



Public Meeting

**Thursday,
January 11, 2024
at 9:00AM**



PUBLIC MEETING MINUTES

Thursday, January 11, 2024, at 9:00AM

Livestreamed at: <https://youtube.com/live/HkO7rMkS718?feature=share>

The following *draft* Minutes of the hybrid public meeting of the Toronto Police Services Board that was held on January 11, 2024 are subject to approval at its next regularly scheduled meeting.

Attendance:

The following Members were present:

Ann Morgan, Chair (virtual)
Lisa Kostakis, Vice-Chair
Lily Cheng, Councillor and Member
Nadine Spencer, Member
Nick Migliore, Member
Amber Morley, Deputy Mayor and Member
Jon Burnside, Councillor and Member

The following individuals were also present:

Myron Demkiw, Chief of Police, Toronto Police Service
Dubi Kanengisser, Executive Director, Toronto Police Services Board
Diana Achim, Board Administrator, Toronto Police Services Board
Jane Burton, Solicitor, City of Toronto – Legal Services Division

Declarations:

There were no declarations of interest under the *Municipal Conflict of Interest Act*.

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-0.1. Remarks Regarding the Tragic Passing of Police Horse Picard

Chair Morgan made the following remarks:

The Board was deeply saddened to hear of the tragic passing of Police Horse Picard on December 20, who died due to serious complications during surgery.

Picard was given his name in memory of a late Toronto police constable P.C. Sam Sun, a huge Star Trek fan, who passed away in 2018, so this loss is only deepened further, as a result.

By all accounts, Picard was a special and kind soul, who was exceptional at his job.

We extend our sincere condolences to the Mounted Unit, and in particular, Picard's riders.

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-0.2. Chief's Monthly Verbal Update

Chief Demkiw provided an update on the following matters:

- Project Resolute,
- Community Safety and Wellbeing
- Hate Crimes statistics
- Service's budget request

For a more detailed account of this update, see the YouTube recording starting at minute 13:26 here:

<https://www.youtube.com/live/HkO7rMkS7l8?si=Q529y1dwHqK8ivj4&t=806>

The Board received the update.

Moved by: L. Kostakis
Seconded by: N. Migliore

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-1.0. Election of the Chair and Vice-Chair

Election of the Chair, Toronto Police Services Board

In accordance with section 28(1) of the *Police Services Act*, which provides that the Board is required to elect a Chair at its first meeting in each year, the Board Administrator requested nominations for the position of Chair of the Toronto Police Services Board.

Board Member Lisa Kostakis nominated Board Member Ann Morgan for the position of Chair for 2024; the nomination was seconded by Board Member Nadine Spencer. Chair Morgan accepted the nomination. There were no further nominations, and nominations were closed.

The Board Members voted, and Ann Morgan was declared re-elected Chair of the Board for the year 2024, and until her successor is appointed.

Election of the Vice-Chair, Toronto Police Services Board

In accordance with section 28(2) of the *Police Services Act*, which provides that the Board may elect a Vice-Chair at its first meeting in each year, the Board Administrator requested nominations for the position of Vice-Chair of the Toronto Police Services Board.

Chair Morgan nominated Board Member Lisa Kostakis; this nomination was seconded by Board Member Nick Migliore. Board Member Lisa Kostakis accepted the nomination. There were no further nominations, and nominations were closed.

The Board members voted, and Board Member Lisa Kostakis was declared re-elected Vice-Chair of the Board for the year 2024, and until her successor is appointed.

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-2.0. Board Minutes

The Board approved the public Minutes from the regular public meeting held on [December 19, 2023](#).

Deputation: Derek Moran (in person)

The Board received the deputation and approved the Minutes.

Moved by: L. Kostakis
Seconded by: N. Migliore

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-3.0. [Update on the Implementation of the Board’s Policy on Use of Artificial Intelligence Technology](#)

The Board was in receipt of a report dated December 12, 2023 from Dubi Kanengisser, Executive Director.

Recommendation:

This report recommended that the Board amend its Policy on Use of Artificial Intelligence Technology as indicated in Appendix ‘A’.

- Deputations: Kris Langenfeld (virtual)
- Maria Amuchastegui (virtual)
- Derek Moran ([written deputation included](#)) (in person)

- Patricia Kosseim ([written deputation only](#))
 Information and Privacy Commissioner of Ontario

- Patricia DeGuire ([written deputation only](#))
 Chief Commissioner, Ontario Human Rights Commission

Chair Morgan thanked OHRC Commissioner Patricia DeGuire and IPC Commissioner Patricia Kosseim for their written deputations.

In response to questions raised by the deputant, Executive Director Kanengisser advised that the Board Office will look into and address as necessary an issue raised by the deputant.

For a detailed account of the response, see the YouTube recording starting at 39:56 here :

<https://www.youtube.com/live/HkO7rMkS718?si=Uk4rISREvQPoJwXJ&t=2392>

Chief Demkiw advised that his priority is to build trust within the community, and noted that the Service is doing that by looking into the hiring practices, removing any barriers to reporting, providing additional training, and working to increasing diversity in leadership.

Chief Information Officer Colin Stairs advised that he sits on the IPC’s Strategic Advisory group which looks into areas such as Artificial Intelligence; therefore, there is an ongoing conversation with stakeholders on these issues.

The Board received the deputations, and approved the foregoing report.

Moved by: A. Morley
Seconded by: N. Spencer

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-4.0. [Mobile Crisis Intervention Team Program Memorandum of Understanding between the Toronto Police Services Board and Partner Hospitals: Unity Health Network, Scarborough Health Network, and North York General Hospital](#)

The Board was in receipt of a report dated December 19, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

This report recommends that the Toronto Police Services Board (the Board), authorize the Chair to execute three Memorandums of Understanding (M.O.U.) between the Board and each of the following partner hospitals: Unity Health Toronto (U.H.T.), Scarborough Health Network (S.H.N.) and North York General Hospital (N.Y.G.H.,) in relation to the Mobile Crisis Intervention Team (M.C.I.T.) Program, subject to approval by the City Solicitor as to form.

The Board agreed to defer the foregoing report.

Moved by: A. Morley
Seconded by: N. Spencer

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-5.0. [Receipt of Donation](#)

The Board was in receipt of a report dated December 19, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

This report recommends that the Toronto Police Services Board (Board) approve the acceptance of the donation being requested in this report.

Deputation: Miguel Avila-Velarde (in person)

The Board received the deputation and approved the foregoing report.

Moved by: L. Kostakis
Seconded by: N. Spencer

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-6.0. Special Constable Appointments and Re-Appointments – January 2024

The Board was in receipt of a report dated December 1, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

This report recommends that the Toronto Police Services Board (Board) approve the agency-initiated appointment and re-appointment requests for the individuals listed in this report as special constables for the Toronto Community Housing Corporation (T.C.H.C.), and the University of Toronto (U of T), subject to the approval of the Ministry of the Solicitor General (Ministry).

The Board approved the foregoing report.

Moved by: L. Kostakis
Seconded by: N. Migliore

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-7.0. City Council Decision – Infrastructure and Environment Committee Item 7.4 Updates on Vision Zero Road Safety Initiatives - New Traffic Calming Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to Area-Based Speed Limit Reductions and Related Council Requests

The Board was in receipt of a report dated December 21, 2023 from Dubi Kanengisser, Executive Director.

Recommendations:

This report recommends that the Toronto Police Services Board (Board):

- 1) Request that the Chief of Police take Council's motion into consideration in partnership with Transportation Services to improve the safety of vulnerable road users by following the lead of Calgary and Montreal and acquiring at least 10 mobile automated license plate readers for use, as a pilot project, primarily in enforcing parking offences that adversely affect the safety of vulnerable road users, such as obstructing bike lanes and blocking visibility at intersections, and to include an evaluation of the effectiveness of this pilot project in the overall parking strategy report scheduled for 2024; and,

2) Forward a copy of this report to City Council through the Executive Committee.

Deputation: Miguel Avila-Velarde (in person)

The Board received the deputation and approved the foregoing report.

Moved by: A. Morley
Seconded by: L. Cheng

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-8.0. [City Council Decisions – MM 12.28 – Hate Speech and Other Hate Activities, EX9.2: Implementation Update: Auditor General Recommendations on 9-1-1 Operations and Responses to Calls for Service by the Toronto Police Service, EX9.10: Update on the Toronto Community Crisis Service Proposed Expansion Plan](#)

The Board was in receipt of a report dated December 21, 2023 from Dubi Kanengisser, Executive Director.

Recommendation:

It is recommended that the Board receive this report.

The Board received the foregoing report.

Moved by: N. Spencer
Seconded by: L. Cheng

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-9.0. [Chief’s Administrative Investigation Reports](#)

P2024-0111-9.1. [Chief’s Administrative Investigation into the Firearm Discharged at a Person - Complainant 2023.14](#)

The Board was in receipt of a report dated December 4, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2024-0111-9.2. [Chief's Administrative Investigation into the Custody Injury of Complainant 2023.24](#)

The Board was in receipt of a report dated November 6, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2024-0111-9.3. [Chief's Administrative Investigation into the Custody Injury of Complainant 2023.30](#)

The Board was in receipt of a report dated November 6, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2024-0111-9.4. [Chief's Administrative Investigation into the Custody Injury of Complainant 2023.32](#)

The Board was in receipt of a report dated November 6, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2024-0111-9.5. [Chief's Administrative Investigation into the Alleged Sexual Assault Complainant 2023.37](#)

The Board was in receipt of a report dated November 6, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2023-0111-9.6. Chief's Administrative Investigation into the Custody Injury of Complainant 2023.38

The Board was in receipt of a report dated November 6, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2023-0111-9.7. Chief's Administrative Investigation into the Custody Death of Complainant 2023.41

The Board was in receipt of a report dated November 6, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2023-0111-9.8. Chief's Administrative Investigation into the Custody Injury of Complainant 2023.42

The Board was in receipt of a report dated December 4, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the following report.

P2023-0111-9.9. Chief's Administrative Investigation into the Custody Injury of Complainant 2023.44

The Board was in receipt of a report dated December 4, 2023 from Myron Demkiw, Chief of Police.

Recommendation:

It is recommended that the Toronto Police Services Board (Board) receive the

following report.

Deputations: Kris Langenfeld (virtual)

Dave Shellnutt (in person)
The Biking Lawyer LLP

Zoe Newman (in person)
Jews Say No to Genocide

Suzanne Shoush (virtual)
Doctors for Defunding Police

Desmond Cole (in person)
No Pride in Policing Coalition

The Board discussed the issue of communicating with a complainant in a case where the Special Investigations Unit (SIU) has investigated, and the matter is still before the courts. Staff Superintendent Peter Code advised that since the SIU is the lead agency, and this matter is still before the courts, the Service cannot get involved or comment. He also said that the SIU is in contact with the complainant and providing resources, referrals to community agencies or further assistance, as necessary.

Chair Morgan advised that the Board has no jurisdiction in matters such as this one, due to the fact that this was an SIU investigation, it is currently before the courts, and as a practice the Board does not contact the individuals involved.

For a detailed account of the discussion, see the YouTube recording starting at 2:00:03 here:

<https://www.youtube.com/live/HkO7rMkS7I8?si=AfQLkm7agTbJX-g1&t=7228>

The Board received the deputations and the foregoing reports.

Moved by: L. Cheng
Seconded by: L. Kostakis

This is an Extract from the Minutes of the Public Meeting of the Toronto Police Services Board that was held on January 11, 2024

P2024-0111-10.0. [Update Regarding the Request to Extend Term of 911 Crisis Call Diversion Pilot](#)

The Board was in receipt of an update regarding the Request to Extend Term of 911 Crisis Call Diversion Pilot.

The Board received the update

Moved by: L. Kostakis
Seconded by: N. Spencer

**This is an Extract from the Minutes of the Public Meeting of the Toronto
Police Services Board that was held on January 11, 2024**

P2024-0111-11.0. Confidential

In addition to the public meeting conducted by the Board today, a confidential meeting was held to consider a number of matters which were exempt from the public agenda in accordance with the criteria for considering confidential matters set out in section 35(4) of the *Police Services Act*.

The following Members attended the confidential meeting:

Ann Morgan, Chair (virtual)
Lisa Kostakis, Vice-Chair
Lily Cheng, Member and Councillor
Nadine Spencer, Member
Nick Migliore, Member
Amber Morley, Deputy Mayor and Member
Jon Burnside, Member and Councillor (virtual)

A Motion to adjourn the meeting was moved by Vice-Chair Lisa Kostakis, and seconded by Board Member Nick Migliore.

Next Board Meeting

Regular Public Meeting

Date: Monday, March 18, 2024

Location: 40 College Street, Auditorium

Minutes Approved by:

-original signed-

Ann Morgan
Chair

Members of the Toronto Police Services Board

Ann Morgan, Chair
Amber Morley, Deputy Mayor & Member
Lily Cheng, Member & Councillor
Nick Migliore, Member

Lisa Kostakis, Vice-Chair
Nadine Spencer, Member
Jon Burnside, Member & Councillor



PUBLIC REPORT

December 12, 2023

To: Chair and Members
Toronto Police Services Board

From: Dubi Kanengisser
Executive Director

Subject: Update on the Implementation of the Board's Policy on Use of Artificial Intelligence Technology

Purpose: Information Purposes Only Seeking Decision

Recommendation(s):

This report recommends that the Board amend its Policy on Use of Artificial Intelligence Technology as indicated in Appendix 'A'.

