these roles are important bridges and links to community, but they need to be vested with the ability to actually do something. Other than that, it's a setup for those individuals who are in those roles who come from the community who are then seen as ineffective, and it deepens the mistrust ... It's the optics of change without the substance of change.

The Need for Strong Community Engagement

Many participants expressed the need for the police to engage meaningfully and transparently with diverse communities. Community engagement was said to involve more than a “hand-shaking exercise.” Participants stressed the importance of police working with community organizations. One advocate observed that the police simply do not engage with the sex-worker community in missing person cases. She said, “They disconnect themselves from communities that can really give them what they need [in terms of information].” To make this connection, the police need to “know the community” and be culturally competent. The expressed need for extensive

community engagement aligns with my findings that, in a number of missing person investigations involving marginalized and vulnerable communities, the police failed, often out of ignorance, to avail themselves of community resources or even community-based expertise within the Service. This failure was magnified by the unnecessary withholding of basic information about existing investigations, a flaw identified both by officers and by community members.

We work with hundreds of black queer men at our organization and they are all connected – there are no more than two steps, two degrees of separation between any of them as far as I'm concerned. Sometimes that's terrible and not great, but in many ways there are opportunities to leverage those social relationships and those social networks that are easily accessible. The police haven't done a really good job of it nor have we really been prepared to have a conversation with police about how that could be done, but I think, again, those relationships, those networks could be creatively leveraged.

Those roles [officers working with communities] need to be valued, so it's not a constant cycling of people in them. The other piece that I think is an issue is that the leadership – you also see a similar cycling through of the leadership of various divisions. So folks come, spend three years, as a community you invest in building those relationships, and those people who have been there in the leadership change. So there's a constant cycling through of the mechanisms for promotion within the division, which does not sustain building a community.

Community organizations such as the Alliance for South Asian AIDS Prevention (ASAAP) see the value, as do I, in such organizations acting as “interlocutors” – serving as liaisons between the police and communities. I learned that community members often ask one organization to report incidents to the police on their behalf because they feel they will not be taken as seriously. I was impressed, for example, with the work done by Haran Vijayanathan, then executive director of ASAAP and a valued member of my Community Advisory Group, in facilitating ongoing dialogue between the police and the families of McArthur's victims while, simultaneously, he and ASAAP vigorously pursued police accountability. At the same time, I was cautioned against overburdening underresourced community organizations.

I think it's really easy for us to ask a lot of community organizations to do some heavy lifting. And we've talked a lot about our role here in supporting the police's work but recognize that that comes at a cost to our organizations in terms of staff time, especially in the environment that we're operating in right now, where we're looking toward significant downloading from the province onto our backs as organizations and the challenges we'll be facing over the next several years when we're going to be asked to do so much more than we're doing now. That comes at a cost, right? So, thinking strategically about the points where you need to engage us and being really economical. Because we'll also overpromise, frankly. We're prepared to step up and support. So, support, but the context for many of our organizations is that we're underresourced, understaffed, and overprescribed.

The Enhanced Use of Civilians Rather Than Sworn Officers

To varying degrees, participants were overwhelmingly in favour of civilians doing work traditionally assigned to sworn officers. Many reasons were given for this preference:

- much of the work amounts to social work, for which many officers are ill-suited, unskilled, untrained, or unmotivated;
- officers are more likely than civilians to discriminate against marginalized and vulnerable individuals;
- officers are more likely than civilians to be dismissive, especially when dealing with non-law enforcement matters;
- officers in uniform are intimidating, feared, and less likely to be trusted;
- the involvement of officers in criminal or immigration law enforcement creates insurmountable barriers to community engagement, especially with those who face criminalization or who have precarious immigration status; and
- officers face a heavy workload and severe pressures that could be alleviated through the use of civilians.

I wouldn't go to the police because I feel like they're going to laugh in my face. That's my honest opinion, that's just honestly how I feel.

~

Homeless people in the parks do not want to be seen talking to cops. If they see a uniformed officer, they will get up and leave. If people think

you're talking to the cops, you'll be beat up afterward or ostracized socially.

Consistent with an earlier theme, participants suggested that community workers could act as mediators or liaisons between the Service and community members. One participant advocated for this approach when police deal with young women:

To play devil's advocate, maybe there's so much going on that that's why they're numb to certain things, and they would give off the impression that they don't care when you're telling them something. My suggestion to improve that would be a community worker who would mediate between the girls and the police.

The Negative Role of the Existing Police Culture

On a deep cultural level with the Toronto Police Services? I think it's fair to be skeptical of that. I think? ... But you know what? None of us likes to change, frankly. Who likes to change, really? I have a small organization of like 25 people. Change in that organization is moving mountains. It's really tough, not to mention something as large as Toronto Police Services, something as culturally bound as Toronto Police Services is. Change is a hard thing to do. It requires significant leadership and commitment and I don't know that it's there. So, I think that's the first important step, it's kind of a commitment to change and a recognition of what the true issue is. I think that happens through dialogue, it obviously happens through using this as a tool.

Participants generally viewed the Service as having a militaristic culture where conformity is valued over systemic change. They believe that accountability mechanisms, such as the Office of the Independent Police Review Director and the Special Investigations Unit, are largely ineffective, further contributing to a stagnant police culture. Many participants cited the lack of discipline for officers who engage in discriminatory conduct as well as a lack of transparency over police discipline. Several community members felt that the Toronto Police Association stands in the way of progressive changes in how and whether officers are disciplined.

So the top police officer might be in it for his badge and his rank and his promotion and going into politics or whatever else, but where is the

commitment to change that force from the inside? Because that is where the unions are strong, the police are strong, and unless we are able to change that. I think we have to be stronger and louder. I know it's very hard to build trust, but I think we will have to start a conversation in order to somehow bring in the people that we think might at least become somewhat – like you said, there are gay men in the police too – they might come in and join the conversation and maybe they can give us the ideas on how we can manoeuvre that change.

Some participants also raised the issue of police workloads in this context. Their heavy workloads limit their capacity to answer each call with the same level of care and compassion. One participant reflected on what he saw among police: “The officers there who try their best, it's really hard for them to do their job when they care because it starts to eat you up.”

Many participants expressed the view that training has had little effect on changing police culture. Others advocated for mandatory training for all officers on topics relevant to the Review, as well as community involvement in the training, but they believed that mandatory, community-involved training was not taking place at the Service. Regardless of individual views on the efficacy of training and education, it became obvious to me during the Review that, within the Service, more relevant training and education were going on than the vast majority of community members were aware of. It is clear that the Service has not informed Torontonians effectively about its own training and education initiatives. A community leader who is knowledgeable about such initiatives also told me that officers are sometimes dismissive when receiving training and education from community members. She highlighted the importance of proactive supervisors in instilling a positive environment for learning.

Troubling Perceptions Around the McArthur Investigations

I turn briefly to stakeholders' views surrounding the McArthur investigations. There is no doubt that the perceived police response to the disappearances of McArthur's victims has deeply eroded the relationship between the Service and many members of the LGBTQ2S+ communities. Many believe that the Service did not take these missing person cases seriously. Some of them perceive the explanation for the inadequate response by police to be discrimination or differential treatment. Some were outraged by the police denial of the possibility that a serial killer was at large. This denial heightened the existing mistrust of police based on the legacy and the ongoing issues involving the Service and the LGBTQ2S+ communities.

I have already said that the need for the Service to communicate meaningfully and transparently with diverse communities was a common theme in the stakeholder meetings. Many community members attribute the prominence of this theme to the lack of communication and transparency the Service exhibited during large parts of the McArthur-related investigations (see, for example, Project Houston in Chapter 6). I was told that the absence of transparency left many community members' feeling that the police were not doing everything they could to find the missing men. One participant observed that, in the aftermath of the McArthur case, transparency is particularly important to members of the public.

The fear wasn't quelled by enough information, so there was a lot of misinformation floating around in addition to the information that needed to be out there.

The prominence of this theme is also explained by the participants' reaction to Chief Mark Saunders's public comments about the McArthur investigations. In Chapter 7, I describe and evaluate these comments in great detail. Chief Saunders's statement at the December 8, 2017, press conference that "the evidence today tells us there is not a serial killer" was regarded as misleading and dismissive or, at best, more of "a defensive effort rather than an effort to protect the public." In Chief Saunders's February 2018 interview with the *Globe and Mail*, he said several times that nobody came forward to assist the police (which was inaccurate) and that the Service did everything it could with the available evidence. Participants regarded these comments as inappropriately laying the blame on the LGBTQ2S+ communities for the failure to apprehend McArthur. A number of participants also challenged Chief Saunders's apology on June 22, 2016, for the Service's involvement in the notorious 1981 bathhouse raids, noting that the targeting of the LGBTQ2S+ communities persisted with Project Marie in November 2016, after Chief Saunders apologized.

The lack of effective communication undoubtedly contributed to community perceptions of the Service and its officers' conduct. As I have said, community members were deeply concerned about discriminatory policing based, in part, on the attention paid to the disappearance of a white man, Andrew Kinsman, after a series of brown gay men went missing over a lengthy period of time.

And I would argue it was Andrew, because Dean did not get – because he was homeless, street involved, using substances, he disappeared, and

again, it's around layers of marginalization and how we as a society value different people more than others. And I mean, Andrew, because he worked in our sector, that's what happened. He worked in our sector and he was connected and that's what started – I remember – people physically going out and searching the Don Trail looking for him and that brought to light suddenly all these other missing men that nobody even knew about.

Well, so for years I walked down Church Street and saw those posters. It looked like something was going on there. And there's a level of guilt you've got for not speaking out, for not raising a flag, for not organizing the community, but that's another conversation. But I agree, if Andrew hadn't worked at PWA [People with AIDS Foundation], McArthur could still be free frankly ... I have a little challenge with what you're saying on some level, because we should expect the fucking police to respond to missing persons no matter who, and it should not require activism on behalf of our community, a highly underresourced and fragmented community, to do the police's job frankly ... Activism should not be required to have our basic human rights fulfilled.

There was obviously grief but also a lot of anger directed toward the police for what felt like a lack of recognition. And it took Andrew, who was white and the community, the HIV, really the ASO community – the AIDS service organization community – to push it forward, and there was a belief that the only reason he was caught was because Andrew was white. And that was a very strong belief throughout not just our client but certainly throughout the AIDS service organization community.

I address the allegation of discriminatory policing in Chapter 12. But I also took to heart the perspectives of many community members that they were left with an abundance of questions and blanks to fill in on their own because of the Service's lack of transparency. Even though McArthur was ultimately arrested, they remember what they perceive to be the Service's unjustified denials and victim-blaming.

Needed Changes to Missing Person Investigations

A number of participants welcomed the creation, albeit belated, of the Service's Missing Persons Unit. Many had little understanding of what the unit does and the extent to which missing person investigations have improved as

a result. Some remain skeptical that the Service can conduct efficient, timely, and discrimination-free missing person investigations, particularly when they involve marginalized and vulnerable communities. Participants raised a variety of issues concerning how such investigations are conducted. I have already described above some of these issues – such as barriers to sharing information with the police, and the preference that sworn officers not be involved in aspects of traditional police work.

Some participants articulated the need for a formalized process for friends and families to receive information about a pending missing person investigation. Consistent with an earlier theme, they suggested that a civilian, rather than a sworn officer, would be better suited to liaise with friends and family. The need for an inclusive understanding of those directly affected by someone's disappearance was also raised. A number of participants advised me that they were told by police – in contravention, as it turns out, of the Service's own procedures – that they had to wait 24 hours before reporting a missing person.

The police are primarily interested in missing persons as a vector of crime. Meaning, perversely, a case gets more resources if foul play is involved and that people in distress are discounted. The sense is if someone is found alive, there was a mistake, a drain of police resources, it should not have been investigated. We would like to see the complete reversal of that. That someone found alive should be a cause for celebration.

In our view, nothing in the police's attitudes, nothing in the police's efforts have resulted in the type of systemic change we need. We are urging you to conclude that conducting missing person investigations is fundamentally incompatible with the police's function. The best outcome would be to remove that function from the police. Our proposal would be to give it to civilian investigators.

The Community Engagement Survey

The Review conducted the Community Engagement Survey from November 2019 to May 2020 (for a detailed summary of the results, see Appendix E). I refer to it as an “engagement survey” because it is not intended for use as a statistically valid or representative survey of how Toronto residents feel about the issues. Respondents were not selected randomly; rather, after hearing about the survey, they chose to participate in it. Because this survey is not representative, it cannot be generalized to Toronto's population and is

therefore biased. That said, it did provide the Review with an important tool to engage community members and enable them to express their views. I was gratified that just under one thousand respondents filled out the survey.

Here, I summarize the results of the survey that are most significant in terms of hearing the voices of those who chose to participate. The survey consisted of two types of questions: a series of closed-ended questions in which respondents selected from a limited number of answer options; and several open-ended questions in which respondents could record their own written answers. I also took into consideration certain representative surveys that had been conducted externally. I refer to these external surveys in Chapter 14.

In important ways, the survey results resonate with what I heard throughout the Review's extensive outreach and engagement. Many respondents indicated they had little or no confidence in the police. Regardless of the bias inherent in this type of survey, this response is troubling.

Most respondents, particularly those under 50 years of age, considered themselves very familiar with the Service. Seniors were less familiar than other age groups. Not surprisingly, far fewer respondents regarded themselves as very familiar with the Toronto Police Services Board (the Board).

Only 38 percent of respondents had a great deal of confidence in the Service, while 32 percent had no confidence at all. Confidence in the Service was particularly low in a number of the demographic groups, such as those who self-described as LGBTQ2S+ respondents and younger respondents.

A significant percentage of Black (Caribbean descent), East Asian, and Indigenous respondents expressed no confidence in the Service (48 percent, 47 percent, and 40 percent, respectively), although the numbers of respondents who so self-described was relatively small. However, only 38 percent of respondents who self-described as Caucasian or European had a great deal of confidence in the Service, and 32 percent had no confidence at all.

Although less familiar overall with the Service, downtown respondents had substantially less confidence in the Service. Those who said they were very familiar with the Review and the issues associated with McArthur's crimes had far less confidence in the Service, and 40 percent had no confidence at all.

On balance, the Service received better marks with respect to ensuring neighbourhood safety. However, respondents scored the Service poorly on maintaining good relationships with different communities and on non-biased and timely investigations. There were similarly poor scores on responding effectively and in a timely and non-biased way to Missing Person reports. Fewer respondents had an opinion about the adequacy of communication with

families or victims. Those who did tended to have very low confidence in this area.

Many respondents tended to believe that, in the communities in which they live, the Service acts in a professional and non-biased way. However, the confidence levels plummeted in relation to immigrant and refugee, visible minority, and LGBTQ2S+ communities, and in relation to people experiencing mental health issues, the homeless and underhoused, and Indigenous Peoples.

Despite low familiarity with the Board, many respondents (35%) expressed no confidence at all in the Board.

A majority (68%) of respondents had never reported a person missing. Of those who had, in almost half the cases the missing person had mental health and/or addiction issues. On balance, those who had interacted with the Service about a missing person case tended to have negative views about the Service's performance in various categories. The Service fared particularly poorly in relation to conducting its work and/or investigation(s) in a non-biased manner.

Additional data from the survey showed that about 12 percent of respondents have chosen not to approach police about a specific missing person's case. Further, 11 percent of respondents said they have chosen not to file a Missing Person Report, and of those respondents, 7 percent chose not to offer information about a missing person case. This group is more likely to be younger and more likely to be transgender or non-binary. The most common reasons given for not approaching the Service about a missing adult included

- the belief that the police would not take matters seriously;
- a lack of comfort with the police; and
- a lack of knowledge about how the police would use personal information.

Respondents who self-identified as gay expressed particular concerns about how information relating to sexual orientation, lifestyle, and HIV or another health status would be used. Those who self-identified as transgender or non-binary regarded the following concerns as important:

- how information relating to lifestyle, sexual orientation, gender identity, or gender expression would be used (83%);
- how information relating to mental health status would be used (67%); and
- how visible or religious minorities would be treated (63%).

Respondents were asked how barriers can be overcome that might prevent people from reporting missing individuals or providing information about an investigation to the Service. The most frequent responses were that the Service should improve its performance in the following areas:

- better training and work in preventing and overcoming biases (19%);
- build or earn trust or confidence and be professional (16%);
- establish a better and unbiased rapport with people, and treat everyone equally (14%); and
- improve the processes of policing policies, reporting policies, and “third-party” reporting (reporting by someone other than the victim) (14%).

Some of the answers to open-ended questions included the following:

I think there is a lack of training in regards to dealing [with] marginalized communities, the LGBTQ+ community, and the homeless and people with mental illness. There should be training or workshops that happen often to make sure officers are performing from an unbiased standpoint. There is far too much criminalization of certain groups that could be prevented from a bit of education, to the police and the public.

~

It’s hard to share information with those you do not trust. The Toronto Police Service needs to ensure they are trustworthy, in every way possible, to every community they can. That begins by acting in a trustworthy, honourable fashion in executing their duties to the public.

~

For the police to have empathy, compassion, active listening skills, objectivity, treating people as human beings and not categories.

~

Third-party reporting (TPR) is needed where community members can go to trusted community-based organizations, who then file anonymous reports to TPS. Very effective where trust of police is low.

Respondents were asked what changes, if any, the Service should make to promote effective, timely, and bias-free missing person investigations. A range of answers were given, the most prominent being better training and work in preventing and overcoming bias as well as for reports, people, and communities to be taken seriously and listened to. Respondents who have dealt with the Service about a missing person case did not have significantly dissimilar responses.

Those who have reported someone missing gave greatest prominence to better training and work in preventing and overcoming bias. A number of respondents mentioned establishing a better / unbiased rapport with people and treating everyone equally. They also listed building and earning trust or confidence, being professional, improving processes, and allowing third-party reporting.

Respondents who have chosen not to deal with the Service in relation to a missing person were somewhat more likely to mention a range of suggestions. Again, better training and work in preventing and overcoming bias figured most prominently in the responses.

Some of the answers to the relevant open-ended question on the topic included the following:

Fundamentally, police officers need to be making very different assumptions about the value of human lives. They need to be able to overcome blind spots and recognize that immigrant lives and queer lives and lives of people of colour or disabled lives are in fact as valuable as their own. That is a very deep change that needs to happen to the police force as a broader culture, and in the hearts of individual officers. This loss of life, and the loss of life of many other Toronto citizens, stems first and foremost from an inability to see the humanity of those citizens, at least in the moment. Get trauma treatment, get empathy, get a soul ... Do whatever you need to do, but you need to start seeing people as infinitely precious. And that's not built into the power structures we currently have in place. But it has to change.

~

Take them seriously. Let go of egos and listen to your community – we know ourselves and our community members best.

The respondents indicated that the Service needs to build and earn trust or confidence. The most common suggestion for improving relations, specifically with the LGBTQ2S+ communities, was for better training and work on overcoming bias. Respondents who self-identified as LGBTQ2S+ were more likely to mention accountability, recognizing biases, transparency, serving the LGBTQ2S+ communities better, and respecting the Pride parade. Some comments in response to a relevant open-ended question included the following:

Trust has to be earned by equal treatment, good communication, not judging lifestyle and circumstance, and more understanding of different cultures.

~

Get involved. Invest. Go to the 2SLGBTQIA+ community and pay them for their consultation. Nothing about us without us. There are many intersecting identities within this community, and that should also be taken into consideration. For example, being Black, brown, immigrant, refugee, and LGBTQ is a vastly different experience and will be exposed to different vulnerabilities.

Respondents were asked what specific issues or recommendations the Review should consider. As can be seen below, of the range of answers provided, the most prominent were police accountability, recognizing biases, and transparency. LGBTQ2S+ respondents were even more likely to focus on this same issue.

Some respondents wrote positive comments about the Service, including the following:

In my occupation I work closely with Toronto police, often in regards to missing persons. The diligence, professionalism, and community orientation of the officers is impressive. Though not perfect, overall they do the best that they can.

Yet others advocated for change in order for the Service to gain trust:

Thin-blue-line culture allows discrimination and violence to thrive in policing and, until that is addressed, policing will remain a threat to vulnerable communities.

~

There is a lack of credibility when dealing with bad actors within the ranks. This affects perceptions and trust.

In summary, bias-free policing stands out as the greatest concern (along with and as a part of community relations). Many other concerns rate just behind this one, but bias stands as the “first among equals.”

When it comes to effective policing and investigations generally, the Service gets better marks. This mixed response may indicate that concerns about aspects of the Service relate to fundamental impressions rather than more specific assessments of performance.

Policy Roundtable

On August 18 and 19, 2020, the Review invited 33 community leaders and policing experts from around the globe to participate in a policy roundtable to

discuss their perspectives and share their recommendations on systemic issues our team had identified. The roundtable was held virtually to ensure the safety of all participants during the COVID-19 pandemic. I am grateful to all the participants for their generosity in time and commitment to the Review's work. They agreed to allow me to identify them in my Report, and a brief description of each one can be found in Appendix C.

The policy roundtable was divided into four interrelated topics:

- relationships between the police and marginalized and vulnerable communities;
- communication between the police and those affected by investigations;
- innovative approaches to police culture; and
- alternative models for missing person investigations.

The participants engaged in both plenary sessions and small group discussions, facilitated by Ms. Farrow and members of the Review's Community Advisory Group. Carmen Best, the former chief of the Seattle Police Department and a well-recognized progressive voice for change, addressed all the participants, stressing the importance of community partnerships with the police and innovative ways to build bridges with diverse communities.

The Relationship Between the Service and Marginalized and Vulnerable Communities

Participants eloquently expressed their views about the difficult relationship between the Service and the diverse communities it serves. They highlighted the danger of using the word "legacy" to explain the fraught relationship between the Service and communities. Many participants said that distrust of the police on the part of members of the LGBTQ2S+ communities, for example, is not explained merely by historical police activities. Rather, the distrust and broken relationships result from the Service's continuing actions and inactions. The McArthur case brought these issues to the fore.

Meaningful Engagement with Communities

The process of working with communities is as important as the outcome. As one participant observed, police must start with the assumption that "relationships mean everything." Many attendees agreed that the Service needs to improve its community engagement, noting that current strategies have largely been ineffective. Community engagement must be effective and meaningful. As one participant said:

There is unmitigated gall in pushing out policy and giving communities a week to comment on it. It speaks volumes about police culture and communicates to the community that they don't care.

Another attendee cautioned that communities have been offering input for years now, yet their suggestions have yielded few results. Community members are beginning to experience “consultation fatigue.”

Along similar lines, many participants emphasized that community partnerships have an important role in missing person investigations. One policing expert in this area described himself as a “huge proponent of partnerships.” Based on his own experience, he said: “To do missing person investigations without partnerships is futile, and it will result in not finding loved ones and [in] bad investigations.”

The Saskatoon Police Service's approach to community partnerships, which I describe in Chapter 13, was held up as a model for success.

Recommendations for Additional Training

A number of participants expressed pessimism about recommendations on further training and education, emphasizing that similar recommendations made in the past have not been effective in changing outcomes. Training and education were seen as especially ineffective in changing police behaviour unless accompanied by accountability measures. Accountability, many of the participants agreed, is necessary to policing but seems to be absent in relation to the Service. Participants generally supported enhanced independent oversight of the Service and its officers.

Changes to Recruitment and Promotional Processes

A number of participants supported changes to existing recruitment and promotional processes. They expressed concern about a promotional process that inadvertently rewards conformity to a problematic institution and existing police culture. Only rarely, they said, were police outliers promoted or creative thinking rewarded. One expert explained that when police officers “work against the grain,” they risk being ostracized by their fellow officers.

Communication in Missing Person Investigations

Participants addressed two aspects of police communication in missing person cases: communicating with the affected communities; and communicating with a missing person's family or those directly affected by the disappearance. Both aspects can be crucial. Participants generally agreed that the Service's

communication strategy should be tailored to each community. This strategy should include addressing resource barriers to communication (e.g., those in poverty lacking internet access or cellphones, as well as linguistic and accessibility barriers). Participants identified the benefits of a dedicated person, perhaps a civilian, responsible for ongoing communication with friends and family of missing loved ones. I was told that the way in which the Service communicated or did not communicate with affected communities during the McArthur investigation strained community relations. One policing expert indicated that the police are too conservative in sharing information with the public because their actions are scrutinized as part of the court process. He described the benefits of sharing information with the public.

Risk Assessments in Missing Person Investigations

Participants saw considerable room for improvement in how the Service does risk assessments in missing person cases. One attendee expressed deep concern over the Service's conflating low risk of foul play with low priority in missing person cases. He said, "Sure, this person is unlikely to have been murdered by a serial killer, but that doesn't mean their case isn't important and that it shouldn't be investigated." A policing expert added:

Risk isn't just if they met with foul play or a serial killer. There's the day-to-day risk, especially with marginalized communities, where often the next step is either the criminal justice system or the morgue. That is the day-to-day risk that isn't captured; habitual runaways are viewed as a nuisance, but they are often the most at risk.

Models for Missing Person Investigations

There was extensive discussion about alternative models the Service might use in missing person investigations, including the involvement of civilians, social service agencies, focus or situation tables,² and other substitutes to the current concentration on sworn officers. When I asked participants to make recommendations for change, a large percentage advocated in favour of a new civilian agency to conduct missing person investigations. Others supported a model that emphasizes community partnerships with the police while ceding a number of responsibilities to non-policing agencies, civilians, social service agencies, and focus tables.

² Focus or situation tables are explained in Chapter 14.

Town Hall

On October 14, 2020, the Review held a public town hall meeting. Mr. Sandler, my lead counsel, described our work to date and outlined the key data from the recently completed Community Engagement Survey. Most important, this meeting provided yet another opportunity for people to express their views – in this instance, in a public setting. The video of the town hall meeting can be viewed on the Review’s website.

I am grateful for the variety of viewpoints and valuable insights that emerged from this rich dialogue. Participants brought perspectives from grassroots organizers, diverse communities, and policing.

Several participants were concerned about the lack of transparency associated with the Service’s existing community consultative process, including the community consultative committees. Questions were posed, such as “Who is on these committees? How are they chosen? How do we get better representation on those committees?” One community member said it seemed as though an oversight committee might be needed to monitor the work of the consultative committees themselves.

Some attendees expressed the need for structural changes to policing. They discussed alternative models for community safety and policing that would involve, in part, redirecting parts of police budgets to non-policing services.

As an alternative, a representative of the Canadian Association of Chiefs of Police reminded me that important, progressive initiatives are being undertaken in policing. Most officers, he said, want to serve their communities in the public interest.

Summary and Findings

I wish to convey my gratitude for the contributions to the Review from many members of Toronto’s diverse communities and from community groups and organizations. Even as their perspectives and lived experiences vary greatly, they share one central goal – a deep commitment to the safety, security, well-being, and sense of self-worth of all who live in Toronto, regardless of sex, sexual orientation, gender identity and gender expression, colour, ethnic or national origin, socio-economic status, religion, immigration status, mental health or wellness, Indigenous heritage, or employment.

As I have indicated several times in this Report, those perspectives and lived experiences are often tied to an intersection of personal identifiers – no one should be defined exclusively by one identifier, whether it be race, sexual

orientation, or socio-economic standing. In Chapter 12, I set out the concept of intersectionality in some detail.

I heard from many members of the community and, for the most part, their views are captured both in this chapter and in Chapter 14. The opinions I heard have also informed my recommendations in Chapter 15. Through their own personal lens, these disparate members of the community not only shared their experiences and their beliefs but inspired me to address the issues of concern to them. In many instances these same concerns were expressed by progressive members of the Service, past and present.

I do not pretend to have heard from a statistically representative sample of all Toronto residents. But I can say, without fear of contradiction, that however quantified, many who did share their views and experiences lacked confidence in the Service's ability to conduct efficient, timely, and discriminatory-free missing person investigations. That lack of confidence, and the events that prompted it, compel a careful scrutiny of how policing in Toronto can be done better and how best to effect the necessary changes. The Review's extensive, if not exhaustive, outreach and engagement contributed greatly to my ability to recommend those needed changes (see Chapter 15).

Chapter 11

OTHER REPORTS EXAMINED: FINDINGS AND RECOMMENDATIONS

This Review was prompted by serious concerns about how the Toronto police conducted specific investigations into the disappearances of individuals from the LGBTQ2S+ communities specifically and marginalized and vulnerable communities generally. As a result, the Review has been focused on two broad issues: (1) how the Toronto Police Service (the Service) has conducted and is currently conducting missing person investigations, and (2) how the Service relates to the diverse communities it serves, particularly those that are marginalized and vulnerable. These issues have an important connection to each other. Simply put, the relationship between the Service and the diverse communities may greatly affect the success of an investigation into a report of a missing person, and, indeed, whether a report is even filed.

Doubts about how police investigate reports of missing persons from marginalized and vulnerable communities did not start with the events that brought about this Review. Deep concerns have long existed about the relationship between police and diverse communities – including those who identify as LGBTQ2S+, people of colour, and Indigenous Peoples – and the overpolicing and underservicing of those communities.

Other reviews and public inquiries have wrestled with these same issues, and I have examined the findings and the recommendations of these reports. They have helped me identify and understand the systemic nature of the issues. They have also expanded my perspective in the sense that they remind me that these issues are not unique to Toronto. This reminder opens the door to a consideration of approaches in other jurisdictions, approaches that may have application to Toronto. In saying that, I recognize that there is no “one size fits all” approach to missing person investigations or relationship building. Any of my recommendations must take into account the many characteristics that make Toronto distinct – one being the renowned diversity of its population. As well, these earlier reports have reinforced my view, expressed in other chapters, that insufficient evidence-based research exists concerning some of the policing issues I have identified. Finally, these reports and the recommendations they contain affect my own recommendations in several

ways. Some are worth adopting in Toronto. Some may signal that stronger action than previously taken or recommended is warranted. This is especially so, for example, if the Service has failed to adequately recognize or address its own problematic policies, procedures, or practices – particularly in the aftermath of relevant reports that already publicly identified those same problems in Toronto or elsewhere.

In this chapter, I look in particular at eight reports spanning multiple subjects that are also addressed throughout my Report. Additional reports I consulted are not summarized here but in chapters where they fit more neatly. For example, in Chapter 3, I summarize the Morden Report in the context of my discussion of the Toronto Police Services Board (the Board) and its relationship with the chief of police and the Service. In Chapter 12, I describe *Action Plan: The Way Forward* within the context of Toronto’s existing policing initiatives. In various chapters, I also describe audits performed by the Ministry of the Solicitor General or the Service’s Audit and Quality Assurance Unit and how the Service and the Board responded to these audits.

Reports Examined

In this chapter I discuss the following eight reports at some length.

- British Columbia, Missing Women Commission of Inquiry, *Forsaken: The Report of the Missing Women Commission of Inquiry* [4 vols and *Executive Summary*, electronic resource, British Columbia, 2012] (Commissioner Wally T. Oppal) (Oppal Report).
- Canada, National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* [Ottawa: Privy Council Office, 2019], online resource (National Inquiry, *Final Report*). Also *Interim Report* (2017) and *Executive Summary* (2019).
- Ontario, *Bernardo Investigation Review: Report of Mr. Justice Archie Campbell* [Toronto: Ministry of the Solicitor General and Correctional Services, 1996] (Campbell Report).
- *Broken Trust: Indigenous People and the Thunder Bay Police Service*, Gerry McNeilly, Office of the Independent Police Review Director, December 2018 (OIPRD Report).

- Bruner, Arnold, *Out of the Closet: Study of Relations Between the Homosexual Community and the Police*, report to Toronto City Council ([Toronto], 1981) (Bruner Report).
- Griffiths, Jeffrey, “Review of the Investigation of Sexual Assaults, Toronto Police Service” (Toronto: Toronto Audit Services, October 1999) (Griffiths Review).
- Tulloch, The Hon. Michael H., *Report of the Independent Street Checks Review* (Toronto: Ministry of Community Safety and Correctional Services, 2018), online: www.mcscs.jus.gov.on.ca/english/Policing/StreetChecks/ReportIndependentStreetChecksReview2018.html (Tulloch Report).
- Ontario Human Rights Commission, *A Disparate Impact: Second Interim Report on the Inquiry into Racial Profiling and Racial Discrimination of Black Persons by the Toronto Police Service* ([Toronto], August 2020) (Commission Report).

The first two summarized reports in this chapter address missing person investigations respecting specific marginalized and vulnerable community members.

Missing Women Commission of Inquiry (Oppal Report), 2012

The Missing Women Commission of Inquiry, under the Hon. Wally T. Oppal, was undertaken in the aftermath of the Robert Pickton murders. Pickton was charged with killing 27 women on his farm in Port Coquitlam, British Columbia, between 1995 and 2001. On December 9, 2007, he was convicted of six counts of second-degree murder. He was also implicated in many more deaths.¹

Pickton had hunted women for years. The women were all from, or resided in, Vancouver’s Downtown Eastside (the Downtown Eastside). Many of the women were Indigenous.² All were vulnerable. They were poor, worked

¹ Twenty further charges of first-degree murder were stayed in 2010.

² Although the report uses the term “Aboriginal,” I will use the term “Indigenous” for consistency with other sections of this Report.

in the sex trade, and many were dealing with mental health and/or drug addiction issues.³ Over the course of several years, the police ignored or failed to properly investigate numerous leads concerning the disappearances of many women, leads that incriminated Pickton. A number of the investigations spanned multiple police jurisdictions. Pickton appears to have hunted women whose disappearances the police would tend to brush off and whose friends would tend to be discounted when they came forward. Unfortunately, Pickton predicted the police response perfectly.

The Commission was established to inquire into and report on the conduct of the investigations into the disappearances of the missing women. The Commission examined the reasonableness of police actions and omissions in the context of the victims' marginalized living conditions and vulnerabilities. It was significant that many of the women were Indigenous. The report recognized the impact of the legacy of colonialism on Indigenous Peoples and the distrust it has created between Indigenous Peoples and the police. Although not strictly within its mandate, the report also recognized the role that criminalization of sex work played and how it contributed to the vulnerability of the women.⁴

Key Findings

The commissioner concluded that systemic bias against the women who went missing from the Downtown Eastside contributed to critical police failures in the investigation of their disappearances. In his report, Judge Oppal stated that this fact did not mean the police did not care about the women. They clearly cared. Over a long period of time, they investigated their disappearances with diligence. As a whole, the officers involved in the investigations were conscientious and fair-minded. They would not consciously disregard a class of people. Judge Oppal found no evidence of overt bias or widespread institutional bias in the Vancouver Police Department or the RCMP.⁵

However, Judge Oppal made strong findings about the systemic bias that infected the investigations of the disappearances. This bias was based on broader patterns of systemic discrimination within Canadian society and was reinforced by the political and public indifference to the plight of marginalized female victims. Such systemic bias was clear in the unreasonable departure of the police from the commitment to provide equal services to all members of

³ Judge Oppal did not use the term “intersectionality” but he was obviously mindful of the intersection of a number of circumstances and demographics that explain the vulnerability and marginalization of Pickton’s victims.

⁴ Oppal Report, 16.

⁵ Oppal Report, 94.

the community.⁶ Ultimately, the missing women were seen as “nobodies.” The women who went missing were undervalued in part because of stereotypical beliefs, including that they lived a “high-risk” lifestyle, given their involvement in sex work.⁷ This systemic bias resulted in a failure by the police, in formulating their investigative strategies, to take into account the circumstances surrounding how these women lived and worked, particularly in failing to recognize the duty to protect a vulnerable segment of society. This systemic bias also contributed to a failure to prioritize and effectively investigate the missing women cases. There was no champion for the women who went missing. A champion was needed.⁸

Judge Oppal stated that a review of 1,400 killers of the last century identified seven major pitfalls in police investigations of these crimes:

- The police are unable to find linkages between the crimes.
- Victims usually come from lower social strata and therefore do not get sufficient attention from the police or from society at large.
- Investigators are often unwilling to admit they have a serial killer in their jurisdiction.
- Police often do not know how to manage large amounts of information.
- Often there is a lack of coordination among multiple police services.
- Investigations are often hampered by an adversarial relationship between the police service and the media.
- The police are not aware of what made past serial murder investigations successful.⁹

Based on the totality of the evidence collected, the commissioner identified key police failings in the specific investigations he examined:

- The police were inconsistent in taking missing person reports. In some cases, because of issues over the jurisdiction where the disappearance should be reported, the police did not accept reports or accepted and closed reports without locating the missing woman. The police should never allow jurisdiction to be a barrier to reporting.
- The police did not respond in an urgent manner to the reports of the women’s disappearances and follow-up was inconsistent. There was a

⁶ Oppal Report, 94.

⁷ Oppal Report, 25.

⁸ Oppal Report, 96–97.

⁹ Oppal Report, 20.

general police failure to take the basic steps of dispatching patrols, attending the last known residence to conduct a search or speak to neighbours, or interviewing reportees. To a lesser extent, basic database entries and checks were not carried out in a timely and consistent way. The police sometimes took months, if not years, after a woman's disappearance was reported, to conduct initial interviews of reportees and the family members of the missing women. Some of these individuals were not interviewed at all. Not all tips were followed through. These failures resulted in delays in determining whether the disappearances were the result of homicide.

- Even in circumstances where the police did initially contact the missing woman's family and friends, follow-up contact was often poor. As a result, the police did not share with those close to the person who disappeared what investigative steps they were taking. Judge Oppal's report references one police officer who treated the family members of a victim in a degrading and insensitive manner.¹⁰
- Given the evidence of the police failure to work consistently and effectively with family members, the community, and the media, Judge Oppal was extremely disappointed to find that community-based policing principles, previously recommended to police services in British Columbia, were completely ignored in the missing women investigations. The steps the police did take were largely ineffective because the police failed to educate themselves about the dynamics of the Downtown Eastside community and did not actively seek the assistance of community leaders to build the trust necessary to overcome barriers to police-community communication. Judge Oppal made the obvious observation that, to successfully investigate reports of missing women, the police need the assistance of family members, friends, the community, and the media, especially in circumstances where foul play cannot be ruled out and where there is no crime scene.¹¹ Family members and other reportees, the community, and the media have an important role to play. It follows that strategies for proactively involving these external sources of information are key. The police were inconsistent in using posters and various forms of media to generate information and leads

¹⁰ Oppal Report, 52–53.

¹¹ The report mentions a study that found that the public is the number one group for solving crimes. The number two group is patrol officers, and the number three group is detectives. This is particularly true in situations with little physical evidence, like the missing and murdered women investigations. One officer testified that, without community involvement, "we were going to be operating with one arm behind our back, for sure." See Oppal Report, 49, 73–74, 99.

about the missing women.¹² In addition, the police rarely spoke to service agencies in the Downtown Eastside or to employees or residents of the last-known residences of missing women. Typically, any communication with Downtown Eastside agencies arose from an agency's providing a tip as a result of a missing person poster or contact through a missing woman's family. The commissioner identified the failure to fully employ community resources in the investigations as one of the critical errors.¹³

- Although police searched a wide variety of sources of information in relation to the disappearances, there was no consistency in the investigative avenues taken.¹⁴
- The Vancouver police had no due date system or "bring forward" system to ensure investigative tasks were completed.¹⁵
- The police failed to implement and follow the major case management practices and policies that Justice Archie Campbell described in his report about the Paul Bernardo investigations. Ultimately, this failure resulted in a lack of leadership. Although Judge Oppal acknowledged that, at the time of the investigations, police services in British Columbia had not yet formally adopted major case management systems and processes, these practices were not entirely new and the police should have used them, particularly in the light of the recent release of the Campbell Report. The Campbell Report specifically urged police to use major case management for exactly these types of cases. Regardless of whether the police services had formally adopted major case management, the police failed to develop and follow basic management principles and practices; implement effective team structures, internal communication, and reporting structures; use an efficient system for planning and file administration; and ensure that personnel had the requisite managerial skills. These critical oversights contributed to the ineffectiveness of the investigations of Pickton and the disappearances of the women.¹⁶
- Building upon the findings of the Campbell Report, Judge Oppal concluded that, although there was some co-operation among the multiple jurisdictions involved in the investigations, it was informal and ad hoc. Communication depended on the relationships of individual officers. The jurisdiction of the police over aspects of the investigations was not clear.

¹² Oppal Report, 49, 72.

¹³ Oppal Report, 49.

¹⁴ Oppal Report, 49.

¹⁵ Oppal Report, 51.

¹⁶ Oppal Report, 83, 96.

Although formal multi-jurisdictional partnerships were established in some cases, they were unacceptably delayed.¹⁷

- Before embarking on a full investigation, the police attempted to determine whether the women were, in fact, missing when there was no need to do so. Instead, their attempts to determine whether the women involved were missing resulted in significant delays at this early and important stage of the investigation. The police preoccupation with whether the women were missing was based on false assumptions, such as that the women were transient, had run away, or were evading the police. Such assumptions affected the initial response to a reported disappearance and prevented a quick risk assessment.¹⁸
- As a result, the police failed to accept that (1) the women were likely murdered, (2) they were murdered at the hands of a serial killer, and (3) there was an ongoing risk to the public. Despite evidence to the contrary from the missing women’s family members, friends, social workers, and health care providers, police believed that, because the women were involved in sex work, they were transient. Despite information from several sources, including Indigenous communities, the public, and internal police sources about an alarmingly high number of missing women, the police emphasis on the women’s personal problems and “high-risk lifestyles” resulted in their downgrading the urgency with which the women’s disappearances were met. It should have had the opposite effect and heightened concerns about risk.¹⁹
- The police reliance on the “no body, no crime” theory²⁰ resulted in inaccurate risk assessments assigned to the missing women. However, the absence of a body had another explanation – a successful killer. One officer’s analysis of the number of missing women led a senior officer to conclude that the most likely explanation was that a serial killer was responsible for the disappearances. Although senior officers appeared to express some concern that the women were murdered, they failed to fully accept this theory and reassess the risk accordingly. In other words, the serial killer theory was repeatedly dismissed or discounted. The possibility of a serial killer was not included as part of the operational plan. Instead, the police obtusely maintained the view, “no body, no crime,” even in the face of strong statistical evidence, clear and early links investigating officers made between the cases, and mounting

¹⁷ Oppal Report, 54, 85–87, 90, 101.

¹⁸ Oppal Report, 47.

¹⁹ Oppal Report, 55–57, 59–60.

²⁰ This theory is that, if no body is found, it means that no crime has been committed.

evidence from other sources that a serial killer was the likely cause of the women's disappearances. On several occasions, there was an outright public denial of the serial killer theory. The Vancouver police's communications to the public emphasized that there was no evidence of a serial killer. As late as 2000, the police continued to downplay the risk that a serial killer was at work despite community insistence to the contrary.²¹ The absence of a body or a crime scene also resulted in limited participation of the Provincial Unsolved Homicide Unit.²²

- The police took inadequate steps to prevent further harm to the public. Judge Oppal rejected the position that the women put themselves at risk by engaging in sex work. Instead, because of their vulnerability, the women needed, and deserved, extra police protection.²³ As the investigation progressed, and the danger to women became more apparent, the police failed to act or warn the public. Although Judge Oppal recognized that the police need to hold back information relating to the investigation, he found that the police could have shared information with officers on the street, as well as with women engaged in sex work and with the community more broadly. Warnings about “bad dates” were not enough. Warnings should have been issued to two groups specifically – women in the Downtown Eastside and women in Indigenous communities across British Columbia. Unfortunately, the police did the opposite: they publicly downplayed the risk of a serial killer being responsible for the missing women.²⁴
- From the beginning, the police did not treat the women's disappearances with urgency. As a result, opportunities were missed. Pickton's two associates were mentioned in several of the missing women's files. Further investigation into the disappearances may have identified these associates and led the police to Pickton. Judge Oppal also identified a lost opportunity to apprehend Pickton when he was arrested and charged in relation to a woman who miraculously escaped him. The charges laid against him in this instance were ultimately stayed. This woman's encounter with Pickton was crucial evidence that was completely ignored.²⁵
- Police actions were not prioritized consistently. By October 1999, Pickton continued to be in the top 10 on the Vancouver police lists of

²¹ Oppal Report, 60–61, 63.

²² Oppal Report, 63.

²³ Oppal Report, 68.

²⁴ Oppal Report, 68–70.

²⁵ Oppal Report, 40, 55.

suspects for the remainder of the investigation, and the main investigators always considered Pickton to be a priority suspect. But at no time was Pickton pursued to the point of being either confirmed or ruled out as a suspect.²⁶

- Pickton was interviewed, twice in fact, as a suspect in relation to the disappearances. However, neither interview was well planned. Despite the compelling evidence against him at the time of the second interview and the seriousness of the offences, the interview appears to have been completely unplanned. It failed to meet even the most basic police standards.²⁷
- The Vancouver Police Board was ineffective in carrying out its oversight mandate. It was set up to be responsive to community priorities; however, during the Inquiry, there was little support in infrastructure and many things operated on an ad hoc basis. There was no indication that there were formal mechanisms in place to ensure the Board received community input.²⁸
- Missing person policies and practices were lacking on issues such as investigative steps to be taken, the threshold for determining foul play, and interagency co-operation and investigation. At the time, there was no provincial standard for missing person investigations. Therefore, the police used their discretion in deciding what steps to take, leading to a wholly unacceptable level of inaction.²⁹

Relevant Recommendations

The commissioner's recommendations included:

- Provincial adequacy standards should be established on missing person investigations, involving at least 15 identified components, and on the duty to promote equality and refrain from discriminatory policing. The provincial standards on missing person investigations were to be developed with the assistance of a committee including community representatives and representatives of families of the missing and murdered women and Indigenous groups.
- Provincial standards should include a proactive missing person process whereby police must take prevention and intervention measures including "safe and well" checks when an individual is found.

²⁶ Oppal Report, 64, 80.

²⁷ Oppal Report, 81.

²⁸ Oppal Report, 92.

²⁹ Oppal Report, 98–99.

- Communication strategies with local communities should be developed for issuing warnings to those members at risk.
- Provincial guidelines should be developed to facilitate and support vulnerable and intimidated witnesses.
- Training should integrate officers' performance standards and measurements of their ability to develop and maintain community relationships, particularly with vulnerable community members often at risk of unequal treatment.
- Mandatory and ongoing experiential and interactive training should be developed concerning vulnerable community members, including both active engagement in overcoming biases (rather than more passive sensitivity training), and training in recognizing the special needs of vulnerable individuals and how to meet those needs in recognition of a higher standard of care owed by the police to those individuals.
- Best practices should be established for meaningful community partnerships.
- Best practice protocols should be established for enhanced victimology analysis of missing persons; investigative steps in missing person cases; collaborative missing person investigations; collection, storage, and analysis of missing person data; and training specific to missing person investigations.
- A provincial 1-800 number should be established for taking missing person reports and accessing case information.
- An enhanced, holistic, comprehensive approach should be developed for the provision of support for the families and friends of missing persons, on a needs-based assessment.
- Measures should be developed to mandate accountability for and oversight of major crime investigations.
- Steps should be taken to ensure that marginalized and vulnerable people and Indigenous Peoples are represented on police boards.

The Oppal Report is of critical importance to my own work. Although based entirely on events in British Columbia, a number of the commissioner's findings mirror those I make in this Report. The similarity of findings is not coincidental. It underscores the systemic and widespread nature of the issues identified.

In addition, the Oppal Report was published at the end of 2012, the same time the Service began Project Houston.³⁰ Like McArthur’s victims, Pickton’s victims were from marginalized and vulnerable communities. However, I saw little evidence that the Service recognized that the Oppal Report had direct relevance to its own approach to missing person cases.

National Inquiry into Missing and Murdered Indigenous Women and Girls, 2019

The National Inquiry into Missing and Murdered Indigenous Women and Girls Final Report, *Reclaiming Power and Place*, sought to address the disproportionate level of violence experienced by Indigenous women and girls in Canada. The inquiry began its work in September 2016. It was mandated to study the root causes (social, economic, cultural, institutional, and historical) of all forms of violence against Indigenous women, girls, and LGBTQ2S+ people,³¹ including the prevalence of Indigenous women and girls who have gone missing or who have been murdered. It was also mandated to examine institutional policies and practices, both effective and ineffective, implemented in response to violence experienced by Indigenous women and girls in Canada.³²

The National Inquiry interpreted its mandate broadly and chose to include “Indigenous women, girls, and 2SLGBTQQIA people” (people who are Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, and asexual) as an explicit reminder that the needs of gender-diverse people must equally be taken into account.³³ Indigenous 2SLGBTQQIA women and girls experience violence differently because of how discrimination based on race and gender is combined with homophobia, transphobia, and other forms of gender discrimination.³⁴

There was no single catalyst for the National Inquiry. Before the Truth and Reconciliation Commission of Canada recommended a public inquiry in its 2015 list of recommendations, pressure was mounting at the grassroots level. Family members, survivors, and community organizations, as well as national Indigenous organizations and international human rights organizations, have long called for action at the federal level to address the

³⁰ As I outline in Chapter 6, Project Houston was initiated in late 2012 to investigate an informant’s tip that an international cannibal ring was targeting people, possibly including Skandaraj (Skanda) Na varatnam.

³¹ The National Inquiry’s *Final Report* also uses the term 2SLGBTQQIA people.

³² National Inquiry *Final Report*, 57–58.

³³ National Inquiry, *Final Report*, 59.

³⁴ National Inquiry, *Final Report*, 59.

staggering violence that disproportionately affects Indigenous women and girls.

No one knows exactly how many Indigenous women and girls have gone missing in Canada.³⁵ The Native Women’s Association of Canada was the first to put a number to the missing and murdered in its 2010 report – 582. The association began tracking cases in 2005.³⁶ As part of her doctoral thesis, Dr. Maryanne Pearce created a database for the missing and identified 824 missing or murdered Indigenous women and girls between 1946 and 2013.³⁷ The RCMP’s 2014 National Overview found 1,200 such cases between 1980 and 2012.³⁸

Key Findings

The National Inquiry *Final Report* recounts staggering statistics. Indigenous women and girls account for only 4 percent of the population but are 12 times more likely to be missing or murdered women in Canada, and 16 times more likely than Caucasian women. In Manitoba and Saskatchewan, Indigenous women and girls are 19 times more likely than Caucasian women to be missing or murdered. Indigenous women are physically assaulted, sexually assaulted, or robbed almost three times as often as non-Indigenous women.³⁹ These numbers cannot be ignored. They “compel all Canadians to face difficult truths. Indigenous women and girls, including LGBTQ2S people, are – to an unconscionable degree – more vulnerable to violence.”⁴⁰ The National Inquiry was also committed to building on the work of preceding reports and inquiries. These reports determined that violence against Indigenous Peoples was rooted in colonization.⁴¹ Notably, the National Inquiry concluded that the violence Indigenous women, girls, and 2SLGBTQIA people experienced amounted to genocide – the intentional and coordinated effort to erase an identifiable group of persons.⁴²

The National Inquiry makes several findings relevant to my Review:

³⁵ National Inquiry, *Final Report*, 57; *Interim Report* (2017), 7.

³⁶ National Inquiry, *Interim Report*, 7.

³⁷ National Inquiry, *Interim Report*, 7.

³⁸ National Inquiry, *Interim Report*, 7.

³⁹ National Inquiry, *Interim Report*, 9.

⁴⁰ National Inquiry, *Interim Report*, 9.

⁴¹ National Inquiry, *Interim Report*, 9.

⁴² National Inquiry, *Executive Summary* (2019), 2–5.

- Police apathy has a role in normalizing violence against Indigenous women and contributes to further violence when the police do not take reports of it seriously.⁴³
- Police engaged in stereotypical assumptions that slowed down investigations. Families reporting a loved one missing experienced dismissal, contempt, or outright discrimination, when police evoked racist stereotypes and assumptions about Indigenous people as drunks, runaways, or prostitutes. Police sometimes ignored the families' opinions that something was wrong with their loved one. Similarly, assumptions that Indigenous people were "drunks," "runaways out partying," or "prostitutes unworthy of follow-up" dominated responses from the police. Stereotypes often characterized interactions and contributed to an even greater loss of trust in the police and in related agencies.⁴⁴
- Families expressed confusion over whether they had to wait 24 hours before reporting a person as missing, a confusion perpetuated by officers not taking missing person reports right away and asking families to wait to report. In the context of an Indigenous loved one, the 24-hour rule must be considered alongside the stereotypes officers reportedly had about Indigenous people. For one family of a missing woman, this arbitrary time frame was embedded within stereotypes and racist beliefs held by the officer who rationalized his lack of immediate action arguing that the 20-year-old woman was "out partying."⁴⁵
- Indigenous families' good experiences with police seem to depend on luck in encountering compassionate, ethical, and knowledgeable officers.⁴⁶
- Police fail to recognize that subpar police response to families is the norm and a systemic issue. Delays in police response to reports of missing Indigenous women, girls, and 2SLGBTQIA people have been identified in previous reports and inquiries. Many (incorrectly) believe that problems are because of "a few bad apples."⁴⁷
- Lack of communication from investigators leaves family members in the dark.⁴⁸

⁴³ National Inquiry, *Final Report*, 648.

⁴⁴ National Inquiry, *Final Report*, 648, 650.

⁴⁵ National Inquiry, *Final Report*, 651.

⁴⁶ National Inquiry, *Final Report*, 653.

⁴⁷ National Inquiry, *Final Report*, 654.

⁴⁸ National Inquiry, *Final Report*, 672.

After a review of best practices across jurisdictions, the National Inquiry developed a checklist reflecting the *minimum* investigative tasks to be undertaken and considered by a police officer in response to a missing person report.

Relevant Recommendations

The National Inquiry's report contains many Calls for Justice in many areas, including:

- having police services across Canada acknowledge that the current relationship between Indigenous women, girls, and 2SLGBTQQIA people and the justice system has been largely defined by colonialism, racism, bias, discrimination, and fundamental cultural and societal differences, and that, going forward, the relationship must be based on respect and understanding, led by, and in partnership with, those peoples;
- adopting a range of initiatives and actions, including reviewing and revising existing policies, practices, and procedures; establishing engagement and partnerships with affected communities and peoples; ensuring appropriate Indigenous representation on police services boards and oversight authorities; and undertaking appropriate training and education of all staff and officers so as to implement culturally appropriate and trauma-informed practices;
- adopting a range of measures, with increased funding, to support the recruitment of Indigenous Peoples to all police services;
- establishing an independent, special unit in all police services to examine failures to investigate police misconduct, discriminatory practices, and mistreatment of Indigenous Peoples within their services;
- partnering of all police services with front-line organizations that work in service delivery, safety, and harm reduction for Indigenous women, girls, and 2SLGBTQQIA people to expand and strengthen the delivery of police services;
- establishing and engaging with an Indigenous advisory committee to advise police;
- establishing a national task force to review and, if required, reinvestigate each case of unresolved files of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people from across Canada; and
- standardizing protocols for policies and practices that ensure that all cases of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people are thoroughly investigated.

The recommended standardized protocols include the following measures:

- establishing a communication protocol with Indigenous communities to inform them of policies, practices, and programs that make the communities safe;
- improving communication between police and families of missing and murdered Indigenous women, girls, and 2SLGBTQQIA people from the first report, with regular and ongoing communication throughout the investigation;
- improving coordination across government departments and between jurisdictions and Indigenous communities and police services;
- recognizing that the high turnover among officers assigned to investigate a missing or murdered Indigenous woman, girl, or 2SLGBTQQIA person may negatively affect progress on the investigation and relationships with family members, and there must be robust protocols to mitigate this affect;
- creating a national strategy, through the Canadian Association of Chiefs of Police, to ensure consistency in reporting mechanisms for missing Indigenous women, girls, and 2SLGBTQQIA people, potentially in conjunction with implementation of a national database;
- establishing standardized response times to reports of missing Indigenous persons and women, girls, and 2SLGBTQQIA people experiencing violence, and conducting a regular audit of response times to monitor and provide feedback for improvement; and
- establishing a nationwide emergency number.

The National Inquiry is a powerful reminder that missing person investigations are disproportionately inadequate or discriminatory when they involve Indigenous Peoples or marginalized and vulnerable community members generally.

Campbell Report on the Bernardo Investigation, June 1996

Mr. Justice Archie Campbell's Report into the Bernardo Investigation examined how multi-jurisdictional investigations are most effectively conducted. With respect to my Review, the disappearances of McArthur's victims were investigated both by the Toronto police and Peel police. The

“cannibalism theory,” leading to the creation of Project Houston, necessarily added to the number of jurisdictions inside and outside Canada potentially affected by the investigation. As well, multiple agencies could perform important roles in advancing a missing person investigation of potential multi-jurisdictional concern. I refer to agencies such as the Ministry of Community Safety and Correctional Services, its Major Case Management Unit and serial predator criminal investigations coordinator; the RCMP, through its national database on missing persons and unidentified bodily remains; the Ontario Provincial Police (OPP), through the related Missing Persons and Unidentified Bodily Remains Unit, and through its ViCLAS Unit.⁴⁹

My findings in relation to the McArthur investigations and to instances where bodily remains were not promptly linked to persons reported missing make it necessary for me to consider how multi-jurisdictional investigations should be done. Hence, the importance of the Campbell Report, a report that has had a significant impact on such investigations.

Between May 1987 and December 1992, Paul Bernardo raped or sexually assaulted at least 18 women in Scarborough, Peel, and St. Catharines and killed three women in St. Catharines and Burlington.⁵⁰ His modus operandi included stalking his victims.⁵¹

In the Bernardo Investigation Review, Justice Campbell was asked to review and report on the roles of various agencies and organizations connected to the cases, including the investigation of the Green Ribbon Task Force⁵² into the deaths of the victims and the Service’s investigation into the Scarborough sexual assaults.⁵³

Key Findings

Justice Campbell’s review found that Bernardo’s crimes fell through the cracks because of systemic weaknesses and the inability of the different law enforcement agencies to pool their information and co-operate effectively. One of the failings Justice Campbell identified was the Centre of Forensic Science’s delay of over two years in testing a DNA sample Bernardo voluntarily provided during the investigation of the Scarborough rapes. More significant to my Review, the delay was compounded by a lack of any supervisory system

⁴⁹ These agencies are described in Chapters 3 and 4 of this Report.

⁵⁰ Campbell Report, 1.

⁵¹ Campbell Report, 5.

⁵² This was a provincially funded joint forces operation under the auspices of the Criminal Intelligence Service of Ontario. Originally it comprised officers from Halton and Niagara police services, but eventually nine other Ontario police forces contributed investigators. The task force was mandated to investigate the murders of Leslie Mahaffy and Kristen French, who were murdered by Bernardo, as well as the drowning of Terri Anderson, which ultimately was not tied to Bernardo. See Campbell Report, 122, 133.

⁵³ Campbell Report, xi.

within the Service to ensure that senior officers monitored the Scarborough cases and followed up appropriately once the investigations had gone cold.⁵⁴

Justice Campbell found that the various police services did not adequately communicate and share information with each other. Furthermore, at the time of Bernardo's arrest and questioning, the Service proceeded with its own private agenda, unbeknownst to the Green Ribbon Task Force with which it was working.⁵⁵ Justice Campbell found it to be imperative that communication and co-operation between agencies at all levels be accepted, encouraged, directed, and, above all, practised.⁵⁶

Relevant Recommendations

Justice Campbell recommended the implementation of a case management system among law enforcement agencies for major and interjurisdictional serial predator investigations based on co-operation, rather than rivalry. The system he proposed would depend on specialized training, early recognition of linked offences, coordination of interdisciplinary and forensic resources, and some simple mechanisms to ensure unified management, accountability, and coordination when serial predators cross police borders.⁵⁷

A number of Justice Campbell's recommendations resulted in the creation of Ontario's provincial adequacy standards for major case management, the creation of the serial predator criminal investigations coordinator position, and the designation of PowerCase as the case management tool for major case management. These are fully described in Chapter 4 of my Report.

During the Review, it became painfully clear to me that the Service has failed to fully learn the lessons of the Bernardo debacle captured by Justice Campbell in his report and in existing provincial adequacy standards.

The next report examined, among other things, the role that systemic bias played in one police service's sudden death investigations involving Indigenous community members, and strategies to address the troubling relationship between that police service and the Indigenous communities it serves.

⁵⁴ Campbell Report, 65–66.

⁵⁵ Campbell Report, 347–48.

⁵⁶ Campbell Report, 350.

⁵⁷ Campbell Report, 2.

OIPRD Report into Indigenous People and the Thunder Bay Police Service, 2018

On November 3, 2016, Gerry McNeilly, director of the Office of the Independent Police Review Director, initiated a systemic review to investigate and respond to complaints raised by Indigenous communities in and around Thunder Bay about the quality of Thunder Bay Police Service investigations into the deaths of Indigenous Peoples, some of which began as reported missing persons. One of these cases was the 2015 death of Stacy DeBungee, an Indigenous man.

The OIPRD review examined 37 Thunder Bay Police Service investigations involving sudden deaths going back to 2009. Non-Indigenous death investigations and one investigation of a matter that did not involve a death were also examined.⁵⁸

Key Findings

Ultimately, Mr. McNeilly concluded that Thunder Bay police investigators failed, on an unacceptably high number of occasions, to treat or protect the deceased and his or her family equally and without discrimination because the deceased was Indigenous. Investigators too readily presumed accident in cases of Indigenous sudden deaths. This presumption was caused, at least partially, by racist attitudes and racial stereotyping. Officers repeatedly relied on generalized notions about how Indigenous people likely came to their deaths and acted, or refrained from acting, based on those biases. Mr. McNeilly found that systemic racism exists in the Thunder Bay Police Service at an institutional level. Officers may well have been influenced by racial stereotypes or unconscious bias.⁵⁹ The director stated that his finding that investigations were affected by racial discrimination did not represent a determination that all Thunder Bay police officers engaged in intentional racism.

Mr. McNeilly found that several of the Thunder Bay police investigations were so problematic that the cases should be reinvestigated. His report identified the following problems with the investigations:

- Some Thunder Bay Police Service investigators lacked the expertise and experience to conduct sudden death or homicide investigations. For example, investigators exhibited poor interviewing techniques and failed to interview key witnesses.

⁵⁸ OIPRD Report, 5, 7, 169.

⁵⁹ OIPRD Report, 9, 182, 184.

- Investigators frequently misunderstood when matters should be investigated under the major case management system.
- Investigators repeatedly failed to recognize what constitutes a potentially suspicious death and that a sudden death must be investigated as a potentially suspicious death unless or until the evidence supports the contrary.
- Supervision of investigations was inadequate. Often, there was no regular review process in place.
- Investigators often failed to connect the autopsy results with their investigations, failed to find out the autopsy results, or failed to understand the significance of the results to their investigations.
- Information sharing between the Thunder Bay Police Service and other police services was uneven and unsatisfactory and resulted in policing “silos.” This problem was identified as being partially because the police service does not integrate its data management system with other services.
- The relationship between police and coroners lacked coordination, delegation, and information sharing when an integral part of a proper death investigation required them to work together in a coordinated way. At times, both parties failed to understand their respective roles.
- The Aboriginal Liaison Unit within the service was insufficiently supported to meet the needs. It had to be enhanced and expanded. In particular, although the Thunder Bay Police Service has had an Aboriginal Liaison Unit for more than 20 years, its two officers were generally not involved in investigative work or support.⁶⁰

A “crisis of trust” affected the relationship between Indigenous people and the Thunder Bay Police Service. The perception was widespread that officers engage in discriminatory conduct, be it conscious or unconscious, ranging from serious assaults and racial profiling to insensitive or unprofessional behaviour. Much of the suspicion and distrust that Indigenous people feel toward the police is rooted in a history of colonial policies and police enforcement of them, including the removal or apprehension of children to attend residential schools or to be placed in the child welfare system.⁶¹

To rectify this, the director concluded that senior management had to make consistent efforts to establish respectful relationships with Indigenous leadership. Rather than wait for Indigenous leadership to initiate contact when

⁶⁰ OIPRD Report, 8, 156–58, 167.

⁶¹ OIPRD Report, 6, 22, 179.

crises occurred, senior management had to initiate dialogue with Indigenous leaders on a regular basis and seek advice when crises occur.⁶²

Relevant Recommendations

The director's recommendations addressed, among other things, the following:

- The Aboriginal Liaison Unit's role should be integrated into additional areas of the police service and its numbers increased by at least three officers.
- Actions should be proactively taken to eliminate systemic racism, including removing systemic barriers and the root causes of racial inequities in the service.
- The service should undertake a human rights organizational change strategy and action plan as recommended by the Ontario Human Rights Commission in October 2016.
- The Thunder Bay Police Service should publicly and formally acknowledge, after working with Indigenous communities on the form and content of such acknowledgements, that racism exists at all levels within the Service and that racist views or actions will not be tolerated.
- The Board should publicly and formally acknowledge that racism exists within the Thunder Bay Police Service and take a leadership role in repairing the relationship between the service and Indigenous communities.
- The Thunder Bay Police Service should create a permanent advisory group involving the police chief and Indigenous leadership with a defined mandate, regular meetings, and a mechanism for crisis-driven meetings to address racism within the service, as well as other issues.
- The service should work with training experts, Indigenous leaders, Elders, and the Indigenous Justice Division of the Ministry of the Attorney General to design and implement mandatory Indigenous culture competency and anti-racism training for all Thunder Bay Police Service officers and employees, that
 - is ongoing throughout the career of an officer or employee;
 - involves "experiential training" that includes Indigenous Elders and community members who can share their perspective and answer questions based on their own lived experiences;
 - is informed by content determined at the local level, and informed by all best practices;

⁶² OIPRD Report, 17.

- is interactive, allows for respectful dialogue involving all participants, and reflects the diversity within Indigenous communities, rather than focusing on one culture to the exclusion of others; and
- explains how the diversity of Indigenous people and pre- and post-contact history is relevant to the ongoing work of the officers and employees. For example, Indigenous culture and practices are highly relevant to how officers should serve Indigenous people, conduct missing person investigations, build trust, accommodate practices associated with the deaths of loved ones, and avoid micro-aggressions. Micro-aggressions are daily verbal or non-verbal slights, snubs, or insults that communicate, often inadvertently, derogatory or negative messages to members of vulnerable or marginalized communities.
- The service should also develop and enhance additional cultural awareness training programs relating to the diverse community it serves.
- Recently developed psychological testing for new recruits should be introduced to assist in eliminating applicants who have or express racist views and attitudes.
- On a priority basis, a proactive strategy within the service should be created and adopted to increase diversity, with prominence given to Indigenous candidates.
- Job promotion should be linked to demonstrated Indigenous cultural competency.
- The public should be provided, on an annual basis, with disaggregated data on sudden death investigations, detailing the total number with a breakdown of investigative outcomes.

Although the OIPRD's review was not focused on the missing person component of the Thunder Bay Police Service investigations, the director's findings are important in addressing broken relationships between police and diverse, vulnerable, and marginalized communities and in the impact of systemic bias or racism on police investigations.

The remaining summarized reports all deal with the Toronto Police Service on topics relevant to my own mandate.

Bruner Report into Relations Between the Homosexual Community and the Police, 1981

On February 5, 1981, the Service⁶³ raided four bathhouses in Toronto as part of an investigation dubbed “Operation Soap.” The raids resulted in the arrest of 289 people under antiquated bawdy-house laws. The operation was one of the largest police actions in Canada at the time. Most of the charges were ultimately dropped. Some of the arrested men described officers’ calling them derogatory names, photographing them naked, taking their employers’ information and misusing it, and recklessly damaging the bathhouses during the raids.

This raid represented at least the sixth time the Service had raided bathhouses frequented by gay men. During one of the previous raids, seven men were arrested, and their names, ages, and addresses were published by the *Toronto Star*. Toronto activists immediately responded to the raids with gatherings and marches. The sheer number of protesters in the days that followed was unprecedented. They demanded an inquiry into the relations between the gay community and the Service.⁶⁴ The raids and resulting action are often referred to as “Canada’s Stonewall.”⁶⁵ For the gay community, the bathhouse raids reinforced the discriminatory criminalization of their communities, and the systemic biases and barriers they faced.

In July 1981, Toronto City Council appointed Arnold Bruner, a law student and journalist, to assess the relationship between the gay community and the Service. Mr. Bruner’s appointment was not universally welcomed. In August 1981, the president of the Toronto Police Association stated, “the majority of members of the Metro Toronto Police Association have grave concerns about recognizing homosexuals as a legitimate minority.”⁶⁶ In spite of this offensive statement, Police Chief Jack Ackroyd stated in 1982:

[A]ll of the people in the Metropolitan Toronto community, including the homosexual segment of the community (gay / lesbian), are entitled to the same rights, respect, service and protection as all citizens. Being homosexual is not a reason to deny anyone the right to be recognized as a legitimate member of the community.⁶⁷

⁶³ Then known as the Metropolitan Toronto Police Force.

⁶⁴ The report itself included a section on language: “The terms gay and gay community will be used throughout this report, although the word homosexual will be used when the context calls for it. Gay refers to both men and women, in context, although lesbian will also be frequently used.”

⁶⁵ This is a reference to the historic New York protests led by LGBTQ2S+ activists following a June 1969 police raid of Stonewall Inn, a bar frequented by members of LGBTQ2S+ communities.

⁶⁶ Alden Baker, “Gays no minority group, police association says,” *Globe and Mail*, August 29, 1981, 5.

⁶⁷ Tom Hooper, “‘Enough Is Enough’: The Right to Privacy Committee and Bathhouse Raids in Toronto,

Key Findings

Mr. Bruner found that homophobia permeated junior and senior levels of the Service in both its culture and in attitudes toward gay men. He specifically found that members of the Service viewed gay men as being at odds with rugged notions of masculinity and they associated gay men with criminality.⁶⁸

With respect to the relationship between members of the gay community and the Service, Mr. Bruner found that community members felt unduly targeted by police while the police felt they were only doing their job. He also found a “gulf of mistrust and misunderstanding” between the groups and that “the relationship suffers from an almost total lack of effective communication.” In Mr. Bruner’s view, dialogue was needed to rectify the broken relationship.⁶⁹ The bathhouse raids cost the Service dearly. One cost was the loss of respect and confidence of gay citizens who, until the raids, had never been activists or militants.⁷⁰

Relevant Recommendations

Key topics in the Bruner Report’s recommendations include:

- A police / gay dialogue committee should be established (with specific guidance as to how such a committee should be constituted, how members should be selected, and how frequently it should meet).
- The chief of police should clarify publicly for all officers the legitimate rights of the gay community to equal protection of the law, and the Service should implement a clear policy of no discrimination against gays and lesbians then on the force or in future hiring and promotion.
- The chief of police should clarify publicly that the gay community is not to be singled out for special attention by the police.
- A gay awareness program should be established and incorporated into a general community awareness program designed to sensitize and maintain the sensitivity of officers of the Service and its recruits to the various minority groups that make up Metropolitan Toronto. Such a program should be designed in consultation with appropriate members of the gay communities and others.
- Measures should be introduced to increase levels of education for recruits.

1978–83” (PhD Dissertation, York University, 2016) [unpublished].

⁶⁸ Bruner Report, 91–99, 101.

⁶⁹ Bruner Report, 116, 139, 159.

⁷⁰ Bruner Report, 117.

Of course, 40 years have passed since the bathhouse raids. The Service has introduced a range of initiatives to increase diversity within the Service and improve its relationship with the LGBTQ2S+ communities. In Chapter 12 of my Report, I describe and evaluate those initiatives as well as the Service's current relationship with these communities and marginalized and vulnerable communities generally. Significant challenges remain. Since some relate to the legacy of the Service's interactions with the LGBTQ2S+ communities, the Bruner Report helps illuminate one component of that legacy.

Griffiths Review of the Toronto Police Investigation of Sexual Assaults, 1999

In 1986, a woman known as Jane Doe was raped⁷¹ in Toronto. At the time, similar sexual offences had been reported, and the police were actively investigating them. In 1998, Jane Doe successfully sued the Service for failing to warn her and other Toronto women that a serial rapist was operating in a specific downtown neighbourhood. The Court accepted Jane Doe's assertion that the police used her and other women as bait and that the police were motivated by "serial rape mythology and discriminatory sexual stereotypes." The Court also determined that the Service lacked a coordinated approach to all instances of violence against women.

Shortly after the Jane Doe decision was released, the City of Toronto Council requested an independent audit of the Service's sexual assault investigations. The Board supported Council's request, and Mr. Jeffrey Griffiths was appointed as the auditor. The audit was a "one-time" snapshot of police practices relating to sexual assault investigations.

The audit's mandate involved reviewing various aspects of sexual assault investigations, including the following:

- the mandate and effectiveness of the Sexual Assault Squad operating at the time;
- the relationship between the police and various community-based agencies;
- the progress made by the Service in addressing recommendations from the Campbell Report;

⁷¹ I only use "rape" and "rapist" in this section to conform to the statutory language that existed at the time and that was used in the relevant documents.

- the effectiveness of the ViCLAS system;⁷²
- the evaluation of police attitudes around such issues as race, gender, sexual orientation, class, and physical appearance and their impact on sexual assault investigations; and
- the policies and procedures relating to the handling of sexual assault cases and officers' adherence to these policies and procedures.

Key Findings

Mr. Griffiths made several findings. The following are those relevant to my Review:

- The police were not using management information to its full potential to link connected cases. At the time, there was a pilot project scheduled for a major case management system. ViCLAS was available but it took an inordinate amount of time to identify linkages, was time-consuming to use, and there was inconsistency and uncertainty among officers about submission requirements. Although ViCLAS was recognized as one of the most effective violent crime linkage analysis systems available, there was a lack of commitment to ViCLAS training.
- There were problems associated with the deployment of officers to investigate sexual assaults. Officers who investigate sexual assault cases were scheduled to be off-duty when most sexual assaults tend to occur. There was a lack of continuity of police officers in the investigation process.
- The Service's website was being used as a public relations tool instead of a resource to provide women with information to assist them, for example, by giving them information about available services, such as counselling, crisis intervention and support, and a hotline for better communication with the community.
- Officers who conducted the initial victim interviews did not always have sexual assault training, and took inconsistent approaches to interviews in the absence of any interview checklist. Younger officers were generally regarded as more sensitive in sexual assault cases.
- A directive requiring an officer in charge to attend the scene of a sexual assault was not being regularly adhered to.
- Sexual assault reports were sometimes incomplete and contained baseless conclusions, including that the victims' reports were unfounded. Some contained inappropriate language. The reports were not reviewed by

⁷² The ViCLAS system is fully described in Chapter 4 of my Report.

supervisors or discussed with the officers who prepared them. As a result, there was no mechanism to address these deficiencies.

- Victims reported not receiving information about the investigation from police, leaving them feeling left out and frustrated.
- Police attitudes toward specific groups of women, such as sex workers and homeless women, conveyed disbelief and insensitivity.
- Front-line officers had little experience or understanding of communities of colour, cross-cultural communities, immigrants, and refugees, and communities where language barriers existed.
- Effectiveness of police training was an issue, although at the time the Service was in the process of developing a new training system for officers. One specific issue identified was that there did not appear to be any correlation between the courses an officer took and any efforts to disseminate the knowledge gained in those courses to other police officers.
- Effective co-operation by police with community service providers was also an issue. Such co-operation is essential to sexual assault investigations. It is not simply a public relations exercise. Inadequate communication, poorly informed referrals, or contradictory policies and procedures lead to a reluctance by victims to report sexual assaults to police.
- No written protocol established when police should issue a warning to the public that a sexual predator was active in the community. That approach was viewed as creating fear and panic; it lacked a proper understanding of information women need to protect themselves.

Mr. Griffiths also found that meaningful community consultations were needed to address many of the concerns he noted, especially working with agencies who serve the needs of the marginalized communities.

Relevant Recommendations

Mr. Griffiths's recommendations addressed a wide range of issues and included mechanisms to assist with their implementation. The following are recommendations relevant to this Review:

- improving and increasing communications with sexual assault victims throughout the investigation, and ensuring more consistency in the officers involved in each investigation. Victims should be able to choose the gender of the officer interviewing them;

- creating formal, written procedures with respect to police publicly sharing information or warnings about sexual predators – communities should assist in the creation of these procedures;
- improving communications and relations between the police and various community agencies, specifically between the officers on the Sexual Assault Squad and various community groups, to ensure that movement of officers into and out of the squad does not disrupt relationships with community organizations;
- creating a broader mandate and increased staffing and resources for the Sexual Assault Squad and the provision of appropriate training to the squad's sexual assault investigations and staff. Their schedules should also correspond more closely with when sexual assaults generally occur;
- ensuring training for all officers on the following topics:
 - the roles and responsibilities of the Victim Services Program and sexual assault care centres so officers can convey accurate information to victims and be aware of, and seek assistance from, appropriate professionals to assist in the investigations;
 - timeline requirements for ViCLAS report submissions to the Service's Sexual Assault Squad and to the OPP ViCLAS centre in Orillia. An oversight process should also be created to ensure compliance with these timelines;
- expanding the Sexual Assault Squad's website to include information directed to the rights of victims, the role of the police, and available community services to support the victims;
- considering establishing a sexual assault hotline which, if established, should be widely communicated in the community;
- using a standardized checklist when interviewing sexual assault victims;
- having a divisional supervisor review all sexual assault occurrences before submission to the Sexual Assault Squad to ensure the report is appropriate;
- reviewing the definition of what constitutes an unfounded sexual assault and having decisions about whether a sexual assault report is unfounded made by a qualified and trained sexual assault investigator, not a front-line officer;
- having the Sexual Assault Squad initiate a consultation process with relevant community agencies, including those that assist sex workers, homeless women, women of colour, and women with disabilities, to identify and address areas of concern and develop an effective complaints process;

- evaluating the information management systems used for sexual assault investigations; and
- evaluating various sexual assault training programs for officers, including the use of external community resources in that training, and better record keeping in relation to that training.