Financial Implications:

There are no financial implications arising from the recommendation(s) contained in this report. Failure to adopt the proposed change will result in a need to significant resources to review additional technologies that fall under the present definition despite being unrelated to the use of Artificial Intelligence.

Summary:

The Service, in consultation with the Board Office, has concluded the review of all technologies utilizing Artificial Intelligence (AI) currently in use, as required by the Board's Policy on the Use of Artificial Intelligence. The list, attached as Appendix 'B', includes one (1) "High Risk" technology, and four (4) "Low Risk" technologies. In completing its review, the Service identified over 25 technologies that fall under the definition used in the Policy, despite not utilizing AI as it is generally understood. In consultations with the Board Office it was determined that the definition used in the Policy should be amended as suggested in Appendix 'A'.

Discussion:

Background

At its meeting of February 28, 2022, the Board approved a new Policy on the Use of Artificial Intelligence Technology. This Policy, a first of its kind in the world, established Board governance for the consideration of the use of new or enhanced technologies using AI, and an assessment and accountability framework, to minimize and mitigate any potential negative impacts that result from the use of such technologies by the Toronto Police Service (the Service).

The Policy included the following requirements, among others:

[T]he Chief of Police:

16. Will initiate immediately a process to identify and conduct a risk analysis of all AI technologies currently in use by the Service, to be completed no later than December 2024, and report to the Board upon its completion with a summary of its findings;
17. Will post immediately on the Service's website, and maintain up to date with the most accurate available information, a list of all AI technologies currently in use by the Service that are deemed to be of High, Moderate or Low risk, including the following information:
 - a. For AI technologies deemed to be of High or Moderate risk:
 - i. Name and manufacturer/developer,
 - ii. Purpose of the technology,
 - iii. How the technology is used by the Service,
 - iv. What information is collected by the technology,
 - v. What persons or under what circumstances can the technology be expected to be used, and,
 - vi. All reports submitted by the Chief to the Board with regards to the AI technology, as required under this Policy or subsequent Board decisions;
 - b. For AI technologies deemed to be of Low risk:
 - i. Name and manufacturer/developer, and
 - ii. A brief description of the type of technology (e.g., speech-to-text);

In addition, the Policy requires the Board to "review the Policy at least once every three years to ensure that the Policy successfully achieves its identified purpose."

AI Inventory

The Service has concluded a diligent process to identify any applications in use by the Service that fall under the Policy definition of Artificial Intelligence, and conducted a risk evaluation of these applications. Five (5) applications were identified that fall under the “High Risk” (one application) or “Low Risk” categories (four applications). No “Extreme Risk” or “Moderate Risk” applications were identified. Appendix ‘B’ includes a list of these applications, and will be posted on the Service’s website.

For the “High Risk” application, the list includes the name of the application and vendor, the purpose or intended use of the application, a list of information collected by the application, authorized users, and mitigation steps to reduce risks from the application. For the “Low Risk” applications, the inventory includes the name and manufacturer of each application, and a description of it.

Proposed Amendment to the Definition of AI Technology

In designing the Policy, the Board Office and the Service developed a definition of AI Technology that was intended to be as inclusive as possible. The definition, as included in the approved Policy reads as follows:

goods and services, including but not limited to software and electronic devices, which collect information about members of the public or their actions, including personal information as defined under the *Municipal Freedom of Information and Protection of Privacy Act*, or make use of existing information about members of the public or their actions, and which use automated analytical problem-solving models to assist or replace Service Members in identifying, categorizing, prioritizing or otherwise making decisions pertaining to the information or the members of the public to which it pertains. AI technology includes, but is not limited to: machine learning technology, neural networks, natural language processing applications, predictive technologies, computer vision, and technologies which make predictions using algorithms trained on large data sets. Without limiting the foregoing, for the purpose of this Policy, “AI technology” will also include any goods or services whose procurement, deployment or use require that a privacy impact assessment be conducted in advance of its deployment or use. [emphasis added]

In conducting the process to identify AI applications, the Service identified over 25 applications that fall under the emphasized portion of the above definition. In evaluating these applications, it was determined that they do not fall under any conventional definition of AI, since they do not use automated analytical problem-solving models. For example, these applications include website forms that collect private information such as an online payment application. Carrying out a full risk analysis of these applications will be unnecessarily time consuming, without furthering the purpose of the Policy.

The reference to applications that require privacy impact assessments was included as a “catch-all”, to reduce the likelihood that any flaws in the definition used will result in missed technologies. The findings of this comprehensive process demonstrate that all relevant applications were captured by the core of the definition, and no additional applications that can reasonably be deemed as AI were captured by the broader

definition. I therefore believe it is advisable to revise the Policy by removing the underlined portion of the definition from the Policy. The remaining definition will continue to cover all applications that can reasonably be considered as utilizing AI. A copy of the proposed revised Policy is attached as Appendix 'A'.

Conclusion:

The Service has concluded a comprehensive process to identify all applications of AI in use by the Service, and will post the inventory of all "High Risk" and "Low Risk" applications identified. In conducting this process, it was determined that utilizing the deliberately broad definition did not result in capturing any relevant applications that were not captured by the core definition of AI Technology, and it is therefore recommended that, to minimize unnecessary resource requirements, for future analyses the core definition only is used.

Respectfully submitted,

Dubi Kanengisser
Executive Director

Attachments:

Appendix 'A': Draft revision to *Use of Artificial Intelligence Technology*
Appendix 'B': AI Inventory

APPENDIX A

TORONTO POLICE SERVICES BOARD



USE OF ARTIFICIAL INTELLIGENCE TECHNOLOGY

DATE APPROVED	28 February 2022	P2022-0228-6.3
DATE(S) AMENDED		
DATE REVIEWED		
REPORTING REQUIREMENT	Chief to report to Board from time to time as required by this Policy and directed by the Board.	
LEGISLATION	<i>Police Services Act</i> , R.S.O. 1990, c. P.15, as amended, s. 31(1)(c). <i>Municipal Freedom of Information and Protection of Privacy Act</i> , R.S.O. 1990, c. M.56. Human Rights Code, R.S.O. 1990, c. H.19. The Canadian Charter of Rights and Freedoms	

Guiding Principles

The Toronto Police Services Board (the Board) supports the efforts of the Toronto Police Service (the Service) and its Members to provide effective and accountable policing through the prudent adoption of new technologies, while, at the same time, ensuring transparency and making certain that policing is provided in accordance with both the law and the interests of the public, and protects and promotes fundamental rights.

Novel technologies making use of artificial intelligence (AI) applications hold the promise of improving the effectiveness of policing services and increasing public safety in Toronto. At the same time, technological advancements may pose new concerns for the privacy, rights (including the rights to freedom of expression, freedoms of association and freedom of assembly), dignity and equality of the individuals affected by them. For example, there have been instances in which novel technologies were shown to incorporate and perpetuate pre-existing and systemic biases, resulting in both individually and systemically discriminating decisions. Furthermore, such unintended consequences may undermine the desired benefits to efficiency and effectiveness of policing services, as well as public trust in policing.

Under section 41(1)(a) of the *Police Services Act* (the *Act*), the Chief of Police is responsible for administering the police service and overseeing its operation, in accordance with the objectives, priorities and policies established by the Board.

The Board is the entity that is responsible for the provision of adequate and effective policing under the *Act* and its successor legislation. No current statutes or regulations fully govern the use of AI technologies in Ontario or Canada, and the Province has not yet developed comprehensive guidelines for the use of such technologies in policing. As a result of the current legal gaps and desired use of AI technologies, the Board determines it necessary to establish governance to facilitate decision-making that is in the public interest, and to enable the Chief to assess and account to the Board concerning how technology will be procured, implemented and used in the provision of policing in Toronto. In its review of proposed AI technologies, the Board will consider the need for and benefits of deploying the new technology; the potential unintended consequences to the privacy, rights, freedoms and dignity of members of the public and Service Members, and to the equitable delivery of police services to the public; and, any possible mitigating actions to eliminate any such unintended consequences. To the greatest degree possible, the Board must conduct such reviews in public.

All use of technology, including AI technology, whether approved by the Board or otherwise, must adhere to the following guiding principles:

- **Legality:** All technology used, and all use of technology, must comply with applicable law, including the *Police Services Act* (and its regulations, as well as successor legislation), Ontario's *Human Rights Code*, and the *Canadian Charter of Rights and Freedoms*, and be compatible with applicable due process and accountability obligations.
- **Fairness:** Use of AI technology must not result in the increase or perpetuation of bias in policing and should diminish such biases that exist.
- **Reliability:** AI technology must result in consistent outputs or recommendations and behave in a repeatable manner.
- **Justifiability:** The use of AI technology must be shown to further the purpose of law enforcement in a manner that outweighs identified risks.
- **Personal Accountability:** Service Members are accountable, through existing professional standards processes, for all the decisions they make, including those made with the assistance of AI technology or other algorithmic technologies.
- **Organizational Accountability:** All use of AI technology must be auditable and transparent, and be governed by a clear governance framework.
- **Transparency:** Where the Service uses AI technology that may have an impact on decisions that affect members of the public, the use of that technology must be made public to the greatest degree possible. Where full transparency may unduly endanger the

efficacy of investigative techniques or operations, the Service will endeavour to make publicly available as much information about the AI technology as possible, to assure the public of the reliability of the AI technology and the justifiability of its use. Where a decision assisted by AI technology may lead to the laying of criminal or other charges against an individual, the possible influence of the AI technology must be included in the disclosure provided to the Crown.

- **Privacy:** Use of AI technology must, to the greatest degree practicable, preserve the privacy of the individuals whose information it collects in line with 'privacy by design' principles.
- **Meaningful Engagement:** The adoption of specific AI technologies must be preceded by meaningful public engagement commensurate with the risks posed by the technology contemplated.

Purpose of Policy

The purpose of this Policy is to establish Board governance for the consideration of the use of new or enhanced technologies using AI, or of previously approved AI technology that is to be used for a novel purpose or in a novel circumstance, and to establish an assessment and accountability framework that addresses:

- The impact of the AI technology on the privacy, rights and dignity of individuals and communities, in accordance with the *Police Services Act* and its regulations (as well as successor legislation), Ontario's *Human Rights Code*, the *Canadian Charter of Rights and Freedoms*, and any other applicable legislation;
- The need for adoption new AI technologies to be done in a transparent manner, and contributes to equitable and effective policing services for all members of the public;
- Possible unintended consequences of the use of the AI technology in the provision of policing services in Toronto, prior to any adoption;
- A requirement for appropriate consultations to precede the procurement and deployment of new AI technologies that may have negative impacts on members of the public or the quality of policing services in Toronto;
- Mitigation strategies that seek to eliminate any identified unintended negative consequences stemming from the use of new AI technologies; and,
- A pre- and post-deployment, evidence-based evaluation and re-assessment of the AI technologies that are approved for procurement and/or use.

This Policy requires the thoughtful, evidence-based consideration of the benefits and risks of obtaining and deploying any new technology using AI, or novel uses of existing technologies, including impacts on public trust in the Service, community safety and sense of security, individual dignity, and equitable delivery of policing services. In particular, this Policy will ensure that decision-making examines and seeks to ensure that new technologies do not introduce or perpetuate biases to the greatest degree possible, including biases against vulnerable populations, including, but not limited to people with disabilities (physical and mental); children

and older persons; Indigenous, Black and racialized individuals; low-income individuals; and, members of LGBTQ2S+ communities.

Definitions

For the purpose of this Policy, the following definitions will apply:

AI Technology: goods and services, including but not limited to software and electronic devices, which collect information about members of the public or their actions, including personal information as defined under the *Municipal Freedom of Information and Protection of Privacy Act*, or make use of existing information about members of the public or their actions, and which use automated analytical problem-solving models to assist or replace Service Members in identifying, categorizing, prioritizing or otherwise making decisions pertaining to the information or the members of the public to which it pertains. AI technology includes, but is not limited to: machine learning technology, neural networks, natural language processing applications, predictive technologies, computer vision, and technologies which make predictions using algorithms trained on large data sets. ~~Without limiting the foregoing, for the purpose of this Policy, "AI technology" will also include any goods or services whose procurement, deployment or use require that a privacy impact assessment be conducted in advance of its deployment or use.~~

New AI technology: any of: (1) AI technology never used before by the Service, (2) goods and services, including but not limited to software and electronic devices, already or previously employed by the Service which are enhanced through the application of AI in a manner that transforms the goods or services into an AI technology; (3) AI technology already or previously employed by the Service which is being considered for deployment for a novel purpose or in novel circumstances that may substantially change the data collected or used, including the content of the data, its granularity, and the purpose of data collection and use; (4) AI technology already or previously employed by the Service which is being enhanced through the use of new data that is substantially different from the data previously used, including the type of data, its granularity, or the manner in which it is obtained; and, (5) the linking of data from existing sources of information to create a new dataset for use by an AI technology.