Mr. Griffiths concluded that a sense of trust and respect must exist between the police and the community agencies for police to investigate sexual assault cases effectively. A closer relationship would

- assure the community that there is a genuine interest and a serious commitment on the part of the police to listen;
- facilitate shared knowledge with members of the community;
- demonstrate to members of the community that their advice is valued;
- bridge the gap between cultural groups and the police;
- build trust between community groups and the police;
- provide a forum for the discussion of police and community issues before they reach a crisis stage;
- serve as a channel of communication between the police and community groups, and assist the community and police in areas of outreach, such as workshops and networking.

Tulloch Report of the Independent Street Checks Review, 2018

The Hon. Justice Michael Tulloch was appointed by the Government of Ontario to review Ontario Regulation 58/16 permitting police to collect identifying information from civilians – a practice known as street checks or carding. Street checks were originally intended as an investigative tool to collect information about people who police had reason to suspect were involved in criminal activity. Over time, however, it grew into a much less focused practice. Allegations arose that police were conducting street checks in a discriminatory manner, targeting racialized individuals. Justice Tulloch’s mandate was to assess whether police officers, chiefs of police, and police service boards were complying with the Regulation. He also looked at whether the Regulation reflected the government’s goal of ensuring that police public

relations are consistent, bias-free, and conducted so as to promote public confidence and protect human rights.⁷³

Key Findings

Justice Tulloch started by underscoring the importance of procedural justice and civility, noting that public confidence in the police is promoted when the police are perceived to be acting legitimately and they treat members of the public in a polite, respectful, open, and dignified manner. When they are seen to be acting in this manner, people are more likely to follow police directives, report crime, and co-operate in investigations.⁷⁴

He concluded that random street checks were of little or no value in terms of public safety because there is no objective reason for gathering the information. He noted that this lack of utility had motivated many police services to discontinue the practice. He ultimately recommended discontinuing their use altogether and changing the Regulation to prevent the practice.⁷⁵

Relevant Recommendations

Justice Tulloch provided several recommendations in relation to the Regulation to ensure that police street checks are not conducted in a discriminatory manner. His recommendations include the following:

- changing the Regulation to state explicitly that it does not apply to attempts by police to identify missing persons or victims of crime or to interactions between police and members of the community for the purpose of building positive relationships and/or to assist members of the public during investigations. Procedures should also be changed so that information gathered during officers' interactions with community members for these purposes would not be recorded or stored in police databases;
- reducing police access to the information collected during street checks;
- providing officers with training on the Regulation that includes:
 - bias awareness, including recognizing and avoiding implicit bias, as well as how to avoid bias and discrimination;
 - recognizing the social cost of some historical police practices so as to promote public trust and confidence in police;

⁷³ Tulloch Report, 3–4.

⁷⁴ Tulloch Report, 12.

⁷⁵ Tulloch Report, 10.

- indicating how the use of respectful language, tone, and demeanour during regulated interactions benefits the community, individuals, and police services; and
- information about the specific communities being served and their particular issues, including retraining when an officer transfers from one police service to another where different communities are being served;
- preparing and delivering training to officers on the Regulation with the assistance of racialized groups and Indigenous Peoples who understand the effect of regulated interactions with police.

Justice Tulloch also provided recommendations to Ontario police services, more broadly. His recommendations related to:

- providing anti-bias training to all police officers, not just those most likely to be involved in the types of interactions the Regulation oversees;
- systematically reviewing the processes involved in recruitment and promotion of police officers to ensure they are inclusive and bias-free;
- fostering relationships between police officers and the communities they serve by all police services implementing the following initiatives:
 - ensuring adequate funding to allow for greater community involvement and to support other models of policing that enable police officers to spend time each day in the community;
 - increasing outreach to and establishing meaningful and equitable partnerships with Indigenous communities;
 - having police officers work in the city or region where they live and community police officers serve in community neighbourhoods for long enough to form meaningful local relationships;
 - obtaining regular feedback from Indigenous, Black, and other racialized communities on policing in Ontario through surveys and regular consultations with the public and diverse communities in order to improve diversity and inclusion at all levels of the service;
 - having a diversity officer or bureau dedicated to establishing a constructive link between the police and diverse communities;
- all police service boards being responsible for developing policies on diversity within the service, overseeing efforts to recruit and promote diverse members, and reviewing and approving the service's diversity plan.

Ontario Human Rights Commission Inquiry into Racial Profiling and Discrimination of Black Persons by the Toronto Police Service, 2020 ongoing

In November 2017, the Ontario Human Rights Commission began a public inquiry into racial profiling and racial discrimination of Black persons by the Service. The Inquiry, set up to pinpoint problem areas and make recommendations to build trust between the police and Black communities, is ongoing. The Commission has reviewed the Service's data from 2013 to 2017 and will examine the Service's and Board's culture, training, policies, procedures, and accountability mechanisms relating to racial profiling and racial discrimination. To date, the Commission has released two interim reports: one, entitled *A Collective Impact*, in November 2018, and a second one, entitled *A Disparate Impact*, in August 2020. It is primarily the second we discuss here. The Commission has yet to release its final report. The current Inquiry builds upon the Commission's previous work in this area.

Key Findings

In its 2020 report, the Commission found that the data it reviewed confirmed what Black communities had been saying for years – that they are subjected to a disproportionate burden of law enforcement in a way that is consistent with systemic racism and anti-Black racial bias. Black people in Toronto are more likely to be arrested, charged, or charged with excessive offences by the police. They are also more likely to be struck, shot, or killed by Toronto police. As a result of these realities, Black people experience fear, trauma, humiliation, and mistrust, and they expect negative treatment by police.

The Commission found that significant overrepresentation of Black people in incidents of police use of force could not be explained by race-neutral factors, such as patrol zones in low-crime and high-crime neighbourhoods, violent crime rates, presence of a weapon, mental health issues, or criminal history. Instead, the data indicated that race was a strong predictor of whether a police officer would use force against a civilian. In addition, in cases where the encounter between police and the civilian occurred because of proactive policing practices (such as a traffic stop) rather than reactive policing (a call to police for service), the overrepresentation of Black people was even higher.

The Commission concluded that systemic racism and anti-Black racial bias exists within the Service and that systemic change is needed. There is a fractured trust between the Service and Black communities despite decades of protests, reports, recommendations, and commitments related to anti-Black

racism. Unfortunately, the state of this relationship has a significant impact on policing: people are less likely to co-operate with police investigations if they have negative perceptions of police. As Justice Tulloch noted in his report, the Human Rights Commission stated in its first interim report that, without the trust of the communities they serve, police cannot provide proactive, intelligence-based policing.

Relevant Recommendations

Although the Commission's final report containing further recommendations is forthcoming, the interim reports call for a number of entities, including the Service and the Board, to take some immediate steps. These steps include the following:

- The Service and the Board should acknowledge that the racial disparities and community experiences outlined in its first interim report raise serious concerns.
- The Service and the Board should continue to support the Commission's Inquiry.
- The Board should require the Service to collect and publicly report on race-based data on all stops, searches, and use of force incidents.
- The Service, the Board, and the City of Toronto should establish a process with Black communities and organizations and with the Commission itself to adopt legally binding remedies to cause fundamental shifts in the practices and culture of policing and to address and eliminate systemic racism and anti-Black racial bias in Toronto policing.
- The Ontario government should create laws and regulations to address directly systemic racism and anti-Black racial bias in policing, including requiring all police services to collect and analyze race-based data in relation to all police activities and to ensure that transparent and effective accountability processes result in effective discipline of officers who engage in racial profiling or discrimination.

In Chapters 12 and 14, I provide a framework for evaluating claims of overt or systemic bias, discrimination, and differential treatment relating to the Toronto Police Service and discuss the ongoing legacy of the relationship between the Service and LGBTQ2S+, racialized, vulnerable, and marginalized communities. The five reports pertaining to the Service, summarized immediately above, advance that discussion and assist me in evaluating the

role of bias, particularly systemic bias, within the Service. They also assist me in recommending how the Service can build a respectful relationship with the diverse communities it serves. Finally, the Griffiths Review assists me in advocating for a new approach to partnership between the Service and community agencies.

Chapter 12

EXAMINING EVENTS THROUGH THE HUMAN RIGHTS LENS

The Review's Terms of Reference underscore the importance of addressing issues around bias, discrimination, and differential treatment. The Terms accurately reflect that members of, and intersecting groups within, the LGBTQ2S+ communities have expressed concern over the response of the Toronto Police Service (the Service) to missing person investigations, and specifically to the disappearances of Bruce McArthur's victims, "including concerns that the handling of missing person investigations ... may have been tainted by implicit or explicit, specific and systemic bias." In that regard, I am directed to examine whether "culturally competent expertise is available to or relied upon by the Service for missing person investigations," whether existing policies and practices "adequately protect against implicit or explicit bias or discrimination (at the individual or systemic level)," and whether "the Service is conducting missing person investigations in an unbiased, non-discriminatory manner."

Some individuals believe it took the disappearance of a white man, Andrew Kinsman, to fully mobilize the Toronto police to address the presence of a serial killer in the gay community. Some believe that the Service was not highly motivated to solve the disappearances of the other men reported missing, Skandaraj (Skanda) Navaratnam, Abdulbasir Faizi, Majeed Kayhan, Soroush Mahmudi, and Selim Esen. They focus on the fact that the remaining men reported missing were members of racialized communities, most particularly South Asian. Some focus instead on the intersection of factors that made McArthur's victims marginalized and vulnerable – their sexual orientation, gender, ethnicity, national origin, colour, status in Canada, or socio-economic standing.

Some community members also pointed to the treatment of Alloura Wells's disappearance and bodily remains as evidence of discrimination against trans, Indigenous, and homeless communities.

I could not meaningfully examine these issues without considering, more broadly, the relationship between the Service and the diverse communities it serves, with an emphasis on its relationship with LGBTQ2S+

communities. Indeed, I am specifically directed to review the Service's "procedures, practices and protocols for developing and maintaining relationships with individuals and organizations within the LGBTQ2S+ communities, especially as they impact on the effectiveness and adequacy of missing persons investigations."

Although the Terms of Reference place emphasis on issues involving the LGBTQ2S+ communities, these issues cannot be divorced from those other diverse communities face. As I explain below, the effects of discrimination are experienced differently based on the intersection of sexual orientation, gender identity or expression, race, colour, ethnicity, socio-economic or immigration status, and other identifiers or factors. The lived experiences, for example, of a two-spirit Indigenous woman are likely to be very different from those of a South Asian gay man or a Black trans refugee woman. This reality is captured by the concept of "intersectionality," also referred to in the Terms of Reference, a concept that figures prominently in my analysis.

In Chapters 5 through 9, I describe and evaluate the McArthur-related investigations, the missing person investigation concerning Tess Richey, and the unidentified remains and missing person investigations relating to Alloura Wells. In those chapters, I indicate that the role, if any, that overt or systemic bias or discrimination played in these investigations by the Service is best addressed here, in Chapter 12, within a human rights perspective.

This chapter sets out the framework for evaluating allegations of bias, discrimination, or differential treatment, whether characterized as overt or intentional, individual or systemic in nature. I define and explain relevant terms and how they are to be considered in determining the role they play and have played in missing person investigations, most particularly in the specific investigations scrutinized during this Review.

It is important that these definitions be clearly understood. Such an understanding not only helps explain my conclusions but also promotes a better understanding between the Service and its members and the communities they serve. Further, a robust discussion of the various forms of discrimination is necessary to address existing differences between how community members and members of the police understand discrimination.

Community groups and individuals often focus – and appropriately so – on systemic forms of discrimination. However, many officers tend to erroneously equate discrimination with intentional mistreatment. The 2012 report by the Hon. Wally Oppal, *Forsaken: The Report of the Missing Women*

Commission of Inquiry,¹ on the investigations into women missing from Vancouver’s Downtown Eastside found an “absolute division between the non-police and police participants” in how each considered the role that discrimination played. It also found that much of this division reflected different understandings of discrimination.² Judge Oppal concluded that the police approach to discrimination was too narrow and “appears to be inconsistent with Canadian legal norms because it necessitates a finding of pejorative, malicious or intentional bias” and “fail[s] to appreciate the nature of an effects-based analysis.”³

It is unfortunate that such different understandings of discrimination persist in Toronto almost 40 years after the *Ontario Human Rights Code*⁴ (the Code) was created and equality rights have moved beyond a focus on overt or intentional discrimination to include an effects-based focus on systemic discrimination. Ill-defined discussions around discrimination can contribute to continuing division and mistrust, as well as a failure to implement effective solutions to problems.

In discussing the role, if any, that bias or discrimination may play in missing person investigations, I am interested not only in how the police respond to missing person reports but also in whether a person is even reported missing to the police. Non-reporting forms part of my mandate. I am mindful of the impact that bias or discrimination, or perceptions of bias or discrimination, can play in whether community members choose to report someone missing.

Two of the eight men McArthur murdered were never reported missing to police – Dean Lisowick, who was homeless and involved, at times, in sex work, and Kirushna Kumar Kanagaratnam, who had been denied refugee status after arriving in Canada from Sri Lanka in 2010 on the MV *Sun Sea*. Some community members point to the fact that these men were never reported missing as further evidence of a lack of trust in the police or confidence that the police would value their lives highly. They question whether people chose not to report their disappearances because of concerns that doing so might expose Mr. Lisowick and Mr. Kanagaratnam to criminal or immigration enforcement. There is no evidence to establish, one way or the other, whether community members noticed that Mr. Lisowick had gone missing but chose not to report it based on these types of concerns. There is evidence that Mr.

¹ British Columbia, Missing Women Commission of Inquiry, *Forsaken: The Report of the Missing Women Commission of Inquiry* [4 vols and *Executive Summary*, electronic resource, British Columbia, 2012] (Commissioner Wally T. Oppal) (Oppal Report). The Report is also summarized in Chapter 11.

² Oppal Report, *Executive Summary*, 93–94.

³ Oppal Report, I, 119.

⁴ RSO 1990, c H-19 as amended.

Kanagaratnam's disappearance was noticed but unreported because of fears about his immigration status. There is also evidence that, in another missing person case I examine, the family was reluctant to report the disappearance of a young Black man fearing how they would be treated by police.⁵

The point is we must ensure that community members are not inhibited or prevented from reporting people missing by concerns rooted in perceived or actual discrimination, bias, or vulnerabilities, such as legal exposure.

In Chapter 14, I move beyond missing person investigations to examine the relationships between the Service and the city's diverse communities, and the Service's successes or failures in attempting to build respectful relationships. Many community members I heard from had no experience with how the Service handles missing person investigations but stated, based on their own lived experiences, that bias or prejudice undoubtedly influences how the Service does its work. It was clear from my discussions with these community members that their views were also influenced by the history of the Service's relationship with marginalized and vulnerable communities. They pointed to cases of overpolicing, such as the 1981 bathhouse raids and more recently, in 2016, Project Marie, involving ticketing gay men for "lewd behaviour" in Marie Curtis Park. They also noted that Canadian police services have failed to prevent criminal harms suffered by LGBTQ2S+ groups, missing and murdered Indigenous people, and other marginalized groups, including the homeless.⁶ For many, their mistrust of the police is compounded by the Service's failure to apprehend McArthur for over seven years and by recent events, such as the death of George Floyd at the hands of police in Minneapolis, Minnesota. In my extensive engagement with community members, fully documented in Chapter 10, the single most pressing concern they expressed related to actual or perceived biased or discriminatory policing. Some of my recommendations are designed to address this concern both through strategies to promote discriminatory-free policing and through reimagining the role of the police in missing person investigations.

Intersectionality

Earlier, I state that the concept of intersectionality figures prominently in my analysis. It is important to explain why. The concept recognizes that people's perspectives and life experiences, including the discrimination they encounter, will be impacted by their membership in more than one marginalized and

⁵ See the Dovi Henry case study, which follows Chapter 14.

⁶ Douglas Victor Janoff, *Pink Blood: Homophobic Violence in Canada* (Toronto: University of Toronto Press, 2005).

vulnerable community. This is particularly true for those who are most marginalized and vulnerable. The essence of intersectionality was eloquently captured by Michael Wells, the father of Alloura Wells, when he spoke at her memorial service. When the police initially indicated that her disappearance was not a priority, he felt that “it all plays a part, being transgender, addicted, homeless.” He worried that it seemed like his daughter was a “nobody.”

Members of LGBTQ2S+ communities may experience discrimination because of a combination of their sexual orientation, gender identity or expression, colour, race, immigration, or socio-economic status. We know, for example, that racialized trans individuals are subjected to high levels of violence.⁷ Similarly, those who are homeless or have inadequate housing, or have insecure immigration status, or are racialized may face intended or unintended discrimination in addition to the discrimination they also experience based on their sexual orientation, gender identity, or expression.

The concept of “intersectionality” now appears in human rights litigation, jurisprudence, and commentary. In *Withler v Canada (AG)*,⁸ the Supreme Court of Canada observed that “[a]n individual’s or a group’s experience of discrimination may not be discernible with reference to just one prohibited ground of discrimination, but only in reference to a conflux of factors, any one of which taken alone might not be sufficiently revelatory of how keenly the denial of a benefit or the imposition of a burden is felt.” Similarly, the Ontario Human Rights Commission explained why an intersectional approach needs to be adopted when assessing discrimination claims:

Applying an intersectional or contextualized approach to multiple grounds of discrimination has numerous advantages. It acknowledges the complexity of how people experience discrimination, recognizes that the experience of discrimination may be unique and takes into account the social and historical context of the group. It places the focus on society’s response to the individual as a result of the confluence of grounds and does not require the person to slot themselves into rigid compartments or categories. It addresses the fact that discrimination has evolved and tends to no longer be overt, but rather more subtle, multi-layered, systemic, environmental, and institutionalized.⁹

⁷ Emily Elder & Susan Ursel, “Human Rights,” in Joanna Radbord (ed.), *LGBTQ2+ Law: Practice Issues and Analysis*, ([Toronto]: Emond Publishing, 2019), chap 3, 52.

⁸ 2011 SCC 12 (CanLII), [2011] 1 SCR 396 at para 58; see also, *Turner v Canada (AG)*, 2012 FCA 159.

⁹ Ontario Human Rights Commission, *An Intersectional Approach to Discrimination: Addressing Multiple Grounds in Human Rights Claims* (Toronto: Ontario Human Rights Commission, 2001), 3-4.

The National Inquiry on Missing and Murdered Indigenous Women and Girls defined intersectionality as “overlapping oppressions and identity markers.”¹⁰ The National Inquiry’s report concluded that intersectionality “challenges policy makers ... to consider the interplay of race, ethnicity, Indigeneity, gender, class, sexuality, geography, age, and ability” in ways that oppress and target “Indigenous women, girls and 2SLGBTQIA people.”¹¹ Many families of missing women and girls expressed concerns to the Inquiry about assumptions investigators made about them not only because they are Indigenous, but also because of factors such “as education, income and ability,” sexual orientation, gender identity, and expression.¹² The Inquiry, which focused on how intersectionality demands more nuanced analysis than previous equality analyses, stressed that an intersectional and contextual approach to understanding discrimination was necessary.

Two research papers written for the Review examine the role intersectionality has played in interactions between the police and those who identify as LGBTQ2S+ and/or as racialized.¹³ Professor Sulaimon Giwa writes: “Intersectionality recognizes the limitations and dangers of a single-axis analysis or one-size-fits-all approach to police practice and engagement with members of LGBTQ2S+ communities. It acknowledges the complex lives we all live, at the intersections of overlapping systems of privilege and oppression.”¹⁴ Professor Kyle Kirkup concludes that “an intersectional approach is crucial to understanding the complex dynamics between the police and LGBTQ2S+ communities in Canada.”¹⁵

Intersectionality is critical to understanding the lived experiences of those discriminated against and the challenges the Service faces in providing discrimination-free policing. This observation is particularly true because Toronto is one of the world’s most diverse cities. Toronto residents belong to multiple and overlapping communities. The celebration of Toronto’s diversity, however, should not ignore the pressing issues concerning systemic discrimination on intersecting grounds.

¹⁰ Canada, National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* [Ottawa: Privy Council Office, 2019], online resource (National Inquiry), 103.

¹¹ Ibid, 103–4.

¹² Ibid, 104.

¹³ Sulaimon Giwa and Michael Connors Jackman, “Missing Persons Investigation and Police Interaction with Racialized People Who Identify as LGBTQ2S+,” and Kyle Kirkup, “Relations Between Police and LGBTQ2S+ Communities,” at https://8e5a70b5-92aa-40ae-a0bd-e885453ee64c.filesusr.com/ugd/681ae0_2c084550d8e84ddba1f055dc0086149d.pdf

¹⁴ Giwa and Jackman, “Missing Persons Investigation,” 1, 79.

¹⁵ Kirkup, “Relations,” 8.

Toronto's diversity and these pressing issues are illustrated by the following statistics. According to the Ontario, Ministry of Finance, 2016 Census, over 51 percent of those living in Toronto are visible minorities. Over 2.7 million Torontonians have a language other than English or French as their mother tongue. More than 160 languages are spoken in Toronto. About 46 percent of Torontonians are immigrants to Canada.¹⁶ Almost 18 percent of immigrants arrive as refugee applicants.¹⁷ Immigrants are much more likely than non-immigrants to be classified as low income, although they are more likely to have a university degree. Recent immigrants are more likely to live in non-suitable or unaffordable housing. About one immigrant in six reports acts of discrimination, and the percentage increases to almost one in five in the second generation.¹⁸

A street needs assessment of Toronto's homeless in 2018 found that 40 percent of those staying in city shelters were refugee claimants and that 30 percent of all surveyed said they came to Canada seeking asylum. Of those who are homeless, 38 percent identify as Indigenous and 11 percent identify as LGBTQ2S+; 24 percent of homeless youth identify as LGBTQ2S+.¹⁹

It is reported that Toronto has the most same-sex couples in Canada.²⁰ In the last year, 11 percent of Canadians who identify as sexual minorities report they have experienced violent victimization as opposed to 4 percent of heterosexual Canadians; the comparable figures for sexual assault are 7 percent of LGBTQ2S+ community members as compared to 2 percent of heterosexual Canadians. Although LGBTQ2S+ community members are more likely to tell researchers they have been sexually and physically assaulted, they are significantly less likely to have reported such victimization to the police.²¹

A number of community members who met with me described their experiences in terms of intersectionality. It is important that their experiences not be reduced, oversimplified, or misunderstood through a failure to appreciate the dynamics of intersectionality. Understanding these dynamics also represents a challenge when seeking to evaluate the impact on policing of multiple factors or grounds, as well as the relationship the Service has with

¹⁶ Ontario, Ministry of Finance, 2016 Census Highlights, Fact Sheet 9: Ethnic Origin and Visible Minorities.

¹⁷ City of Toronto, Background, "2016 Census: Housing, Immigration and Ethnocultural Diversity, Aboriginal Peoples," October 26, 2017.

¹⁸ Statistics Canada, Toronto – A Data Story on Ethnocultural Diversity and Inclusion, April 29, 2019.

¹⁹ City of Toronto, Background, "Results of the 2018 Street Needs Assessment," November 28, 2018.

²⁰ Statistics Canada, Census in Brief: Same-Sex Couples in Canada in 2016, August 2, 2017, at <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016007/98-200-x2016007-eng.cfm>.

²¹ Brianna Jaffray, "Experiences of Violent Victimization and Unwanted Sexual Behaviours Among Gay, Lesbian, Bisexual and Other Sexual Minority People, and the Transgender Population, in Canada, 2018" (Ottawa: Canadian Centre for Justice and Community Safety Statistics, September 9, 2020), at <https://www150.statcan.gc.ca/n1/pub/85-002-x/2020001/article/00009-eng.pdf>

marginalized and vulnerable communities. At the same time, I recognize that, where the evidence reveals the existence of multiple factors or grounds, it is unnecessary and indeed counterproductive to attempt to quantify the precise role or impact of each.

No marginalized and vulnerable community speaks with a single voice. Indeed, it represents seriously flawed, often stereotypical, thinking to assume, for example, that racialized women are defined solely by the fact that they are racialized women or that they represent a monolithic group. The fact that someone is a racialized woman will often figure prominently, but far from exclusively, in that individual's perspective and life experiences. Other factors include their sexual orientation, their class, economic circumstances and employment status, their immigration status, and their housing status.²²

Bias, Prejudice, and Discrimination

As I have said, when discussing issues of bias, prejudice, and discrimination, it is important to use clear, well-defined terminology. It is equally important to use language that is respectful of the diverse communities central to this Review. Inappropriate or insensitive language can perpetrate stereotypes or unwarranted assumptions. Culturally competent language can build bridges and begin to contribute to a discrimination-free environment. This is not about “political correctness.” It is about creating the best opportunity for a respectful and inclusive dialogue with those affected by the issues under examination.

The terms used in this Report are derived from a variety of sources. These include: The Code, s. 15 of the *Canadian Charter of Rights and Freedoms* (the Charter) and related jurisprudence, the invaluable policies and guidelines developed by the Ontario Human Rights Commission,²³ and the Office of the Independent Police Review Director's December 2018 Report, entitled *Broken Trust*.²⁴

- *Bias* or *prejudice* are terms, often used synonymously, to describe preconceived negative attitudes about individuals or groups distinguished on grounds such as race, colour, ethnic origin, sexual orientation, and/or gender identity or expression. Prejudice refers to intentional

²² Giwa and Connors Jackman, “Missing Persons Investigation,” 25.

²³ Section 30 of the Code permits the Ontario Human Rights Commission to approve policies prepared and published by the Commission to provide guidance to service-providers, among others, in ensuring compliance with the Code.

²⁴ *Broken Trust: Indigenous People and the Thunder Bay Police Service*, Gerry McNeilly, Independent Police Review Director, December 2018 (hereafter OIPRD Report). This report is summarized in Chapter 11.

discrimination.

- *Discrimination* refers to differential or unequal treatment of such individuals or groups that perpetuates or aggravates their pre-existing disadvantage or vulnerability. Discrimination is the antithesis of equality. As Judge Oppal stated: “Equality means that all individuals should be treated fairly and that vulnerable groups or persons should enjoy particular protection due to their marginalized status and situation.”²⁵

The Code prohibits conduct that discriminates against people based on a protected ground in a protected social area. Section 1 provides that every person has the right to equal treatment with respect to goods, services, and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, or disability. Discrimination based on *perceived* race, sexual orientation, or other protected grounds also constitutes a violation of the Code, regardless of whether the perception is accurate.²⁶

Section 12 of the Code provides that a right is also infringed where the discrimination is based on a person’s relationship, association, or dealings with someone identified by a prohibited ground of discrimination.

In the context of this Review, my Code-related focus is on the social area of “services.”²⁷ Simply put, every person has the right to equal treatment with respect to the services provided by the police without discrimination based on any one or more of the protected grounds.

The rights contained in the Code find constitutional expression in the Charter. Subsection 15(1) of the Charter provides that “[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, mental or physical disability.” The Charter applies to state actors, including the police.

Consistent with the insights of intersectionality, the courts have interpreted s. 15 as not confined to the grounds of discrimination listed. Sexual orientation has already been treated as an “analogous” ground deserving of

²⁵ Oppal Report, I, 120.

²⁶ *Smith v Menzies Chrysler*, 2009 HRTO 1936 (CanLII); *Selinger v McFarland*, 2008 HRTO 49; *School District No. 44 (Vancouver) v Jubran*, 2005 BCCA 201. For example, derogatory comments and conduct based on stereotypes about LGBTQ2S+ individuals are prohibited, regardless of the sexual identity of the complainant or perceptions of the perpetrator.

²⁷ Social areas other than “goods, services and facilities” are accommodation (housing), contracts, employment, membership in trade unions, trade or occupational associations, or self-governing professions.

constitutional protection. Other analogous grounds might ultimately include gender identity and expression, already statutorily recognized in the Code²⁸ and the *Criminal Code*.²⁹ As Justice Bertha Wilson acknowledged in the Supreme Court of Canada’s first equality rights case, groups vulnerable to discrimination “will continue to change with changing political and social circumstances ... It can be anticipated that the discrete and insular minorities of tomorrow will include groups not recognized as such today. It is consistent with the constitutional status of s.15 that it be interpreted with sufficient flexibility to ensure ‘the unremitting protection’ of equality rights in the years to come.”³⁰ More recently, Justice Rosalie Abella noted there had been “a shift away from a fault-based conception of discrimination towards an effects-based model which critically examines systems, structures, and their impact on disadvantaged groups.”³¹

Against that background, I now discuss specific grounds of prejudice and discrimination that have featured most prominently in human rights jurisprudence and in the allegations that prompted this Review.

Race

Race is not specifically defined in the Code. The Ontario Human Rights Commission (OHRC) has issued a policy and guidelines on racism and racial discrimination which outlines that race was defined in the past as “a natural or biological division of the human species based on physical distinctions including skin colour and other bodily features.”³² So interpreted, the concept of race was used to classify people and promote notions of racial superiority. As the OHRC observes, “[i]t is now recognized that notions of race are primarily centred on social processes that seek to construct differences among groups with the effect of marginalizing some in society.”³³ The 1995 Report of the Commission on Systemic Racism in the Ontario Criminal Justice System described “racialization” as the “process by which societies construct races as

²⁸ RSO 1990 c H19, as amended by SO 2012 c 7, s. 1.

²⁹ *Criminal Code*, s. 318(4), as amended by SC 2019 c 25 s. 120.

³⁰ *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143 at 152–53.

³¹ *Fraser v Canada*, 2020 SCC 28 at para 31.

³² Ontario Human Rights Commission, Policy on racism and racial discrimination, 2.1 (OHRC Racism Policy).

³³ *Ibid.*

real, different and unequal in ways that matter to economic, political and social life.”³⁴

The OHRC describes the use of the term “racialized person” or “racialized group” as generally preferable to “racial minority,” “visible minority,” “person of colour,” or “non-white” as “it expresses race as a social construct rather than a description based on perceived biological traits.” It is also generally preferable because people may be racialized based on a wide range of traits, attributes, physical features, or characteristics – such as someone’s colour, name, accent, beliefs, or place of origin.

The word “racialized” places the emphasis on the perceptions and the use that police or others in authority make of the perceived characteristic of race rather than focusing on the complex subject of racial identity.³⁵ The focus on racialization also fits with the fact that “race” as enumerated in the Code is closely tied to other protected grounds – ancestry, place of origin, colour, ethnic origin, citizenship, and creed (or religion). Under the Code, “the ground of race is capable of encompassing the meaning of all of the related grounds and any other characteristic that is racialized and used to discriminate.”³⁶ The related grounds may also be used as “euphemisms” or “proxies” for notions of race.³⁷

As most people have come to know that they cannot explicitly differentiate and judge people based on race, racial discrimination often takes the shape of employing other less stigmatized notions and terms in the place of racial ones. Even those who experience racial discrimination often feel reluctant to employ explicitly racial notions and terms. For example, instances of racial discrimination may make reference to a person’s accent or place of origin as a proxy for race.

I have already introduced the concept of intersectionality. It has direct application to racial discrimination. For example, a young Black man may experience discrimination based on the prejudices, stereotypes, or assumptions associated with the intersection of his colour, age, and sex. A South Asian gay man may experience discrimination based on multiple protected grounds including sexual orientation. These examples reinforce the conclusion that,

³⁴ OHRC Racism Policy, 2.1.1; see also: Unequal Access: A Canadian Profile of Racial Differences in Education, Employment and Income, Report Prepared for the Canadian Race Relations Foundation by the Canadian Council on Social Development (Toronto: Canadian Race Relations Foundation, 2000) at 40–41.

³⁵ *Kahkewistahaw First Nation v Taypotat*, 2015 SCC 30, [2015] 2 SCR 548 at paras 19–20; *Quebec (AG) c Alliance du personnel professionnel et technique de la santé et des services sociaux*, 2018 SCC 17, [2018] 1 SCR 464 at para 25; *Fraser*, at para 27; *Ontario (AG) v G*, 2020 SCC 28 at para 67.

³⁶ OHRC Racism Policy, 2.1.1, 2.3.2.

³⁷ *Ibid*, 2.3.2.

although certain protected grounds under the Code are said to be more directly related to race, other protected grounds, such as age, sex, and sexual orientation, may equally impact on whether and how discrimination takes place.

In this Report, I refer, depending on the context, to racial discrimination against both Indigenous *and* racialized persons, reflecting that discrimination against Indigenous people may be addressed under the Code through the prism of “race,” but that the life experiences and perspectives of Indigenous people are also unique. I also recognize that even describing the discrimination experienced by racialized persons can obscure the degrees of differential treatment or the experiences of particular racialized communities, such as Black communities.³⁸

The Meaning of Racial Prejudice, Racial Discrimination, and Racism

Racial prejudice is a belief, sometimes unconsciously held, about the superiority of one racial group over another. *Racial discrimination* occurs when racial prejudice is a factor in how a person or institution acts or fails to act. It can also occur from the adverse effects of seemingly neutral policies on racialized groups. *Racism* is sometimes used to describe racial prejudice, sometimes to describe racial discrimination. The term *racist* is used as an adjective to describe conduct and as a noun to describe an individual said to engage in racism. However, I agree with the OHRC’s view that “except in the most obvious circumstances, such as where individuals clearly intend to engage in racist behaviour, it is preferable that actions rather than individuals are described as racist.”³⁹

Racial discrimination may be overt or operate in more subtle, subversive ways. It may be deeply rooted in attitudes, assumptions, or stereotypical thinking.⁴⁰ It may be unintentional, driven by the subconscious, or be deliberate. It may operate on an individual interpersonal level or systemically. *Systemic discrimination, including systemic racism, occurs when an institution’s culture, structure, policies or practices create or perpetuate disadvantage for persons or groups, whether such disadvantage is intended.*⁴¹

³⁸ UN Human Rights Council Working Group of Experts on People of African Descent on its mission to Canada: <http://digitallibrary.un.org/record/1304262?ln=en>.

³⁹ OHRC Racism Policy, 2.2.1.

⁴⁰ Ibid, 2.2, 3.1: “Stereotyping typically involves attributing the same characteristics to all members of a group, regardless of their individual differences. It is often based on misconceptions, incomplete information and/or false generalizations. Practical experience and psychology both confirm that anyone can stereotype, even those who are well meaning and not overtly biased.”

⁴¹ Ibid, 4.

Racial discrimination may be manifested in a wide range of actions and inactions – racial slurs, jokes, harassment, and other offensive conduct, or criminal activities – or manifested by an environment in which such conduct is allowed to take place.

Whether racist attitudes or stereotypes affect a person’s actions is often difficult to determine. This is because of the subtle and unstated ways in which racism can affect our behaviour. For example, micro-aggressions (that is, brief and commonplace daily comments that send derogatory messages or reflect stereotypical assumptions) may cumulatively impact on the mental and physical well-being of Indigenous and racialized persons at the receiving end. Those making the comments may be otherwise well-intentioned and totally unaware of the possible impact of their words. An institution’s policies may appear neutral, on their face, though they perpetuate unjustified differential treatment.

Our courts have recognized the insidious nature of racial prejudices, and the stereotypes and misconceptions associated with them:

Buried deep in the human psyche, these preconceptions cannot be easily and effectively identified and set aside, even if one wishes to do so ... Racial prejudice and its effects are as invasive and elusive as they are corrosive.⁴²

Such stereotypes and preconceptions often relate to credibility, worthiness, and criminal propensity. Consider, for example, these examples – Indigenous women are assumed to have been involved in transient sex work when reported missing. Similarly, a racialized Black man who has immigrated to Canada is assumed to have returned to his home country when he is reported missing.

The pervasiveness and reality of racial discrimination, past and present, must be recognized, even while acknowledging important steps taken to address it. In *R v Parks*, the Court of Appeal for Ontario stated:

Racism, and in particular anti-black racism, is a party of our community’s psyche. A significant segment of our community holds overtly racist views. A much larger segment subconsciously operates on the basis of negative racial stereotypes. Furthermore, our institutions, including the criminal justice system, reflect and perpetuate those negative stereotypes. These elements combine to infect our society as a whole with the evil of racism.⁴³

⁴² *R v Williams*, [1998] 1 SCR 1128 at paras 21–22.

⁴³ (1993) 15 OR (3d) 324 at 342.

In *R v Williams*,⁴⁴ the Supreme Court of Canada adopted this passage from *Locking Up Natives in Canada: A Report of the Committee of the Canadian Bar Association on Imprisonment and Release*:

Put at its baldest, there is an equation of being drunk, Indian and in prison. Like many stereotypes, this one has a dark underside. It reflects a view of native people as uncivilized and without a coherent social or moral order. The stereotype prevents us from seeing native people as equals.

Racial Profiling

The Ontario Human Rights Tribunal (the Tribunal) has recognized the enduring power of racial prejudice, including the harmful stereotypes associated with it, to influence police conduct and decision-making.⁴⁵ In one case involving the Toronto police and a Black woman who was delivering newspapers in her car, the Tribunal found that a white woman would not have been treated the same way. It stated that if dealing with a white woman, the officer would have tried to defuse and de-escalate the confrontation rather than forcefully arrest the Black woman, as he did.⁴⁶

In another case, the Tribunal held that the stopping of a Black man in a Canada Post uniform making deliveries on foot in Toronto's affluent Bridle Path area amounted to discrimination, especially given that the police were investigating reports of a suspicious person who was described as white, Eastern European, and using a vehicle.⁴⁷ The Tribunal has also found that Toronto police engaged in discrimination against a 51-year-old Indigenous man who was stopped and arrested for stealing a bike when he could not immediately produce a receipt for its purchase. The Tribunal found that the suspicion, arrest, and handcuffing of the Indigenous man were "largely the results of beliefs of Aboriginal criminality based on negative stereotyping."⁴⁸ In another decision, the Tribunal found discrimination based on "the intersection of colour, race and place of origin" when a Toronto police officer told a Black man that he would be deported and took the unusual step of contacting his employer about his arrest.⁴⁹

The OHRC's Policy on Eliminating Racial Profiling in Law Enforcement (the OHRC Racial Profiling Policy), released in September 2019, is designed as a resource, primarily for law enforcement agencies. It provides

⁴⁴ [1998] 1 SCR 1128 at para 58.

⁴⁵ *McKay v Toronto Police Services Board*, 2011 HRTO 499 (CanLII).

⁴⁶ *Abbott v Toronto Police Services Board*, 2009 HRTO 1909 at 43–47.

⁴⁷ *Phipps v Toronto Police Services Board*, 2009 HRTO 877.

⁴⁸ *McKay v Toronto Police Services Board*, 2011 HRTO 499 at 153.

⁴⁹ *Dungus v Toronto Police Services Board*, 2010 HRTO 2419 at 62.

detailed guidance on steps law enforcement organizations can take to identify, prevent, and address racial profiling, meet their legal obligations under the Code, and build trust with Indigenous people and racialized communities. It is instructive that the Ontario Association of Chiefs of Police (the OACP) endorsed the key principles articulated in this policy and made the commitment to working with the OHRC in addressing its recommendations. The OACP's endorsement of the policy's key principles provides further support for its use in informing my own recommendations.

The OHRC Racial Profiling Policy defines “racial profiling” as “any act or omission related to actual or claimed reasons of safety, security or public protection, by an organization or individual in a position of authority, that results in greater scrutiny, lesser scrutiny or other negative treatment based on race, colour, ethnic origin, ancestry, religion, place of origin or related stereotypes.” I observe that some people associate racial profiling with more limited conduct associated with racial discrimination – usually, conduct associated with street checks or “carding.” I welcome the Commission's more inclusive definition that captures a broader spectrum of police-related racial discrimination.

The definition's reference to “lesser scrutiny” reflects, as an aspect of racial profiling, the underprotection of communities based on race or related grounds – that is, the failure to take adequate or appropriate action to protect racialized and Indigenous persons, groups, and communities. Such action might involve appropriate investigations where such persons, groups, or communities may have been victimized or at risk, and taking preventative measures to avoid such victimization or risk. Race-based underprotection may represent a value judgment that certain individuals, groups, or communities are less worthy of protection. The Policy's reference to “greater scrutiny” reflects another key aspect of racial profiling: the overpolicing of communities based on race or related grounds. In Chapter 14, I discuss in greater depth the history and dangers of both overpolicing and underprotection.

Racial profiling in all its various forms is unlawful under the Code and an example of discrimination. In addition, racial profiling, when it is correctly understood, does not make our communities more safe. Nor does it involve legitimate criminal profiling or investigative work since it is based on stereotypes, misconceptions, and prejudice. It links entire communities to criminality or a lower moral standing. As such, it promotes overpolicing. At the same time, racial profiling undermines public confidence in the police, thus discouraging reporting of crime and heightening the likelihood of underprotection.

Sexual Orientation

Sexual orientation is not defined in the Code. It is now well established that sexual orientation represents an immutable personal characteristic that forms part of someone’s core identity. It includes a wide range of orientations associated with human sexuality, including but not limited to gay, lesbian, bisexual, and heterosexual.⁵⁰

The language associated with sexual orientation is fluid. This fluidity reflects the evolution of attitudes around sexual orientation and of how people wish to describe themselves and have others describe them, as well as the fact that some terms once used to denigrate community members have been “reclaimed” by members of affected communities.⁵¹

The following represent some terms used in this Report relevant to sexual orientation. Definitions are based on those found in a variety of sources.

asexual A person who is not interested (or has limited interest) in sexual activity, either within or outside of a relationship. Asexuality is not the same as celibacy, which is the decision to not act on sexual feelings.

bisexual A person who is attracted to, and may form romantic and sexual relationships with, both women and men. Note that the origins of this term (*bi*= two) reinforce the concept of a gender binary (separately addressed in connection with gender identity and expression). The term *pansexual* more concisely describes someone romantically or sexually attracted to any gender or sex.

gay A person whose romantic and/or sexual attractions are to people of the same gender. This is sometimes used as an umbrella term for the LGBTQ+ community.

heterosexual A person who has emotional, spiritual, and sexual attraction to people of the “opposite” gender.

homosexual A person who is mostly attracted to people of their own gender. Because this term has widely been used in a

⁵⁰ Ontario Human Rights Commission, Policy on discrimination and harassment because of sexual orientation (OHRC Sexual Orientation Policy), 3.

⁵¹ Ibid, 4.

pejorative or clinical way, I prefer to use the terms *lesbian*, *gay*, or *queer*.

lesbian	A woman who has emotional, physical, spiritual, and/or sexual attraction to other women.
LGBT, LGBTQ2S+, LGBTQ+, LGBT2SQIA+, 2SLGBTQIA	Various acronyms used to refer to lesbian, gay, bisexual, transgender, intersex, queer, questioning, two-spirit, and asexual people. The + is meant to include those communities not specially named by the acronym. I generally use the acronym LGBTQ2S+ since it is used in the Terms of Reference that define my mandate.
queer	An umbrella term used to describe people with non-heterosexual or non-cisgender orientations and identities, often used interchangeably with LGBTQ+. <i>Queer</i> has historically been used as a highly inflammatory, derogatory term but has been reclaimed by many members of affected communities. Nonetheless, it may still be used in an offensive way. Generally, I use the term only when attempting to accurately capture how individuals or groups have chosen to describe themselves or members of their own communities.
questioning	A term used to describe people who are in the process of exploring their sexual orientation or gender identity.
two-spirit	This term is sometimes used as an umbrella term for LGBTQ+ Indigenous people, although not every Indigenous person who identifies as LGBTQ+ will identify as two-spirit, and not all who identify as two-spirit consider themselves LGBTQ+. 2spirits.com provided this helpful commentary: “A term used by Indigenous People to describe from a cultural perspective people who are gay, lesbian, bisexual, trans, or intersex. It is used to capture a concept that exists in many different Indigenous cultures and languages. For some, the term ... describes a societal and spiritual role that people played within traditional societies, such as: mediators, keepers of certain ceremonies, transcending accepting roles of men and

women, and filling a role as an established middle gender.”⁵²

Sexual orientation, gender identity, and gender expression, although quite distinct, are all protected grounds under the Code. For example, someone’s gender identity is “fundamentally different from and not related to their sexual orientation.”⁵³ Later in this chapter, I discuss gender identity and gender expression. At this point, I merely observe that, at times, sexual orientation, gender identity, and gender expression may intersect. Equally important, those who have experienced discrimination based on their sexual orientation, gender identity, or gender expression will have both unique and shared experiences and perspectives. The existence of those shared experiences and perspectives is reflected, in part, by individuals, groups, and organizations that identify as LGBTQ2S+.

Although “sexual orientation” is not specifically listed in s. 15 of the Charter, the Supreme Court of Canada found that sexual orientation should be treated as an “analogous ground” to those named in s. 15.⁵⁴ In so concluding, the Court acknowledged the historical and ongoing disadvantage experienced by lesbian and gay people:

The historic disadvantage suffered by homosexual persons has been widely recognized and documented. Public harassment and verbal abuse of homosexual individuals is not uncommon. Homosexual women and men have been the victims of crimes of violence directed at them specifically because of their sexual orientation. They have been discriminated against in their employment and their access to services.

They have been excluded from some aspects of public life solely because of their sexual orientation. The stigmatization of homosexual persons and the hatred which some members of the public have expressed towards them has forced many homosexuals to conceal their orientation. This imposes its own associated costs in the work place, the community and in private life.

It is also true that, like racialized and Indigenous people, gay, lesbian, and bisexual community members have experienced pronounced levels of

⁵² “2-Spirited People and the 1st Nations, Our Relatives Said: A Wise Practices Guide” (2008), online: 2-Spirited People of the 1st Nations, www.2spirits.com

⁵³ Ontario Human Rights Commission, Policy on preventing discrimination because of gender identity and gender expression (OHRC Policy on gender identity and expression), 7.

⁵⁴ *Egan v Canada*, [1995] 2 SCR 513, para 13: Analogous grounds are personal characteristics that are immutable or integral to identity and only changeable at an unacceptable personal cost.

discrimination by police both at interpersonal and institutional levels. The use of the criminal law – including but not limited to the criminalization of consensual sexual activity – to discriminate against these members of the community is further addressed in Chapter 14 on relationship building and in my recommendations in Chapter 15.

Gender Identity and Gender Expression

As already indicated, gender identity and gender expression are protected grounds under the Code. Neither is defined there. However, I adopt the Ontario Human Rights Commission’s definition of these terms:

Gender identity is each person’s internal and individual experience of gender. It is their sense of being a woman, a man, both, neither, or anywhere along the gender spectrum. A person’s gender identity may be the same or different from their birth-assigned sex. Gender identity is fundamentally different from a person’s sexual orientation.

Gender expression is how a person publicly expresses their gender. This can include behaviour and outward appearance such as dress, hair, make-up, body language and voice. A person’s chosen name and pronoun are also common ways of expressing gender.

Trans or **transgender** is an umbrella term referring to people with diverse gender identities and expressions that differ from stereotypical gender norms. It includes but is not limited to people who identify as transgender, trans woman (male-to-female), trans man (female-to-male), transsexual, cross-dresser, gender non-conforming, gender variant or gender queer.⁵⁵

The inclusion of gender identity and expression in the Code was largely designed to protect members of the trans community, though not exclusively, because some individuals do not identify themselves or express their gender in accordance with a gender binary model.

Bias or prejudice against trans individuals (also known as *transphobia*) is very common – indeed, pervasive. It undoubtedly reflects the view that there is only one normal or morally valid expression of gender, and the assumption, also known as cisnormativity, that everyone’s gender identity conforms to the sex they were assigned at birth. The OHRC correctly observes that, although trans individuals come from all walks of life and are represented “in every

⁵⁵ OHRC, Policy on gender expression and identity, 3.

social class, occupation, race, culture, religion, and sexual orientation,” they “are one of the most disadvantaged groups in society. They routinely experience prejudice, discrimination, harassment and even violence.” They are judged by their physical appearance, often not conforming to stereotypical norms. They may be regarded as mentally ill, morally suspect, or fraudulent. Those who are transitioning or coming out are “particularly vulnerable.”⁵⁶ The Ontario Human Rights Tribunal has described the discrimination they face as “substantial and disturbing.”⁵⁷

In 2010, the Trans PULSE Project surveyed 433 trans Ontarians.⁵⁸ The results reflected, among other things:

- Ninety-eight percent reported at least one incident of transphobia.
- Nearly 75 percent have been made fun of for being trans.
- Over 25 percent have experienced physical violence because they were trans.

Trans individuals report discrimination in employment and medical care. The majority live below the poverty line, tied to lower levels of employment. Two-thirds avoided public spaces because of fear of harassment, being “read” (perceived) as trans, or “outed.” Seventy-five percent had experienced suicidal thoughts in their lifetime, and 43 percent had attempted suicide.

The OHRC Policy on gender identity and expression provides examples of the gender-based harassment trans individuals experience:

- derogatory language toward trans individuals or trans communities;
- insults, comments that ridicule, humiliate, or demean people because of their gender identity or expression;
- behaviour that “polices and or reinforces traditional heterosexual gender norms”;
- refusal to refer to a person by their self-identified name and proper personal pronoun;
- comments or conduct relating to a perception that a person is not conforming with gender-role stereotypes;
- jokes related to a person’s gender identity or expression, including those circulated in writing or by email or social media;

⁵⁶ OHRC, Policy on gender identity and expression, 1, 4.3.

⁵⁷ *Brodeur v Ontario* (Health and Long-Term Care), 2013 HRTO 1229 at para 41 (CanLII).

⁵⁸ OHRC, Policy on gender identity and expression, 1; see also “The Trans PULSE Project,” online: <https://transpulseproject.ca/about-us/>

- rumours spread about a person’s gender identity or expression including through the internet;
- “outing” or threats to “out” someone as trans;
- intrusive comments, questions, or insults about a person’s body, physical characteristics, gender-related medical procedures, clothing, mannerisms, or other forms of gender expression; and
- other threats, unwelcome touching, violence, and physical assault.

The relationship between the police and the trans community, as well as the ability of trans individuals to openly serve as members of the Service and other services, remain significant issues. Nearly 25 percent of the trans individuals surveyed during the Trans PULSE Project reported that they had been harassed by police.⁵⁹

Policing in a discrimination-free and effective way also means that police must accommodate people to avoid discriminating against them. In the context of trans individuals, this will mean the use of specific procedures or protocols when searching a member of the trans community, including what is now described as a “split” search.⁶⁰ It may mean attention or scrutiny given to whether police descriptions of members of the trans community (for example through unnecessarily “outing” them) expose them to violence or stigma.

Other Grounds for Discrimination

Poverty, Social Standing, or Social Status

I have already discussed race, sexual orientation, gender identity and expression, as well as their potential intersection. However, poverty, social standing, or social status also need to form part of the discussion in this Report. Simply put, people may be treated in unacceptably different ways based on their poverty or social standing. The OHRC Policy on Racial Profiling made this point well in addressing the potential intersection between race and poverty and the phenomenon of “social profiling”:

Racial profiling can occur based on race in combination with other aspects of social location, such as poverty. Moreover, poverty or perceived poverty on their own can function as bases for profiling, regardless of the race of the person(s) involved.

⁵⁹ OHRC, Policy on gender identity and expression, 4.3.

⁶⁰ A split search is a systemic search by a female officer of some areas of the body and a male officer of other areas of the body, respectful of the gender identity or expression of the person searched.

The term “social profiling,” which captures the reality, has been defined by the Service de police de la Ville de Montreal (SPVM) as “any action taken by one or several persons of authority toward a person or group of people, for reasons of safety, security or public protection which is based on elements of discrimination other than racial, as stated in section 10 of the Charter of Human Rights and Freedoms (Quebec), such as social condition, and which subjects the individual to differential examination or treatment, without actual justification or reasonable suspicions.”

...

... In urban tourist areas and sites of extensive gentrification, people who are visibly poor are regularly targeted by police, private security and public transit officers with the aim of decreasing the presence of “sub-populations perceived to be a visible nuisance.” Importantly, this targeting occurs even in the absence of criminal activity. For example, homeless persons who are law abiding nonetheless experience negative scrutiny by law enforcement on a regular basis.

Social profiling is likely to have a disproportionate negative impact on Indigenous peoples and racialized communities. The 2016 census shows that Indigenous and racialized Ontarians are approximately twice as likely to be low-income when compared to White Ontarians. The result is that profiling directed toward people based on social condition – in this case low-income status – can produce disproportionate racial impacts, even without explicit or implicit racial bias on the part of law enforcement agents. [Citations omitted.]⁶¹

Disability

Another prohibited ground of discrimination relates to disability. Disability is defined broadly in the Code to include past, present, or perceived disabilities. Disability includes physical and mental disabilities and addictions. The Ontario Human Rights Commission policy indicates that one in five Canadians will experience a mental health illness or addiction. It also stresses the obligation of all service providers to take proactive steps to combat discrimination and provide accommodations for those with all forms of disability.⁶²

⁶¹ OHRC, Policy on gender identity and expression, 2.1.

⁶² Ontario Human Rights Commission, Policy on Preventing Discrimination Based on Mental Health Disabilities and Addictions, July 2014, at <http://www.ohrc.on.ca/en/policy-preventing-discrimination-based-mental-health-disabilities-and-addictions>

Immigration Status / Ethnic Origin / Place of Origin

The Code protects against discrimination in the provision of services based on ethnic origin and place of origin. These are grounds that may be connected, as well, to immigration status in Canada. The Review received submissions from the Canadian Association of Refugee Lawyers that their clients as victims and witnesses fear arrest, detention, and removal if they engage with the Toronto police despite Toronto’s policy of being a sanctuary city.⁶³

In *Canada (AG) v Ward*,⁶⁴ the Supreme Court of Canada recognized that members of persecuted groups defined by an innate or unchangeable characteristic such as sexual orientation are members of a “social group” capable of claiming refugee status. That ruling opened the way for LGBTQ2S+ refugees to seek protection in Canada. However, there are significant challenges in claiming refugee status based on sexual orientation or gender identity. For example, applicants may have taken care not to create evidence of their sexual orientation or gender identity in a country in which they face persecution – indeed, potential prosecution based on sexual orientation or gender identity. They often do not disclose to parents and siblings, even if they have a loving relationship with those family members. This situation parallels an issue in Canada as well in which parents and siblings may be unaware of a missing person’s sexual orientation or gender identity and, thus, may be less helpful to the police than those to whom the missing person has disclosed or with whom the missing person has interacted, intimately or otherwise, within an environment unknown to that person’s parents or siblings.

In mid-2017, the Immigration Refugee Board issued a more inclusive guideline (though not binding) that acknowledged significant evidentiary challenges presented by refugee claims based on sexual orientation or gender identity and that asked board members to avoid discredited or stereotypical thinking around these issues.⁶⁵ Professor Giwa in his research paper for the Review observed that “[e]xperiences of migration set up different and unequal

⁶³ See also Graham Hudson et al., “(No) Access T.O.: A Pilot Study on Sanctuary City Policy in Toronto, Canada,” (2017) *RCIS Working Paper* No. 2017/1; TPSB, Toronto Police Service: Response to City Council Motions – Access to City Services for Undocumented Torontonians (February 2017), online: TPSB Agenda March 23, https://www.tpsb.ca/images/agenda_mar23_public_main2.pdf at 239, which outlines various standards of conduct and procedures instructing Toronto police not to ask about immigration status “unless there are bona fide reasons to do so” and also providing that the Service is “duty bound” to share information with the Canada Border Services Agency. I discuss this ostensible duty in Chapters 14 and 15.

⁶⁴ [1993] 2 SCR 689.

⁶⁵ Karen Busby, “The Gay Agenda: A Short History of Queer Rights in Canada (1969–2018),” in Joanna Radbord (ed.), *LGBTQ2+ Law: Practice Issues and Analysis*, ([Toronto]: Emond Publishing, 2019), chap 1, 18.

relationships between LGBTQ2S+ people in Canada.”⁶⁶ He documents how “[c]ountry of origin is a key factor in the assessment of claims for asylum.”⁶⁷

Guiding Principles for Analyzing Discrimination

I have applied the following principles in analyzing and determining whether there is discrimination in policing respecting vulnerable or marginalized people in missing person investigations or more generally.

The courts have acknowledged that, in this day and age, blatant forms of interpersonal discrimination are unusual, and that subjective intent to treat someone unequally is not required to prove discrimination. Rather than searching for direct evidence of overtly prejudiced statements or actions, we must consider whether there is circumstantial evidence of discrimination. The Court of Appeal for Ontario discussed the nature of this inquiry in a 2012 case involving an allegation of racial profiling by police:

Subjective intention to discriminate is not a necessary component of the test. There is seldom direct evidence of a subjective intention to discriminate, because “[r]acial stereotyping will usually be the result of subtle unconscious beliefs, biases and prejudices” and racial discrimination “often operates on an unconscious level.” For this reason, discrimination is often “proven by circumstantial evidence and inference.”⁶⁸

Under the Code, a tribunal hearing a complaint of discrimination on one or more of the enumerated grounds first considers whether there is a “*prima facie* case” of discrimination. Three elements must be satisfied for a *prima facie* case to be established:

1. The complainant is a member of a group protected by the Code,
2. The complainant was subjected to adverse treatment,
3. The complainant’s sexual orientation, gender identity or expression, gender, race, colour, ancestry or other grounds were factors in the alleged adverse treatment.

Once a *prima facie* case is established, the onus shifts to the respondent to provide a “rational explanation” for the conduct that is not discriminatory.

⁶⁶ Giwa and Connors Jackson, “Missing Persons Investigation,” 51.

⁶⁷ Ibid, 54.

⁶⁸ *Shaw v Phipps*, 2012 ONCA 155 (CanLII) at para 34.

Examples of Differential Treatment in Policing

An investigation would be tainted by bias or discrimination if an investigator were less motivated to solve the case by reason of the race, colour, sexual orientation, gender, gender identity or expression, religion, national origin, or age of the missing person or those associated with that person. It would mean that an investigator would regard the missing person or those associated with that person as less worthy of protection or the benefits of police services. This situation is directly linked to the concept of “underpolicing,” or “underprotection,” that is, that certain communities, by reason of prejudice or bias, do not receive the level of policing assistance that others receive or to which they are entitled. As already indicated, discrimination is also linked to “overpolicing” since prejudice or bias may also mean that certain communities or their members are unduly or disproportionately targeted by the police or criminalized. As reflected below, overpolicing and underprotection have relevance to both overt or intentional discrimination and systemic discrimination.

The existence of systemic discrimination is not dependent on a finding of intentional or overt bias or discrimination. Discrimination may be manifested in a variety of ways. In the context of missing person investigations, these might include:

- Investigators may rely on stereotypical notions, misconceptions, or misunderstandings about certain vulnerable or marginalized communities that affect adversely the quality of their investigations. Such notions, misconceptions or misunderstandings, or ignorance about the lived experiences or practices of certain communities may cause police to regard insignificant matters as significant or significant matters as insignificant. For example, police might fail to recognize the strong possibility of foul play involving a gay man based on misconceptions about that person’s “lifestyle.” Or, police may too readily presume that a racialized missing Black man who has immigrated to Canada has returned to his country of origin.
- The police may be unable to meaningfully access the missing person’s community because officers have insufficient connections to it or are uncomfortable in the community or with the community members’ sexual orientation, gender identity or expression, or perceived “lifestyle.”⁶⁹ For

⁶⁹ Of course, it is also problematic to regard, for example, sexual orientation as a “lifestyle.”

example, placing “straight” officers in “gay bars” as part of an undercover effort to elicit information on a potential killer may be unsuccessful because the officers are not comfortable with the sexual orientation, gender identity, or gender expression they are asked to assume. Similarly, officers may fail to ask relevant questions relating to existing or past relationships because of discomfort over non-heterosexual relationships.

- Community members may be reluctant to volunteer information to the police based on the historical and ongoing issues associated with the Service’s relationship to their communities including acts described above as overpolicing or based on attitudes or conduct exhibited by officers who have interacted with them. This may impact adversely on the quality and success of any investigation.
- Investigators may fail to avail themselves of all resources in the community to assist in their work because of unfamiliarity or lack of comfort with those communities. Such failings are associated with underpolicing or underprotection as described above.
- Investigators may give less credence than deserved to members of certain vulnerable or marginalized communities. This may also contribute to underpolicing or underprotection.

Differential Treatment in Other Sectors

As we focus on systemic discrimination or differential treatment by the police, we should also recognize that such treatment can be perpetuated or compounded by others, including the media, private or public groups, or agencies. Some family members of those who went missing, as well as stakeholder groups, expressed deep concern about how missing person cases were reported in the media. They felt that some media accounts placed undue emphasis on the challenges their loved ones faced in their lives, including mental health issues, or on their purportedly risky “lifestyles.” As my team and I reconstructed the chronologies respecting specific missing person cases, we had the opportunity to read the vast majority of the media accounts relating to those who went missing. It is undoubtedly true that, in some notable instances, media stories differed depending on whether they involved the so-called “mainstream” media or LGBTQ2S+ media outlets and even significant

differences among mainstream publications. Even the description of some media as “mainstream” can be misleading.

It is not within my mandate to critique how independent media do their job. Equally important, I recognize that the media plays a tremendously important role in disseminating information about missing person cases and facilitating the assistance of the public in solving these cases. However, I would be remiss in my responsibilities if I did not refer to the concerns I heard about how the mainstream media depicted some of the missing persons who are the subject of this Review. In my recommendations, I address how the police should work closely with those affected by someone’s disappearance to ensure that the information disseminated by the police is accurate, respectful, and not unnecessarily invasive of privacy. In this chapter and in my recommendations, I also address how the police should ensure that they avoid stereotypical notions, misconceptions, or misunderstandings about marginalized and vulnerable communities. I hope that the media also recognizes, and will be introspective about, their own role in reporting on missing person cases in a sensitive and discrimination-free manner.

Summary and Findings

Bias, Discrimination, and Differential Treatment

In Chapters 5 to 9, I describe and evaluate the McArthur-related investigations, the missing person investigation relating to Tess Richey, and the unidentified remains and missing person investigations relating to Alloura Wells. In those chapters, I indicate that the role, if any, that overt or systemic bias or discrimination played in these investigations is best addressed within a human rights framework.

The McArthur-Related Investigations

This Review was prompted, in part, by community concerns that the police did not take the reported disappearances of six of McArthur’s homicide victims seriously, gave these disappearances little investigative attention, and were dismissive of concerns about the public’s safety and the possibility that a serial killer was targeting gay or bisexual men. For many, the inadequate police response, as they perceive it, to these repeated disappearances is explained by the historical and ongoing bias and discrimination exhibited by the Service and its officers against LGBTQ2S+ communities. Some focus on the fact that five of the six men reported missing were members of racialized communities, most particularly South Asian. In that regard, they point to the heightened attention the police appeared to give to the disappearance of Andrew Kinsman, the only

white man of the six men reported missing.⁷⁰ They contend that it was only after Kinsman was reported missing that the police seriously investigated the other disappearances. Still others focus on the intersection of factors that made McArthur's victims marginalized and vulnerable – their sexual orientation, gender, ethnicity, national origin, colour, status in Canada, or socio-economic standing.

At the other end of the spectrum, many do not accept that the Service's response to these disappearances was infected by bias or discrimination. Instead, they observe that, unlike the other men reported missing, Mr. Kinsman was a well-known, established presence in his community. When he disappeared, his large cadre of friends and loved ones mobilized in a highly visible way. The police simply could not ignore the powerful, relentless voices of Kinsman's supporters, particularly against the background of the fact that his disappearance represented the latest in a series of reported disappearances of gay or bisexual men from the Village. According to this view, McArthur's selection of Mr. Kinsman as his next victim hastened his own detection. (Of course, this view is not inconsistent with a finding that the investigation was tainted by systemic discrimination.)

In evaluating these perspectives, I must consider not only the role, if any, that bias played in these investigations, but also the perceptions that bias infected these investigations. The Service requires the public's support to perform its work well, especially when it comes to discrimination-free policing. Even unwarranted perceptions of bias or discrimination have a corrosive effect on investigations. The police must fulfill their responsibilities in a non-discriminatory manner, and the public must be confident that they are doing so. The need for the public's confidence is of particular importance in relation to those diverse communities whose members may be marginalized and vulnerable or who have already experienced bias and discrimination. Simply put, both the perception and reality of discrimination-free policing are essential. By that measure, the Service has not succeeded; many members of the public do not believe that its officers conduct missing person investigations in a non-discriminatory way. This lack of confidence is especially true for many members of the LGBTQ2S+ communities in the aftermath of the McArthur-related investigations. It also remains true for many members of racialized communities, such as Black and Indigenous individuals, who have personally experienced or are well aware of systemic racism in policing.

It is important that the Toronto Police Services Board (the Board), the Service, and its officers understand why many members of the public believe

⁷⁰ Two of McArthur's eight murder victims were not reported missing.

that the McArthur-related investigations were discriminatory. These perceptions derive from at least three “truths.”

The first truth is that the Service largely failed to provide the public with any meaningful information about these investigations as they were taking place. Indeed, the public, including community leaders and organizations, was unaware of Project Houston’s existence. This unnecessary lack of transparency contributed to the perception that, before Mr. Kinsman’s disappearance, the Service had done little or nothing to investigate the earlier disappearances. A number of officers told the Review that, without jeopardizing their investigative work, the Service could have – and should have – done a much better job of sharing information with affected communities.

The second truth is that community members know that for over seven years McArthur relentlessly targeted gay / bisexual men, most of whom were men of colour, and that the Service appeared to discount the presence of a serial killer right up to McArthur’s arrest. The Service refused to acknowledge, at least publicly, the possibility that a serial killer was victimizing the Village. The Service steadfastly maintained this position despite the communities’ increasing fears and mounting evidence about such a possibility.

The third truth is that the LGBTQ2S+ and racialized communities have been overpoliced and underprotected by the police and have been the victims of both overt and systemic bias and discrimination. This legacy of differential policing has been acknowledged by both the Service’s supporters and detractors, while they disagree on the extent to which bias and discrimination continue to infect the Service and its officers. Of course, the well-documented presence of systemic racism in policing, now at the forefront of public discourse, gives added prominence to this truth. Sadly, this history of differential policing has perpetuated the atmosphere of mistrust between the Service and LGBTQ2S+ and racialized communities.

It should hardly be surprising that these three truths have prompted many community members to reject or at least question any suggestion that the McArthur-related investigations were non-discriminatory.

It is unnecessary to precisely quantify how prevalent the perception is that the McArthur-related investigations were tainted by discrimination. I have reminded myself that I only heard from a subsection of community members, and not a fully representative subsection of those members. However, our community outreach and engagement, described in Chapter 10, was extensive. We heard from many community members, whether in person, in writing, or through our survey. We also examined external surveys representative of the population at large. Suffice it to say, the perception of discriminatory policing generally – and specifically in relation to missing person investigations – is

sufficiently widespread that these perceptions would have to be addressed, regardless of my findings on actual discrimination in missing person investigations.

In evaluating whether the McArthur-related investigations were, in fact, tainted by bias, discrimination, or differential treatment, I draw upon the principles set out in this chapter, as well as in the OIPRD Report and the National Inquiry's report. These principles include:⁷¹

- In today's environment, blatant forms of interpersonal discrimination are more exceptional. Under human rights jurisprudence, subjective intent to treat someone unequally is not required to prove discrimination.
- Whether homophobic, racist, or other discriminatory attitudes, stereotypes, or preconceptions affect someone's actions is "notoriously difficult" to determine. This difficulty reflects the "subtle and unstated ways in which bias can affect behaviour." In my view, it also reflects the difficulty in attempting to "tease out" whether actions are affected by homophobia, racism, socio-economic standing, ethnicity, or other dynamics when these criteria so commonly intersect and may impact on behaviour toward people in cumulative ways.
- Systemic discrimination takes place "when an institution's culture, structure or practices create or perpetuate disadvantage for persons or groups." As I state earlier, this form of effects-based discrimination can occur in the absence of intentional discrimination or even in the absence of the use of stereotypes.

The distinction between overt or intentional and systemic discrimination was also addressed in the Oppal Report. There are striking parallels between the McArthur-related investigations (particularly those that preceded Project Prism) and the police investigations into the disappearances of vulnerable women from Vancouver's Downtown Eastside that Judge Oppal examined.

In his 2012 report, Judge Oppal concluded that systemic bias against the women who went missing from the Downtown Eastside contributed to critical police failures in the investigation of their disappearances. In his report, Judge Oppal stated that this fact did not mean the police did not care about the women. They clearly cared. As a whole, the officers involved in the investigations were conscientious and fair-minded. They would not consciously disregard a class of people. Judge Oppal found no evidence of

⁷¹ OIPRD Report, 180–81. This Report is summarized in Chapter 11.

overt bias or widespread institutional bias in the Vancouver Police Department or the Royal Canadian Mounted Police.

However, Judge Oppal made strong findings about the systemic bias that infected the investigations of the disappearances of the women. This bias was based on broader patterns of systemic discrimination within Canadian society and was reinforced by the political and public indifference to the plight of marginalized female victims. In his view, such systemic bias was clear in the unreasonable departure of the police from the commitment to provide equal services to all members of the community. The women who went missing were undervalued in part by stereotypical beliefs, including that they lived a “high risk” lifestyle, given their involvement in sex work. This systemic bias resulted in the failure of the police, in formulating their investigative strategies, to take into account the circumstances surrounding how these women lived and worked, particularly in failing to recognize the duty to protect a vulnerable segment of society. This systemic bias also contributed to a failure to prioritize and effectively investigate the missing women cases.

In relation to the McArthur-related investigations, I cannot conclude that their deficiencies are attributable to overt bias or intentional discrimination on the part of individual officers. Indeed, the evidence showed the contrary. For example, despite the serious flaws I identify in how Project Houston was conducted, the assigned officers were highly motivated to discover what had happened to the missing men, regardless of their sexual orientation, colour, ethnicity, national origin, or socio-economic standing. Similarly, the investigative failures associated with the initial investigations into the disappearances of Mr. Navaratnam, Mr. Kayhan, Mr. Mahmudi, and Mr. Esen are not explained by overt bias or intentional discrimination by officers.

However, as reflected in human rights jurisprudence, the absence of overt bias or intentional discrimination may be cold comfort to the loved ones of McArthur’s victims or to the affected communities. The absence of overt bias or intentional discrimination does not address the equally impactful question of whether any or all of the McArthur-related investigations were conducted differently based on systemic bias or discrimination. In my view, systemic bias did contribute to how a number of the McArthur-related investigations were conducted.

In Chapter 5, I conclude that the initial investigation into Mr. Navaratnam’s disappearance was not given the priority it deserved. Officers failed to appreciate the strong possibility that he had met with foul play. They failed to recognize the significance of obvious red flags, such as leaving his prized puppy behind uncared for. They too easily theorized that he may have returned to Sri Lanka, a highly unlikely scenario given the circumstances under

which he was compelled to depart and what he endured in making his way ultimately to the Village. I acknowledge that the low priority given to his disappearance is partially explained by the Service's approach to missing person cases generally during this period – a lack of urgency captured by the “no body, no crime” approach to many of these cases. But I can only conclude that Mr. Navaratnam's case would have been given greater attention, and imbued with a sense of urgency, if he or his supporters had a greater “voice” in our city.

The point is illustrated by examining how Mr. Kinsman's disappearance was responded to by the Service. His friends and loved ones forcefully advocated for a robust police investigation into his disappearance. They engaged the media. To their credit, they made his case a “cause.” Officers admitted to the Review that the pressure exerted on the Service because of these efforts largely explains why Project Prism was initiated. The Service did not treat Mr. Kinsman's case differently because he was white although those who are marginalized and vulnerable by reason of sexual orientation, gender identity or expression, colour, ethnicity, socio-economic status, or other factors are also less likely to have a “voice” or be “empowered” to demand and obtain adequate policing. Mr. Kinsman's disappearance was treated differently than Mr. Navaratnam's disappearance – and unjustifiably so.

One narrative I heard repeatedly during the Review was that the missing persons, other than Mr. Kinsman, were isolated – hence, McArthur's “perfect” victims. That is not accurate in relation to all McArthur's victims. Five of his other victims were reported missing. Those victims were not devoid of friends, loved ones, or those invested in discovering what happened to them. But they were not empowered in the same way that Mr. Kinsman's friends were. That differential treatment is unacceptable. The quality of a missing person investigation should not depend on who is best situated to demand the attention of the police.

The Peel police were ignored when they attempted to interest the Service in the potential connection between the disappearances of Mr. Faizi and Mr. Navaratnam. The fact they were ignored is again partially explained by the low priority generally given to missing person cases in Toronto. But, I ask rhetorically, if Mr. Navaratnam had been a high-profile member of the community or regarded as “mainstream” or “privileged,” would this lead have been ignored? I do not believe so.

The Service devoted substantial resources to Project Houston. That cannot be denied. But when the cannibalism theory proved untenable, the project team was whittled down in size and ultimately disbanded. But three

gay or bisexual racialized men were still missing! The circumstances surrounding their disappearances still raised the strong possibility that they had met with foul play! Once again, the decision to downgrade the investigation into their disappearances is partially explained by the institutional approach to missing person cases generally. However, the decision also distinguishes the way these cases were treated as compared to Mr. Kinsman's case. To paraphrase Judge Oppal, these vulnerable men needed a "champion" to ensure that their cases were not underserved by the police. The need for a champion or a cadre of friends and loved ones, as described above in relation to Mr. Kinsman, speaks volumes about the Service's systemic failings.

As I describe in Chapter 7, the investigation into Mr. Esen's disappearance was led by a very motivated officer who is also a highly visible member of Toronto's LGBTQ2S+ communities. He had to advocate for the inclusion of Mr. Esen's case in Project Prism when it was being contemplated. Why? On what basis could it reasonably be contended that Mr. Esen's case was not deserving of inclusion in the project? In my view, the need for this advocacy reflects the differential treatment given to cases of profile – and profile is unfortunately often connected to factors of vulnerability and marginalization that should have no role whatsoever to play in what cases get priority and what cases do not.

Most of the McArthur-related investigations underutilized the community resources available to them, and even the Service's own internal resources, to advance their investigations. In Chapters 5 to 7, I describe the lost opportunities to enlist community organizations and leaders to assist in searching for the missing men. In Chapter 9, I also describe the failure to engage the Service's own LGBTQ2S+ liaison officer as well as trans or trans-inclusive organizations and leaders to assist in identifying Alloura Wells's bodily remains. These failures are reminiscent of those described in the Oppal Report. Judge Oppal found that the police failed to work consistently and effectively with family members, the community, and the media, ignored community-based policing principles, and were largely ineffective because they failed to learn about the dynamics of the Downtown Eastside community and did not actively seek the assistance of community leaders who knew how to build the trust necessary to overcome barriers to police-community communication.

These same deficiencies were evident in how, for far too long, police services across the country have struggled to deal with the staggering number of missing Indigenous women and girls. These and other deficiencies are fully documented in *Reclaiming Power and Place: The Final Report of the National Inquiry*, summarized in Chapter 11.

Officers in the McArthur-related investigations were often unfamiliar with the missing men's communities⁷² – most particularly the LGBTQ2S+ communities and the intersection of those communities with others, such as the South Asian or Muslim communities. This meant that these investigations were conducted differently, at a systemic level, from investigations involving affected communities within the officers' experience, expertise, or "comfort zone."

This same unfamiliarity manifested itself in other ways during the McArthur-related investigations. For example, in November 2013, when McArthur was interviewed during Project Houston, it was obvious that the investigator who questioned him was reticent about asking about McArthur's sexual relationships with any of the missing men. He failed to appreciate the significance of McArthur's potential connection to all three men, misunderstanding that those connections were different from those described by other witnesses. Part of the problem was a lack of understanding of the gay community and its culture. The investigators had very limited knowledge of the gay community's dating websites, how gay men connected with each other, the places they frequented, or the social interactions within the Village. A wealth of relevant information never came to the attention of the Project Houston investigators, in part because they were disconnected from the affected communities and ill-equipped to overcome barriers that might have inhibited some witnesses from coming forward. This is precisely what systemic discrimination entails: the Service's practices, if not culture and structure, prevented it from most effectively investigating the disappearances of these missing men, to the disadvantage of their loved ones and communities.

As my Review team and I examined the many documents generated by these investigations, it became apparent that the police focused – sometimes disproportionately so – on the problems each missing man faced in his personal life. I understand that investigators had to be mindful of all relevant considerations in solving these disappearances. However, this disproportionate focus on the men's personal problems also obscured or detracted from an accurate assessment of the unlikelihood that they had simply disappeared without a trace. The police must remain vigilant to ensure that the potential victimization of marginalized and vulnerable missing persons not be obscured by overemphasis on those circumstances that make these persons marginalized and vulnerable in the first place. The same vigilance must be exercised by police to avoid even the appearance of blaming the missing persons for their situation.

⁷² As I explain in Chapter 7, this was not a failing of the Esen investigation.

Systemically, these were men who have typically been underserved by the police. These were men whose disappearances could be too easily dismissed or minimized by noting their immigration status, personal mental health, wellness or addiction issues, or stereotypical notions of the likelihood that these men would suddenly disappear for no apparent reason. Several officers at 51 Division expressed the view, about one of the missing men, that he had likely gone “on a sexual holiday.” This comment is closer on the spectrum to overt bias. At the very least, it reflected some unfortunate preconceptions about gay men.

In summary, I conclude that overt bias or intentional discrimination does not explain the deficiencies in the McArthur-related investigations. However, these deficiencies (prior to Project Prism) are partially explained by systemic practices that promoted differential treatment between how these men’s disappearances were investigated and how empowered individuals’ disappearances would be investigated.

When Ms. Richey went missing, officers canvassed the Village looking for leads. As I describe in Chapter 8, one of these officers was Detective Constable Robert Chevalier, a neighbourhood community officer for the Village. Detective Constable Chevalier wrote the following about Ms. Richey’s case in his memobook: “there had been several other people missing, including Alloura Wells so I particularly wanted to find this person, as fear was beginning to grow in the community.” It was commendable that Detective Constable Chevalier recognized the importance of solving Ms. Richey’s disappearance given the community fears about multiple missing people.

However, the Service, at the institutional level, was remarkably tone-deaf about the affected communities’ fears and the need to proactively and forcefully engage with them to alleviate or reduce their fears, instill confidence in what the police were doing, and advance the investigations. This was a systemic failing, associated with the inadequate connection the Service’s investigators established with these intersecting communities.

The Alloura Wells Unidentified Remains Investigation

In this chapter, I also wish to comment briefly on the Alloura Wells unidentified remains investigation. As outlined in Chapter 9, Ms. Wells was a member of the trans community, a woman of Indigenous heritage, a sex worker, homeless, and experiencing addiction issues. She was marginalized and vulnerable in a variety of ways that intersected. The officer who conducted the investigation into her unidentified bodily remains was well-intentioned and motivated to identify the bodily remains. But his unfamiliarity with the trans community, most particularly, and the lack of resources available to engage

with that community's members undermined the effectiveness of his investigation. Indeed, it was Ms. AP, the person who found Ms. Wells's remains, who reached out to The 519 for assistance. In Chapter 14, I describe the poor relationship between the Service and the trans community and strategies to address that relationship. Suffice it to say here, the quality of investigations involving trans community members remains a systemic issue of importance. The failure in the unidentified remains investigation involving Ms. Wells to reach out to the trans community, although not infected by overt bias or stereotypical assumptions, had the effect of disadvantaging an already disadvantaged community.⁷³ Similarly, the failure of 53 Division to take a Missing Person Report from Michael Wells raised concerns about discrimination against him as a person of a lower socio-economic status. The response to his attempt to report his daughter missing contributed to his sense that, because his daughter experienced overlapping grounds of disadvantage, she was treated as a "nobody." Mr. Wells advised me that he told Chief Saunders that, if his daughter had been affluent, the police response the day he reported her missing would have been different. As I note in Chapter 9, Chief Saunders issued an apology and publicly acknowledged that the interaction between Mr. Wells and the police could have been better. The Service must make a commitment to work together with the trans community and those most marginalized and vulnerable to build a positive relationship.

I also observe that during the Alloura Wells investigations, some officers (other than those leading the investigations) used male pronouns to describe Ms. Wells, as did some of the civilians they dealt with. The use of male pronouns to describe a trans woman shows a level of misunderstanding about the trans community and reinforces the divide between the police and that community. The corollary is that the use of appropriate pronouns, including gender neutral pronouns, contributes to mutual understanding and respect.⁷⁴

These findings, and the broader discussion in Chapter 14 of the Service's relationship with diverse communities in Toronto, inform my recommendations on discrimination in policing. Those recommendations are found in Chapter 15.

⁷³ The Supreme Court of Canada recently held that "the presence of social prejudices or stereotyping are not necessary factors" in establishing an equality rights violation: *Fraserv Canada (AG)*, 2020 SCC 28 at 78.

⁷⁴ Gender neutral pronouns do not associate a gender with the person being discussed. In some languages, these pronouns have been created to promote inclusivity.

Chapter 13

MODELS OF MISSING PERSON AND UNIDENTIFIED REMAINS INVESTIGATIONS

In earlier chapters, I identify flaws in specific missing person investigations – flaws that, for the most part, were systemic failings. This pattern invites careful evaluation of both the policies of the Toronto Police Services Board (the Board) and the procedures and practices of the Toronto Police Service (the Service) as they relate to missing person investigations. It also invites a larger discussion of the role the Service should play in addressing missing person cases (or occurrences) generally.

The high-profile missing person investigations into Bruce McArthur’s victims as well as into the disappearances of Tess Richey and Alloura Wells contributed to the Service’s decision to change how missing person investigations were being conducted. Central to that change was the creation of a Missing Persons Unit (MPU) and different procedures, for example, in how front-line officers were to document Missing Person reports.

This chapter has an important connection to Chapter 14, “Building Better Relations Between the Service and Toronto’s Diverse Communities.” For good reason, this Review’s mandate focuses predominantly on issues involving missing person investigations. However, infused within the Terms of Reference are several clear terms requiring that I also examine the important issues surrounding the relationship between the Service and marginalized and vulnerable communities. I have identified specific issues that should be addressed in each of these two central themes, though they are inextricably linked. Improvements in one area will inevitably contribute to improvements in the other.

To design recommendations that address both parts of the Review’s mandate, I examined initiatives in missing person investigations and

relationship building in jurisdictions other than Toronto. In recognition of the fact that police services must be responsive to the unique characteristics of the communities they serve, the jurisdictions I looked at were primarily those with similar demographics to those in Toronto. The results of this research inform both this chapter and Chapter 14.

In this chapter, I cover several issues. In Part One, I explain why missing person investigations deserve the utmost attention and priority. In Part Two, I describe and evaluate how missing person investigations were carried out from 2009, shortly before McArthur's first known murder victim went missing, to 2018, when McArthur and Kalen Schlatter were charged with murder and when Alloura Wells's bodily remains were identified. In Part Three, I describe the relatively new MPU and the substantial changes to procedures and practices that have followed its creation. In Part Four, I describe practices in other jurisdictions across Canada and internationally that inform my recommendations. In Part Five, I address how the Service investigates unidentified human remains cases and the role the MPU plays in these investigations – which are often closely linked to those of missing persons. In Part Six, the Summary and Findings, I evaluate how the Service has conducted missing person and unidentified remains investigations both in the past and in the present. Based on this analysis, I make recommendations for change in Chapter 15 of this Report.

In this chapter I describe past and current missing person and unidentified remains procedures as they have evolved. My mandate requires me to examine past and existing policies, procedures, and practices – a history not easily assembled and told. Nonetheless, this exercise was important because it has enabled my recommendations to be current and relevant. The Summary and Findings below are intended to focus on the most important aspects of this history.

Part One: The Importance of Missing Person Investigations

The Missing

Going missing is a complex phenomenon that is conceptualized in various ways. Later in this chapter, I include the definition of a missing person as set

out in the *Missing Persons Act, 2018*.¹ In order to give police jurisdiction, the definition includes a requirement that for a person to be considered missing, a report must have been filed with the police. However, many disappearances are not reported to the police. It is important, therefore, to be aware of the broader concept of a missing person that includes those who have disappeared in circumstances that raise concerns about their well-being and safety and invite inquiries to be made for their protection, whether by the police, community members, or groups or agencies.

Before I turn to the Service's treatment of missing person investigations, I wish to emphasize that missing people matter. To begin, the sheer volume of people who are reported missing challenges police services around the world. In 2019, for example, 72,184 people were reported missing in Canada,² 609,275 in the United States,³ and 382,960 in England and Wales.⁴ In Toronto, approximately 30 percent of those reported missing end up returning or being found before a formal investigation is initiated. Applying this same percentage to other jurisdictions, approximately 50,000 missing persons were investigated in Canada in 2019, 425,000 in the United States, and 268,000 in England and Wales. Studies demonstrate that approximately 2 percent of people whose disappearance is investigated meet with foul play. That would mean that, in 2019, the approximate number of missing persons who met with foul play was 1,000 in Canada, 9,500 in the United States, and 5,300 in England and Wales. The comparative number of homicides that same year were 678 victims in Canada,⁵ 16,425 in the United States,⁶ and 671 in England and Wales.⁷

¹ SO 2018, c 3, Schedule 7. See Part Three: The Missing Persons Unit, 2018 to the Present, under the heading "The Service's Revised Missing Persons Procedure, August 2019."

² <https://canadasmising.ca/pubs/2019/index-eng.htm>

³ Statista Research Department, "Number of reported murder and nonnegligent manslaughter cases in the United States from 1990 to 2019," September 28, 2020, <https://www.statista.com/statistics/191134/reported-murder-and-nonnegligent-manslaughter-cases-in-the-us-since-1990/>

⁴ UK, Missing Persons Unit, National Crime Agency, *Statistical Tables for the Missing Persons Data Report 2018/2019*, online at: <http://missingpersons.police.uk/en-gb/resources/downloads/missing-persons-statistical-bulletins>

⁵ <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3510007101&pickMembers%5B0%5D=2.1&cubeTimeFrame.startYear=2019&cubeTimeFrame.endYear=2019&referencePeriods=20190101%2C20190101>

⁶ Number of reported murder and nonnegligent manslaughter cases in the United States from 1990 to 2019", Statista (September 2020), online: <https://www.statista.com/statistics/191134/reported-murder-and-nonnegligent-manslaughter-cases-in-the-us-since-1990/>; see also <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/murder>

⁷ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/homicideinenglandandwales/yearendingmarch2019>

These numbers are far from exact. A variety of issues can affect their legitimacy, given that jurisdictions apply different criteria when deciding whether to investigate disappearance reports. Moreover, there is also some overlap between homicide statistics and those of the missing who meet with foul play. Plus, annual statistics are not necessarily adjusted when the fate of missing persons is determined in subsequent years.

The impact of missing persons on society is reflected not only in the numbers who go missing and the types of harm they suffer but also in the “ambiguous” pain their loved ones and friends experience – the unending pain of not knowing what happened. Without closure, loved ones cannot move on. Many become preoccupied by the search for their loved ones, worrying that something else should be done in their eternal hope of finding answers.

These loved ones and friends have a range of support needs, including practical search assistance, mental health care both individually and within the family, as well as sound advice and information. Families of the missing often experience stigma, particularly in cases where a person is missing for a long time and initial support may fade. Increased public awareness of the problem may make it easier for loved ones to seek help, so access to support services and strategies for publicizing them are important. On the other hand, loved ones and friends may be understandably reticent about publicizing these cases, especially when they and/or the missing person may have, for example, a precarious immigration status, criminal charges, or an undisclosed sexual orientation, even from the missing person’s family or other friends. All this amplifies the unrelenting stress that is often associated with a disappearance.

The impact is broader yet. Disappearances often disclose underlying social problems that cry out to be addressed – complex problems that require investment in social agencies and in much needed research to provide a better understanding and response. Among marginalized and vulnerable communities, the missing person issue is particularly serious. Research has shown that people in those communities are reported or go missing in disproportionately high numbers.

The Police Service's Reaction to the Missing

Many members of police services across Canada and beyond who participated in the Review's outreach demonstrated true commitment to addressing the increasingly demanding issues raised by missing person investigations. However, they tended to share the same concern that insufficient resources and insufficient priority were accorded to these cases. The lack of resources is a consequence of both the increasingly strained resources of police services and the lack of priority many police officers attach to missing person investigations.

A number of officers view investigating the missing as not real police work "because it is not illegal to go missing: it's not a crime." Rather, "a missing person without foul play is a social issue."

I understand these sentiments. A person has every right to "go off the grid" if they choose. As a result, many officers regard the tasks involved in investigating a reported disappearance – such as phoning hospitals and shelters, – as tedious work, particularly when those who go missing quickly return unharmed or repeatedly go missing. Moreover, because of the high numbers, missing person investigations are an everyday occurrence for police officers – a sad fact that has led to "missing person fatigue."

However, there are significant links between going missing and crime other than when someone involuntary goes missing. Some who go missing later become victims of crime or are forced into criminal acts as a consequence of being missing. Even if a criminal act is not involved, the police and society at large must take the missing seriously. Until recently, the Service did not attach the necessary level of priority to missing person cases. Even now, despite excellent work by the new MPU and the explicit recognition of the importance of these cases in the Service's new procedures, the priority remains, in many ways, unfulfilled.

Part Two: Toronto Missing Person Investigations, 2009–18

A Haphazard Approach to Missing Person Cases

Before 2018, there was no consistency in how missing person investigations

were conducted across Toronto. There was no MPU, no centralized oversight of how the various divisions conducted such investigations, and no system to identify patterns in missing person cases or even to create an inventory of such cases.

The Toronto Police College provides no formal training in missing person investigations, although missing person cases are referred to in the context of general investigation training for all officers. A few officers go on to take specialty courses in death investigations and other similar areas. Although these may be helpful in building skills to conduct missing person investigations, they inadequately address the unique challenges associated with these investigations.

Some divisions had a dedicated missing person coordinator, but most did not. For example, at 43 Division, the coordinator received no specialized training, investigated only some of the cases reported, and took no initial Missing Person reports. He would follow up on some cases in some instances, and in others refer cases to the division's Criminal Investigation Bureau (CIB). Nonetheless, he described his role as the equivalent of a full-time job.

In 2016, 51 Division introduced the position of missing persons and sudden deaths coordinator. Previously, its CIB had sole responsibility for investigating the division's missing person cases. The coordinator at the time advised the Review that, in his view, this position was created to alleviate the CIB's workload. He received no formal training in missing person cases, although it is clear to me that he is a conscientious officer.

Some divisions currently have no missing person coordinator because they have never had one or because they failed to fill the position when it became vacant. In these divisions, officers, despite their already formidable workloads, were assigned missing person investigations. Inevitably they prioritized cases involving obvious criminal behaviour, and the missing person cases received only inconsistent investigation and follow-up, especially when the assigned officer went off-duty or was on leave. There was no consistent review of outstanding missing person cases within each division to determine if they had been appropriately investigated. Follow-up was also inconsistent, as was ongoing contact with the loved ones of those who went missing. Indeed, such contact was often non-existent.

The Service receives, on average, about 6,500 Missing Person reports every year.⁸ About 2,000 of the missing return or are otherwise located in the first few days. The remaining 4,500 investigations are time-consuming and labour intensive. In many cases, those affected by the disappearances are deeply concerned, if not traumatized. Ongoing communication with the police is important, but often lacking. Even though the vast majority of missing persons are not victimized by foul play, they may be exposed to criminal or undesirable influences, pressures, or coercion, physical or sexual abuse, illicit drug use, or they may become victims of human trafficking. Simply put, it isn't merely the possibility that their disappearances are explained by foul play that makes solving these cases important.

Some people, particularly youth, may repeatedly go missing, sometimes from institutions, places of refuge, or group or foster homes. Their recurrent disappearances may reflect larger safety or social crises. At the same time, on some officers' own admission, repeated disappearances and reappearances often create a degree of investigative complacency or fatigue.

I find it troubling that, before 2018, there is little or no indication that, at a systemic level, the Service gave missing person cases the priority or attention they deserved. Few were regarded as time sensitive or categorized as urgent. Few were treated as major cases. Other than cases that generated Amber Alerts, few missing person cases were elevated to search levels 2 or 3.⁹

The Regulatory Framework

Much of the provincial regulatory framework for investigations has been set out in Chapters 3 and 4 of this Report. Here I highlight those parts of the framework specifically relevant to missing person investigations.

Ontario Regulation 3/99 under the *Police Services Act*,¹⁰ entitled "Adequacy and Effectiveness of Police Services," is designed to promote province-wide standards for policing in Ontario. It requires every board to have

⁸ In 2020, the Service received 4,046 Missing Person reports. This number may be attributed to the COVID-19 pandemic, when far fewer people left their homes.

⁹ An Amber Alert is generated when an investigator believes that a child under 18 years of age has been abducted or is in danger of serious bodily harm or death. Other factors that influence the decision include the existence of sufficient descriptive information to assist in locating the child, the suspect, or the suspect's vehicle, and the expectation that an immediate broadcast will help in locating the child.

¹⁰ *Police Services Act*, RSO 1990, c P.15.

a policy on investigations into missing persons, among other general and specific types of investigations. It also requires every chief of police to develop procedures and processes with respect to undertaking and managing general criminal investigations as well as specific types of investigations, including investigations into missing persons.¹¹

Regulations do not represent the only way in which the government promotes province-wide policing standards. In 2000, the Ministry of the Solicitor General, Policing Services Division, created the *Policing Standards Manual*, which has since been revised several times.¹² Advisory in nature, it is designed to assist boards, chiefs of police, police associations, and municipalities with their understanding and implementation of the *Police Services Act* and its regulations, including Ontario Regulation 3/99. The *Policing Standards Manual* sets out sample board and police service policies on required topics as well as guidelines for required procedures. Given their advisory nature, however, the recipients “may consider comparable equivalents when addressing compliance with the Act and its regulations.”

The sample Board policy on missing person investigations provides that the chief of police will develop and maintain procedures that

- (a) set out the steps to be followed for undertaking investigations into reports of missing persons, including situations involving children, teenagers and elder and vulnerable adults;
- (b) ensure investigative follow-up on outstanding cases; and
- (c) where circumstances indicate a strong possibility of foul play, require officers to comply with the procedures set out in the Ministry’s designated *Ontario Major Case Management Manual*;
- (d) ensure an AMBER Alert activation is considered in all missing children investigations, and Major Case Management is implemented in all cases involving AMBER Alert activation.

¹¹ O Reg 3/00, s 12(1)(l).

¹² The Ministry of the Solicitor General is currently examining the guidelines contained in the manual as part of its efforts to modernize policing services in Ontario through the *Community Safety and Policing Act, 2019*. Once in force, the *Community Safety and Policing Act, 2019* will replace the *Police Services Act*. The manual will be updated to reflect new legislative and regulatory requirements.

On October 26, 2000, the Board created its policy on missing person investigations. The policy was revised in 2010 and again in 2017. Before 2017, the Board policy was not consistent with the guidelines in the *Policing Standards Manual*. In 2017, the policy was amended to adopt the sample language from the *Policing Standards Manual*. Other than the basic requirements set out above, the Board provides no further direction on the content of the procedures and processes to be developed and adopted by the Service for missing person investigations.

The guidelines in the *Policing Standards Manual* recommend that, in every police service, procedures on missing person investigations should contain at least 15 items. They include these points:

- (a) require that investigations be undertaken or managed in accordance with the police service's criminal investigation management plan;
- (c) require that appropriate information be entered on CPIC [Canadian Police Information Centre database] upon verification of the report;
- (d) require that interviews with the reporting individual(s) and associates of a missing person be conducted as soon as practicable;
- (h) set out the steps to be followed in situations in which a missing person is a:
 - i. child;
 - ii. teenager; or
 - iii. elder or vulnerable adult, including liaising with the person's caregivers;
- (j) require that officers liaise with voluntary or community agencies that are involved in locating missing children, teenagers and adults;
- (k) require that any searches undertaken during a missing persons investigation be supervised by a trained search co-ordinator and conducted in accordance with the police service's procedures on ground search for lost or missing persons;
- (m) where circumstances indicate a strong possibility of foul play, require officers to comply with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*.

The Service has a Criminal Investigation Management Plan,¹³ in compliance with item (a) immediately above and the Regulation on Adequacy and Effectiveness of Police Services. This plan dictates that certain kinds of investigations required the assignment of a specialist criminal investigator.¹⁴ One of these areas is missing person investigations with a strong possibility of foul play, along with level 2 or 3 searches. These “levels” are outlined in the Service’s Missing Persons Procedure described below.

The Service’s Missing Persons Procedure 04-05, 2009–13

The Service’s Missing Persons Procedure (the procedure) has been in place since at least 1997 and has been amended many times. I begin my description with the version that was in effect in 2009 – and throughout the initial investigations into the disappearances of McArthur’s first three known murder victims (Skandaraj Navaratnam, Abdulbasir Faizi, and Majeed Kayhan, see Chapter 5) and a large part of Project Houston (see Chapter 6).

The procedure dealt largely with two points: the levels of missing person searches to be conducted; and, depending on specified circumstances, the division that should assume carriage of an investigation. It also set out the responsibilities of particular officers:

Unit commander: The officer in command of a given unit or division. At the divisional level, this role would typically be filled by a superintendent, who would be responsible for leadership, effective management, and operational oversight of the division.

Duty inspector: The officer who provides support to the field officers by attending major incidents, monitoring operational policing activities, providing media liaison, and other responsibilities. The duty inspector supervises the real-time response to calls for service and the deployment of resources when required. In addition, this officer develops and maintains

¹³ The period examined by the Review (2009 to the present) is covered by two versions of the Criminal Investigation Management Plan. The earlier version was created in June 2006 and was in place until 2013. In 2013, the Criminal Investigation Management Plan was amended and reissued. The 2013 version is still in place.

¹⁴ A “specialist criminal investigator” is a police officer who has received specialized training in the area to be investigated and is competent to conduct the investigation.

strategic relationships with communities and partners to drive collaboration across policing and the wider public / community services network.

Supervisor: This officer, in the context of my Review, provides divisional supervision to the officer conducting a missing person investigation.

Detective sergeant: This officer is responsible for ensuring the thorough investigation of crimes and prevention of crimes. The detective sergeant acts as a conduit of information between senior management and uniformed officers by managing, coaching, and providing guidance to sergeants and detective constables.

Officer in charge: This officer, typically a staff sergeant, is in charge of the day-to-day running of a division. The individual who performs this role will change, depending on the shift and the day. Sometimes, depending on the context, the term is also used (as it has been in previous chapters) to describe the officer who leads or is “in charge of” a specific investigation.

Investigator: The officer assigned to investigate a missing person case, often a detective constable.

In accordance with the Ontario *Major Case Management Manual (MCM Manual*, see Chapter 4), the procedure defined when missing person investigations were subject to major case management: as of 2009, these were cases involving non-familial abductions and attempts¹⁵ and cases where there was a strong possibility of foul play. When these criteria were met, the investigation was to be led by an accredited major case manager who was to undertake the functions and responsibilities set out in the *MCM Manual*.¹⁶

Missing person searches were (and continue to be) divided into levels 1, 2, and 3, depending on the circumstances of the missing person. A search for a missing person could have begun at any of the three levels. A supervisory officer, who had to be notified of and involved in all missing person investigations, was required to be in attendance when the level of search was elevated to level 2 or level 3.

¹⁵I note that it is difficult to understand how an “attempted” non-familial abduction would qualify as a missing person investigation. The criteria have since changed, and the current Missing Persons Procedure no longer includes this reference.

¹⁶ Interestingly, “missing person” was not defined in the Missing Persons Procedure until 2019.

Ideally, the response to the disappearance of a missing person should depend, in large measure, on an evidence-based assessment of the risks of harm to the missing person. As I explain in the Summary and Findings in this chapter, there are systemic issues in how the Service assesses risks and what those risks are, whether carried out through Search Urgency charts or, currently, through Risk Assessment forms. I also explain below that there is an unsatisfactory connection between risk assessments and the three levels of search outlined in this chapter.

Level 1 Searches

A level 1 search was required when a person was reported missing and “there are no extenuating circumstances.” At this level, there are “minimal concerns regarding the issue of foul play, or the infirmity or limitations of the missing person.”

The “first police officer”¹⁷ responding to a missing person call was responsible for conducting the initial investigation, preserving evidence, completing all necessary reports, and notifying a supervisory officer of all pertinent facts. This officer was required to do certain minimal tasks, including the following:

- interview the last person to see the missing person, where possible;
- search the home and the immediate area thoroughly and, if permission to search the home or adjoining property is not granted, notify a supervisor and record those details in the eCOPS report (see Chapter 4);¹⁸
- complete and submit the Search Urgency Chart to the officer in charge;
- enter all applicable information and detail any action taken into the Service’s record management system;
- check the CPIC transaction history¹⁹ to ensure that the necessary particulars have been properly entered into that central database;
- consider obtaining the assistance of Victim Services;

¹⁷ “First police officer” is the terminology used in the procedure and refers to the officer responding to the missing person call.

¹⁸ eCOPS was the Service’s electronic records management system at the time.

¹⁹ The CPIC transaction history is the automated response received from CPIC whenever a member sends an “add,” “modify,” or “removal” request to CPIC to update a record. It is used to confirm whether the request was successful and provides a date and time stamp showing when the requested change was made.

- provide the reportee with the telephone number of the detective sergeant of the division where the missing person resides; and
- consider using a poster or bulletin to assist in locating the missing person.

The Search Urgency Chart completed by the police officer contained columns of specific criteria to be checked off by the officer (for a summary, see Table 13.1).

Table 13.1: Criteria Listed in Search Urgency Charts

Number of victims missing	Alone	Unknown	Group (2 or more)
Age of victim	Under 16/Over 70	Unknown	16–70 years
Medical condition	Medication dependent	Unknown	No medication indicated
Psychological condition	Known psychological issues	Unknown	No known psychological issues
Clothing	Not dressed for weather	Unknown	Dressed for weather
Familiar with area	Area not known	Unknown	Area well known
Area description	Known dangers/hazards	Unknown	No known dangers/hazards
Weather conditions	Present/forecast bad weather	Unknown	Present/forecast good weather
Missing prior	First time	Frequent (1–3 times previously)	Habitual (ongoing problem, more than 3 times)
Investigative concerns	Foul play suspected/criminal concerns Immediate level 3 response	Unknown	No foul play/criminal concerns
Total checkmarks			
Urgency rating	Very high	High	Low
Suggested response	Level 2–3 Search Immediate response required	Level 1–2 Search Expand investigation	Level 1 Search More investigation required

Note: Compiled by the Independent Review.

The Search Urgency Chart contained the following instructions for evaluating search urgency:

The search urgency form is intended as an investigative aid to assist the first responding officer, Supervisor and Officer in Charge determine the relative urgency and appropriate level of response to a missing person occurrence.

The form should be completed during the initial stages of the investigation. A check mark is placed in the most appropriate box based on the known information about the subject. The column with the most checkmarks *may* indicate the urgency of the situation.

It should be noted that the assessment is only relative and indicates a relative urgency. Other factors bearing on the occurrence must also be evaluated by the Supervisor / Officer in Charge to finally establish the search urgency, or the need to seek further evaluation with the on call TPS Search Manager.

If any contributing factor is life threatening the situation must be treated as most urgent. [Emphasis added.]

On being notified of a level 1 search, a supervisory officer was required to ensure that the Search Urgency Chart had been completed. Then, in consultation with the first responding officer and the officer in charge, the supervisory officer was to determine the relative urgency and the appropriate level of response.

I note that it is unclear how the checkmarks could be used to calculate an urgency ranking for a given missing person. For example, an individual who has a history of repeatedly going missing is in the “low” urgency column. If that individual is under 16 (placing him or her in the “very high” urgency column), how should urgency be determined? This lack of clarity is evident from the Search Urgency Chart completed for the disappearance of Soroush Mahmudi in 2015 (see Chapter 7). Mr. Mahmudi’s chart indicated he disappeared alone and was known to have psychological issues (“very high” risk factors). He had disappeared one to three times previously (a “high” risk factor). However, the remaining seven factors on his chart were marked off in the “low” risk column. Mr. Mahmudi’s disappearance was rated as a low urgency, level 1 search.

The Search Urgency Chart completed for the disappearance of Andrew Kinsman in 2017 is similarly difficult to understand (see Chapter 7). Mr. Kinsman’s chart indicated he disappeared alone, was medication dependent, and had disappeared for the first time (“very high” risk factors). The number of victims missing, his clothing, and the weather conditions were marked as unknown (“high” risk factors). The other five factors (including “no foul play / criminal concerns”) were checked off in the “low” risk column. Mr. Kinsman’s disappearance was also ranked as low urgency.

We now know that both men were murdered by McArthur. The rationale for the balancing of risk factors in Mr. Mahmudi’s and Mr. Kinsman’s charts is not clear. Aside from the lack of clarity is the issue of compliance – a Search Urgency Chart does not appear to have been completed for either Mr. Navaratnam or Mr. Kayhan (see Chapter 5).

Level 2 Searches

A level 2 search was required when a missing person is

- under 16 years and judged likely to be incapable of caring for themselves;
- mentally challenged;
- over 70 years of age or infirm; or
- there is evidence of foul play.²⁰

When commencing a level 2 search, the police officer²¹ was required to comply with all the provisions necessary for a level 1 search and, in addition, complete a Lost Person Questionnaire to be submitted to the officer in charge. The questionnaire was a more detailed form in which the officer could include information about the missing person (including a physical description, clothing, health, trip plans, outdoor experience, when last seen, habits and personality) and about the reportee, including what the reportee believed happened to the missing person.

²⁰ “Foul play” is not defined in the procedure or in the Criminal Investigation Management Plan.

²¹ I note that the procedure differentiates between the “first police officer” and the “police officer.” The “first police officer” refers to the responding officer. “Police officer” is a broader category that might not refer to the first police officer who took the initial Missing Person Report. The responding officer is not always assigned to conduct the missing person investigation.

It is puzzling that the Missing Persons Procedure required the Lost Person Questionnaire to be completed only after the investigation reached the stage of a level 2 search. The *Policing Standards Manual* recommended “when information is received that a person is missing, a report be taken and an investigation undertaken to establish the missing person’s identity, physical description, any medical condition, emotional disturbance, mental illness or developmental disability, and circumstances surrounding the disappearance.” This information was captured by the Lost Person Questionnaire, but not all of it (for example, a physical description of the missing person) was contained in the Search Urgency Chart (which is all that was required for a level 1 search). In other words, the Missing Persons Procedure at the time fell short of meeting the recommended guidelines of the *Policing Standards Manual* from the very outset of a missing person investigation. Still, the procedure did require the first officer to ensure that all pertinent information had been obtained.

A supervisory officer had a more substantial role in a level 2 search. In addition to ensuring compliance with the responsibilities associated with a level 1 search, the first supervisory officer²² was required, among other things, to

- attend the scene and establish a command post at a location other than the place the missing person was last seen or the missing person’s home;
- ensure that relatives of the missing person are interviewed;
- ensure that a Search Urgency Chart and a Lost Person Questionnaire have been completed and submitted to the officer in charge;
- conduct on-going consultation with the officer in charge / search manager where circumstances may warrant escalation to a level 3 search;
- assign search areas by using the Missing Person Search Assignment form and the divisional search maps;²³
- document all assignments on the Search Assignment Log;²⁴

²² “First supervisory officer” is a term from the procedure and refers to the supervisor who attended the scene.

²³ The Missing Person Search Assignment form identified members of the search team for a given investigation and provided space to document assignments (including assignment numbers) and specific instructions to officers conducting the search. These forms were used for large area searches.

²⁴ The Search Assignment Log is a list of all the assignments given during a missing person search. The log includes space to document the assignment number, which officer or team is assigned, the assignment

- obtain adequate divisional personnel to conduct the search;
- consider obtaining assistance from support units, including
 - Public Safety & Emergency Management,
 - Volunteer Resources – Community Mobilization, and community organizations.

The divisional investigator, officer in charge, and unit commander all had responsibilities in level 2 searches. The duties of the first two are relevant here:

- the divisional investigator was responsible for conducting a timely and thorough investigation of the missing person case and, in addition, for considering whether to request or obtain fingerprints or footprints of the missing person;
- among other duties, the officer in charge was responsible for ensuring an appropriate uniformed response and, in the absence of the detective sergeant, an appropriate investigative response; in cases where foul play was suspected, the officer in charge was also required to ensure that the investigation was conducted in accordance with the Ontario *MCM Manual*.²⁵

I pause here to note a significant omission from the Missing Persons Procedure. As I reflected above, the Service's Criminal Investigation Management Plan identifies particular types of cases that must be investigated by a specialist criminal investigator. To achieve this designation, a police officer must be a criminal investigator who has received the required specialized training in the area to be investigated and is competent to conduct the investigation. One of the types of investigations requiring the assignment of a specialist criminal investigator was (and continues to be) missing person investigations involving a strong possibility of foul play as well as level 2 or 3 searches. The procedure makes no reference to this requirement, and it is not

location, the start and finish time, any remarks or problems, and space for a sergeant to initial to confirm completion.

²⁵ The procedure also sets out additional requirements in cases where the missing person is under 16 years old.

clear whether the officers contemplated by the procedure satisfy the requirement that a specialist criminal investigator be assigned. The Service appears to operate under the assumption that any officer who has taken the general investigation course can fill this role. I disagree.

Level 3 Searches

A level 3 search was required when the preceding two levels were “ineffective” or “if the situation, due to the extenuating circumstances,” necessitated that a level 3 search be initiated immediately.

The investigator’s responsibilities in a level 3 search were the same as in a level 2 search. The unit commander or duty inspector in a level 3 search had additional responsibilities. Search managers were to coordinate level 3 searches.

The detective sergeant was responsible for, among other things, coordinating and managing the investigative aspect of the search. As well, when the missing person had not been located within 30 days of being reported missing and there was no new evidence, explanation, or circumstances indicating that the case should not be cancelled, the detective sergeant was also responsible for requesting that the missing person’s dentist complete an RCMP 1667 Dental Characteristics form and for ensuring that supplementary information was added to the original eCOPS report for inclusion in the CPIC Dental Characteristics File.²⁶

Other Obligations

Reporting Requirements

The Missing Persons Procedure also specified that whenever a person was reported missing in Toronto, or on the way to or from Toronto, an eCOPS report must be completed and the person must be entered onto CPIC as missing. If a person was reported missing by a reportee in person at a police unit, the reportee must not be directed to a different unit. If a person was reported missing over the telephone, the Service member receiving the call was permitted to transfer the caller to the Communications Centre, as necessary, for transfer to the correct division.

²⁶ The detective sergeant had additional responsibilities in cases where the missing person was under 16 years old.

The procedure created six categories to govern which division, if any, was to investigate a Missing Person Report. These categories are based on where the reportee listed the person as missing, where the missing person resided, and where, if known, the person was last seen. The applicable categories are summarized in the Reporting Reference Guide at the end of this chapter. I find these categories unnecessarily complicated, confusing and, at times, inconsistent with effective policing.

Missing Person Located

The procedure also provided that, at all search levels, when a missing person was located, an officer was to attend the person's location personally to ensure that the missing person was safe and that the reportee and/or next of kin had been notified. The officer needed only to "consider contacting the divisional community relations officer or crime prevention officer for follow-up and prevention strategies to prevent repeat occurrences."

The procedure remained unchanged until October 2013 (mid-way through Project Houston). In March 2013, the Service's Criminal Investigation Management Plan was also revised. However, the sections of the plan relevant to missing person investigations were left unchanged.

The 2013 Audit of Missing Person Investigations

In June 2012, the Service's senior command approved an internal review of missing person processes. In May 2013, the Service's Audit and Quality Assurance Unit completed this review.

The audit team examined the Service's processes for investigating and managing the reports of missing persons with a view to determining the following:

- if the Service's procedures were in compliance with current legislation;
- if Service members were in compliance with Service procedures;
- if the appropriate investigative follow-up was being conducted for outstanding missing person cases; and
- to identify best practices and any new opportunities that the Service might adopt.

The audit team compared Service procedures to provincial adequacy standards; sampled 200 missing person occurrences from 2010, 2011, and 2012; interviewed selected personnel at five divisions and key support units; and compared the results with those from a number of other police services as well as several associations of chiefs of police. The audit team identified the importance of missing person investigations: “Missing person investigations have the potential to escalate into high risk / high profile cases such as an abduction, a homicide or a suicide. The Service must ensure that its members are working effectively and efficiently as time is a crucial factor when dealing with these types of occurrences.”

Although the audit team was not aware of McArthur’s crimes at the time, the comment quoted just above was prescient. By May 2013, McArthur had murdered Mr. Navaratnam, Mr. Faizi, and Mr. Kayhan, and the Project Houston investigation into their disappearances was well underway (see Chapters 5 and 6).

The audit team determined that, overall, the Service had created procedures that were compatible with provincial legislation. However, it proposed three recommendations for improvement and identified several additional issues:

- Provincial adequacy standards mandate the need to collect DNA evidence when investigating missing person occurrences. The Service’s Missing Persons Procedure does not include that requirement. The procedure should be amended to include a direction for officers to consult with Forensic Identification Services regarding the collection of DNA if the officer suspects foul play or encounters any unusual circumstances. Any collection of DNA will be conducted under the direction of Forensic Identification Services.
- Provincial adequacy standards also require police services to ensure that investigative follow-up is conducted on outstanding occurrences. The only related notation in the Service’s Missing Persons Procedure is the direction to the detective sergeant that if a missing person is not located within 30 days, an RCMP Form 1667 for dental records should be completed. The procedure should be amended to include the

requirement for regular investigative follow-up of a missing person occurrence until the victim is located or a sufficient conclusion is established. The detective sergeant will determine the length of time between follow-ups, guided by the nature of the occurrence.

The audit team noted (but did not formally recommend) that divisions should be encouraged to review outstanding missing person occurrences to ensure that follow-up takes place (even if only in the form of a telephone call to family or friends annually) and that the incoming record management system (Versadex) had the capacity to set diary reminder dates to prompt follow-up.

- A missing person webpage that is accessible to the public should be created on the Service's website. The site should also contain a link that will allow members of the public to connect to the RCMP's National Centre for Missing Persons and Unidentified Remains (NCMPUR).

The anticipated deadline to implement the first and second recommendations was November 2013. This date corresponded with the implementation of the Service's new electronic records management system, Versadex (see Chapter 4). The Service disagreed with the third recommendation, but agreed to investigate social media options for the purpose of providing timely information to the public regarding missing person cases.

In addition to the recommendations, the audit team identified several issues raised with the Service and deemed not to require further action. Those issues and the solution the Service presented were as follows:

1. *Issue:* Service members were not always compliant with the Missing Persons Procedure requirement that the first officers on the scene were to complete and submit a Search Urgency Chart. Supervisors were not always compliant with the direction to ensure that a Search Urgency Chart had been completed and that a consultation was conducted between the officer, supervisor, and officer in charge to determine the urgency and level of response.

Solution: The staff superintendents of Divisional Policing Command drafted a 649 (internal police correspondence) and distributed it to all divisional unit commanders, reminding them of their members' responsibilities with regard to the Search Urgency charts.

2. *Issue:* The Search Urgency Chart and the Lost Person Questionnaire had several formatting deficiencies, including the absence of a line to capture the submitting officer's name, rank, and badge number, and the absence of directions on the forms for distribution and retention.

Solution: The Service began the process of changing the forms.

3. *Issue:* The Service's Missing Persons Procedure did not define the term "non-familial abductions" and did not use the term "parental abductions." These deficiencies made the procedure inconsistent with the Service's Child Abductions Procedure. In addition, the Missing Persons Procedure did not include a reference to the NCMPUR or the National Missing Children's Operations.

Solution: The Service committed to changing the procedure.

4. *Issue:* The incident status of thousands of missing person cases remained open in the Service's eCOPS system, even though the individuals had been located.

Solution: The staff superintendents of Divisional Policing Command sent out lists of missing person eCOPS cases to each division, identifying the missing person cases where the incident status remained open. The Service was in the process of rectifying the issue.

5. *Issue:* The audit team identified several interrelated issues with usage of the Service's internal messaging and bulletin system, Pushpin. It was not being used to its full potential to share information about missing persons throughout the Service. The format of Pushpin needed to be amended to be more user friendly for officers; the Service's Missing Persons Procedure needed to direct officers in charge to seek assistance outside regular business hours to post missing person bulletins on Pushpin; and missing persons needed to be removed from Pushpin in a timely manner once they were located.

Solution: The Service began implementing these changes.

6. *Issue:* The audit team noted it was not practical to create a missing person coordinator position at that time of fiscal restraint. However, owing to the risk associated with missing person investigations, the Service should reassess this option when and if possible.

Solution: Divisional Policing Command was researching the benefits of establishing a missing person coordinator for the Service.

The Service's Missing Persons Procedure, 2013–14

Following the audit report, in October 2013, the Service's Missing Persons Procedure was amended in several respects. I need refer here only to some of the changes:

- The procedure required the collection of DNA, under the direction of the Forensic Identification Services, in cases where foul play was suspected or where unusual circumstances existed.
- The age criteria for a level 2 search for a missing person was reduced from 70 years of age to 65.
- Officers were directed to consider the use of Be on the Lookout (BOLO)²⁷ requests in their investigations.
- Officers responding to missing person calls were given additional responsibilities in relation to a level 1 search. They were now required to
 - use suggested Canvass Interview questions to canvass neighbours and complete the Canvass Interview form;²⁸ and
 - ensure that the relevant information is entered on the NCMPUR's website, where applicable.
- Detective sergeants were now responsible for ensuring regular investigative follow-up until the missing person was located or a sufficient conclusion was established. The detective sergeant was

²⁷ BOLO is an internal alert to all officer or all members of the Service. A BOLO communicates urgent information such as suspect descriptions, missing person information, and safety notifications for timely / immediate access by all officers or all members.

²⁸ A separate Canvass Interview form was required for each individual an officer spoke with during the course of a canvass. The form documents the contact information and general biographical information of each person spoken to, as well as their answers to any questions asked during the canvass.

required to determine the length of time between follow-ups, guided by the nature of the occurrence.

- In all cases where the missing person was located, officers were now required to complete the “Located / Found” section of the Missing Person Details page.²⁹

In some important respects, these revisions responded to the audit team’s recommendations and issues. However, some deficiencies (whether or not captured by the audit team) remained. For example, the second recommendation above (respecting regular investigative follow-up of a missing person occurrence) was incorporated into the Missing Persons Procedure. However, this recommendation was included only with respect to level 3 searches. The procedure did not contemplate a role for detective sergeants in level 1 or 2 searches and did not require regular investigative follow-up for either level. Nor did it refer to the desirability of divisions reviewing outstanding missing person occurrences, or the use of diary reminder dates in Versadex to prompt follow-up. Similarly, consideration of using social media to communicate information to the public was required only for level 2 and 3 searches.

The procedure also referenced the Service’s Criminal Investigation Management Plan for the first time.³⁰ The 2013 version of the plan (like the 2006 version described above) requires a specialist criminal investigator to be assigned to missing person cases involving either a strong possibility of foul play or level 2 or 3 searches. However, the procedure itself does not make reference to the requirement for a specialist criminal investigator.

Additional relevant legislative and provincial adequacy changes also took place in 2013. Ontario’s major case management legislation added a requirement that missing person cases that remained outstanding after 30 days were deemed to be major cases for the purpose of using PowerCase, the

²⁹ The Missing Persons Details page is a data form field on Versadex – a page within the missing person’s general occurrence file in Versadex. The Details page contains mandatory information about the missing person, including age, date last seen, clothing description, whether a dental chart exists and has been obtained, and whether a photo is available. Completion of the Details page in Versadex triggers the entry of the missing person into CPIC. When the Details page is updated to confirm that the missing person has been located, a trigger is automatically sent to CPIC to remove the missing person’s CPIC entry.

³⁰ The Criminal Investigation Management Plan is listed in the procedure section as an “associated service governance.”

ministry-approved software. On November 14, 2013, a Service All Chiefs' memorandum was issued regarding this change to major case designations. I reproduced the memorandum in Chapter 4, where its significance is discussed.

In approximately July 2014, Project Houston's work ended. The disappearances of Mr. Navaratnam, Mr. Faizi, and Mr. Kayhan remained unsolved.

The Service's Missing Persons Procedure, 2014–18

The 2014 Briefing Note

On November 5, 2014, the Service's Business Intelligence and Analytics Unit prepared a briefing note regarding the Service's missing person data. The unit analyzed missing person cases from 1990 to 2004 and reviewed data spanning three record management systems (RMS): COPS, eCOPS, and Versadex. The unit identified several issues in the course of extracting and creating statistics from the missing person data. I refer to a few of those issues here:

- Before 1992, only a small number of missing person cases were entered into the electronic RMS (COPS). Between 1992 and 2012, the number of missing persons recorded in the RMS remained consistent. The number of persons recorded in 2013 was slightly lower. The unit hypothesized that this decline may have been due to officers learning to use the new RMS, Versadex.³¹
- Within 48 hours of going missing, 64 percent of the people were located. Within one month, 90 percent of people were located; and 97 percent of people were located within one year.³²
- Between 1990 and 2014, 2,744 people were reported missing with no "located / concluded" update in the various RMS. However, the unit determined that this number may not be an accurate reflection of the number of unresolved missing person occurrences because "located / concluded" information was recorded in a variety of ways across the

³¹ In November 2013 the Service replaced eCOPS with Versadex.

³² It is not clear whether these statistics refer to all persons reported missing or to those missing person cases that required investigation.

various RMS systems. It was difficult to tell exactly how many people remained missing without doing a manual search of each case.

The briefing note concluded that the various geographical divisions should follow up on all those occurrences where people had been reported missing with no “located date / concluded date” to determine whether the person had been located. The note made the important point that to ensure that all Missing Person reports are handled and risk managed appropriately, the recording of information (missing and/or located) had to be done in a consistent way. Consistency would assist the Service in determining how many outstanding cases actually exist.

In September 2015, the procedure was revised to incorporate the 2013 All Chiefs’ Memorandum, referenced above. The new procedure specified that missing person cases, where it has yet to be determined whether foul play is involved and the individual remains unaccounted for 30 days after being reported missing, were to be deemed a major case pursuant to the Ontario *MCM Manual* for the purpose of using PowerCase.

Additional minor amendments were made to the procedure in 2015 and 2016.

The 2016 Proposal for a Service Coordinator for Missing Persons and Unidentified Remains

In May 2016, Detective Sergeant Stacy Gallant, who headed both the Service’s Major Case Management and Cold Case units, drafted a proposal for the development of a service coordinator for missing persons and unidentified remains. As I wrote earlier, the Service’s Audit and Quality Assurance Unit had supported the creation of this position, subject to financial considerations, in its May 2013 internal review.

Detective Sergeant Gallant’s unit collected job descriptions and policies for missing person coordination efforts from other services. He noted that over the past several years, missing person and unidentified remains cases had drawn much media attention, provincially and nationally. Detective Sergeant Gallant’s proposal contemplated that the major case management office would assume the role of coordinator for missing person and unidentified remains cases. The coordinator would perform the following tasks:

- ensure compliance with the Ontario major case management legislation in cases where the missing person has not been located after 30 days;
- act as a liaison to both the OPP's Missing Person Unidentified Bodies Unit (MPUB) and the RCMP's NCMPUR;
- act as a liaison to the Office of the Chief Coroner on unidentified found human remains; and
- prepare up-to-date reports on the number of both missing persons and unidentified found human remains.

The proposal also included a recommendation to update the Missing Persons Procedure and the Service's procedure respecting death investigations to address the role of the coordinator position and available investigative resources. In addition, the NCMPUR's *Best Practices Guide* (discussed below) for missing persons and unidentified human remains would be reviewed to ensure that the Service's procedures were consistent.

This proposal was not accepted at the time. The Missing Persons Procedure was revised again in July 2016, but no substantive changes were made. This same proposal was resubmitted on August 4, 2017, but again, not acted upon.

In the spring and summer of 2017, McArthur murdered Selim Esen and Andrew Kinsman. Project Prism began on August 14, 2017 (see Chapter 7).

The 2017 Proposal for a Missing Persons Unit

In December 2017, Detective Constable Joel Manherz, a member of Project Prism, proposed the creation of a dedicated Service-wide Missing Persons Unit. As a detective constable in CIB, he had investigated a number of missing person cases. He found that other officers were often not documenting the investigative steps they took in missing person cases, and he acknowledged that he did not always know how to approach or resolve these cases. In 2008, he learned that the Winnipeg Police Service had a dedicated Missing Person Unit and made inquiries with a supervisor about the creation of a similar unit in Toronto. To his credit, Detective Constable Manherz summarized the importance of missing person investigations and the deficiencies he observed – deficiencies I also identified during this Review:

In Toronto it is unclear how many open missing person investigations we have due to the recent transition to Versadex and a tendency for missing person notices to be dropped from CPIC after two years. But what is clear is that Toronto needs to provide a consistent, effective and efficient response to missing person investigations.

The Toronto Police Service should be a leader in providing an effective response to missing persons locally, provincially and nationally. We need to develop relationships and memorandums of understanding with government and private organizations, such as Facebook Canada Inc., the Ministry of Transportation, Revenue Canada and Passport Canada, to move these investigations forward.

...

Despite the staggering numbers [of Missing Person reports investigated by police], sometimes the perception is that missing persons only become a priority for law enforcement when the media become aware of problems with the way in which police were handling the cases. [Detective Constable Manherz went on to cite the Robert Pickton case in that regard.]

In August of 2016, our Federal government launched an inquiry into Canada's missing and murdered indigenous women in which "policing and child welfare policies will be put under the microscope."³³ Part of the issue is that there are 164 missing aboriginal women missing and police, despite reports being filed, were not actively looking for them.

...

In Toronto, we have policies in place for investigating missing persons[;] however, unfortunately due to staffing issues and lack of training, they have never been the priority unless the risk of harm to the missing person is blatantly obvious. Searches are often limited to the places a person was last seen or last lived. Without a criminal offence, officers cannot seek judicial authorizations to help them locate the missing individual, so the investigations are quickly forgotten until the person is located. No one is looking for patterns in these disappearances across the Greater Toronto Area or even within the city. No one has received specific training for

³³ http://www.huffingtonpost.ca/2016/08/03/government-to-launch-inquiry-into-missing-murdered-indigenous-women_n_11311668.html

investigating these missing person cases, aside from search managers – however their training is specifically for the physical search of a given area.

Additionally, it is quite common for officers taking missing person occurrences to overlook the need to obtain a photograph of the subject, collect DNA evidence, seek available dental records, obtain the subject's social insurance number or examine their computer. As a result, evidence is lost that could help police identify a person who may be deceased, locate a person or find evidence related to an offence against that individual.

...

Although the Toronto Police Service is making giant leaps and bounds in the area of customer service, missing person cases continue to be the exception. Since these investigations often do not have obvious links to criminal offences, these occurrences are often delegated to officers filling temporary positions in divisional Criminal Investigation Bureaus (CIBs) – which means that long term missing person cases can be passed from investigator to investigator. This means officers find themselves duplicating steps taken by their counterparts and reportees do not know whom to contact for an update.

Detective Constable Manherz cited the 2014 briefing note I referred to earlier from the Business Intelligence and Analytics Unit. He noted that inconsistencies in the Service's record keeping meant it was difficult to determine accurately how many reported missing persons were still missing. He foreshadowed what was to come in concluding his summary of the Service's deficiencies:

There is nothing we can do to change the past but we can still attempt to correct those mistakes before they become the focus of an inquiry, media exposure or civil liability. [Emphasis added.]

Detective Constable Manherz's vision was that a Missing Persons Unit would conduct missing person investigations, rather than merely oversee investigations conducted by the Service's divisions. Primary response officers would take initial occurrences and then notify the unit, which would determine the need for immediate or deferred action. The unit would be responsible for ensuring that DNA was collected, dental records and photos were obtained (if

available), videos seized, statements taken, and computers and cell phones gathered and examined (if necessary) with the proper authorizations.

Pending final review in 24 months, Detective Constable Manherz recommended minimum staff requirements for the unit as one detective, four detective constables, and one civilian researcher. He proposed three objectives for the unit:

- To develop and maintain a victim-centred approach to missing person investigations, ensuring that those affected – both the missing persons and those who report them missing – are provided with the compassion and the investigative tenacity they should expect from a police service as highly respected as the Service.
- To ensure and foster a balanced approach to missing person investigations – that all the evidence that can assist in these types of investigations is collected, all available investigative steps are undertaken to locate the missing person, and every identified victim is provided with access to the support needed. This approach will be accomplished by focusing on the following proactive and reactive fundamentals:
 - victim support,
 - education and training,
 - monitoring and surveillance,
 - intelligence gathering and disseminating, and
 - investigations.
- To commit to becoming a world leader with respect to missing person investigations. The principles guiding this commitment will be recognized through
 - personal excellence,
 - investigative innovation,
 - continuous learning,
 - quality delivery of services,
 - advanced leadership, and
 - efficient management.

Detective Constable Manherz also proposed eight goals for the Missing Persons Unit:

- a timely response to missing person occurrences by experienced and enthusiastic investigators;
- a consistent service-wide response to missing person investigations and the gathering of evidence, ensuring that officers are collecting DNA, dental records, photographs, social insurance numbers, fingerprints, witness statements, and video evidence for all missing children, adults missing for more than seven days, or any person missing under suspicious circumstances;
- developing and implementing new and effective strategies to locate and identify missing persons, using technology and judicial authorizations to bring outstanding investigations to a successful conclusion;
- a multi-dimensional approach to investigations with respect to gathering evidence that fully leverages all resources and technology to assist in locating missing persons;
- effective management of victims, which includes the person missing and the person(s) reporting them missing;
- enhanced collaboration with specialized units within the Service and other police services in Canada to ensure efficient and effective investigations;
- obtaining training and education specific to missing persons, becoming experts in the field, while recognizing the obligation to impart that knowledge to other members of the Service through presentations and lectures; and
- ensuring that members assigned to the Missing Persons Unit receive specialized training and staff development opportunities to enable them to improve their investigations and the quality of the outcomes.

Detective Constable Manherz concluded:

The Campbell report³⁴ reminds us “that motivation, investigative skill, and dedication are not enough. The work of the most dedicated, skillful, and highly motivated investigators and supervisors and forensic scientists can be defeated by the lack of effective case management systems and the lack of systems to ensure communication and co-operation among law enforcement agencies.”

The implementation of a missing person unit within the Toronto Police Service will provide a centralized, consistent response to missing person cases and unidentified human remains. The highly trained officers will ensure that all of the files are investigated thoroughly. They will be cognizant of any patterns developing in missing person cases and they will build a rapport with the reportees and liaise with outside agencies, both public and private. Officers will actively utilize the Ontario missing person legislation, once it is enacted, and develop a strategy for making DNA submissions to National Missing Persons and Unidentified Human Remains DNA databank in 2018. They will ensure that any missing person cases prior to 2004 are re-examined and that any open cases are properly closed, as required.

Most importantly, the implementation of a missing person unit will provide the service with a system of accountability when it comes to these types of cases. It will provide an improvement on the Toronto Police Service’s customer service strategy and help keep Toronto the best and safest place to be.

Detective Constable Manherz’s proposal was forwarded to senior command. One month later, in January 2018, McArthur was arrested for murder.

The 2018 Proposal for a Missing Persons Unit

In March 2018, Staff Superintendent Myron Demkiw³⁵ submitted a proposal for a Missing Persons Unit to Deputy Chief James Ramer.³⁶ Although Staff Superintendent Demkiw’s proposal did not specifically reference the previous

³⁴ Ontario, *Bernardo Investigation Review: Report of Mr. Justice Archie Campbell* [Toronto: Ministry of the Solicitor General and Correctional Services, 1996] (Campbell Report).

³⁵ Staff Superintendent Demkiw has since been promoted to acting deputy chief – Specialized Operations Command.

³⁶ Deputy Ramer is now the acting chief of police.

proposals for a missing persons coordinator or a Missing Persons Unit, his proposal was similar in many respects to Detective Constable Manherz's earlier proposal.

Staff Superintendent Demkiw proposed that a Service-wide Missing Persons Unit be designated as a sub-unit of Homicide to standardize investigations and implement a consistent process of review for outstanding missing person cases. The unit would be staffed by two detectives, four detective constables, and one civilian researcher. This centralized unit would be involved in both newly reported and historical missing person and unidentified human remains cases, serving as a resource to all units in the Service by providing direction, guidance, follow-up, and support:

- cases where circumstances indicate a possibility of foul play;
- all missing person occurrences that remain unresolved eight days after the person was last seen;
- all missing person occurrences where a level 3 search was required; and
- all occurrences of unidentified human remains.

At the discretion of the unit commander, homicide, missing person occurrences, and cases of unidentified found human remains would be assigned directly to the Missing Persons Unit. The unit's goals would be to maintain consistent investigations across the entire Service, to maintain continuity and consistency of file management after eight days had passed since the missing person was last seen, to develop and implement a centralized investigative review process to provide victim support and management, and to provide internal and external education and training.

The objectives of the proposed Missing Persons Unit included enhancing the Service's commitment to developing and maintaining a victim-centred approach to missing person occurrences, assisting in the analysis and identification of trends that may require additional resources, and determining if any occurrences should be grouped together and assigned to a specialized investigative team. Although the proposal did not reference McArthur, Staff Superintendent Demkiw later told the media that the Project Houston and

Project Prism investigations lent some urgency to the Service's discussion as to how the police investigate missing person cases.³⁷

Pending approval from the chief of police and senior command for the creation of the Missing Persons Unit, assigned members would undertake the following tasks:

1. Identify training and development required for members of the unit.
2. Create a case tracking system relating specifically to missing persons and unidentified human remains.
3. Conduct a review of all open, pending and parked³⁸ occurrences for both missing persons and unidentified found human remains, and in doing so:
 - a. utilize all available investigative techniques;
 - b. develop and implement a standardized process to reconcile, update, and resolve where possible;
 - c. identify any organizational systemic issues surrounding training and governance.
4. Develop a communication strategy to create awareness both internally (Routine Order)³⁹ and externally outlining the formation of the unit and its mandate.
5. Develop a protocol that will standardize investigations and implement a consistent process of review for outstanding occurrences of missing persons and unidentified found human remains, which will include:
 - a. Implementing the developed process to reconcile, update, and resolve where possible all open, pending, and parked occurrences of both missing persons and unidentified found human remains;
 - b. liaising with the originating divisions to receive updates and ensure continual accountability in all avenues of the missing person and unidentified found human remains occurrences;
 - c. ensuring transparency and accountability in the analyzing and reviewing of trends in all missing person occurrences.

³⁷ <https://www.cbc.ca/news/canada/toronto/police-missing-persons-unit-1.4868612>

³⁸ A "parked" occurrence was not technically closed, but was not actively being worked on. Missing person occurrences can no longer be parked. They are either open (if the missing person is still missing) or closed (if the missing person or the remains have been located).

³⁹ A Routine Order is an internal communication from the chief of police to all Service members.

6. Work with the Toronto Police College to develop and address any training gaps or issues identified in the review stage of this implementation.
7. Work with Professional Standards Support – Governance to update Service procedure as required.
8. Develop and maintain an inclusive and collaborative approach with our external partners and community members to leverage all available resources that may be utilized as a resource as required for ongoing investigative assistance, information, and community mobilization.
9. Engage with our community partners in order to develop ongoing strategies to effectively enlist their assistance in missing person occurrences.
10. Continue to leverage traditional media and social media as a tool to engage with members of the community to assist in identifying long-term missing persons and unidentified human remains.
11. Work in partnership with Intelligence Services and Information Technology Services to leverage available technology and support.
12. Develop an evaluation methodology of the unit and commit to reporting annually to the chief and senior command on the progress of the unit.

The proposal went through several iterations before a final proposal for the new MPU was submitted and approved on March 28, 2018. The Service's MPU launched in July 2018. I describe it below.

The 2018 Service Internal Review into Missing Person Cases

Before the launch of the MPU, Detective Mary Vruna (who would ultimately lead the unit), the Business Intelligence and Analytics Unit, and the Records Management Services undertook an internal review of the Service's processes respecting missing person investigations. The internal review (which lasted until late 2018) examined all the Service's missing person cases from 1990 to 2018 in order to understand the status of the Service's inventory of these cases.⁴⁰

⁴⁰ The scope of the internal review was originally contemplated to cover missing person occurrences from 1990 to 2018. The review ultimately expanded to include historical hard-copy occurrences dating back almost one hundred years.

On May 28, 2018, the chief of police issued a Routine Order to all Service members to update them on the internal review and to remind them to comply with all requirements in the Service's Missing Persons Procedure.

On August 27, 2018, the Service's Business Intelligence and Analytics Unit released a briefing note about the MPU launch and the new missing person phone-in process (described in detail below). The briefing note summarized the findings of the review that the MPU⁴¹ and Records Management Services conducted into the Service's missing person cases from the various records management systems described in Chapter 4 (COPS, eCOPS, and Versadex) and dating back to 1990. The briefing note identified several significant systemic issues:

- Approximately 58 percent of the initial Missing Person Occurrence Reports in Versadex did not include a Missing Person Detail Page. As a result, the missing person information had never been entered in CPIC.
- Missing person occurrences were being entered as "incidents" in Versadex (rather than as Missing Person Occurrence reports).
- Occurrences were being prematurely closed before a missing person had been located.
- At the same time, occurrences remained open even when a missing person had been located, contrary to the Missing Persons Procedure.
- Supplementary text was being entered into Versadex without connecting the supplementary text to an existing occurrence or accompanied by an incorrect occurrence number, creating what is commonly described as an "orphan supp."
- 364 missing person occurrences were never transferred from COPS to eCOPS when the Service transitioned to eCOPS in 2003. The occurrences had been removed from CPIC on the CPIC expiry date⁴² for the missing person entry. Similarly, some occurrences were not transferred to

⁴¹ The MPU became operational in July 2018 – as described in greater detail below.

⁴² Current missing person cases are added to CPIC with an "indefinite" expiry date, meaning they will not be removed from CPIC unless the missing person is found. Before June 2020, however, missing persons CPIC entries were often automatically purged from CPIC because of an administrative oversight: CPIC sends police agencies lists of dated cases (cases over one year old) for review and verification to determine if the cases should remain on CPIC. If the case list is not returned to CPIC, the centre automatically purges the cases.

Versadex when the Service transitioned from eCOPS to Versadex in 2013. Those occurrences had also been removed from CPIC.

- In total, over 21,000 missing person occurrences were reviewed. A staggering 90 percent required some remedial action, including closing occurrences where people had been located, filling in incomplete administrative fields in Occurrence reports, adding to or removing information from CPIC as required, and adding supplementary reports where appropriate.
- 366 historic COPS missing person occurrences were reviewed and found to have never been placed on CPIC or were no longer on CPIC. The MPU cleared 106 of those occurrences by locating the missing person through various sources and updating the occurrence.
- 714 Occurrence reports were identified that had to be disseminated back to the field for follow-up.

Although it was commendable that this review was done, its findings represented an indictment of how, for many years, the Service had dealt with missing person cases. This indictment sent a clear signal that many such cases were inadequately investigated or followed up, inadequately documented, or both. These systemic failings meant that the inventories of missing person cases were unreliable, information on CPIC was either missing or obsolete, and those affected by the disappearances, and the public at large, were often poorly served. My evaluations of specific missing person investigations in Chapters 5 to 9 must be seen in the context of these systemic problems.

Part Three: The Missing Persons Unit, 2018 to the Present

The Establishment and Role of the MPU

On July 1, 2018 (partway through the internal review), the MPU became operational, although it did not officially launch to the public until September 4, 2018. The months between July and September 2018 were spent obtaining equipment and staff and conducting the internal review. The MPU operated out of the Major Case Management Office as a subsection of the Homicide

Unit. It was originally staffed by Detective Sergeant Gallant,⁴³ Detective Mary Vruna, Detective Constable Peter Hansen, Detective Constable Mike Kelly, Detective Constable Manherz, and a part-time analyst who was shared with the Business Intelligence Unit.

The MPU's stated purpose is to ensure a consistent process and investigative response for all missing person cases in the City of Toronto or for cases where people disappeared on their way to or from the City of Toronto. It includes both newly reported and historical missing person and unidentified human remains cases.

The MPU's mandate is similar to that described in Staff Superintendent Demkiw's proposal. There is also an overlap between the goals described in the proposal and the items that the existing unit is said to ensure:

- collaboration of all partners to leverage all available resources that may be used as a resource for investigative assistance, information, and community mobilization;
- entry of all relevant information on the NCMPUR website;
- commitment to a victim-centred approach to all missing person occurrences, including victim support and management; and
- continuity and consistency of file management.

The MPU is said to be available to all Service members as a resource. It will also provide direction, guidance, follow-up, and support in the following circumstances:

- where circumstances in a missing person case indicate a possibility of foul play;
- in all missing person cases, after eight days of the missing person last being seen;
- in all missing person cases, where a level 3 search is required; and
- in all cases of unidentified human remains.

⁴³ Detective Sergeant Gallant and Detective Mary Vruna co-headed the unit until Detective Sergeant Gallant retired in January 2020. Detective Vruna continues to head the unit.

The MPU is also designated by the chief of police to coordinate, manage, and report on the use of urgent demands for records outlined in section 8 of the *Missing Persons Act, 2018*. (I explain the relevance of this legislation below.⁴⁴)

The MPU provides assistance and resources to investigations and, for the most part, performs oversight responsibilities. The vast majority of missing person investigations are still conducted by front-line officers and detectives within divisions. I find it unfortunate that the MPU's investigators do not conduct many of their own investigations. They strongly wish to do so, but are severely curtailed by human and financial resources measured against the large number of active missing person cases. One of the issues I address below is whether the MPU's role should involve oversight of division-level investigations, its own investigations, some combination of both, or another model altogether that involves substantial use of outside agencies.

The MPU's members review all the Missing Person reports, which are forwarded to the unit electronically, to determine whether appropriate investigative steps have been taken in accordance with the existing procedures. Members of the MPU will advise officers if they need to take further action on a case, and they may advise when a case should be reassigned, for example, because the division investigator has been transferred. Sometimes they must remind the division officers that the unit is not responsible for the conduct of the investigation itself, although the unit may decide to take over some active investigations, if needed, particularly where a person has not been found eight days after being reported missing. The eight-day period is said to reflect the fact that the vast majority of these cases are resolved within that period.

By late July 2018, the Service was working on a missing person webpage for the Service's website. A full review of the Service's Missing Persons Procedure was underway, and an electronic tracking system was being developed to track missing person cases. The MPU monitored all new missing person cases for quality assurance, proper adherence to Service procedures, CPIC entries, and follow-up. The unit also worked with Records Management Services on the review (described above) of all missing person cases dating back to 1990. By the end of August 2018, the unit had added a fourth investigator – Detective Constable Shona McDougall.

⁴⁴ I note that this responsibility arose only after the *Missing Persons Act, 2018* came into force in 2019.

One of the unit's initial undertakings was to ensure that all outstanding missing person occurrences were entered into Versadex. That process was completed in approximately May 2020. The MPU is now confident that its members know how many outstanding missing person cases exist in Toronto. As of February 2021, there were approximately 515 open missing person cases on Versadex, the oldest dating back to 1919.⁴⁵

The unit also took steps to ensure that these cases are now entered onto CPIC, and it reviews the entries there every week. Similarly, when the MPU commenced its work, only nine of the Service's active missing person cases were profiled on the NCMPUR's national website. Now, 118 such profiles are there. By the summer of 2021, the unit expects to have more than 400 profiles published.

There are conflicting views within the Service as to whether the MPU should continue primarily to oversee how others conduct missing person investigations or whether it should be responsible for conducting many of the investigations itself. Indeed, at least one of the officers who joined the unit did so with the expectation that the unit would be investigating missing person investigations.

None of the current members of the MPU questioned the benefits associated with their early work in, for example, cleaning up the existing inventories of missing person cases. However, some questioned whether their oversight responsibilities were, at times, redundant. They pointed out that under the existing procedures, a front-line officer responds to the initial missing person call and takes down the relevant information. The missing person occurrence is supposed to be reviewed by a front-line supervisor, usually a staff sergeant, as well as by a detective sergeant or another quality control officer. These supervisory roles are defined in the existing procedures. They argued that the MPU is essentially duplicating the role of the divisional supervisors, who should catch any inadequacies in the investigative work. Simply put, if the system is working properly, these issues should not have to reach the unit in the first place. (As I describe below, additional oversight is now provided through changes to how the initial Missing Person Report is

⁴⁵ Even missing person cases with no prospect of finding the missing person alive due to the passage of time are kept open in Versadex and CPIC – to facilitate a possible future match with unidentified human remains.

created.) Officers also made the point that the unit generally intervenes only after eight days, but that missed investigative work and/or non-compliance with existing procedures should be identified earlier.

At the other end of the spectrum, the Review heard from some divisional supervisors that the MPU's oversight was valuable because its officers, with their specialized knowledge, could identify additional steps that should be taken to advance a missing person investigation. However, they also expressed concern that the divisions were not given additional resources to carry out these steps on their own. In other words, the unit's oversight adds to the significant general resourcing shortages already being experienced at the divisional level. Many officers believed that missing person investigations should be conducted within the centralized unit by officers with specialized training and experience.

As is often the case in policing, resourcing issues figure prominently, sometimes decisively, in the discussion. It became painfully obvious to me that the unit has inadequate human and financial resources to perform its oversight responsibilities fully, let alone carry out substantial investigative work. As elaborated below, the creation of the MPU may have signalled heightened attention for these cases. However, the inadequate resourcing also speaks to the continuing low priority ultimately given to missing person cases at a systemic level. As one senior officer pointedly stated, "if you're going to invest in something, you have to invest in the investment."⁴⁶

In attempting to perform its oversight responsibilities, the unit divides the city into four quadrants, one assigned to each of the unit's four detective constables. A quadrant can encompass three to five divisions. Each division has an assigned person to facilitate contact with the unit's officers. As indicated earlier, the Service receives, on average, 6,500 calls for missing persons each year. Although a significant number of these cases resolve within eight days, the Service has an average of 670 to 690 open missing person cases at any given time. (At the time of writing, the Review was advised there were 516 open cases.) The unit's officers described the difficulty in attempting to follow up on historical cases that remain unresolved while responding to the constant pressures associated with new cases. Superintendent Pauline Gray indicated

⁴⁶ I say "at a systemic level" because the Review was told that the existence of the MPU and its ongoing work with divisions have influenced some front-line officers to give greater priority or attention to these cases.

that the unit does excellent work but is severely underresourced, and its complement of officers should at least double.

In my view, to say the MPU is underresourced is an understatement. The unit's approved start-up budget, when created, was \$27,000. Of that amount, about \$5,000 was allocated to training. The remainder of the funds was spent on set-up costs, including computers and cellphones. In 2019, the unit received another \$5,000 for training, plus an \$11,000 one-time funding grant from the Toronto Police College to send several members of the unit to attend a National Missing Persons Conference in the United States. In 2020, the unit's training budget was \$2,201. None of those funds were spent as all in-person training was cancelled because of COVID-19. The unit has been advised that its 2021 training budget is \$4,000, but that budget will be shared with the Cold Case Unit.

The unit does not have a budget outside the training budget. If funds are needed for an investigation, the unit head is required to make an application to get funds from another unit's investigative account. Even the MPU's administrator position has been filled only temporarily, and no funds have been permanently allocated to this position. Most telling, from May to July 2020 during the COVID-19 pandemic, all but one of the unit's detective constables were redeployed to the front lines. One of the officers said that the redeployment signalled that the MPU was deemed to be expendable.

The problems associated with inadequate resources are compounded at the divisional level. Supervisors within the divisions told the Review that they do not have the resources to follow up on major case missing person occurrences as required by the existing procedures. The investigative work the MPU recommends would only exacerbate the problem.

It remains true today, as it has been throughout the period described in this chapter, that the Service has not created a missing person coordinator or investigator position in every division. Some divisions have a dedicated missing person officer; others do not. Even where such a position has been created, the roles played by such officers differ between divisions.

Detective Vruna underscored the importance of dedicated missing person officers in each division. They can perform functions that might otherwise be performed only by the MPU, liaise between the unit and the

divisions, and assist in filtering down new information and training to the divisions, and they are better situated to know their local communities and remain attuned to trends in their divisions. In my recommendations, I describe the role I envisage for such officers in each division, as well as additional responsibilities they should be assigned. I also discuss the use of civilian coordinators, a position that exists in other jurisdictions.

The human resource issues I identify are also manifested by the absence of any succession planning for the unit, its leadership, or its future membership. Detective Sergeant Gallant raised this issue before his retirement, but it appears unanswered to date. One of the unit's officers told the Review that there is no shortage of people who are passionate about missing person cases. However, in this officer's experience, for a variety of reasons a person's passion or desire to work in a certain area is an undervalued factor in deployment.

The Missing Person Phone-in Process

The 2018 internal review revealed the discrepancy between the number of calls for service involving missing persons and the much lower number of missing person occurrences in the Service's record management system. I learned that officers were not completing Occurrence reports, in the hope that the missing person would return before the paperwork became necessary. There are obvious systemic issues with this approach. The failure to complete a Missing Person Report in a timely way may impede or forestall the investigation and will result in the information not being recorded on CPIC. It limits making information available to officers who might respond to a person's repeated disappearances.

As a result of failures to properly and promptly fill out Missing Person reports, the Service implemented a phone-in process for officers as they were attending a missing person call. On August 30, 2018, the chief of police issued a Routine Order about the MPU and the new missing person phone-in process. On September 4, the MPU formally launched. On the same day, Records Management Services implemented the phone-in process for missing person occurrences.

Under the phone-in process, when an individual contacts the Service to report a missing person, an officer must visit the individual or, if the individual has attended in person, take relevant information at the station. The officer is then required to telephone Records Management immediately to provide details of the occurrence. Records Management staff will then create a Versadex occurrence for the missing person and fill in the mandatory Missing Person Details Page. This page contains the following fields for information: date of when the disappeared person went missing; date the person was last seen; whether the person has previously gone missing; and the cause for the disappearance in the past. It also contains a section to be completed if the person is located or found. This section has fields to indicate the time, date, and place the person was found and to update the case status, the status of the CPIC entry, and whether (in relation to human remains) there is information on the found person's clothing or markings on the body. The Records Management staff are trained to ensure that all relevant fields in the report are filled in. To achieve completion, the officer may have to obtain additional information from the reportee.

This process is intended to rectify another systemic issue identified during the 2018 internal review – inadequately completed reports. Completion of the Details Page automatically triggers the creation of a CPIC entry for the missing person.

A copy of the Occurrence Report is automatically sent to the divisional supervisor of the officer who took the Missing Person Report. The divisional supervisor must review and approve the occurrence. Once approved, the occurrence is sent into two different streams: it goes to a detective sergeant to assign the occurrence to a divisional investigator for investigation, and it is sent to the MPU. The occurrence appears in the unit's Versadex workflow,⁴⁷ which is checked daily by the unit's members. The unit head gets a list every week from CPIC showing all the Service's outstanding missing person occurrences, and the list is checked against the unit's workflow to ensure that all the occurrences are accounted for.

⁴⁷ An officer or unit's "workflow" is a list contained in Versadex of every case assigned to a given officer or unit. For the MPU, the workflow contains a list of every missing person occurrence.

The new process, while a commendable step, is only a partial answer to non-compliance issues or poor practices. Records Management can ensure that the appropriate fields contained in the Missing Person reports are completed and that the relevant information is entered onto CPIC, but it cannot otherwise address the overall quality of the front-line officers' reports. Members of the MPU continue to describe these reports as drastically varied in quality. Indeed, the advent of electronic reports and supervisory approvals through the "push of a button" has meant that supervision is less hands-on and often perfunctory. One of the unit's detectives observed that he had never seen a supervisor indicate to an officer that the investigation or the Occurrence Report had to be corrected or redone. I was concerned to hear that supervision was essentially checking boxes rather than reviewing the content or the quality of the report. I address the Service's ongoing compliance issues below.

Progress of the MPU

On October 15, 2018, Detective Sergeant Gallant prepared an interim update for Staff Superintendent Demkiw about the status and progress of the MPU. The unit was monitoring all new missing person occurrences for quality assurance and compliance with the current Missing Persons Procedure and was providing assistance and direction, where required. The unit had increased the number of missing person occurrences on CPIC and had cleared almost three hundred of the 336 historical COPS⁴⁸ occurrences that, after review, it found had never been placed on CPIC or had been removed from CPIC.

Members of the MPU had also met with officials in the Ministry of Health to discuss the development of a process in which police officers across Ontario could access hospitals and related records without having to contact each and every hospital / medical facility independently. I address this issue below. Despite the commendable efforts of the head of the MPU, this initiative has, unfortunately, not gone anywhere.