Bias: systematically flawed output that is affected directly or indirectly by flaws in the design of the AI technology, training data, or the autonomous learning processes of the AI technology, to either misidentify certain types of subjects (individuals, objects, locations, etc.), or ascribe them with characteristics that disadvantage them based on illegitimate grounds (e.g., *Code*-protected grounds).

Data: any information collected and stored, whether locally or by a third party, which is used by the AI technology for the purpose of training, validation, testing, or generating output.

Biometrics: data on the measurements of physical and behavioural features of individuals (e.g., facial features, voice, gait) that could be used to identify the individual.

Human in the Loop: a process that ensures that any decisions or classifications made by the technology must be confirmed by a qualified human who can compare the input data with the output decision or classification, prior to any action taking place based on the output.

Explainability: AI technology is explainable when human users are able to comprehend the results created by the machine, why they were arrived at, and how changes to the input would have changed the outputs.

Training data: data provided to the AI technology for the purpose of enabling it to learn patterns and independently develop decision making algorithms.

Transactional data: data which is entered into a system which uses AI and that is used to generate output, but is not leveraged for training.

Policy of the Board

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

Review and Assessment of New AI Technologies

1. Will develop, in consultation with the Information and Privacy Commissioner of Ontario, the Ministry of the Attorney General, the Anti-Racism Directorate, stakeholders, independent human rights experts, independent legal experts, independent technology experts, and affected communities, procedures and processes for the review and assessment of new AI technologies that will, at a minimum, establish:
 - (a) That Service Members may not use new AI technologies prior to receiving approval and training in accordance with the procedure(s) and process(es);
 - (b) That all Service Members must be trained to identify new AI technologies for the purpose of obtaining an approval in accordance with section 1(a);
 - (c) Risk categories for new AI technologies based on their potential to cause harm, that include, at a minimum:
 - i. Extreme Risk Technologies, which may not be considered for adoption, including:
 1. Any application where there is no qualified “human-in-the-loop”. A qualified human must evaluate a recommendation from an AI tool before consequential action is taken, and be accountable for any decision made based on this recommendation;

2. Where use of the application results in mass surveillance defined as the monitoring of a population or a significant component of a population, or the analysis of indiscriminately collected data on a population or a significant component of a population;
 3. Any application of AI in a life-safety situation, i.e., an application where the action of the AI technology could slow down the reaction time of the human operator, resulting in potential risk to life of members of the public or Service Members;
 4. Any application that is known or is likely to cause harm or have an impact on an individual's rights, despite the use of mitigation techniques, due to bias or other flaws;
 5. Any application used to predict or assign likelihood of an individual or group of individuals to offend or reoffend;
 6. Any application making use of data collected in accordance with the Board's *Regulated Interaction with the Community and the Collection of Identifying Information Policy*, or any Historical Contact Data as defined in that Policy; or,
 7. Where training or transactional data is known or thought to be illegally sourced, or where it is from an unknown source;
- ii. High Risk Technologies, including:
1. Where training or transactional data is known or thought to be of poor quality, carry bias, or where the quality of such data is unknown;
 2. Where training data can be influenced or biased by malicious actors;
 3. Applications which link biometrics to personal information (e.g. facial recognition);
 4. Where the proposed system could be used to assist in the identification of individuals for the purpose of their arrest, detention or questioning;
 5. Where the process involved suggests an allocation of policing resources;
 6. Where a system that otherwise merits a Moderate risk assessment lacks independent validation; or,

7. Where a system cannot be fully explainable in its behaviour;
- iii. Moderate Risk Technologies, including:
 1. Where the “human-in-the-loop” may have difficulty identifying bias or other decision failures of the AI; or,
 2. Where training data is based on existing Service data;
- iv. Low Risk Technologies, including any AI technology that both:
 1. Does not fall under the categories of Extreme High Risk, High Risk, or Moderate Risk, and
 2. Assists Members in identifying, categorizing, prioritizing or otherwise making administrative decisions pertaining to members of the public; and,
- v. Minimal Risk Technologies, including any AI technology that does not fall under any of the preceding categories;
- (d) The minimal risk analysis and privacy impact analysis that must be carried out for each level of risk in accordance with above subsection (c), as determined by an initial risk analysis, and the appropriate tools to carry out such impact analyses; and,
- (e) The risk mitigation measures required for each level of risk (e.g., training, contingency planning);
2. Will make the procedures required under section 1, including a detailed risk assessment tool, available to the public on the Service’s website;

Board Approval and Reporting Prior to Procurement, Utilization and Deployment

3. When contemplating procuring, utilizing or deploying new AI technology in its operations, will conduct a risk assessment of the AI technology, prior to the earlier of:
 - (a) Seeking funds for the new technology, including but not limited to applying for a grant, or accepting municipal, provincial or federal funds, or public or private in-kind or other donations;
 - (b) Acquiring the new technology, including acquiring such technology without the exchange of monies or other consideration;
 - (c) Using or deploying existing technology:
 - i. for a novel purpose;

- ii. in novel circumstances, that may substantially change the data collected, including the content of the data, its granularity, and the purpose of data collection or use;
 - iii. for a purpose or in a manner not previously approved by the Board; or
 - iv. for a purpose or in a manner not practiced before the approval of this Policy; or,
- (d) Entering into agreement to acquire, share, or otherwise use such technology;
- 4. Will not procure, utilize or deploy a new AI technology deemed to be of Extreme Risk;
- 5. Will not procure, utilize or deploy any new AI technology deemed to be of High or Moderate risk before reporting to the Board and obtaining its approval;
- 6. Will inform the Board, at the earliest possible opportunity, of the decision to procure, utilize or deploy a new AI technology deemed to be of low risk, and explain why the AI technology was ascribed this risk level;
- 7. When reporting to the Board in accordance with section 35, will describe, at a minimum:
 - (a) The operational need(s) the AI technology will address, including how use of the new AI technology will improve on current practices or operations;
 - (b) How the Service intends to use the AI technology;
 - (c) The risk level ascribed to the AI technology, why the AI technology was ascribed this risk level, and the rationale for continuing with the procurement, utilization or deployment requested despite the associated risk(s);
 - (d) The legislative authority for the collection of personal information;
 - (e) How the AI technology operates, including, where applicable, the source of the training data, what information will be collected, how and where information will be stored and how it will be disposed of, retention periods for the information collected, and evidence of the validity, accuracy and security of the AI technology under consideration, based on industry standards;
 - (f) The steps the Service will take or has taken to ensure the AI technology is used only in accordance with the *Police Services Act* and its regulations (as well as successor legislation), applicable privacy laws, Ontario's *Human Rights Code*, the *Charter of Rights and Freedoms* and other legislative and legal requirements, including training, and applicable governance;
 - (g) An evaluation of the AI technology's vendor, including its record with regard to data security and ethical practices;

- (h) The results of any privacy impact and other assessment(s) that have been conducted;
- (i) The feedback received from consultations with the Information and Privacy Commissioner of Ontario, the Ministry of the Attorney General, stakeholders and the general public, independent human rights experts, independent legal experts, independent technology experts, and affected communities;
- (j) An analysis of possible unintended consequences of the proposed use of the AI technology from legal and human rights perspectives, including the potential for disproportionate impacts on *Human Rights Code*-protected groups, and steps the Service will take to mitigate these unintended consequences;
- (k) Where applicable, a legal analysis of potential challenges to the admissibility of evidence generated or impacted by the AI technology in criminal proceedings;
- (l) The findings of any risk analyses carried out in accordance with section 1(d) above, and any additional analysis as appropriate, including any analyses required by the Information and Privacy Commissioner of Ontario;
- (m) Any reports and documentation used in the evaluation of AI technology;
- (n) A mitigation plan to:
 - i. Mitigate the risks posed by the implementation of the AI technology, including risks of biased policing, infringement of privacy or other rights, chilling effects on freedom of expression, and risks of abuse or unauthorized access to information, and including the mitigation of any bias or quality issues in the training data used by the AI technology;
 - ii. Ensure that any use of the AI technology will be audited to ensure adequate and lawful use, in accordance with the purposes approved by the Board, and to monitor errors; and,
 - iii. Notify the Information and Privacy Commissioner of Ontario and/or any other applicable legal authority of any significant privacy breaches or other significant malfunctions that may result in harm to individuals, communities or Service Members, or may impact criminal proceedings;
- (o) The estimated cost of acquiring and implementing the AI technology, including the cost of adequate training in the use of the AI technology, and any additional costs or savings expected from the implementation of the AI technology; and,
- (p) Proposed indicators that will be tracked by the Chief of Police aimed at determining whether the AI technology is achieving its intended goal and

whether its deployment has had any unintended consequences, until it is determined by the Board that monitoring is no longer required;

8. Will develop and implement a public engagement strategy, commensurate with the risk level assigned to the new AI technology, to transparently inform the public of the use of the new AI technology that collects data about members of the public or assists Service Members in identifying, categorizing, prioritizing or otherwise making decisions pertaining to members of the public, prior to its deployment; and,
9. Will develop and implement a strategy to communicate to the Crown the risks of an AI technology that require judicial authorization for its application, or which may impact any criminal proceedings.

It is further the policy of the Board that:

10. The Board will review the reports submitted in accordance with section 5 and may:
 - (a) Request or solicit an independent review of the recommendations made by the Chief;
 - (b) Determine that additional analysis is required prior to approval of the procurement, deployment or use of the new AI technology;
 - (c) Determine that the Service may initiate a pilot process for the use of the new AI technology to better assess it, and identify the parameters of the pilot in a manner that mitigates any risks of biased decision-making by Service Members; or,
 - (d) Determine that the Service may initiate the procurement, deployment or use of the new AI technology, and identify any additional analysis, monitoring, auditing and reporting requirements beyond the ones required by this Policy that are to be imposed once use of the AI technology commences.

Monitoring and Reporting

It is the policy of the Board that the Chief of Police:

11. Will monitor the indicators approved by the Board under Section 7(p), from the initiation of deployment and until 12 months after full deployment of new AI technology deemed to be of Moderate risk, or until 24 months after full deployment of new AI technology deemed to be of High risk;
12. Will report to the Board, within 15 months of full deployment of a new AI technology deemed to be of High or Moderate risk, and again within 27 months of full deployment of a new AI technology deemed to be of high risk, with such reporting describing :

- (a) How the AI technology has generally been deployed or utilized within the first period until 12 (or 24) months from full deployment, including with respect to compliance with applicable privacy laws and other legislative and legal requirements;
- (b) The performance as measured by the indicators approved by the Board under Section 7(p) of this Policy;
- (c) What concerns the Chief of Police has seen raised by members of the public or Service Members, and how the Chief has acted to address those concerns where appropriate;
- (d) For AI technology deemed to be of High risk, the results of a post-deployment public consultation on the impacts of the deployment;
- (e) Whether the Chief intends to continue using the AI technology in the same manner or in a different manner in the future; and,
- (f) Where the Chief intends to continue using the AI technology, the key performance indicators that the Chief will continue to monitor indefinitely to ensure the continued quality of the AI technology's performance, and that no new unintended consequences emerge through its use; and,

It is also the policy of the Board that:

13. The Executive Director shall create a method for members of the public to submit concerns pertaining to specific AI technologies used by the Service through the Board's website, and
 - (a) Where concerns are expressed with regard to an AI technology deemed to be of Moderate or High risk, for which the Service has not yet submitted the report required by section 12, will append a summary of the concerns to the report when it is brought before the Board; or
 - (b) Where concerns are expressed with regards to an AI technology for which the Service has already submitted the report(s) required by section 12, or with regards to an AI technology deemed to be of Low or Minimal risk, will:
 - i. if the Executive Director determines that the concern raised likely demonstrates that an AI technology was erroneously assessed at a lower risk level than appropriate in accordance with section 1(c), will report on the nature of the concern to the Board at the earliest possible opportunity; and,
 - ii. otherwise, report annually to the Board with a summary of the concerns raised by members of the public; and

- (c) Where a communication from a member of the public amounts to a complaint under Part V of the *Act* or successor legislation, will advise the individual or their right to file a complaint with the Office of the Independent Police Review Director (or successor entity), or forward the communication to the Chief of Police, as appropriate, and inform the complainant of this action;
- 14. The Board will review the reports provided in accordance with above section 12, and determine whether the Service may continue to use the AI technology in question, and whether any additional analysis, monitoring, auditing and reporting requirements are to be imposed, and in particular whether the Chief of Police must continue to monitor the indicators approved by the Board under Section 7(p); and,
- 15. All reports required by this Policy will be considered by the Board in its regular public meetings, with the exception of any information provided in the report for which confidentiality is maintained in accordance with applicable law, in which case only that information will be provided to the Board separately as a confidential attachment to the public report.