Detective Sergeant Gallant noted that one of the Service's main challenges respecting missing person investigations was the lack of training and education available for investigators. As a result, several training

⁴⁸ COPS is one of the Service's earlier records management systems. I explain COPS and its successors in Chapter 4.

initiatives have taken place. The MPU officers received training on obtaining samples of DNA for submissions to the National Missing Persons DNA Program databank and on basic search requirements for PowerCase. Two officers from the unit attended an Advanced Cold Case Long-Term Missing Investigations course in Appleton, Wisconsin. Detective Sergeant Gallant also indicated that unit members would be attending training sessions at the Toronto Police College to train new recruits and lateral hires on the phone-in process, along with some basic missing person issues. Again, I address this issue below. Despite initial progress in this area, the Toronto Police College still does not offer a comprehensive missing person training course.

I was troubled by Detective Sergeant Gallant's report that many reporting officers were not using the mandatory phone-in process for missing person occurrences when the person was quickly located. Rather, the analysis of the calls showed that officers were responding to a call and not immediately doing the phone-in process once the pertinent information was obtained. Instead, they were searching the area for some time in the hope that the missing person would be located and, if that happened, manually completing a Missing Person Located occurrence.

Detective Sergeant Gallant noted that this failure defeated the purpose of the immediate call to Records Management: to have the missing person put on CPIC and to have a BOLO issued. In addition, when a Missing Person Located occurrence is generated, instead of using the full phone-in process, only limited information is contained in the report about the circumstances surrounding the missing person and the disappearance. More detailed information could assist in future investigations for the same person.

On October 30, 2018, an MPU procedure working group met for the first time to review the Service's Missing Persons Procedure. In November 2018, members of the unit met with representatives from the Calgary Police Service and the Missing Children Society of Canada to review their missing person procedures. (The Service's Missing Persons Procedure was substantially amended in 2019, as I describe below.⁴⁹)

⁴⁹ The procedure working group of the MPU stopped meeting after the Missing Persons Procedure was updated most recently. The group anticipates it will resume its work after this Report is released in order to address the implementation of my recommendations.

On December 31, 2018, Detective Sergeant Gallant prepared a year-end update on the MPU for Staff Superintendent Demkiw which summarized what had been accomplished to date:

The MPU has been utilizing a temp employee from MCM for a member who is currently on maternity leave. This position is proving to be valuable in the daily operations of the unit as there is an abundance of administrative work that needs to be attended to ... it is pertinent to relieve the investigators and RMS personnel of these responsibilities[,] ensuring efficiency within the department. The MPU is a supporting unit for the service which requires daily interactions with many internal and external agencies that can be completed by a permanent administrative clerk. The original proposal called for an analyst as part of the unit. This position was being filled by a member of Business Intelligence as an added job function. Data is being obtained on a regular basis from RMS, Versadex and BI that requires further manipulation in order for it to be used valuably. Consideration in obtaining a permanent administrative position should be considered for 2019 and moving forward as the unit evolves.

Detective Sergeant Gallant noted that a full review of the Service's Missing Persons Procedure was ongoing. A new procedure to deal with unidentified human remains investigations would also be created or incorporated into existing related procedures. In addition, a new risk assessment template was being developed.

As for the phone-in process, Detective Sergeant Gallant observed that officer compliance was still low. Audits were being conducted periodically to ensure divisional compliance. The closing of missing person occurrences continued to be a problem. As of December 31, 2018, a total of 379 missing person located occurrences remained either "open" or "parked – no further action." The unit determined that no follow-up was being done on any of those occurrences. The MPU undertook to "close" them properly.

The MPU had also discovered an investigative "gap" with respect to border officials' ability to see whether a person travelling was listed as a missing person on CPIC. Members of the Canada Border Services Agency (CBSA) and the Department of Homeland Security (DHS) were given three "test cases" of missing persons with different ages, genders, and circumstances

surrounding their respective disappearances. CBSA and DHS were asked to create a scenario as though each of the three individuals was arriving in or crossing into Canada or the United States and to determine whether the officer dealing with those individuals would be alerted to their status as “missing.” The CBSA was unable to see the status of any of the missing persons. The unit determined that a CPIC missing person alert will not raise a flag in the CBSA system when someone who has been reported missing attempts to enter Canada. Rather, in order to flag a missing person to front-line officers, the Service must create a separate “lookout” with CBSA. The unit learned that the National Law Enforcement Telecommunications System used by US border agencies to access Canadian information automatically runs a parallel check of CPIC and does show missing person status.

In March 2019, the MPU commenced a monthly media campaign highlighting an outstanding missing person case or an unidentified human remains case. The campaign stalled with the onset of the COVID-19 pandemic, but the unit’s head continues to work with CrimeStoppers to release YouTube videos and podcasts to bring attention to certain cases.

By April 2019, the MPU had created and posted a Missing Person Questionnaire form on the missing person webpage on the Service’s website.⁵⁰ The Missing Person Questionnaire was created with a view to having the reportee fill in as much information about the missing person as possible to assist the police in their investigation. Once completed by the reportee, the form is automatically emailed to the MPU. Members of the unit review the questionnaire and follow up with the reportee, either personally or by requesting that a divisional investigator meet with the reportee to gather more information and begin the phone-in process.

The form prompts the reportee to provide a significant amount of information about the missing person, including physical description; language and communication skills; clothing; banking and credit card information; cellphone provider; access to a passport or other travel documents; vehicle information; social media details; any medical or counselling professionals; health conditions, including allergies, medication, and any history of drug use; dentist information; and any items that might be collected for DNA. The form

⁵⁰ https://www.torontopolice.on.ca/homicide/missing_person_questionnaire.pdf

also contains space to detail information relating to the disappearance, including any recent changes in behaviour, recent conversations before disappearing, whether any notable items were missing or left behind (such as phone, wallet, or favourite possessions), whether pets were taken or left behind, and whether the missing person had gone missing before.

The unit also developed new templates to conduct missing person risk assessments. The launch of these templates for officers and supervisors was anticipated to coincide with the upcoming revised Missing Persons Procedure.

On April 5, 2019, Detective Sergeant Stacy Gallant sent a memo to Staff Superintendent Don Campbell to provide an update on the MPU in which he reiterated the need for a permanent administrative position (it has still not been addressed). He advised that three procedural changes had or would soon take place: missing persons' photos were being included in CPIC for the first time; the missing person icon in Versadex in officers' squad cars would be disabled to prevent officers from creating their own missing person occurrences and skipping the phone-in process; and responsibility for closing occurrences had been returned to Records Management Services after allowing divisions, for a brief period, to close their own occurrences.

Detective Sergeant Gallant continued that divisional units had not improved their performance in closing located missing person occurrences properly.⁵¹ The unit, moreover, had signed a memorandum of understanding with the CBSA to allow for a more efficient and timely exchange of information. Finally, the unit was attempting to develop a consistent process for group homes and shelters to follow when a person is reported missing. To date these efforts have not been successful, as I explain below.

***The Missing Persons Act, 2018* Comes into Force**

In June 2019, a Routine Order and an All Chiefs' Memorandum were issued to announce the coming into force of the new *Missing Persons Act, 2018*,⁵² on July 1, 2019. The Routine Order set out an overview of the Act and the

⁵¹ Closing a case does not prevent an officer from adding a supplementary report to a closed case. Once a case is properly closed in Versadex it is closed in CPIC and removed from the officer's workflow. But it is still accessible for updates if necessary.

⁵² SO 2018, c 3, Schedule 7.

associated Regulation, which were intended to help officers respond to missing person occurrences by making it easier for them to obtain court orders for records and search warrants for premises. With an Urgent Demand for Records Report, they could get records without judicial authorization.

On July 3, the chief of police issued a Routine Order notifying all members that the *Missing Persons Act, 2018*, was now in force and requiring officers, effective immediately, to comply with the legislation if relevant judicial authorizations were required in a missing person case. If it is determined that a judicial authorization (such as a production order or search warrant) is required to obtain records that may assist in locating the missing person, or allow entry onto a premises to locate a missing person, members must make the required application using newly developed forms. They must also consult with the MPU respecting urgent requests.

The Service's Revised Missing Persons Procedure, August 2019

On August 15, 2019, the Service's Missing Persons Procedure was significantly revised. The rationale for the revision was to acknowledge the high-risk nature of missing person occurrences and the commensurate priority that should be afforded to them. The rationale specified that “[e]ach missing person occurrence reported to the Toronto Police Service ... will be treated as an investigation, given the potential that criminality may be uncovered at a later date.”

Several new or amended forms were incorporated into the procedure, including the Missing Person Risk Assessment for responding officers, which replaced the previous Search Urgency Chart; the Missing Person Risk Assessment for supervisors; and the Missing Person Questionnaire, which replaced the previous Lost Person Questionnaire. Forms were added to assist officers in obtaining judicial authorizations under the new *Missing Persons Act, 2018*, and to assist officers in obtaining consent DNA samples for entry into the National Missing Persons DNA Program. Of significance, “missing person” was defined in the procedure for the first time:

Missing Person – means a person where both the following circumstances exist with respect to the person:

1. The person's whereabouts are unknown and,
 - i. the person has not been in contact with people who would likely be in contact with the person, or
 - ii. it is reasonable in the circumstances to fear for the person's safety because of the circumstances surrounding the person's absence or because of any other prescribed considerations.
2. A member of a police force is unable to locate the person after making reasonable efforts to do so.⁵³

The revised procedure also included new responsibilities for Service members at each search level, as well as the following new (non-exhaustive) requirements:

- When someone is reported as missing or lost to the Service, a full missing person eReport must be taken in all instances and completed in accordance with the Procedure.
- All reports of missing persons are accepted at the time they are made and given full consideration and attention regardless of
 - where the missing person resides;
 - where the reportee resides;
 - the reportee's relationship to the missing person;
 - the length of time the person has been missing; or
 - the missing person's age, sex, race, citizenship, ethnic origin, religion, sexual orientation, gender identity, gender expression, belief, social standing, disability, or lifestyle.
- The procedure described the role of the new MPU and the resources available through the unit.
- The Reporting section of the procedure was revised to incorporate and mandate the new missing person phone-in process.

⁵³ This definition corresponds to the definition of a missing person contained in the *Missing Persons Act, 2018*.

Of significance, the procedure added the specific instruction that “under no circumstances will the report of a missing person be entered as an ‘incident.’”

Risk Assessments

The mandatory new officer Missing Person Risk Assessment form specifies the following:

- Officers must notify a supervisor as soon as practicable on all missing person investigations.
- The form must be completed by the reporting officer in all missing person investigations. These include those where the person returns prior to police arrival.
- The completed form must be reviewed by a supervisor:
 - immediately when there is a risk factor indicated below;
 - as soon as practicable when no risk factors below are indicated.

The Missing Persons Risk Assessment form requires the officer to provide information in response to 17 topics or questions. These questions include the missing person’s name and whether the missing person

- has gone missing in the past or whether disappearances are “habitual” (missing more than three times);
- is the subject of a crime in progress;
- is suicidal or likely to cause harm to self or to others;
- is vulnerable owing to age, infirmity, inability to communicate, addiction to drugs or alcohol, or other factors;
- may be affected by inclement weather conditions, terrain, inadequate clothing, or lack of proper equipment that could seriously increase risk to health;
- requires essential medication;
- has mental health disabilities, physical illnesses, or physical disabilities;
- has been subject to bullying or elder abuse;

- is out of character in going missing (leaving with no indication of whereabouts or destination);
- is scheduled to testify in court as a witness or a victim;
- is involved in gambling, the sex trade, hitchhiking, or a transient lifestyle;
- is associated with gang members or other organized crime;
- is a member of certain communities (including Indigenous Peoples, LGBTTIQQ2SA⁵⁴ communities, racialized communities, or other);
- is unemployed; and
- is in care (including a foster home, assisted living, a senior care facility, group home, hospital, shelter, or other).

The final questions on the form ask where the missing person was last seen and whether there are other additional factors that could elevate or reduce the perceived risk to the missing person.

The new supervisor Missing Persons Risk Assessment form mandates that a supervisor reviews all Missing Person reports. This review must include the facts of the investigation as well as the completed officer Missing Person Risk Assessment form and the completed supervisor Missing Person Risk Assessment form. In accordance with the procedure, the supervisor must then consult with the responding officer and the officer in charge to assess the level of risk and determine the appropriate level of response.

On review, the supervisor must indicate three points: first, whether an “elevated risk” exists; second, whether the MPU and the Toronto Police Operations Centre have been notified of the missing person; and third, the suggested response:

- level 1 search (more investigation required);
- level 1–2 search (expand investigation);
- level 2–3 search (immediate response required).

The combination of the new forms and the consultation was intended to promote greater supervision and accountability. As I explain in the Summary and Findings, I continue to identify issues in how risk assessments are

⁵⁴ Lesbian, gay, bisexual, transsexual, transgender, intersex, queer, questioning, two-spirited, and allies.

performed, in how these three search levels are described, and in how they connect to whatever risk assessment is performed.

In their dialogue with the Review, some of the officers of the MPU correctly observed that the adequacy of these documents does not guarantee that officers will recognize existing red flags or assess risks in ways unaffected by bias. For example, one officer explained that there is a systemic hesitation to prioritize missing person cases involving able-bodied adults, especially men.

On August 15, 2019, the day the Missing Persons Procedure was revised, the chief of police issued a Routine Order to update Service members as to the new requirements. On October 16, the chief of police issued a further Routine Order to remind all members of these amendments. Specifically, the order noted that supervisory officers must ensure that the mandatory Missing Person Questionnaire had been completed in all instances where someone was reported missing,⁵⁵ that a full Missing Person eReport must also be completed in all instances where someone is reported missing, and that all reports of missing persons are accepted at the time they are made.

At the end of 2019, the MPU issued a Year-End Report,⁵⁶ which summarized the work done by the unit in 2019 and highlighting several impressive investigative accomplishments. For example, in October 2018, the unit had reopened a historical missing person file from 1974 and, in August 2019, 44 years after the individual went missing, the unit determined the person was alive. In November 2019, the unit located a woman who had been missing for 54 years.

The Year-End Report also identifies the unit's ongoing initiatives and priorities, including its continued work with the Business Intelligence Unit to develop a Missing Persons Dashboard / Tracker,⁵⁷ a commitment to ensure that all the Service's missing person occurrences are posted on the NCMPUR

⁵⁵ If the reporting individual had completed the questionnaire, the officer was required to obtain it; if the reporting individual had not completed the questionnaire, the officer was required to do so.

⁵⁶ The MPU has also provided bi-weekly reports to Superintendent Pauline Gray since October 2019. These reports showcase unit statistics and updates, including new investigations and the unit's progress in entering historical cases into Versadex. The statistics about new investigations break down the number of ongoing cases, how many cases are still outstanding during a two-week period, the gender and age range of the missing persons, and whether foul play was suspected.

⁵⁷ The Missing Person Tracker is described in detail below. The Dashboard is a software program that provides real-time statistics about missing person occurrences.

website, a commitment to load DNA from surviving family members in historical unsolved missing person cases into the National Missing Persons DNA Program, and the anticipated development of a *Missing Persons Guide* to ensure that the Service conducts these investigations in a consistent manner.

In 2020 Detective Sergeant Gallant retired, and Detective Vruna continued on alone as head of the MPU.

In January 2020, the Service amended its Death Investigations Procedure to require, among other changes, notification to the MPU when the identification of a deceased individual cannot be determined. The Service also amended its procedure relating to elopees and Community Treatment orders to ensure that investigations conducted under the *Mental Health Act* are conducted in accordance with the amended Missing Persons Procedure.

In early 2020, the COVID-19 pandemic struck. By April 2020, the unit added an automated email response for all emails received by the MPU's email address. Although the unit's members worked off site, their phone messages were forwarded directly to their cellphones. By late April, the unit had almost completed the transfer of historical missing person occurrences to Versadex.

As of April 20, the unit began using a new electronic Missing Person Tracker, which allows the unit to capture and monitor all occurrences relating to missing persons that fall within its mandate. The tracker is a software program created by the Business Intelligence Unit for the MPU. After a missing person occurrence has been in Versadex for eight days, the tracker automatically pulls the case from Versadex for the MPU. In this sense, it is a monitoring tool as well as a work platform. The unit members use the tracker to monitor their own work on their cases: they prioritize their cases within it, add their own notes, and monitor the status of investigative work and case developments (for example, whether a case is in PowerCase; whether the investigator has requested dental records). The unit also logs Urgent Demand applications in the tracker: the unit's head is responsible for preparing the Urgent Demand Year-End Report, as required by the *Missing Persons Act, 2018*.

The unit's biweekly report for April 13–24, 2020, raised a troubling issue – non-compliance with one aspect of the Missing Persons procedures:

At the beginning of April on behalf of the MPU,) BI [Business Intelligence] provided all Divisions with spreadsheets for the period of August 2019–December 31 2019 identifying all occurrences that did not comply with the MP procedure predominately relating to the completion and submission of F260/F260A Risk Assessment Form / status of the occurrences. The non-compliance for completing TPS 260s and 260As is very high. Some divisions are barely 3% compliant.

The Crime Analysts had two weeks to conduct a review of the non-compliant MP occurrences and address the issues. All but one division has completed their review[,] making the necessary corrections. Through this process, Unit Commanders were encouraged to review the Missing Persons procedure with your division to ensure occurrences are compliant in Status, Detail Pages, and Text Templates in future.

Analytics & Innovation will be conducting quarterly Missing Persons Compliance Audits in this nature. The next Audit was scheduled to occur mid-April[;] however[,] due to the COVID-19 issues[,] members of BI have been temporarily reallocated and it will not be feasible. The next Audit is scheduled for mid May.

By May 8, the transfer of all historical hard-copy missing person occurrences into Versadex was complete. The missing persons were entered into CPIC, and the occurrences were assigned to investigators at the divisions, with the MPU's providing assistance to resolve the occurrences.⁵⁸

On May 11, because of the COVID-19 pandemic, three detective constables from the MPU were deployed temporarily to front-line divisions.

On May 19, Business Intelligence, on behalf of the MPU, provided all divisions with spreadsheets for the period January to April 30, identifying all occurrences that did not comply with the Missing Persons Procedure. Non-compliance predominately related to the completion and submission of the Risk Assessment forms and the status of the occurrences. There had been some improvement, but the non-compliance for completing Risk Assessment forms remained high. The Service was only 47 percent compliant with risk assessment completion. Analytics and Innovation sent an email the same day to various officers and command staff, updating them about the results of the

⁵⁸ I also note that in May 2020, the Service issued a new procedure for unidentified vulnerable persons. The MPU was instrumental in its creation.

compliance inquiry and reminding all staff sergeants and sergeants to ensure that Risk Assessment forms were completed.

On June 24, the Service's Analytics and Innovation Unit prepared a briefing note regarding a compliance check on missing person investigations. Compliance rates were increasing: occurrence status compliance was up to 96 percent, Detail Page compliance to 89 percent, and text compliance (meaning the completion of Risk Assessment forms) to 70 percent.

By July 2020, the MPU had established a strategy with the NCMPUR to expedite publication of the Service's historical and long-term missing person cases on the NCMPUR's national website. The NCMPUR was in the process of conducting a review of all the Service's missing person CPIC cases to establish a list that met the criteria for publication on the national website. To facilitate that process, the MPU requested and obtained temporary civilian assistance from Records Management to review and fix any errors or omissions in the Service's missing person CPIC entries to ensure they met the NCMPUR's criteria. This work has now been completed. The MPU has submitted all its eligible missing person cases to the NCMPUR for processing and publication.

On September 25, 2020, the Service's Missing Persons Procedure was amended to allow use, under the *Missing Persons Act, 2018*, of a new Urgent Demand for Records Report form. The chief of police issued a Routine Order the same day to update the Service:

Members are advised that Service Procedure 04-05 entitled "Missing Persons" has been amended to reflect current practice in consultation with the Missing Person Unit.

Specifically, an Ontario Form 6 (Urgent Demand for Records Report) is now required to be completed when investigators have determined that an urgent demand for records is required, in accordance with the powers afforded by the *Missing Person Act* (MPA). The Ontario Form 6 is appended to today's Orders and will also be available in the next TPS Forms update.

At the end of September 2020, a senior analyst at Analytics and Innovation emailed Detective Vruna to provide an update on Missing Persons

Procedure compliance: improvements had been made across all three types of compliance, and text compliance was at an all-time high. However, much work still needed to be done in several divisions to raise compliance rates.

Detective Vruna told the Review that, as of February 2021, compliance has improved significantly since the unit began its work. However, more improvements are needed, in terms of procedural compliance and customer service. The unit expects to release a Missing Person Customer Satisfaction Survey in the near future. This survey will be directed to members of the public who have had dealings with the police in relation to a Missing Person Report they have filed.

Part Four: Missing Person Practices in Other Jurisdictions

How do other jurisdictions in Canada and abroad deal with missing person cases? What are their attitudes to the missing, how do they carry out their investigations, and what resources do they apply to them? In my search for answers to these questions, I examined various aspects of missing person investigations and related issues in a number of other locations.

The United Kingdom

For many years, the United Kingdom, in contrast to Canada, has attached considerable importance to missing person cases. In my discussions with a number of people in government, policing, and the charitable sector who are involved with missing persons there, I was impressed not only with the multidisciplinary they had established but also with the public, charitable, and research attention the United Kingdom has devoted to missing persons. In essence, the country has advanced from a cut-and-dried approach of recording incidents and locating missing persons to a comprehensive collaborative approach to the missing. An organizational shift in attitude has taken place at all levels of police services. Today, the prevailing view in the United Kingdom is that a well-supported multi-agency response to missing person investigations promotes more successful results and enhanced community relationships.

The Missing People Charity

I met with Missing People, a major UK charity that employs about 70 people and works with some 130 volunteers.⁵⁹ Missing People was founded in 1993 to provide a broad range of assistance to missing people and their families – in particular, emotional, practical, and legal support.

In 2018–19, the charity directly helped almost ten thousand people and assisted with searches in which more than two thousand were found safe and well. Approximately 2,500 children and youth contacted their 24/7 helpline. Missing People also acted as co-secretariat to an All Party Parliamentary Group on the missing and has been designated as an organization that can make complaints about police treatment of missing person cases. More than four hundred people attended conferences hosted by the charity in 2018–19, with 53 percent of attendees coming from local authorities and 25 percent from the police. Missing People raised £3.5 million to finance its activities and spent just under £3 million on service provision and £266,000 on research.⁶⁰

The charity works to improve the law, policy, and practice surrounding the missing. It provides specialist support to people who are missing or at risk of going missing, as well as to their loved ones. The charity has a 24/7 helpline for the missing and their families, as well as widely followed social media and a TextSafe system that allows the missing to contact it for confidential counselling and interviews. Its helpline allows people and families who may be reluctant to contact the police because of possible involvement with crime or for other reasons to reach the charity anonymously. It coordinates a UK-wide network of people, businesses, and media to join the search for those who frequently go missing, and it supports those who return by providing reconnection assistance for them and their families or friends. It publicizes circumstances surrounding a disappearance and helps train professionals involved in working with those who return. It acts as a champion for the missing and their families if they are not satisfied with the way the police handled their cases.

⁵⁹ <https://www.missingpeople.org.uk>

⁶⁰ Missing People 2018/2019 Impact Report at <https://www.missingpeople.org.uk/wp-content/uploads/2020/11/Impact-Report-2019-ONLINE-NEW.pdf>

Missing People encourages a multidisciplinary and multi-agency response to deal with the underlying reasons for why people go missing. It can also take Missing Person reports, following the same 16 risk assessment questions that the police ask. This collaboration allows the charity to provide a seamless transition when the police must be involved. In addition, it sponsors research into issues surrounding the people who disappear.

The initial support for the creation of this charity and the strong support it has attracted speaks volumes about the attention given to missing person cases and policing-community partnerships in the United Kingdom.

The Centre for the Study of Missing Persons

The University of Portsmouth, Institute of Criminal Justice Studies, provides teaching programs and facilities in many areas of criminal justice. The Centre for the Study of Missing Persons brings together partners from key agencies to research the myriad issues involving the missing. It is currently working to change the policies and practices that determine how missing person cases are handled. The police have used the centre's research to create a protocol for multi-agency collaboration in an effort to reduce the number of repeat cases of missing children. The centre is also researching the reasons why unaccompanied migrant minors go missing, the response to missing incidents, and the quality of aftercare for the people involved in these cases, along with the reasons why search and rescue volunteers resign. In addition, the centre is helping policy makers around the world to use its data and its findings to shape their missing person practices and policies.

The centre works in partnership with Missing People, the National Crime Agency, and the National Police Lead on Missing Persons. This collaboration allows direct access to police forces and highlights the areas where the centre can have the biggest impact. These partnerships also allow the centre to share data and expertise with police services and NGOs in the United Kingdom and around the world.

United Kingdom Government Initiatives

Different levels of government have an extensive missing person framework. They stress prevention and aftercare as well as discovery of the missing. They

urge multi-agency approaches that include health, social services, local authorities, community agencies, and charities as well as the police.

Since 1994, the United Kingdom has had a National Missing Persons Bureau, now located in the National Crime Agency. The bureau collects data on all missing person cases, information that police services are required to provide within two or three days of receiving a report or locating a body. Using its own database, the National Crime Agency offers operating support to police services, especially in mid- to longer-term missing person cases. Every quarter, the bureau holds regional meetings with missing person coordinators, an integral part of missing person units in the United Kingdom's police services. On occasion, the bureau has collaborated with researchers, including those associated with Locate International, to work on long-term missing person cases.

The United Kingdom appears to be particularly receptive in employing civilians in missing person investigations. Almost all police forces hire civilian missing person coordinators. Professor Karen Shalev Greene, director of the Centre for the Study of Missing Persons at the University of Portsmouth, told the Review that much of the centre's work is to "coordinate a multi-agency response (social services, health services, housing, etc.)" that can be critical in respect to the discovery of missing persons and the prevention of people going missing. The police are also supporting a pilot project in which they co-operate with education and health practitioners and with mental health services to share data about missing persons. Professor Greene indicated that these multiple agencies can play an important role in follow-up and prevention interviews with returned persons in part because they have more specialized expertise in dealing with subgroups of the population. She also raised concerns that, because police and governments are interested in cost savings, much of the research on missing persons has been directed at repeat cases.

The police complaints body has published a Learning the Lessons document based on common problems revealed in complaints about missing person investigations. It also features case studies and brief articles by police officers, researchers, the Missing People charity, and individuals who have gone missing.⁶¹

⁶¹ Independent Office for Police Conduct, *Learning the Lessons*, Issue 36: *Missing Persons*, December 2019, at

I interviewed, among others, Ms. Fiona Didcock, the missing and exploitation manager of the Thames Valley Police Force, a large urban police force that takes risk assessment very seriously. It approaches risk assessment on several levels: attending officers prepare the initial assessment, a duty sergeant or inspector reviews the cases designated high risk, followed by an assessment by a “risk hub” of missing person coordinators. Members of the hub call relevant social agencies to obtain more information about the missing person and then prepare an independent risk analysis. They continually update the risk assessment as the investigation progresses. The assessment and related details are loaded into the police force’s records management system within two hours of the reported disappearance.

This police force also hosts a monthly meeting called STEM – strategic exploitation and missing. Heads of social services and police forces attend these meetings to discuss trends, patterns, and themes around the missing. To ensure that missing person investigations are treated seriously, the police force relies heavily on accountability, which it enforces through its partnerships with community agencies. Investigations of the missing are a joint responsibility. If something goes wrong in the investigation, a civilian agency conducts an independent review. The reports of these reviews, which identify who contributed to the failure and who should be held accountable, are made public.

To reduce siloed approaches to missing person investigations, an increasing number of police forces in the United Kingdom are appointing a civilian missing person coordinator to oversee investigations. Among other duties, coordinators are responsible for reviewing the cases and looking for patterns and indicators of harm. Coordinators are also important when it comes to dealing with the loved ones of the missing, opening lines of communication and building trust.

Specialized training and education are provided to both officers and civilian members of police forces who are interested in missing person investigations. They spend time with front-line officers to obtain experience and with social workers to learn about the role social agencies play in missing person investigations. Specialists from agencies such as Missing People are

also brought in – with the overall result of greater public awareness of the issues surrounding missing people.

The discovery of a missing person carries its own unique demands. One person described his experience to the Review: “Going missing was easy, returning was a nightmare.” Considerable investment is being made to prevent repeated missing person episodes through “Safe and Well Checks.” These checks are considered to be as important as investigations. An officer debriefs the missing person with the support of a list of questions used to aid the conversation. The discussion is conducted in person and in private. The debriefing helps identify why the person went missing and what may be done to help address underlying problems, and it ensures that, where appropriate, referrals are made to a social agency. The United Kingdom is also examining how those who return can participate in initiatives designed to help prevent repeated disappearances.

Police forces have also supported the creation of survivor working groups. These groups organize “missing road shows” in different locations, such as fire stations and community halls, and the gatherings are attended by both professionals and members of the community. Participants discuss what “missing” looks like and what happens when you report someone missing. In addition to breaking down barriers around the report of missing persons, they generate ideas and raise awareness.

The police regularly rely on the many services that Missing People offer, such as TextSafe. If someone goes missing, they ask Missing People to send a TextSafe message inviting the person to text the organization. In response, the police will send a message advising the missing person of available support services. The prevailing attitude is that you cannot police your way out of problems associated with missing persons; rather, you need a multi-agency approach.

Several times a year, the missing person units of forces around the country host a regional meeting, where participants discuss themes, patterns, and issues around policy and procedure related to these investigations. This initiative allows each police force to take what is shared by others at these meetings to an annual national meeting, where, again, ideas and experiences surrounding better practices are presented.

In summary, the United Kingdom is clearly making considerable progress toward a broader, more inclusive approach to investigating reports of missing persons. This approach is grounded in the view that the police should remain the primary agency actively involved in these investigations. However, there are many important issues relating to the missing that the police do not have to do – areas that are better done by civilians within the services and by social agencies. The optimum way of responding to the complex demands of the missing is based on the theory that the sum is greater than the parts. To increase awareness and make real contributions through shared ideas, high priority and commensurate police resources are needed, in collaboration with social agencies at the local level, supported by other levels of government right up to the national level.

The Sussex Model

A study involving what is arguably the most important aspect of missing person investigations – risk analysis – took place in Sussex a number of years ago. The results are worth noting.

For three months, three police forces piloted a new approach to missing person investigations. The primary aim was to ensure that the initial police response was proportionate to the risks involved. The Sussex model was based on the view that risk assessment is the key component to missing person investigations. As a result, a significant feature of the pilot project was the introduction of “call-handlers” – civilian members of the police forces involved in the study who received extensive training and education surrounding the identification of the extent of the risk associated with a person’s disappearance.

During the pilot, the initial police response to a reported disappearance depended on a new risk assessment process and how the disappearance was subsequently classified. In cases where a person whose whereabouts could not be established and whose behaviour was out of character, or who, for other reasons, was thought to be at risk of harm, would be classified by the call handler as a “missing person.” Officers would be deployed immediately and expected to complete initial enquiries, create a detailed record of the incident, and update information systems. Incidents involving people who were not where they were expected or supposed to be, but not thought to be in any risk,

were classified as “absences.” The call handler would agree on some initial steps with the caller to assist them to find the person, and then regularly monitor the situation until it was resolved or became a missing person incident. In this way reports of disappearances would be triaged by highly skilled civilian members of the police forces who gained experience and competencies by working together within the risk assessment unit.

Overall, the project’s evaluation found promising qualitative evidence that the pilot had achieved its primary aim – to make the police initial response to missing persons more proportionate to risk. As a secondary benefit, the approach enabled the pilot sites to target resources better by freeing up officer capacity. There was also qualitative evidence of the pilot’s having improved officer attitudes about attending missing person incidents.

Today, the Sussex Police Force has Missing Person and Vulnerability teams at each division. The force also has three area-based civilian missing persons coordinators, presumably one coordinator at each of the three divisions in the force.⁶² The coordinators undertake a proactive analysis of all “missing and absent reports” and engage community partners where necessary. The role of the missing person coordinators also includes proactive and preventative work in relation to repeat missing incidents. The police forces hold monthly meetings to discuss key at-risk individuals in efforts to reduce repeat missing incidents.

The Sussex Police Force has created an online tool⁶³ to assist reportees with Missing Person reports. The reportees can complete a short online survey, which will instruct them to call either the emergency number or the non-emergency number, and advise them as to the information they should have ready for police.

The Missing Person Policy also requires officers to approach risk assessments in a dynamic manner and to reassess frequently. Recently, the “No

⁶² Homeland Office, “Missing Children and Adults: A Cross-Government strategy,” *Homeland Office* (2011) Accessed online:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/117793/missing-persons-strategy.pdf, last accessed online July 27, 2020 at 18 [“A Cross Government Strategy”].

⁶³ Sussex Police, “Report a Missing Person,” *Sussex Police*, online:

<https://www.sussex.police.uk/ro/report/mp/report-missing-person/>, last accessed online July 27, 2020 at 18.

apparent risk” category was removed from the Missing Person Policy.⁶⁴ As a result, all missing person cases sit on a continuum of low risk, medium risk, and high risk.

The Sussex Police Force works with community agencies in their missing person investigations. The Missing Person Policy includes a reference section for officers on relevant organizations and agencies. For example, it describes how the Missing People charity offers support to missing persons and their families. Officers and staff can make a request for family support to be provided or for a TextSafe message to be sent to the missing person, offering free confidential support. The charity can also arrange and coordinate national and local publicity using a variety of media.

Summary of the UK Experience

Investigating and locating missing persons is a core part of modern-day policing. Within the policing arena, missing person investigations in the United Kingdom are considered an area of significantly high risk and are treated seriously. The UK experience has shown that properly handled investigations and proactive follow-up has had a positive impact on communities and on broader society – an impact that continues beyond the investigations themselves. There is much to be learned from the United Kingdom’s approach.

Australia

Australia also attaches high importance to the missing. Most police departments have a Families and Friends of Missing Persons Unit, where trained professionals provide counselling and work collaboratively with search agencies to lend support. The unit is not involved in investigations but, rather, provides services such as

- free and confidential counselling, information, and referrals for families and friends affected by the loss of a missing person;
- support group meetings and events to help bring families together;

⁶⁴ Sussex Police, “Sussex Police Force Management Statement 2019,” *Sussex Police* (2019) online: https://www.sussex.police.uk/SysSiteAssets/foi-media/sussex/other_information/sussex-police-force-management-statement-2019.pdf, last accessed online August 10, 2020, at 36.

- explanations of missing persons' issues, agencies, and search options;
- a Facebook page and other missing person publications;
- policy development;
- research into missing persons' issues;
- clinical support and information for service providers; and
- liaison with agencies across the missing person sector.

Australia's position is that the police should be the first resort but not the only one in responding to the report of a person's disappearance. As in the United Kingdom, police services in Australia collaborate with community agencies in responding to the challenges of Missing Person reports. The police rely on volunteer tracing agencies to help find the missing person – agencies such as the Salvation Army Family Tracing Service, International Social Service Australia, and the Red Cross International Tracing Service.

Canada

I now turn to five other Canadian police services – Calgary, Edmonton, Saskatoon, Vancouver, and Winnipeg – to assess the lessons the Toronto Police Service can learn from them.

Calgary

It was for good reason that the Toronto Police Service, when designing its recently implemented MPU, looked to the Calgary Police Service (CPS) as one to emulate. I highlight here the CPS's approach to reporting, risk assessment, support of loved ones, and working with group homes.

At the CPS, reports of missing persons are received by "call-takers" in the CPS Public Safety Communications Division. Before reporting someone missing, the CPS call-taker asks the reportee to

- ensure that the missing person has not made other plans;
- check with local hospitals;
- check with the school / employer of the missing person; and
- check places the person frequently visits.

Once the call-taker is satisfied these steps have been taken, he or she completes a Dispatch Assessment form (risk assessment). The call-taker asks the reportee key questions to determine whether the missing person is at a higher risk owing to circumstantial or behavioral factors, physical and/or mental well-being, lifestyle choices, or environmental conditions.

All dispatchers get six months of training. A large portion of that training is the missing person component. On receiving a Missing Person Report, an emergency communications officer (ECO):

- obtains details about the disappearance;
- uses the Dispatch Assessment to determine the recommended level of police response; and
- based on the circumstances, may elevate or reduce the recommended response.

A CPS officer then reviews the Dispatch Assessment and attaches it to the Missing Person Report so it is available to investigating officers. The CPS has a checklist for the officer assigned to the investigation. The document serves as a guideline for steps to be taken for a thorough response to the reported disappearance and provides a reminder to officers of their duties – one of which is that the officer must update the Missing Person Report before the end of the shift. The checklist also reminds the officer of the importance of remembering that risk levels can change based on information obtained during the investigation.

The CPS has a Family Liaison Team. As early as possible, an investigator and a trained negotiator from the team are assigned to each missing person investigation. In addition to maintaining contact with the family, the team serves as a useful source of information for investigators. It provides multiple forms of support for the family, including preparing for possible ransom calls or contact from an offender or intense media attention; regularly updating the family as to the status of the investigation, within the boundaries of investigative integrity; and expressing family concerns to the primary investigator, including investigative suggestions to help the family

feel they are part of the investigation and that their concerns are being considered.

When a missing person is located, attempts are made to conduct a return interview with the located person to determine

- why they went missing;
- where they have been;
- who they were with;
- what they were doing; and
- whether they were victimized.

Finally, there is VAST, the CPS Victim Assistance Support Team. VAST promotes and advocates the rights of victims of crime and trauma. It provides assistance to both primary victims (persons who have experienced direct injury, loss, or trauma) and secondary victims (those who are affected by the repercussions of a crime or trauma, including witnesses, friends, family, and co-workers). It also provides non-judgmental emotional support, a listening ear, and practical assistance to victims of crime or tragedy. The CPS has two people dedicated to chronic runaways from open and closed custody homes, and it sets out safety plans with these homes.

Edmonton

The Edmonton Police Service (EPS) includes missing person investigations as part of its Community Well-Being Branch. The EPS approaches missing person investigations with a holistic vulnerable person's strategy. To this end, the EPS is expanding its risk assessment protocol to include specific questions relating to whether the missing person identifies as part of an underserved community.

The EPS is currently running a Youth Enhanced Deployment initiative where officers work with chronic runaway youth in an effort to connect them with community resources. If successful, these connections will help minimize future occurrences. In addition, the EPS has hubs / situation tables relating to marginalized and vulnerable populations. Multiple stakeholders participate, including those from the health, education, social services, and corrections sectors. The hubs assess acute elevated risk and determine who should be

involved in assisting with the issues – for example, housing authorities have the authority to change locks, and social services can stabilize a family. The point is to customize the support needed to those affected. (I discuss Toronto’s focus or situation tables and their value in Chapters 14 and 15.)

Beginning with risk assessment, the EPS has shown considerable interest in using artificial intelligence to help with various aspects of the investigation. It is examining the use of algorithms to produce a risk level coefficient. However, the prevailing view is that the combination of an algorithm and the wisdom of an experienced detective will be the best way forward.

Saskatoon

Missing person investigations are the third most common type of investigation at the Saskatoon Police Service (SPS). Of particular interest is the progress the SPS is making in moving ahead with analytics in much of its work, particularly in areas relating to youth who go missing. Saskatoon has also made great strides in areas such as risk assessment, public awareness, and training. The SPS stands out in its successful liaison initiatives with the families and friends of those who go missing.

The SPS collaborates with the Saskatchewan Provincial Predictive Analytics Lab, the provincial government, and the University of Saskatchewan. One of the lab’s goals is to develop “predictive models that could assist in identifying youth at risk for running [away]; risk factors that could contribute to increased risk; associated patterns like geographical locations to inform the interventions by both police and our community partners; and interventions developed from an analytical finding [that] are intended to be implemented in real world settings, real time.” The SPS uses the lab’s initiatives and social media to raise awareness. The lab is on Project Safe Zone, a free online service for powerful, effective LGBTQ2S+ awareness and training workshops. Project Safe Zone helps youth assess their own risk, in the hope they will provide the police service with some of the solutions to habitual running away.

In addition, the SPS partners with Operation Runaway, an organization that works to understand repeat runaways and help them address issues that cause the conduct to be habitual. Another partner is EGADZ, a not-for-profit

community-based organization that provides services to children, youth, and their families and helps them make better choices to improve their quality of life. Every Thursday, one of the officers meets with the young people, EGADZ, a representative from the Ministry of Social Services, and any other support person who could be of help, and the young people lead the meetings. The lab is working on an app that can provide care workers and the police with key information about how best to get hold of a habitual youth runaway if the young person is in need of help. The app also provides the youth with detailed information about social agencies that provide various forms of support.

Saskatoon has introduced the position of a civilian missing person liaison officer, through Victim Services, who provides family support, emotional or crisis-related assistance, and information about particular cases. Dorothea Swiftwolfe, the current officer, has proved to be “all things to all people.” Although the detectives are also available to the families, Ms. Swiftwolfe is the mainstay of the family relationships and deals with each family’s daily struggles. At times, particularly in missing person cases, families are manipulated or used by third parties. In those cases, Ms. Swiftwolfe provides the family with information about a missing person organization that has created a check sheet to help them assess whether the person offering help is genuine.

As part of Operation Runaway, the SPS, in collaboration with the Ministry of Social Services, the Missing Persons Unit, and EGADZ, developed a risk assessment tool for care homes. It allows the staff at My Homes to get background details on youth during intake – information that will be useful if the youth subsequently goes missing. The assessment tool goes through different criteria and assists in the decision whether to report the youth as missing, to wait a while longer, or to contact the youth’s social worker. If a youth does not return to the care facility but the worker knows there is no real risk, the worker will fill out the risk assessment form but not file a report to the police. Rather, the worker submits the risk assessment to the Missing Persons Unit, which will be aware of the youth’s circumstances. The form is added to the youth’s file, indicating a habitual missing person status. If the youth is still missing the next day and the care facility submits a new assessment deciding there now may be risk, the Missing Persons Unit has the benefit of having a documented history of what occurred.

Return or prevention interviews are also common practice, although they may not be performed by the officers themselves but by the Ministry of Social Services. The ministry has a good relationship with care homes. In yet another valuable initiative, the SPS is endeavouring to understand and address causes of repeat runaways by conducting research in partnership with social service organizations.

Vancouver

Significantly, the Vancouver Police Department (VPD) treats Missing Person reports as major case management cases, all of which are considered to be suspicious until demonstrated otherwise. The objective is to provide the best chance of preserving perishable evidence and, either, to locate the missing person quickly or to determine if there has been foul play that requires a different investigative direction.⁶⁵

A supervisor reviews all the files to examine the facts of the investigation as well as the submitted Risk Assessment Template. The supervisor then fills out the Missing Persons Risk Assessment – Supervisor Template.⁶⁶ Any decision to vary or change the level of risk must be reviewed by a supervisor and documented.⁶⁷

A high-risk missing person investigation is defined as

[A] missing person investigation in which the missing person's health or well-being may be in immediate danger due to:

- (a) their own vulnerability (e.g., the very young and very old, persons with physical illness, disability, addictions or mental health concerns, persons who may be suicidal and persons involved in activities that may place them at increased risk of harm);
- (b) being part of an identifiable group that is at an increased risk of harm;
- (c) the weather or physical conditions where the missing person is believed to be; or

⁶⁵ <https://vancouver.ca/police/assets/pdf/manuals/vpd-manual-regulations-procedures.pdf>

⁶⁶ Disclosure, Independent Civilian Review MP Investigations Request 20201002 at 1273 onwards (sample forms).

⁶⁷ <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/5-1-2-risk-assessment.pdf>

(d) reasonable grounds to believe they may be the victim of a crime.⁶⁸

If the initial or ongoing assessment finds a missing person is in a high-risk category, a senior ranking officer and the missing person coordinator are notified, the file is scored and documented as a high-risk file in PRIME,⁶⁹ and the family / reportee is notified of these actions, unless to do so would jeopardize the investigation. If foul play is suspected, the investigation is assigned to a section or an investigator for major or serious crimes.⁷⁰

Within two weeks, a communication plan is established with the family. The plan establishes:

- (a) the name and contact information of the family liaison;
- (b) the names and contact information of the designated family member or members, the reportee and any other person(s) that are to be updated on the progress of the investigation;
- (c) the frequency and type of information that is to be provided to the persons identified in the communication plan (e.g., the family's wishes and schedule for contact, updates on the progress of the investigation, significant developments in the investigation);
- (d) the type of information that is to be provided to the family liaison by the persons identified in the communication plan; and
- (e) the means by which information is to be provided.⁷¹

Generally, the family is advised of details pertaining to the investigation which will be released to the media unless to do so would jeopardize the

⁶⁸ <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/5-1-2-risk-assessment.pdf>

⁶⁹ The RCMP operates PRIME-BC, a British Columbia-wide computer system connecting the information from municipal police departments; the RCMP at the federal, provincial, and municipal levels; and the Greater Vancouver Transit Authority Police Service. It provides access to information about criminals and crimes instantly to all these police agencies.

⁷⁰ <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/5-1-2-risk-assessment.pdf>

⁷¹ <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/5-1-5-family-members-reportees.pdf>

investigation.⁷² The family is also given a chance to review and consent to any information or photos released to the media.⁷³

Where the missing person is Indigenous, the force has access, through a written protocol or agreement, to an Aboriginal liaison officer, an officer from a federal First Nations Policing Program Community Tripartite Agreement or Quadpartite Agreement, or local Indigenous leaders or organizations.⁷⁴

Winnipeg

The Winnipeg Police Service (WPS) has made considerable progress in involving many of its civilian members in responding to Missing Person reports. The WPS missing person investigators are police officers but they are supported by civilian missing person coordinators and crime analysts. Missing person coordinators perform the intake and the initial management of the file, and social workers, embedded in the unit, assume much of the family liaison work. Missing person coordinators and homicide supervisors have almost daily contact, and they can recognize when it is appropriate to transfer an investigation from the Missing Person Unit to the Homicide Unit.

The WPS relies on group homes to perform some of the fundamental checks before the police are brought in. In Manitoba, consideration is being given to shift the responsibility of investigating missing Indigenous people to the Indigenous communities.

The WPS has formed partnerships with NGOs, including the Ma Mawi Wi Chi Itata, to assist with investigating reported disappearances. It has formed a relationship with the Winnipeg outreach network, a group of about a dozen NGOs around the city. The collaboration works well as members of the network recognize each other's role and rely on each other for the different challenges they face.

If a missing Indigenous youth is found, the outreach workers from Ma Mawi Wi Chi Itata facilitate his or her safe passage back to the community or to some other safe housing. In this way, this part of the missing youth's needs

⁷² <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/5-1-5-family-members-reportees.pdf>

⁷³ <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/5-1-5-family-members-reportees.pdf>

⁷⁴ <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/police/standards/5-1-7-prevention-intervention.pdf>

is taken out of the hands of the WPS. Ma Mawi Wi Chi Itata also provides the police with information about those in the community who are exploiting youth.

The WPS has an effective collaborative outreach network that includes Child and Family Services, Youth Services, NGOs and other organizations, and it meets regularly with members of the network. The participants keep each other apprised of what is transpiring in the community.

Part Five: Unidentified Remains

In this part, I turn from missing persons to a related field of investigation – unidentified human remains. The two areas are often intertwined, for obvious and tragic reasons. Sometimes the missing die before they are found.

Provincial Adequacy Standards and the Service's Procedure

As with missing person investigations, provincial adequacy standards require police services boards and police services to have a policy and a procedure, respectively, on investigations into found human remains.⁷⁵ The *Policing Standards Manual* of the Ministry of the Solicitor General also contains recommendations for the content of these documents.⁷⁶ The Toronto Police Service Board's policy on found human remains simply directs the Service's chief of police to develop and maintain procedures and processes for undertaking and managing investigations of found human remains. I will comment more on this issue later.

The Service does not have a stand-alone procedure for dealing with unidentified human remains. However, it has incorporated requirements for unidentified human remains investigations into its procedure governing death investigations.⁷⁷ The death investigations procedure is wide-ranging and

⁷⁵ Section 29 of Ontario Regulation 3/99, Adequacy and Effectiveness of Police Services, requires a police services board to have a policy on investigations into found human remains. Section 12(1)(j) requires the chief of police to develop and maintain procedures and processes for undertaking investigations into found human remains.

⁷⁶ Sudden Death and Found Human Remains, LE-037.

⁷⁷ Procedure 04-02.

addresses the respective responsibilities of officers and other Service members in cases involving unidentified human remains. In addition, it covers issues such as the investigation into the death of children under five, the person who has the authority to pronounce a person dead and to transport a deceased person, and health and safety practices during post-mortem examinations.

The death investigations procedure has been amended many times over the years, with changes relevant to the investigation of unidentified human remains taking place most recently in 2020. Earlier versions of the procedure were in place during the periods when the remains of Arthur Louttit (November 2012, see the case study that follows this chapter), Dovi Henry (July 2014, the case study that follows Chapter 14), Kenneth Peddle (May 2017, see Chapter 9), Alloura Wells (August 2017, see Chapter 9), and Tess Richey (November 2017, see Chapter 8) were discovered, and I have described in some detail the deficiencies in the investigations involving them all.

I do not attribute any of the identified deficiencies in the unidentified remains investigations to the existing procedures in place, which were thorough then and remain so now. Rather, the deficiencies represented, in some instances, failures to follow the existing procedures – for example, in failing to notify the Homicide Unit when Ms. Wells’s unidentified remains were discovered and when Ms. Richey’s body was discovered. In other instances, such as in the Alloura Wells investigation, the lead investigator was unaware of existing internal and community resources to advance the investigation and failed to issue a timely media release. In relation to Mr. Louttit and Mr. Henry, the deficiencies included failures to comply with the applicable Missing Persons procedures or best practices in failing to take a Missing Person Report (Mr. Henry) or failing to conduct a search in close proximity to where Mr. Louttit was last seen. These deficiencies were pronounced and, in all five cases, contributed to the delay in either finding or identifying the deceased individuals.

Many of the same issues plaguing missing person cases before the inception of the MPU (some of which continue to exist today) were also present in unidentified remains investigations. For example, many of the Service’s unidentified remains cases languished without ever being assigned to an investigator. No follow-up investigation was carried out. Thankfully,

much has since been done to address that issue. The Service currently has 61 unidentified remains cases, all of which are now on CPIC and Versadex. All the cases have been assigned to an investigator and are monitored by the MPU. I will describe the MPU's involvement in these cases in greater detail below. The more limited number of these cases, as compared to missing person cases, means that the MPU is better able to monitor them and assist in solving them.

In January 2020, the Service's Death Investigations Procedure was amended in consultation with the MPU and other Service stakeholders. The highlights of the amendment were set out in a Routine Order on January 15, 2020, to alert Service members to the relevant changes. Significantly, the revised procedure mandates that the MPU be notified when the identification of the deceased cannot be determined, and the approval of the MPU must be obtained before releasing any information to the media about an unidentified deceased. For the purposes of this Report, it is not necessary to reproduce the contents of the procedure in full here.

The Role of the MPU and Other Agencies in Unidentified Human Remains Investigations

Since its creation in 2018, the MPU has overseen every unidentified remains investigation and acted as the Service's point of contact for all other agencies associated with the investigations. The involvement and oversight of the MPU appears to have largely remedied the issues leading to a number of the Service's earlier failings in investigations. The unit is to be commended for this work.

As noted above, the Service's procedure requires police officers to notify the MPU by email in any case where the identification of the deceased cannot be determined. The unit's members also check Versadex daily for any sudden death occurrences and receive an automatic notification from the Forensic Identification Services when an unidentified individual has been fingerprinted. On learning of an unidentified human remains case, the file is reviewed by the unit's head and then assigned to one of the unit's investigators to monitor and provide assistance as needed. The unit investigator liaises with the divisional investigator assigned to the case.

The unit investigator ensures that the file remains active and operates as a direct point of communication with the Office of the Chief Coroner, the Ontario Forensic Pathology Service, Ontario's Missing Person and Unidentified Bodies (MPUB) Unit, the Ontario Centre for Missing Persons and Unidentified Remains (OCMPUR), and NCMPUR (all described below). The unit also liaises with the Office of the Chief Coroner and the Ontario Forensic Pathology Service to ensure that the unidentified remains are entered into CPIC. I now turn to these organizations, their involvement in unidentified remains investigations, and their relationships with the MPU.

The Office of the Chief Coroner and the Ontario Forensic Pathology Service

The Office of the Chief Coroner is the central repository of all death reports that have been investigated by all coroners throughout Ontario.⁷⁸ The Office of the Chief Coroner orders autopsies, conducts inquests, signs certificates for cremation and for the shipment of bodies out of Ontario, and oversees continuing research and public education of the causes leading to death and their prevention (including issues of drug use, child abuse, maternal and operating room deaths, suicides, and traffic injuries). The mandate of the Office of the Chief Coroner is to “speak for the dead to protect the living.”

The Ontario Forensic Pathology Service was created in July 2009 following amendments to the *Coroners Act* in the aftermath of the Inquiry into Pediatric Forensic Pathology in Ontario. Under the leadership of the chief forensic pathologist, registered forensic pathologists⁷⁹ from the Ontario Forensic Pathology Service, among other things, perform autopsies ordered by coroners to determine the cause of death. The Ontario Forensic Pathology Service works with the Office of the Chief Coroner to ensure a coordinated and collaborative approach to death investigation. Together, they provide dual leadership for the death investigation system in Ontario.

The Office of the Chief Coroner and the Ontario Forensic Pathology Service are not involved in every death investigation. Most deaths in Ontario

⁷⁸ In Ontario, coroners are medical doctors with specialized death investigation training who have been appointed to investigate deaths as mandated by the *Coroners Act*, RSO 1990, c C-37.

⁷⁹ Pathologists are medical doctors who are experts in disease and injury. Forensic pathologists have further training and are experts in disease and injury that result in sudden death. Forensic pathologists perform autopsies when required.

are caused by natural diseases and are not investigated by coroners. But the Office of the Chief Coroner and the Ontario Forensic Pathology Service are involved in every investigation involving unidentified human remains. According to the *Coroners Act*, coroners must be notified about certain types of death. These types of death include (but are not limited to) sudden and unexpected deaths, deaths as a result of violent or unfair means, deaths from any cause other than disease, and deaths under any such circumstances that may require investigation.⁸⁰ This requirement is mirrored in the Service's Death Investigations Procedure. The procedure requires a coroner to be notified in all cases of "unnatural sudden death" – deaths defined in the Service's procedure to include found human remains.

If there is any uncertainty as to the identity of human remains, the Office of the Chief Coroner's procedure on identification of deceased persons requires the coroner to designate the deceased as unidentified and to collect information to establish an ante-mortem data set. The procedure sets out detailed instructions for this process. Similarly, the Ontario Forensic Pathology Service's procedure on processing of unidentified remains requires that all unidentified human remains must undergo a post-mortem examination by a pathologist and an anthropologist as needed. The examination must include a full body CT scan, photography (of the face, scars, personal effects, and distinctive clothing), fingerprints, dental radiographs / dental charting, DNA, and a biological profile.

Dr. Kathy Gruspier, a forensic anthropologist at the Ontario Forensic Pathology Service and its identification lead since 2011, explained the steps taken during an autopsy of unidentified human remains. Dr. Gruspier or one of her team collect fingerprints,⁸¹ a DNA sample, and dental x-rays. They remove, wash, dry, and photograph any clothing found with the remains. They take photographs of tattoos and other identifying marks and scars. Bone parts are used to yield an age profile. The team collects anthropological data about the remains, including age range, sex,⁸² and ancestry.

⁸⁰ *Coroners Act*, s 10(1).

⁸¹ The Service's procedure also requires police officers to request that the Service's Forensic Identification Service Unit fingerprint and photograph the deceased.

⁸² Sex is recorded, but the team makes no assumptions about gender identity regardless of what clothing or other items are found with the body.

If fingerprint and dental record comparisons are not successful in identifying the remains, the Ontario Forensic Pathology Service turns to DNA and, in some cases, circumstantial identification. If the remains are still not identified, the Ontario Forensic Pathology Service submits the case to CPIC and NCMPUR via the OPP's MPUB Unit for further analysis and comparison with missing person cases within the NCMPUR's database.

Ontario's MPUB Unit, the OCMPUR, and the NCMPUR

Ontario has a provincial MPUB Unit. It was formed in 2005 after the OPP identified a need to provide additional support to missing person and unidentified remains investigations across the province. The unit was initially affiliated with the OPP's Violent Crime Linkage Analysis System (ViCLAS) Unit (see Chapter 4). Both units formed part of the OPP's Behavioural Sciences Section and shared some staff. In the unit's early years, it was dedicated to building a database to match missing person cases with unidentified bodies. To develop the database, the unit partnered with the Office of the Chief Coroner of Ontario and, later, the Ontario Forensic Pathology Service, as well as the British Columbia Coroners Service. The joint project was called the "Resolve Initiative." The information about the OPP's missing persons were entered into the database, and the Office of the Chief Coroner entered information about Ontario's unidentified remains. The MPUB Unit used analytical software to cross-reference case information held by the partner agencies. The Review was advised that between 2006 and 2010, 43 cases were solved through this analytical work, including one case dating back to 1968.⁸³

However, police services other than the OPP were not required to submit their missing person cases to the MPUB Unit. The Review was told that the Service's investigators infrequently submitted missing person occurrences to the unit. Indeed, it appears most Toronto investigators did not even know the unit existed.

In May 2006, the MPUB Unit launched a website and an associated tip line as part of the Resolve Initiative. The website contained information about missing persons reported to the OPP in which foul play could not be ruled out,

⁸³ <https://www.rcmp-grc.gc.ca/en/review-rcmps-implementation-enhanced-information-and-specialized-support-investigating-cases-missing>

as well as unidentified bodily remains cases for the entire province of Ontario.⁸⁴ The information on the website (not the database) was accessible to the public.

In 2008, the OPP proposed to the Canadian Association of Chiefs of Police that a single analytical software program be developed to house information pertaining to missing persons and unidentified human remains in a Canada-wide database. Ultimately, the RCMP was tasked with building the database. CPIC was selected as its platform and as the main source of information to feed it. It was hoped that the resulting national database would ultimately form part of the NCMPUR.

The RCMP launched the NCMPUR in 2011, describing it as a centre that allows for national data sharing, analytical support, coordination, police training, and development of best practices in missing person and unidentified remains investigations. The NCMPUR expanded the pre-existing National Missing Children's Service, moving from a focus on missing children to all missing persons as well as unidentified human remains.

In January 2013, the MPUB Unit decided to become a regional centre within the NCMPUR's broader umbrella. The regional centre's declared function included the comparison of all Ontario missing person cases to all Ontario unidentified bodily remains cases. The OPP would continue its partnership with the Offices of the Chief Coroner and the Ontario Forensic Pathology Service to provide that service.

In that same month, the NCMPUR launched a website, www.CanadasMissing.ca, to assist in solving missing person and unidentified human remains cases across the country.⁸⁵ The website went live with 715 cases, of which the OPP provided 500 in all. In May 2014, the NCMPUR launched its national database to collect information on missing persons and unidentified remains cases across Canada as well as foreign cases with a Canadian connection.⁸⁶ The NCMPUR's database was expected to feed

⁸⁴ <https://news.ontario.ca/archive/en/2006/05/16/ontario-provincial-police-and-office-of-the-chief-coroner-unveil-new-missing-per.html>

⁸⁵ <https://www.rcmp-grc.gc.ca/en/review-rcmps-implementation-enhanced-information-and-specialized-support-investigating-cases-missing>

⁸⁶ <https://www.rcmp-grc.gc.ca/en/review-rcmps-implementation-enhanced-information-and-specialized-support-investigating-cases-missing>

the national website.⁸⁷ Information for the database has been gathered primarily through an electronic connection with CPIC. When a missing person or unidentified remains occurrence is uploaded into CPIC, the occurrence is automatically retrieved by the NCMPUR for analysis and comparison. The system depends on accurate and complete CPIC entries. A senior OPP officer told the Review:

The CPIC entry is the crux of the system. It is so important. We have found some police services were not up to date on their CPIC entries[,] which really throws our analysis out of whack to say [it] politely. So, we may have the human remains ... on CPIC, but if you haven't put your missing person on, we will never find it. Unfortunately, with our system, we don't have the obligation, as you've said the teeth, to enforce that anyone puts [the missing person occurrence] on [CPIC]. One of our hopes would be that there is compliance necessary there because we are still dealing with it as of last week[,] where we have services giving us several CPIC entries from different years that have never been put on that are now just on.

Between 2013 and 2016, the OPP was still using its own Resolve Initiative database because the RCMP had not fully developed the NCMPUR's database. In 2016, the OPP signed a memorandum of understanding with the Office of the Chief Coroner, the Ontario Forensic Pathology Service, and the RCMP for an OCMPUR. Essentially, the Resolve Initiative became the OCMPUR. However, the OCMPUR did not begin fully operating as a provincial centre, using the NCMPUR's database, until 2017. The OCMPUR currently assists the Ontario Forensic Pathology Service with the submission of unidentified remains cases to the NCMPUR's website (discussed below), responds to and redirects inquiries or tips from the public to the appropriate police services, provides education about the NCMPUR to Ontario police

⁸⁷ In his book *Missing from the Village: The Story of Serial Killer Bruce McArthur* (2020), Justin Ling criticizes the efficacy of the NCMPUR's website, noting that "[t]o this day, that website is virtually useless, hosting just a tiny fraction of active missing persons cases in the country. The RCMP leaves it to local police to elect which cases to upload to the database – and most police departments lazily leave cases off, especially those of the most vulnerable, and the most likely to be targeted. It is a platform that serves to marginalize them all over again." There is merit to Mr. Ling's criticism about the lack of efficacy of the website if only a fraction of cases is listed. I outline below the MPU's initiatives to address the inclusion of the Service's missing person cases on the website.

services, and assists services with missing person and unidentified remains case analysis.

The OCMPUR's stakeholders (the Office of the Chief Coroner, the Ontario Forensic Pathology Service, the RCMP, and the OPP's MPUB Unit) are all members, along with the Service, of the Ontario Provincial Missing Persons Investigators Working Group.⁸⁸ This group meets twice a year to discuss enhancements to missing person investigations in Ontario.⁸⁹

One of the MPU's early commitments was the publication of all the Service's missing person occurrences on the NCMPUR's website. Before the unit was created, the Service had only 16 cases (missing person and unidentified remains combined) on the website. The unit now handles all submissions to the NCMPUR for website publication.

In September 2020, the unit submitted a proposal to Inspector Hank Idsinga, the head of the Homicide Unit, to accomplish this goal in collaboration with the NCMPUR. By that time, the Service had 633 "open" missing person occurrences on CPIC, of which 118 were already published on the NCMPUR's website. The NCMPUR identified 431 additional Service missing person occurrences from CPIC that were potentially eligible for publication.⁹⁰ The NCMPUR provided a spreadsheet list to the Service setting out the deficiencies⁹¹ related to each occurrence that needed to be verified or amended before the occurrences could be published on the NCMPUR's website. The unit requested assignment of a civilian staffing member to assist with this work.

⁸⁸ The Working Group has a number of other members, including the Anishinabek Police Service, the Barrie Police Service, the Durham Regional Police Service, the Greater Sudbury Police Service, the Halton Police Service, the Hamilton Police Service, the London Police Service, the Niagara Police Service, the Nishnawbe-Aski Police Service, the North Bay Police Service, the Ottawa Police Service, the Peel Regional Police Service, the Six Nations Police Service, the Treaty Three Police Service, the Waterloo Regional Police Service, the Wikwemikong Police Service, the Windsor Police Service, the York Regional Police Service, the Ministry of Solicitor General – Strategic Policy, Research & Innovation Division, and the Rama Police Service.

⁸⁹ Owing to the outbreak of COVID-19, the Working Group's most recent meeting was held virtually in January 2021.

⁹⁰ Not all missing person cases are eligible for publication on the NCMPUR website. Some cases, particularly historical incidents, simply do not have enough eligible information for publication.

⁹¹ Examples included correcting CPIC data entry errors; ensuring the name of the missing person was correct; adding a photo, dental records, date last seen, and probable cause of disappearance; and confirming the availability of DNA and/or familial DNA.

The proposal was approved, and the MPU has since returned all 431 corrected occurrences to the NCMPUR for publication. The NCMPUR began reviewing the occurrences and preparing draft publications for its website. As of late January 2021, the NCMPUR had returned 64 draft publications to the unit for review to ensure accuracy. Once reviewed, the unit will provide consent to the NCMPUR for publication. This process is anticipated to continue until the MPU has received, reviewed, and approved all the draft publications for the outstanding occurrences. As of the time of writing, publication of all the missing person cases is expected by spring 2021.

As of February 2021, the Service has 54 unidentified human remains cases published on the NCMPUR's website.⁹² Unidentified human remains cases are submitted to the NCMPUR for publication by the Ontario Forensic Pathology Service via the OCMPUR, which completes the publication submission form for the Ontario Forensic Pathology Service. When the draft submission form is complete, a copy is sent to the Ontario Forensic Pathology Service and the MPU for review and approval. Once approved, the OCMPUR sends the submission to the NCMPUR.

National Missing Persons DNA Program and DNA Submissions

In 2018, following amendments to the *DNA Identification Act*,⁹³ the RCMP created the National Missing Persons DNA Program. The program partners the NCMPUR with the National DNA Data Bank and allows the National DNA Data Bank to retain and compare DNA profiles from missing persons against unidentified remains. The program maintains three non-criminal / humanitarian DNA indices⁹⁴ for comparison purposes:

⁹² Some unidentified human remains cases do not meet the criteria for publication on the NCMPUR website. For example, some partial human remains discoveries (such as the discovery of only a femur) do not contain sufficient information to be viable for website publication.

⁹³ SC 1998, c 37.

⁹⁴ The National DNA Data Bank contains four criminal DNA indices that are not part of the National Missing Persons DNA Program but can be used for comparison purposes between the Missing Persons Index and the Human Remains Index.

- Missing Persons Index: contains DNA profiles of missing persons from personal effects such as a toothbrush, hairbrush, or razor.
- Relatives of Missing Persons Index: contains DNA profiles voluntarily submitted by close relatives of the missing person. These profiles are used to confirm the profile of the missing person obtained from personal effects and to compare DNA profiles in the Human Remains Index.
- Human Remains Index: contains DNA profiles from found human remains which are compared to all other indices.

The Ontario Forensic Pathology Service submits unidentified human remains DNA information to the NCMPUR for inclusion in the National Missing Persons DNA Program.⁹⁵ The MPU (aided by divisional investigators) is responsible for submitting missing persons DNA to the NCMPUR.

The NCMPUR notifies the MPU, the OCMPUR, the Office of the Chief Coroner, and the Ontario Forensic Pathology Service if there is a match. Once a match has been confirmed, the OCMPUR removes the unidentified human remains data from CPIC. The MPU ensures that the missing person occurrence is updated by divisional investigators as “located” in Versadex and thus removed from CPIC.

Part Six: Summary and Findings – 1) Missing Persons

In this part of the Report, I first evaluate how missing person investigations have been and are currently being conducted by the Service, and second, I turn to the Service’s handling of unidentified human remains. Two general periods for analysis emerge – before 2018 and after 2018. In 2018, McArthur was arrested. In the same year, the MPU began its work. Since 2018, the procedures and practices relating to missing person and unidentified remains investigations have undergone substantial changes. My evaluation takes these changes into consideration. In Chapter 15, I propose two models for missing person investigations: one mid-term, followed by a long-term model. Both

⁹⁵ The Service has some unidentified human remains cases from the past which do not have DNA samples. The Missing Persons Unit has identified four such cases and has submitted an appeal to the Office of the Chief Coroner of Ontario to consider exhuming the remains for the purpose of extracting DNA.

preserve a centralized MPU, with robust, early, and ongoing triaging of missing person cases by expert risk assessors to determine the appropriate response.

This triaging, in partnership with social service, public health, and community agencies, recognizes that many of these cases are rooted in social issues rather than in law enforcement. At the same time, the model recognizes that some missing person cases require criminal investigation. It introduces civilians from both inside and outside the Service to these investigations. The civilians would serve as coordinators and as support providers for those directly affected by the missing person case and for the missing themselves. A long-term model would move further along the continuum of reducing, in many of these investigations, the involvement of sworn officers in favour of social service, public health, and community agencies.

This new approach borrows from other models, particularly those developed in the United Kingdom. Its adoption in Canada would be groundbreaking.

Before 2018

In May 2013, the Service's Audit and Quality Assurance Unit identified the potential for missing person investigations to escalate into high-risk, high-profile cases and cautioned that the Service "must ensure that its members are working effectively and efficiently as time is a crucial factor when dealing with these types of occurrences."

In December 2017, Detective Constable Joel Manherz, a member of Project Prism, proposed that a dedicated Service-wide Missing Persons Unit be created in Toronto. At the time, the Service was giving missing person cases low priority and devoting few resources to them. Detective Constable Manherz said that although the Service was making considerable improvements in customer service, missing person cases continued to be the exception. As he concluded: "There is nothing we can do to change the past but we can still attempt to correct those mistakes before they become the focus of an inquiry, media exposure or civil liability."

Before 2018, the Service's overall approach to missing person investigations can fairly be described as deeply flawed – at times, appallingly so. The Service often responded well to situations involving Amber Alerts, but, as Detective Constable Manherz correctly observed, missing person cases had never been given priority unless the risk of harm to the missing person was “blatantly obvious.” He also acknowledged the perception that the police pay attention only to high-profile cases that attract heightened media scrutiny.

Unfortunately, too many of the past missing person investigations can best be characterized as incomplete or inadequate. They were heavily dependent on the particular skill sets of an assigned investigator. Many investigators, through no fault of their own, had insufficient understanding of what needed to be done to respond to the demands of these often complex investigations or lacked the time to give these cases the attention they deserved.

Many officers did not know what resources existed inside and outside the Service that could be used to advance missing person investigations, particularly those involving marginalized and vulnerable communities. Technological tools were underused and, when missing person cases qualified as major cases, so too were major case management procedures and the associated software. Those directly affected by the disappearance often felt unsupported. More often than not, when someone missing was found, little or no attention was given to why the individual had gone missing or to prevention strategies to reduce the likelihood of a repeat.

There was no centralized MPU – although other services had established such units years earlier. There was no consistent approach to which divisions had missing person coordinators or what they did. The Service did not even know what missing person cases remained unresolved. Risk assessments were often poorly done or not done at all. Frequently the risk assessments that were performed bore little or no relationship to how the Service responded to situations involving elevated risks. No specialized training and education existed for missing person investigations and related issues.

Nothing I say here is intended to minimize the talent, hard work, and sensitivity of those officers who succeeded despite the systemic flaws in the way the Service generally conducted these investigations. Nonetheless, the truth remains: rather than being a leader in Canada or internationally, the Service's approach to missing person cases was fundamentally flawed.

The Review carefully examined the Missing Persons procedures the Service had in place before 2018. There were defects in these procedures, some of which have since been corrected while others remain. But the real story here is less about the adequacy of the Service's procedures than about its practices. The Service was often not in compliance with both provincial adequacy standards (as explained in earlier chapters) and its own procedures. That non-compliance has been documented throughout this Report.

One practice I found particularly troubling – indeed offensive – was the institutional or systemic indifference to whether missing persons remained missing or were even recorded properly as missing in the first place. Earlier, I outlined the findings of the Service's internal review of missing person occurrences from 1990 to 2018. As the Service's record management systems transitioned from COPS to eCOPS to Versadex, many open missing person cases were not transferred to the newer systems, with the result that they were removed from CPIC after a set period had passed. Apart from issues around transitional record-keeping, in many instances the occurrences had never been entered in CPIC or were closed before the missing persons were located. At the other end of the spectrum, occurrences often remained open, well after people had been located. Some statistics tell the story:

- in about 58 percent of occurrences on Versadex, the missing person information had not been entered in CPIC;
- 364 missing person occurrences were never transferred from COPS to eCOPS, and, thus, had been removed from CPIC;
- of more than 21,000 missing person occurrences reviewed, a staggering 90 percent required some remedial action;
- 366 occurrences on COPS had never been placed on CPIC or were no longer on CPIC, 106 of which were cleared by the MPU; and
- 714 Occurrence reports had to be disseminated back to the field for follow-up.

As I reflect earlier, although it was commendable that this review was done, its findings represent an indictment of how, for many years, the Service dealt with missing person cases. These findings sent a clear signal that many

such cases were either inadequately investigated or followed up on, inadequately documented, or both. These systemic failings meant that the inventories of missing person cases were unreliable; information on CPIC was either missing or obsolete; and those affected by the disappearances, and the public at large, were often poorly served. Is it surprising that many of those whose loved ones went missing have expressed a lack of confidence in the Service when the Service did not keep an accurate record of who was missing and who was not, and where follow-up on these cases was sporadic and often non-existent?

It is also disturbing that the Service failed to respond appropriately to the clear warnings about the quality of existing missing person investigations by some conscientious Toronto officers. Similarly, when the Oppal Report was released in 2012,⁹⁶ a truly introspective institution would have asked itself whether the systemic issues identified in British Columbia compelled a high-priority evaluation by the Service of how it was conducting missing person investigations. Instead, it took the public scrutiny of the Service's own high-profile cases – those relating to McArthur's victims and to Tess Richey and Alloura Wells – for the Service to mobilize.

After 2018

The MPU, established in the wake of the McArthur murders and currently led by Detective Mary Vruna, is dedicated to the investigation of missing person cases. The unit inherited what can only be described as a mess. Its members have worked diligently to determine, with precision, who remains missing, clean up existing record management issues around these cases, monitor compliance with the Service's new procedure, and provide guidance to divisional investigators. The Missing Persons Procedure and Risk Assessment forms (formerly Search Urgency charts) have been substantially improved, although, as I will explain, compliance remains an issue, as do continuing flaws in the procedure and forms.

⁹⁶ British Columbia, Missing Women Commission of Inquiry, *Forsaken: The Report of the Missing Women Commission of Inquiry* [4 vols and *Executive Summary*, electronic resource, British Columbia, 2012] (Commissioner Wally T. Oppal) (Oppal Report).

I expect the Service to re-evaluate its existing procedure, forms, practices, training, and education in the light of the issues this Report identifies. Here, in the Summary and Findings, I wish to focus on 13 fundamental issues. In doing so, my views are informed by the evidence collected during this Review. In this chapter, I have also measured, for the first time, the Service's procedures and practices against Ontario's *Policing Standards Manual* and the NCMPUR *Best Practices Guide* for investigating missing person and unidentified remains case. Back in May 2016, Detective Sergeant Gallant proposed that the NCMPUR *Best Practices Guide* be reviewed to ensure that the Service's procedures were consistent with it. It is unclear whether that was ever done. However, in my view, there continue to be important inconsistencies between the NCMPUR *Best Practices Guide* and the Service's Missing Persons Procedure. The procedure needs to be improved further. In fairness, the Service's procedure is largely compliant with the more modest guidelines contained in the *Policing Standards Manual*.

Priority of Cases and Resource Allocation

I explain earlier why missing person cases deserve high priority and why a number of jurisdictions have accorded them such priority. Unfortunately, Toronto is not in that group. In August 2019, for the first time in its Missing Persons Procedure, the Service acknowledged that

Missing person occurrences are a high-risk area of policing, and must be given appropriate levels of priority and resources from the outset. Each missing person occurrence reported to the Service shall / will be treated as an investigation, given the potential that criminality may be uncovered at a later date.

Despite that acknowledgement, there are telling indications that missing person cases are still not given the priority they deserve. The MPU has only four investigators, and no permanent administrator or analyst. Originally, the unit included a detective sergeant, but no officer of that rank replaced Detective

Sergeant Gallant when he retired.⁹⁷ Realistically, this small complement of officers is unable to oversee the large number of open missing person investigations, current and historical, let alone conduct missing person investigations that require specialized knowledge. This dearth of personnel makes it particularly concerning that three of the four investigators were seconded to front-line responsibilities during part of the pandemic. In addition, the unit has no realistic budget, other than very limited funds for training and education. These deficiencies represent a painful reminder that the professed priority of these cases is not reflected in practice. It is critically important that, even during a period of fiscal austerity, the unit's resources be commensurate with its responsibilities.

I also observe that people from marginalized and vulnerable communities disproportionately go missing – so the low priority given to these cases has a disproportionate impact on those communities. The Service should be highly motivated to redress this imbalance, given the frayed relationship it has with those communities (see Chapters 10, 12, and 14). Moreover, the treatment within divisions of missing person cases is inconsistent, and there are only modest indications that these cases are generally given priority. A number of divisions have either no missing person coordinator, a temporary coordinator, or a coordinator with multiple responsibilities. Divisional investigators have high workloads, often to the detriment of missing person investigations where the possibility of criminal victimization, foul play, or serious harm may not, to repeat Detective Constable Manherz's words, be "blatant." Moreover, without additional resources, it is difficult for divisions to implement additional investigative work recommended by the MPU.

As in the United Kingdom model, I favour the transition to trained civilian missing person coordinators operating at the divisional level to perform many tasks that sworn officers would otherwise perform or should not perform. The debate over the increased civilianization of policing functions has existed for some time, and its full scope need not be discussed here. But in the context of missing person investigations, it has proved to be successful elsewhere in freeing up sworn officers for true law enforcement work,

⁹⁷ Detective Mary Vruna has accomplished an impressive record, given the limited resources available to her unit.

improving officer morale, reducing costs, and reducing barriers between police services and diverse communities. I expand on this theme in Chapter 15.

In addition to the current content of the Service's Missing Persons Procedure, the NCMPUR *Best Practices Guide* provides useful language to be incorporated, in whole or in part, into the Service's procedure to place greater emphasis on the priority to be given to these cases and what that means in practice:

- The initial response of a police agency should always be to treat the report of a missing person as legitimate, serious, and urgent, and to avoid downgrading the priority too quickly.

*Many factors can lead to errors in handling during the first response, from insufficient initial information to snap judgements. Since time is critical in high-risk cases, errors at the beginning can be the deciding factor in an unfortunate outcome.*⁹⁸

- The most important best practice is this: always treat a missing person report as a top priority, and treat every missing person investigation the same at the outset.

*Collected wisdom. It is always easier to scale back from the early stages of an investigation than it is to recover missed opportunities resulting from miscalculation in the early stages.*⁹⁹

- A police agency receiving a report of a missing person should treat the report seriously and thoroughly investigate; assume the person is indeed missing and foul play is involved until proven otherwise. The amount of resources deployed should depend upon the risk level assessed through a risk assessment conducted only once confirmed information is available.

*Poor outcomes can often be traced back to not taking a report seriously at the start, and making a risk judgement too early.*¹⁰⁰

- The investigation into a missing person begins at the point of first notification to the police. In responding to a Missing Person Report, a police agency's first priorities are to confirm that the person is indeed

⁹⁸ Suggested best practice 3.2.7. The italicized passages represent commentary on the suggested best practices in the *Best Practices Guide*.

⁹⁹ Best practice 3.4.1.

¹⁰⁰ Best practice 3.4.2.

missing and to gather as quickly as possible the information needed to complete an initial risk assessment.

*If the person is not missing, then resources are not wasted (for example the subject has just lost contact with the complainant over time). If they are missing, a rapid and robust risk assessment will ensure that the proper resources are put into the case and will avoid the risk of judgement errors.*¹⁰¹

Risk Assessment and Search Response

In recent years, the Service has been revising its risk assessments in missing person cases. That is as it should be for two reasons. First, a risk assessment is the most important function in responding to the report of someone's disappearance. Assessing the degree and nature of the risk to which a missing person might be exposed forms the basis for triaging these cases in a prompt way for the appropriate allocation of resources inside and outside the Service. Poor or non-existent initial and ongoing risk assessments have been a major weakness in how the Service has responded to missing person occurrences, specifically in underestimating the degree and nature of risk to which a missing person is exposed.

Second, with the high numbers of missing person cases in Toronto – and around the world – it is remarkable that so little evidence-based research in Canada has been done on risk assessment in missing person cases. We know that marginalized and vulnerable community members go missing in disproportionate numbers, and we know that certain community members, by nature of their personal identifiers or environmental factors, are at heightened risk of foul play (such as members of the trans community and sex workers) or other types of serious harm (such as children, those exposed to extreme weather conditions, those dealing with some mental health issues). We also know that certain indicia may raise serious concerns about foul play (such as leaving valued pets behind). However, there is much about the assessment of risk that remains unknown. We must approach risk assessment with some level of humility, erring on the side of assuming higher risk, unless and until the

¹⁰¹ Best practice 3.2.1.

contrary is shown. In the meantime, it is important to constantly re-evaluate how these assessments are performed. This re-evaluation should be done through collaboration, training and education, and ongoing research.

Against that background, the Service has introduced new risk assessment tools designed to assist officers in calibrating the response to an individual's disappearance. These tools set out factors, such as personal identifiers and environmental conditions, that are undoubtedly relevant to risk. The Service drew upon the Oppal Report in redesigning its Risk Assessment forms. Its Missing Persons Procedure now imposes an obligation on supervisors to review the assessments conducted by responding officers and do their own assessments; to identify situations involving an elevated risk; and, in consultation with the responding officers, to articulate the suggested level of response:

- Level 1 search (more investigation required)
- Level 1–2 search (expand investigation)
- Level 2–3 search (immediate response required)

I acknowledge that the current approach to risk assessment represents an improvement to the earlier approach. The Search Urgency charts were confusing and potentially misleading because they favoured a numerical scoring approach that undervalued the significance of a smaller number of high-risk factors.¹⁰² Some of the factors were miscategorized as high, medium, or low factors when they were equivocal at best or dependent on context. Critical factors were not included on the chart. It was difficult, if not impossible, to correlate the contents of the charts to the three levels of search described in the Missing Persons Procedure. At least the current procedure and forms identify a wider range of relevant factors to the risk assessment process, show greater sensitivity to the importance of a single elevated risk factor, move away from non-evidence-based numerical scoring, and reinforce the need for supervisory involvement and consultation in the process.

¹⁰² In fairness, the Service did recognize that the Search Urgency Chart was only an investigative aid, that the urgency of the situation may not be reflected by the column with the most checkmarks, and that the situation which must be treated as most urgent is a factor that is life-threatening.

However, significant systemic issues remain. While I acknowledge existing knowledge deficits in what we know about assessing risk, unless risk assessors receive training and education, I am not confident that the changes to risk assessment that have been made, particularly at the divisional level, will necessarily improve the accuracy of risk assessments. Training and education must also address, and guard against, subtly favouring lower levels of risk to spare scarce resources. Moreover, there is nothing in the procedure and forms that assists officers in the area found most wanting during this Review – identifying indicia of foul play and avoiding a mind-set that unreasonably discounts this possibility. For certain cases, officers must fill in Missing Person questionnaires that contain very detailed questions. However, there is no reflection in the Missing Persons Procedure that these questionnaires are to be used in arriving at the risk assessment and it is unclear that, in practice, they are being used for that purpose. Further, the risk assessment is focused on the individual who disappeared, with no apparent attention given to any patterns or correlation between this individual's disappearance and the disappearances of others.

As indicated, the Risk Assessment forms ask a series of questions. However, no guidance is provided in the form or in the procedure as to how the answers bear on risk. I said that the previous Search Urgency charts miscategorized certain factors. But the answer to the inadequacies in the previous charts is not to dispense with any guidance whatsoever. The forms and procedure do not even provide examples of scenarios that elevate or reduce risk. Nor do they refer to the need to constantly re-evaluate risk as an investigation progresses.

The procedure provides that a supervisor must review the Risk Assessment Form immediately when a risk factor is indicated; if not, a supervisor need review the form only as soon as it is practicable. In my view, if responding officers misunderstand what constitute risk factors or minimize the urgency associated with an individual case, as was evidenced repeatedly during this Review, the bifurcated approach to supervision could result in unacceptable delay in identifying risk. Further, at present, the MPU may not review such risk assessments until a person has gone missing for eight days. In short, I am concerned about this institutional delay in ensuring that those with specialized knowledge make or review the assessment of risk.

Also problematic is the fact that the three levels of search preserved in the current Missing Persons Procedure are not easily correlated to the risk assessments. The descriptions “more investigation required,” “expand investigation,” and “immediate response required” are confusing and not helpful. Two of these descriptions straddle dual levels of search (e.g., “expand investigation” applies to level 1 and 2 searches), making these superficial descriptions even more difficult to understand or apply in a consistent way.

The procedure states that level 1 will be implemented when “there are no extenuating circumstances.” The meaning of “extenuating circumstances” is unclear. The procedure also states that at level 1, “there are minimal concerns regarding the issue of foul play or the infirmity or limitations of the missing person.” However, it is clear that foul play or the infirmity or limitations of the missing person are not the only criteria for elevated risk. In addition, the strong possibility of foul play has frequently been misinterpreted and requires definition.

Level 2 is to be implemented when a missing person is under 16 and judged likely to be incapable of self care, when the individual is mentally challenged, when the individual is over 65 years old or infirm, or when there is evidence of foul play. A variety of circumstances can elevate the type of search beyond these criteria, but they are not specified in the procedure. It does not explain how investigations into those who have gone missing for over 30 days fit into these levels, other than reflecting that they have become mandatory major cases. As well, building on a point I elaborate on below, a number of investigative steps – particularly those that involve community engagement, use of external supports, Victims Services, and prevention strategies – are largely framed in discretionary terms. They should be central to high-quality investigations.

The NCMUR *Best Practices Guide* provides helpful language on risk assessment and levels of response:

- The police agency of jurisdiction should conduct a proper risk assessment by a trained person and de-escalate the risk from “serious and urgent” only if proven otherwise.

*Only a properly applied risk assessment can avoid judgement errors and an incorrect assessment of risk that could misdirect the resources and the investigation direction. Since time is critical in high-risk cases, it is safer to assume a case is high risk until proven otherwise.*¹⁰³

- Until the risk assessment indicates otherwise, a missing person case should be considered as serious and, based on the evidence, the investigation should be handled as a major crime investigation and in accordance with agency policy for such investigations.

*Policies are well established for major crime investigations, and it is better to assume the worst and step down the investigation later than to take the wrong approach from the start.*¹⁰⁴

- The investigating agency should conduct a risk assessment to determine the resources to be applied and the urgency in which to apply them. The risk assessment should be simple to use and avoid interpretations. Where practical, the assessment should be reviewed by a second, experienced person to confirm the risk assessment. Any decision should be well documented.

*A risk assessment takes into account confirmed information and provides consistent outcomes. It will direct the best avenues and use of resources. Risk assessment also includes a judgement about the likely reason for their being missing, which can be critical to subsequent criminal investigation. A review by a second person ensures the assessment methodology is applied objectively.*¹⁰⁵

- One purpose of a risk assessment is to reduce the possibility of introducing preconceived notions. Those applying the risk assessment methodology should keep an open mind and not try to apply it so as to confirm an established opinion.

*Interpreting information or the results of a risk assessment to fit an existing opinion or “hunch” is working against the purpose of the risk assessment method.*¹⁰⁶

¹⁰³ Best practice 3.2.8.

¹⁰⁴ Best practice 3.9.2.

¹⁰⁵ Best practice 3.4.3.

¹⁰⁶ Best practice 3.4.4.

- As the investigation progresses, the risk assessment should be revisited as new information comes to light and time passes. Any decision to reduce the level of risk should be reviewed by senior investigators and well documented.

*Original findings may be in error or the case may evolve to one of higher risk or lower risk, requiring an adjustment in approach and resources.*¹⁰⁷

Although I do not agree that every missing person case, properly triaged, needs to be investigated as a major case, the NCMPUR *Best Practices Guide* also reinforces the presumptive approach of urgency to such cases unless factors exist to rebut that approach.

In my Chapter 15 recommendations, I advocate a model that places risk assessment in the hands of civilians or sworn officers with specialized training and education on missing person investigations and risk assessments. They should work collaboratively to ensure prompt risk assessments, consistency of approach, and ongoing re-evaluation.

Relevance of Marginalized and Vulnerable Communities

I have already observed that members of marginalized and vulnerable communities disproportionately go missing. They are also disproportionately victimized by crime.

The current Missing Persons Procedure states that all reports of missing persons are to be accepted at the time they are made and given full consideration and attention regardless of listed circumstances, including “the missing person’s age, sex, race, citizenship, ethnic origin, religion, sexual orientation, gender identity, gender expression, belief, social standing, disability or lifestyle.” I agree – all reports should be given full consideration and attention regardless of personal identifiers, as stated in the NCMPUR *Best Practices Guide*.¹⁰⁸ However, it is also important that officers understand how membership in certain marginalized and vulnerable communities may elevate risk, and why that is so. The current Risk Assessment form asks: “[I]s this

¹⁰⁷ Best practice 3.4.5.

¹⁰⁸ Best practices 3.2.2. and 3.2.3.

person a member of the following groups: Indigenous peoples, LGBTTIQQ2SA,¹⁰⁹ racialized, unknown, other?” without explanation as to why the answer to this question is relevant to risk assessment. This point is made in the preamble to the *Missing Persons Act, 2018*:

The Government of Ontario recognizes that the circumstances surrounding each missing person’s absence are unique, but that sexism, racism, transphobia, homophobia, other forms of marginalization and the legacy of colonization are factors that may increase the risk of a person becoming a missing person.

The NCMPUR *Best Practices Guide* identified another best practice related to discrimination or differential treatment, largely implicit or unintentional, based on personal identifiers:

- An agency should not treat certain types of missing persons differently at the very beginning (e.g., repeat runaway, persons of particular lifestyles, youth home elopee).

*Too often, errors of judgement are caused by complacency or pre-conceived notions.*¹¹⁰

The examples should be expanded to include human rights and analogous grounds for discrimination. At times, officers have introduced stereotypical assumptions or unwarranted preconceived notions to missing person investigations, such as the person is likely on a “sexual holiday” or “out partying,” or, as an able-bodied man, is unlikely to be at risk. Moreover, grounds such as sexual orientation, gender identity, and gender expression should not be characterized as “lifestyle” choices.

This non-discriminatory best practice should not only be identified but should form part of officer education. Officers have, sometimes on their own admission, shown complacency or fatigue in responding, for example, to “repeat runaways” and “youth home elopees” referred to in the NCMPUR *Best*

¹⁰⁹ Lesbian, gay, bisexual, transgender, transsexual, intersex, questioning, queer, two-spirited, and allies.

¹¹⁰ Best practice 3.2.6.

Practices Guide. Later in this chapter, I discuss an alternative approach to these cases, modelled on the Saskatoon protocols.

In Chapter 14, I address, in detail, issues relating to the Service's relationship with marginalized and vulnerable communities that include and transcend missing person investigations. Equity considerations must be infused into everything the Service does, including missing person and unidentified remains investigations.

Support for Those Directly Affected by Disappearances

The current Missing Persons Procedure states that one of the key purposes of the new MPU is to ensure that the Service keeps its commitment to a victim-centred approach to all missing person cases. This language mirrors the victim-centred approach proposed by Detective Constable Manherz in December 2017 and Staff Superintendent Demkiw in March 2018.

In practice, although a number of officers demonstrate compassion and sensitivity to those affected by someone's disappearance, the Service's approach cannot be described as victim centred. In many instances, those directly affected are not regularly contacted for updates or basic information by investigators or anyone else within the Service. As time passes, such contact often becomes even more sporadic. Significant dates, such as the anniversary of someone's disappearance, usually go unnoticed. The Review was advised by Service members that sometimes those directly affected are not told that the missing person has been found, even when privacy interests are not of concern. The Review was also informed that, because loved ones have little information from or contact with divisional investigators, they sometimes contact the MPU for updates on their loved ones. The MPU is, however, limited in its ability to respond because it is not always privy to the current status of the investigation or to what information can appropriately be shared. It is better able to respond if the inquiries relate to cold or historical missing person cases that the unit has reopened.

At the beginning of this chapter, I emphasize that many loved ones and friends are victimized when someone disappears. They experience the ongoing pain arising from "ambiguous loss" and the stigma associated with it,

especially when a person is missing for an extended period. The Missing Persons Procedure, however, contains little about ongoing support to those deeply affected by the disappearance, requiring only that officers “consider” obtaining the assistance of Victim Services Toronto¹¹¹ in accordance with the Service’s Victim Services Procedure.¹¹²

The Missing Persons Procedure does not currently address or require any ongoing relationship between the investigative team and the reportee / individuals affected by the disappearance, let alone opportunities to provide support:

The police officer in a missing persons investigation is to provide the reporting individual with the telephone number of the detective sergeant of the division where the missing person resides. [The detective sergeant may be somewhat removed from the investigation itself and is not the best situated officer to respond to those affected.]

...

A citizen requesting information about another citizen’s whereabouts either electronically or by telephone shall be directed to the Officer in Charge. [As explained earlier, the officer in charge is not the missing person investigator, but the officer who is in charge of the day-to-day running of the division.] The Officer in Charge shall determine whether it is appropriate to release the requested information.

The Review was told that, in practice, those affected by the disappearance of a loved one are regularly referred to Victim Services Toronto. This organization in turn provides referrals to additional resources. Missing Kids (a missing children resource centre owned and operated by the Canadian Centre for Child Protection) is also available as a resource for those affected by missing children. To its credit, Missing Kids often reaches out to the MPU to ask if it has any cases involving families that need assistance.

In my view, the support the Service provides to those directly affected by disappearances is wholly inadequate. A victim-centred approach to missing

¹¹¹ Victim Services Toronto is a Toronto-based organization with a mandate to provide short-term crisis response, intervention, and prevention services in response to the needs of individuals, families, and communities in the immediate aftermath of crime and sudden tragedy.

¹¹² Missing Persons Procedure 04-31.

person investigations would involve a range of support mechanisms, including ongoing information sharing, updates by those able to provide such information, and opportunities for those directly affected to assist in advancing the investigation and providing emotional support.

The Service's approach to the loved ones and friends of those who have gone missing differs markedly from the greater attention it gives to victims of demonstrated crimes and their loved ones, and especially from the support provided by a number of other police services, such as those in the United Kingdom, Vancouver, Calgary, Australia, and elsewhere. These approaches include family liaison units embedded within the services and missing persons units. (I prefer to use language other than "family liaison units" to ensure that those directly affected are defined in the most inclusive way, consistent with the diversity of our communities and human rights values.)

I note that the Ontario *Major Case Management Manual* requires that a victim liaison be assigned in every threshold major case, which includes certain missing person investigations, to perform listed functions and duties. These tasks include the following:

- immediately liaise with the victim(s) or other individual(s) and maintain consistent contact and support throughout the investigative and judicial process;
- control all information released by the investigative team to the victim, family, and close associates and ensure they are treated with sensitivity;
- ensure all information releases to the general public are preceded by similar releases to the victim;
- without jeopardizing any investigative strategy, discuss the need and the rationale for public information releases;
- assist victims in obtaining support, assistance, referrals, and compensation; and
- work closely with the appropriate support service liaison or Victim / Witness Assistance Program personnel to ensure the appropriate and consistent treatment and consideration of victims and their families (during and following the investigation).

Although not all the listed functions and duties have equal application to all missing person investigations, this approach to major cases is truly victim centred. I must also point out that such provisions are meaningless unless they are complied with. No victim liaison officer was assigned during Project Houston or during any other missing person investigation I reviewed.

In my opinion, there is no reason why such support should be available only when a missing person investigation is designated as a major case. Indeed, smaller police services elsewhere have recognized the importance of substantial support for all those directly affected by the missing.

The NCMPUR *Best Practices Guide* is also instructive on this issue:

- The investigating agency should assign a point of contact and continually, as circumstances dictate, provide updates to the complainant and the missing person's family. The contact person should document all interactions with the family.

*This is a simple courtesy to a family under stress and helps to maintain their cooperation with the investigation.*¹¹³

- Ideally the family contact person should not be the primary investigator, but someone with experience and training in victim support and cultural sensitivity.

*The prime investigator may not have the time or capability for this role and needs to focus on the investigative role.*¹¹⁴

- Ideally the investigating agency's family contact should identify and deal with a single point of contact within the family. (This does not apply in the case of a family member being interviewed for information or considered as a suspect or witness in the matter.)

*Dealing with multiple people in the family can lead to miscommunication.*¹¹⁵

- The family contact person and investigator should be sensitive to the cultural sensitivities of the community and of the family. The police agency should make appropriate training available to its personnel.

¹¹³ Best practice 3.11.1.

¹¹⁴ Best practice 3.11.2.

¹¹⁵ Best practice 3.11.3.

*Appropriate sensitivity helps the police, family, and community understand each other and can increase the chance of success, tips, and general cooperation with the investigation.*¹¹⁶

- The family contact person and investigator should be aware of resources available (national, provincial, NGO) to which family members can be directed for victim assistance and support. The agency should make available to investigators a list of such resources or places to find them. *Families and close friends of missing persons need support that is not always available from police agencies. These other organizations may be better equipped to provide this support, and this allows police to focus on the investigation.*¹¹⁷
- At the annual anniversary of the disappearance, the investigating agency should consider renewing contact with the family. The agency should touch base especially on anniversary dates and significant dates such as a birthday. *Anniversaries of the disappearance are difficult for the families of missing persons and so the contact is good management of the relationship with the investigation.*¹¹⁸
- In situations where the family is in a different city or province than the primary investigators, the investigator should make the effort to establish appropriate channels for contact with the family so that distance is not a barrier. *In these situations, if nothing is done to set up formal channels of communication, it is likely the family will feel left out and for the investigator to lose or reduce contact below what is ideal. This reduces the effectiveness of the investigation.*¹¹⁹

In Chapter 15, I outline the components of a true victim-centred approach to missing person investigations, modelled on successes in other jurisdictions.

¹¹⁶ Best practice 3.11.4.

¹¹⁷ Best practice 3.11.5.

¹¹⁸ Best practice 3.11.7.

¹¹⁹ Best practice 3.11.8.

Community Partnership and Engagement

There are at least five components I discuss here under the rubric of community partnership and engagement: (1) active involvement of communities, including their leaders and organizations, in advancing missing person investigations; (2) information sharing by the police with affected communities and the public at large about specific investigations; (3) accessibility of information about how to report persons missing and about available resources; (4) providing public warnings about potential danger to community members; and (5) partnering with group homes and other institutions, particularly residences involving youth, to address recurrent missing youth.

Active Involvement of Communities in Advancing Missing Person Investigations

In Chapters 5 to 9, I document how the Service failed, in a number of specific instances, to avail itself of existing community resources to advance its investigations. Given its prominence, I have identified this failure as a systemic issue. Some officers did not know what resources were available to assist them. Others took an insular approach and regarded community involvement as peripheral to their core investigative work. I also recognize that, unlike the Missing People charity in the United Kingdom, some volunteer and not-for-profit missing person organizations have limited capacity and resources to assist the police. Although their work is to be applauded and supported, this limitation must be acknowledged.

The *Policing Standards Manual* recommends that a service's Missing Persons Procedure include a "requirement" that officers liaise with voluntary or community agencies involved in locating those who have gone missing. The Toronto Police Service's Missing Persons Procedure currently requires the supervisory officer in a level 2 search to "consider" obtaining assistance from the Community Partnerships and Engagement Unit – Auxiliary Program as well as community organizations.¹²⁰ The new MPU is also said to be a "collaboration of all partners to leverage all available resources that may be

¹²⁰ The Community Partnerships and Engagement Unit – Auxiliary Program deploys trained volunteers to support the Service in various roles, particularly community-oriented policing initiatives.

utilized as a resource for investigative assistance, information and community mobilization.”

Community partnership and engagement should be a core component of how the Service conducts missing person investigations. It should foster engagement strategies and the active participation of the Service’s liaison officers and neighbourhood community officers as well as the MPU and divisional representatives. Although the MPU is aware of this need, as are some individual investigators, the reality is that the existing Missing Persons Procedure does not require community partnership and engagement. Rather, it makes such engagement explicit only for level 2 and 3 searches, and, in practice, such participation is not consistently taking place. In many cases, it does not take place at all.

Information Sharing by the Police

In Chapters 5 to 9, I discuss the limited investigative information the police shared with affected communities and the public at large. I express concern about the extent of secrecy around a number of investigations, secrecy that, in my view, was not needed to preserve the integrity of those investigations and was counterproductive in building trust with marginalized and vulnerable communities. A number of officers, including those involved in the investigations I examined, lamented the Service’s poor communication strategies around these investigations. Making its task even more difficult, the Service’s Corporate Communications Unit was hampered by the siloing of relevant information.

The *Missing Persons Act, 2018*, provides broad authority for the chief of police or persons designated by the chief to disclose information about missing person investigations to the public at large. The police undoubtedly have authority to share information with affected communities and their members in order to advance investigations and promote public safety.

The Service’s Missing Persons Procedure is largely silent on the issue of information sharing with the public. It provides that a citizen requesting information about another citizen’s whereabouts either electronically or by telephone shall be directed to the officer in charge. The officer in charge shall determine whether it is appropriate to release the requested information. Aside from this direction, there is no guidance in the procedure as to when or how

members of the public should be updated about an ongoing missing person investigation.

The procedure does require officers to “consider” using a poster or bulletin to assist in locating the missing person. At a level 2 search, divisional investigators are also required to “consider” requesting assistance from the media and to “consider” communicating the relevant information on social media. There are no suggested timelines for issuing a media release at the outset of an investigation or on any ongoing basis. However, the procedure does incorporate the Service’s News Media Procedure as an associated governance document, and some valuable direction is provided in it.

I recognize that procedures cannot contemplate or address every scenario. However, in my view, the existing procedures can better address identified systemic flaws. The most notable flaws involve failing to issue timely media releases in missing person cases; overly restrictive information sharing with communities generally; and failure to involve those directly affected with a greater say in the contents of media releases or social media messaging, subject to overriding public interest concerns. Some family members told the Review that certain media information, whether coming from the Service or the media itself, showed a lack of sensitivity to the missing person and those closely associated with the missing. Although the Service cannot control how the media depicts the missing person, it can work with the media to alert it to issues of sensitivity and compassion. In summary, the Service’s procedures, practices, training, and education can all be improved in recognition of the lessons learned during this Review.

Again, the NCMPUR *Best Practices Guide* is helpful in highlighting a selection of suggested best practices, some of which are included in my recommendations.¹²¹

Accessibility of Information

As I indicate earlier in this chapter, the MPU has improved public access to information about how to report someone missing. For example, the unit now has a webpage on the Service’s website that contains information about how to report a person missing and enables people to fill out a Missing Person

¹²¹ Best practices 3.8.7, 3.8.8, 3.8.12, 3.8.14, and 3.8.16.

Questionnaire in advance of meeting with a responding officer. The webpage also indicates that there is no waiting period to report someone missing. These developments are welcome, although, in my view, some significant enhancements should be made to the webpage to make it more user friendly and accessible to diverse communities. As well, I learned from my community outreach and engagement that members of the public remain mystified about who to speak to, at or outside the Service, about the disappearances of their loved ones, both at the outset and while their loved ones remain missing.

The current webpage has not alleviated the confusion. Moreover, the webpage lists multiple voluntary or not-for-profit organizations that people can contact, although the number of organizations listed leaves readers uncertain as to which organization to contact and what each one can realistically provide. In my recommendations, I describe improvements that could be made to the MPU's webpage and to providing information to the public about missing person investigations more generally – for example, by creating a pamphlet or a guide to missing person investigations for the public. I also explain how not-for-profit organizations dedicated to missing person cases should play an enhanced role in Ontario.

Public Warnings

In Chapter 7, I discuss the decision the Service made in mid-July 2017 not to issue a public safety media release in relation to gay men using social media dating sites to arrange sexual liaisons. It appears the director of corporate communications made the decision on the basis that such a release could cause the public to connect the disappearances of Mr. Kinsman or the Project Houston missing persons with their use of social media, when there was no evidence to establish that connection. The Service finally issued the release in December 2017.

As I said in that chapter, I see no impediment to issuing such a warning regardless of whether the evidence had already established a link between the dating sites and the disappearances. The language of the alert could clearly make that point as well as reinforcing the legitimacy of using dating websites for sexual encounters. Public safety should trump other considerations. Moreover, such a release was unlikely to jeopardize the ongoing investigation in any meaningful way. In my view, the investigators directly involved, rather

than Corporate Communications, should make the decisions around the propriety of a public warning, mindful of the lessons learned from the Jane Doe case.

Partnering with Group Homes and Youth-Related Institutions

Many officers expressed frustration with the time and resources devoted to habitual runaways, as they are described, from group homes or other youth-related institutions. In their view, these young people are not necessarily “missing,” in the sense contemplated by the definition of missing persons under the legislation, but are temporarily absent without permission and likely to return safely. These officers are concerned that resources are better devoted to cases involving risk of serious harm and question whether institutions unnecessarily report these young people missing to fulfill their legal obligations or to avoid legal liability.

The challenge is that young people at large without permission may also be exposed to a wide range of dangerous activities, such as human trafficking and drug abuse. The other challenge is that they may be “running away” from abuse or intolerable conditions. At the other end of the spectrum, some youth-related shelters or institutions describe the complacent attitude of some officers who respond – sometimes slowly – to missing person calls for service, even when there may be legitimate concern about the young person’s safety.

To its credit, the MPU has made efforts to develop a consistent protocol to be adopted by group homes and shelters for situations where a person is reported missing. In February 2019, members of the unit held consultation meetings with Toronto Children’s Aid Society, City of Toronto Shelters, and Violence Against Women Shelters to discuss missing person and reporting procedures, with a view to reducing the number of calls for service, especially where the person at large does not fit the stated definition of a missing person within the new legislation.

The unit’s presentations to shelter communities have taken place as recently as February 2021. To date, there has been no success in achieving a consensus on procedures and information sharing. I suspect that the difficulties in reaching agreement have been compounded by the fact that many of the group homes and shelters are privately owned and have their own rules and policies. As well, as Detective Vruna acknowledges, the existing relationship

issues between the police and the shelter communities has its challenges. In order to share information, the shelter communities must be able to trust the police. This essential element of trust is the focus of Chapters 14 and 15.

I was impressed by the Saskatoon Police Service's approach to similar issues. A large percentage of its missing person cases involve habitual runaways or young people who go absent from group homes and youth-related institutions. Protocols have been developed that permit such homes and institutions to record and submit the absences of young people, under certain circumstances, to the police without immediately generating a missing person investigation, with appropriate follow-up if the person does not return within a short period. I commend this approach in my recommendations, as long as it is accompanied by appropriate triaging of cases and by the prevention strategies I discuss next.

Prevention Strategies

The Service's Missing Persons Procedure mandates certain steps for the police to take when a missing person is located. Unless there are exceptional circumstances, an officer must personally attend the location where the missing person is present to verify that the person is safe and to ensure that the reportee and/or next of kin have been notified. The officer must also "consider" contacting the divisional community relations officer or crime prevention officer for follow-up and prevention strategies to address repeat occurrences. There is no requirement that a return or prevention interview be attempted with the person concerned to discuss any outstanding issues that might explain the disappearance and prevent reoccurrences in the future. Such interviews are not routinely done in Toronto. They should be.

In a number of jurisdictions, return or prevention interviews form a core component of how police services respond to missing person cases. These interviews are routinely done in the United Kingdom, Calgary, and by the OPP. They are often done by social workers or social service agencies or civilians rather than by sworn officers – police officers are associated with law enforcement activities, often in relation to the communities to which missing persons belong. Detective Vruna supports the use of return interviews,

particularly those conducted by trained civilians. She too feels it may well be preferable that these interviews not involve an officer, recognizing that many of these located individuals are understandably hesitant to interact with the police and may be unwilling to share sensitive information about their mental health, traumatic experiences, or personal safety with an officer. To that list, I would add information about their criminal activities while missing.¹²² Equally important, the return interviews are likely to raise social issues best addressed by non-policing agencies.

There is evidence that such return interviews reduce the numbers of missing person cases reported to the police and, in any event, assist investigators going forward in identifying patterns and predicting the location of those who have gone missing. Return interviews are yet another instance in which the Service must recognize activities that should be at the core of missing person responses rather than peripheral to them.

The NCMPUR *Best Practices Guide* identifies the following best practices:

- The investigating agency or an assisting agency should interview the found subject to determine the actual facts of the case, the reason for going missing, what took place between the time they went missing and being found, places they were during the absence, names / addresses / phone numbers of persons encountered during the absence, and to determine any additional follow-up required. The interviewer should document this thoroughly and convey the information to the investigator, who should complete all closing documentation and statistics.
*This is important for closure of the case and to learn how to improve the process. It may also be important if the person goes missing again, especially for runaway youth. Intelligence obtained during missing person investigations may show patterns of behaviour indicating visits to the same locations or persons while missing. Being familiar with a chronic runaway makes it easier to find them the next time when time may be critical to their safety.*¹²³

¹²² An OPP pilot project involving use of return interviews found that many young people were being exposed to criminality while away.

¹²³ Best practice 3.13.3.

- The investigating agency should consider from the interview of a found person if there is a requirement for follow-up prevention or intervention activity (e.g., abuse, criminal charges to be laid, child welfare organization to be called, drugs or other medical issues, counselling). *The resolution will uncover more information that may require follow-up and may prevent reoccurrences.*¹²⁴

Jurisdiction¹²⁵

The Service’s Missing Persons Procedure includes a detailed and complex set of directions for determining which division will assume jurisdiction over an investigation into a Missing Person Report. The procedure also provides direction where a Toronto resident is reporting a missing person to another police service. I summarize the procedure’s contents relating to jurisdiction in The Reporting Reference Guide at the end of this chapter, though it can only be described as confusing at best and, at worst, as ineffective. Too much prominence is given to the place where the missing person resides, even in the face of obvious evidence that the investigation must primarily be focused on a different location where the person was last seen. In my view, the time has long passed for a re-evaluation by the Service, and by the Ministry of the Solicitor General province-wide, as to which division or service assumes jurisdiction over a missing person investigation.

In my view, the NCMPUR *Best Practices Guide* sets out a commendable best practice for jurisdiction over missing person investigations. The primary, though not invariable, focus is on the location where the missing person was last seen.¹²⁶

The time is long overdue for the Service to re-evaluate where missing person investigations are conducted when they are led by divisional investigators. In my respectful view, the Ministry of the Solicitor General should consider whether this re-evaluation should form part of a larger examination of which Ontario police services should assume jurisdiction in

¹²⁴ Best practice 3.1 3.4.

¹²⁵ I use “jurisdiction” here as a convenient term to discuss which division assumes carriage of a missing person investigation, though Toronto police officers have city-wide police powers.

¹²⁶ Best practices 3.3.1, 3.3.2, 3.3.3, and 3.3.4.

cases that have a multi-jurisdictional dimension, though they may not necessarily qualify as major cases.

Section 29 of the Adequacy Standards Regulation requires a police services board to have a policy on joint forces operations – defined as a planned operation, supported by a written agreement, involving two or more police services that have common objectives related to the investigation of multi-jurisdictional criminal activity. These operations are not meant to include situations where one police service requests assistance from another police service in an investigation into an individual or specific criminal occurrence.

The Board’s policy on joint forces operations requires the chief of police to develop procedures and processes with regard to such operations. The Service’s joint forces operations procedure addresses investigations into cross-jurisdictional crime. The primary objective of a joint forces operation is to assist the investigation of unlawful acts common to two or more law enforcement jurisdictions by pooling the human and technical resources of those agencies. These investigations require police agencies to share information and to co-operate within the operational framework of a memorandum of understanding signed by both agencies. In certain situations, such as those set out in the provincial major case management guidelines, a joint forces operation (otherwise referred to in this Report as a multi-jurisdictional joint investigation) is mandatory.

In addition, the sample police services policy set out in the *Policing Standards Manual* suggests that every police service should establish a crime management system that includes liaising with other law enforcement agencies to support a multi-jurisdictional investigation that is *not* a major case. The Service’s Criminal Investigation Management Plan, however, does not incorporate this requirement. It should. My recommendations address this issue as well as the multi-jurisdictional issues I identify in my evaluation of Project Houston (see Chapter 6).

Criminal Investigation Management Plan

The *Policing Standards Manual* requires that investigations be undertaken or managed in accordance with the police service’s Criminal Investigation

Management Plan. The Service's Missing Persons Procedure refers to its particular plan as an associated governance document.

However, the procedure fails to incorporate the requirement specific to missing person investigations – that such investigations involving a strong possibility of foul play or level 2 or 3 searches require the assignment of a specialist criminal investigator.¹²⁷ The plan also identifies other types of cases requiring a specialist criminal investigator. In my view, properly interpreted, the plan contemplates, in relation to missing person investigations, an investigator with speciality training, education, and skills in such investigations. However, it appears that the Service does not interpret the plan in this way because, historically, there has been no specialty training and education for missing person investigators.

Regardless of how the plan is interpreted, I strongly support the creation of specialty training and education in missing person investigations given their importance and range of complexity – features that distinguish such investigations from general investigative work. The Service's past record demonstrates inconsistencies in the quality of such investigations conducted by officers without specialized knowledge. I share Detective Constable Manherz's expressed vision that "Toronto needs to provide a consistent, effective and efficient response to missing person investigations" and that such a response requires that missing person investigators obtain training and education specific to missing persons, so as to become experts in the field. This reform will enable them to improve their investigations and the quality of investigative outcomes. My recommendations address these issues.

Assignments and Continuity of Investigation and Supervision

The Service's Missing Persons Procedure does not address the assignment of officers or the continuity of investigations as officers go off-shift or are transferred to other responsibilities. The evidence disclosed to the Review shows, however, that this breakdown in continuity represents a systemic issue

¹²⁷ A "specialist criminal investigator" is defined as a police officer who has received specialized training in the area to be investigated and is competent to conduct the investigation.

as it relates to missing person investigations. Community members have difficulty reaching those directly involved in the investigations they wish to inquire about or to contribute information or assistance. Investigations often grind to a halt when the lead investigator goes off-shift. Longstanding or “cold” missing person investigations fall into the abyss as investigators are reassigned. In some instances, it is unclear even from the Service’s own records who has been appointed as the lead investigator.¹²⁸ The NCMPUR *Best Practices Guide* reinforces the unacceptability of this approach:

- There should always be an active primary investigator. The investigating agency should ensure continuity of supervision, attention, and knowledge from shift to shift, over weekends and holidays, or if the case is transferred from unit to unit or between agencies. *Incomplete transfer of knowledge or responsibility can jeopardize the success of an investigation.*¹²⁹

The Missing Persons Procedure states that the MPU will ensure “continuity and consistency of file management.” I accept that the unit has made some needed improvements in this area. Its head sends regular reminders to divisional detective sergeants to review their missing person occurrences to ensure that they are assigned to an officer on duty. If the unit learns that an occurrence is not being actively worked on, its members reach out to the assigned officer and to the detective sergeant of the relevant division. If one of the unit’s officers works on a missing person case while the assigned divisional investigator is off duty, the unit’s officer sends the divisional investigator an update to let him or her know what has transpired in the case.

My recommendations support and add to these improvements. In particular, divisional full-time missing person coordinators will be better situated than members of the MPU to monitor case continuity and ensure that an assigned investigator is on duty for each active missing person investigation.

¹²⁸ The procedure briefly references continuity in file management in the context of the MPU. According to the procedure, the availability of the MPU will ensure “continuity and consistency of file management.”

¹²⁹ Best practice 3.12.1.

Templates or Checklists for Missing Person Investigations

Inconsistency is a recurring issue I have identified in the missing person investigations this Review has examined. Some officers were diligent and thorough; others were not. In many instances, basic investigative steps were overlooked or delayed. This issue should be addressed, in part, by specialized training and education on how to conduct missing person investigations. In my view, there is also a need for an internal guide or checklist that itemizes in detail the investigative steps that might be employed to advance missing person investigations.

The Missing Persons Procedure outlines some investigative tasks to be undertaken by specific officers at the various levels of search. However, these steps are far from complete and, in fact, might be regarded as misleading if officers relied on them to define what they need do to advance an investigation. What is required is a detailed guide or checklist that is regularly updated in the light of experience, investigative outcomes, continuous learning, analysis, and research and also made available to investigators. It should serve as a teaching aid during training and education. The 2019 MPU Year-End Report references the development of such a guide, although, to date, it does not exist.¹³⁰

I have already pointed out that the Missing Persons Procedure is far from complete in outlining investigative tasks associated with such procedures. Nonetheless, I wish to comment on two tasks identified in the procedure: DNA / fingerprint collection and dental record collection.

DNA

For DNA analysis, a divisional investigator is responsible during a level 2 search for ensuring that a personal item and a family reference sample are requested and obtained from the missing person's family. The procedure also specifies that in cases where foul play is suspected or "unusual circumstances" are encountered, the DNA collection will be conducted under the direction of the Forensic Identification Services.

¹³⁰ Records Management Services created a useful checklist to identify the information required by responding officers to complete the phone-in process for the initial Missing Person Report. The MPU also created a list of resources to consider in conducting a missing person investigation.

It is unclear what constitutes “unusual circumstances” and whether and when they elevate a level 1 search to a level 2 search. In my view it would be preferable, given the acknowledged difficulty in securing DNA-related items for some marginalized and vulnerable persons, to collect this evidence as soon as practicable, in the absence of exceptional circumstances or the location of the missing person within 48 hours.

Dental Records

The Missing Persons Procedure requires dental information, if it is available, to be obtained at every level of investigation. However, the procedure requires an “RCMP 1667 Dental Chart form” only for level 3 searches when the missing person has not been located within 30 days. At the discretion of the detective sergeant, the Dental Chart form may be completed before the 30-day period has passed.

I find it unnecessarily confusing to distinguish between obtaining dental information and ensuring that a Dental Chart form is completed and obtained. The Review was told that, in practice, the Dental Chart form is now used in every instance in which dental records are obtained. In other words, there is no meaningful difference between the level 1 request for dental information and the level 3 Dental Chart form request. The MPU attempts to ensure that the Dental Chart form request is completed before 30 days expire.¹³¹ For consistency and clarity, and to conform to best practice, the procedure should simply require that the Dental Chart form be completed as soon as practicable in all instances and, in any event, within 30 days if the missing person is not located.

Interviewing

The *Policing Standards Manual*'s sample guidelines recommend that Missing Persons procedures include a requirement to interview the reportee *and associates* (emphasis added) of a missing person as soon as practicable. The

¹³¹ CPIC automatically sends a reminder to Records Management Services if 30 days have passed since the missing person was placed on CPIC and dental records have not been obtained. Records Management Services forwards the reminder to the MPU. The unit reviews the reminder and the missing person's case file and sends a request to the assigned investigator and the detective sergeant asking them to obtain the dental records.

Service’s Missing Persons Procedure requires the first police officer in a level 1 investigation, where possible, to interview the last person to see the missing person. At level 2, the first supervisory officer is required to ensure that relatives of the missing person are interviewed.

In my view, the direction provided in the procedure on whom to interview, when to interview, and how to interview is wholly inadequate. I recognize that the procedure is not intended to serve as an investigative manual for missing person cases, but in the absence of such a manual, the minimal direction provided in the procedure is unhelpful and potentially harmful if it is treated as the minimal requirements for an adequate investigation. This deficiency is particularly glaring given the instances in which missing person investigations the Review examined reflected failures to interview key witnesses, including those who initially reported people missing, in a timely way or at all, along with incomplete or superficial interviews, failures to adequately record what reportees said, and poor interviewing techniques.

The NCMPUR *Best Practices Guide* states:

- The investigator should obtain statements as soon as practical from the person who filed the missing person report, the person who last saw the missing person, and the person who last had contact with them. This should be repeated as the investigator discovers other key people in the timeline. Ideally for each[,] the investigator should obtain a “pure version” statement followed by questioning. Ideally, interviews should be recorded.

*These are key witnesses. People may be absent or less willing to speak to the investigator later. Obtaining a pure version statement first avoids introduction of assumption by the interviewer. Recording allows revisiting the interview later. These statements are particularly relevant where allegations of a serious crime follow, as the information given, and the circumstances of it being given, and by whom, may be important to that investigation. There have been a number of murders where the perpetrator has reported the victim to the police as a missing person.*¹³²

¹³² Best practice 3.5.5.

- Throughout the investigation, investigators should continually verify the accuracy and consistency of information. Nothing should be assumed. Do not rely on information relayed from other sources by the family – interview sources directly.

*Far too often, critical details are overlooked because an investigator thought someone else had taken care of a particular aspect, or believed that a witness' account of the incident need not be verified because the witness "seemed credible."*¹³³

300 Metre Search and Ground Searches

The *Policing Standards Manual* recommends that Missing Persons procedures “require” that “any searches undertaken during a missing persons investigation be supervised by a trained search co-ordinator and conducted in accordance with the police service’s procedures on ground searches for lost or missing persons.” The manual also recommends that every police service have a ground search procedure for lost or missing persons that includes certain items.

The Service does not have a stand-alone procedure for ground searches for lost or missing persons. Instead, the Service has chosen to integrate the requirements for ground search into the Service procedures that are directly affected.

I take no issue with the Service’s choice to integrate ground search procedures, as needed, into its Missing Persons Procedure. However, I have some concerns about its contents.

For a level 1 search, the “first police officer” is responsible for searching the home and immediate area thoroughly and for completing a 300 metre radius search of the place the missing person was last seen, if known. The supervisory officer is responsible for ensuring that the 300 metre radius search is commenced. As I explain in Chapter 8, at the time of the search for Tess Richey, there was no explicit requirement under the procedure that a 300 metre radius search had to be conducted of the place the missing person was last seen, although it was known to be a best practice. This addition to the procedure represents an improvement. However, during the Tess Richey investigation,

¹³³ Best practice 3.5.9.

the question arose as to which officers were properly regarded as first police officers or the responding officers, and which officers were obliged to conduct the 300 metre radius search. The failure to conduct such a search during the Richey investigation led to a tragic conclusion: Ms. Hermeston's discovering her daughter's body. No supervisor detected, at the time, the failure to conduct the appropriate 300 metre search.

Under the current procedure, for a level 2 search, the supervisory officer must consider the nature of the area to be searched (e.g., ground, urbanized, ravine, water) and assign adequate personnel to conduct the search. The supervisory officer must also consider obtaining assistance from support units such as the Emergency Management and Public Order Unit as well as community organizations. The officer in charge must ensure that adequate and appropriate resources are obtained to conduct the search.

At level 3, the role of a search manager is identified for the first time. Upon being notified by the officer in charge of the requirement for a level 3 search, the duty inspector is to notify the search manager. The search manager then becomes responsible for coordinating the search for the missing person.¹³⁴

The evidence this Review has examined revealed that physical searches door to door for missing persons, or for relevant witnesses or video footage, were, at times, disorganized, incomplete, and poorly documented. I was also advised that officers were, on occasion, reluctant to seek the assistance of the search managers of the Emergency Management and Public Order Unit, either to coordinate such searches or, at a minimum, to provide advice on how they should be conducted. The Review heard that, more recently, there has been some improvement in how such searches are conducted. Nonetheless, in my view it is important that the procedures contemplate a more significant role for search managers either to provide advice on such searches or to coordinate them, regardless of the designated level of search. This view also accords with the emphasis on trained search coordinators in the *Policing Standards Manual*.

On this topic, I also question whether the Service's procedure and practices adequately address the components of the recommended ground search procedures set out in the *Policing Services Manual*, particularly as they

¹³⁴ I note that the procedure also requires level 2 and 3 searches to be governed by the Service's Incident Management System. The system is a model of police on-site response to emergencies and disasters.

relate to support for victims and coordination with volunteers and community agencies.

Access to Hospital-Related Information

One of the time consuming but essential components of a missing person investigation is to determine whether the missing person has been admitted to any hospital – a time-consuming task for the Service in the Greater Toronto area. At present, officers or special constables must contact each hospital one by one. Moreover, they must often do so more than once if the status of the missing person changes.

In October 2018, members of the MPU met with the Ministry of Health to attempt to develop a process in which police officers across Ontario could access hospital admissions and related records without having to contact each hospital and medical facility independently. In February 2019, the unit had a follow-up meeting with the ministry. At the end of the meeting, the ministry agreed to take the unit's recommendations to its legal team for review and approval. Unfortunately, this process stalled. The Review was told that the plan was abandoned owing to practical limitations. Hospitals across Ontario are not all on the same network, so a "one step" process for determining whether a given individual has been admitted is extremely difficult to achieve. My recommendations address this important issue. It has significant resource implications for all police services in Ontario.

Summary and Findings – 2) Unidentified Remains

Although the Review's Terms of Reference focus on missing person investigations, it became clear to me that unidentified remains investigations are often inextricably interwoven with a person's reported disappearance. As well, I was mandated to examine the investigations into Alloura Wells – necessitating an evaluation of how her unidentified remains were investigated (see Chapter 9).

The Review identified significant deficiencies in how unidentified remains cases had been investigated before the creation of the MPU. At times, there was poor coordination between the Service and the Office of the Chief

Coroner / Ontario Forensic Pathology Service, leading to misinformation or incomplete information being provided to the Service about existing unidentified remains. Such information was not properly documented. Investigators had little or no understanding of provincial or national databases or supports available for both unidentified remains and missing person cases. The Service did not submit many of these cases for inclusion in the existing databases. The Service's own procedures on the discovery of bodily remains, whether identified or not, were not always followed, particularly in failing to notify the Homicide Unit in a timely way or at all. As was true for missing person investigations, investigators did not necessarily reach out to available resources within and outside the Service to advance their investigations.

The situation has much improved. The MPU's portfolio now includes unidentified remains cases, and its members now liaise with the Office of the Chief Coroner / Ontario Forensic Pathology Service on behalf of the Toronto Police Service in relation to unidentified remains. The Office of the Chief Coroner / Ontario Forensic Pathology Service has a designated liaison with the Service to avoid miscommunication and misinformation. Most significant, the MPU has worked hard to ensure that the Service's open missing person and unidentified remains cases are inputted into the national database. My recommendations acknowledge and build on these achievements.

In summary, I acknowledge the Service's achievements both in upgrading missing person and unidentified remains investigations. However, in relation to missing person investigations, these achievements can only go so far within the current model. The MPU is significantly underresourced, the quality of divisional investigations is not assured, and confidence in the Service's ability to conduct discrimination-free, efficient, and timely missing person investigations, already in doubt, has been further eroded by recent and ongoing events. Equally important, many missing person cases have little to do with law enforcement, but everything to do with social issues, marginalization and vulnerabilities.

In Chapter 15, I propose mid-term and long-term ground-breaking models for missing person investigations that, in my view, provide a real opportunity for the Service to focus on its strengths, while ceding responsibilities, where appropriate, to non-policing agencies and organizations. The models, if

adopted in combination with my recommendations on systemic discrimination and relationship building, could also do much to re-set the frayed relationship the Service has with many members of Toronto's diverse and disadvantaged communities.

~

Reporting Reference Guide

Category	Circumstances	Responsible for initial report	Responsible for follow-up investigation
A	<ul style="list-style-type: none"> • Reportee is situated in the City of Toronto • Missing person is a resident of the City of Toronto 	Division where reportee resides	Division where missing person resides
B	<ul style="list-style-type: none"> • Reportee is situated in the City of Toronto • Missing person is not a resident of the City of Toronto • Area the person is missing from is known 	Division where reportee resides	Division where the missing person is missing from
C	<ul style="list-style-type: none"> • Reportee is situated in the City of Toronto • Missing person is not a resident of the City of Toronto • Area the person is missing from is unknown 	Division where reportee resides	Division receiving the report of the missing person
D	<ul style="list-style-type: none"> • Reportee is situated outside the City of Toronto • Missing person is a resident of the City of Toronto 	Division where missing person resides	Division where missing person resides
E	<ul style="list-style-type: none"> • Reportee is situated outside the City of Toronto • Missing person is not a resident of the City of Toronto • Area the person is missing from is known 	Division where missing person last known to be	Division where the missing person is missing from
F	<ul style="list-style-type: none"> • Reportee is situated outside the City of Toronto • Missing person is not a resident of the City of Toronto • Area the person is missing from is unknown 	Toronto Police Operations Centre (TPOC) to determine	TOC to determine

Source: Missing Persons Procedure (adapted by the Independent Review).

Category A: The complainant¹³⁵ is situated in Toronto, and the missing person is a Toronto resident – The division receiving the missing person report shall be responsible for the initial investigation and completing the eCOPS¹³⁶ report. If the missing person resides in another division, the first division shall immediately advise the officer in charge of the other division of the occurrence, and fax the eCOPS report to that division, which shall conduct a follow-up investigation.

Category B: The complainant is situated in Toronto, and the missing person is not a Toronto resident, and the area [in Toronto] where the person is missing from is known – The division receiving the missing person report shall be responsible for the initial investigation and completing the eCOPS report. If the person is missing from another division’s area, the first division shall immediately advise the officer in charge of the occurrence, and fax the eCOPS report to that division, which shall conduct a follow-up investigation. The first division shall also immediately fax the eCOPS report to the unit commander, Intelligence Division – International Assistance who shall then forward the report to the police agency having jurisdiction where the missing person resides.¹³⁷

Category C: The complainant is situated in Toronto, the missing person is not a Toronto resident, and the area where the person is missing from is unknown – The division receiving the missing person report shall be responsible for the initial investigation and completing the eCOPS report. The division shall also immediately fax the eCOPS report to the unit commander, Intelligence Division – International Assistance, who shall then forward the report to the police agency having jurisdiction where the

¹³⁵ In missing person investigations, the terms “reportee” and “complainant” are interchangeable.

¹³⁶ eCOPS was the Service’s record management system for occurrences (Chapter 4).

¹³⁷ At the time, the procedure required the Intelligence Division – International Assistance to be notified of all missing persons falling within Category B, regardless of whether the missing person was a resident of a jurisdiction outside of Toronto but within Canada or was a person from outside Canada. However, the involvement of International Assistance in cases that had no international component (e.g., where a missing person resided in Alberta but had gone missing in Toronto) made little sense. This issue was resolved in 2015 by a Routine Order, clarifying that International Assistance need be involved in missing person investigations only when they were international in scope and where there were reasonable grounds to believe the subject was a threat to themselves, was in danger, was a public safety risk, or pertained to an ongoing criminal investigation.

missing person resides. The original division shall also be responsible for including any new information in the eCOPS report until the missing person is located or further information is received concerning the person's whereabouts that identifies an area where the person may be located or was missing from. The original division shall do the follow-up investigation unless further information is received about the area where the person is missing from. In that event, the eCOPS report shall be forwarded to the division responsible for that area for follow-up investigation.

Category D: The complainant is situated outside of Toronto, the missing person is a Toronto resident – The unit receiving the missing person report shall transfer the complainant to the division where the missing person resides. The division where the missing person resides shall advise the complainant that a member of the local police agency having jurisdiction where the complainant is currently situated will attend to speak with them and generate a CPIC message to that local agency requesting an officer attend and speak with the complainant. The contact information of the officer from the local police agency who conducts the initial investigation, as well as all information obtained during that initial investigation, shall be forwarded to the Toronto police division where the missing person resides which will conduct the follow-up investigation and complete an eCOPS report, including the results of the initial investigation by the local police agency.

Category E: The complainant is situated outside of Toronto, the missing person is not a Toronto resident, and the area where the person is missing from is known – The unit receiving a missing person report shall transfer the complainant to the division responsible for the area where the person is missing from, which shall advise the complainant that a member of the local police agency having jurisdiction where the complainant is currently situated will attend to speak with them, and generate a CPIC message to that local agency requesting an officer attend and speak with the complainant. The contact information of the officer from the local police agency who conducts the initial investigation, as well as all information obtained during that initial investigation, shall be forwarded to the Toronto

police division responsible for the area where the person is missing, which will conduct the follow-up investigation and complete an eCOPS report, including the results of the initial investigation by the local police agency. The division shall also immediately fax the eCOPS report to the unit commander, Intelligence Division – International Assistance who shall then forward the report to the police agency having jurisdiction where the missing person resides.

Category F: The complainant is situated outside of Toronto, and the missing person is not a Toronto resident, and the area where the person is missing from is unknown – The unit receiving a missing person report shall transfer the complainant to the duty desk,¹³⁸ which shall speak with the complainant over the telephone to attempt to identify an area where the person is missing from. If the area is identified, the complainant shall be transferred to the division responsible for that area. If the area is not identified, the officer in charge of the duty desk shall assign the investigation to the most appropriate division and ensure the complainant is transferred to that division. The division assigned the investigation shall advise the complainant that a member of the local police agency having jurisdiction where the complainant is currently situated will attend to speak with them and generate a CPIC message to that local agency requesting an officer attend and speak with the complainant.

The contact information of the officer from the local police agency who conducts the initial investigation, as well as all information obtained during that initial investigation, shall be forwarded to the assigned Toronto police division which will conduct the follow-up investigation and complete an eCOPS report, including the results of the initial investigation by the local police agency. The division shall also immediately fax the eCOPS report to the unit commander, Intelligence Division – International Assistance who shall then forward the report to the police agency having jurisdiction where the missing person resides. The division shall also be responsible for including any new information in the eCOPS report until

¹³⁸ I note that the current procedure requires the reportee to be transferred to the Toronto Police Operations Centre instead of the duty desk. This centre is a formalized unit that is an iteration of the duty desk.

the missing person is located or further information is received concerning the whereabouts of the missing person that identifies an area where the person may be located or was missing from. If information is received about the area where the person is missing from, the eCOPS report shall be forwarded to the division responsible for that area for follow-up investigation. If it is determined that the person is missing from a jurisdiction outside of the City of Toronto, the assigned division shall immediately fax the eCOPS report to the unit commander, Intelligence Division – International Assistance who shall then forward the report to the police agency having jurisdiction where the person is missing from.

The procedure also required that if a citizen telephoned a member of the Service requesting information about a missing person's whereabouts, the citizen shall be instructed to attend at the division or police service having jurisdiction in the area in which they (the inquiring citizen) reside. The member receiving the request shall transmit any pertinent information electronically to that division or service and shall not provide such information over the telephone to the citizen. The officer in charge shall determine whether it is appropriate to release the requested information.

If the complainant and the missing person are or have been involved in an intimate relationship, members shall comply with the Service's domestic violence procedure.

Case Study

THE DISAPPEARANCE OF ARTHUR LOUITTIT

Arthur Louttit was a 40-year-old Indigenous man originally from Moose Factory, Ontario, and a member of the Moose Cree First Nation. His Indigenous name was Kayashiwabid. Known as a kind man, he was the father of a 10-year-old son and was rarely seen without his guitar.

Mr. Louttit moved to Toronto in the 1990s to pursue a career in television. He served in the Canadian military from 2005 to 2008, completing two tours in Afghanistan. Back in Toronto, he returned to music. He loved Johnny Cash and had recorded four songs for an album he was working on when he died. He was close with his family and contacted them daily. Shortly before his death, he had told his mother he was eligible for veterans' housing and was looking forward to planning a new home for his son.

On August 29, 2012, Mr. Louttit suffered a serious head injury after hitting his head on a concrete windowsill during a seizure. The injury produced bleeding in the brain. He had emergency surgery at St. Michael's Hospital in downtown Toronto. He appeared to recover well, and on September 23 was released from hospital with prescribed pain medication. He was asked to follow up with the neurosurgeon in four to six weeks, and to come to the emergency department if he had seizures, severe headaches, or weakness.

On September 24, Mr. Louttit called his mother, Judy Reuben, to tell her he was at Sunnybrook Health Sciences Centre (Sunnybrook Hospital). He had been taken there by ambulance after having another seizure. He asked his mother to send him some money. The following day, when Ms. Reuben called the hospital, she was told that no one with her son's name was there. She later learned that Mr. Louttit had not stayed for triage. He had simply disappeared. Some of his friends believed that, given his fear of hospitals, he had left before seeing a doctor. He had, moreover, recently suffered a serious brain injury. Sunnybrook Hospital, situated on Bayview Avenue just south of Lawrence Avenue East, is about 9 kilometres north of downtown Toronto. The hospital grounds are largely surrounded by parklands and ravines, including Sunnybrook Park.

The Review was advised that on September 27, Mr. Louttit's uncle, who lived in Toronto, called the Toronto police to report him missing. On September 29, Ms. Reuben also came to Toronto from Moose Factory to report her son missing. She was told "the people who look after that were not

available.” Mr. Louttit’s family began their own search for him, walking the streets of Toronto. On September 29 or 30, they went back to the police station to try to report Mr. Louttit missing again. This time, two officers met with them at a downtown social services building to complete the report. One of the officers was an Indigenous officer from the family’s community. According to Ms. Reuben, the officers took “a statement of his description and basically that was it. And then we never heard from them again. We had to keep going back to the police station to say we want to report him missing.”

According to Ms. Reuben, on October 4, 2012, the police told Ms. Reuben her son did not “fit the criteria of a missing person.” When she asked what that meant, they responded that he had to be elderly, a child, or someone on medication. Despite the family’s insistence that Mr. Louttit was vulnerable, given his medical issues and recent surgery, the police did not recognize him as such. The police also told Ms. Reuben that because he was not vulnerable, his name and photo could not be posted on the Service’s missing persons webpage.

The family’s interactions with the police were brief and mostly consisted of the family pushing for information. Ms. Reuben felt that her family was on their own and that they did not receive any help from the police in their search for her son. She went back to the police station several times to attempt to speak with the officer in charge of her son’s case. She told me that, on some occasions, she was advised the officer was not on shift and she would have to return on evenings when he was there. She was told no one else was working on, or familiar with, her son’s file other than that single officer. She was also told that, possibly, her son did not want to be found. Ms. Reuben was unwilling to accept this explanation because her son had left money at his residence.

On another occasion, Ms. Reuben called a sergeant at the police station. When she asked what the police were doing about finding her son, she was told they would be working on it and that the sergeant did not have time for her right then. Ms. Reuben said that the officer then hung up.

Instead of relying on the police, Mr. Louttit’s family continued their own search for him. They went to his residence, shelters, hospitals, soup kitchens, and the Centre for Addiction and Mental Health. They passed out flyers and contacted the media about Mr. Louttit. They spoke to homeless people throughout the city to try to elicit information. They attempted to learn more from his doctors, but the doctors felt bound by confidentiality. They also created a Facebook page on the internet to assist them in their search. They received donations that enabled them to travel to and from Moose Factory and

obtain accommodation in Toronto while their search continued.

Ms. Reuben checked the Service's Missing Persons webpage several times. It contained no information about her son. By the end of September, Ms. Reuben reached out to the Aboriginal Legal Services¹ for help. Its legal director called the police on the family's behalf. She was initially told that, before they could speak to her, the police needed a release waiver, which she provided. For four or five days, she was "bounced around" between several officers, none of whom identified the officer in charge of Mr. Louttit's case. She was told that, despite the efforts of Mr. Louttit's mother and uncle, there was no Missing Person Report on file for him. One officer indicated that Mr. Louttit was not a priority and that, as an adult, he did not meet the criteria of a missing or vulnerable person. The legal director reminded the police that Mr. Louttit had had major surgery immediately before his disappearance. She was told she would need to continue the conversation with a more senior officer. The legal director described the patronizing and dismissive attitude she encountered when dealing with the police.

The Review requested and received documentation from the Service about Mr. Louttit's missing person investigation. Mr. Louttit's Missing Person Occurrence Report was dated October 2, 2012, at 5:20 p.m. and was completed by a constable at 51 Division. Mr. Louttit lived on Church Street within 51 Division's jurisdiction. The Occurrence Report listed Ms. Reuben as the person reporting him missing.² The incident was characterized as "missing person – foul play not suspected" and the "missing type" was listed as "compassionate grounds." Detective Chu Chang,³ who was in 51 Division's Criminal Investigations Bureau at the time, was listed as the assigned officer. He was assigned on October 3, 2012, at 9:05 a.m., although, in his interview with the Review, he could not recall when he actually received and reviewed the Occurrence Report (which he had the opportunity to read before the interview) or if he was even working the day it was assigned to him. Given the passage of time, he had no recollection of the case.⁴

The initial Occurrence Report contained information from Ms. Reuben about her last contact with her son, including that he had recently had brain surgery at St. Michael's Hospital and was known to have seizures. It continued that on September 24, he had been admitted to Sunnybrook Hospital for an

¹ Aboriginal Legal Services is an agency dedicated to operating legal-related programs and providing legal assistance for Indigenous people in Toronto and throughout Ontario.

² There was nothing in the documentation I received about her previous contact with police before this date or that of Mr. Louttit's uncle.

³ Detective Chang has since been promoted to sergeant.

⁴ It appears from the Service's documents that a detective constable did much of the investigative work on the file. This work might have been done at Detective Chang's direction.

unknown medical condition, and that his phone call that day was the last day his mother heard from him. Ms. Reuben provided police with her son's address and told them he did not have a phone. He usually used the front desk of his residential building to call her. This Occurrence Report set out the steps the police had taken at the time of the initial call, including attending his residence, contacting local hospitals (St. Michael's, Sunnybrook, and others) and shelters, and obtaining his photograph. The Occurrence Report noted that this was the first time Mr. Louttit had been reported missing and that he had an alcohol and drug dependency. The report also included information that Mr. Louttit was last known by police to be at a Toronto drop-in centre on September 23, 2012.

The Occurrence Report lists steps the police took after October 2, some of which I describe below. According to the report, on October 5 an officer went to both another shelter and St. Michael's Hospital looking for Mr. Louttit. Staff at St. Michael's told police that Mr. Louttit had last been seen there on September 23. On October 9, one of Mr. Louttit's friends asked the police to again check his last known address. An officer went to his residence, where a staff member indicated that Mr. Louttit still had not returned and that it was unusual for him to have left his money there for so long. The Occurrence Report noted that "no further action could be taken [at this time] to locate the missing male." When interviewed by the Review, Detective Chang said that he disagreed with this statement (which had been written by a different officer). He pointed out that, according to the Occurrence Report, further steps were taken by the police after this note was made.

The police records show that on October 12, the police spoke to Ms. Reuben, who was back in Toronto to continue the search for her son. She told an officer about checking several downtown locations. She also said she was concerned that her son could be "out of it" – and possibly in the ravine area of Sunnybrook Park. There is no indication in the Occurrence Report of what steps, if any, the police took after receiving this information. Two officers involved in this case who spoke to the Review agreed that, given the information from Ms. Reuben initially and on October 12, it would have been reasonable for police to have conducted a search in the area around Sunnybrook Hospital, including the park. They said that if a search was not done, it should have been. The same day, an officer contacted Mr. Louttit's bank and was told there had been no bank card transactions on Mr. Louttit's account since September 24.

On October 17, police received a call about Mr. Louttit from an unknown woman at a drop-in centre. The call ended abruptly, so an officer went to the centre. There is no indication the officer identified the source of

the call, but he spoke to someone at the centre who had heard that Mr. Louttit had been in the Kensington Market area. The records reflect that the officer “checked” the area (although it is unclear how) but did not discover anything helpful.

The same day, Ms. Reuben called the police with an update. She indicated that while showing her son’s photograph to people in the area of 51 Division, she was provided with two addresses where Mr. Louttit may have been seen. There is no indication the police followed up on this information. The next day Ms. Reuben called the police and provided them with information about Mr. Louttit’s recent stay in a shelter. The police contacted the shelter, but staff were unable to provide the police with any relevant information.

On October 30, the Aboriginal Legal Services’ legal director asked staff, colleagues, and friends to spread the word about Mr. Louttit’s disappearance and to contact her or the Louttit family if anyone had heard from him. The legal director shared a link to the family’s Facebook page. A few days later, a courthouse staff member told the legal director that Mr. Louttit had missed a court appearance on October 31.

On November 14, the police contacted Mr. Louttit’s bank again and were given the same information: there had been no activity in his bank account since September 24. The bank manager gave the police the details of the last account transactions. The police again contacted both Sunnybrook Hospital and St. Michael’s Hospital. An individual working in the medical records department at Sunnybrook told the police there was no record of Mr. Louttit’s being admitted to or attending that hospital. The officer then contacted several shelters again with no success.

There is no indication in the police records that Detective Chang, the assigned officer in charge, had done anything personally on the file up to this point. As already indicated, when the Review interviewed Detective Chang, he could not say for certain if he was on shift at the time the case was assigned to him or when he became involved in the file. He acknowledged that while working in the Criminal Investigations Bureau at 51 Division, he would have been assigned to a number of other investigations at the same time. Detective Chang also told the Review he welcomed the later creation of a Missing Persons Unit and recommended that missing person investigations not be assigned to officers working simultaneously on numerous investigations.

On November 14, as Detective Chang neared the end of his shift, he asked Detective Dave Dickinson,⁵ who was coming on duty, to issue a media release about Mr. Louttit’s disappearance. As a precaution to ensure that Mr.

⁵ Detective Dickinson is now a sergeant.

Louttit was still missing, Detective Dickinson first contacted the Office of the Chief Coroner, to ask if they had received any unidentified bodies since September 24. He was told that, since that date, there had been no unaccounted-for persons. He also determined that Mr. Louttit was not detained in the provincial jail system. He then spoke to Ms. Reuben and obtained a more accurate photo of Mr. Louttit, which he forwarded to Detective Chang. Detective Dickinson then completed a media release, which was published that same day or shortly thereafter. The media release included a photo and description of Mr. Louttit, indicated he had recently had surgery, and stated he had last been seen on September 23 at 10:00 a.m. in the area of Bond and Shuter streets.⁶ Finally, it said the police were concerned for his safety. Detective Dickinson's name was included on the release.

Mr. Louttit's family was frustrated with the delay in the Service's putting Mr. Louttit's information on its Missing Persons webpage. When Aboriginal Legal Services had previously contacted Sunnybrook Hospital, they discovered that Mr. Louttit had, in fact, been brought to Sunnybrook Hospital by ambulance and, although he had been checked in, he had not been formally admitted. The legal director of Aboriginal Legal Services attempted to have flyers about Mr. Louttit's disappearance posted on Sunnybrook Hospital's bulletin board, but was told the flyers would be removed if the missing person had not already been listed on the Service's Missing Persons webpage. At that point, Mr. Louttit's information had not been placed on the webpage, so on November 11, the legal director emailed the Service to request it be done. It took three days for the police to follow through with this request. On November 14, Mr. Louttit's photograph was posted on the Service's webpage.

According to the police Occurrence Report, on November 17, an officer asked Ms. Reuben for information about her son's dentist, in order to obtain his dental records. Ms. Reuben gave the officer the names of those who might have this information. She also told the officer about a possible sighting of her son. The officer contacted several hospitals and a shelter to see if Mr. Louttit had turned up. He had not.

Meanwhile, unknown to Ms. Reuben and officers at 51 Division, that same afternoon, November 17, 33 Division received a call from two women about a body they had found in Sunnybrook Park while walking their dogs. The body was discovered approximately 943 metres from Sunnybrook Hospital. The area was heavily wooded and covered in leaves. When officers went to the scene, they found a man's somewhat decomposed bodily remains.

⁶ St. Michael's Hospital is located in this area.

In consultation with the Homicide Unit and the coroner who came to the scene, they made the decision to protect the scene. The next day the pathologist was unable to identify the deceased but was able to ascertain that he had undergone cranial surgery.

On November 18, Detective Chang received a call from someone close to Mr. Louttit. She said she had heard that a body had been found at Sunnybrook Park and that both she and Ms. Reuben believed it could be Mr. Louttit. Ms. Reuben told the Review that, as soon as she heard about a body found in Sunnybrook Park, she immediately thought it would be that of her son. She called the police, who indicated it was the remains of a woman. Ms. Reuben remained concerned, however, because her son had long hair on one side.

The police records show that Ms. Reuben made efforts to obtain her son's dental records so she could provide them to police. On November 18, when Ms. Reuben again called the police, they told her they believed it was Mr. Louttit's body that had been found in the park. They were trying to confirm this identity through a palm print comparison.

On November 19, the autopsy was performed. The pathologist could not determine either the cause or the means of death, though the death was not regarded as suspicious. The deceased appeared to have died several weeks before his body was discovered. On November 20, Mr. Louttit was identified through a palm print. It seems that after the autopsy, Dr. Kathy Gruspier, the senior forensic anthropologist at the Office of the Chief Coroner and the Ontario Forensic Pathology Service, made the possible connection between the unidentified deceased and Mr. Louttit by looking through recent police media releases.

On November 23, Mr. Louttit's family and friends held a memorial service for him at the Native Canadian Centre of Toronto, where some of Mr. Louttit's songs were played. That same day, a police sergeant from 33 Division met with Ms. Reuben and many other family members to take them to the place where Mr. Louttit's body had been found so they could have a private grieving ceremony there.

Summary and Findings

The investigation into Arthur Louttit's disappearance is not listed in my Terms of Reference. It is, however, an important case study that amplifies many of the systemic issues I have identified during the Review. There is also an important human element to this story: Mr. Louttit was loved by family and friends; his life had value; he was vulnerable in part because of his head injury;

and he was a member of the Indigenous community – a community that is traditionally underserved by the police. How the Service handled Mr. Louttit’s disappearance is one measure of whether the Toronto police, in the words of their motto, truly served and protected him and those most affected by his disappearance. By that standard, the Service failed him, his loved ones, and his community.

The Service made some effort in response to Mr. Louttit’s disappearance, undertaking a variety of investigative steps. Overall, however, the investigation is troubling in many ways.

First, the efforts of Ms. Reuben and other family members to contact police in late September, soon after Mr. Louttit went missing, appear to have gone unheeded. Various factors, especially his obvious vulnerability, should have generated a very different response. Both Detective Chang and Detective Dickinson acknowledged to the Review that Mr. Louttit’s surgery and medical issues at the time of his disappearance placed him at high risk and should have increased the urgency with which the police responded to his disappearance. Instead, the family indicated that an officer told them that Mr. Louttit did not meet some unfathomable litmus test that would have qualified him to be treated as a vulnerable person.⁷ Moreover, regardless of whether the police viewed him as a vulnerable individual, Mr. Louttit’s family still had the right to file a Missing Person Report. Mr. Louttit and his loved ones had the right to have the investigation into his disappearance given top priority.

Second, there is no indication the police conducted a 300 metre search, or any search, around Sunnybrook Hospital, although Mr. Louttit’s mother told the police that the hospital was the last place she knew him to be before he disappeared. Ms. Reuben had called the police to tell them she was concerned he could be “out of it” and in that area, and that she and other family members did unsuccessfully search the area. Also concerning is the fact that Ms. Reuben’s suspicion that her son was in the Sunnybrook area was not included on the media release. Instead, the release indicated he was last seen on September 23 in the area around Bond and Shuter streets.⁸ It appears that the police treated St. Michael’s Hospital as the last confirmed sighting of Mr. Louttit, thereby discounting the information Ms. Reuben provided. This disregard is particularly troubling given that her information could have been corroborated by reaching out to Emergency Medical Services, to ask if Mr. Louttit had been taken by ambulance to Sunnybrook Hospital on September 24.

⁷ I address this issue further in Chapter 12.

⁸ There is also no indication that police conducted a 300 metre (or any search) around this area.

In 2012, the Service's Missing Person procedure required a first police officer to "search the home [of the missing person] and the immediate area thoroughly." It did not explicitly require police to search the area where a missing person was last known to be. In my view, searching the area where the missing person was last known must represent basic policing for the simple reason that it is basic common sense. During his interview, Detective Chang told the Review that he believes a search of the area around Sunnybrook Hospital should have been done and, indeed, may have been done. However, no such search was documented in the Occurrence Report. Detective Dickinson also agreed such a search should have been done. As I indicate above, Mr. Louttit's body was ultimately found close to Sunnybrook Hospital, where he was last known to be. It follows that he might have been found earlier if a proper search had taken place. Since the coroner's report listed environmental hypothermia as a possible cause of his death, it is unclear whether an earlier proper search, if successful in finding him, would have saved his life. We will never know.

Third, the Occurrence Report does not indicate that the police contacted Emergency Medical Services to find out if there was a record of Mr. Louttit being transferred to Sunnybrook Hospital on September 24. This inquiry could have provided information about Mr. Louttit's last known location and reinforced the need to search the area around the hospital.

Fourth, it took the police almost six weeks after Mr. Louttit disappeared to take several crucial steps relating to the investigation. November 14 represents the first time the police are noted as making calls to the Office of the Chief Coroner or preparing a media release, although its preparation may have been contemplated earlier. These steps were taken when Detective Dickinson temporarily became involved in the file at Detective Chang's request. Detective Chang acknowledged these steps should be taken early in a missing person investigation, and he was unable to explain why they were not. Detective Dickinson also told the Review that media releases are published on the Service's Missing Persons webpage. If the media release about Mr. Louttit's disappearance had been prepared at the beginning of the investigation, information about him would have been posted to the webpage much earlier.

Fifth, it is unclear whether the police took any other steps to determine if there were any unidentified bodies in other Toronto divisions that could have been a match for Mr. Louttit. Detective Chang was aware of the OPP's Missing Person and Unidentified Bodies Unit, its database, and its website. However, there is no record of his making use of these resources or that he instructed anyone else to do so. It appears, instead, that it was Mr. Louttit's family and

friends who alerted police at 51 Division to the fact that the police at 33 Division had discovered unidentified remains in another area of the city. This breakdown in communication within the Service is reminiscent of the Alloura Wells case, which I set out in Chapter 9.

Sixth, I can only describe the Service's documentation of its investigation as seriously deficient. It is hardly surprising that Mr. Louttit's family and friends cannot say which officers they spoke with and precisely when. But the onus to record contacts with family and friends accurately and to set out precisely what investigative steps have been taken surely lies on the Service, not on those who report people missing. It has been suggested that additional investigative steps not recorded in the file may have been taken in this case. How, though, in the absence of records, would anyone ever know that to be the case? How could any supervisor monitor the quality of the investigation? How could anyone be accountable for deficiencies in the investigation? How could anyone review the investigation to ensure it was in compliance with the Service's own procedures? Even if I accept that a number of investigative steps, albeit incomplete steps, were taken, this investigation still represents a failure at many levels.