Continuous Review

It is also the policy of the Board that the Chief of Police:

- 16. Will initiate immediately a process to identify and conduct a risk analysis of all AI technologies currently in use by the Service, to be completed no later than December 2024, and report to the Board upon its completion with a summary of its findings;
- 17. Will post immediately on the Service's website, and maintain up to date with the most accurate available information, a list of all AI technologies currently in use by the Service that are deemed to be of High, Moderate or Low risk, including the following information:
 - (a) For AI technologies deemed to be of High or Moderate risk:
 - i. Name and manufacturer/developer,
 - ii. Purpose of the technology,
 - iii. How the technology is used by the Service,
 - iv. What information is collected by the technology,
 - v. What persons or under what circumstances can the technology be expected to be used, and,
 - vi. All reports submitted by the Chief to the Board with regards to the AI technology, as required under this Policy or subsequent Board decisions;
 - (b) For AI technologies deemed to be of Low risk:

- i. Name and manufacturer/developer, and
 - ii. A brief description of the type of technology (e.g., speech-to-text);
- 18. Will terminate the use, immediately upon identification, of any AI technology in use by the Service prior to the adoption of this Policy, which is deemed to be of Extreme risk, and inform the Board of this action with a description of the AI technology that was identified, the reason that it was deemed to be of Extreme risk, and an assessment of potential harms that were caused to individuals, communities or Service Members, and possible impacts on criminal proceedings, as a result of its use;
- 19. Will report to the Board, as soon as it is identified, concerning any AI technology in use by the Service prior to the adoption of this Policy, which is deemed to be of High or Moderate risk, including:
 - (a) the reason that the AI technology was deemed to be of this risk level, and,
 - (b) a plan to:
 - i. pause the use of the AI technology within no longer than three months,
 - ii. evaluate the risk and any potential harms resulting from the use of the AI technology,
 - iii. develop a mitigation plan, and
 - iv. seek the approval of the Board for the continued use of this AI technology;
- 20. Will review at least once every two years in the case of an AI technology deemed to be of High risk, and at least once every five years in the case of AI technology deemed to be of Moderate risk, the continued use of any AI technology based on:
 - (a) the quality of the AI technology, its outputs, and associated key performance indicators; and,
 - (b) the continued need for the use of the AI technology; and;
- 21. Will review at least once every five years the use of any AI technology deemed to be of High, Moderate or Low risk to ensure that the AI technology has not been put to use for a novel purpose or in novel circumstances that may substantially change the data collected or used, in a manner that would constitute a new AI technology, or the risk level of the AI technology, and, where it is found that an AI technology has been put to a

new use in this manner, will report to the Board as soon as possible, in accordance with section 4.

It is also the policy of the Board that:

22. The Board will review the Policy at least once every three years to ensure that the Policy successfully achieves its identified purpose. In particular, the Board will review any instance where a report was made in accordance of section 13(b)i, to consider whether any changes are required to minimize the potential of misclassifications of risk.

DRAFT

High Risk Technologies

Application / Vendor	Purpose of Technology / Intended Use	What information is collected by the technology	Authorized Users	Steps towards Mitigating Risks
NeoFace Reveal by NEC	<p>The system assists investigators by comparing an criminal suspect image captured in relation to a criminal occurrence to a database of lawfully obtained criminal record images (booking photographs)</p> <p>The system uses a fixed algorithm to provide images from the database that may match the captured image for further review.</p> <p>The potential image matches (if any) are examined and reviewed by a Facial Recognition Analyst.</p> <p>Potential matches are then provided to the investigator for additional review.</p>	<p>None.</p> <p>The system compares the newly acquired image to a database of known images.</p>	Two (2) Facial Recognition Analysts members within the Forensic Identification Services Unit	<p>Database used is a highly controlled set of images.</p> <p>Database is populated with lawfully obtained criminal record images.</p> <p>Request to use application is supported by governance and various forms and documentation</p> <p>Application conducts image matching through the image only and not through any other data to reduce bias.</p> <p>Two (2) authorized and trained users.</p> <p>Application designed to show possible matches and does not suggest any actions. All results are documented.</p> <p>Investigators must conduct own actions to continue investigation.</p> <p>Use of application and following investigative steps are disclosed for purposes of prosecution.</p>

LOW RISK TECHNOLOGIES

Name and manufacturer	Description of type of technology
Automated Fingerprint Identification System (AFIS)	<p>The system assists investigators by providing the tools to compare fingerprints located at a crime scene with a database of known criminal offenders.</p> <p>The system uses a fixed algorithm to provide specially trained Fingerprint Examiners with potential candidates for manual comparison.</p> <p>Results are manually examined and compared by a Fingerprint Examiner</p>
AutoVu by Genetec	<p>This is an Automated Licence Plate Reader (ALPR) which is mounted on a Parking enforcement vehicle. Uses Optical Character Recognition technology to observe and identify characters on licence plates.</p> <p>The characters are then prepared for comparison to known reported stolen vehicle and plates with associated issues.</p> <p>Results are displayed for operator to assist in determining next actions.</p>

AI technology currently being testing or piloted

<p>Automated Licence Plate Recognition by Axon</p> <p>PILOT PHASE</p> <p>Risk Category: Low Risk</p>	<p>The system is installed on front line police vehicles and conducts automated licence plate recognition and comparison to a known list of licence plates associated to stolen vehicles, missing persons and AMBER alert.</p> <p>The system will notify the user for a possible match – and user has the ability to evaluate the result accuracy. The user is accountable and responsible for any course of action arising from the information received from the system.</p> <p>Licence plate reads that do not match the comparison list are not retained.</p>
<p>BriefCam by BriefCam Ltd.</p> <p>TESTING PHASE</p> <p>Risk Category: Low Risk</p>	<p>Assists investigators in reviewing large video evidence files to identify and flag for specific objects, or recognize specific licence plates through optical character recognition. The application will scan throughout the video in accelerated time and flag items specified at time-marks. The investigator will then go to the flagged time-marks to review the video and to determine next actions.</p>



PUBLIC REPORT

December 19, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Mobile Crisis Intervention Team Program Memorandum of Understanding between the Toronto Police Services Board and Partner Hospitals: Unity Health Network, Scarborough Health Network, and North York General Hospital.

Purpose: Information Purposes Only Seeking Decision

Recommendation:

This report recommends that the Toronto Police Services Board (the Board), authorize the Chair to execute three Memorandums of Understanding (M.O.U.) between the Board and each of the following partner hospitals: Unity Health Toronto (U.H.T.), Scarborough Health Network (S.H.N.) and North York General Hospital (N.Y.G.H.,) in relation to the Mobile Crisis Intervention Team (M.C.I.T.) Program, subject to approval by the City Solicitor as to form.

Summary:

The Board, at its meeting on August 18, 2020, approved 81 recommendations on police reform (thereby becoming Directions), originating from a report by Chair Jim Hart, titled "Police Reform in Toronto: Systemic Racism, Alternative Community Safety and Crisis Response Models and Building New Confidence in Public Safety" (Min. No. P129/2020).

Direction #4 of this report "directs the Chief of Police to prioritize and create a plan to implement, as soon as feasible, an immediate expansion of the M.C.I.T. program in partnership with existing community-based crisis services...to meet current demands for mental health-related service calls..."

TORONTO POLICE SERVICES BOARD

40 College Street Toronto, Ontario M5G 2J3 | Phone: 416.808.8080 Fax: 416.808.8082 | www.tpsb.ca

A strategic plan to improve and expand the M.C.I.T. Program was executed; part of this expansion plan included updating existing M.O.U.s with local partner hospitals to reflect modernized changes in the M.C.I.T. Program, which are detailed in this report.

The Board currently holds M.O.U.s with the following partner hospitals:

Hospital	Hospital Currently Re-named To	Date M.O.U. Effective
Toronto East General Hospital	Michael Garron Hospital	November 1, 2013
St. Michael's Hospital	Unity Health Toronto	August 1, 2008
St. Joseph's Health Centre	Unity Health Toronto	December 1, 2009
Humber River Regional Hospital	Humber River Hospital	April 4, 2008
The Scarborough Hospital	Scarborough Health Network	September 1, 2009

Discussion:

Background – History of the Hospital Partnerships for the M.C.I.T. Program

The genesis of the M.C.I.T. Program stemmed from two recommendations (#21 and #43) from the Lester Donaldson Inquest (1992 to 1994), which recommended that the Toronto Police Service (T.P.S.) create a specialized Crisis Intervention Unit.

In November 2000, the T.P.S. commenced a pilot project with St. Michael's Hospital to partner a registered nurse, who has specialized training in forensic mental health, with a police officer for specialized response to mental health related calls for service. This project led to further expansion of the M.C.I.T. Program and new partnerships with St. Joseph's Health Centre, The Scarborough Hospital, Humber River Regional Hospital and Toronto East General Hospital.

Goals of the M.C.I.T. Program

The M.C.I.T. provides a unique perspective for mental health related calls for service and it fulfils the following functions:

- Make an immediate on-site clinical assessment of the person in crisis;
- Attempt to stabilize and defuse the crisis;
- Assist in removing the individual from serious harm to themselves or others;
- Provide supportive counselling, as needed;
- Arrange appropriate mental health treatment through referrals to an appropriate agency, or apprehension under the *Mental Health Act (M.H.A.)* [NOTE: only a police officer may make such an apprehension];

- Coordinate and facilitate transportation to the hospital emergency department if further psychiatric and medical assessment is required; and
- Divert persons in crisis from both the criminal justice system and the hospital emergency room, to provide an avenue for immediate crisis intervention through community referrals for ongoing support.

With the existing M.C.I.T. M.O.U.s being rather dated and receiving a request from North York General Hospital to enter into a M.C.I.T. M.O.U., Field Services worked in collaboration with the T.P.S. Community Partnership and Engagement Unit, Legal Services, T.P.S. Counsel and Counsel for the Board, to bring the M.C.I.T. M.O.U. up to date, including sections specific to M.C.I.T. as first or co-responders, body worn cameras and pandemic situations.

The M.C.I.T as First or Co-Responders

In the past, the M.C.I.T. attended mental health related calls for service as a support unit, after priority response officers had attended to ensure the situation was safe for the nurse. It was determined between the T.P.S. and the hospitals that the role of the M.C.I.T would be changed to a first or co-responder, to persons in crisis calls for service.

The updated M.O.U. reflects that the M.C.I.T. may respond to a call for service in the absence of, or prior to the arrival of, the T.P.S.'s Priority Response Unit and the M.C.I.T. shall make a threat assessment of the call based on the information available to the M.C.I.T. The M.C.I.T. will assess the overall safety of the M.C.I.T. and the overall response required from the M.C.I.T.

If the M.C.I.T.'s assessment deems a person in crisis poses a risk to the health or safety of the attending M.C.I.T. nurse, the M.C.I.T. nurse will not actively engage in the situation until the M.C.I.T. police officer has determined it is safe for the M.C.I.T. nurse to engage. Until the M.C.I.T. police officer has made the aforementioned determination, the M.C.I.T. nurse will be taken to, or asked to wait in, a safe location.

The T.P.S. developed a new M.C.I.T. operating procedure as an extension of Procedure 06-04 - Persons In Crisis. The new Procedure 06-13 - Mobile Crisis Intervention Team, identifies criteria for the M.C.I.T. to act as a first or co-responder, in certain circumstances, to mental health calls for service with appropriate police officer back up when required. The following is an excerpt from Procedure 06-13:

“MCITs may act as a first or co-responder in certain circumstances, including but not limited to the following calls for service involving:

- *a person experiencing a mental, emotional, or substance use crisis*
- *a person attempting/threatening suicide*
- *a barricaded person, or other circumstances where it is known or thought to be caused by a mental, emotional or substance use crisis, in order to assess the person.*

➔ *Note: The MCIT officer shall conduct a threat assessment prior to attending the call; where a person in crisis is found to pose a risk or*

threat to the attending MCIT nurse, the MCIT officer shall direct the nurse not to actively engage in the incident until it is determined to be safe by the attending MCIT officer.

A threat assessment of the incident (based on available information) and overall safety of the MCIT shall determine the involvement and level of the MCIT response. The Specialized Emergency Response – Emergency Task Force (ETF) shall be notified when there is information that a person in crisis is armed or may be armed with a weapon; background checks indicate that the person in crisis has a history of violence or use of weapons; the incident involves a barricaded person; and/or the incident involves a person who by their position has placed themselves or others in immediate jeopardy (i.e. person located at height on a balcony, bridge, etc.).”

The M.C.I.T and Body Worn Cameras

The M.C.I.T. police officer will be equipped with a body worn camera (B.W.C.), operated in accordance with Service Procedure 15-20 – Body Worn Camera. Where possible, when the in-car camera system (I.C.C.S.) in the M.C.I.T. vehicle and/or the B.W.C. is activated in accordance with Service Procedures 15-17 and 15-20, sections 58 and 59, the MCIT police officer will advise any persons being recorded, that their audio and visual actions are being recorded and monitored through the use of the I.C.C.S. or B.W.C.

The M.C.I.T and Pandemic Situations

In the event of a resurgence of a pandemic situation, a partner hospital will reserve the right to reassign M.C.I.T. nurses as necessary. If an M.C.I.T. nurse is reassigned, and will not be a part of the M.C.I.T., the M.C.I.T. will continue with one (1) police officer that will constitute the M.C.I.T. until a partner hospital deems it prudent to reassign M.C.I.T. nurses to the M.C.I.T.

The T.P.S. presented the updated M.C.I.T. M.O.U. to partner hospitals for review and input. Unity Health Network, Scarborough Health Network, and North York General Hospital have approved the updated M.C.I.T. M.O.U. and requested the T.P.S. proceed to obtain signatures on the M.C.I.T. M.O.U.

Each M.C.I.T. M.O.U. contains a stipulation that the Board and the partner hospital shall indemnify, defend and hold harmless the other party from and against any liabilities, claims that either party may incur as a result of the negligent acts or omissions of the other party, or for whom it is legally responsible.

The M.O.U. has been reviewed by the City Solicitor and been reviewed by TPS Counsel to ensure that the legal and operational requirements of the T.P.S. are adequately protected.

Conclusion:

The M.C.I.T. Program aligns with, and reaffirms, the T.P.S.'s commitment to our Mental Health and Addictions Strategy of zero deaths, while ensuring the well-being, safety, rights and dignity of individuals and communities. The T.P.S. is committed to learning from past interactions, and takes into account the views, expectations, and contributions of the community to guide future responses.

It is recommended that the Board authorize the Chair to execute three Memorandums of Understanding (M.O.U.) between the Board and each of the following partner hospitals: Unity Health Toronto, Scarborough Health Network and North York General Hospital, in relation to the M.C.I.T. Program.

Deputy Chief Lauren Pogue, Community Safety Command, will attend to answer any questions that the Board may have regarding this report.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

December 19, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Receipt of Donation

Purpose: Information Purposes Only Seeking Decision

Recommendation(s):

This report recommends that Toronto Police Services Board (Board):

Approve the acceptance of the donation being requested in this report.

Financial Implications:

There are no financial implications relating to the recommendation contained within this report.

As per the wishes of the donor, this financial donation is to be put toward the purchase of a new horse for the Toronto Police Service Mounted Unit (M.T.D.U.).

The ongoing veterinary care, training, and maintenance for the horse will be funded by the Service's operating budget. This funding has already been set aside as part of the current and future operating budget expenditures approved for the Mounted Unit.

Summary:

The purpose of this report is to seek the Board's approval of the donation to purchase a new horse for the M.T.D.U.

Discussion:

Background

There is one single donor who intends to make an \$11,300 donation to the Service's M.T.D.U to purchase a new horse.

This donation will allow the Service to replace retiring horses.

Actions have been taken to ensure that the reputation of the Service and the Board will not be negatively impacted by the acceptance of this donation.

Checks have been conducted on the donor from various police databases, including from Intelligence sources.

The donor has signed a required *Donor Declaration Form* indicating that he does not have any real or perceived conflicts of interest with the Toronto Police Service or the Board.

These checks and the affirmation demonstrate that accepting this donation would not impugn the reputation of the Service or the Board.

This recommendation complies with the Service's policy '*18-08 Donations*' governing corporate community donations.

The Mounted Unit

M.T.D.U. is a uniform support unit that is part of Emergency Management & Public Order, operating under Public Safety Operations within Specialized Operations Command.

The M.T.D.U sets a herd target of 24 to 28 healthy horses. The current population is 26 horses with one horse set to retire in 2024 and another one the year after.

The M.T.D.U has historically paid approximately \$8,500 (plus tax) per horse. The cost of each new horse suitable to the M.T.D.U has increased to the current pricing of \$10,000 (plus tax).

A donation in this amount will greatly assist the M.T.D.U in various ways:

- It will enable the M.T.D.U to purchase a new horse without having to use its 2024 operational budget. This allows savings to be used for other needs within the M.T.D.U.
- It will improve the herd strength at a time where the demands on the M.T.D.U to meet its operational needs and the challenges within our city are extraordinarily high, given the current geopolitical climate.
- The new horse to be purchased is slated to replace a current M.T.D.U. horse named "Moose"; scheduled to retire next year. Moose was purchased from funds donated by this same donor in the past. Moose is known by the citizens of Toronto for his unique uniform, which displays a Pride Flag when out in public. He has been embraced by the LGBTQ2S+ community. By purchasing a new horse upon Moose's retirement, and outfitting the new horse with Moose's Pride Flag uniform, the Toronto Police can continue to show support towards the LGBTQ2S+ community at future city events.

Donor:

The donor has contributed financially to the Toronto Police Service in the past. This donor has indicated their motivation for this donation stems from a strong civic duty as well as their desire to support the Service in its ability to provide policing services in specialized units. This donation is being made by the following individual:

1. Mr. Brian BURKE (former General Manager of the Toronto Maple Leafs and the current Executive Director of the Professional Women's Hockey League Players Association)

Relevant Board Policies and Compliance

Police Services Act, R.S.O. 1990, c.P.15, as amended, s. 31(1)(c). *Rule 4.5.8 – Donations.*

Donations from the community to the Service are a valuable form of public support. It is important that the acceptance of these donations be subject to a clear, transparent, and accountable process.

Conclusion:

As stated, the M.T.D.U is expecting two horses to retire within the near future. The M.T.D.U requires a specified number of healthy horses to meet operational demands.

This donation will ensure the continued viability of the unit, while also allowing for a donation that is purposeful and meaningful to both the Service and the donor.

This donor has previously donated a horse to the Service and wishes to do so again; to help maintain the healthy complement for the M.T.D.U and to continue the legacy of having a specified horse to represent and support the LGBTQ2S+ community.

By accepting this donation, the reputation of the Service is not going to be compromised.

On the contrary, it allows the Service to fulfil its obligation to *support safer communities* by maintaining a strong complement of active working horses that attend the high volume of demonstrations and public events in our city.

A copy of the donor declaration form is attached as an appendix.

Deputy Chief of Police, Robert Johnson (5909) Specialized Operations Command, will be in attendance to answer any questions that the Board may have with respect to this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police

Donor's Declaration Form

(To be signed at the time of donation)

I/We, Brian P. Burke, hereby solemnly declare that the donation and/or in-kind donation amount of and/or appraised amount of \$ 11,800.00, was donated to the City of Toronto (City) and Toronto Police Service (TPS) for community benefits which encompass projects, money, assets or activities that provide a public good.

The Donor acknowledges that all donations and/or in-kind donations, made to the City or the TPS meet the following criteria:

1. the donation must be given unconditionally and voluntarily without any expectation of benefit;
2. the donation cannot be used to influence the outcome of an outstanding approval, permit or license application or award of a procurement call; and
3. the City shall be notified in writing if they, their organization, or company are currently involved in a planning approval or procurement process with the City or one of its agencies.

The Donor acknowledges that the donation, information about the donation and this Donor's Declaration Form are subject to the Municipal Freedom of Information and Protection Act and may be disclosed in accordance with the Act.

I/We or my/our organization have no outstanding approval, permit or licenses application or award of a procurement call with the City or the TPS.

OR

I/We or my/our organization do have one or more outstanding approval, permit or license application or award of a procurement call with the City or the TPS.

DATED at Toronto this 18th day of December, 2023. Signed: B. P. Burke

Print Name of Donor & Donating Organization:

Brian P. Burke [REDACTED]
(Donor Name - Print) (Donating Organization) (Donating Organization Address)

Are you a Registered Charity: Yes No (If Yes, Charity Registration Number: _____)

For Internal Use:		
Member receiving donation:	<u>CAMPBELL, Bryan</u> (Surname, G1 - Print)	<u>S/Sgt</u> <u>99602</u> (Title) (Employee No.)
Signed:	<u>[Signature]</u>	Date: <u>2023/12/18</u> (yyyy/mm/dd)
Unit Commander:	<u>ECKLUND, DAVID</u> (Surname, G1 - Print)	<u>ASUPTR#5053 EMPRO</u> (Title) (Employee No.)
Signed:	<u>[Signature]</u>	Date: <u>2023/12/18</u> (yyyy/mm/dd)



PUBLIC REPORT

December 1, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

**Subject: Special Constable Appointments and Re-Appointments –
January 2024**

Purpose: Information Purposes Only Seeking Decision

Recommendation(s):

This report recommends that the Toronto Police Services Board (Board) approve the agency-initiated appointment and re-appointment requests for the individuals listed in this report as special constables for the Toronto Community Housing Corporation (T.C.H.C.), and the University of Toronto (U of T), subject to the approval of the Ministry of the Solicitor General (Ministry).

Financial Implications:

There are no financial implications arising from the recommendation(s) contained in this report.

Summary:

The purpose of this report is to seek the Board's approval for the agency requested appointments and re-appointments of special constables for the T.C.H.C., and U of T.

TORONTO POLICE SERVICES BOARD

40 College Street Toronto, Ontario M5G 2J3 | Phone: 416.808.8080 Fax: 416.808.8082 | www.tpsb.ca

Discussion:

Background

Relevant Board Policies and Compliance

Under Section 53 of the *Police Services Act*, the Board is authorized to appoint and re-appoint special constables, subject to the approval of the Ministry. Pursuant to this authority, the Board has agreements with T.C.H.C., and U of T governing the administration of special constables (Min. Nos. P153/02, and P571/94 refer).

The Service received requests from T.C.H.C., and U of T to appoint the following individuals as special constables (Appendix 'A' refers):

Table 1. Name of Agency and Special Constable Applicant

Agency	Name	Status Requested	Current Expiry Date
T.C.H.C.	Al-Ikhlaas Wafiq ALLY	Re-Appointment	April 14, 2024
T.C.H.C.	Dave Bhan BABOOLAL	Re-Appointment	April 29, 2024
T.C.H.C.	Tyler Jonathan BROWN	Re-Appointment	April 14, 2024
T.C.H.C.	Grant Neil BURNINGHAM	Re-Appointment	May 29, 2024
T.C.H.C.	Jay Douglas DAVIDSON	Re-Appointment	April 14, 2024
T.C.H.C.	Andrew GARCIA	Re-Appointment	April 14, 2024
T.C.H.C.	Troy LALOR	Re-Appointment	April 14, 2024
T.C.H.C.	Shamarn Jimane MORGAN	Re-Appointment	April 14, 2024
T.C.H.C.	Allan MUI	Re-Appointment	April 14, 2024
T.C.H.C.	Stephen NEWBERRY	Re-Appointment	May 1, 2024
T.C.H.C.	Ronald SAMPSON	Re-Appointment	March 5, 2024
T.C.H.C.	Ronald Bogumil SASS	Re-Appointment	April 14, 2024
T.C.H.C.	Lauristan Oliver SHAND	Re-Appointment	March 5, 2024
U of T St. George Campus	Edward Michael NISHI	New Appointment	N/A

Agency	Name	Status Requested	Current Expiry Date
U of T St. George Campus	Joshua James WATT	New Appointment	N/A

Special constables are appointed to enforce the *Criminal Code* and certain sections of the *Controlled Drugs and Substances Act*, *Trespass to Property Act*, *Liquor Licence & Control Act* and *Mental Health Act* on their respective properties within the City of Toronto.

The agreements between the Board and each agency require that background investigations be conducted on all individuals who are being recommended for appointment and re-appointment as special constables. The Service's Talent Acquisition Unit completed background investigations on these individuals, of which the agencies are satisfied with the results. Re-appointments have been employed by their agency for at least one 5-year term, and as such, they are satisfied that the members have satisfactorily carried out their duties and, from their perspective, there is nothing that precludes re-appointment.

The agencies have advised the Service that the above individuals satisfy all of the appointment criteria as set out in their agreements with the Board. The T.C.H.C., and U of T's approved and current complements are indicated below:

Table 2. Name of Agency, Approved Complement and Current Complement of Special Constables

Agency	Approved Complement	Current Complement
T.C.H.C.	300	176
U of T St. George Campus	50	31

Conclusion:

The Service continues to work together in partnership with the T.C.H.C., and U of T to identify individuals to be appointed and re-appointed as special constables who will contribute positively to the safety and well-being of persons engaged in activities on their respective properties within the City of Toronto.

Deputy Chief Robert Johnson, Specialized Operations Command, will be in attendance to answer any questions that the Board may have with respect to this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police

*copy with original signature on file at Board Office

Attachments:

1. TCHC Re-Appointment Request Letter
2. U of T St. George Campus Appointment Request Letter

Toronto Community
Housing Corporation
931 Yonge Street
Toronto, ON
M4W 2H2



December 28, 2023

Special Constable Liaison Office
40 College Street
Toronto, Ontario
M5G 2J3

DELIVERED VIA ELECTRONIC MAIL

Re: Request for Toronto Police Services Board Approval for Re-Appointment of Special Constables

In accordance with the terms and conditions set out in the Memorandum of Understanding between the Toronto Police Services Board and Toronto Community Housing, the Board is authorized to appoint special constables, subject to the approval of the Ministry of the Solicitor General.