Last but certainly not least, the Service left Mr. Louttit's family and friends largely unsupported. They believed that, for the most part, they were on their own. They felt they were dismissed or sent away. Certainly they were not treated as victims. They had to rely on the kindness of others just to enable them to come to Toronto from Moose Factory and search for Mr. Louttit. The Service could have, and should have, provided at least some basic support for Mr. Louttit's family and friends. It would have meant so much to them. I commend the officer from 33 Division who showed sensitivity by arranging for the family and friends to gather at the site of Mr. Louttit's death. However, the overall lack of support for Mr. Louttit's family represents a continuing systemic issue at the Service.

The Indigenous community has traditionally been disadvantaged in its interactions with the police. That tragic history provides even more reasons why the Service should ensure that investigations into the disappearances of Indigenous people are conducted thoroughly, transparently, and with sensitivity. Unfortunately, it did not happen here.

I am indebted to Ms. Reuben for her courage in sharing this story with me. It will make a difference.

Chapter 14

BUILDING BETTER RELATIONS BETWEEN THE SERVICE AND TORONTO'S DIVERSE COMMUNITIES

Marginalized and vulnerable communities have been both overpoliced and underprotected. Overpolicing refers to the “targeting” or disproportionate investigation and charging of individuals from disadvantaged communities. Underprotection refers to the inability of the police to respond effectively to the criminal victimization of such communities.

The vicious circle of overpolicing and underprotection has created a deep distrust of the police in many disadvantaged communities. This is well known in Canada with respect to Indigenous and Black communities, but it is clear that the distrust caused by overpolicing and underprotection also applies to LGBTQ2S+ communities, and other intersecting disadvantaged communities. This circle must be broken to improve policing and ensure equality. Trust is the most important element of a healthy relationship between the police and the communities they serve, particularly marginalized and vulnerable communities.

Overpolicing and underprotection are widely documented phenomena with roots in the systemic discrimination long suffered by disadvantaged groups. These include many intersecting groups – the LGBTQ2S+ communities, racialized communities, especially Black and South Asian communities, Indigenous people, and those who live with mental health, addiction, housing, and/or immigration issues. The experience of systemic discrimination has created distrust and even fear of the Toronto Police Service (the Service). In turn, this distrust or fear contributes to the underprotection of these marginalized and vulnerable groups.

In a number of cases, the disappearances of marginalized and vulnerable people are never reported to the police, as happened with Kirushna Kumar Kanagaratnam. Barriers to reporting are largely based on a lack of trust. Those involved in sex work or criminal activity, those with addictions or with precarious immigration status – all have their reasons to fear and distrust the

police.

As I discuss in Chapter 12, the harms of overpolicing and underprotection are generally not the result of intentional discrimination or overt bias by the police. They can, however, amount to systemic discrimination. By this I mean that disadvantages marginalized and vulnerable groups suffer are aggravated by the failure of police to respond equitably and effectively to crimes against those same groups. Each person suffers these disadvantages differently, often in ways that are compounded by intersecting grounds of discrimination (see Chapter 12). For example, Mr. Kanagaratnam was a gay racialized man from Sri Lanka who had been denied refugee status. These multiple grounds of possible discrimination explain why people were afraid to report his disappearance to the police.

Without relationships based on trust and respect, overpolicing and underprotection will persist. Communication between marginalized and vulnerable communities and the police will not flow easily or at all. A two-way flow of communication from disadvantaged communities to the police and from the police to such communities is essential for effective policing in general, as well as good missing person investigations.

Events during the summer of 2020 have increased tensions between the police and marginalized, racialized, and vulnerable communities in North America. These heightened tensions present not only increased challenges but also new opportunities. Both the City of Toronto and the Toronto Police Service Board (the Board) have demonstrated a willingness to rethink the role of policing in broader community strategies. Such an approach is encouraged by the *Community Safety and Policing Act, 2019* (CSPA, 2019) which has not yet been proclaimed in force.¹ Broader community safety strategies are promising and have long been recommended by experts.² Nevertheless, if not informed by the particular knowledge that the most vulnerable have about the harms they face, such strategies may fail. The police will receive such information only if relationships between them and disadvantaged groups

¹ SO 2019, c 1, Schedule 1, not yet proclaimed.

² Law Commission of Canada, *In Search of Security: The Future of Policing* (Ottawa: Law Commission of Canada, 2006); Council of Canadian Academies, *Policing Canada in the 21st Century: New Policing for New Challenges* (Ottawa: Council of Canadian Academies, 2014); Council of Canadian Academies, *Towards Peace, Harmony, and Well-Being: Policing in Indigenous Communities* (Ottawa: Council of Canadian Academies, 2019).

significantly improve.

As I discuss below, there are signs of decreasing levels of public support of the police. Many senior police leaders, as well as community members, have told me that building better and more respectful relations with Toronto's diverse and intersecting communities should be a top priority. These police leaders have also told me that the Service should not build relationships only during a crisis. As well, the police need to listen to voices that had not been part of the conversation up until now, including voices that may not be "pro-police." I agree.

In this chapter, I discuss some of the reasons for strained relationships between marginalized and vulnerable communities and the Service, the many and often not-well-known efforts the Service has made to reach out to Toronto's diverse communities, and examples of how other jurisdictions have managed similar challenges. I also discuss the challenges to policing that intensified in the summer of 2020 in response to the killing of George Floyd in the United States and a series of events in Canada following the deaths of Regis Korchinski-Paquet and Ejaz Choudry in the Greater Toronto Area and Chantel Moore and Rodney Levi in New Brunswick.

I then identify a number of obstacles to building better relations. These include the closed, siloed, and defensive nature of police culture. Although the Service does not yet fully reflect the marvellous diversity and intersectionality that is the City of Toronto, I am convinced that the Service must move and, with some exceptions, is moving in that direction. But diversity in the Service and educating the police about diversity are clearly not enough. Everyone who works in the Service should be empowered to use their knowledge and connections with individuals and communities to improve relationships, particularly with members of the city's marginalized and vulnerable communities. If they do so, they will improve policing.

Another difficulty is that well-intentioned but overlapping and increasing forms of community engagement are producing consultation fatigue. This fatigue is increased by the limited resources and patience of the most disadvantaged, who are often asked to volunteer their time to consult with the Service, often with little demonstrable change.

Innovative and fresh approaches are needed. There is little evidence about the extent to which liaison officers and community consultative

committees have improved relationships. More needs to be done to convince the Service that building better relationships is at the very core of more effective and legitimate policing and should be the job of every member of the Service.

Increased research partnerships to evaluate the effects of police practices on both crime and community relations should be undertaken. An excellent example is the research done by Humber College on the neighbourhood community officer program. Similar research is necessary, not only to have a better sense of what works and what does not, but also to make sure that the Service sets clear goals for its initiatives and measures of their success and failure. Unfortunately, many well-intentioned initiatives to improve relations with communities have not established clear goals and have not been accompanied by evaluation to determine whether such goals have been achieved. We simply do not know the support or lack of support for initiatives such as liaison officers or community consultative committees, either within the affected communities or the Toronto police, or the extent to which they are making meaningful improvements to policing. Most of the Service's initiatives to improve relationships have not had any independent evaluation.

In this chapter, I describe committees and liaison officer positions that the Service has developed to maintain and improve relationships. Unfortunately, neither these committees nor these liaison officers were consulted before the Service undertook Project Marie in 2016 – an undercover operation that damaged the Service's relationship with the LGBTQ2S+ communities.

The police killing of George Floyd in May 2020 has escalated tensions between police and marginalized, racialized, and vulnerable communities in North America. But with adversity comes opportunity. To their credit, both the City of Toronto and the Board responded to the George Floyd crisis and ensuing conversations in ways that clearly demonstrate a willingness to rethink the role of policing within broader community strategies. Such an approach is encouraged by the CSPA, 2019.³

My hope is that this Report's recommendations will help to improve relations between the Service and the city's marginalized and vulnerable

³ SO 2019, c 1, Schedule 1.

groups. This is an urgent priority. If relationships are improved, I am confident that policing will improve.

No Blueprint

In Chapter 15, I provide my recommendations to assist in improving relationships between the Service and marginalized and vulnerable communities. These recommendations are not and should not be seen as a detailed blueprint that the Service or the Board can impose on the communities. I say this for a number of reasons.

First, all parties need to listen to each other and to learn from the failures of the past. Some of the findings of this Review may aggravate the already strained relationship that exists between the Toronto police and LGBTQ2S+ and other marginalized and vulnerable communities. The need to improve relations and, with it, policing and community safety is urgent. Nevertheless, time will be well spent listening to others. Improved relationships require acknowledgement of past harms, consultation, collaboration, and ultimately buy-in from all those involved in the relationship.

Second, in its laudatory desire to improve relationships with some communities, the Service has engaged in new initiatives often without evaluating what has worked or not worked in the past or even establishing clear and measurable goals about what it hopes to achieve with its new initiatives. It has also often failed to adequately make communities aware of these initiatives.

The Service's outreach is complicated by the fact that the City of Toronto and the Board (as well as various systemic reviews such as those being conducted by the Ontario Human Rights Commission and by me) are also placing a new emphasis on consultation. All of these initiatives are well intended. Nevertheless, the duplication can produce consultation fatigue in communities that are already disadvantaged. It can also result in inconsistent or diluted messages being sent from either the communities or those representing the police, the Board, and the city.

The Service's Black community consultative committee has raised concerns about the duplication of consultation both at the City of Toronto level and by the Board. A lack of coordination can strain communities. It also can

inadvertently favour more advantaged members of communities who have a greater ability to volunteer their time or make their presence felt. Finally, many of the consultation mechanisms that have been developed are not well placed to meet the challenges presented by intersecting and overlapping grounds of discrimination as discussed in Chapter 12 on human rights.

Third, a blueprint approach should be avoided because momentum is clearly gathering for fundamental change in policing. As I discuss in Chapter 3, the CSPA, 2019, will soon be proclaimed in force. It places new emphasis on plans for community safety and well-being and the importance of diversity and intersectionality. Responding to events in the summer of 2020, both the Toronto City Council and the Board have recognized that fundamental changes are needed in policing and the role that the Service plays in broader initiatives to provide for community safety and to combat various forms of inequality and discrimination. Although positive, this remains a work in progress.

All the above factors have convinced me that yet another top-down blueprint that will place more demands on vulnerable communities would not be helpful. This decision should not be confused with any complacency. The status quo is not acceptable. It must and it will change. But change needs the broadest community support possible. As I discuss in Chapter 1, it needs to follow the type of community-driven process that led to the creation of this Review.

Building and improving relationships should be informed by continual cycles of public engagement, criticism, evaluation, collaboration, and learning. There is no one-time quick-fix solution. Building better relationships requires listening, commitment, and change by all. It also requires accepting that the status quo is not acceptable.

Historical Reasons for the Poor Relationships

William Faulkner famously wrote, “The past is never dead. It’s not even past.”⁴ I have been reminded of this wise aphorism throughout my consultations.

I have heard much about the bathhouse raids in 1981 and Project Marie in 2016. Both of these events damaged the Service’s relationship with the

⁴ William Faulkner, *Requiem for a Nun*, Act 1, Scene 3 (New York: Vintage Books, 1950), 73.

LGBTQ2S+ communities. In addition, I have been influenced by earlier inquiry reports on failed missing person investigations in Canada: the Report of the Missing Women Commission, involving sex workers on Vancouver's Downtown Eastside, and the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls.⁵ The recommendations of these and other reports are discussed in Chapter 11, but here I draw on them for what they tell us about the tragic consequences of poor relations between marginalized and vulnerable communities and the police and some of what may be necessary to improve relationships.

In this section, I provide an overview of some of the historical reasons for poor relationships between the Service and marginalized and vulnerable communities. It is not a comprehensive accounting, but it is important to have some sense of the reasons why so many in these communities are frustrated and impatient. Problems between these communities and the Service have persisted way too long.

LGBTQ2S+ Communities

The Bathhouse Raids

Before the 1981 bathhouse raids, the Service had raided and made arrests at other gay bathhouses. They had laid obscenity charges against the *Body Politic*, an LGBTQ media outlet. They had arrested 32 people for having sex in public washrooms. They had refused to discipline an officer who published an anti-gay article in the Toronto Police Association newsletter.⁶ The Service had also struggled in its investigation of the murders of 14 gay men between 1975 and 1978.

On February 5, 1981, the Toronto police, as part of "Operation Soap," arrested 289 people in raids on four gay bathhouses. It was one of the largest police actions in Canadian history. The Service called those arrested in the bathhouses derogatory names. They photographed them naked, and they took

⁵ British Columbia, Missing Women Commission of Inquiry, *Forsaken: The Report of the Missing Women Commission of Inquiry* [4 vols and *Executive Summary*, electronic resource, British Columbia, 2012] (Commissioner Wally T. Oppal) (hereafter Oppal Report); Canada, National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls* [Ottawa: Privy Council Office, 2019], online resource (hereafter National Inquiry).

⁶ Arnold Bruner, *Out of the Closet: Study of Relations between the Homosexual Community and the Police*, report to Toronto City Council ([Toronto], 1981) (hereafter Bruner Report), Appendix 1.

information about their employers. All of this threatened their privacy and their dignity.

In the wake of the 1981 raids, Toronto City Council commissioned Arnold Bruner, a law student and journalist, to prepare a report. It found a “gulf of mistrust and misunderstanding” between the police and the gay communities. It quoted statements made by Paul Walters, then head of the Toronto Police Association, that the majority of his membership did not want gay people to be hired, in part because of concerns that “they would attempt to seduce heterosexual policemen – particularly young ones – and could not be trusted with duty that involved children ...”⁷ A staff sergeant in the then morality squad told Bruner that gay people “attract crime ... they can end up the victims of murder, robbery or extortion. So, wherever they go crime occurs,” in part, because of having sex with “strangers.”⁸

Bruner interviewed a gay officer who had resigned from the Service, in part because of the police “hassling”⁹ people leaving gay bars or walking across the street on red lights in the Village. Bruner also reported that even some senior leadership in the Service “appear to resent”¹⁰ the demonstrations that followed the bathhouse raids. As Professor Kyle Kirkup notes, the rallies that followed the raids “underscored the importance of recognizing how vulnerable communities – particularly those situated at multiple axes of oppression – collectively experienced violence, discrimination, and harassment at the hands of the police.”¹¹ Professor Kirkup also noted how the right to privacy committee formed a defence fund for those charged in the raids and worked with Black and South Asian organizations to found Toronto’s first independent police organization that ran a hotline allowing people to report acts of racism, sexism, and homophobia.¹²

Sexual minorities had similar problems with the Service as did racial and ethnic minorities. A prominent gay activist, George Hislop, said at a

⁷ Ibid, 139, 96.

⁸ Ibid, 99.

⁹ Ibid, 104.

¹⁰ Ibid, 98.

¹¹ Kyle Kirkup, “Relations Between Police and LGBTQ2S Communities,” Paper prepared for the Independent Civilian Review into Missing Person Investigations, 26, at https://8e5a70b5-92aa-40ae-a0bd-e885453ee64c.filesusr.com/ugd/681ae0_1d67158e1b824d21a1450dbcdebbs435.pdf.

¹² Ibid, 27. See also Tim McCaskell, “Black Lives Matter versus Pride Toronto,” *Toronto Now*, July 12, 2016, at <https://nowtoronto.com/black-lives-matter-versus-pride-toronto>.

meeting after the 1981 raids: “One of the most telling descriptions I’ve heard of the Metropolitan Toronto Police was from an East Asian who said we have a Jekyll and Hyde police department. And it’s true. They send Dr. Jekyll, Chief Ackroyd, and all the nice people, to talk to us, and they send Mr. Hyde to kick the shit out of us.”¹³ Intersectionality, as discussed in Chapter 12, has deep roots in Toronto. It has created important alliances in the battle against systemic discrimination. Bruner observed that efforts had been made by the Police Commission (now the Board) and the Service to recruit ethnic and racial minorities. Unfortunately, the gay communities had not been included in the recruitment efforts and, at the time, the Service received no training about the gay communities.¹⁴

Bruner looked to Vancouver and San Francisco as two cities that had tried to improve relations with the gay communities. San Francisco had a liaison officer for the gay communities, who wisely observed that he was working toward every officer being “community relations officers, then I won’t be needed.”¹⁵ At the time, the Vancouver police, including both senior and front-line officers, were meeting with representatives from the gay communities to discuss issues of concern including policing in bathhouses, parks, and public washrooms. As a result of these meetings, Vancouver police received some training about the gay communities, and the police made efforts to protect the communities “from anti-gay elements.” Bruner recommended the creation of a similar police / gay dialogue committee in Toronto.

Bruner also recommended a moratorium on arrests for sex in public areas pending a discussion with this new committee. This recommendation reflected that consultation was meant to be more than a public-relations exercise or frill; it could impact policing policy and even operations. Bruner recommended having a representative of the gay communities on the mayor’s committee on race relations.¹⁶ This was early recognition of what today would be called intersectionality. His further recommendation of greater diversity on the police commission has finally been followed in the CSPA, 2019.¹⁷

During this Review I have often thought about Arnold Bruner’s

¹³ Bruner Report, 128, 82–85.

¹⁴ Ibid, 82–85, 90.

¹⁵ Ibid, 151.

¹⁶ Bruner Report, Recommendation 11, 169.

¹⁷ Bruner Report, Recommendation 12, 170.

significant contribution to identifying and addressing many serious problems between the Service and Toronto's LGBTQ2S+ communities. And I have often reflected that, 40 years later, many of these serious problems remain unresolved. It therefore goes without saying that Bruner's recommendations remain relevant. To me, this reality is a source of great concern and disappointment.

Marie Curtis Park, 2016

In 2016, the Service publicly apologized for the 1981 bathhouse raids, although some community members did not regard what was said as an apology. Chief of Police Mark Saunders expressed "regret" for what had happened. Speaking a week after 51 people were murdered at the gay Pulse nightclub in Orlando, Florida, he expressed solidarity with the LGBTQ2S+ communities. He stated that, although the Toronto police "has made real progress in relations with the mainstream LGBTQ2S+ communities, we recognize the need for renewed commitment to work together cooperatively and respectfully with other marginalized groups and still disadvantaged sexual minorities."¹⁸

Some in the LGBTQ2S+ communities did not accept the apology, believing that it did not speak to racialized, Indigenous, and other marginalized groups both within and outside LGBTQ2S+ communities.¹⁹ Dennis Findlay, president of the Canadian Lesbian and Gay Archives, commented at the time:

How do they deal with the trans community? How do they deal with the black community? How do they deal with the aboriginal community? That's the shortlist. They have to start working with the communities who are minorities within our society, work with them on how to move forward so they don't continue to make these stupid mistakes.²⁰

¹⁸ "Toronto police chief Mark Saunders apologizes for 1981 Bathhouse Raids," *Global News*, June 22, 2016, at <https://globalnews.ca/news/2780446/watch-live-toronto-police-chief-mark-saunders-to-apologize-for-Bathhouse-Raids/>; "Toronto police 'regrets' Bathhouse Raids," *Daily Xtra*, June 23, 2016, at <https://www.dailyxtra.com/toronto-police-regrets-Bathhouse-Raids-71340>.

¹⁹ Leyland Coco, "Activist on declining Toronto police apology for 1981 bathhouse Raids," *Globe and Mail*, June 24, 2016; Tim McCaskell, "Why one gay activist isn't happy with Toronto police's apology," *Daily Xtra*, June 28, 2016, at <https://www.dailyxtra.com/why-one-gay-activist-isnt-happy-with-toronto-polices-apology-71381>.

²⁰ Jessica Murphy, "Toronto police chief to apologize for 1981 gay Bathhouse Raids," *The Guardian*, June 22, 2016.

I have heard from many in the LGBTQ2S+ communities that there was insufficient consultation with them about the bathhouse raids apology. I did learn that Chief Saunders consulted with a well-respected leader in the gay community about the apology's content. That was commendable. However, the criticism around the apology is a reminder that apologies can backfire and cause harm if there is a lack of adequate consultation and of behavioural change.

Whatever good Chief Saunders's June 2016 apology did was largely undone by Project Marie later that year, a project that resulted in the ticketing of gay men following a plainclothes operation in Marie Curtis Park in Etobicoke. In November 2016, Constable Kevin Ward of 22 Division's Community Response Unit explained:

We started Project Marie off with high-visibility presence in the park, stepping up our patrols, riding through the trails, and talking to everybody about what's going on and what we're doing ... Then we stepped into the enforcement period of the operation, where we have been operating in plainclothes in the park. And what happened is that male patrons have been approaching our officers and soliciting them for sex ... I want to make it very clear, that the purpose of this project is not to target any one specific sexual orientation or anything like that ... But there has been a lot of unacceptable occurrences going on down there for quite a long time ... and the community's had enough. They're not going to tolerate it any more.²¹

Professor Kyle Kirkup related Project Marie both to the bathhouse raids and certain aspects of the Bruce McArthur investigations. He noted:

Many of the men targeted by police were racialized newcomers living ostensibly heterosexual lives with wives and children. The consequences of the bylaw infractions were, therefore, particularly acute.²²

²¹ "Toronto police crack down on public sex in Marie Curtis park," *Etobicoke Guardian*, November 10, 2016, 12. Constable Ward had said there were 84 charges against 65 individuals; he updated the charges as 89 against 78 people, including 71 for "lewd behaviour," 13 for being in the park after hours, three for trespassing, one under the Liquor Act, and one under the Criminal Code. "Walk the Beat sees community, police come together to 'take back' Marie Curtis Park," *Etobicoke Guardian*, November 19, 2016.

²² Kyle Kirkup, "Relations," 49.

An advocacy group, Queers Crash the Beat, was formed to provide free legal representation for the men ticketed at Marie Curtis Park. This mirrored the way that advocacy groups formed to challenge the 1981 bathhouse raids. In November 2016, Queers Crash the Beat made a public statement that the bathhouse raid apology “made only 5 months ago, was greeted with skepticism by many of us. These raids make it clear that our skepticism was warranted.”²³

A year later, many of the tickets had been withdrawn, and Marcus McCann, a founder of Queers Crash the Beat and one of those who provided free legal assistance, stated that “the lesson here is the same as it has been for 30-plus years – that those who chose to fight these type of morality Raids tend to be vindicated.”²⁴ He added that, although the tickets were “no more serious than a jaywalking offence,” they had the potential to result in “the break-up of families, depression, other mental health issues, suicide attempts.” In response, the Service stated:

At the time, Project Marie was successful in addressing the immediate concerns that were raised by local residents ... However, we know that Project Marie raised concerns and, in retrospect, we should have considered outreach to our LGBTQ community partners. Going forward, as we continue to receive community complaints about Marie Curtis Park and other locations, we will execute enforcement projects in good faith.”²⁵

A number of officers told the Review that Project Marie should not have happened. One told me: “That happened in the 70s and 80s and it wasn’t right then and it isn’t right now.” A retired officer added this:

We have liaison officers in place for a reason. We have community consultative committees in place for a reason. Neither one of us was informed about it. And had that happened, I think we could have collectively sat down and expressed some of the issues with it. And that’s what they

²³ Queers Crash the Beat, *Statement on Project Marie*, November 16, 2018, at <https://queerscrashthebeat.com/2016/11/18/statement-on-project-marie/>.

²⁴ Jacques Gallant, “Tickets withdrawn after morality Raids in Toronto’s Marie Curtis park,” *Toronto Star*, October 29, 2017.

²⁵ *Ibid.*

should have done.

Others within the Service saw Project Marie differently. In 2017, the then head of the Toronto Police Association told the press that a prominent critic of Project Marie was “wrong on all counts and owes the Toronto Police, our members and the public an apology.” He added: “These officers should be commended for this great example of community policing ... The project led to the arrest of a naked man found masturbating, who through investigation, was found to be on the sex offender registry and was on conditions not to be around children ... If not for the police stopping him, who knows what could have happened?”²⁶ Senior police officers interviewed by the Review confirmed this incident – one that led to the only arrest.

Project Marie’s relevance to this Review is how it has affected the Service’s relationships. No effort was made to engage the LGBTQ2S+ communities to address issues about the park’s use even though there were no exigent circumstances. There was no prior discussion with the LGBTQ2S+ liaison officer. No apparent consideration was given to the operation’s impact on the Service’s relationship with the LGBTQ2S+ communities.

I am quite concerned that Alok Mukherjee, chair of the Board at the time of Project Marie, had no advance knowledge of it. He told me: “The raids in Marie Curtis park were totally surprising ... the expectation was that we would never go back to those days again. So that was so out of the ordinary of what we had come to expect in terms of police behaviour towards the LGBT community.” He added that advance warning and discussion of such a matter “would be quite a departure from usual police culture ... And if the Board has not internalized [John W.] Morden’s recommendations, the Service certainly has not. The Service has resisted.”

As I discuss in Chapter 3, I accept Judge Morden’s G20 report in which he stresses the need for the Board to be informed of critical points. In that chapter, I interpret critical points to include matters such as Project Marie that adversely affected the Service’s relationships with the LGBTQ2S+ communities. I am also concerned that the Service’s response to the fallout from Project Marie has not been well publicized. Indeed, it took my team

²⁶ As quoted in Joe Warmington, “Give cops medals for efforts to stop park sex,” *Toronto Sun*, December 1, 2006.

considerable effort and ultimately the Service's assistance to track down the newly updated procedure. It provides:

every police division will undertake regular consultation with members of marginalized groups within the community. This may include consultation and engagement with the Community Consultative Committees (CCC), particularly where concerns related to crime, public safety, or social disorder can reasonably be expected to have a disproportionate impact on members of one or more marginalized groups.²⁷

I note here that this procedure and any mention of the project are not included in the Service's website.

It is therefore not surprising that the Service's response to Project Marie does not appear to be known even among informed members of the LGBTQ2S+ communities.

As will be discussed below, building relationships requires constant and transparent exposure to evaluations and criticisms, as well as constant and transparent attempts at self-improvement. The Service may have learned important lessons from Project Marie. What is relevant to my Review, however, is that the Service's relationships with the LGBTQ2S+ communities will not improve if no one knows about the changes to its protocols or procedures. One theme of this chapter is that the Service needs to be more open and more candid with the communities it serves. Consultative committees and other mechanisms designed to improve relations with the communities need to be more prominent and subject to evaluation to determine if they are changing police conduct and improving community relationships.

The Murder of 14 Gay Men in Toronto, 1975–78

The devastating impact of the murders of the eight gay and bisexual men this Review examined was increased because, for many in the LGBTQ2S+ communities, it was history repeating itself. Between 1975 and 1978, 14 gay men were murdered in Toronto. They include the 1975 stabbing death of 52-year-old Arthur Harold Walkley, a high school teacher and part-time University of Toronto lecturer, and the 1977 stabbing and strangling of 25-

²⁷ Policy 04-18, Appendix C, p 1, Crime Disorder Management Procedure of Toronto Police Service.

year-old Brian Latocki, described as “shy and new on the gay scene.” They also include the 1977 stabbing death of 23-year-old Randall Chidwick and the 1978 death of club owner Sandy Leblanc, who was stabbed over one hundred times.²⁸

York University historian Tom Hooper commented that “potential witnesses were reluctant to speak to police because they were concerned about how they might be treated. They were also worried that, if they came forward with information, they themselves might be charged with some sort of offence, or ... they might be publicly outed.”²⁹ Professor Kirkup comments that such perceptions were related to “reports of over-policing in the local gay press, and conversations in community hubs in and around Toronto’s Church-Wellesley village.”³⁰ Professor Carolyn Strange has noted that the *Body Politic* published “a damning article on the skewed priorities of the police. When it came to gay people, Toronto’s force assigned more staff to harass men who cruised for sex than to solve the disappearances and murders of gay men.”³¹

In 2018, the *Daily Xtra* reprinted the original story written in the *Body Politic* about the murders because

police have continued their legacy of dismissal and discrimination when queer people are the victims of crime; violence against LGBT people is just as prevalent; media, police and society still believe homosexuality is a lifestyle choice and that the danger lies in cruising and bar scenes; and gay men who are closeted and isolated are still targets of heinous acts.”³²

In his 1979 feature, the *Daily Xtra* reporter Robin Hardy noted that the 14 murders “made great copy for local papers” such as “14th murder chills city’s homosexuals.” The murders involved various forms of “overkill,” including multiple stabbings and beatings to death with a baseball bat. Hardy reported in 1979:

²⁸ “Gay Village stalked by a serial killer ... for a second time?” *Hamilton Spectator*, February 2, 2018.

²⁹ Tom Hooper, “The gay community has long been over-policed and under-protected, the McArthur case is the final straw,” *CBC News*, April 16, 2018, at <https://www.cbc.ca/news/opinion/pride-police-1.4618663>.

³⁰ Kirkup, “Relations,” 32.

³¹ Carolyn Strange, “Gay Village killings show there’s still tension between Toronto cop’s and LGBTQ community,” *The Conversation*, November 29, 2018, at <https://theconversation.com/gay-village-killings-show-theres-still-tension-between-toronto-cops-lgbtq-community-107560>.

³² Robin Hardy, “Overkill: Murder in Toronto-the-Good,” *Daily Xtra*, April 5, 2018, at <https://www.dailyxtra.com/overkill-murder-in-toronto-the-good-85766>.

Inspector Hobson of Homicide Division, Metropolitan Toronto Police, appears helpful, but has an abrupt manner. He refuses to connect the unsolved gay murders. “In several of the murders there is a common denominator: the victim was last seen at the St Charles Tavern, and met his murderer there. Beyond that we cannot say if there is a connection.”³³

Hardy also found some common characteristics of the victims as “uncomfortable in the gay world because they were not ‘out’; not ‘out’ because they were uncomfortable with the gay world ... The straight world isolated these men because they were gay. It made them outsiders. Just as they reached for their freedom in a community of their people, they became victims of their isolation.” Douglas Victor Janoff’s research found that, in the 1990s and 2000s, those who were apprehended and prosecuted for killing gay men were more likely to be convicted of manslaughter than murder for various reasons including the homophobic “gay panic” defence.³⁴

My mandate does not include an examination of these cases. That said, the murder of the 14 gay men between 1975 and 1978 is an important contextual factor both with respect to how LGBTQ2S+ communities reacted to the McArthur murders and the Service’s response.

The Transgender Community

The Service has had a troubled history with the transgender community. In 2001, there was a human rights complaint about male members of the Service participating in a raid of the Pussy Palace bathhouse reserved for women, including transgender women. The raids resulted in charges under the *Liquor Licence Act*. In 2002, after all the evidence was excluded, the charges were dropped. A judge found the search was unreasonable and analogous to a strip search because the male police officers involved in the search “knew the female patrons were in various states of undress and in a highly sexualized atmosphere. There was no attempt to find female police officers to attend to search under the authority of the *Liquor Licence Act*. There were no exigent

³³ Ibid.

³⁴ Douglas Victor Janoff, *Pink Blood: Homophobic Violence in Canada* (Toronto: University of Toronto Press, 2005), 154.

circumstances, no urgency.”³⁵ The trial judge found that the occupants were “upset, frightened, embarrassed and felt violated [intimidated] and shocked.”³⁶ The judge also stayed the proceedings as an abuse of the court’s process.

The Pussy Palace raid resulted in a human rights complaint and a subsequent 2004 settlement with the Ontario Human Rights Commission. This settlement was supposed to result in more gender sensitive policies which on the facts of the raid should also have included respect for gender expression and identity. However, it was not until 2012 that Board Chair Alok Mukherjee indicated the human rights of transgender individuals would be respected. He stated at that time the Service was introducing policies to ensure that transgender women would not be placed in a cell with males and would have the right to request a male or female to conduct body searches. He commented: “It does seem like a long time, but it was not as a result of any reluctance or any resistance,” but rather “[s]imply making sure we were being thorough.”³⁷

In 2015, a transgender man brought a human rights complaint on the basis of discrimination grounded in sexual orientation and gender identity after the Service placed him in custody with women and confiscated his gender-affirming articles. He described how he “will never forget the humiliation. I am still suffering post-traumatic stress disorder and depression. I am still paranoid when I hear sirens and see people in uniform.”³⁸ The settlement agreed to by him, the Ontario Human Rights Commission, and the Service, as well as the delays in its implementation, are discussed in the next part of this chapter.

As I discuss in Chapter 12, a recent report indicates that 73 percent of over 400 racialized transgender and non-binary people expressed concerns about being stopped by the police or security guards because of who they were. Only 6 percent of those who reported a transphobic assault to the police believed it was treated as a hate crime and over 80 percent did not anticipate that the police would treat them fairly if they reported such an assault.

³⁵ *R v Hornick*, [2002] OJ No 1170 (QL) at paras 80, 83, 108 (Ct J), Hryn J.

³⁶ *Ibid*, para 141.

³⁷ “Toronto transgender people say they’re targets of the police,” *CBC News*, June 28, 2012, at <https://www.cbc.ca/news/canada/toronto/toronto-transgender-people-say-they-re-targets-of-police-1.1255002>.

³⁸ Nicholas Keung, “Toronto police, province settle transphobia complaint amid Pride month,” *Toronto Star*, June 3, 2016.

Transgender people are overpoliced.

At the same time there is ample evidence that transgender individuals are particularly vulnerable to crime. In the report cited above, for example, 41 percent of the respondents said they had been physically intimidated or threatened, 33 percent had been sexually assaulted, and 23 percent had experienced physical violence in the last five years. In an indication of how fears of the police can lead to underprotection from crime, 33 percent told the researchers that, in the last few years, they had not called 911 because they feared the police.³⁹

During my community outreach and engagement, a transgender woman told me she is no longer living her true self because she received too much abuse on the streets. She states that police have taunted her and have called her a “crack whore.” She has had encounters with some decent police officers but described 80 percent of her interactions with the police as oppressive. The evidence is clear that transgender people are both overpoliced, causing them to fear the police, and underprotected, given their disproportionate victimization from crime. Accordingly, it is particularly urgent for the Service to build better relations and develop much improved communication strategies with this community.

The Black Communities

The Service has a long history of troubled relationships with the city’s Black communities. Disproportionate police shootings of Black men have been a problem since the late 1970s. Such shootings played a role in the creation of the Special Investigations Unit (SIU) that investigates deaths and serious injuries in Ontario involving the police.

In December 1995, the Commission on Systemic Racism in the Ontario Criminal Justice System found 74 percent of Black Toronto residents and 47 percent of white Toronto residents believe that the police do not treat Black people the same as white people. The commission found that 43 percent of Black male respondents surveyed reported that they had been stopped by the

³⁹ C. Chih et al, on behalf of the Trans PULSE Canada Team, “Health and well-being among racialized trans and non-binary people in Canada,” 2020-11-02, at <https://transpulsecanada.ca/results/report-health-and-well-being-among-racialized-trans-and-non-binary-people-in-canada/>.

police in the previous two years compared to 25 percent of white male respondents. Particularly telling was that 29 percent of Black male respondents have been stopped two or more times by the police in the past two years compared to 12 percent of white male respondents.⁴⁰ This is an example of overpolicing that remains a pressing concern with the Black community.

The commission called for a new approach to police-community relations. It noted that police responses

were frequently ad hoc responses to stressful, high-profile incidents, or to lobbying from one segment of a diverse community. In many instances, the objectives of the consultation exercise have been poorly defined, as has been the role of police representatives. Community members often have conflicting expectations ... and were disappointed by the process and results ... consultation is sometimes perceived as a means of rationalizing what the police do rather than as a partnership that jointly defines problems and develops solutions.⁴¹

Unfortunately, more than a quarter of a century later, these words still often ring true.

The 1995 Commission on Systemic Racism recommended the creation of local policing committees at the divisional level. The committees would have seven members appointed by the Board for three-year terms. Members would be drawn from community organizations after an open and advertised search. Criminal records would not disqualify people from serving on the committees. The monthly meetings of the committees would be open to the public. Every effort would be made to include young people and members of local racialized communities.

The Board would support and monitor the work of the proposed community policing committees. The Ministry of the Solicitor General would also support them by funding community safety surveys at least every five years. The committees would act not only as liaisons between police and communities. They would also develop, in concert with the local police

⁴⁰ Margaret Gittens and David Cole, co-chairs, *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System*, (Toronto: Queens Printer, 1995), ix, <https://archive.org/details/reportracismont00comm/page/n7/mode/2up?ref=ol&view=theater>.

⁴¹ *Ibid*, 345.

divisions and interested community groups and individuals,⁴² policing agreements and policies. They would assist in resolving complaints and community education.

These recommendations were never fully implemented. However, as will be seen in the next section, there is an expanding range of community consultative committees – committees at the divisional level, committees attached to the chief, and two permanent advisory committees attached to the Board. I will return to the number of committees in the next section and again in Chapter 15.

In 2018, my former colleague, the Hon. Michael H. Tulloch, reported on his Independent Street Checks Review. He found that street checks “have little to no verifiable benefits relating to the level of crime or even arrests.”⁴³ In other words, streets checks were a form of unnecessary overpolicing.

Justice Tulloch found inadequate training of police officers. He noted that some resisted training in implicit bias because they felt it was based “on the incorrect assumption that all police officers are racist.”⁴⁴ He recommended improved implicit bias training for all police officers including supervisors. He also found a lack of uniformity throughout Ontario with respect to education, as well as reports on street stops.

Justice Tulloch recommended that police officers should be allowed to be tied to specific communities for sufficient time to develop relationships.⁴⁵ Below we will see that the Service has developed a promising neighbourhood community officer policing program. Justice Tulloch also noted that police were not as diverse as the communities they police and that efforts should be made to increase diversity in the Service. Nevertheless, he also sounded an important note of caution about relying on efforts to increase diversity within the police. He warned “that police culture is a powerful force that can have a strong impact on all officers – regardless of racial identity, sexual orientation, gender, or Indigeneity – compelling them to adopt the prevailing, hierarchical norms of the organization.”⁴⁶ I agree and will return to the need to change

⁴² Ibid, 348–49.

⁴³ Ontario, *Report of the Independent Street Checks Review* (Toronto: Queens Printer, 2018) (Michael H. Tulloch, Independent Reviewer), 10 (hereafter Tulloch, *Report of Street Checks Review*).

⁴⁴ Ibid, 15.

⁴⁵ Ibid, 20–21.

⁴⁶ Ibid, 21.

police culture later in this chapter.

In his 2017 *Independent Police Oversight Review*, Justice Tulloch found that many in the Black community distrust both the police and those charged with their oversight. He recommended that oversight bodies, including the SIU, better reflect the diversity of the Ontario population. He also recommended that a detailed director's report be published in cases where the SIU investigates police-involved deaths and serious injuries that do not result in charges.⁴⁷ This was done with respect to the death of Regis Korchinski-Paquet in May 2020. It did not, however, allay all community concerns about how the Toronto police interacted with this racialized woman who was in distress and fell to her death.

The Ontario Human Rights Commission (OHRC) is currently in the midst of a major review of the Service with a focus on systemic racism against the Black community. It has released two interim reports. The 2018 interim report indicated that, although Black people make up 8.8 percent of Toronto's population, they constituted 36 percent of police shootings from 2013 to 2017 and 70 percent of fatal police shootings.⁴⁸ The interim report referred to a study where 60 percent of Black men aged 25–44 reported being harassed or treated rudely by the police and 79 percent reported being stopped in public places. The commission stated, “[b]uilding trust between police and the community should be a top priority for everyone, not just Toronto's Black communities.”⁴⁹ The commission also noted that systemic discrimination is a barrier to trust and added, “In a city where over half the population identifies as “visible minorities,” one of the most effective ways for police to build trust is to respect human rights.”⁵⁰

A second interim report, released in 2020, found that, between 2013 and 2017, Black people constituted 42.5 percent of people charged in Toronto with obstruction of justice, 37.6 percent of cannabis possession, and 35.2 percent of out-of-sight driving charges, such as not having valid insurance. They were

⁴⁷ Ontario, *Report of the Independent Police Oversight Review* (Toronto: Queen's Printer, 2017) (Michael H. Tulloch, Independent Reviewer), Appendix A, Recommendations (hereafter, Tulloch, *Independent Police Oversight Review*).

⁴⁸ Ontario Human Rights Commission, *Interim Report: A Collective Impact* (Toronto: Ontario Human Rights Commission, 2018), 3.

⁴⁹ *Ibid.*, 3.

⁵⁰ *Ibid.*

also overrepresented among those whose charges were subsequently withdrawn or resulted in acquittal, dispelling the notion that Black people commit the above crimes in disproportionate numbers.⁵¹ The commission also found that Black people constituted 57.1 percent of cases where the Service used a police dog; 45.5 percent of cases involving tasers; and 41.1 percent of groundings.⁵² All this overrepresentation and systemic discrimination creates distrust and even fear of the Toronto police.

My own consultations revealed some of the impact of past relations between the Service and Toronto's Black community. The former chair of the Black AIDS prevention community told me:

We work with hundreds of black queer men at our organization and they are all connected – there are no more than two steps, two degrees of separation between any of them as far as I'm concerned. Sometimes that's terrible and not great but in many ways, there are opportunities to leverage those social relationships and those social networks that are easily accessible. The police haven't done a really good job of it nor have we really been prepared to have a conversation with police about how that could be done, but I think again, those relationships, those networks could be creatively leveraged."

My conversations with members of Black Lives Matter also demonstrated deep distrust of the police. One participant told me of the police, "It's a bit of a fallacy that they solve problems. It's a bit of a fallacy that they serve our community. It's a bit of a fallacy that they provide protection. So, I don't know if I could name something that they do that couldn't be done better by community supports or community services." Another added that "the police never meet us. They don't want to reform. So how do we actually make something happen when one side of the group doesn't understand that they actually have to be part of this change?"

A number of participants at my Black Lives Matter meeting expressed deep frustration over the fact that many of Justice Tulloch's recommendations discussed above were not implemented. One person told me that the result

⁵¹ OHRC, *A Disparate Impact: Second Interim Report* (Toronto: Ontario Human Rights Commission, 2020), 6.

⁵² *Ibid*, 10.

produced “a whole bunch of people who wonder why we did this, tell our stories, our family’s stories, which caused us trauma.” They fear that other reviews, including this one, would result in communities’ putting “a lot of work, thought and emotion into a review, recommendations will be crafted and sent to the police and nothing will come of it.” One added: “And it’s always the most vulnerable’s job to tell people what they already know. And then we’re treated like garbage, I still get death threats from the Pride actions. It’s not like we can take it to the police. What are we going to do?” I return to issues raised by this statement in my subsequent discussion of consultation fatigue.

Indigenous Communities

In 1989, an Indigenous officer became a liaison with Toronto’s Indigenous community. In 1992, the Service became the first major urban police service in Canada to create an Aboriginal Peacekeeping Unit with five officers. The unit was gifted a wampum belt. It was provided with jointly created principles to govern police dealings with Indigenous people. This was a good start to mending relationships that had been hindered by the harms of colonialism, racism, and systemic discrimination.

More recently, Indigenous people in Toronto appear to be looking away from the police and toward other social service and community agencies. This is in part because of the reduction of the Aboriginal Peacekeeping Unit to one officer. This has been done despite a Board policy that provides:

The Board is committed to ensuring that the Service works continuously to build sustainable relationships with members of the Aboriginal community at both the corporate and the divisional levels.

- In the development of the Service’s priorities and the allocation of staff and resources, it is beneficial to recognize the concerns of the Aboriginal community, and, in particular, to acknowledge the increasing youth population in the Aboriginal community.
- An adequately resourced Aboriginal Peacekeeping Unit, that includes dedicated staff, is valuable in meeting the unique policing requirements of the Aboriginal community.

Where possible, in Divisions with high Aboriginal populations, officers dedicated to working with the Aboriginal community are helpful in

the provision of policing services to the community. It would be beneficial for the responsibilities of such officers to include, among others: acting as a liaison between the Service and the community, regularly providing information to the community, connecting members of the community to other services, working with child welfare agencies and assisting members of the community through the court system.⁵³

Indigenous people in Toronto may have found other agencies to be more understanding and responsive to their concerns than the Service. As I discuss later in this chapter, such an approach toward broader approaches to community safety can be positive in many ways. The police alone cannot be expected to respond to, let alone remedy, all the harms of colonialism and systemic discrimination. Nevertheless, Toronto's Indigenous people still require good relations with the Service that responds on a 24/7 basis to crimes that disproportionately harm them.

In 2002, 14 Indigenous organizations requested a meeting with then Police Chief Julian Fantino to discuss what they considered as the over- and underpolicing of Toronto's Indigenous community. The meeting did not take place.

In 2003, Aboriginal Legal Services of Toronto informed the Board that attempts to recruit more Indigenous police would not work so long as Indigenous people mistrust the police. It stressed that "this mistrust will not, and cannot be overcome until the Toronto Police change the manner in which they do business with our community. The issue of over-policing and under-policing must be addressed and can be addressed with the assistance of race-based statistics and an independent, accountable, police complaint oversight body." There was even a request for the return of the wampum belt that had been gifted to the police.⁵⁴ It should also be noted that, true to this prediction, in recent years the Service has struggled to recruit Indigenous people to be new recruits.

In his 2007 Ipperwash Inquiry report, Judge Sidney B. Linden noted that

⁵³ Toronto Police Services Board, *Aboriginal Policing – Statement of Commitment and Guiding Principles* [no date], at <https://www.tpsb.ca/policies-by-laws/board-policies/send/5-board-policies/121-aboriginal-policing-statement-of-commitment-and-guiding-principles>.

⁵⁴ Submission by Kim Murray, at <https://www.aboriginallegal.ca/assets/submissionracerelations.pdf>.

in several First Nations languages “police” means the one who holds a weapon over you and locks you up rather than one who assists you or keeps the peace. He was disturbed that OPP officers had only been informally disciplined for racist remarks made at Ipperwash. At the same time, Judge Linden found considerable progress in the initiatives adopted by the OPP. For example, he noted that as of August 2006 more than 2000 OPP officers had participated in a week-long Indigenous awareness educational program. He also noted that recruits were job shadowing Indigenous officers for two weeks and receiving additional education on Indigenous matters.⁵⁵

Judge Wally Oppal, in his Missing Women report, found the Vancouver police had failed to engage with the Indigenous communities and had ignored the Indigenous aspects of their investigation. In his view, this impeded their missing person investigation.⁵⁶ He recommended that “equality audits” be conducted by an external reviewer in consultation with community groups “with a focus on the police duty to protect marginalized and Aboriginal women from violence.”⁵⁷ Judge Oppal stressed that the police need assistance from family, friends, and the media to find missing people.

Judge Oppal found that a lack of cultural competency with respect to Indigenous Peoples, a lack of engagement with Indigenous agencies, and the fear created by the criminalization of sex work impeded the ability of the police to conduct missing person investigations.⁵⁸ He believed that some restorative mechanism was required to improve relations between the Indigenous and other communities that had been adversely affected by the missing person investigation.⁵⁹

Although Judge Oppal found no evidence of overt bias, he did find systemic discrimination and some victim blaming by the police. The police were unwilling to accept that the missing women were indeed missing or the victims of a serial killer. The police often stressed many of the victims’ “high risk” lifestyles. Judge Oppal concluded, “I entirely reject the position that the

⁵⁵ Ontario, *Report of the Ipperwash Inquiry, Volume 2: Policy Analysis* (4 vols, Toronto: Ministry of the Attorney General, 2007), 250, 279, 285, 290–91 (Commissioner Sidney B. Linden) (hereafter *Ipperwash Report*).

⁵⁶ Oppal Report, Vol III b, 110–11.

⁵⁷ Ibid, Vol III, 58.

⁵⁸ Ibid, 138.

⁵⁹ Oppal Report, *Executive Summary*, 161.

women put themselves at risk. The view that the women engaged in survival sex work did not ‘deserve’ ‘extra’ protection because they choose this way of life is reprehensible.”⁶⁰ I agree wholeheartedly with these remarks.

The earliest warning signs about a serial killer on the Downtown Eastside came first from the communities including a First Nations Summit and community activists such as the late Jamie Lee Hamilton.⁶¹ Then, in 1998, a community liaison officer in the Vancouver police, Constable Dave Dickson, compiled a list of 35 missing women and 18 unsolved homicides. He strongly believed the missing women were the victims of foul play because their friends and family had not heard from them, they had stopped picking up social assistance cheques, and “they are among the most vulnerable group that exists.”⁶² The community liaison officer got it right – 9 of the 35 women he identified in 1998 were murdered by Robert Pickton. I return to the role that community liaison officers can play in missing person investigations in Chapter 15.

Judge Oppal recommended additional community liaison officers be added to the Vancouver police including two civilian positions that would be filled by individuals “who have experience in the survival sex trade.”⁶³ Judge Oppal also expressed support for community consultation to determine if a community-based Indigenous liaison society should be re-established in an attempt to improve relations between the Indigenous community and Vancouver police.

Judge Oppal, like Judge Linden in the Ipperwash inquiry, expressed optimism that less formal forms of police discipline might be a more useful response to actions that contribute to systemic discrimination. Judge Oppal stated that “informal methods that afford greater opportunities for community feedback are the types of intervention that could have re-orientated the missing and murdered women investigation. These informal methods include education-based discipline, mediation, peer review and early intervention.”⁶⁴ In his 2018 report on street stops, Justice Tulloch noted: “Respectful

⁶⁰ Oppal Report, *Executive Summary*, 68.

⁶¹ *Ibid*, Vol IIIa, 78.

⁶² *Ibid*, 59.

⁶³ *Ibid*, 128.

⁶⁴ *Ibid*, 124–25.

relationships between police and Indigenous communities take time and commitment. I recommend that police services increase outreach to establish meaningful and equitable partnerships with Indigenous communities.”⁶⁵ In his 2017 Independent Police Oversight Review, Justice Tulloch observed that the Canadian police “have been responsible for moving Indigenous people to reserves and keeping them there; apprehending Indigenous children and sending them to Indian Residential Schools; and arresting Indigenous peoples attempting to exercise their rights.”⁶⁶ He related how “systemic under- and over-policing of Indigenous people” have led many Indigenous people to continue to see police as “colonial oppressors.”⁶⁷ He called for cultural competence training, outreach, and recruitment of Indigenous people into the police.

In 2015 the Truth and Reconciliation Commission of Canada recounted how the Winnipeg police stopped a car containing 15-year-old Tina Fontaine before she was murdered but allowed the car to proceed even though she was intoxicated and had been reported missing. It observed that such incidents “lead Aboriginal groups to question the willingness of the police to protect Aboriginal citizens.”⁶⁸ It called for the appointment of a national Inquiry on Missing and Murdered Indigenous women and girls.

The National Inquiry into Missing and Murdered Indigenous Women and Girls
The National Inquiry reported in 2019. As I outline in Chapter 11, the Inquiry found that police apathy and stereotypes made their investigations into missing and murdered Indigenous females less effective. It stressed the need for better relationships and communication between the police and Indigenous communities. The Inquiry concluded: “Indigenous women, girls, and 2SLGBTQIA people are also overpoliced and overincarcerated as potential offenders, yet under-protected as victims of crime.”⁶⁹ It recommended a

⁶⁵ Tulloch, *Report of Street Checks Review*, 20.

⁶⁶ Tulloch, *Independent Police Oversight Review*, 224.

⁶⁷ *Ibid.*, 225.

⁶⁸ Canada, Truth and Reconciliation Commission of Canada, *Canada’s Residential Schools: The Final Report of the Truth and Reconciliation Commission of Canada, Volume 5, The Legacy* (6 vols., Montreal, Kingston, London, Chicago: Published for the Commission by McGill-Queen’s University Press, 2015), 261–62 (hereafter Truth and Reconciliation Commission, *Final Report*).

⁶⁹ Canada, National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*,

national police task force that would include non-police members and investigators and special oversight mechanisms.⁷⁰

The Inquiry quoted the mother of a murdered Indigenous woman:

When I went to the police, they assumed she was out partying and did not look for her. My community ended up looking for her. We called the media and when the media got involved and it blew up on television, the police started looking for her.”⁷¹

Another witness told the inquiry:

When we’ve had trans people – Two-Spirited, trans people that have been murdered, the police routinely would disclose to the media that they’re trans. And they have no right to do that because it sets in motion this defence that’s used, the panic. We call it the homosexual panic defence of, “Oh, the perpetrator was triggered because of this.” When in actual fact, they’re hate crimes.⁷²

The National Inquiry took special care to include trans and other LGBTQ2S+ communities in its analysis. It found:

2SLGBTQQIA⁷³ individuals face distinct challenges in their efforts to meet their needs for culture, identity, health, security, and justice in the face of discrimination and violence, both within and outside of Indigenous communities (that is, transphobia and homophobia within Indigenous and non-Indigenous communities, as well as racism outside of Indigenous communities, including racism from mainstream 2SLGBTQQIA organizations and services), which can alienate 2SLGBTQQIA people from both Indigenous and 2SLGBTQQIA communities.⁷⁴

Consistent with the insights of intersectionality, LGBTQ2S+ Indigenous

[Ottawa: Privy Council Office, 2019], online resource, Vol 1 a, 121 (hereafter National Inquiry).

⁷⁰ Ibid, 70.

⁷¹ Ibid, 22.

⁷² Ibid, 388.

⁷³ Meaning, Two-Spirit, lesbian, gay, bisexual, transgender, queer, questioning, intersex, and asexual people.

⁷⁴ National Inquiry, 458.

persons suffer multiple forms of discrimination.

Many families of the missing women and girls expressed concerns to that Inquiry about assumptions investigators made about them not only because they are Indigenous but also because of factors such “as education, income and ability,” sexual orientation, and gender identity and expression.⁷⁵ The Inquiry stressed that an intersectional and contextual approach to understanding discrimination was necessary. Such an approach would examine “the connections among systems, institutions and people.”⁷⁶ It also concluded that such an approach was necessary to understand, respond to and prevent harm. I agree with its approach.

The Inquiry related poor police investigations to police stereotypes about Indigenous people. It explained:

Dismissal, contempt, and outright discrimination, in which police evoke racist stereotypes about Indigenous people as drunks, runaways, or prostitutes, and which ignore the insights that families bring them that something is wrong, were similarly reported by other families when they described their initial encounters with police.⁷⁷

One witness told the Inquiry that, when he was in Vancouver at his own expense putting up posters of his missing daughter, the Vancouver police refused to print extra posters for him.⁷⁸ The Inquiry also found that the police often dismiss the expert knowledge that family and friends have about the missing. The police “instead insist on following their own ways of knowing and operating.”⁷⁹ Insular police culture is a barrier to both effective engagement with communities and better policing.

The National Inquiry recommended increased use of “community-based security models” from the Indigenous communities, such as the Bear Clan volunteers, who provide patrols and wellness checks. It quoted one Métis witness that “many communities have peacekeepers, who are busier than the

⁷⁵ Ibid, 104.

⁷⁶ Ibid, 111.

⁷⁷ Ibid, 650.

⁷⁸ Ibid, 653.

⁷⁹ Ibid, 665, 703.

police force, because people trust them and go to them when things happen.”⁸⁰ It also recommended greater use of technology to allow check-ins for the vulnerable.⁸¹

I am disturbed not only by the Inquiry’s report but also by the lack of a formal and visible response from the Service to the Inquiry’s recommendations, especially in the light of the efforts other Toronto agencies have taken. This lack of response may speak both to deteriorating relations between the Service and Indigenous communities and/or to a lack of emphasis, priority, and resources given to missing person investigations.

In 2019, the Service was involved in a conference where the problem of missing, murdered, and trafficked Indigenous women was placed into a broader context of colonialism including the residential school experience.⁸² One community member told me that comprehensive change was necessary because “we can’t tokenize different groups” by simply having some Indigenous and/or gay cops who understand the history because “we need everyone to be on board. Not just people in those communities.”

The systemic discrimination the Indigenous community experiences – like that experienced by so many other communities – is intersectional. As one community member commented: “Police do not understand [and] are not connected with the 2SLGBTQIA. We are still stigmatized.”⁸³ Another community member explained: “I am the mom of a transgender child. I always have to be a shield and protector of my child. I am always worried because she is in these oppressive systems.”⁸⁴

A 2020 report, *Answering the Calls*, on Toronto’s responses to the National Inquiry’s calls for actions, noted Toronto’s Indigenous community is also overrepresented among the homeless. The report also commented on the Anti-Human Trafficking program provided by Native Child and Family Services that “provides individual counselling and supports, crisis response / management services and humanized services. They get to know their clients

⁸⁰ Ibid. Vol 1b, 157.

⁸¹ Ibid., Vol 1b, 158.

⁸² Nick Boisvert, “Toronto police put focus on Indigenous women and girl targeted by human traffickers,” *CBC News*, February 20, 2019, at <https://www.cbc.ca/news/canada/toronto/toronto-police-indigenous-human-trafficking-1.5026874>.

⁸³ Mandy Wesley, *Answering the Calls: City of Toronto and MMIWG Inquiry*, 16, at <https://www.toronto.ca/legdocs/mmis/2020/aa/bgrd/backgroundfile-146111.pdf>.

⁸⁴ Ibid, 23–24.

so that they don't have to reshare the stories over and over between different staff and workers.”⁸⁵

It also noted that the Family Information Liaison Unit within the Ministry of the Attorney General, working as a team and relying on its “extensive network,” had located a family member who had been missing for over 20 years: “Someone who was reported missing in BC was found recently. She actually has been in a long-term care facility alive in Ontario for 19 years ... she was found alive and went missing in 1998. She was originally marked as a Pickton victim.”⁸⁶ These liaison units are located in Sudbury, Sioux Lookout, Thunder Bay, and Toronto. They are staffed by “Indigenous community members who have years of experience serving Indigenous women and girls. They bring a deep understanding of the historical context of violence against Indigenous women and girls and the unique needs of families who have suffered the loss of a loved one.”⁸⁷

The report noted, however, that, “despite the best efforts and great work being done by Indigenous peoples for Indigenous peoples, there is a lot of work that is not being done due to the lack of resources[;] both human and financial resources are significantly lacking.” It quoted Christa Big Canoe, legal director, Aboriginal Legal Services, lead legal counsel with the National Inquiry, and a member of this Review’s Community Advisory Group, that: “We already have many of the solutions. Almost all of the Calls for Justice require appropriate and adequate funding as these are human rights-based issues. We need ... substantive equality.”⁸⁸ This underlines how sustainable funding to community organizations is important in building both better relations and better approaches to community safety.

The *Answering the Calls* report recommended a range of non-policing services including “safe housing for Indigenous women, girls and 2SLGBTQQIA persons” and “culturally appropriate, trauma informed services and supports for MMIWG affected family members, Indigenous survivors of violence, Indigenous women, girls and 2SLGBTQQIA persons.”⁸⁹

⁸⁵ Ibid, 12.

⁸⁶ Ibid, 11.

⁸⁷ Ontario, Ministry of the Attorney General, “Family Information Liaison Units,” at https://www.attorneygeneral.jus.gov.on.ca/english/family_information_liaison_unit.php.

⁸⁸ Wesley, *Answering the Calls*, 13.

⁸⁹ Ibid, 31.

It also called for meaningful participation by Indigenous people in decision-making and annual progress reports about Toronto’s response to the inquiry’s calls for action. In my view, this report is an excellent example of a “whole of community” approach to missing persons. The police can play a role in such an approach to missing persons, but it must improve relationships and communication with communities. In a spirit of humility, the Service must be genuinely willing to respect Indigenous people and their expert knowledge about the lives of the missing. They must also publicly demonstrate that respect.

The one member of the Toronto Aboriginal Peacekeeping Unit, Constable Monica Rutledge, attended the conference that led to the 2020 *Answering the Calls* report. Constable Rutledge observed that “Information sharing needs to be changed so that individuals, agencies and governments can more fluidly reach out to each other.”⁹⁰ She also noted that *Answering the Calls* called for “increased services and supports to the Aboriginal Peacekeeping Unit of the Service by tenfold to reflect the increase in population and to properly respond to the diverse needs of the Indigenous community.”⁹¹

I am struck by the Service’s failure to have a formal response to the National Inquiry and the decline in the resources devoted to its Aboriginal Peacekeeping Unit. I also note that the number of Indigenous recruits to the Service has declined despite the Board’s policy that “[i]t is important to ensure that recruitment, selection, hiring and promotional practices continue to facilitate greater participation in, and greater access to, employment and promotion opportunities to members of the Aboriginal community at all levels of the Service.”⁹² I also note that an effective response to missing Indigenous persons will require the Service to work with other public and community agencies of Toronto’s diverse and growing Indigenous community.

South Asian Communities

The South Asian communities, including those whose origins are India, Pakistan, Sri Lanka, and Bangladesh, are diverse and important. According to

⁹⁰ Ibid, 27.

⁹¹ Ibid, 31.

⁹² Toronto Police Services Board, *Aboriginal Policing – Statement of Commitment and Guiding Principles* [no date] at <https://www.tpsb.ca/policies-by-laws/board-policies/send/5-board-policies/121-aboriginal-policing-statement-of-commitment-and-guiding-principles>.

the 2016 Census, they constitute 12.6 percent of Toronto's residents.⁹³

Ethnic Relations Unit and the Walter Pitman Report

In the 1970s, the Service created the Ethnic Relations Unit. In 1975 the unit formed subsections including Black, Jewish, and South Asian components. The unit was intended to build bridges as a solution to growing police-community tensions. It ultimately failed because the unit reinforced rather than challenged police assumptions about ethnic minorities.⁹⁴

Toronto City Council commissioned a task force on human relations chaired by Walter Pitman in 1977.⁹⁵ Following a series of beatings of South Asian individuals on the Toronto subway, the task force was asked to prepare a report on racism and violence in Toronto. The final report, *Now Is Not Too Late*, contained 41 recommendations, 18 of which dealt with policing.⁹⁶ On January 19, 1978, the Board unanimously adopted the recommendations.⁹⁷

In the report, Pitman argued that the South Asian communities had been the subject of racist taunts and violence in the Toronto of the 1970s. He found that the Toronto police had not served the South Asian communities well.⁹⁸ Pitman also pointed out that, at the time, the Service was still largely white despite attempts to bridge the gap between the police and ethnic minorities and changing immigration patterns. Pitman called for an end to the height requirement to join the Service, stating that it barred certain ethnic minorities from applying.⁹⁹ Although there was pushback on this recommendation, it was eventually implemented.¹⁰⁰

Present Day: Engaging with South Asian Communities

⁹³ OHRC, *Interim Report: A Collective Impact*, 9, at http://www3.ohrc.on.ca/sites/default/files/TPS%20Inquiry_Interim%20Report%20EN%20FINAL%20DESI%20GNED%20for%20remed_3_0.pdf.

⁹⁴ <https://activehistory.ca/2020/07/that-other-time-the-toronto-police-tried-to-solve-the-race-problem-the-ethnic-relations-unit-1970s-1980s/>.

⁹⁵ Toronto Police Service, "Policing a World Within a City: The Race Relations Initiatives of the Toronto Police Service" (January 2003), 16, at <http://www.torontopolice.on.ca/publications/files/reports/2003.02.13-policinga-world-withinacity.pdf>.

⁹⁶ Toronto Police Service, "Policing a World," 16.

⁹⁷ Toronto Police Service, "Policing a World," 21.

⁹⁸ David M.K. Sheinin, "That Other Time the Toronto Police Tried to Solve the Race Problem," at <https://activehistory.ca/2020/07/that-other-time-the-toronto-police-tried-to-solve-the-race-problem-the-ethnic-relations-unit-1970s-1980s/>.

⁹⁹ Sheinin, "That Other Time."

¹⁰⁰ Toronto Police Service, "Policing a World," 25.

The Service has made real efforts to engage with South Asian communities. In 2003, 55 Division was reportedly working with the South Asian communities to address crime problems in their communities. Community response officers held crime prevention seminars for business owners and residents. They discussed language barriers, fear of reporting crime, and lack of understanding of how to report a crime.¹⁰¹ The Service also introduced a South and West Asian community consultative committee. The committee's activities include raising awareness about mental health issues in South Asian communities, recruitment targeting South Asians, and community events.

Not all initiatives have been well received. The Tamil Task Force, created in response to mounting gang violence, was met with criticism from the Tamil community. The very name, "Tamil Task Force," amplified the stigma around the Tamil community. In its report, *The Realities*, The Canadian Tamil Youth Development Centre, Toronto Tamil Youth, recommended the name be eliminated. The name was found to be offensive and counterproductive for improving relations with the police. The task force was renamed the Street Violence Task Force.¹⁰² Some also criticized creating a task force to respond to what was a social, not necessarily criminal, problem in the Tamil community. Many of the youth at this time were refugees with little family support and likely suffering PTSD from conflict in their country of origin.¹⁰³ This experience demonstrates the need for the police in Toronto to have global knowledge.

The Service continually targets recruiting in Toronto's racialized communities, including the South Asian. In a 2003 report, the Service recommended a targeted recruitment of Black and South Asian students.¹⁰⁴ The Service continues to host ethnic recruitment drives. In 2019 the Service reported that 11 percent of its recruits were South Asian, and in 2020 13 percent of its recruits were South Asian.¹⁰⁵

Representatives of the Alliance for South Asian AIDS Prevention told the Review that they could have offered assistance with the missing person

¹⁰¹ Toronto Police Service, "Policing a World," 85.

¹⁰² Mirusha Yogarajah, "When Memory Outlives," April 27, 2020, at <https://briarpatchmagazine.com/articles/view/when-memory-outlives-toronto-tamil>.

¹⁰³ Ibid.

¹⁰⁴ Toronto Police Service, "Policing a World," 105.

¹⁰⁵ Toronto Police Service, "Analysis on Demographic Data 2019 and 2020 Cadet Hiring," 3.

investigations had they been consulted. They described what they perceived as barriers and vetting before they could contact Chief Saunders about their concerns, and what they perceived as a defensive and resistant response when they were able to see him. They contrasted this with more co-operative responses from both the mayor of Toronto and the York Regional police.

A representative of the South Asian Women's Centre told me that, when they call the police:

It's taken very lightly when a woman's life is in danger. But recently, over the last two years, the South Asian arm of the police, the internal support network of the South Asian arm of the police has approached us to try and build a relationship. And I have challenged them, I said, "How do we know we can trust you?" Because we have done some training with 52 Division on forced marriages and human trafficking and the staff who went in to do the training said ... "they're not interested, they don't want to know."

The representative added that there "was just this enormous fear" in her community regarding the missing persons, adding: "Do we really know what's going on? Are we going to be threatened by the police [if we are undocumented]?"

These statements reveal the Service's attempts to build better relationships within Toronto's diverse South Asian communities as well as persistent fear of the Service among some in those communities. In Chapter 15, I address the positive role that internal support networks of South Asian and other officers from disadvantaged groups could play in building better relations.

The director of the South Asian Legal Aid Clinic of Ontario told me that within the most vulnerable parts of the South Asian communities, including LGBTQ2S+ groups: "The trust level just isn't there. And there is a complication in that poverty plays a role." More wealthy parts of the communities may have trust in the Service. She warned that

if you go into different pockets of the South Asian communities some people will tell you that things are great. And that doesn't have to do so much with them being racialized as much as it has to do with other things

that give them more privileges than other people.

This is an important reminder of the need to appreciate the diversity of all communities and the importance of intersectionality, including the role played by class and poverty.

Another complicating factor is language. The director of the South Asian Legal Aid Clinic told me “that 95 percent of the time her organization works in languages other than English” but that the Service’s missing person’s webpage is only in English and asks people to fill out a questionnaire. In my view this is a textbook example of systemic discrimination in which a neutral requirement that places barriers to reporting a person missing has the effect of aggravating the disadvantage suffered by already disadvantaged communities. In addition, many of the clients of the legal aid clinic come from countries where the police are not trusted.

The Homeless and the Inadequately Housed

Yet another community that has a history of strained relationships with the Service is the homeless or inadequately housed. Like many of the communities examined above, the homeless have experienced both overpolicing and underprotection. A 2018 survey estimated almost 9,000 homeless people in Toronto of whom 38 percent identified as Indigenous and 11 percent as LGBTQ2S+. Young people aged 16 to 24 years of age were estimated to constitute 10 percent of the homeless but, of these, 24 percent identified as LGBTQ2S+. ¹⁰⁶

Interviews with 240 homeless youth in Toronto a decade ago found that 76 percent of respondents reported being victims of crime during the previous year with 72.8 percent reporting multiple criminal victimization. Of Black female respondents, 47 percent reported being sexually assaulted, and 60 percent of lesbian or bisexual females reported being sexually assaulted. Only 20 percent of the homeless youth surveyed who suffered crime reported it to the police. Moreover, Black and Indigenous youth were significantly less likely to report crime. The increased unwillingness to report again illustrates possible links between overpolicing and underprotection because Black and

¹⁰⁶ “Toronto at a Glance,” at <https://www.toronto.ca/city-government/data-research-maps/toronto-at-a-glance/?accordion=homelessness>.

Indigenous youth also reported multiple encounters with the police when they were stopped, ticketed, or arrested.¹⁰⁷ Another form of overpolicing is giving homeless people tickets that many are unable to pay.¹⁰⁸

In the time I personally spent with some members of the homeless community I learned about various difficulties in the relationship between the Service and the homeless. One man told me:

Homeless people in the parks do not want to be seen talking to cops. If they see a uniformed officer, they will get up and leave. If people think you're talking to the cops, you'll be beat up afterwards or ostracized socially.

I was also told that an organization that works with the homeless wanted to build better communications with the Service but believed this was impaired by the police having a “fixed agenda” and only briefly interacted with the organization to give the appearance of relationship building. She added:

It's almost like – are you really building relationships? Are you really making us feel ... safer?... But ... the police are a very real part of our lives. So how do we work with this? Which is why the investment was made and it was largely ... [our] team that have made it happen ... And what we found is ... creating a relationship has worked better for us than calling 911.

These comments demonstrate that the homeless and members of the Service need to engage with each other to improve relationships, as well as the danger of the police having (or being perceived to have) a fixed agenda that they impose on marginalized and vulnerable groups.

Those with Precarious Immigration Status

Another group that is overpoliced and underprotected are those individuals with precarious immigration status, such as Kirushna Kumar Kanagaratnam. It may also have been a concern for Skandaraj Navaratnam whose brother

¹⁰⁷ Stephen Gaetz, Bill O'Grady, and Kristy Buccieri, *Surviving Crime and Victimization: Street Youth and Victimization in Toronto* (Toronto: Justice for Children and Youth and Homelessness Hub Press, 2010), 42–48.

¹⁰⁸ Bill O'Grady, Stephen Gaetz, and Kristy Buccieri, “Tickets and More Tickets: A Case Study of the Enforcement of the Ontario Safe Street Act” (2013) 39 *Canadian Public Policy* 541.

explained in his victim impact statement that: “Since his status in Canada may have been a challenge for him, we lived in hope that he may have gone into hiding and may appear once his status was restored. As a family, we lived in desperate, perilous times for close to a decade with the pain of not knowing his whereabouts.” He also noted that the family, because of concern about his immigration status, did not report Mr. Kanagaratnam missing, though he was reported missing by a friend.

The 2016 census reveals that 47 percent of those in Metropolitan Toronto are immigrants to Canada. In 2016, Toronto welcomed 11,405 resettled refugees and protected persons. Almost 45 percent of these refugees do not speak English or French at the time of their admission.¹⁰⁹ Up to 40 percent of those in homeless shelters are refugees.¹¹⁰

The Service’s former LGBTQ2S+ liaison officer acknowledged that individuals can fear contacting the police because of their immigration status. She has attempted to reassure such people that they could report a crime without the police asking their immigration status while acknowledging that immigration status could become relevant if a person was arrested. Fear of the police is a reality. The 519 holds a newcomers group twice a year at which discussions take place about people coming from countries where they would be killed by police for being LGBTQ.¹¹¹

The Service’s Trans guide provides that victims and witnesses of crime will not be asked their immigration status, unless there are bona fide reasons to do so. These reasons are

1. If a victim or witness requires the Provincial Witness Protection Program,
2. If required by the Crown as part of disclosure,
3. The information is essential to prove the case; and
4. The information is essential to public or officer safety.¹¹²

¹⁰⁹ Statistics Canada, “Toronto – A Data Story on Ethnocultural Diversity and Inclusion,” April 29, 2019.

¹¹⁰ Toronto, Backgrounder, “Results of the 2018 Street Needs Assessment” (November 28, 2019), at <https://www.toronto.ca/home/media-room/backgrounders-other-resources/backgrounder-results-of-the-2018-street-needs-assessment/>.

¹¹¹ As a community centre, The 519, in the Church and Wellesley neighbourhood, serves both its local and the broader LGBTQ2S+ communities.

¹¹² “A Guide to Police Services in Toronto: Dedicated to Our Trans Communities,” 6, at https://www.torontopolice.on.ca/publications/files/guide_to_police_services_trans_community.pdf.

This guide may not assure those with irregular immigration status that they have nothing to fear in contacting the police. It may also be in tension with the City of Toronto’s policies that require the provision of services regardless of immigration status. I return to this issue in Chapter 15.

In their submissions to this Review, the Canadian Association of Refugee Lawyers recommend that the Service should “maintain and develop organizational relationships with community organizations connected to non-status individuals’ cultural and identity-related groups. Developing and maintaining relationships with organizations that are in a better position to connect the Service with non-status communities will help to build a lasting relationship of trust between the Service and persons without status.”¹¹³

Those in Crisis with Mental Health Issues

In 2013, the Service recognized the need to review its treatment of people in crisis. The Service appointed retired Supreme Court Justice Frank Iacobucci to review its policies. Between 2002 and 2012 the Service had fatally shot five emotionally disturbed persons.¹¹⁴ Mental health care calls make up only 3 percent of the Service’s calls. However, they make up 11 percent of use of force reports and an alarming 40 percent of cases where tasers were used.¹¹⁵

Judge Iacobucci found that members of the Service “had become de facto front line mental health workers.”¹¹⁶ He concluded that the police alone could not solve these problems. The recommendation of the Iacobucci report most relevant for this chapter was the creation of an advisory committee to oversee the implementation of his recommendations. Judge Iacobucci recommended that the committee should be advisory only unless the chief of police decided otherwise. Moreover, he recommended that it should have closed meetings to promote collegiality and candour. He warned that the committee should not use the media to influence or criticize the police: it

¹¹³ Canadian Association of Refugee Lawyers submission, September 30, 2020, 12.

¹¹⁴ Frank Iacobucci, *Police Encounters with People in Crisis*, An independent review conducted by the Hon. Frank Iacobucci for Chief of Police William Blair (Toronto: Toronto Police Service, 2014), 6, at https://www.torontopolice.on.ca/publications/files/reports/police_encounters_with_people_in_crisis_2014.pdf.

¹¹⁵ Toronto Neighbourhood Centres, *Rethinking Community Safety: A Step Forward for Toronto* (2021), 10, at https://mcusercontent.com/de85a14a3dcadd8e377462ff6/files/1acb8a31-d2e9-464a-b826-d024cb61ed6f/Rethinking_Community_Safety_A_Step_Forward_For_Toronto_Full_Report.pdf.

¹¹⁶ Iacobucci, *Police Encounters*, 75.

“should not be a political body but rather a true advisory body ...”¹¹⁷

Justice Iacobucci also recommended meetings between officers and those who have experienced mental health issues. Such meetings should be held both in police stations and in community gathering places. He indicated a need for change in police culture, including commitments to directly involve people with mental health difficulties in issues affecting them. He recommended that the Service work collaboratively with those in the mental health system and that it create a positive culture, including mental health champions for each division.

The Board assembled a mental health subcommittee that has become a permanent Mental Health and Addictions Advisory Panel. As I discuss in Chapter 15, this panel had a mandate to review the recommendations of the inquest into the police killing of Andrew Loku. It now has a mandate to meet at least quarterly, review its membership and terms of reference every three years, and meet annually with the Board’s Anti-Racism Advisory Panel. The requirement that the Board’s two panels meet recognizes the intersecting grounds of discrimination including both race and mental health.

The Service worked with Ms. Pat Capponi, who was co-chair of the Board’s Mental Health Sub-committee and director of *Voices from the Street*, to revamp training on mental health and de-escalation issues. The training includes videos featuring the overlapping populations of the homeless and those with mental health issues. Again, these are positive developments that recognize intersectionality.

In my discussions at Sound Times, a facility that provides mental health services in downtown Toronto, I heard that, when you are reported missing and the police learn that you have a mental health issue, they attribute the disappearance to some form of paranoia and discount the notion of any threatened harm. I was also told by a person there that friends who have gone to the police station to report a friend missing have been arrested themselves because of an outstanding warrant. He told me that people who sleep on the street often have ongoing issues in the criminal justice system and are concerned about contacting the police about someone’s disappearance. There is a danger of assuming that a disappearance is a symptom of mental illness

¹¹⁷ Ibid, 272–73.

and not an indication of any threatened danger.