The following individuals are fully trained, meeting all Ministry requirements, and have shown they possess the required skills and ability to perform at the level required to be a special constable. These re-appointments have undergone background checks, conducted by the Toronto Police Service, and we are satisfied with the results of those checks. This candidates have been employed by Toronto Community Housing for at least one 5-year term, we are satisfied that the members have satisfactorily carried out their duties and, from our perspective, there is nothing that precludes their reappointment.

Name	Type	Current Term Expiry
Lauristan Shand	Re-Appointment	March 5, 2024
Andrew Garcia	Re-Appointment	April 14, 2024
Shamarn Morgan	Re-Appointment	April 14, 2024
Stephen Newberry	Re-Appointment	May 1, 2024
Allan Mui	Re-Appointment	April 14, 2024
Ronald Sass	Re-Appointment	April 14, 2024
Jay Davidson	Re-Appointment	April 14, 2024
Tyler Brown	Re-Appointment	April 14, 2024
Al-Ikhlaas Ally	Re-Appointment	April 14, 2024
Troy Lalor	Re-Appointment	April 14, 2024
Bhan Dave Baboolal	Re-Appointment	April 29, 2024

Grant Burningham	Re-Appointment	May 29, 2024
Ronald Sampson	Re-Appointment	March 5, 2024

It is requested that the Board approve these submissions and put forward the applicants to the Ministry of the Solicitor General for re-appointment of a five-year term.

Should you require any further information, please contact Jacqueline Doo, Specialist-Compliance, Training & Quality Assurance at 416-268-8365.

Respectfully,



Allan Britton, Badge #31194
Acting Senior Director/Acting Chief Special Constable
Community Safety Unit

Toronto Community Housing
931 Yonge St, Toronto, ON M4W 2H2
T: 416 981-4116
torontohousing.ca



University of Toronto
CAMPUS SAFETY
SPECIAL CONSTABLE SERVICE

21 Sussex Avenue, Suite 100, Toronto, Ontario M5S 1J6

Tel: (416) 978-2323 Fax: 416-946-8300

November 28, 2023

To: Special Constable Liaison Office

From: Michael Munroe

Subject Request for Toronto Police Services Board approval for Appointment of Special Constable

In accordance with the terms and conditions set out in the Agreement between the Toronto Police Services Board and the University of Toronto, the Board is authorized to appoint and re-appoint special constables subject to the approval of the Ministry of the Solicitor General.

The individuals named below are fully trained, meeting all Ministry requirements, and has shown they possess the required skills and ability to perform at the level required to be a special constable. Both new appointments and re-appointments have undergone a background check, conducted by the Toronto Police Service, and we are satisfied with the results of those checks.

Name	Type	Current Term Expiry
Edward Michael Nishi	New Appointment	N/A
Joshua James Watt	New Appointment	N/A

It is requested that the board approve this submission and forward the applicants to the Ministry of the Solicitor General for appointment of a five-year term.

Regards

Mike Munroe

Michael Munroe – Director



PUBLIC REPORT

December 21, 2023

To: Chair and Members
Toronto Police Services Board

From: Dubi Kanengisser
Executive Director

Subject: City Council Decision – Infrastructure and Environment Committee Item 7.4 Updates on Vision Zero Road Safety Initiatives - New Traffic Calming Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to Area-Based Speed Limit Reductions and Related Council Requests

Purpose: Information Purposes Only Seeking Decision

Recommendation(s):

It is recommended that the Board:

1. Request that the Chief of Police take Council's motion into consideration in partnership with Transportation Services to improve the safety of vulnerable road users by following the lead of Calgary and Montreal and acquiring at least 10 mobile automated license plate readers for use, as a pilot project, primarily in enforcing parking offences that adversely affect the safety of vulnerable road users, such as obstructing bike lanes and blocking visibility at intersections, and to include an evaluation of the effectiveness of this pilot project in the overall parking strategy report scheduled for 2024; and,
2. Forward a copy of this report to City Council through the Executive Committee.

Financial Implications:

There are no financial implications arising from the recommendation(s) contained in this report.

Summary:

The purpose of this report is to provide the Board with City Council Decision – Infrastructure and Environment Committee Item 7.4 - Updates on Vision Zero Road Safety Initiatives - New Traffic Calming Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to Area-Based Speed Limit Reductions and Related Council Requests. This report provides the Board with the decision of City Council on this matter.

Discussion:

IE 7.4 – Updates on Vision Zero Road Safety Initiatives - New Traffic Calming Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to Area-Based Speed Limit Reductions and Related Council Requests

City Council, at its meeting on November 8 and 9, 2023, adopted item IE 7.4 - Updates on Vision Zero Road Safety Initiatives - New Traffic Calming Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to Area-Based Speed Limit Reductions and Related Council Requests The Motion is available at the following link:

[Agenda Item History - 2023.IE7.4 \(toronto.ca\)](#)

In considering this matter, Council adopted, the following recommendations:

- 1. Toronto Police Services Board and Toronto Parking Authority in partnership with Transportation Services to improve the safety of vulnerable road users by following the lead of Calgary and Montreal and acquiring at least 10 mobile automated license plate readers for use, as a pilot project, primarily in enforcing parking offences that adversely affect the safety of vulnerable road users, such as obstructing bike lanes and blocking visibility at intersections, and to include an evaluation of the effectiveness of this pilot project in the overall parking strategy report scheduled for 2024.**

Conclusion:

It is, therefore, recommended that the Board:

1. Request that the Chief of Police take Council's motion into consideration in partnership with Transportation Services to improve the safety of vulnerable road users by following the lead of Calgary and Montreal and acquiring at least 10

mobile automated license plate readers for use, as a pilot project, primarily in enforcing parking offences that adversely affect the safety of vulnerable road users, such as obstructing bike lanes and blocking visibility at intersections, and to include an evaluation of the effectiveness of this pilot project in the overall parking strategy report scheduled for 2024; and,

2. Forward a copy of this report to City Council through the Executive Committee.

Respectfully submitted,

A handwritten signature in grey ink, appearing to be 'Dubi Kanengisser', written in a cursive style.

Dubi Kanengisser
Executive Director



John D. Elvidge
City Clerk

City Clerk's Office

Secretariat
Sylwia Przedziecki
Council Secretariat Support
City Hall, 12th Floor, West
100 Queen Street West
Toronto, Ontario M5H 2N2

Tel: 416-392-7032
Fax: 416-392-2980
e-mail:
Sylwia.Przedziecki@toronto.ca
web: www.toronto.ca

**In reply please quote:
Ref.: 23-IE7.4**

(Sent by Email)

December 19, 2023

Ms. Ann Morgan
Chair, Toronto Police Services Board
40 College Street
Toronto, Ontario
M5G 2J3
ann.morgan@tpsb.ca
sheri.chapman@tpsb.ca
board@tpsb.ca

Dear Ms. Morgan:

**Subject: Infrastructure and Environment Committee Item 7.4
Updates on Vision Zero Road Safety Initiatives - New Traffic Calming
Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to
Area-Based Speed Limit Reductions and Related Council Requests
(Ward All)**

City Council on November 8 and 9, 2023, adopted [Item IE7.4](#), as amended and, in so doing, has requested the Toronto Police Services Board and Toronto Parking Authority in partnership with Transportation Services to improve the safety of vulnerable road users by following the lead of Calgary and Montreal and acquiring at least 10 mobile automated licence plate readers for use, as a pilot project, primarily in enforcing parking offences that adversely affect the safety of vulnerable road users, such as obstructing bike lanes and blocking visibility at intersections, and to include an evaluation of the effectiveness of this pilot project in the overall parking strategy report scheduled for 2024.

Yours truly,

for City Clerk

S. Przedziecki/wg

Attachment

Sent to: Chair, Toronto Police Service Board
Executive Director, Toronto Police Service Board
President, Toronto Parking Authority

c. City Manager

City Council

Infrastructure and Environment Committee - Meeting 7

IE7.4	ACTION	Amended		Ward: All
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Updates on Vision Zero Road Safety Initiatives - New Traffic Calming Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to Area-Based Speed Limit Reductions and Related Council Requests

City Council Decision

City Council on November 8 and 9, 2023, adopted the following:

1. City Council adopt the updated 2023 Traffic Calming Policy as detailed in Attachment 2 to the report (October 12, 2023) from the General Manager, Transportation Services.
2. City Council amend Section 27-18.4B(9), Traffic Calming, of City of Toronto Municipal Code Chapter 27, Council Procedures, as follows:
 - a. by deleting from Subsection (a)[3] the phrase: “Chicanes” and inserting the phrase: "Speed cushions";
 - b. by deleting from Subsection (b) the phrase: "that do not have an established Toronto Transit Commission route"; and
 - c. by deleting Subsection (c):

"Despite Subsection B(9)(b), the authority to waive petition and polling requirements under the City's Traffic Calming Policy for traffic calming proposals."
3. City Council adopt the 'Framework and Expanded Criteria for Establishing Community Safety Zones', detailed in Attachment 3 to the report (October 12, 2023) from the General Manager, Transportation Services for creating Community Safety Zones outside of School Zones.
4. City Council rescind the Community Safety Zone designations and/or designate the Community Safety Zones and authorize the amendments to Schedule XXXIII to City of Toronto Municipal Code Chapter 950, Traffic and Parking, generally as set out in Attachment 4, as amended by Infrastructure and Environment Committee, to the report (October 12, 2023) from the General Manager, Transportation Services.
5. City Council designate the school locations as Community Safety Zones and authorize the amendments to Schedule XXXIII to City of Toronto Municipal Code Chapter 950, Traffic and Parking, generally as set out in the report (October 12, 2023) from the General Manager, Transportation Services.

6. City Council direct the General Manager, Transportation Services to present the list of new priority locations for Community Safety Zones at the next meeting of Infrastructure and Environment Committee on November 30, 2023.
7. City Council renew the previous request to the Ontario Minister of Transportation to change the maximum Blood Alcohol Concentration for all licensed motorcycle drivers to 0 percent.
8. City Council request that the Ontario Minister of Transportation create a provincial Impaired-Driving Task Force to support the prevention, awareness, enforcement and treatment of impaired driving and to generate more collaboration and consensus for effective solutions to address impaired driving across Ontario.
9. City Council amend the Zebra Crosswalk Policy to include zebra crosswalks at mid-block school crossing guard locations with active guards.
10. City Council authorize the inclusion of collector roads within designated areas with a speed limit of 30 kilometre per hour under Section 950-701 of City of Toronto Municipal Code Chapter 950, Traffic and Parking, subject to listed exclusions.
11. City Council authorize the City Solicitor to introduce the necessary bills to give effect to City Council's decision and City Council authorize the City Solicitor to make any necessary clarifications, refinements, minor modifications, technical amendments, or by-law amendments as may be identified by the City Solicitor or the General Manager, Transportation Services in order to give effect to Parts 1 through 10, above.
12. City Council request the Toronto Police Services Board and Toronto Parking Authority in partnership with Transportation Services to improve the safety of vulnerable road users by following the lead of Calgary and Montreal and acquiring at least 10 mobile automated licence plate readers for use, as a pilot project, primarily in enforcing parking offences that adversely affect the safety of vulnerable road users, such as obstructing bike lanes and blocking visibility at intersections, and to include an evaluation of the effectiveness of this pilot project in the overall parking strategy report scheduled for 2024.
13. City Council direct the Chief Financial Officer and Treasurer to earmark, where feasible, the revenue from the parking tickets collected through the pilot automated licence plate reader project to the pilot project, to the extent necessary to recover the cost of the project.
14. City Council direct the General Manager, Transportation Services to report annually on:
 - a. progress on Toronto's air quality, climate, public health and congestion goals in relation to the Vision Zero Road Safety Plan; and
 - b. for every location on the public right of way where a vulnerable road user was killed by the driver of a motor vehicle, a summary of potential contributing factors that resulted in the fatality and recommendations for safety improvements in the area, as well as identification of trends and recommendations for system-wide improvements.
15. City Council direct the General Manager, Transportation Services to amend the Traffic Control Warrants used to evaluate the need for All-Way Stop Control, Pedestrian Crossovers and Traffic Control Signals so that the "Collision Hazard" warrant is satisfied if there has been at least one potentially preventable collision classified as a KSI ("Killed or Seriously Injured").

16. City Council request the General Manager, Transportation Services to report to Infrastructure and Environment Committee on the current use of textalyzer by the Toronto Police Service.

17. City Council affirm the importance of safety in construction zones whereby staff:

- a. manage construction zones with priority emphasis to emergency vehicles, pedestrians and cyclists, while also ensuring worker safety;
- b. ensure safe, accessible and well-marked paths of travel for pedestrians in all construction zones; and
- c. maintain protected cyclist infrastructure to the greatest extent possible with well-marked signage and leveraging best practices from other jurisdictions.

Summary

The City Council adopted Vision Zero Road Safety Plan is a comprehensive action plan focused on eliminating traffic related fatalities and serious injuries on Toronto's streets. Since the inception of the Vision Zero Road Safety Plan in 2017, the City's investment in and delivery of the plan is making a difference - the number of fatalities and serious injuries have been on the decline. No loss of life as a result of traffic collisions is acceptable - Transportation Services is committed to working with City Council and the public in continuing to build on progress made to date, to eliminate all traffic fatalities and serious injuries on Toronto's roadways.

The purpose of this report is to provide an update on the Vision Zero Road Safety Plan as well as several requests made by City Council of the General Manager, Transportation Services. This report is divided into four sections, covering the following initiatives:

1. Overall update on the Vision Zero Road Safety Plan
2. Proposed update to the Traffic Calming Policy
3. Update on Automated Enforcement and Community Safety Zones
 - Proposed framework guiding the creation of Community Safety Zones outside of school zones
 - New and revised Community Safety Zone designations within school zones to support Automated Speed Enforcement
 - Update on Automated Enforcement Programs
4. Report back on other Vision Zero Tools and related City Council requests
 - Report back on impaired driving in consultation with Toronto Police Service
 - Minor update to the Zebra Marking Policy to add mid-block school crossing guard locations
 - Updates on area-based speed limit reductions
 - Report Back on Traffic Control Warrants and Complete and Safe Street Design Considerations

1. Overall update on the Vision Zero Road Safety Plan: The Vision Zero 2.0 Road Safety Plan adopted by Council in 2019 recommended a set of extensive, proactive and targeted initiatives, informed by data and aimed at eliminating serious injury and fatalities on Toronto's roads. This report provides an update on key accomplishments to date and a summary of recent data trends on safety outcomes.

2. Proposed update to the Traffic Calming Policy: Requests from Council to review the existing 2002 Traffic Calming Policy provided an opportunity to propose updates to the policy in alignment with the Vision Zero Road Safety Plan with the objective of delivering more traffic calming measures (speed humps and speed cushions) because they are a cost-efficient, effective, and quick tool to improve safety of neighbourhood streets, as well as to propose process changes to more effectively support other speed management measures like local road speed limit reductions.

3. Update on Automated Enforcement and Community Safety Zones: these sections all address different tools associated with Automated Enforcement as well as the establishment of Community Safety Zones

Proposed Framework Guiding the Creation of Community Safety Zones Outside of School Zones: Staff was directed to develop a framework to evaluate requests for Community Safety Zone designations in order to implement Automated Speed Enforcement outside of school zones. This report seeks approval on a framework for expanding Community Safety Zones beyond school frontages to areas across the community to enable the expansion of Automated Speed Enforcement.

New and Revised Community Safety Zone Designations within School Zones to Support Automated Speed Enforcement: Staff is recommending updates to some existing Community Safety Zones as well as adding new ones in school zones to support Automated Speed Enforcement for particular locations.

Update on Automated Enforcement Programs: This report includes an update on the City's Automated Enforcement efforts including Automated Speed Enforcement evaluation and options for possible program expansion.

4. Report back on other Vision Zero Tools and related City Council requests: these sections all address different tools to support the continued delivery of the Vision Zero Road Safety Plan, some of which are City Council-directed

Report Back on Impaired Driving in Consultation with Toronto Police Service: As directed by City Council, staff have reviewed statistics related to impaired driving as well as outlining approaches taken to address this ongoing concern to road safety.

Minor Update to the City's Zebra Marking Policy to Add Mid-block School Crossing Guard Locations: Staff have identified that mid-block locations with active school crossing guards are currently not eligible for zebra markings and propose to add these locations to improve visibility.

Updates on Area-Based Speed Limit Reductions: Staff have received feedback from Councillors and residents that, as part of the ongoing 30 kilometres per hour speed limit reductions, the exclusion of 30 kilometres per hour collector roads in speed limit areas has resulted in confusion and extra signage. This change will allow the modification of the speed limit areas to reduce the number of signs.

Report Back on Traffic Control Warrants and Complete and Safe Street Design Considerations: These sections include a report back on updated warrants to evaluate all-way stop control, pedestrian crossovers and traffic control signals as well as a summary of efforts taken to date to ensure that Complete and Safe Street designs are considered for every major road rehabilitation project.

Background Information (Committee)

(October 12, 2023) Report from General Manager, Transportation Services on Update on Vision Zero Road Safety Initiatives

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239909.pdf>)

Attachment 1 - Comparison of 2002 Traffic Calming Policy and 2023 Traffic Calming Policy

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239910.pdf>)

Attachment 2 - 2023 Traffic Calming Policy

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239912.pdf>)

Attachment 3 - Framework and Expanded Criteria for Establishing Community Safety Zones

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239896.pdf>)

Attachment 4 - Community Safety Zone Amendments

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239914.pdf>)

Attachment 5 - Community Safety Zone Designations

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239915.pdf>)

Attachment 6 - Report on Impaired Driving

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239918.pdf>)

Attachment 7 - Taking Action on Impaired Driving

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-239897.pdf>)

Public Notice

(<https://www.toronto.ca/legdocs/mmis/2023/ie/bgrd/backgroundfile-240090.pdf>)

Communications (Committee)

(October 18, 2023) E-mail from Adam Rodgers (IE.Supp)

(October 19, 2023) E-mail from George Bell (IE.Supp)

(October 24, 2023) Letter from Dylan Reid, Walk Toronto (IE.Supp)

(<https://www.toronto.ca/legdocs/mmis/2023/ie/comm/communicationfile-173159.pdf>)

(October 24, 2023) E-mail from Jun Nogami (IE.Supp)

(October 24, 2023) Multiple Communications from 104 Individuals (IE.Supp)

(<https://www.toronto.ca/legdocs/mmis/2023/ie/comm/communicationfile-173175.pdf>)

(October 24, 2023) Letter from Alison Stewart, Cycle Toronto (IE.Supp)

(<https://www.toronto.ca/legdocs/mmis/2023/ie/comm/communicationfile-173201.pdf>)

(October 25, 2023) Multiple Communications from 18 Individuals (IE.Supp)

(<https://www.toronto.ca/legdocs/mmis/2023/ie/comm/communicationfile-173195.pdf>)

(October 25, 2023) Letter from Jessica Spieker, Friends and Families for Safe Streets (IE.Supp)

(<https://www.toronto.ca/legdocs/mmis/2023/ie/comm/communicationfile-173199.pdf>)

(October 25, 2023) E-mail from Michael Baudisch - McCabe (IE.Supp)

(October 25, 2023) Multiple Communications from 3 Individuals (IE.New)

(<https://www.toronto.ca/legdocs/mmis/2023/ie/comm/communicationfile-173217.pdf>)

(October 25, 2023) Submission from George Bell (IE.New)

Communications (City Council)

(October 30, 2023) E-mail from Steve Sullivan, Chief Executive Officer, MADD Canada (CC.Main)

(<https://www.toronto.ca/legdocs/mmis/2023/cc/comm/communicationfile-173412.pdf>)

(October 27, 2023) E-mail from Nathalie Noël (CC.Supp)

(October 26, 2023) E-mail from Christine Gebel (CC.Supp)

(October 28, 2023) E-mail from Despina Melohe (CC.Supp)

(October 25, 2023) E-mail from Francesca Colussi (CC.Supp)

(October 26, 2023) E-mail from Martina Betkova (CC.Supp)

(October 25, 2023) E-mail from Megan Bontrager (CC.Supp)

(October 30, 2023) E-mail from Paul Clarke (CC.Supp)

(October 26, 2023) E-mail from Rob Howard (CC.Supp)

(October 25, 2023) E-mail from Tanya Bruce (CC.Supp)

(October 27, 2023) E-mail from Vanessa Gentile (CC.Supp)

(October 25, 2023) E-mail from Vickram Jain (CC.Supp)

(November 7, 2023) Letter from Myron Demkiw, Chief of Police, Toronto Police Service (CC.New)

<https://www.toronto.ca/legdocs/mmis/2023/cc/comm/communicationfile-173569.pdf>



PUBLIC REPORT

December 21, 2023

To: Chair and Members
Toronto Police Services Board

From: Dubi Kanengisser
Executive Director

Subject: City Council Decisions – MM 12.28 – Hate Speech and Other Hate Activities, EX9.2: Implementation Update: Auditor General Recommendations on 9-1-1 Operations and Responses to Calls for Service by the Toronto Police Service, EX9.10: Update on the Toronto Community Crisis Service Proposed Expansion Plan

Purpose: Information Purposes Only Seeking Decision

Recommendation(s):

It is recommended that the Board receive this report.

Financial Implications:

There are no financial implications arising from the recommendation(s) contained in this report.

Summary:

The Board is in receipt of three pieces of correspondence from the City Clerk with regards to items adopted by City Council at its meeting held on November 8 and 9, 2023. The correspondence was forwarded to the Chief's Office for consideration. This report provides the Board with the decisions of City Council on these three matters.

Discussion:

MM12.28 – Hate Speech and Other Hate Activities

City Council, at its meeting on November 8 and 9, 2023, adopted item MM 12.28 – Hate speech and Other Hate Activities. The Motion is available at the following link:

<https://secure.toronto.ca/council/agenda-item.do?item=2023.MM12.28>

In considering this matter, Council adopted, the following:

City Council request the Toronto Police Services Board to request the Toronto Police Service and the Attorney General to consult about what steps can be taken quickly to protect the public from such hate speech, including anti-Semitism, Islamophobia, homophobia, or any other forms of hatred contrary to the Criminal Code and to consider all legal tools available to assist in taking action against these groups.

EX9.2: Implementation Update: Auditor General Recommendations on 9-1-1 Operations and Responses to Calls for Service by the Toronto Police Service

At the same meeting, City Council also adopted item EX 9.2 – Implementation Update: Auditor General Recommendations on 9-1-1 Operations and Responses to Calls for Service by the Toronto Police Service. The Motion is available at the following link:

[Agenda Item History - 2023.EX9.2 \(toronto.ca\)](#)

In considering this matter, Council adopted, the following:

City Council forward this Item to the Toronto Police Services Board for information.

EX9.10: Update on the Toronto Community Crisis Service Proposed Expansion Plan

At the same meeting, City Council also adopted item EX 9.10 0 – Update on the Toronto Community Crisis Service and Proposed Expansion Plan. The Motion is available at the following link:

[Agenda Item History - 2023.EX9.10 \(toronto.ca\)](#)

In considering this matter, Council adopted the following:

City Council forward the Item to the Toronto Police Services Board to inform continued action and next steps on the Auditor General's recommendations.

Conclusion:

The Board Office has forwarded the above correspondence to the Chief of Police for information and consideration as appropriate.

It is recommended that the Board receive this report.

Respectfully submitted,

Dubi Kanengisser
Executive Director

City Council

Member Motions - Meeting 12

MM12.28	ACTION	Adopted		Ward: All
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Hate Speech and Other Hate Activities - by Councillor James Pasternak, seconded by Councillor Dianne Saxe

City Council Decision

City Council on November 8 and 9, 2023, adopted the following:

1. City Council express its concern related to the substantial upsurge of hate speech on city property and other public places in Toronto, and City Council request the Toronto Police Services Board to request the Toronto Police Service and the Attorney General to consult about what steps can be taken quickly to protect the public from such hate speech, including anti-Semitism, Islamophobia, homophobia, or any other forms of hatred contrary to the Criminal Code and to consider all legal tools available to assist in taking action against these groups.

Summary

There has been a substantial upsurge of hate speech on city property and other public places in Toronto. The Toronto Police Service has focussed on de-escalating risks of physical violence, but has not taken effective steps to protect the public from such hate speech.

Reason for urgency: Rapidly changing world events has resulted in an increasingly volatile situation on Toronto streets and public spaces in which protests are creating deep concern about public safety and social cohesion.

Background Information (City Council)

Member Motion MM12.28

(<https://www.toronto.ca/legdocs/mmis/2023/mm/bgrd/backgroundfile-240662.pdf>)

City Council

Executive Committee - Meeting 9

EX9.2	ACTION	Adopted		Ward: All
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Implementation Update: Auditor General Recommendations on 9-1-1 Operations and Responses to Calls for Service by the Toronto Police Service

City Council Decision

City Council on November 8 and 9, 2023, adopted the following:

1. City Council forward the Item to the Toronto Police Services Board to inform continued action and next steps on the Auditor General's recommendations.

Summary

This report provides an update to City Council on recommendations made by the Auditor General's (AG) office in items AU13.5 and AU13.6.

In July 2022, City Council received two reports from the Auditor General, which presented findings from audits undertaken to improve and modernize the Toronto Police Service (TPS).

The Auditor General audits focused on two areas:

- 1) Enhancing the efficiency of 9-1-1 operations ([2022.AU13.5](#))
- 2) Supporting more effective responses to calls for service to improve community safety and well-being ([2022.AU13.6](#))

The Auditor General posed 51 recommendations across the two reports. Of these, 16 involved the City Manager's Office and relevant City Divisions, including Toronto Paramedic Services (PS), Toronto Fire Services (TFS), Social Development, Finance and Administration (SDFA), Municipal Licensing and Standards (MLS), Customer Experience Division (CXD, formerly 311), and others.

In July 2023, TPS presented a comprehensive update to the Toronto Police Services Board (TPSB) on the status of all 51 Auditor General recommendations. Building on the July 2023 Toronto Police Service update, this report provides an update on the 16 Auditor General recommendations directed to the City Manager's Office and other City Divisions.