One mental health worker advised me that her clients have had calls to 911 ignored and had police use oppressive language such as “crazy” to describe her clients. This particular mental health worker also told me that she has seen bruises on her clients from rough treatment by the police. She did, however, distinguish officers in the neighbourhood community officer policing program as providing much better service, sensitive service. I discuss this promising development more fully in the next section of this chapter.

As I explain below, a multidisciplinary situation table in some cases could deal with people with mental health issues who go missing more constructively than the police acting alone. Mental health and housing interventions could also decrease repeat cases of people going missing.

Strained Relationships with the Service: Common Characteristics of the Affected Communities

Like Justice Tulloch I have found much distrust and even fear of the police. As my former colleague has written, distrust of the police undermines modern policing. This is as true today as when Robert Peel, founder of the London Metropolitan Police, observed that policing must be “founded on public trust.”¹¹⁸

Justice Tulloch’s two reports examined above understandably centred primarily on the Black and Indigenous communities. My Review is directed at a broader range of intersecting communities with a focus on the LGBTQ2S+ communities. Despite the diversity and distinctiveness of all these communities, they share common characteristics – most notably being both overpoliced and underprotected. As a result, they suffer systemic discrimination from the police that exacerbates their pre-existing disadvantages.

Stereotypes, misconceptions, or misunderstandings can make those from marginalized and vulnerable communities seem less important when they go missing. Even when this is not the case, the Service often lacks the good relations with those communities essential for effective investigations. Good

¹¹⁸ Tulloch, *Independent Police Oversight Review*, para 6.

relationships with communities are necessary to provide effective policing and equal police services for the disadvantaged.

Overpolicing

Overpolicing involves, among other things, the “targeting” or disproportionate investigation and charging of those from disadvantaged communities.¹¹⁹ It includes racial profiling but also includes disproportionate enforcement of laws, such as those related to sex work or gross indecency, in a manner that often causes far more harm than good.

Professor Kirkup described how, since its enactment in 1892, the *Criminal Code* has targeted LGBTQ2S+ people by criminalizing gross indecency, buggery, bawdy houses (originally under the *Indian Act*), and vagrancy. He examined contemporary overpolicing in the prosecution of HIV non-disclosure which often targets racialized men. He cited a study showing that almost half the men charged with HIV non-disclosure were Black.¹²⁰ This is an important example of how overpolicing affects the disadvantaged in an intersectional manner. Professor Kirkup also identified the bathhouse raids of 1981, the Pussy Palace raid of 2000, and Project Marie in 2016 as key examples of overpolicing that still influence the relationship between the Service and LGBTQ2S+ communities.

Professors Giwa and Connors Jackman described a history of police shooting Black and immigrant men in Toronto that triggered a number of reports in the 1990s. This, combined with current statistics produced by the Ontario Human Rights Commission and examined above, demonstrates significant Black overrepresentation in encounters with the Service ranging from drug arrests to fatal shootings.¹²¹ Anti-Black racism and overpolicing cannot be ignored, especially under the intersectionality approach to substantive equality I have taken.

¹¹⁹ *Broken Trust: Indigenous People and the Thunder Bay Police Service*, Gerry McNeilly, Independent Police Review Director, December 2018 (hereafter OIPRD Report), 23.

¹²⁰ Kirkup, “Relations,” 20, citing Colin Hastings, Cécile Kazatchkine, and Eric Mykhalovskiy, *HIV Criminalization in Canada: Key Trends and Patterns* (Toronto: Canadian HIV/AIDS Legal Network, 2017), 4.

¹²¹ Sula imon Giwa and Michael Connors Jackman, “Missing Persons Investigation and Police Interaction with Racialized People who Identify as LGBTQ2S+,” 19–20, at https://8e5a70b5-92aa-40ae-a0bd-e885453ee64c.filesusr.com/ugd/681ae0_2c084550d8e84ddba1f055dc0086149d.pdf.

Underprotection

Underprotection includes the failure to prevent or to address adequately the disproportionate victimization by crime of marginalized individuals and groups.¹²² I use the term “underprotection” rather than “underpolicing,” which is also used, because it should not be assumed that the police are the only or even the most effective agency to prevent or respond to criminal victimization. In its 2018 report on policing in Thunder Bay, the Office of the Independent Police Director (OIPRD) Report referred to how negative attitudes and stereotypes about Indigenous people “can result in a vicious circle of both underpolicing and overpolicing.”¹²³ A similar impact can be seen with respect to the policing of LGBTQ2S+ and many other marginalized communities.

Judge Wally Oppal observed that “discriminatory policing can be evidenced in both inappropriately high levels of enforcement and inappropriately low levels of investigation and enforcement for particular communities, groups or persons.”¹²⁴ He related underpolicing to systemic discrimination. He concluded that “equality means that all individuals should be treated fairly *and* that vulnerable groups or persons should enjoy particular protection due to their marginalized status and situation.”¹²⁵

Judge Murray Sinclair in his report on the Thunder Bay Police Service Board defined some of the indicia of underprotection of Indigenous people. He stated:

Indigenous victims are less likely to report crimes, or to avail themselves of the police protection that non-Indigenous people take for granted. Many Indigenous people believe that the police will minimize, dismiss, or fail to investigate their complaint with diligence, particularly if alcohol is involved. Many also fear that reporting incidents of police brutality will make them a target. These feelings are real, pervasive and dangerous.¹²⁶

Judge Sinclair also added that poor communication with Indigenous victims of crime and failure to address “recurring categories of crime against Indigenous

¹²² OIPRD Report, 23.

¹²³ *Ibid.*, 23.

¹²⁴ Oppal Report, *Executive Summary*, 114.

¹²⁵ *Ibid.*, 120.

¹²⁶ *Thunder Bay Police Services Board Investigation, Final Report* (Senator Murray Sinclair, lead investigator), November 2018, 34.

people in a comprehensive and systemic way”¹²⁷ were other indicia of systemic discrimination and underprotection.

The National Inquiry heard reports of underprotection that were tied to jurisdictional barriers. For example, one person who filed a missing person report commented that the police “wouldn’t go there because it wasn’t in their jurisdiction even though it [was] close by.”¹²⁸ The National Inquiry called for a more nationally integrated approach to missing persons. It also called for an expansion of local peacekeeper and community-based patrols such as those conducted by the Bear Clan.

Overpolicing and Underprotection

The papers prepared for this Review by Professors Kirkup and Giwa and Connors Jackman demonstrate how the “vicious circle” of overpolicing and underprotection is created. For example, Professor Kirkup explained how, at the same time as the bathhouse raids produced overpolicing, “another parallel history was unfolding.” This parallel history was the series of murders of 14 gay men in Toronto between 1975 and 1978, examined above. He also noted how overpolicing can lead to poor relations with the police and underprotection. He quoted one person who noted that, after the 1981 bathhouse raids, “all the co-operation that the homicide cops were trying to get with the community” in relation to the earlier murders between 1975 and 1978 “just shut down.”¹²⁹

Overpolicing of marginalized communities and individuals makes them distrustful and fearful of the police. This can be especially so for LGBTQ2S+ people who may fear suffering stigma and estrangement from families and others as a result of being outed in addition to the adverse effects of criminal law enforcement. This fear and distrust create an atmosphere in which

¹²⁷ Ibid, vi.

¹²⁸ National Inquiry, Vol 1b, 155.

¹²⁹ Vjosa Isai, “Gay village stalked by a serial killer ... a second time?” *Toronto Star*, February 2, 2018, at <https://www.thestar.com/news/gta/2018/02/02/gay-village-stalked-by-a-serial-killera-second-time.html>. See also Douglas Victor Janoff, *Pink Blood: Homophobic Violence in Canada* (Toronto: University of Toronto Press, 2005).

overpoliced communities are reluctant to report crimes or missing persons to the police or to co-operate fully in their investigation.

The vicious circle of overpolicing and underprotection is consistent with the importance this Review accords to intersectionality because it can explain police relations with a remarkably broad range of overlapping and marginalized groups that include sex workers, those without secure immigration status or housing, and the South Asian communities, among others.

Intersectionality

The complexities of intersectionality make it more challenging to build relationships with overlapping communities. For example, Professors Giwa and Connors Jackman described how an LGBTQ2S+ consultative committee was started with the Ottawa police in 1991. At first, it led to a number of positive developments including increased diversity education, the introduction of a hate crimes unit, and the hiring of an out man as the Ottawa police's first director of community development and corporate communications.

The authors noted, however, that, as is the case in many Canadian cities, the Ottawa consultative committee is at present under review. They suggested that the main reason for the review is concern that the committee does not represent the interests of racialized LGBTQ2S+ people. They warned of the dangers of treating "LGBTQ2S+ communities as a monolith despite the real and observable difference among members. Consequently, important issues and concerns affecting racialized members who may not be well represented on LGBTQ2S+–police liaison committees are ignored or less understood."¹³⁰ They argue:

What intersectionality does require is for the police to directly involve and engage with all members of LGBTQ2S+ communities, across intersecting categories of oppression. This means that the taken-for-granted White privileges and practices that may render invisible the experiences of racialized and Indigenous people in these communities and on LGBTQ2S+–police liaison committees must be named and confronted in a direct and

¹³⁰ Giwa and Connors Jackman, "Missing Persons Investigation," 65, 80, and 84.

meaningful way ... the entry point for discussion about issues or concerns affecting these communities assumes a homogenous or shared lived experience based on sexual orientation and gender identity, overriding the need for a critical discussion about the specific and intersecting ways that different groups experience oppression, privilege, and access to resources ... Ultimately, the old way of doing things must yield to new approaches, rooted in the complex reality of people and life.¹³¹

Professors Giwa and Connors Jackman do not recommend abandoning community consultation. Rather, they suggest that consultation must pay attention to the diversity of the LGBTQ2S+ communities, including the multiple disadvantages and lived experiences of racialized and Indigenous people within those groups.

A more holistic understanding of how people experience discrimination is needed, as well as an appreciation of the adverse effects this has on their relations with the police. Intersectionality places the focus on society's response to the individual as a result of the confluence of grounds of discrimination.

The Service's Initiatives

The Service has taken initiatives designed to build and repair relationships with Toronto's diverse communities. It has also taken initiatives internally to improve equity and inclusion. The way in which the Service functions internally is linked to the way in which it is able to serve communities externally. Equality must be respected within the Service if, in turn, it is to respect the equality rights of the many disadvantaged groups and individuals it serves. In this section I provide an overview of recent recommendations by the Board and the City of Toronto that may impact the Service's future initiatives.

Community Partnerships and Engagement Unit (CPEU)

I begin with the unit at the heart of many of these initiatives – the CPEU. This unit, located in northern Toronto, is integral to the relationship building with

¹³¹ Ibid.

Toronto's communities. It falls under the communities and neighbourhoods command. It houses the Service's key community relationship-building initiatives. It is composed of three sections:

- Community engagement
- Neighbourhood policing
- Community services¹³²

The community engagement section includes community consultative committees, Crime Stoppers, and an auxiliary program. The neighbourhood policing section oversees the neighbourhood community officer program and the youth program / diversions coordinator. Finally, the community services section includes the Mobile Crisis Intervention Teams (MCIT) Unit, a mental health sergeant, and a FOCUS coordinator.¹³³ The FOCUS table, described in greater detail below, refers to multi-agency committees that meet once a week to address vulnerable individuals, families, and places that are at risk. Below, I describe some of these initiatives in greater detail.

Community Consultative Committees

There are, at present, nine community consultative committees. The Services designates them as serving the Indigenous, Asian Pacific, Black, Chinese, French, LGBTQ2S+, Muslim, Seniors and Disabilities, and South and West Asian communities. The membership of each committee is drawn from different organizations within each of these communities with the intention of being inclusive and bolstering the Service's credibility within the communities. Curiously, the Service does not make information publicly available on who is a member of the committees. Some committees have a web presence, others do not.

The community consultative committees are intended to serve as a platform for community members to have a voice in wider policing issues such as training, recruiting, professional standards, and community mobilization. At the beginning of each calendar year, the community consultative committees set goals and objectives consistent with Service priorities. The Board's 2006

¹³² Toronto Police Service, "CPEU Organizational Chart V4," 1.

¹³³ Toronto Police Service, "CPEU Organizational Chart V4," 1.

policy on these committees provides: “The Chief of Police will review the effectiveness of the consultative groups every three years and implement changes where required. Such review will include input from the greater community” and the chief of police “will develop procedures and processes to ensure that the membership of the Service’s consultative groups is reflective of the communities that they represent, having regard to, among other things, age, gender, socio-economic status, sexual orientation and ethno-cultural diversity.”¹³⁴ This is a good policy that recognizes the need for the committees to evolve and reflect intersectionality principles, but there remains a need to ensure the policy is actually implemented and that periodic evaluations are conducted of the composition and work of the consultative committees.

The mandate of the community consultative committees is to work together in partnership with community representatives in identifying, prioritizing, and problem-solving of policing issues by

- being proactive in community relations, crime prevention, education, mobilization, and communications initiatives;
- acting as a resource to the police and the community; and
- developing a strategic long-term vision through building knowledge, education, tolerance and understanding.¹³⁵

A survey of the minutes of the meetings of the nine committees reveals that they usually meet once a month though sometimes less frequently. They are generally co-chaired by a senior police leader. They receive information from the Service on matters such as the collection of race-based data and the development of a vulnerable persons registry. Some committees raise community concerns to the Service. For example, at a May 2019 meeting, community members of the LGBTQ2S+ committee raised concerns about the

¹³⁴ Toronto Police Service Board, “Community Consultative Groups,” July 10, 2006, at <https://www.tpsb.ca/policies-by-laws/board-policies/send/5-board-policies/149-community-consultative-groups>.

¹³⁵ Toronto Police Service, “Consultative Process,” at [http://www.torontopolice.on.ca/community/ccc.php#:~:text=Community%20Police%20Liaison%20Committees%20\(CPLC\),-Community%20Police%20Liaison&text=To%20work%20together%20in%20identifying,the%20police%20and%20the%20community](http://www.torontopolice.on.ca/community/ccc.php#:~:text=Community%20Police%20Liaison%20Committees%20(CPLC),-Community%20Police%20Liaison&text=To%20work%20together%20in%20identifying,the%20police%20and%20the%20community).

Service's misgendering of a member of the trans community. Meetings have involved discussions about the need for two-way communication between the community and the police on matters such as anti-gay protests in the Village and the need to hold town hall meetings in different parts of the city. The meetings of the LGBTQ2S+ and the Senior and Disabilities committees, unlike many others, are not usually held at police headquarters. They are hosted by participating community groups. In my view, committee meetings should be hosted in the community for many reasons. These include enabling the committee to create a safe environment for committee members or invitees, whose interactions with the police have been problematic, and helping ensure the police are familiar with the many community groups the committees represent.

The Black community consultative committee has recently expressed concerns about the forming of "duplicate tables." The reference to duplicate tables appears from the minutes to refer to anti-racism panels or committees formed by the Board and by the city. The committee has noted the danger of "tokenism" where the police appear to listen only to the Black community. It has expressed concerns about its budget and also volunteered to provide feedback for equity training that the Service provides.

The Black community consultative committee has also recommended that neighbourhood community policing officers stay in their jobs longer. It wants more "truth meetings" about the lived experience of Black youth that have been held in partnership with youth organizations. It has also advocated that the Service have more interaction and collaboration with schools, housing, and health authorities. The committee has suggested that Service funding "go to the community directly (Divisions that are impacted the most with Black issues) and [start] ... to repair the broken relationship." Finally, the committee has also suggested use of podcasts and other technologies to make the community more aware of the committee's existence and role.

The Muslim community consultative committee has also discussed the need for a greater social media presence. The Toronto police officers on the committee, however, are concerned that any social media account affiliated with the police should not be "political" in nature. The Service appears to be reluctant to allow its community consultative committees to have their own independent voices. The Muslim committee has discussed various police and

other measures taken to protect mosques and other places associated with the Muslim community from attack. It has also discussed the difficulties of representing Toronto's diverse Muslim communities.

From the available minutes, some other committees seem to focus on issues of internal management of the committee, recruitment of members to the Service or the committee, attendance at community events, and receiving information about police initiatives.

The effectiveness of the community consultative committees is unclear. The organizations that are willing to be part of these committees are not representative of all of the voices in the communities. In particular, the community consultative committees do not serve as a likely platform for community members and organizations that distrust police. Although these committees are a well-intentioned initiative, the police need to hear from a wide range of community voices and to appreciate common and intersecting problems that are faced by groups represented by different committees.

The absence of a consistent web presence for each committee is a concern. Without it, how are people in the communities supposed to contact the committee with their problems? In turn, how will the committee share information with their communities about what both the committee and the police are doing?

An illustration of some difficulties in the community consultative committees came from a former LGBTQ2S+ liaison officer in the Service, who told me there was a

need to reassess how to move forward with the community, who to bring to the table. Because some people were just coming there and they were angry. And then you lose sight of the conversation. That person takes up all the air and all the space for the two hours that we're in there. People were getting frustrated. So, we really needed to take a step back and reassess.

I also heard that the LGBTQ2S+ community consultative committee is "trying to assess how to conduct more outreach because they need more community organizations on board." I was told that sitting on the committee is a volunteer position individuals have to apply for. The former liaison officer said that the committee does not turn anyone away: "Within the community the dynamic is

so interesting that everybody and their approach to the community and what they can add to the conversation is different. It's worthy of everybody coming to the table."

A member of the Service who has served on the LGBTQ2S+ community consultative committee had a different perspective. He told me that "it is difficult to select members for the committee who are both critical of police and willing to work with the Toronto Police to develop solutions to community problems." Another officer similarly stressed the need to reach out to people who are not "pro-police." I also heard that those on the committees "who are willing to engage with us are people who like us which is the problem because you know, a lot of the people we need to meet with just won't come to the table with us at all, which is why it cannot be a be all and end all."

I heard from a senior officer that the effectiveness of the LGBTQ2S+ committee

depended on who came to the table. Sometimes it was people who came for their own purposes and other times it was agencies that really wanted to work with the police and help identify priorities. Sometimes they were stuck with who they get. Some of the people on the committees are longstanding.

A senior member of the Service described a consultative committee with which he was involved as follows: "[It] was a difficult committee to work with because people were changing all the time. We had a core group that was very good" but others just wanted "to pad their resume." He added: "You have to have that constant interaction and you've got to have the right people (meaning from the Service) who will sit back and accept criticism and acknowledge as well when we make mistakes."

I note that some Canadian police services are reassessing the role of community consultative committees. This likely reflects both increased awareness of the complexities of intersectionality and changing approaches to the role of the police in providing community safety.

Community Police Liaison Committees

Community police liaison committees perform a similar function to community consultative committees, but at the divisional level. The liaison

committees, composed of both volunteers and police representatives, advise and assist the local divisional commander on matters important to the community, including crime and quality of life issues.

The mandate of community police liaison committees is to

- be proactive in community relations, crime prevention, education, mobilization, and communications initiatives, and
- act as a resource to the police and the community.

The committees exist in each of the 17 divisions. I have seen no evidence that these division level committees interact with the community consultative committees even though they may have overlapping concerns. This is the case, for example, with respect to the LGBTQ2S+ committee and the committee for 51 Division, where the Village is situated.

Community police liaison committees are also consulted as part of the divisional crime management process. This process assists the local unit commander in establishing annual priorities. Again, this raises questions about the degree to which community consultative committees representing marginalized and vulnerable groups can have input into divisional priorities. In other words, there may be a disconnect between concerns about overpolicing raised by a community consultative committee and a divisional committee's advice that the police should be more proactive in certain locations. The concern is that the community consultative committees and the divisional police liaison committees operate in silos. Below, I discuss an innovative approach to community consultation taken in Seattle that combines both the representation of intersecting and diverse communities and the representation of those who live in geographic sectors of the city.

The composition of the community police liaison committee varies across the city. Each unit commander is required to create a committee that reflects the unique and diverse population served by the particular division. Participants may reflect racial, cultural, or linguistic communities, as well as social agencies, businesses, schools, places of worship, local youth and seniors' groups, marginalized or disadvantaged communities, and other interested entities within the local community. A senior officer and a

community member chair each community police liaison committee. As with the community consultative committees, the membership of these committees is not public, and they generally do not have a web presence.

It is unclear how effective these committees have been. I would note that many of the same concerns outlined above about the community consultative committees also seem to apply to the divisional level committees. The lack of transparency about who is appointed, combined with changing attitudes about the police, creates a danger that the committees may be, or at least be seen to be, “pro-police.” The lack of a web presence also undermines the ability of these divisional committees to receive information from the communities and transmit it to the police or to transmit information to the communities. As with the community consultative committees, there is a lack of clear goals for the divisional committees or evaluation of the progress toward achieving those goals. The somewhat secret nature of the committees also may be evidence of a closed police culture, a subject to which I will return.

The Chief's Community Advisory Council and the Chief's Youth Advisory Committee

The chief's community advisory council and the chief's youth advisory committee are additional platforms for community representatives (businesses, social agencies, diverse communities, and youth) to communicate their concerns to the Service. Both the advisory council and the youth committee have direct access to the chief of police. In turn, the chief has a point of reference within the community that can assist in facilitating dialogue between the chief and appropriate community spokespersons. The mandate of these two committees is to work together in partnership with certain communities in identifying, prioritizing, and problem-solving of policing issues by

1. being proactive in community relations, crime prevention, education, mobilization, and communications initiatives;
2. acting as a resource to the police and the community; and
3. developing a strategic long-term vision through building knowledge, education, tolerance, and understanding.

Sexual Assault Audit Steering Committee

The 1998 *Jane Doe* case,¹³⁶ in which the Board was found liable and ordered to pay damages for failing to issue a warning about a rapist in the area close to the Village, triggered a review of sexual assault investigations by City of Toronto auditor Jeffrey Griffiths. The recommendations of this report as they are relevant to missing person investigations are outlined in Chapter 11. What is significant, as well, is that both the auditor and the steering committee involved in implementing the auditor's recommended reforms drew on the expertise and lived experience of community members with sexual violence.

To assist him, the Toronto auditor formed an audit reference group with representatives from a broad range of women's groups and rape crisis centres as well as women from the Board. The audit reference group provided presentations to assist the audit team in understanding the issues under review with a focus on gender equity. The final report, released in October 1999, contained 57 recommendations. Most focused on the conduct of investigations including the need for continuity of investigators and the submission of Violent Crime Linkage Analysis System (ViCLAS) reports.¹³⁷ Another recommendation was that "the Sexual Assault Squad be required to form relationships with community groups, share information and concerns and work together to meet common objectives."¹³⁸

In February 2000, after considerable lobbying by members of the audit reference group, City Council agreed to create a sexual assault audit steering committee to assist in the implementation of the review's final report. Curiously, the Board did not agree until February 2005.

In 2004, the Toronto auditor general issued a detailed follow-up report that found significant non-compliance with a number of the October 1999 report's recommendations.¹³⁹ For example, the auditor found that, despite previous recommendations, the sexual assault squad's website had not been amended to provide information of use to victims. The auditor noted: "We have been advised that the reason for the lack of any substantive change has

¹³⁶ (1998), 39 OR (3d) 487 (Ont Ct (Gen Div)).

¹³⁷ This system is discussed in Chapter 4.

¹³⁸ Jeffrey Griffiths, "Review of the Investigation of Sexual Assaults, Toronto Police Service" (Toronto: Toronto Audit Services, October 1999), 20–21, Recommendation 56, 16.

¹³⁹ Jeffrey Griffiths, "The Auditor General's Follow-Up Review on the October 1999 Report," October 2004.

been due to inadequate time and resources.”¹⁴⁰

The 2004 follow-up noted that the Board had not yet approved consultation with the “woman’s anti-violence community.” It indicated that the auditor did not have the power to order such consultations. At the same time, the auditor wisely observed that the anti-violence community had “expertise” that “would be of significant benefit to those women who have had the misfortune to be the subject of the crime of sexual assault.”¹⁴¹

The sexual assault audit steering committee, designed to help implement the auditor’s recommendations, was composed of an equal number of senior police and women with expertise respecting sexual violence. Some funding was made available to pay the community experts for their time. The committee’s terms of references recognized the need to pay attention to the “class, race / cultural identity, ethnicity, faith / religion, sexual identity, first language, and previous relationship with the justice system” of women. The terms of reference also stated that the committee would “focus on marginalized groups, such as homeless women, women with disabilities, institutionalized women, psychiatrized women, sex workers and women of colour.”¹⁴²

Three members of the committee, Jane Doe (the successful plaintiff where the Service was found liable for not issuing warnings), Amanda Dale, and Beverly Bain, wrote about their experience. They noted that, as members of the steering committee, they were able to attend training sessions on sexual assault. They then recommended that the training sessions should be redesigned “within a gendered and anti-racist focus.” Unfortunately, the Service did not implement these and other recommendations before the steering committee was disbanded at the end of 2007. It appears that the Service at that time was not responsive to the input from women with lived experience respecting sexual violence. I hope the Service would be more receptive to such community input and expertise today.

Doe, Dale, and Bain also wrote that they attempted to coordinate and share information with the community consultative committees. They reported this call “went unanswered.” They concluded:

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Jane Doe, Amanda Dale, and Beverly Bain, “A New Chapter in Feminist Organizing: The Sexual Assault Audit Steering Committee,” (2009/2010) 28(1) *Canadian Woman Studies* 7.

A silo of TPSB/TPS community committees exist, charged to examine racism, homophobia, domestic violence, each deliberately distanced from the other, functioning separately, none with the authority and ownership that is critical to effect civil engagement.¹⁴³

Jane Doe, Amanda Dale, and Beverly Bain reached the following conclusion about their involvement with the audit steering committee:

we left this historic process recognizing that the inflexibility of the structure of the Toronto Police Service and the Toronto Police Service Board will not allow the analysis or democratic civic engagement necessary to realize constructive change.¹⁴⁴

Liaison Officers

At present, there are 10 liaison officer positions within the Service. The Service defines the liaison role in the following manner:

- Act as a police resource with the identified communities to promote dialogue and understanding between the police and the communities;
- Maintain constant community outreach to create new trusting and meaningful relationships and partnerships with community stakeholders who have influence on the community as well as to maintain existing ones;
- Develop programs and initiatives to build trusting relationships with the community and youth; and
- Maintain and continue to develop new contacts and relationships with community leaders, business owners, ethnic media, religious institutions, government and political agencies.

Liaison officers are responsible for constant and visible community outreach. Their mandate is both to maintain existing relationships with community stakeholders and to create new trusting and meaningful

¹⁴³ Ibid, 11.

¹⁴⁴ Ibid, 11.

partnerships with community stakeholders who have influence in their communities. Liaison officers also have opportunities to develop contacts and relationships with community leaders, business owners, ethnic media, religious institutions, and government and political agencies. All of their community relationships are valuable for two-way communication. They are capable of contributing to an open and robust culture of communication between the Service and the communities and assisting investigations through the relationships they develop.

I heard a range of views about liaison officers. One officer shared with me that, in his view, the liaison officer model

is somewhat flawed because I could understand 15–20 years ago when you didn't have a lot of people from particular backgrounds working within the Service and so maybe you needed to pick a particular person to be a bridge between the community and the Service and help the Service understand what some of the issues between the community and the Service are.

This officer added: "It's very difficult when our community is so diverse to pick one person and say this person represents the community. You have to respect the fact that there's diversity within the diversity ... I think times have changed and we haven't evolved the nature of the position very much." For example, within the LGBTQ2S+ communities, the experiences of trans or two-spirit individuals may be vastly different from the experiences of a lesbian individual. It is perhaps unfair and certainly impractical to expect one liaison officer to be the single reference point for community members, and probably unrealistic for the Service to expect it. Some think that too much emphasis on the role of liaison officers may result in the impression that liaising with marginalized and vulnerable communities is to be done at a centralized and corporate level whereas it is clearly also the task of each and every officer.

The model of both the liaison officers and community consultative committees was formulated before the insights provided by intersectionality analysis, as I discuss in Chapter 12, revealed the overlapping nature and complexity of the lived experience of discrimination. Perfect mirror representation is impossible if the insights of intersectionality are taken seriously. These well-intended and important initiatives emerged from an era

when Toronto was first recognizing its diversity. The insights of intersectionality suggest that Toronto's diversity is complex and that the most vulnerable frequently experience multiple forms of discrimination. I was told that both liaison officers and consultative committees tended to work in "silos" and there was a need for more information exchange especially because the LGBTQ2S+ community is within every community.

I interviewed senior leaders in the Service who seemed prepared to reconsider the role of liaison officers. One senior command member told me that the liaison officer "should be more of a coordinator position to connect with officers throughout the city of that background." She recognized that the police "cannot rely on one person" to build better relations because "that's not true trust in a community. That's like you know, trying to deal with a wig and you've got one strand of hair ... So, I would like to see the role shift to more of a coordinator and connector than the person doing all the liaising."

Another senior command officer similarly told me that, after attending a meeting at The 519, she became convinced that it was not fair to have one person tasked to be liaison to the entire LGBTQ2S+ communities. She explained: "The community is extended all over the city. It is not just the village ... One liaison cannot be available 24/7." She stressed that community engagement was a much broader responsibility because "it cannot just be one person to 'check a box' and say the task is complete." A more comprehensive approach might lead to liaison officers in each of the divisions.

Another officer agreed. He suggested that "the LGBTQ2S+ liaison is too large a position for a single person to take on without setting them up for failure." He proposed the creation of a broader "Engagement Team." A former LGBTQ2S+ liaison officer admitted the

previous Unit Commander wanted me to have an office out of 51 and the struggle with that is I'm not exclusive to 51. Yes, the identifiable Village is there but the community is across the city. Optically, it would look like I'm only dedicated to the community in 51 Division. ... A lot of the community members outside the downtown core get discounted all the time. And that's the frustrating part. Their voices are not being heard on any of this, from Pride to investigations.

I return to the appropriate role of liaison officers in Chapter 15.

Youth in Policing Initiative

In 2012, the Youth in Policing Initiative afterschool program was created to provide support and employment opportunities for youth between the ages of 15 and 18 who reside in “priority identified neighbourhoods” in Toronto. Although the initiative gives youth an opportunity to develop job skills, it is also intended to foster positive partnerships between communities and the Service.

The mandate of the Youth in Policing Initiative is:

- to promote youth participation in and exposure to the work environment through diverse, educational, and productive work assignments;
- to enhance the link between the police and the neighbourhoods the police serve by selecting youth reflecting Toronto’s cultural diversity;
- to provide a safe and positive employment opportunity; and
- to promote the Service as an employer of choice.

Neighbourhood Community Officer Program

The Neighbourhood Community Officer Program (NCOP) stands out as one of the Service’s greatest successes. This initiative has made considerable progress in improving community relations. I can say this with confidence because it is the only example of the Service’s community initiatives I have seen that has had an independent evaluation based on clear and measurable goals.

The NCOP was introduced in 2013 with a mandate for officers to build relationships and solve problems within the communities they serve. The program was initiated as a community engagement strategy and anti-violence intervention within selected neighbourhoods. Using data from the crime and disorder management reports, divisional command management teams identified one or two neighbourhoods within their division that would benefit from a heightened police presence. Neighbourhood community officers were assigned to these areas. The program objectives included building relationships with residents, increasing residents’ trust of members of the Service, gaining insights into community needs, and improving intelligence about local crime

with the hope of reducing crime.¹⁴⁵

A research team at Humber College in a March 2020 report concluded that the NCOP has been an overall success, with strong support from local communities.¹⁴⁶ Based on their literature review, the researchers noted that such programs are often piloted in “the most difficult neighbourhoods to implement collaborative policing model due to their mistrust and strained relationships with police.”¹⁴⁷ The report described intense neighbourhood policing programs as part of an international trend away from seeing police as crime fighters and warriors to guardians and people who could be partners in providing for community safety. Such neighbourhood policing programs are a means to make the police more accountable to local communities and to build better relations and trust with those communities.

The Humber College report found that there is an overall consensus within both the Service and the community that the NCOP is working. This finding reflects that the neighbourhood police officers were selected “based on: (1) their strong interpersonal and conflict resolution skills, (2) their excellent performance evaluations, (3) their strong knowledge of community issues, and (4) their involvement in the community.”¹⁴⁸ The report also concluded:

There is consensus that the program is working in terms [of] developing and improving relations between community members and the [Toronto police], however a major theme is that these relationships take time.¹⁴⁹

The report recommended that the program needed to be publicized better both within and outside the Service.¹⁵⁰ I return to the issue of communication strategies in Chapter 15.

Currently, the Service has deployed neighbourhood community officers in neighbourhoods throughout many divisions. A particularly important part of the program is that the officers involved are now required to remain there

¹⁴⁵ Toronto Police Service, “Neighbourhood Policing Program Evaluation – Final Report,” 8.

¹⁴⁶ *Ibid.*, 89.

¹⁴⁷ *Ibid.*, 8.

¹⁴⁸ *Ibid.*, 11.

¹⁴⁹ Toronto Police Service, “2018.04.01 – The Way Forward Year in Review, Photos from Presentation,” 6.

¹⁵⁰ *Ibid.*, 95.

for a minimum of four years. The original requirement was for a two-year deployment. However, the feedback from communities and officers, and the researchers' recommendations, resulted in the decision that a four-year placement is required. This additional time is needed to build and maintain relationships. This is an excellent example of the ability of the Service to adjust its programs in response to community and front-line officer requests and also in response research findings.

I heard from a number of officers in the program. They noted that they themselves recommended that officers stay in the program for longer than an original two-year assignment in order to maintain "relationships and social capital." They noted that senior management in the Service eventually came to accept the need for longer-term assignments when the Humber College study recommended it. One officer told me that "higher-ups ... were not listening to them because they were constables, but put Humber on it and the higher-ups listened."

There were also some indications of resistance to this program tied to traditional police culture that stresses policing as a form of crime fighting. One neighbourhood community police officer told researchers that some senior management and officers "think this program is a waste of time and we should be out there constantly arresting people and responding to radio calls." Another said, "as the program is looked down upon, it discourages us from doing what we need to do to make our neighbourhoods safe." Others worried that participation in the program might hurt their chance of promotion. These comments are of great concern. Senior leadership in the Service needs to both promote and champion the successful neighbourhood program. In fairness, in interviews with the Review, a number of senior officers expressed strong support for the program.

Improvements in community relations are fragile. One officer indicated that it takes only one bad interaction with the police and "the relationship is diminished and then it gets spread across the community that the officer did this, and then they blanket all officers again. It's a never-ending story." This reaffirms that all within the Service must commit to the central mission of improving community relationships.

Positive views about the NCOP were also expressed by those outside the Service. A specialist in working with LGBTQ2S+ communities wisely told

me that the Service “is the victim of too big of a city, because it’s all about relationships.” I also heard from a representative of an organization that works with the homeless, who said her organization makes a conscious decision not to call 911 because of the aggressive and insensitive approach the Service provided when that number was used in the past. She added the important and promising caveat, however, that they do phone neighbourhood community policing officers who have provided their personal cell numbers. This service provider finds neighbourhood community officers much better in dealing with members of vulnerable communities than patrol officers who responded to 911 calls. She elaborated:

We have seen some police officers in the neighbourhood who are around more often. You actually see people talking to them. It boils down to relationship building. You don’t see them as someone who’s just law enforcement.

This suggests that neighbourhood community officers are in a position to develop relationships and understanding of vulnerable members of the communities they police.

One particular officer, Sergeant Henry Dyck, was singled out for praise by many of those I interviewed from the LGBTQ2S+ communities. Sergeant Dyck advocated to his commanders for the creation of a neighbourhood program for the Church / Wellesley Village community. The unit commander of 51 Division chose him to supervise the program and to select appropriate personnel. Sergeant Dyck has supervised four officers in the Village and St. James Town area since December 2017. He now also supervises eight officers in the Yonge Street area. He explained to me:

What you want is eventually for people to know exactly what’s going on in the community and if a neighbourhood officer walks in the door and sees ten people to know which one of those ten people actually needs to be arrested by police and which other nine people may need various kinds of help or assistance or perhaps none at all. And when you don’t know people you don’t have the ability to do that. And when you don’t know people you don’t know what the problems are in that community. So really, it’s an

exercise in becoming a part of the community and knowing the community and working alongside and with the community to try and make the community a better place to live, work, and be.

He further explained that people who are otherwise reluctant to call 911 will talk to neighbourhood police officers who they see on a daily basis. He told me of a case involving a serial sexual predator:

Because of the relationships that we have now built there we were able to get right away all of the relevant information we needed, we were able to get victims and witnesses that we never would have gotten before, we were able to wrap that up and get a conviction quite quickly and provide support all the while to the victims.

He also explained that the investigations and arrests done by neighbourhood community officers are part of a “package deal” done in conjunction with building better relations in the community. He also noted that neighbourhood police officers are frequently consulted by other investigators and should be aware of investigations in their geographical area.

With respect to the role that neighbourhood police officers could play in missing person investigations, Sergeant Dyck explained:

By being embedded in the community and knowing whom the homeless population is within our community, knowing who the stakeholders are in our community who feel comfortable coming to us and saying, “Hey so and so is missing.” And we know who they’re talking about. We know who they are. I think that that provides a bit more of a social safety net that probably doesn’t exist when you don’t have – people that answer primary response calls may come into contact with one person and they’re in contact with that person and then they’re gone, they may never see them again. They don’t have any vested interest in that particular geographical area or neighbourhood because their job is to try and clear off the twenty or thirty outstanding calls.

With respect to relations with the LGBTQ2S+ community, Sergeant Dyck admits that it is natural, “if you’ve had nothing but bad experiences, even

if your bad experience was twenty years ago, but you've never had a positive experience with a police officer since then, then of course your view towards police is going to be negative." He went on to say that

it takes time to build those relationships. What I can say is that even in the very small period of time that we've had this office moving we've seen a change in the nature of the relationship between the community and those specific officers.

One officer contrasted the "corporate" mission of the LGBTQ2S+ liaison officer with the more grassroots role played by neighbourhood community officers. The officer noted that neighbourhood police officers sometimes spend out of their own pocket because of a lack of budget.

The NCOP is promising both in developing relations and in subjecting itself to independent evaluation on the basis of clear goals of increasing community satisfaction with the police and reducing crime and calls for service. I return to it in Chapter 15.

FOCUS

Furthering Our Communities by Uniting Services, or FOCUS, is a joint collaboration led by the Community Partnerships and Engagement Unit, the City of Toronto, and United Way Toronto.¹⁵¹ This initiative brings together appropriate community agencies to provide holistic solutions when vulnerable individuals, families, and places are experiencing heightened levels of risk.

In its weekly meetings the situation table (FOCUS table) identifies individuals, groups, and places that have an extremely high probability of harm or victimization.¹⁵² Currently, there are four FOCUS tables in Toronto. They use multiple approaches to provide the communities they serve with the best possible interventions to respond to the high-level risks they are experiencing.

¹⁵¹ City of Toronto, "FOCUS Toronto," at <https://www.toronto.ca/community-people/public-safety-alerts/community-safety-programs/focus-toronto/>. See also Sgt. Brian Smith, Toronto Police Service, "FOCUS Situation Tables," at https://hsjcc.on.ca/wp-content/uploads/NY-HSJCC-Presentation-FOCUS_Human-Services-and-Justice-Co-ordinating-Committee-Jan-20182.pdf.

¹⁵² City of Toronto, "FOCUS Toronto," at <https://www.toronto.ca/community-people/public-safety-alerts/community-safety-programs/focus-toronto/>.

Race-Based Data Collection

The provincial *Anti-Racism Act, 2017*,¹⁵³ mandates that organizations in the public sector, specifically child welfare, education, and justice, collect race-based data for the purpose of eliminating systemic racism and advancing racial equity.

The Service began data collection on January 1, 2020.¹⁵⁴ Earlier, on September 19, 2019, the Board introduced a policy on race-based data collection, the purposes of which are to

- identify, monitor, and eliminate potential systemic racism and racial bias;
- identify equitable service delivery that can contribute to understanding and best practice;
- advance the delivery of police services that advance the fair treatment of every person by supporting the development of equitable policies, procedures, services, and initiatives;
- preserve the dignity of individuals and communities; and
- enhance trend analysis, professional development, and public accountability.¹⁵⁵

In the next two sections, I explore two service-wide initiatives that are not in the sole purview of the Community, Partnerships and Engagement Unit – The Way Forward and recommendations arising from the Kodak-Waterman settlement.¹⁵⁶

The Way Forward

In the spirit of modernizing the Service, the Board formed a task force to determine how best to transform its structure and service delivery with the object of delivering more effective and efficient policing. The task force began its work in February 2016. An interim report was issued in June 2016 and a final report, *Action Plan: The Way Forward* (the Action Plan), was released in

¹⁵³ *Anti-Racism Act, 2017*, SO 2017, c 15.

¹⁵⁴ Toronto Police Service, “Race-Based Data,” at <https://www.torontopolice.on.ca/race-based-data/>.

¹⁵⁵ Toronto Police Services Board, “Race-Based Data Collection, Analysis and Public Reporting Policy” (September 19, 2019), 2.

¹⁵⁶ The applicant is a trans man, Boyd Kodak. His birth name was Jan Joseph Waterman and the case is properly *Waterman v TPSB*.

January 2017.¹⁵⁷ The Action Plan proposed 32 recommendations on modernizing policing within the Service.¹⁵⁸

The Service conducted public consultations before releasing its interim report, including 10 public consultation meetings with over five hundred people in attendance. The task force began its work with initial input from Service members. It subsequently held consultation days with shared-services organizations, the commercial sector, and the academic community.¹⁵⁹

Below, I discuss recommendations relevant to the Service's relationship building.

- *Recommendation 3: disband TAVIS*

In 2006, The Toronto Anti-Violence Intervention Strategy (TAVIS) was introduced to respond to a spike in gun violence in the Toronto area. Its legacy remains controversial. The program impacted neighbourhoods with higher levels of violence in significant ways. There was an increase in police presence and an increase in the rate of carding.¹⁶⁰ In addition, TAVIS disproportionately impacted racialized communities, ultimately straining their relationships with the Service.¹⁶¹ Although the program may have produced short-term results, the Service acknowledged that the program could not be sustained because it was not based on building long-term, quality relationships.¹⁶² The Action Plan included a recommendation to disband TAVIS. This recommendation was implemented in January 2017.¹⁶³

¹⁵⁷ Toronto Police Service, "Action Plan: The Way Forward" (January 2017), 4, at: <https://www.torontopolice.on.ca/TheWayForward/files/executive-summary.pdf>.

¹⁵⁸ Toronto Police Service, "Way Forward, Update – July 2020," 1.

¹⁵⁹ Toronto Police Service, "Action Plan: The Way Forward" 4, at <https://www.torontopolice.on.ca/TheWayForward/files/executive-summary.pdf>.

¹⁶⁰ Jim Rankin and Patty Winsa, "TAVIS police unit in eye of storm," *Toronto Star* (September 27, 2013), at https://www.thestar.com/news/gta/known2013/09/27/tavis_police_unit_in_eye_of_the_storm.html.

¹⁶¹ Wendy Gillis, "Experts warn against return to policing that targets 'communities and not individuals,'" *Toronto Star* (July 2018), at <https://www.thestar.com/news/gta/2018/07/06/experts-warn-against-return-to-policing-that-targets-communities-and-not-individuals.html>.

¹⁶² Toronto Police Service, "Action Plan: The Way Forward," 4. <https://www.torontopolice.on.ca/TheWayForward/files/executive-summary.pdf>.

¹⁶³ Toronto Police Service, "Way Forward Update – July 2020," 5.

- *Recommendation 18: A moratorium on hiring and promotion*
The Service implemented a three-year moratorium on hiring and promotion beginning in February 2018. The moratorium was intended to enable the Service to change outdated models and practices to make better use of existing officers and realign its resources to support a neighbourhood-centred approach to policing.¹⁶⁴ The moratorium would also give the Service an opportunity to transform its training of new recruits, including ensuring that new recruits would be required to begin their careers as neighbourhood officers.¹⁶⁵
- *Recommendation 24: A comprehensive approach to culture change that considers all the ways in which culture is embedded in the organization*
A report addressed this recommendation – the Toronto Police Service: Organizational Culture Assessment, 2018. One of the report’s findings captures the importance of the Service’s internal culture to its ability to relate to the communities.

By improving how [Toronto police] Members perceive their culture, they are more likely to treat the public and other external stakeholders in a more consistently positive way.¹⁶⁶

The Service has since outlined its plan for a change of organizational culture. The 2020–2023 People and Culture Plan was to be presented to the Board in September 2020, marking the completion of this recommendation.¹⁶⁷ Initiatives following from the plan are discussed in greater detail below.

- *Recommendation 28: Establishing new pathways of accountability*
The Service recommended establishing pathways of accountability that are peer-to-peer between officers and their leaders, and between the Service and the public. Work on this recommendation will commence once

¹⁶⁴ Toronto Police Service, “Action Plan: The Way Forward,” 21.

¹⁶⁵ Ibid. <https://www.torontopolice.on.ca/TheWayForward/files/executive-summary.pdf>.

¹⁶⁶ MNP, “Toronto Police Service: Organizational Culture Assessment 2018,” at <https://www.torontopolice.on.ca/TheWayForward/files/organizational-culture-assessment-report.pdf>.

¹⁶⁷ Toronto Police Service, “Way Forward Update – July 2020,” 26.

appropriate resources have been secured.¹⁶⁸

In my view, it is most unfortunate that, in the interim, progress is otherwise stalled.

- Recommendation 33: Neighbourhood Community Officer Program*
The Action Plan established a renewed commitment to the NCOP. Following recommendation 33, enhancements to the program were implemented in 34 neighbourhoods. Officers were given a four-day training in alternative dispute resolution. Humber College completed an evaluation of the NCOP. The program also saw the addition of four dedicated neighbourhood community officer sergeants. Internal NCOP awareness lectures were delivered to communications operators and parking enforcement. Moving forward, the Service intends to deliver virtual NCOP supervisory training and social media training. The Service will continue to deliver
- Additional Recommendation 1: Ongoing public engagement*
The Action Plan included a recommendation for a broad and inclusive public engagement strategy. The strategy should allow individual residents, existing community police liaison committees, chief's consultative committees, community groups and agencies, youth workers, and youth from different neighbourhoods to participate.

I am troubled by the fact that ongoing public engagement was added after the release of *The Way Forward* report. I agree with the views I heard from both community members and senior police officers that ongoing public engagement should have been a top priority – right from the start.

Town Halls

The Service held virtual town halls that reached 17,000 Toronto residents. Outreach also included a survey and discussions about the Service's culture.

I have heard conflicting views about the utility of town halls as a means

¹⁶⁸ Toronto Police Service, "Way Forward Update – July 2020," 30.

of community engagement. I was told of a town hall at The 519 that was positive because it was hosted by an organization that provides services to LGBTQ2S+ communities. Negative aspects, however, were that those representing the Service were “huddled at the front of the room” and apparently handed out pamphlets about what to do if you are arrested.

I heard many endorsements of town halls, however, and it is clear that they are important in providing feedback for the neighbourhood community officer program. A senior command officer explained that, at town halls, “people felt heard, they felt validated ... you’re talking about three major cases and without anyone showing up, they just think that we don’t care.” I also heard that they work better if police participants wear civilian clothes and if some discussions are held in smaller groups arranged in a circle to emphasize the equality of all participants. These strike me as excellent practices. Ongoing public engagement is crucial to measuring whether the goals of *The Way Forward* are being achieved – especially as these goals relate to improving relationships between members of the Service and communities. Engaging with diverse community members enhances transparency and accountability and gives communities a needed voice in police modernization.

The Kodak-Waterman Settlement Agreement

As discussed earlier in this chapter, the Service has historically fallen short in its relationship-building with the trans community and consequently its ability to serve and protect members of that particularly marginalized and vulnerable subset of LGBTQ2S+ communities. In 2015, Boyd Kodak, a trans man, filed a human rights complaint against the Board alleging discriminatory conduct on the part of certain officers in the Service. He alleged that he was discriminated against based on gender identity and expression by both the Service and the Ministry of Community Safety and Correctional Services. His allegations included that he was placed in the women’s sections of both police and prison facilities, had his gender-affirming articles confiscated, was required to wear women's institutional clothing in the correctional facility, at court, and when he was released, and that he was exposed to harassment.¹⁶⁹

¹⁶⁹ Ontario Human Rights Commission, “Summary: Waterman v. Toronto Police,” at <http://www.ohrc.on.ca/en/summary-waterman-v-toronto-police>. See also, Toronto Police Service, “Gender Diversity & Trans Inclusion Project,” at <http://www.torontopolice.on.ca/trans-inclusion-project/>.

This occurred despite a Board policy first approved in 2006 and amended in 2009 and 2010 that provides:

It is the policy of the Toronto Police Services Board that the Chief of Police will ensure that when dealing with transgender or transsexual individuals, officers will be sensitive to human rights, privacy issues and the stated preference as to gender identification of the individual being searched, and will use gender-appropriate pronouns, without jeopardizing officer safety and the need to search.¹⁷⁰

Mr. Kodak and the Ontario Human Rights Commission sought systemic remedies requiring the Service to revise its practices and policies to respect the rights and specific needs and circumstances of trans individuals. The settlement in 2016 required Toronto police to

- Retain an expert on gender identity issues and policing, mutually agreed to by the Service and the OHRC
- Conduct extensive consultation with the trans community about how the Service should adjust its practices, deliver training, and monitor the implementation of new policies and procedures,
- Develop and publicly post information about written policies, procedures, orders and forms that address how the rights of trans individuals should

¹⁷⁰ Toronto Police Service Board, *Search and Detention of Transgender People*, June 15, 2006, at <https://www.tpsb.ca/policies-by-laws/board-policies/send/5-board-policies/131-search-and-detention-of-transgender-people>. On the same day in 2006, the Board enacted a policy in response to a settlement of a human rights about the Pussy Palace raid of 2000 that provides:

1. The Chief of Police will ensure that police officers in attendance at locations occupied solely by women in a state of partial or complete undress will conduct themselves in a manner consistent with human rights principles, giving consideration, in particular, to issues of gender sensitivity and women's right to privacy; and
2. The Chief of Police will develop and maintain procedures and processes for the attendance of officers at locations occupied solely by women in a state of partial or complete undress, having regard to the principles as articulated in this policy.

Toronto Police Service Board, *Police Attendance at Locations Occupied by Women in a State of Partial or Complete Undress*, June 15, 2006, at <https://www.tpsb.ca/policies-by-laws/board-policies/send/5-board-policies/126-women-in-a-state-of-partial-or-complete-undress>.

be respected during interactions with the police, including:

- Respecting trans individuals' self-identification (name, pronouns, and gender)
 - Lodging trans individuals in accordance with their self-identified gender identity, to the point of undue hardship
 - Conducting respectful searches (including the handling of gender-affirming items and prosthetics)
 - Allowing trans individuals to have clothing and/or personal items that support their gender identity and expression while in custody, to the point of undue hardship
 - Protecting trans individuals from harassment.
- Provide training to all police officers and court security staff on the new Toronto police policies and procedures
 - Give the OHRC an opportunity to review and comment on the new policies, procedures and training materials
 - Develop a plan for ongoing monitoring, evaluation and review of the effectiveness of the new policies, procedures and training related to trans persons, including the option of human rights-based data collection.¹⁷¹

The Service initiated the Gender Diversity and Trans Inclusion Project, hiring an expert to take its lead. The Service launched a website describing the Kodak-Waterman settlement and Gender Diversity and Trans Inclusion Project and outlining broadly its goals and plans.¹⁷² The website contains an anonymous survey, but participation has been meagre.

On January 21, 2020, the Service engaged with members of the public through a two-hour forum at The 519 community centre. The forum was attended by 20 to 25 members. At this meeting, the Service made presentations about the Equity, Inclusion and Human Rights Unit as well as the Kodak-Waterman settlement. Consultation was sought on search of persons, lodging, communication, and training.

On February 4, 2020, a second full-day consultation was held. The

¹⁷¹ Ontario Human Rights Commission, "Summary: Waterman v. Toronto Police," at <http://www.ohrc.on.ca/en/summary-waterman-v-toronto-police>.

¹⁷² Toronto Police Service, "Gender Diversity & Trans Inclusion Project," at <http://www.torontopolice.on.ca/trans-inclusion-project/>.

forum was attended by eight community members including representatives from The 519, Rainbow Health Ontario, Maggie's Toronto Sex Workers Action Project, and individuals from the public forum. The Service used the public consultation to vet recommendations and seek further input and additional recommendations. A four-page summary prepared by the expert consultant stressed "there is a significant distrust of TPS," influenced by factors such as consistent misgendering, lack of liaison officers at the divisional level, lack of web-based tools to provide information to the community about how they can expect to be treated by the police, the need for protection from harassment while in custody, and a lack of education about how "racism, sexism, anti-sex worker bias and transphobia intersect to increase vulnerability." Community members wanted the police to have more understanding and empathy.

In order to comply with the Kodak-Waterman settlement, two procedures and three Routine Orders have been updated but only after an extensive review of a variety of policies. The amendments range from updating language to gender neutral / inclusive, to more significant amendments of procedures relating to searches and lodging arrested individuals. A new standard of conduct provides:

Members of the Service are advised to comply with Standard of Conduct 1.9.2. Unit Commanders shall ensure all members under their command are made aware of and comply with the contents of this Order.

Members shall, in the performance of their duty, treat people of all gender identities and gender expressions, including trans and gender diverse individuals, with respect, courtesy, and consideration.

Members shall comply with Standards of Conduct 1.9.2 in their interactions, including but not limited to the following:

- (a) respect the rights of all individuals to be addressed by the name, pronoun, and gender that corresponds to their gender identity;
- (b) respect the rights of all individuals to express their self-identified gender, including through access to facilities, clothing and/or other personal items to support their gender identity and expression;
- (c) respect privacy and confidentiality relating to a person's gender identity and expression;

- (d) conduct themselves in a manner that is inclusive and respectful of trans and gender diverse individuals and communities.

Members shall not:

- (a) knowingly, intentionally, or repeatedly misgender any individual;
- (b) use derogatory, demeaning, discriminatory, abusive, or offensive language relating to gender identity or expression;
- (c) engage in gender-biased policing, which includes stereotyping based on gender identity or expression, or treating an individual's gender identity or expression as a basis for suspicion;
- (d) disclose an individual's trans or gender diverse identity without that individual's consent, except where it is relevant and necessary for the performance of the member's duty, or there is an immediate risk to health and safety.¹⁷³

I hope this will address the type of discriminatory conduct that led to the human rights settlement and that had already been addressed by a Board policy in existence since 2006. I would add that such a policy change needs to be clearly communicated both to Service members and to members of the trans communities if it is to change police behaviour and lead to improved relations.

The Service created a guide specific to members of the trans communities: *A Guide to Police Services in Toronto: Dedicated to Our Trans Communities*.¹⁷⁴ The guide advises on how to report a crime and what will happen after a crime is reported with attention to specific issues that may be of concern to trans individuals. The guide also includes a list of resources for trans community members. The guide is a positive development but it contains some potentially problematic features. Although it mentions that police officers will not generally ask about immigration status, it does warn that they will do so if they have a “bona fide reason.” As I explain in Chapter 15, there continue to be barriers to reporting based on precarious immigration status.

I acknowledge that the Service has taken some steps to implement the Kodak-Waterman settlement. However, I regret that either litigation or a human rights complaint was necessary to motivate the initiative. I must repeat that the Ontario *Human Rights Code* has prohibited discrimination on the basis

¹⁷³ New Standard of Conduct 1.9.2 – Respect for Gender Diversity and Trans-Inclusive Policing.

¹⁷⁴ Toronto Police Service, “A Guide to Police Services in Toronto: Dedicated to Our Trans Communities,” at https://www.torontopolice.on.ca/publications/files/guide_to_police_services_trans_community.pdf.

of gender identity and gender expression since 2012. Toronto police policies should have reflected this development and the duty of accommodation that it places on the Service since that time. The Service needs to include human rights developments more proactively into its policies and procedures if it is to improve relations with those disadvantaged groups protected from discrimination under the Code.

It is obvious that change happens slowly in the Service. That is to be expected in any large organization. And, I do recognize that this delay is, in part, related to the commendable step of having face-to-face engagements with members of the trans community that fortunately took place in early 2020 before the pandemic. Nevertheless, the settlement was reached in 2016. It is also particularly troubling that, both in this case and in the response to the Pussy Palace raid that helped generate a Board policy in 2006 about the rights of trans individuals and their gender preference, it took a human rights complaint and settlement to bring recognition to fairly obvious cases of discriminatory conduct.

Engaging Leadership

The Service cannot leave the important, challenging, and complex responsibility of equity and relationship building to one person or one unit in its organization. Indeed, the Service has recently moved toward a model in which leadership is engaged in the various initiatives described above. Senior command officers have been assigned to equity portfolios. I applaud this approach – an approach that ensures that equity initiatives are embedded within the Service’s leadership.

The Equity, Human Rights and Inclusion Unit

The way in which the Service serves its members internally is inextricably linked to the quality of services provided to the public and its ability to repair relationships with communities. This point is powerfully made by retired Supreme Court of Canada Justice Michel Bastarache’s recent report detailing sexual harassment within the RCMP.¹⁷⁵ To state the obvious, a police service

¹⁷⁵ *Broken Lives, Broken Dreams: The Devastating Effects of Sexual Harassment On Women in the RCMP: Final Report on the Implementation of the Merlo Davidson Settlement Agreement* (Independent Assessor Michel Bastarache) (November 11, 2020), at <https://www.rcmp->

that exposes its members to sexism, racism, homophobia, transphobia, or other forms of discrimination cannot be expected to act in a discrimination-free manner in dealing with the public. This is another manifestation of one of Robert Peel's principles supporting the creation of the London Metropolitan Police as a civilian organization. As Peel stated, "the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence."

I turn to the initiatives the Service has taken internally to improve equity and inclusion through the Equity, Human Rights and Inclusion Unit located in the human resources command. The Equity, Human Rights and Inclusion Unit was launched as part of *The Way Forward* initiative with the intention to create a healthy, safe, and inclusive work environment. The unit is designed to ensure equity internally within the Service whereas the Community Partnerships and Engagement Unit has as one of its goals that the Service respond to communities in an equitable and discrimination-free manner. Thus, the two units are different sides of the same equity coin. Nevertheless, they are located in different buildings and are under different commands. I return in Chapter 15 to the issue of how to maximize the synergies between these two units.

Below are some of the relevant initiatives arising from the Equity, Human Rights and Inclusion Unit.

The People's Plan

In 2017, the Service introduced its first multi-year human resource strategy – the people's plan. The intention is to transform the way the Service supports, develops, and manages its members. The people's plan is seen as part of a larger undertaking to modernize the Service.¹⁷⁶ The human resources command consists of two "pillars," people and culture, and corporate risk management.

I will focus on the people and culture pillar. Working with industry experts, the Service introduced the people and culture pillar to improve the experiences of its members at all levels of human resources. The objectives include shifting human resources from being reactive and transactional to

grc.gc.ca/wam/media/4773/original/8032a32ad5dd014db5b135ce3753934d.pdf.

¹⁷⁶ *Toronto Police Service*, "TPS – People Plan 2020," 2.

being proactive and meeting immediate technical needs, when asked. There is a wider goal to modernize human resources and drive organizational culture change across the Service.

The Service developed competencies and core values to be integrated in all “people programs.” To develop these core values, the Service conducted 15 focus groups with stakeholders at all levels and “strategic interviews” with internal and external leaders. These values are:

- “Service at our core”: members should respect and uphold rights and freedoms of all people in all interactions, free from bias or stereotype, seek to understand and help others by making a difference and asking ourselves, “Have I done all that I can do?”
- “Do the right thing”: members should act professionally, with integrity and without prejudice, even in the most challenging circumstances. Members should also hold each other accountable.
- “Connect with compassion”: members should treat all people with empathy, respect, equity, and dignity.
- “Reflect and grow”: members should recognize that they do not have all the answers. Members are encouraged to seek and act on input and feedback from communities and colleagues.

Between 2020 and 2023, the Service hopes to continue developing a service-wide equity strategy and develop and integrate equity principles into how the Service operates. All interactions, actions, and decisions should be grounded in equity, inclusion, and fairness, promoting the inherent dignity of all members.

Improving Access to Opportunities Within the Service

The Service received feedback from its members that its promotion process was neither transparent nor accessible. Job postings weren’t necessarily made available service-wide. With the aim of improving transparency and opportunities to all members, the Service has indicated it is implementing a new promotion process that will post all jobs service-wide. Over the next three years, the Service will commit to improving the capacity of its internal

recruiting system.

In the same spirit, the Service intends to expand its mentorship program. Current mentorship programs exist for women in the sergeant and staff sergeant levels and for civilian supervisors. These programs garnered positive feedback. The Service hopes to move beyond the test stage and expand its program to all members. Members may enroll as mentees and mentor, and they will be supported with resources and training.

Promoting Wellness

The Service has indicated that it is developing an organization-wide wellness strategy and framework. The goal is to deliver holistic wellness services to members entering the wellness system. The Service also has a Wellness Unit.

Addressing Workplace Harassment

The people's plan also lists an objective to improve how the Service addresses workplace harassment and discrimination. This will include hosting a harassment symposium and contracting third-party experts to review workplace culture and processes relating to harassment and discrimination. The Bastarache report on the RCMP mentioned above underlines the importance of accountability for harassment and discriminatory conduct within any police organization.

Internal Support Networks

The Service has seven internal support networks. They represent members who are Black, East Asian, LGBTQ2S+, No Boundaries (with a focus on disabilities), South Asian, women, and those living with cancer. These networks are peer-to-peer support groups, reflecting different communities among members.

The Service has advised that it intends to strengthen internal support networks moving forward. Beginning in 2020, support network participants assisted with hiring and recruiting efforts, as well as working with new recruits. Participants help organizational leadership to understand the experiences of their members on the frontlines. The Service aims to meaningfully engage participants. In Chapter 15, I return to the important and constructive role I believe such internal support networks could play in building better relations

with the LGBTQ2S+, Black, and other marginalized and vulnerable communities going forward.

Relationship Building in Other Jurisdictions

Police services elsewhere are facing similar challenges relating to marginalized and vulnerable communities. The core of these challenges is lack of trust.

The Ontario Provincial Police's Approach to Community Relations Community Mobilization and Engagement

The approach of the Ontario Provincial Police (OPP) is based on the provincial mobilization and engagement model of community policing. The model was developed for police services by the then Ministry of Community Safety and Correctional Services and the Ontario Association of Chiefs of Police in 2010. It highlights the importance of collaboration between police and community members. It is built on the philosophy that, if you increase community safety in partnership with the community, you will reduce crime, victimization, and social disorder.

There are three pillars to the model.

1. Engagement

The engagement pillar recognizes the need for collaboration with community members and the creation of meaningful partnerships.

2. Education

Under this pillar, police are to join with local community partners to share crime data, situational crime prevention measures, and media releases. It also features town hall meetings.

3. Enforcement

This pillar includes targeted enforcement and initiating problem-solving strategies in partnership with communities and agencies that have mandates to address the underlying issues.¹⁷⁷

¹⁷⁷ <https://www.opp.ca/index.php?lng=en&id=115&entryid=56b7979b8f94ac0d5c28d174>.

The role of police in this model is to prevent crime and to encourage meaningful citizen engagement and public education. The community's role is to be an active listener and bring community concerns forward to police.¹⁷⁸ In the OPP's view, the community is essential to prevent crime and to fight crime. The key ingredient to community safety and well-being is building strong relationships between communities and police.¹⁷⁹

Indigenous Engagement Circles

Beginning in 2018, OPP senior command and the Indigenous Youth Advisory Circle began meeting with the re-established Indigenous Advisory Circle. The Indigenous Engagement Circle is composed of Indigenous Peoples from across Ontario. These circles facilitate dialogue needed to build trust and respectful relationships and promote communication between the police and members of Indigenous communities in Ontario. Police and Indigenous community members may exchange perspectives on how to improve programs, policies, and practices affecting Indigenous Peoples and communities in Ontario.

I also heard from those who supervise the provincial liaison team that is part of the Indigenous Policing Bureau. They have 25 full-time dedicated officers and another 74 who serve in a part-time liaison role. All of these liaison officers receive special education that ends in an exam. While on duty, they are provided with time to make community contacts and fill in detailed reports on such contacts. On a per capita basis, the OPP has made a more extensive investment in community liaison than the Service in terms of specialized education and in placing liaison officers in the divisions. In Chapter 15, I return to this issue and the potential role for officers who have both liaison and other policing duties.

The OPP, like most police services, has to deal with distrust caused by past events. For the OPP, Ipperwash was one such event. I heard that the best strategy is to listen to the community, when appropriate, apologize for past mistakes, and pursue programs that demonstrate a tangible commitment to not repeat those mistakes. The investment in many liaison officers as part of the Indigenous Policing Bureau reflects concrete responses to Ipperwash and attempts to improve relations between the OPP and Indigenous communities.

¹⁷⁸ <https://www.brant.ca/en/resident-services/resources/OPP/Townhall-Paris-May2019.pdf>, 13.

¹⁷⁹ Ibid, 12.

Another important development in the OPP is a week-long Indigenous education course with a focus on experiential learning that is available for all officers who police Indigenous communities and generally is held 14 times a year. I heard that there is an expectation that OPP officers will be familiar with the basics of the history of Indigenous Peoples in Canada. If the Service is to overcome the historical legacy of discriminatory police treatment of marginalized and vulnerable groups, they must know that history.

Seattle, Washington

I am fortunate to have had multiple interviews with people at all levels of the Seattle Police Department (SPD) during the course of my Review. The SPD is subject to a “consent decree” from 2012 initiated by the federal Department of Justice in the United States. In addition to addressing issues such as use of force and street stops, Seattle’s consent decree also addresses the need for meaningful community consultation of multiple and intersecting disadvantaged communities. It required the City of Seattle, within 90 days, to establish a Community Police Commission with a membership that “is representative of the many and diverse communities in Seattle, including members from each precinct of the City, police officer unions, faith communities, minority, ethnic, and other community organizations, and student or youth organizations.”¹⁸⁰ The commission was subsequently able to identify and document disproportionate enforcement of alcohol and marijuana offences against Indigenous and Black people as areas of particular concern in community involvement.¹⁸¹ The commission has 21 members, who live and work in Seattle and represent its diversity, as well as a staff of five.¹⁸²

Although initially started as part of the consent decree, the Community Police Commission was made permanent by city legislation in 2017 which recognizes that the commission is self-governing and functionally

¹⁸⁰ Ibid, para 6.

¹⁸¹ Seattle Community Police Commission, “Report & Recommendations Pursuant to SPD’s Disparate Impact Policy: Part I – Public Consumption,” April 15, 2016, at https://www.seattle.gov/Documents/Departments/CommunityPoliceCommission/CPC_Public_Consumption_Policy_Recommendations_Final_04-22-2016.pdf.

¹⁸² <https://www.seattle.gov/community-police-commission/about-us#commissioners>.

independent.¹⁸³ The 2017 law provides that:

Commissioners shall be representative of Seattle’s diverse population, drawn from different socio-economic backgrounds and racial and ethnic groups, including immigrant / refugee communities, and from the African-American, LGBTQ, youth, faith, business, and other communities reflecting the overall demographics of Seattle residents. Some shall represent or be knowledgeable of the issues of those who are limited-English speakers, homeless, or who have mental illness and substance abuse disorders.¹⁸⁴

The 21 members serve three-year terms with a maximum of three such terms. They can be removed only for cause and by vote of the Community Police Commission. One-third of the members are appointed by the city council; one-third by the mayor; and one-third by the commission itself. Each of the 21 commissioners represents one of seven council districts in the city of Seattle and “shall live, work, or have significant professional or civic ties in that district; demonstrate a deep understanding of neighbourhood issues; actively engage the people within the Council district on a regular basis; and regularly report back to CPC on community issues on law enforcement in the Council district.”¹⁸⁵ The structure of the Community Police Commission is designed to ensure that both intersecting and diverse communities are represented in a manner that respects the geography and different spatial communities of the city.

The commission is required to hold regular public meetings once a month and to form sub-groups as appropriate.¹⁸⁶ The commission reviews the implementation of various recommendations on matters such as recruiting, training, and policies. It is more limited with respect to discipline. It reviews closed disciplinary investigations only to identify “opportunities for systemic improvements.”¹⁸⁷ There is an executive director appointed by the commission

¹⁸³ City of Seattle Ordinance 125315, at https://www.seattle.gov/Documents/Departments/CommunityPoliceCommission/Ordinance_APPROVED_052217_ALL_STRIKEOUTS_REMOVED.pdf.

¹⁸⁴ *Ibid.*, at s.3.29.340 (B), at http://www.seattle.gov/Documents/Departments/CommunityPoliceCommission/CPC_Public_Consumption_Policy_Recommendations_Final_04-22-2016.pdf.

¹⁸⁵ *Ibid.*, s. 3.29.360 (B).

¹⁸⁶ *Ibid.*, s. 3.29.360 (D).

¹⁸⁷ *Ibid.*, s. 3.29.360 (H).

using merit-based criteria and approved by the city council, who also appoints staff for the commission. The commission has conducted a community outreach based on meeting over 3,400 community members.

In addition to the Community Police Commission, the Seattle police also has community liaison officers. One of them told the Review that some officers still “think community outreach is just fluff and they don’t understand it,” but, for “a criminal investigator, outreach is critically important to solving crimes and getting victims to communicate with the police.” Liaison officers stressed the importance of communities having “a point of contact” within large police departments.

Another liaison officer spoke candidly of a tendency of investigators to keep information to themselves. This person told us about a case involving the kidnapping of a trans individual that “went round and round because no one knew who to talk to” until a liaison person was contacted. In my view, the dichotomy that is drawn by some between involvement in the community as a form of “social work” compared to fighting crime is a false and even dangerous dichotomy when it means that the police do not have the familiarity with disadvantaged communities, familiarity that may be necessary to prevent and solve crimes.

A member of the SPD told me about a successful “safe space” program that partnered commercial establishments with LGBTQ2S+ groups, and that spread to other vulnerable groups. The Seattle experience demonstrates that outreach to include businesses can be a key strategy in community engagement. In my own consultation, I heard conflicting reports from two prominent business owners in Toronto’s Village. One told me that, because of his established relationship with the police, he could meet with the 51 Division commander. The other said that it was impossible for him to imagine phoning the 51 Division commander. Something like the Seattle safe space program that works with business owners might be helpful in improving relations with the LGBTQ2S+ communities.

I also learned about a popular SPD outreach program called the “Sunday program.” One Sunday a month, members of the SPD engage in informal meetings, over coffee, in the homes of Seattle residents. The purpose of these meetings is to discuss local issues and, in the course of those discussions, build

relationships. The feedback is that discussions held in the intimacy of homes have been successful. They have generated ideas and improved relationships. I also heard about a similar program where officers have meals and discussions with recently arrived refugees in the homes of community members. One liaison officer shared her view that these conversations were more valuable than any number of relationship training models.

Another important initiative in the SPD is the collection of data originally required by the consent decree. This data collection has expanded and is now extensively used in both internal and external evaluations of SPD activities. The SPD, with a budget on a proportional basis far less than Toronto's, has invested \$20 million in a "data warehouse"; it produces data that can be anonymized easily for research by outside agencies including universities. A permanent inspector general will soon have access to this data. Some of this data collected by the SPD is extremely useful in measuring systemic discrimination. For example, data is collected about race and police stops and use of force by the SPD.

The Seattle police have seen the benefit of collecting data both for internal use and to enter into research partnerships. Using civilian researchers within the department, the SPD can assemble, within 24 hours, evidence-based reports on the use of force, crime trends in particular areas, and those who are repeatedly reported missing. The SPD have not yet started performing risk assessments for those reported missing, but agreed that it is an important area of research. Members of the SPD who shared their time and experience with me also pointed to the FBI's use of algorithms that can help identify patterns of murders that may be the result of a serial killer and may otherwise not be detected by investigators working on separate files.

The director of the SPD's data-driven project told us about the advantages they have found in hiring civilians with academic backgrounds who bring to the SPD both their knowledge of research and their connections in the research community. The Seattle police have close and longstanding relationships with the University of Seattle – relationships I have found generally missing in Toronto despite the multiple educational institutions in the city. As a result of its data collection, the SPD has entered into research partnerships with 50 different researchers from 32 different universities. There is also an intern program between Seattle University and the SPD's data-driven

project. One of the many benefits of these partnerships is the opportunity for graduates to find civilian career opportunities in the SPD and for the department to benefit by having graduates with an established connection with the SPD add value to its ranks.

Research partnerships produce much-needed data and evidence to tell whether policing initiatives are working. They also serve as a driver to change police culture. Professor Laura Huey's paper for this Review highlighted the dearth of peer-reviewed research on missing person investigations in Canada. Professor Huey strongly warns about the dangers of making policies that are not informed by academic research.¹⁸⁸ The paper for this Review by Professor Karen Shalev Greene of the University of Portsmouth suggests that, although the research into missing persons in Europe (including the United Kingdom) is more robust than it is in Canada, many basic questions still need more work.¹⁸⁹ A police service that uses such research can not only improve policing but also enter into more informed discussions with community members who may be critical of the police.

Research and data will become even more important as the police face growing challenges to their legitimacy in the wake of the killing of George Floyd. If only because of pandemic-related declines in government revenues, the police are likely to face flat-lined or diminishing budgets. In such a fiscal environment, it will be even more important that the police have the necessary data to identify where their services are most needed; which police practices are effective and which ones are not; and which police practices are supported by the public and which are not.

As I suggest in Chapter 15, more research is needed both within the police and in a partnership of the police, scholars, and community groups. It is necessary both to fill wide knowledge gaps and to move police culture in a more open and collaborative direction.

Ottawa

The Ottawa neighbourhood policing program was cut because of budget

¹⁸⁸ Laura Huey, "An Absence of Evidence: Mapping the Evidence / Gaps, Themes and Other Issues with Canadian Research on Missing Persons," at https://8e5a70b5-92aa-40ae-a0bd-e885453ee64c.filesusr.com/ugd/681ae0_aa4eb14907cb4916a91216ea6216cf37.pdf.

¹⁸⁹ Karen Shalev Greene "Missing Persons: Identifying Best Practice, Training and Research Needs," February 2020.

constraints in 2017. It was reintroduced in 2019 in part because of community demands.¹⁹⁰ Neighbourhood resource teams were deployed in the fall of 2019 to areas of Ottawa experiencing higher volumes of calls about social disorder and crime. The teams are composed of front-line officers, community police officers (CPOs), school resource officers, and traffic service officers. The officers engage in training sessions with some of Ottawa's diverse ethnic groups to better understand the communities they are serving.¹⁹¹ The team members are experienced officers who have been assigned for longer fixed terms to ensure they work in the same areas over time. As with Toronto's NCOP, longer assignments allow these officers more time to build and sustain relationships with communities.¹⁹²

The acting superintendent explained that the objective of the neighbourhood resource teams "is to work closely with community residents in identifying community-based issues."¹⁹³ He added:

They will be assigned to this neighbourhood for an extended period of time. It's a prevention / intervention / community safety / wellbeing approach. It's making connections, it's making relationships, it's building trust that we already have here and building trust with those who we may not necessarily have. It's done by shaking hands, introducing one another, understanding each other, and working together to find a solution to any and all of the problems our neighbourhoods are facing.¹⁹⁴

The neighbourhood resource team officers seldom use automobiles. They walk through the neighbourhood. They connect with members of the community. If they encounter situations where a different city service would be more

¹⁹⁰ Sha amini Yogaretnam, "Walking the beat: Ottawa police neighbourhood resource teams launch," *Ottawa Citizen*, October 24, 2019, at <https://ottawacitizen.com/news/walking-the-beat-ottawa-police-neighbourhood-response-teams-launch>.

¹⁹¹ Ottawa Police, *Annual Report, 2019*, "Neighbourhood Resource Teams," at <https://www.ottawapolice.ca/en/annual-report-2019/community-policing.aspx>.

¹⁹² Ottawa Police Service, "Neighbourhood Resource Teams" (2020), at <https://www.ottawapolice.ca/en/news-and-community/neighbourhood-resources-teams.aspx>.

¹⁹³ Jeff Slack, "Ottawa police launch project, putting more resources into high-level crime areas," *CityNews*, October 22, 2019, at <https://ottawa.citynews.ca/local-news/ottawa-police-launch-project-putting-more-resources-into-high-level-crime-areas-1763131>.

¹⁹⁴ Ted Raymond, "Ottawa Police launch neighbourhood resource team in Bayshore ahead of schedule," *Ottawa CTV*, August 17, 2020, at <https://ottawa.ctvnews.ca/ottawa-police-launch-neighbourhood-resource-team-in-bayshore-ahead-of-schedule-1.5067546>.

appropriate to help the individual, they will coordinate with that service.¹⁹⁵

Similar to the relationship between Toronto's NCOP and Humber College, the Ottawa program is the subject of an ongoing independent evaluation by a Carleton University team.¹⁹⁶ The study was launched in the fall of 2019. Before the pandemic, the team had completed a baseline round of stakeholder interviews, neighbourhood focus groups, and an online survey.¹⁹⁷ It is important to establish baseline data at the time that policing initiatives are launched in order to measure whether initiatives are achieving their goals.

Ottawa Police Chief Peter Sloly told me about the extremely high importance he placed on the neighbourhood resource teams. He sees them as key to building trust with communities and increasing a two-way flow of information between the police and communities that he believes is essential for effective policing. I agree.

Winnipeg

I was impressed with the community engagement efforts of the Winnipeg Police Service (WPS). The WPS has supported the Bear Clan – a group of Indigenous volunteers – in a number of ways including by providing equipment and first aid training. Bear Clan patrols go out every night of the week, with volunteers handing out produce, snacks, and baked goods as they go. Armed with first aid and naloxone, volunteers keep an eye out for any sign of trouble. But their aim, primarily, is to show residents that they are there, ready to listen and help out where they can. The Bear Clan's motto describes it as “community people working with the community to provide personal security.” James Favel, one of the group's co-founders, said the group was a “boots-on-the-ground” effort to protect women, children, the elderly, and vulnerable members of the community. The Bear Clan has also taken an active role with the police in searching for missing persons.

Starting with a budget of only \$900 in 2014–15, the Bear Clan has

¹⁹⁵ Carlington Community Association, “Neighbourhood Resource Team,” at

<https://www.carlingtoncommunity.org/about-carlington/safety/neighbourhood-resource-team/>.

¹⁹⁶ Ottawa Police, “Neighbourhood Resource Teams” (2020), at <https://www.ottawapolice.ca/en/news-and-community/neighbourhood-resources-teams.aspx>.

¹⁹⁷ Lisa Gregoire, “Neighbourhood Watch: Amid a Devastating Health Crisis and Rising Racial Tension, Carleton Researchers Are Evaluating Ottawa's New Community Policing Project,” *Raven Magazine*, Features, Fall 2020, at <https://carleton.ca/ravenmag/story/ottawa-community-policing-policy/>.

expanded and gathered \$1.5 million in funds by 2019.¹⁹⁸ It has grown from 12 to over 1,500 volunteers.¹⁹⁹ A 12-member council serves as the Bear Clan’s governing structure, and the council includes three Elders from the original Bear Clan Patrol. Funding from the Manitoba government in late 2019 allowed a new chapter of Bear Clan to be born in Portage La Prairie. More than \$31,000 will be provided to the RCMP detachment to support its partnership with Bear Clan. The funding will be used to train members in first aid, mental health, cultural sensitivity, and naloxone; stock essential supplies; and equip members with identifiable outerwear.

The National Inquiry report praised the Bear Clan’s efforts and stated that such “community-based security programs can increase the overall sense of safety in the community and provide preventive measures, such as providing resources, developing relationships, educating members about their rights, and providing outreach.”²⁰⁰

The WPS has also developed a partnership with the Ma Mawi Wi Chi Itata Centre. Ma Mawi Wi Chi Itata translates to mean “we all work together to help one another.” The centre has more than 30 years’ experience working with Indigenous families. It offers more than 50 programs and has 11 sites and over 200 staff and volunteers. Services are guided by four key tenets – community voice, relationship, opportunities, and leadership in action. The centre’s programs provide for regular consultation with Indigenous communities that subsequently inform its services. Relationship building and fostering meaningful relationships with partners are also part of its mandate.

Among other things, the Ma Mawi Wi Chi Itata Centre operates a safe house for Indigenous women seeking to leave the sex trade and a rural healing lodge. Chief Danny Smythe of the WPS told me that in some cases this centre and its outreach workers facilitate the repatriation of young people who have left their homes. Chief Smythe described this as “taking it out of the government’s hands.”

I return in Chapter 15 to the important role that charities can play with respect to community, something that was also stressed to me by Dale McFee,

¹⁹⁸ Cameron MacLean, “Bear Clan board has ‘made a huge mess,’ ousted executive director James Favel says,” *CBC News*, August 11, 2020, at <https://www.cbc.ca/news/canada/manitoba/james-favel-bear-clan-breaks-silence-1.5681614> (hereafter MacLean, “Ousted Director”).

¹⁹⁹ *Ibid.*

²⁰⁰ National Inquiry, Vol 1b, 157.

Edmonton's police chief. I must add that I am very grateful that such busy police chiefs in other jurisdictions such as Peter Sloly of Ottawa, Danny Smythe of Winnipeg, Dale McFee of Edmonton, and Carmen Best of Seattle were generous with their time. Each of them has inspiring visions about the way that policing must evolve in the future.

Both Chiefs Smythe and McFee spoke of the benefits of the police working with non-governmental organizations. They also recognized the funding challenges that charities and other public agencies face. Chief McFee reflected on his time in the Saskatchewan government and the need for a more rational allocation of public resources to help address many of the social problems that have been left to the police. Chief Smythe told me that provincial government cuts to social and health services have increased the demand on police and paramedics funded by the city. He suggests that only with the restoration of adequate social and health funding can there be a needed discussion of de-tasking the police by shifting some present police responsibilities to other sectors. The WPS has cut about one hundred officers during Chief Smythe's tenure. It has replaced some of these with civilians and social workers who are members of the Service.

Edmonton

Like the WPS, the Edmonton Police Service (EPS) has developed community engagement models that may be of interest to the Service. Chief Dale McFee told me how his experience with both multidisciplinary hubs in Prince Albert and in the Saskatchewan government demonstrates the importance of the police often allowing other public agencies that deliver social services and healthcare to take the lead in various cases. Just because the police are asked to intervene because of their 24/7 presence does not mean they have the expertise to deal with the problems that may have prompted a call to the police.

Chief McFee also stressed the importance of the police working with the private and non-profit sectors. For example, he suggested that, rather than have undercover officers in gay bars, both those who own and work in the bar and the community itself are in a better position to engage in crime prevention and provide useful information that could assist police in investigations. He also told me that missing persons would receive greater attention if the focus were on community safety and well-being.

The EPS has devoted extensive resources to LGBTQ2S+ and the allied Consultation and Reconciliation Project, for which there is a dedicated web portal.²⁰¹ The EPS started in 2019 by reformulating its training on LGBTQ2S+ issues. It also used an external advisor to work on strategies to recruit LGBTQ2S+ individuals. As well, it is revising its complaints process and its sexual and gender minorities community liaison committee and its chief's advisory committee. It has formed an internal support group for sworn and civilian LGBTQ2S+ members of the police service.

In 2019, Chief McFee delivered a five-page apology to the Edmonton LGBTQ2S+ communities. I will quote parts of it at length because in my view it demonstrates how apologies are only meaningful if those who apologize are completely candid about their past failings and make significant and measurable commitments to change their behaviour. Part of the apology provided:

To the members of the Lesbian, Gay, Bisexual, Trans, Transgender, Queer and Two-Spirit community – both across the public and within our service – on behalf of the Edmonton Police Service, I am sorry and we are sorry. These actions cause pain. They erode trust. They create fear. They cause members of the public and our service alike to feel unsafe on their own streets, in their workplaces and even their homes. These actions raise yet another barrier for our Lesbian, Gay, Bisexual, Queer, Trans, Transgender and Two-Spirit communities to their fundamental right to simply be who they are. We acknowledge, apologize and take responsibility for our past wrongdoings and what they have done – and continue to do – to people's lives. We will not hide behind historical context – what was once permissible can no longer be condoned. As a police service, our behaviours have not always aligned to our obligation to build a cohesive, welcoming and safe community. Our apology cannot erase what has been done, but it can be a beacon to move forward.

As Chief, I want to make it abundantly clear that the Edmonton Police Service is committed to standing against homophobia, transphobia and any other kind of marginalization, shaming, disrespect or hate. We will not tolerate it within our own organization and we will not tolerate it across our community.

²⁰¹ <https://www.einput.ca/lgbtq2s>.

Let's be clear this is not behind us. There's a lot of work ahead. We need to face it honestly and be prepared to work through it thoroughly.

Apologies are important. But they aren't enough to create the kind of meaningful change we need. In order for our police service to improve and for our community to not only hear, but feel, our full measure of commitment, we need to show thoughtful and tangible change ...

... A bad experience with the police fosters fear – of being ignored, being discriminated against or worse ... That has to stop, period. As a police service, we have an obligation to do better. We must strive as a police service to earn the status of an ally by being a strong example within and across our community. And our first crucial step begins with an apology.

After the apology the EPS engaged in a broad consultation with the LGBTQ2S+ communities. This consultation resulted in a report. Among its findings were the following:

- The EPS relationship with the LGBTQ2S+ communities was seen to be significantly more negative when factors of race, gender identity (i.e., transgender), age (primarily youth), and poverty were considered.
- Intersectionality contributes to feelings of vulnerability and cynicism toward the EPS.
- There is considerable support for changes that have been made in the EPS over the years – including the apology itself. Many believe the EPS is moving in the right direction.
- People did, however, make frequent reference to a police culture that was still too often seen as hyper-masculine, hierarchical, and uncollaborative and thus unwelcoming to many within the LGBTQ2S+ communities.
- Many stressed the importance of the EPS building relationships with members of the LGBTQ2S+ communities. Respect was frequently identified as the key ingredient in building trust with the LGBTQ2S+ communities.

I am struck by the emphasis that LGBTQ2S+ community members placed on the need for the EPS to build respectful and collaborative relationships with their communities.

At the same time, there was an extensive report conducted after online consultation and focus group and one-on-one meetings with members of the police. Its recommendations included:

Promote and enhance the role of the LGBTQ2S+ Support Group internally and externally.

Create on-line material that members can access at their own convenience sharing the history of LGBTQ2S+ marginalization.

Create a glossary of terms relative to LGBTQ2S+ community that members can readily access.

Work to develop open forum education sessions that members can voluntarily attend to provide ongoing cultural awareness.

The Chief should have regular meetings with Senior Officers to enlist their ongoing support and engagement with this and other institutional change initiatives.

The executive should meet with the sergeants and enlist their help to bring about culture change by sharing an appreciation for their organizational role.

Work with the Internal Support Group to assess practical ways of updating the dress and department policy in enhancing community relationships.

Work with the Internal Support Group to undertake a review of all police facilities and accommodate gender neutral bathrooms where practical.

Work with the Internal Support Group to undertake a review of all police facilities and accommodate gender neutral bathrooms where practical in existing facilities and include them in future facilities.

Review the proposal submitted on the Seattle Police Safe Place Initiative and determine efficacy in light of current and future relationship building initiatives.

Continue to research best practice initiatives in consultation with the Internal LGBTQ2S+ Support Group and external community.

The EPS should see this initiative as the starting point of a long journey that

involves finding innovative and collaborative ways of building genuine trusting relationships.

I am impressed by such a recognition by the members of the EPS for the need for culture change within the Service. The above proposals are an example of the positive contribution that the LGBTQ2S+ Internal Support Group can play in educating their colleagues.

Subsequent to this apology, the EPS has introduced bias awareness training. It has used its internal LGBTQ2S+ employee resource group “consisting of queer-identified EPS staff and allies who advocate for a safe and inclusive working environment” to develop an LGBTQ2S+ acceptance program to help Edmonton police

understand the history and trauma of law enforcement and the LGBTQ2S+ community within the Edmonton context, and provide strategies to respectfully communicate and build rapport when working with queer-identifying individuals to promote safety and wellbeing.

In my view, this apology was impactful as it was backed up by comprehensive reform that engaged both LGBTQ2S+ members of the service and in the broader Edmonton communities.

Building and Sustaining Better Relationships

I learned a great deal from my examination of the history of police and community relations – from both previous reports and various initiatives summarized above. Perhaps the most important lesson is that there are many challenges that must be squarely confronted and addressed if the Service is to build better relationships with Toronto’s diverse population – especially the marginalized and vulnerable communities.

The Legacy of Systemic Discrimination

As examined in the first section of this chapter, the historical legacy of distrust between the Service and various marginalized and vulnerable communities has had significant impact. I heard from members of the communities that this is not just a matter of history; it continues on a daily basis. At the same time, I

have been impressed by the candour of many within the Service who have acknowledged mistakes and are committed to real, lasting improvements. Nevertheless, even a rare incident of bad conduct by the police can impact public confidence. Sergeant Henry Dyck put it very well when he told me:

It does take time. Hearts and minds aren't won in a minute. You know, for every poor decision let me say made by one of my colleagues it takes about a thousand good efforts on my part to rectify that relationship. And, unfortunately, there's been more than one issue that's been negative in our community over the last twenty years and some of them have been very very hurtful to the community. And I'm not shocked in the slightest that people still feel negativity towards to the police service.

Many who I consulted in the LGBTQ2S+ communities are disappointed with the apology for the 1981 bathhouse raids made by Chief Saunders in 2016 in the light of Project Marie in the same year, described earlier in this chapter. Apologies may do more harm than good if not followed by action. I note that the Edmonton police appear to have devoted more resources and had more success both before and after Chief McFee's 2019 apology to the LGBTQ2S+ communities. The wording of Chief McFee's apology made clear that the EPS was committed to meaningful change in a hope of winning back the trust of the LGBTQ2S+ communities.

A Closed Police Culture

In my community consultations, Project Marie was a frequently mentioned source of grievance. However, few of the people I consulted knew that the Service changed its protocols or procedures in the project's aftermath. I cannot blame community members for not knowing about the Service's response to the harm Project Marie caused. Incredibly, the changes to procedures were not immediately apparent to my team. As I discuss below, it is clear that the Service does not devote sufficient attention and resources to publicizing improvements in its policies and initiatives toward community engagement. The closed and somewhat defensive police culture needs to change. It is out of date for modern organizations. It is not even consistent with the civilian origins of urban policing. Nor is it consistent with the aspirations

that policing be regarded as a profession. It is worth repeating that, since Robert Peel's creation of the London Metropolitan Police, it has been widely recognized that openness and public trust is essential for policing. The public trust must be earned. The Service needs to invest in being much more transparent to the public and especially those in the public who may have good reason to mistrust and even fear its members.

A Hierarchical Police Culture

Throughout this Review, I was repeatedly struck by the realization that the culture of policing has the potential to nullify reform efforts. I heard countless warnings that "culture eats education." My work over the past several years has made it clear that culture also "eats" other attempts at reform, including attempts to make consultation with the public, meaningful.

As has been widely recognized, the culture of policing tends to be hierarchical and even paramilitary. Layered onto this basic culture is the fact that the Service is a large bureaucracy. The complexity of the Service's organizational chart is daunting. So too are the depths of its protocols and procedures. Changing these to recognize the basic rights of trans individuals in the light of the Kodak-Waterman settlement discussed above was a massive undertaking that started at the time of the 2016 settlement and continued into 2021, and still requires effective communication of the policing change to both the Service and the trans communities.

There is a tendency toward siloed operation. At present, the Community Partnerships and Engagement Unit is seen by some as a distant part of corporate management that is not even located in police headquarters. The combination of a hierarchical culture combined with the silos of a large bureaucracy provides challenges to having each member of the Service use his or her own knowledge and experience to mend relations and build trust with Toronto's diverse communities.

For example, there are obvious connections between the important role of equity within the police and equitable treatment of disadvantaged groups by the police. Indeed, the equity, inclusion, and human rights command that has responsibility for internal equity matters also has responsibility for implementing the Service's human rights settlements. Nevertheless, the Community Partnerships and Engagement Unit and the Equity, Inclusion and

Human Rights Unit are divided between two of the six command groups in the Service and are not even in the same physical location. It makes more sense to combine these two units and locate them in the Service's headquarters. I suggest that the resulting opportunities for more efficient collaboration may increase the momentum to mainstream human rights research and initiatives within both the internal and the external operations of the Service.

I am not the first to express concerns about the Service's culture. Justice Iacobucci examined the culture of the Toronto police in his 2014 report on dealing with people in crisis. He found positive features such as honourable and professional conduct and a commitment to accountability and continual self-improvement. But he also found more negative features such as a sense that policing should not be "social work," an insular resistance to criticism, and a reticence among junior members to speak out within the paramilitary command structure.²⁰²

One must be realistic about the changes that can be made to police culture. Every large organization has its problems. Based on almost 3,500 responses, a survey of the Service done as part of the implementation of *The Way Forward* found that the Service was below average in four key organizational traits: adaptability, mission, involvement, and consistency. The survey candidly summarized:

We have work to do, but the first step is acknowledging we have challenges with our culture. Our communities, and the nature of our work have been changing at an accelerated pace. We know that what made us successful in the past is not enough to move us to success in the future ... Evolving our culture will benefit each and every one of us, and the communities we are all proud to serve. Our city, which is more diverse and vibrant than ever, requires service-oriented, community-focused teams with a cross section of competencies that complement our operational skills. We must be able to adapt more quickly to a constantly changing environment and shifting expectations.²⁰³

Admitting there is a problem is a necessary first step.

²⁰² Iacobucci, *Police Encounters with People in Crisis*, chapter 5, "Police Culture."

²⁰³ <https://www.torontopolice.on.ca/TheWayForward/updates.php?20181207>;

<https://www.torontopolice.on.ca/TheWayForward/files/organizational-culture-assessment-report.pdf>.

One senior Toronto police officer told me that there is a danger of taking a “curio cabinet” approach to diversity. She stressed that there was a need for everyone to take responsibility for better community relations. I agree.

But I also note that there has been tension between senior officers in the Service and internal support networks that have been formed for LGTBQ2S+ officers. There is a tendency for senior officers to want to limit the activities of the support networks to internal mentoring. Some officers I spoke with believe that they should not be limited in such a way. One officer told us that the LGTBQ2S+ internal support network had received an email after they invited the Orlando, Florida, police chief and LGBTQ2S+ liaison officer to a luncheon. The senior officer apparently indicated that the internal support network (ISN) should not be conducting community engagement.

This officer shared her view that it is indeed important for the support network to reach out to the broader communities of which they are members. She added that people need to see that there are lots of LGBTQ2S+ police officers and allies who support them: “Police officers out there are doing engagement every single day when they step foot out of their cars, so why would we not be doing that as well?” She added:

You can’t leave it up to one person. It’s nonsense. We have to work together, and they have to listen to us. They should listen to us. When they ask for our advice and our opinions, they should take it seriously and not just ask so they can say, “Yeah we asked them.” When you don’t act on what we say then it makes no difference.

Another member of the LGBTQ2S+ internal support network similarly told me:

Members of the ISN don’t cease to be members of the community because they are police. We’re all aware of the doctrine that goes back 100 years – the public are the police and the police are the public. So, I’m not for changing that doctrine[.] I think it’s worked well as a guiding principle, I think it should continue to be a guiding principle.

Clearly more work needs to be done to reconcile the potential benefits for

community relations that the support networks provide with the hierarchical and bureaucratic structure of the Service. I return to this topic in Chapter 15.

Lack of Both Transparent and Informal Discipline

In my community consultations, I heard about a lack of response and discipline for comments and actions by police officers who were perceived to be discriminatory and harmed relations with marginalized and vulnerable individuals.

Although it is beyond the scope of my mandate to review the province's approach to discipline, I note that the discipline process is much less transparent than that used for other regulated professionals. Indeed, a number of people within the Service to whom I spoke expressed frustration that the lack of transparency about discipline promoted the impression that the Service had something to hide and that the Service did nothing in response to misconduct. I also heard that, although the Board is informed of some discipline matters, they may not be informed of all of them even though discipline issues can frequently be important to the public reputation of the Service. I return to discipline matters in Chapter 15.

At the same time, formal discipline may not always be the answer to conduct and speech by the police that harms relationships with marginalized and vulnerable communities. One detective told me that one of her

biggest pet peeves with the Service is that it's so punishment focused. It's not learning or performance focused. And we punish the honest people. So, somebody who admits to doing wrong gets smashed.

Informal discipline combined with education can play an important and constructive role. Dr. Janet Smylie who has been combatting anti-Indigenous racism in health care told me that invoking a sense of "internal shame" is important in changing attitudes and that "external shaming is less powerful and people will defend themselves against it."

Informal forms of discipline accords with the emphasis under the Ontario *Human Rights Code* on education and prevention of discrimination, and the internal support network or liaison officers may be able to play a

remedial role. No doubt there are other creative remedies that may involve members of relevant marginalized and vulnerable communities. For example, I note that a recent disciplinary action against a New Brunswick police officer who inappropriately laughed during a press session about the police killing of Chantel Moore, an Indigenous woman, has apparently been settled by the officer's agreement to take a course on Indigenous history and subsequently meet with an Indigenous Elder.²⁰⁴ I hasten to add that informal discipline must be transparent and will certainly not be appropriate in all cases.

Police Education and Community Partners

Education of Service members can strengthen relationships and build mutual trust between the police and marginalized and vulnerable communities. I use the word “education” here deliberately because I do not believe that “training,” the more frequently used word, is appropriate for the need for the police to understand the history of marginalized and vulnerable groups and to develop empathy and some cultural competence in dealing with individuals from such groups.

An extensive report on training and education in relation to issues relevant to my mandate was prepared for the Review. The report reflects that, in 2014, the Service was the first police service in Canada to incorporate the Fair and Impartial Policing Registered Trademark²⁰⁵ developed by an associate professor of criminology at the University of South Florida. The training is described in part as follows:

The curriculum addresses racial and ethnic bias, and also examines biases based on factors such as gender, sexual orientation, religion, and social-economic status. This curriculum underscores that all people, even well-intentioned individuals, have biases and these biases are often unconscious or implicit and can influence choice and actions without conscious thinking or decision-making.

I note, however, that a study of similar implicit bias training in the New

²⁰⁴ Rachel Cave, “Edmundston officer who laughed talking about Chantel Moore’s case must take Indigenous Course,” *CBC News*, November 26, 2020, at <https://www.cbc.ca/news/canada/new-brunswick/edmundston-officer-chantel-moore-1.5816737>.

²⁰⁵ <https://fipolicing.com>.

York Police Department (NYPD) found that while the Fair and Impartial Policing training increased officer awareness of implicit bias, the NYPD could find no change in subsequent officer behaviour as measured by proactive stops, summonses, arrests, frisks, or use of force against Black and Hispanic people or by complaints made against officers. Researchers also found no significant differences in behaviour based on the ethnicity of the NYPD officers.²⁰⁶ The report notes that there is a need for more independent evaluations of the program.

In 2016, a section on critical thinking was added to the Service's training. I also observe that, as a result of a settlement of a human rights complaint in the Clem Marshall case, the Service has provided a "training program which addresses the harmful impact on those who experience racial profiling, including African Canadian men."²⁰⁷ I note, with approval, that this education in critical thinking is provided in a way that recognizes intersectionality. A report by the Board's external mental health advisory committee similarly concluded: "Intersectionality should not be viewed as a stand-alone issue that the TPS must address but, rather, should be interwoven throughout the overall approach employed by the TPS."²⁰⁸

In my view, members of Toronto's marginalized and vulnerable communities need to be involved in the education of Service members. In my consultations, several people told me that the Service needs much more education about the trans community. I see no reason why the Service cannot involve community partners such as The 519 to help provide education about trans individuals. Information obtained from the consultations with trans individuals as part of the implementation of the Kodak-Waterman settlement discussed above might also be used.

I have been told that such education may work best if given by officers and community members together with the assistance of professional educators. Despite requiring collaboration and flexibility, such combined

²⁰⁶ Robert E. Worden et al, "The Impacts of Implicit Bias Awareness Training in the NYPD," July 2020, 138–42, at <https://assets.documentcloud.org/documents/7203724/The-Impacts-of-Implicit-Bias-Awareness-Training.pdf>.

²⁰⁷ *Marshall C v Toronto (City of) Police Services Board, Police Service, and Jason Goss* (Tribunal File Number 2009-02761-I), signed May 8, 2013.

²⁰⁸ Report of the Mental Health External Advisory Committee to the Toronto Police Services Board, November 2016, tabled December 20, 2016, p 3.

instruction has the potential to pay considerable dividends in terms of educating the Service's members about the history and diversity of the city's disadvantaged communities and building better relations between the police and such communities. I note that at present Toronto police cadets receive two and a half weeks' training by the Service before going to the Ontario Police College and then another nine weeks' training after they graduate. There are limits on time, but I strongly support the inclusion of education about the diversity of Toronto and the history of the Service's relations with Toronto's marginalized and vulnerable communities.

I also note the importance of mandatory continuing education for the police. Like other professionals, they need continuing education to keep up to date with evolving knowledge and community concerns. There are untapped opportunities for the Service to make use of, in a cost-effective manner, some of the resources of Toronto's many post-secondary institutions and to become a national and even international leader in career-long training, education, and professional development of its members. Special attention could also be paid to developing communication, problem-solving, and relationship-building skills and to involving the community and post-secondary researchers in developing and evaluating continuing education for both sworn officers and civilian employees of the Service.

Concerns have also been raised that the Service offers one-hour class-based learning on Indigenous issues while the OPP provides a five-day land-based education. I share these concerns. Site-specific or place-based education may have benefits outside the Indigenous context. For example, education about the challenges confronted by the LGBTQ2S+ communities could be provided at sites such as The 519 in a manner that combines community and police expertise.

Community groups can help educate their members about what they should expect from the police, and such material would also be useful to the police. An excellent example is a 30-minute video prepared in collaboration with No More Silence and Aboriginal Legal Services. It provides advice about how to demand and even "badger" the police for equitable and prompt service. The video gives practical advice about how to assemble a team of family, friends, and others to help find the missing. It provides excellent advice such

as appointing a spokesperson and using photos and pronouns that reflect a person's gender preference. It also stresses the need to counter stereotypes that the police and the media may promote. It speaks to the grief and trauma of missing person cases, as well as the legal proceedings in cases of murdered missing persons, including victim services and compensation. And it recognizes intersecting grounds of discrimination involving those who are trans or two-spirited, homeless, or involved in the sex trade.²⁰⁹

The Community and Missing Person Investigations: The Potential of Plural Policing

I learned much during the time I spent consulting with those involved in the sex trade at Maggie's. Among other things, they told me that, if a fellow sex worker goes missing, they would not approach the police but would first ask around to their various friends. The people at Maggie's said of the Service: "They wouldn't listen anyway." "They don't take it seriously."

Another participant has a somewhat different concern. She noted that the police do not ask sex workers for help in solving missing person cases or murders. She added that the police "disconnect themselves from communities that can really give them what they need." The person who made that comment stated that she has reached out to 51 Division and has been brushed off. Others stated that police officers who live in the suburbs or beyond in small-town Ontario have little understanding or connection to the problems of downtown Toronto.

Community groups who can assist in missing person investigations are, like the police, humans who can make mistakes. As I discuss in Chapter 9, The 519 has apologized for its failure to report to the police or to reach out to trans organizations when Ms. AP, one of the persons who discovered Alloura Wells's body, asked them for help. I am advised that The 519 has subsequently embraced a trans engagement strategy including a trans people of colour project with weekly drop-ins focusing on skills development, employment opportunities, "and affirming sexual health information and services to racialized trans community members." Such drop-ins were attended in 2019

²⁰⁹ Audrey Huntley, "Not Just Another Case: When Your Loved One Has Gone Missing or Been Murdered," at <https://www.youtube.com/watch?v=YgW4RGawKUg>.

by over nine hundred people.²¹⁰ The 519 also had fifteen hundred people register for its “Among Friends” LGBTQ refugee support group.²¹¹ All public agencies – not just the police – must confront the challenges of systemic discrimination and intersectionality.

I also heard about an incident at The 519 when it called the police to help remove a young vulnerable trans woman who did not want to leave at closing time because she was afraid of violence. I was told that six uniformed police officers responded in a manner that staff at The 519 did not think was at all helpful.

I have been impressed by the deep knowledge and commitment of the community agencies I have interviewed during the course of this Review. Neither the police nor this Review has all the answers. To be sure, community agencies and members should not be forced to take measures to protect their own safety, much less be blamed for being victimized by crime. Nevertheless, the police should respect the expert knowledge and abilities of those who are willing to work with them toward greater community safety.

Human Rights and Policing

Police culture should adapt to the need to respect human rights codes by preventing discrimination before it happens. All levels of policing – and not just police leaders and those assigned specific equity and community-outreach responsibilities – should address systemic and effects-based discrimination. An approach to policing more in tune with the Ontario *Human Rights Code* should also pay more attention to intersectionality and overlapping and compounding grounds of discrimination. This approach might minimize the danger of stereotyping particular groups. With an intersectional approach, it is a mistake to think that any one group is a monolith.

Although individual bias should be identified, corrected, and disciplined when established, focusing on whether it exists can often be counter-productive. As Professors Giwa and Connors Jackman write:

²¹⁰ The 519, *Annual Report, 2019–2020*, 13, at <https://www.the519.org/about/annual-reports>.

²¹¹ *Ibid*, 18.

A shift in thinking away from individuals as “racist” versus “not racist” means focusing on practices, habits, and behaviour that are often socially prescribed and/or rewarded and that make up social institutions.²¹²

As I discuss in Chapter 12, such an approach is also consistent with recent statements by Justice Rosalie Abella for the Supreme Court that there has been “a shift away from a fault-based conception of discrimination towards an effects-based model which critically examines systems, structures, and their impact on disadvantaged groups.”²¹³

The conduct of the Service in relation to transgender people is the subject of an uncompleted settlement with the Ontario Human Rights Commission. The commission is conducting an extensive investigation of the Service’s discrimination against Black people. Despite these developments and other substantiated human rights complaints about individual Toronto police officers, I am concerned that not all parts of the Service have embraced the Code’s focus on ensuring that there is no systemic discrimination in providing services to the public.

To be sure, there are parts of the Service with expertise and interest in preventing systemic discrimination both within the organization and in the provision of services to the public. It will be important that they can use their skills and commitment to educate and convince the rest of the Service to internalize more demanding standards of equality that focus on pre-existing disadvantages and the effects and outcomes of police actions. One thing is clear – the time for defensive refusals to acknowledge the reality of discrimination has long since passed. There has to be an acknowledgment that systemic discrimination exists in the Service and a commitment to eradicate it. As stated by the Office of the Independent Police Director in relation to its report on the Thunder Bay Police Service, anti-racism and cultural competency should not be “the flavour of the month” but be “embedded in the culture of the organization and delivered by the community.”²¹⁴

²¹² Giwa and Connors Jackman, “Missing Persons Investigation,” 4.

²¹³ *Fraser v Canada*, 2020 SCC 28 at para 31.

²¹⁴ OIPRD Report, 16.

Consultation Fatigue

I was fortunate to have a tremendous amount of co-operation – indeed 100 percent support – from people from the affected communities during the course of this Review. They generously spent many hours with me, sharing their experiences, their perspectives, and their suggestions. To a person, they remained available to answer my questions, to provide yet more insight. Their support continued well after our initial engagement. The nature of what those in the affected communities shared and the extent to which they assisted me was often difficult for them. I am keenly aware that many of the individuals and community agencies with whom I met have limited resources, time, and patience. I am very much in their debt.

For many, the problems they have with the Service are hardly new. I think back to the events that led to the Bruner Report. I am concerned that those who have experienced the brunt of overpolicing and underprotection may understandably become reluctant to continue to engage in consultations with the Service – particularly if they see no measurable and lasting change in police behaviour. It must be remembered that these communities are already disadvantaged. They have limited time and resources to take part in consultations on a volunteer basis. I asked them to participate, as many previously have in similar reviews, and to expect different results. They showed up. With the recommendations I make, including those relating to their implementation, I intend to produce different results.

My worry about consultation fatigue has increased during this Review because now it is not only the members of the Service who wish to consult disadvantaged people, but also many other agencies and levels of government, including the City of Toronto and the Board. In many ways, such attempts to learn from the lived experience of discrimination are a good thing. But there can be too much of even a good thing. I cannot overemphasize how important it is for the Service and the Board to attempt to view community relations from the perspective of community members. The Service has consultative committees at the divisional level, nine community consultative committees, and two chief committees. The Board has recently made permanent two consultative committees, one dedicated to mental health issues and the other to anti-racism. The City of Toronto also has numerous consultative committees and accountability tables. In short, there are committees galore.

From the perspective of the city, the Service, and the Board, all these committees make good sense (though some may question whether adding consultative committees can be effective in answering every problem). It is not clear, however, how much sense they make for the communities being consulted. They also create a risk that police and governments will hear different things from different committees in a manner that could dilute the impact of any one form of community consultation. There is a danger that duplicate forms of consultation may complicate and even interfere with the ultimate goal of making the Service more responsive to the city's multiple and intersecting communities.

Fundamental Challenges to Policing and Its Role in Community Safety

As I have said earlier, the challenges that systemic discrimination present to improving relations between the police and marginalized and vulnerable communities became greater after the police killing of George Floyd. A month later, the Service was involved in the death of Regis Korchinski-Paquet, a Black and Indigenous woman with mental health issues. A member of the Peel police killed Ejaz Choudry, a 62-year-old South Asian with mental health issues. Other traumatic events in the early summer of 2020 included the police killings of two Indigenous persons, Chantel Moore and Rodney Levi, in New Brunswick, the release of video of the violent police arrest of Chief Allan Adam of the Athabasca Chipewyan First Nation, and the conviction of Toronto police officer Michael Theriault for an off-duty assault in which Dafonte Miller, a young Black man, lost his eye.

Although my mandate does not include these events, I cannot ignore them. I also cannot ignore that a number of people I consulted, including some who participated in a policy roundtable the Review held in the summer of 2020, called for missing person investigations to be removed completely from the Service. They wanted these investigations to be shifted to a new civilian agency as part of a larger movement to defund and de-task the police.

Although a few who call for defunding want the police to be abolished, most simply want the police to surrender some tasks to other public and community agencies with more expertise that are better able to perform

functions such as dealing with people in mental health crisis or working with the homeless. One of the problems with the language of “defunding” is that it has the potential to let the police avoid their responsibility for improving relations with marginalized and vulnerable groups. For this reason, I prefer the term “de-tasking” in framing the discussion.

Changing Approaches to Community Safety and the Role of the Police

The Canadian Council of Academies in a 2014 report on the future of Canadian policing models stressed the need for policing to be situated in a broader safety and security web that includes “private security, local health professionals, community and municipal groups, and other governmental organizations.”²¹⁵ A subsequent report on policing in Indigenous communities adapted this web to Indigenous knowledge by adding a focus on harmony and well-being.²¹⁶ Both reports stressed that the police depended on other public and community agencies. They also stressed that the police needed to use knowledge and research to adapt to changing circumstances and demands.

The first Canadian Council of Academies report also found that the costs of policing in Canada at the time were “rising at a faster rate on average than total public expenditures and gross domestic product” but “without necessarily yielding visible improvements in the level or quality of service afforded to the public.”²¹⁷ Citing developments in the United Kingdom, the report also pointed toward increased use of civilians and specialists within the police service.²¹⁸ It also looked to the United Kingdom for support for an accredited professional model of policing and increased use of research to inform police practices.²¹⁹

A recent report, *Rethinking Community Safety: A Step Forward for Toronto*,²²⁰ by Toronto Neighbourhood Centres in consultation with 22 other community groups and agencies, has called for new approaches to community

²¹⁵ Expert Panel on the Future of Canadian Policing Models, *Policing Canada in the 21st Century: New Policing for New Challenges* (Ottawa: Canadian Council of Academies, 2014), xi.

²¹⁶ Expert Panel on Policing in Indigenous Communities, *Toward Peace, Harmony, and Well-Being: Policing in Indigenous Communities* (Ottawa: Canadian Council of Academies, 2019).

²¹⁷ *Ibid.*, 45.

²¹⁸ *Ibid.*, chap 5.

²¹⁹ *Ibid.*, chap 6.

²²⁰ At https://mcusercontent.com/de85a14a3dcadd8e377462ff6/files/1acb8a31-d2e9-464a-b826-d024cb61ed6f/Rethinking_Community_Safety_A_Step_Forward_For_Toronto_Full_Report.pdf.

safety. The report stressed that new approaches can both improve community safety and mitigate the disproportionately negative effects of policing on Black and Indigenous people, who are more likely than others to be stopped, arrested, injured, and killed by the police. It argues that civilians may be better able to link the homeless and those with mental health issues with services that may benefit them.

Under the *Police Services Act*²²¹ and the CSPA, 2019, Toronto, like other municipalities, is required to develop a community safety and well-being plan in consultation with a prescribed multi-agency advisory committee that includes the chief of police, a representative of the Board, as well as representatives of health, education, and social services.²²² The plan is to be published and should:

- (a) identify risk factors in the municipality or First Nation, including, without limitation, systemic discrimination and other social factors that contribute to crime, victimization, addiction, drug overdose and suicide and any other risk factors prescribed by the Minister;
- (b) identify which risk factors the municipality or First Nation will treat as a priority to reduce;
- (c) identify strategies to reduce the prioritized risk factors, including providing new services, changing existing services, improving the integration of existing services or coordinating existing services in a different way;
- (d) set out measurable outcomes that the strategies are intended to produce ...²²³

Based on all of these developments, I am convinced that now is the time to reconfigure the role of the police in providing community safety.

In Chapter 15, I express the view that missing person investigations should play a key role in broader community safety strategies. I go on to express the concern that the Service and many police services across Canada have not been attaching sufficient importance to missing person investigations and related issues. I have been told by some officers that there is a tendency not to prioritize missing person investigations especially in cases that do not

²²¹ RSO 1990, c P-15, Part XI.

²²² *Community Safety and Policing Act, 2019*, SO 2019, c 1, Schedule 1, s. 250.

²²³ *Ibid.*, s. 251. See also *Police Act*, s. 146.

involve children or those who are obviously vulnerable, such as the elderly. To some members of the Service, missing person investigations are viewed as “social work” although, as I have noted above, this discounts that missing persons may be vulnerable to suffering from a range of criminal activities – not just criminal activity that may cause the disappearance itself. The police have a role to play when it comes to those who repeatedly disappear. In such cases, it may be appropriate for the police to refer the person to other agencies including child welfare, health, and housing officials who may be able to address some of the underlying issues.

Paying more attention to missing persons as an important and challenging aspect of community safety can assist the police to focus on preventing harm and making appropriate referrals to other public and community agencies. To be sure, some missing person investigations require criminal investigations, but others do not.

Fundamental changes both to our way of approaching policing and to community safety also suggest that changes may be required in how the police consult and engage with the community. In particular, the Service may have to work more with other public and community agencies and engage more frequently with different levels of government. They must also consult in a manner that recognizes the reality of intersecting and compounding forms of discrimination among the most vulnerable and disadvantaged.

The Toronto Pride Parade

In 1969, a series of riots against police discrimination and brutality toward the gay communities took place in New York City. The riots began at the Stonewall Inn, a gay bar in Greenwich Village, and continued for six days. These altercations started a powerful movement now known as Pride – that celebrates the self-affirmation, dignity, and equality of LGBTQ2S+ people.

In 1971 Toronto’s first gay activists organized a picnic. And three hundred people attended. The picnic expanded, and in 1974 Toronto proudly organized its first Pride Week. The Pride march on Yonge Street in 1982 was very much a reaction to Operation Soap the previous year, and it reinvigorated a gay community that was beginning to come to grips with the threat of AIDS.

Pride Toronto started out as a protest and evolved into a celebration. It became so successful that it attracted the support of many segments of our

community, including the police. The march evolved into a parade. The parade became the symbol of Toronto Pride.

In June 2000, Pride Toronto welcomed uniformed members of the Service to march in the parade. Uniformed officers marched in it without incident until 2016, when Black Lives Matter interrupted the parade by organizing a sit-in to call attention to a number of demands addressing racism in the LGBTQ2S+ communities, in government, and in policing. A particularly explosive demand was that uniformed members of the Service be barred from participating in the parade. Black Lives Matter's position was that police were symbols of violence against the Black and LGBTQ2S+ communities.

Since 2016, debates have raged over whether members of the Service should be allowed to march in the parade and under what conditions. At Toronto Pride's general meeting in January 2017, the organization's members voted to affirm the motion that uniformed Service members not be permitted to march in the parade. Following the meeting, Toronto Police Chief Mark Saunders announced that the Service would voluntarily withdraw from any attempt to challenge the Pride membership's vote or participate in the parade. He affirmed, however, that the Service would continue to hold its annual Pride reception, and would raise the rainbow flag at Toronto Police Headquarters.

In October 2018, Pride Toronto lifted the ban saying the police would be allowed to apply to march in the parade if they complied with the entrance policy. Following that decision, a movement within Pride Toronto maintained that members of the Service had not learned from the "time out." In January 2019, Pride Toronto voted 163 to 161 against allowing uniformed officers to march in the parade. Clearly there are deep divisions within the community on the issue, but this is where the matter currently stands.

Cities around the world have been met with similar challenges. These challenges have been resolved, to the extent they have, in different ways, depending on the culture of the particular population. The resolution that appears to have worked well in cities similar to Toronto is for the police to march in the parade wearing T-shirts specially designed for the occasion with logos that clearly indicate two things – that the individual is a member of the Service and that he or she is a strong supporter of Pride.

It would appear that exclusion of the police in uniform may be where the movement is heading. That said, there are still voices that support

uniformed officers in the Pride parade because exclusion or censorship of anyone is not in the spirit of the ongoing efforts of many in various cities to promote inclusion.

These are polarized times. The police have to earn public trust and, with that, legitimacy and social licence. My hope is that, by acknowledging past mistakes, including the ones identified in this Review, and by playing an active role in addressing the history of overpolicing and underprotecting, the Service can regain the trust and support that would allow it, once again, to participate in the Pride parade and show that it supports, indeed is part of, the wonderful diversity that is Toronto.

Public Opinion About the Police

Even before the summer of 2020, there was evidence of disparate levels of trust of police. A 2019 public opinion poll done for the Board indicated alarming disparities in views of respondents about whether they thought the Service would treat people of their ethnic group fairly. Over 75 percent of white and East Asian respondents stated they would be treated fairly but only 25.8 percent of Black respondents, 56.9 percent of South Asian, and 56.3 percent of Indigenous respondents said they would be treated fairly.²²⁴ Some but not all of these negative perceptions were related to past experiences with 49.9 percent of Black, 25.9 percent of South Asian, and 25 percent of Indigenous respondents reporting that they believed members of the Service were biased against them because of their ethnic background.²²⁵ The poll found that 52 percent of the fifteen hundred randomly surveyed believed that members of the Service favour some ethnic groups.²²⁶ Such findings are alarming.

The Review commissioned a Community Engagement Survey from November 2019 to May 2020. I refer to it as an “engagement survey” because it is not intended for use as a statistically valid or representative survey of how Toronto residents feel about the issues. Respondents were not selected

²²⁴ Toronto Police Service Board, *Perceptions of the Toronto Police and Impact of Rule Changes under Regulation 58/16: A Community Survey*, Table 19, 25, at <https://www.tpsb.ca/consultations-and-publications/publications-list/send/2-publications/612-perceptions-of-the-toronto-police-and-impact-of-rule-changes-under-regulation-58-16-a-community-survey>.

²²⁵ *Ibid.*, Table 23, 29.

²²⁶ *Ibid.*, 38.

randomly; rather, after hearing about the survey, they chose to participate in it. Because this survey is not representative, it cannot be generalized to Toronto's population and is therefore biased. That said, it did provide the Review with an important tool to engage community members and enable them to express their views. I was gratified that just under one thousand respondents filled out the survey.

In important ways, the survey results resonate with what I heard throughout the Review's extensive outreach and engagement. LGBTQ2S+ and especially trans individuals expressed less confidence in the Service than others who answered the survey. Bias-free policing stands out as the greatest concern (along with and as a part of community relations). On balance, the Service received better marks with respect to ensuring neighbourhood safety. This mixed response may indicate that concerns about aspects of the Service relate to fundamental impressions rather than more specific assessments of performance on different factors.²²⁷ A 2019 national survey found that visible minority, Indigenous, gay, lesbian, bisexual people, and those who reported mental or cognitive disability had less confidence in the police than others. At the same time, 31 percent of lesbian and gay respondents, 30 percent of Indigenous respondents, 35 percent of visible minority respondents, 33 percent of those with a mental or cognitive disability, and 25 percent of bisexual respondents said they had great confidence in the police in this nationwide survey.²²⁸

Since the killing of George Floyd in May 2020 and related events in Canada that summer, there have been signs of declining trust in the police, as well as a polarization of opinion. Statistics Canada conducted a crowdsourcing initiative in August 2020, which it noted was not as representative as random sampling. Nevertheless, of the 36,000 Canadians who responded, 23 percent said they had low trust of the police, compared to 13 percent who had low trust in the health care system, and 9 percent who had low trust in local merchants and businesspeople. Among Black respondents, 52 percent had low trust in the police, compared to 44 percent of those who belonged to multiple

²²⁷ For a detailed summary of the results, see Appendix E.

²²⁸ Dyna Ibrahim, "Public Perceptions of the Police, 2019" (Ottawa: Statistics Canada, 2020), at <https://www150.statcan.gc.ca/n1/en/pub/85-002-x/2020001/article/00014-eng.pdf?st=9l3RBo1U>.

visible minority groups and 40 percent of Indigenous respondents.²²⁹

A September 2020 Angus Reid poll found less support for the police among younger, Indigenous, and visible minority respondents who also were more likely to say they felt less secure in the presence of the police and were more likely to have negative encounters. For example, 37 percent of those aged 18 to 24 and 33 percent of those aged 25 to 34 viewed the police unfavourably, compared to only 15 percent of those aged 45 to 54 and 13 percent of those aged 55 to 64. Among those 18 to 24 years of age, 50 percent believed there was a serious problem in the way the police interacted with Indigenous, Black, and other racialized groups. In Toronto, 41 percent of all those randomly surveyed believed there was a serious problem in the way the police interacted with these groups.

The pollsters found polarization with about a quarter of respondents fitting into the extremes of “true blue” and about a quarter fitting into “defunders.” An Angus Reid survey suggested that only 25 percent of respondents supported defunding the police, with 38 percent concluding that funding was appropriate and 19 percent wanting increased funding.²³⁰ These trends to polarized opinions of the police suggest that the police must make efforts to regain trust among young people and those from Indigenous and racialized backgrounds. Such trends also suggest that it is in the interest of the police to listen to these concerns through surveys, town halls, and community consultations. The police should also invest in research and data to better understand why public support seems to be declining, especially among marginalized and vulnerable groups.

Responses from City Council and the Board

The Toronto City Council responded to growing community concern and outrage over the killing of George Floyd and the death of Regis Korchinski-Paquet. On June 29, 2020, city council considered a number of motions by councillors addressing policing in Toronto. In response to those motions, the mayor released a report, entitled “Changes to Policing in Toronto,” in

²²⁹ Ibid, 10.

²³⁰ Angus Reid Institute, “Policing in Canada,” October 9, 2020, at http://angusreid.org/wp-content/uploads/2020/10/2020.10.09_Policing.pdf; Angus Reid Institute Policing in Canada Oct 26, 2020 at http://angusreid.org/wp-content/uploads/2020/10/2020.10.24_Policing2.pdf.

August.²³¹ The report was adopted with amendments. The decision of city council included 36 recommendations spanning seven themes.

The seven themes are as follows.²³²

1. *Alternative Community Safety Response Models*

The city recognizes the need for community-based crisis response models that do not require the presence or intervention of the police.

2. *Police Budget & Budgetary Transparency*

The city council intends to examine the Service's budget with the aim of improving accountability and transparency in the police budget process. To advance recommendations under this theme, city council has asked the provincial government to amend the *Police Services Act*²³³ to grant city council oversight of the Service's budget and allow scrutiny by the city auditor.

3. *Independent Auditing & Police Service Accountability*

The Board asked the city's auditor to independently develop a work plan and perform audits of the Service. The goal is to improve service delivery, identify specific areas of success and specific areas for improvement within the Service, and to find potential areas for savings and redistribution of funding.

4. *Chief Selection Criteria*

Some of the recommendations touch on the process for selection and hiring of the next police chief. Input is to be sought from public and community stakeholders, Indigenous and Black communities, on desired values, skills, and other criteria.

5. *Data Sharing & Information Transparency*

Some of the recommendations direct the Service to co-operate with the city and make available on the Toronto Police Service website key information, such as use of force policy, Toronto Police Services Board annual reports, and data associated with the police force's race-based data strategy.

²³¹ <https://tpsb.ca/consultations-and-publications/items-of-interest/send/29-items-of-interest/630-police-reform-in-toronto-august-2020-report>, 21.

²³² <https://www.toronto.ca/community-people/get-involved/community/policing-reform/>.

²³³ *Police Services Act*, RSO 1990, c P.15.

6. *Police Conduct Accountability*

Several of the recommendations call for greater police accountability and require legislative amendments. The city council, with support from the Board, has asked the provincial government for amendments so that police discipline be reformed in line with recommendations from the 2017 Report of the Independent Police Oversight Review by the Hon. Justice Michael H. Tulloch.²³⁴

7. *Status & Implementation of Recommendations*

In response to public concern that previous police reforms have not been implemented, the city and the Service will work together and develop an online tracking tool monitoring the progress of implementation. The city council's recommendations request the status of the implementation or recommendations from the race-based data collection policy, the Independent Review of Police Encounters with People in Crisis, the Report of the Independent Police Oversight Review, and the recommendations from the inquest into the death of Andrew Loku.

The recommendations can be found in full on the City of Toronto's website.²³⁵

As the city adopted its recommendations, the Board also received thousands of messages from concerned community members. The Board held four full-day virtual town hall meetings during the summer of 2020.²³⁶ Nearly 150 Toronto residents attended the town halls.²³⁷ The Board received over one hundred written submissions from members of the public who were not able to attend.²³⁸

The Board published an interim report on August 7, 2020, summarizing community responses. Many town hall participants expressed the view that the Service suffers from systemic racism. Toronto residents, especially those on the intersection of racialization and mental health and addictions, see the Service as a threat to their safety.²³⁹ The interim report highlights distrust and

²³⁴ https://www.attorneygeneral.jus.gov.on.ca/english/about/pubs/police_oversight_review/.

²³⁵ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.CC22.2>.

²³⁶ "TPSB – Recommendations PUBLIC_AGENDA_Aug_18," 3.

²³⁷ Toronto Police Services Board, "July 2020 Virtual Town Halls," at <https://www.tpsb.ca/consultations-and-publications/public-engagement/july-2020-town-halls>.

²³⁸ "TPSB - Recommendations PUBLIC_AGENDA_Aug_18," 3.

²³⁹ Toronto Police Services Board, "Town Hall Interim Summary," 2, at <https://tpsbc.ca/consultations-and-publications/publications-list/send/2-publications/633-town-hall-interim-summary>.

suspicion of the Service.²⁴⁰ The distrust was aimed at both the Service and the Board as participants expressed that they do not believe Service members can or want to change, that too many police officers refuse to admit that the Service has a problem of systemic racism, and that the Service has engendered an “us vs them” mentality.²⁴¹ Members of the public also shared the view that, while the public forum was a step in the right direction, past reports and recommendations seemed to have had no effect on policing in Toronto.²⁴² Participants have said that the Board bears the onus of demonstrating that it is committed, seriously committed, to eliminating systemic racism.

On August 18, 2020, the Board adopted 81 recommendations to address a long history of anti-Black and anti-Indigenous racism, discrimination, and marginalization in Toronto.²⁴³ The Board stated its priority has been, and must continue to be, to ensure fair and equitable policing in Toronto.

In November 2020, city council passed a motion directing the city manager to forward the responses it received from several community organizations to the new inspector general of policing. Council requested that the city manager report back at the February 2021 council meeting, outlining the inspector general's response and rationale for endorsement, rejection, or neutral position of the feedback and recommendations.²⁴⁴ Citing his independence and mandate to ensure sufficient police services for the province, the inspector general responded that it would not be appropriate to respond to these reforms.²⁴⁵

It is clear from the public response after the summer of 2020, that there is great discord between many communities and the Service. To whatever extent the Service's relationship-building initiatives have been effective, they clearly have not succeeded in mitigating community distrust. In my view, both the Board and the Service need to make building better relations a priority.

The City's Committees and Initiatives

Commitment to Anti-Racism Initiatives

In November 2016, the city launched Toronto For All, a public education

²⁴⁰ Ibid.

²⁴¹ Ibid.

²⁴² Ibid, 2–3.

²⁴³ <https://www.tpsb.ca/consultations-and-publications/police-reform-implementation-dashboard>.

²⁴⁴ <https://www.kristynwongtam.ca/defundpolice>.

²⁴⁵ <https://www.toronto.ca/legdocs/mmis/2021/cc/bgrd/backgroundfile-163016.pdf>.

initiative to “generate dialogue among Toronto residents” regarding discrimination and racism, including systemic racism.²⁴⁶ As part of Toronto for All, that month the city partnered with the Ontario Council of Agencies Serving Immigrants for a public education campaign on anti-Black racism in Toronto. The awareness campaign featured posters challenging viewers to identify, question, and challenge their bias.²⁴⁷ In 2017, city council unanimously adopted the Toronto Action Plan to confront anti-Black racism and the formation of the Confront Anti-Black Racism Unit (CABR Unit).

The CABR Unit is responsible for implementing the Toronto action plan. The plan is intended to be strategic, specific, measurable, achievable, relevant, realistic, and timely. It also intends to respond to the priorities identified by Black communities. The plan also includes recommendations in relation to policing, better oversight of Toronto police, and measures to stop racial profiling and overpolicing of Black Torontonians. As the city enters year three of the action plan, there will be a greater focus on supporting the development of alternatives to police response for mental health crisis calls, wellness checks, and low-level disputes between community members.²⁴⁸ The city intends to engage with 12 Black Torontonians (African descent or origin, African Black Caribbean, African Canadian, Canadians of African descent) as part of the Partnership & Accountability Circle. This circle will guide and support the full implementation of the action plan.²⁴⁹

The following are recent initiatives undertaken by the city to confront challenges facing policing.

Accountability Table

In 2020, city council created the Alternative Community Safety Response Accountability Table (the Accountability Table). It brings together community leaders to monitor and support the development and implementation of the community-led safety response models that do not require the presence or intervention of the police. The Accountability Table draws representation from across sectors including policy, mental health and addictions services,

²⁴⁶ <https://www.toronto.ca/community-people/get-involved/community/toronto-for-all/>.

²⁴⁷ <https://www.toronto.ca/wp-content/uploads/2019/04/97d4-community-conversation-guide-participants.pdf>, 3.

²⁴⁸ <https://www.toronto.ca/community-people/get-involved/community/confronting-anti-black-racism/>.

²⁴⁹ Ibid.

homeless advocacy, Indigenous and Black serving organizations, and organizations serving racialized and other equity-seeking groups.²⁵⁰

Police Reform: Community Crisis Support Service Pilot

At the June 29–30, 2020, city council meetings, the councillors directed the city manager to develop a non–police-led, alternative community safety response model for calls involving Torontonians in crisis.²⁵¹ The Service saw a 32.4 percent increase of these calls over five years. (A person in crisis is characterized as “a person experiencing a temporary breakdown of coping skills.”²⁵²) The rise in crisis calls has been partly attributed to the lack of mental health support and resources.²⁵³

The movement to de-task the police appears to be gaining momentum. In early February 2021, city council approved four community safety and crisis support service pilot programs. These programs will allow for a non–police-led response for non-emergency, non-violent calls, including those involving persons in crisis, and for wellness checks. As explained in a City of Toronto news release:

One of the four pilots would serve Indigenous communities, recognizing the history of Indigenous peoples and their negative experiences with policing. This pilot will be Indigenous-led and co-developed with Indigenous communities ... The pilots will create multidisciplinary teams of crisis workers with training in mental health and crisis intervention, de-escalation, situational awareness and field training, prior to the pilots’ launch.²⁵⁴

The City of Toronto seems committed to frequent and serious consultation with the community. This will place pressure on both the Service and the Board to do the same, raising concerns about consultation fatigue and inefficient duplication. It will be important for both the Service and the Board to be active in city-wide consultations that examine the optimal role of the Service in community safety strategies.

²⁵⁰ <https://www.toronto.ca/community-people/get-involved/community/policing-reform/>.

²⁵¹ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX20.1>.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ <https://www.toronto.ca/news/city-of-toronto-report-on-policing-recommends-pilots-for-community-safety-and-crisis-response-program/>.

Defunding Demands

On June 29, 2020, two city councillors put forth a motion to cut the budget of Toronto police by 10 percent, or, \$107 million. Council rejected this motion.²⁵⁵ At the same time, for the 2021 fiscal year, there was no increase in the Toronto police budget. The financial impact of the pandemic will create pressure on funding of all municipal services, including the Service, for some time. This financial impact underlines the need for innovative forms of service delivery that make the best use of all public and private responses. Before his retirement, Chief Mark Saunders told me that he is open to such innovation. He stated that other entities can assist the Service

with different layers in missing person cases, like mental health issues and diverse communities, without costing \$100K a year. There are opportunities to do things differently.

I agree. In my view, now is the time to re-evaluate the optimal role that the police can play in broader community safety and well-being strategies. This, however, presents additional challenges of coordination and avoiding consultation fatigue when seeking the expert knowledge from disadvantaged communities.

Summary and Findings

Strong, healthy relationships between the Service and the communities it serves are the key to successful policing. This chapter has focused on the urgent need for the Service to build better relationships with marginalized and vulnerable communities who have many reasons to distrust and even fear the police. The primary goal of the aspiration toward discrimination-free policing should be that all people in Toronto receive equal protection by the police and, where appropriate, other public agencies.

The vicious circle of overpolicing and underprotection must be broken.

²⁵⁵ <https://globalnews.ca/news/7120179/toronto-council-police-defunding-reforms/#:~:text=Toronto%20City%20Council%20voted%20against,implementation%20of%20body%2Dwork%20cameras.>

It must be broken to remedy systemic discrimination and to improve policing in general. First and foremost, policing requires trust. And the foundation of trust is effective and candid two-way communication between the police and the vulnerable. If the police do not gain such trust, more of the marginalized and vulnerable will turn to other agencies and groups that do have their trust.

I am concerned that the plethora of consultative mechanisms may dilute the impact of consultation. The silos that exist between the Service and the Board need to be broken when it comes to consultation. As outlined in Chapter 3, the Board needs to be better informed about “critical points” in police operations, including those that have the potential to affect the reputation of Toronto’s police.

Part XI of the existing *Police Services Act* and Part XVI of the CSPA, 2019, soon to be proclaimed in force, require that other agencies with responsibility for housing, health, education, and social welfare must be included in meaningful consultations about community safety strategy. The Service and the Board must also play roles but not dominant ones. The nature of community consultation also needs to change in the light of the increasing recognition that intersectionality complicates who “represents” a community and who should be consulted. In Chapter 15, I return to the many challenges in making community consultation more transparent and meaningful.

Like Justice Tulloch in his independent examinations of both police oversight and street stops, I have found much distrust and even fear of the police. Sex workers told me that they would not report a missing person to the police. Those with irregular immigration status told me they would not report a missing person to the police. Homeless people told me that they do not want to be seen with the police. Trans individuals told me that they feared humiliation from the police. As my former colleague has written, distrust of the police undermines modern policing, which from Peel to the present-day is “founded on public trust.”²⁵⁶ It is my hope that this chapter will provide a framework for the important work that must be done to improve relations between the police and the many and overlapping marginalized communities.

Some suggest that the situation is beyond repair, and that the answer can be found only in looking to new or other institutions to perform much of the

²⁵⁶ Tulloch, *Independent Police Oversight Review*, para 6.

work now done by the Service. Others are more optimistic. I count among them. They point to significant measures the Service has undertaken in recent years to address bias and discrimination in policing, while acknowledging that much work must still be done to repair relationships. Many well-intentioned initiatives, including the very successful neighbourhood community officer program, are not well publicized. The Service must both listen and talk. It must listen to the communities and must share with the public what it is doing.

The Service's website would be a good way for the Service to enlighten the public about its various initiatives designed to build and improve relationships with the communities it serves. However, the Service's website is not effective. Not at all. It is much less accessible than those of other Canadian police services, such as those in Winnipeg, Saskatoon, and Edmonton. Many of the policing policies and initiatives that are of most interest to marginalized and vulnerable groups are not readily accessible through the Service's website. The lack of a web presence for various consultative committees or public meetings also means that the Service's consultation with the community often lacks transparency. I identify but a few examples of how the Service website, particularly the missing person webpage, can be improved. It must be designed to serve Toronto communities rather than promote the Service.

The Service must recognize that the overpolicing and underprotection of the LGBTQ2S+ communities and other similarly and overlapping marginalized and vulnerable communities have resulted in systemic discrimination and damaged its effectiveness in serving and protecting those who live in Toronto. It should recognize, as the Supreme Court recently observed, that rights "of *all* people" should be respected "in *all* neighbourhoods" in order to uphold an equitable rule of law.²⁵⁷ The Court elaborated: "Effective law enforcement depends on the co-operation of the public and the police must act in a manner that fosters co-operation and contributes to the public's perception of police legitimacy."²⁵⁸ The public's perception of police legitimacy also depends on the degree to which they trust the police.

²⁵⁷ *R v Le*, 2019, SCC 34 at para 165.

²⁵⁸ *Ibid*, at para 162.

Better relationships cannot be achieved through a “one-size-fits-all” approach. True equality should be sensitive to intersecting experiences of discrimination. The Service needs to make a special effort to improve relations with communities that have suffered discrimination and have had a troubled relationship with the police. Even though liaison officers and consultative committees may play a role, often an important role, they are not enough. Each member of the Service must make improved relationships a top priority. Such a transformation will not be easy. It will require the Service to move away from a hierarchical and closed police culture that has been resistant to criticism and independent evaluation.

Fortunately, there are many signs that we live at a time that is conducive to fundamental change. In my view, such change is necessary. It is also possible. In Chapter 15, I do not propose a detailed blueprint for improving relationships. The reason, in part, is because the Board, the Service, and the City of Toronto are all working, as they should be, on improving relations with marginalized and vulnerable communities. These initiatives are being given high priority. In developing new approaches to community safety, everyone involved should respect the expert knowledge of those who have lived the discriminatory realities of being both overpoliced and underprotected.

The Board, the Service, and the city should be careful not to overload vulnerable and underresourced groups with diffuse, duplicative, and ultimately diluted forms of consultation. There is a need for more comprehensive and better-resourced approaches to ensure that community engagement is transparent and meaningful for the most marginalized and vulnerable. The Service should expect, and indeed seek out, welcome, and learn from criticism. The Service should commit itself to a continual process of relationship building and improvement.

The hard reality of poor relations between the Service and a number of disadvantaged communities should not obscure the fact that, over the last three decades, the Service has made substantial efforts to improve such relationships. I am also impressed with the genuine passion and commitment of many individuals within the Service, officers and civilian members alike, and within the marginalized and vulnerable communities – who all recognize the need to improve relationships and community safety. Meaningful change in the Service will be difficult because of a culture that has too often been

resistant to change. For what it is worth, those in the Service seeking such meaningful change have my respect and support. So too do those in marginalized and vulnerable communities who are still willing to work with the Service.

What I find lacking in the Service's sincere efforts to improve community relations is the guidance of an overall strategy. Despite *The Way Forward* plan that emphasized culture change and, somewhat belatedly, community engagement, the Toronto police still lack a clear and coherent strategy for improving relations with marginalized and vulnerable communities. Without clear goals for community engagement, it is not surprising that the Service has generally not evaluated its many initiatives to determine if they are achieving set goals. The notable exception in this regard is the NCOP program, which has been subject to periodic evaluation by researchers at Humber College who have attempted to measure its effects on crime, calls for service, and community attitudes toward the police.

To be sure, some immediate concerns such as the disbandment of TAVIS have been accomplished. A promising neighbourhood policing program has been introduced, expanded, and evaluated. Nevertheless, the basics of the Toronto police's community engagement remain the same. There is continued reliance on community liaison officers and consultative community committees that have been around for some time. Both of these institutions were formed before the insights about intersecting and overlapping discrimination became well known. The membership of the community consultative committees is not readily available to the public. The committees do not have consistent or active web and social media presences or other ways of receiving input from the communities they are supposed to represent or of delivering information about police initiatives and policies to communities. Moreover, the reality of intersectionality has complicated the idea that one liaison officer or one community can engage with the LGBTQ2S+ communities in all their diversity.

The lack of a clear and coherent strategy provides the Service and the Board an opportunity to develop a more rational and clearly articulated approach for improving relationships with Toronto's communities. The Service and Board cannot act alone. They must engage with communities and

broader community safety strategies being devised by the City of Toronto. In my view, the Service needs to accept that, without improved relationships with all of Toronto's diverse and overlapping communities, it will lack the trust that is essential for effective and legitimate policing.

Finally, with the important and shining exception of the neighbourhood community officer policing strategy started in 2013 and extended to the Village in late 2017, the Service's initiatives to improve community relations and policing have not been subject to independent evaluation with a focus on measures of success and failure. This type of clear articulation of goals and evaluation that accompanied the neighbourhood community officer program should become the norm, not the exception. The Service should collect, publicize, and share data and enter into research partnerships that allow independent evaluations including about the views that various communities have of the Service. Such evaluations should be made available to the public.

A senior member of command at the Service observed that there was a need to focus not simply on the Service's inputs into community relations, but to measure the effectiveness of the outcomes produced by various initiatives, including liaison officers. The Service should hold regular town halls and smaller listening circles, perhaps even Sunday meetings in living rooms, to gain more information about the diverse communities it serves and to form closer ties with them. It should engage modern research techniques and conduct regular surveys of community attitudes and publish them on a more accessible website.

These necessary changes cannot take place without changes in the culture of the Service. What is required is a more open and collaborative and less insular and hierarchical institution. The Service has a difficult job to do and it should expect and accept informed criticism. At the same time, it should play its own role in making sure that the inevitable criticism it will receive is fully informed, including by co-operating with independent evaluations of its programs.

Most of all, the Service should recognize that it cannot provide equal and effective protection if it does not improve its relations and flow of communications with all communities, especially the most marginalized and vulnerable. The Service must also recognize that the pillar upon which improved relations and communication must be built is trust. It is profoundly

disheartening for me to reflect on Arnold Bruner’s words, written 40 years ago, in which he described the relationship between the police and the gay communities as a “gulf of mistrust and misunderstanding.”

As this Report reveals, there has been progress in addressing that gulf. So, too, have there been setbacks. There is clearly much to be done. The prevailing message I heard during my extensive outreach is that at this particular time there is a genuine commitment to building a new relationship between the Service and marginalized and vulnerable communities – one based on trust. I am confident we can build this new relationship. This takes me to the recommendations in Chapter 15.

Case Study

THE DISAPPEARANCE OF DOVI HENRY

Dovi Henry was a 23-year-old Black man living in Toronto. He had a brother and two sisters. Mr. Henry cut a striking figure – tall and slim. He was creative – a promising poet. In elementary school, he participated in a gifted program and became so adept in French that he was later employed as a tutor. He loved games – intellectual games. He played Scrabble and carried a portable chessboard in his pocket. Mr. Henry was also athletic – an avid soccer and volleyball player. He and his mother, Maureen Henry, shared a love of reading.

Sometime around May 5, 2014, friends saw Mr. Henry at a poetry event in Ottawa. It was the last time anyone had contact with him. Although his body was found in Toronto a few months later, he would remain unidentified and missing for two years.

After her son was identified, Ms. Henry filed a complaint against several Toronto police officers in relation to the investigation into his disappearance. She stated that the Toronto police failed to file a Missing Person Report for him when she first told them he lived in Toronto and had gone missing. She also challenged the insistence by the police that her son committed suicide. Finally, she asserted that the police were rude and lacked compassion for her during her time of grief. The matter was referred for review to the Peel Regional police, who investigated her complaint and reported to the Toronto chief of police, Mark Saunders. Chief Saunders ultimately found that the officers did not engage in misconduct. Ms. Henry responded to this finding by requesting that the Office of the Independent Police Review Director (OIPRD) assess Chief Saunders's decision. As a result, a second investigation was conducted. Ultimately, the OIPRD largely supported Chief Saunders's decision,¹ although it found that the Service mishandled Ms. Henry's initial call for service.

It is not within my mandate to fully examine the disappearance of Mr. Henry and the police officers' actions. However, the Review did obtain a copy of the decision of the OIPRD, which made the following findings.

On March 2, 2014, Mr. Henry sent a troubling Facebook message to a friend, raising concerns he might be suicidal. The friend contacted Ms. Henry and told her about the message. Ms. Henry, who lived in Ottawa, called the

¹ Chief Saunders found that the allegations against one officer were unfounded, and, because two other officers had retired, no jurisdiction existed in relation to them.

Toronto Police Service (the Service) that same day to report the suicidal threats. She informed the Service call-taker that she did not have her son's address or phone number in Toronto.

The operational supervisor in the Service's Communications Centre was notified of the call and decided that, because Ms. Henry lived in Ottawa, she should be directed to the Ottawa Police Service to file a report. The operational supervisor instructed the call-taker to take no further action on Ms. Henry's call until the Ottawa police provided an update.

After the call-taker relayed this instruction, Ms. Henry called the Ottawa Police Service to report her concerns. Initially, the officer she spoke to was confused as to why the Service had referred her to the Ottawa police. The Ottawa officer reached out to the Service's Communications Centre to clarify his role. He was told that the Service wanted assistance in retrieving the messages that had raised concerns about Mr. Henry's possible suicidal thinking so that the Toronto police could communicate directly with Facebook. The Ottawa officer then spoke with Ms. Henry, obtained the Facebook messages, and forwarded them to the Service. He concluded, quite reasonably, that the Service would be responsible for any follow-up investigation. However, once the operational supervisor forwarded the messages to Facebook, no further steps were taken by the Toronto police. The operational supervisor incorrectly believed that the Ottawa police were now handling the matter.

On March 3, Ms. Henry called the Service with information that her son had spent the night at a hospital near Jane Street and Finch Avenue. The Service's call-taker arranged for two officers to check the Humber River Regional Hospital – Finch Site for Mr. Henry. When they learned the hospital had no record of Mr. Henry, they called other hospitals without success. These officers believed that the Ottawa Police Service was investigating Mr. Henry's whereabouts.

The OIPRD found that Ms. Henry's call to the Service about her son's suicidal ideation was incorrectly handled from the start. The operational supervisor should not have diverted Ms. Henry's call from the Service to the Ottawa police. This lone decision resulted in confusion as to which police service had carriage of the call and led to neither service submitting an official police report. The OIPRD found that on March 2, the Service should have generated a call for service for a possibly suicidal person and should have assigned the matter to a Toronto police officer. Had that been done, the Service would have generated a report and would have initiated an investigation. The OIPRD further found that the Service could have then taken a number of steps

to locate Mr. Henry, including generating a BOLO alert² or noting Mr. Henry as “missing / possibly suicidal” in the Service’s database. The OIPRD stated:

[T]he handling of the March 2 call for service had a ripple effect on the events that followed. Had a call for service for a possibly suicidal person been generated, it could have eventually led to Ms. Henry’s son being placed on TPS databases as missing. When the human remains were discovered, the assigned investigators would have been able to compare any physical descriptors of the remains to the physical descriptors of Ms. Henry’s son. Unfortunately, this could not be done.

On March 3, Mr. Henry contacted his aunt in Toronto and decided to stay with her. On March 9, he left her home. Mr. Henry’s aunt stated that she called the Toronto police, and an officer came to her home. The police officer told her she would have to wait “at least 24 hours” before she could report Mr. Henry missing. Unfortunately, an extensive search of the Service’s databases revealed no recorded calls for service being made in relation to Mr. Henry, his mother, or his aunt on March 9. The OIPRD noted, however, that the unidentified officer would have been in violation of the Service’s procedure, which does not require any waiting period to report a person missing to police, and that his actions could amount to neglect of duty under the *Police Services Act*. Because the officer could not be identified, no finding of misconduct could be made against him.

On March 15, Ms. Henry called the Service and advised the call-taker that, on March 2, she had reported her son’s disappearance to the police. After looking into the matter, the call-taker told Ms. Henry that her son was not listed on the Service’s database as missing. Ms. Henry replied that she had reported to the Ottawa police on March 2, and she requested that the Toronto police check his address. Later, Ms. Henry placed another call to the Service to cancel her request for assistance, indicating that her family did not want the police involved. Despite this instruction, the call-taker sent officers to the address provided but were unable to locate Mr. Henry.

On April 29, Mr. Henry contacted his aunt to say he would be in Ottawa for his birthday on May 5. Around that same time, he attended a poetry event in Ottawa and was seen by some of his friends.

On July 27, 2014, a man’s body was found near a marina at Ontario Place. The body was decomposed and unidentifiable. An autopsy found no obvious signs of foul play or trauma to the body. The forensic anthropologist

² A BOLO alert is a Canada-wide notification to all police services to “be on the lookout” for an individual. That person might be a person of interest in a particular investigation.

determined that the man had died anywhere from a few weeks to several months before being found. Police treated it as a suspicious death and initiated a full investigation.

While the investigation into the found remains was on going, Ms. Henry continued her efforts to locate her son. On January 16, 2015, she called the Service to ask the police to check two addresses for her son. Police went to the addresses but did not find him.

In February 2015, an officer was assigned as lead investigator for the unidentified remains (or sudden death) investigation. From February 2015 to April 2016, this officer and the Ontario Forensic Pathology Service tried to identify the body. The officer reviewed missing person cases in Toronto, York, Durham, and Peel regions. Whenever she identified potential matches, she contacted the appropriate persons and liaised with the forensic anthropologist to review dental or DNA records.

On April 27, 2016, while looking at listings of unidentified human remains on the Missing Persons and Unidentified Bodies Unit website, Ms. Henry found one she thought could belong to her son. Through DNA and dental records Ms. Henry provided, the OPP confirmed that the body found near the marina at Ontario Place was indeed her son. The lead investigator was notified that the body had been identified. She contacted Ms. Henry, who provided information about her son and his disappearance. The lead investigator continued her investigation into Mr. Henry's death. This investigation into circumstances surrounding the death was also the subject of the complaint Ms. Henry initiated. Ultimately, no findings of misconduct were made against any officer.

Ms. Henry told the Review that because she and her son are Black, she and her family were initially hesitant to contact the police. They were worried that the police might harm Mr. Henry or put him in jail if they did find him. Ms. Henry told the Review about negative experiences her family members have had with the Service and the lack of trust resulting from what she viewed as a legacy of racism within the Service. She also felt the Service's officers with whom she spoke were rude to her and dismissive of her concerns about her son. Ms. Henry's comments are relevant to my Review because they reflect the difficulties I have identified between the Service and members of marginalized and vulnerable community members. They remind us how distrust can have a negative impact on missing person and unidentifiable remains investigations. For example, I know from my outreach and engagement that although Ms. Henry did contact the police, many members of marginalized and vulnerable communities do not.

Summary and Findings

Although my Terms of Reference do not specifically refer to the disappearance of Mr. Henry as a case to be examined, it does assist in highlighting systemic issues I identify elsewhere during this Review.

The OIPRD's finding that the Service should have initiated a call for service and generated a Missing Person Report when Ms. Henry contacted the police on March 2, 2014, reinforces the need, identified in this Report and now recognized by the Service, that every call for service relating to a missing person should be responded to, properly documented, and followed up on. Further, misconceptions continue to exist in the community at large – misconceptions undoubtedly reinforced by misinformation the Service itself provides, such as that someone must wait 24 hours or some other fixed period before reporting a missing person. There is no such “waiting period.” Nor should there be. The misconception that existed here is addressed in my recommendations in Chapter 15.³

This case study reinforces the need for someone, distinct from investigators, who can advocate on behalf of those directly affected by missing person cases and champion their cause.

Here, the failure to generate a Missing Person Report contributed to the trauma and pain experienced by Mr. Henry's family when they remained unaware for two years that Mr. Henry's body had been recovered. As the OIPRD report observed, this case serves as a clear reminder that for proper investigation of cases such as this one, the police must be able to compare physical descriptors of unidentified remains to those of missing persons both accurately and promptly. The police can do so only if priority is attached to Missing Person reports and if these reports are investigated in a timely and effective manner. Among other things, this level of attention requires that all information pertaining to these cases is accurately recorded on relevant databases so it is accessible to all members of the Service as well as to other police services.

The OIPRD report also suggests that a lead investigator may not have been assigned to investigate Mr. Henry's unidentified body until approximately six months after it was found. The delays in assigning lead investigators have figured prominently in other cases I have examined and have also prompted some of my recommendations.

Finally, the reticence of Ms. Henry and her family to interact with the police, given their lived experiences and the legacy of distrust among many

³ I recognize that the Missing Persons Unit's webpage refers to this issue (Chapter 13).

Black community members, continues to represent a critically important systemic issue. I need not evaluate the specific interactions Ms. Henry or other family members have had with the Service. The available facts satisfy me that the Service must do much better in addressing the legacy of distrust that Ms. Henry described and the realities and perceptions of how traditionally disadvantaged community members will be treated. The goal is always to build and maintain respectful relationships.