A detailed status update for each of the 16 Auditor General recommendations can be found in Appendix 1. As of October 2023, 14/16 (88%) of the Auditor General recommendations are actively in progress, one is implemented and ongoing, and one has not yet started. The status of these recommendations is subject to verification by the Auditor General.

Progress on the Auditor General recommendations reflects a year of positive collaboration among police and City staff to modernize the Toronto Police Service, enhance their operations, and support community safety for Toronto residents.

Key milestones include the launch and evaluation of the Toronto Community Crisis Service (TCCS) and 9-1-1 Crisis Call Diversion (CCD) pilots, which yielded 78% and 65% successful diversion rates for calls received, respectively. These programs represent promising alternative responses to support mental health and community safety while enabling police to refocus on emergency matters within their mandate.

The revived 9-1-1 Committee has enabled Toronto Police Service, Toronto Fire Service, and Paramedic Services to meet quarterly, with discussions focused on improving 9-1-1 operations. This partnership among the tri-services has set the stage for the successful rollout and transfer of operations to Next Generation 9-1-1 (NG9-1-1), expected no later than March 2025, which will further improve interconnectivity, data sharing, and the efficiency of call transfers.

Ongoing partnership and knowledge exchange among the tri-services has supported Toronto Fire Service and Paramedic Services to reduce call transfer times (the time it takes for police to transfer a call to Toronto Fire Service or Paramedic Services dispatchers) and maintain national standards. Toronto Fire Service Call Answering performance has consistently remained within the National Emergency Number Association (NENA) standard of 15 seconds 90% of the time. Paramedic Services has undertaken significant recruitment and training efforts to improve call transfer times, with a 53% reduction in average call transfer time in August 2023, when compared to July 2022.

Areas for action and next steps include ongoing coordination among Toronto Police Service, Customer Experience Division, and Municipal Licensing and Standards to receive and respond to non-emergency service requests, particularly noise complaints. Criteria and guidance for where to direct noise complaints need to be reinforced internally and more broadly communicated to the public. Continued partnership among Toronto Police Service, Customer Experience Division, and Municipal Licensing and Standards, alongside a new awareness campaign slated for launch mid-to-late October 2023, will help minimize confusion and ensure Torontonians can 'make the right call' when it comes to non-emergency issues like noise.

Overall, this report demonstrates a strong, collaborative foundation for the City and Toronto Police Service to continue driving Auditor General recommendations to completion. The Deputy City Manager, Community and Social Services, will continue to facilitate this collaboration and provide updates on the success of City staff and Toronto Police Service in implementing Auditor General recommendations.

The next status update on AU13.5 and AU13.6 will be provided to City Council in the first quarter of 2025, ahead of the successful rollout and transfer of operations to NG9-1-1.

Background Information (Committee)

(October 17, 2023) Report from the Deputy City Manager, Community and Social Services on Implementation Update: Auditor General Recommendations on 9-1-1 Operations and Responses to Calls for Service by the Toronto Police Service
(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240079.pdf>)
Appendix 1 - Status Update on AU13.5 and AU13.6 Recommendations
(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240080.pdf>)

Communications (Committee)

(October 26, 2023) E-mail from Albert Venczel (EX.Supp)
(October 27, 2023) Letter from Serena Nudel, Director of Community Programs, The

Neighbourhood Group Community Services (EX.Supp)
(<https://www.toronto.ca/legdocs/mmis/2023/ex/comm/communicationfile-173291.pdf>)
(October 27, 2023) Submission from Albert Venczel (EX.Supp)

2a Update on Auditor General Recommendations Implementation

Summary

Please find attached an extract from the draft Minutes of the Public meeting of the Toronto Police Services Board held on July 27, 2023, entitled “Update on Auditor General Recommendations Implementation.”

The Board agreed that a copy of this Minutes be forwarded to you for information and to the City Clerk’s Office to inform Council, as necessary.

Background Information (Committee)

(August 16, 2023) Letter from the Toronto Police Services Board on Update on Auditor General Recommendations Implementation

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240118.pdf>)

Attachment 1 - Extract of Minutes of the Toronto Police Services Board meeting on July 27, 2023

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240119.pdf>)

Attachment 2 - Presentation - Auditor General Report Recommendations Implementation - Project Update

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240120.pdf>)

City Council

Executive Committee - Meeting 9

EX9.10	ACTION	Adopted		Ward: All
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2023 Update on the Toronto Community Crisis Service and Proposed Expansion Plan

City Council Decision

City Council on November 8 and 9, 2023, adopted the following:

1. City Council endorse the City-wide expansion of the Toronto Community Crisis Service as Toronto's fourth emergency service.
2. City Council authorize the Executive Director, Social Development, Finance and Administration to negotiate, enter into, and amend any service and funding agreements with the Toronto Community Crisis Service anchor partners (namely, Gerstein Crisis Centre, TAIBU Community Health Centre, 2-Spirited People of the 1st Nations and The Canadian Mental Health Association Toronto Branch) for the provision of the Toronto Community Crisis Service until 2034 on the terms and conditions satisfactory to the Executive Director, Social Development, Finance and Administration and in a form acceptable to the City Solicitor.
3. City Council authorize the Executive Director, Social Development, Finance and Administration to negotiate, enter into, and amend any service and funding agreements with Findhelp Information Services, as the intake partner for the Toronto Community Crisis Service, on the terms and conditions satisfactory to the Executive Director, Social Development, Finance and Administration and in a form acceptable to the City Solicitor.
4. City Council authorize the Executive Director, Social Development, Finance and Administration to negotiate, enter into, and amend single-year and multi-year contribution agreements for not-for-profit organizations funded through the Strengthening the Community Crisis System grant, with funding recipients and grant amounts to be determined through a call for proposals, within the budget allocation for the program, and on such content, terms and conditions as deemed necessary by the Executive Director, Social Development, Finance and Administration and in a form satisfactory to the City Solicitor.
5. City Council authorize the Executive Director, Social Development, Finance and Administration to negotiate, enter into, and amend single-year and multi-year agreements to support program components related to the Toronto Community Crisis Service (e.g. training, evaluation, outreach campaigns) within the budget allocation for the program, and on such manner, content, terms and conditions as deemed necessary by the Executive Director, Social Development, Finance and Administration and in a form satisfactory to the City Solicitor.
6. City Council request the Province of Ontario to fund the expansion of the Toronto Community Crisis Service, in alignment with the 75/25 cost-sharing funding model, for public

health services and to increase investments to close the service gaps in mental health services and addiction recovery programs, including detox beds and broad options for affordable and supportive housing.

7. City Council request the Mayor to consider the City-wide expansion of the Toronto Community Crisis Service in proposing the 2024 Budget for the Social Development, Finance and Administration Division, in consultation with the Chief Financial Officer and Treasurer and the Executive Director, Social Development, Finance and Administration.

8. City Council forward this Item to the Toronto Police Services Board for information.

9. City Council share the Toronto Community Crisis Service One-Year Evaluation Report with the Big City Mayors' Caucus for consideration.

Summary

In March 2022, the Toronto Community Crisis Service launched a 24/7 service to provide a community-based, client centred, trauma-informed, non-police led response to people experiencing mental health crisis and wellness checks. In its first year of operations the Toronto Community Crisis Service received 6,827 calls for service, with 78 per cent of calls transferred from 911 successfully resolved without police involvement.

Data from the Toronto Community Crisis Service's one-year evaluation demonstrates that 95 per cent of clients were satisfied or very satisfied with the service they received and 90 per cent indicated that it positively impacted their perception of community safety and wellbeing. In year one, community crisis teams completed 2,936 post-crisis follow up interactions and connected 1,160 service users to ongoing case management supports.

The Toronto Community Crisis Service provides access to ground-breaking transformative care in 64 per cent of all Toronto wards. If approved by Council, the service will be expanded city-wide in 2024 to become the fourth municipal emergency service in Toronto, alongside Toronto Fire Services, Toronto Paramedic Services, and the Toronto Police Service.

The expansion of the Toronto Community Crisis Service is one of the first priority actions of SafeTO: Toronto's Ten-Year Community Safety and Well-Being Plan to reduce vulnerability in Toronto through proactive mental health support strategies and community-based crisis support models.

After a successful first year of operations, and the demonstrated need for crisis response services in Toronto, Social Development, Finance and Administration is accelerating the service expansion to city-wide coverage so all Torontonians can access the support they need when they need it most before the end of 2024.

This report will provide:

- an update on the progress of the Toronto Community Crisis Service, including the first year of performance data, service achievements and challenges, public awareness building efforts, as well as the recognition the service has received nationally and internationally as a model for community-based crisis response;
- a roadmap to expand the Toronto Community Crisis Service city-wide, including a proposed approach to strengthening the dispatch and intake functions, which will ensure that dispatching is efficient, effective, and safe as the service expands;
- recommendations for qualified community anchor partners to deliver the service in expanded service areas; and,

· an overview of the additional investments provided through the Strengthening the Community Crisis System grant stream in support of expansion efforts.

Background Information (Committee)

(October 17, 2023) Report from the Executive Director, Social Development, Finance and Administration on 2023 Update on the Toronto Community Crisis Service and Proposed Expansion Plan

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240069.pdf>)

Attachment 1 - Year 1 Evaluation Report from Provincial System Support Program and Shkaabe Makwa at the Centre for Addiction and Mental Health

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240070.pdf>)

Attachment 2 - Toronto Community Crisis Service Infographic on Year One Data

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240071.pdf>)

Attachment 3 - Visual Story on Service User Experiences

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240072.pdf>)

Attachment 4 - Summary of Recommended Community Anchor Partners for Toronto Community Crisis Service Expansion

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240073.pdf>)

Attachment 5 - Map of Toronto Community Crisis Service Expanded Catchment Areas

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240074.pdf>)

Attachment 6 - Dispatch Operating Model Review 1

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240075.pdf>)

Presentation by the Executive Director, Social Development, Finance and Administration on Toronto Community Crisis Service 2023 Update and Proposed Expansion Plan

(<https://www.toronto.ca/legdocs/mmis/2023/ex/bgrd/backgroundfile-240367.pdf>)

Communications (Committee)

(October 26, 2023) Letter from Councillor Dianne Saxe (EX.Supp)

(<https://www.toronto.ca/legdocs/mmis/2023/ex/comm/communicationfile-173287.pdf>)

(October 27, 2023) E-mail from Nicole Corrado (EX.Supp)

(October 27, 2023) E-mail from Steve Lurie (EX.Supp)

(October 29, 2023) E-mail from Nicole Corrado (EX.Supp)

(October 29, 2023) E-mail from Nicole Corrado (EX.Supp)

(October 30, 2023) E-mail from Rachel Bromberg (EX.Supp)

(October 31, 2023) Letter from Lynne Woolcott (EX.New)

(<https://www.toronto.ca/legdocs/mmis/2023/ex/comm/communicationfile-173398.pdf>)

Communications (City Council)

(November 7, 2023) Letter from Andrea Vásquez Jiménez, Director and Principal Consultant, Policing-Free Schools (CC.New)

(<https://www.toronto.ca/legdocs/mmis/2023/cc/comm/communicationfile-173594.pdf>)



PUBLIC REPORT

December 4, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation into the Firearm Discharged at a Person - Complainant 2023.14

Purpose: Information Purposes Only Seeking Decision

Recommendation:

It is recommended that the Toronto Police Service Board (Board) forward a copy of this report to the Solicitor General as per O. Reg. 552/92 s.8.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Summary:

The Professional Standards (P.R.S.) investigation determined the conduct of four of the twelve designated officials was not in compliance with applicable provincial legislation regarding the Standards of Conduct and relevant Toronto Police Service (T.P.S.) procedures. One of the designated witness official failed to comply with T.P.S. Procedure.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual

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assault, provincial legislation requires the chief of police of the relevant police service to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) Procedures
- *Special Investigations Unit Act, (S.I.U.A.) 2019*
- Ontario Regulation 926 (Equipment and Use of Force)
- Provincial Regulations

S.I.U. Investigative Conclusion made on September 8, 2023

"The Director of the Special Investigations Unit, Joseph Martino, has reasonable grounds to believe a Toronto Police Service officer committed criminal offences in relation to a shooting in February 2023.

The SIU investigation found that on February 27, officers were called to a park in the area of Black Creek Drive and Trethewey Drive for a report of a man with a knife. Two officers discharged conducted energy weapons at the man. Another officer shot his firearm twice at the man. The man, 31, was taken to hospital with serious injuries.

As a result of the SIU investigation, Cst. Andrew Davis is facing the following charges under the Criminal Code:

- *One count of aggravated assault contrary to section 268, and*
- *One count of discharge firearm with intent to maim, wound, disfigure or endanger life, contrary to section 244"*

The link to the media release detailing the charges laid can be found via the following link:

<https://www.siu.on.ca/siu-charges-toronto-police-officer-in-shooting-of-man-en8860>

Incident Narrative

Terminology:

Complainant – Refers to the Affected Person

B.W.C. – Body-Worn Camera

On February 27, 2023, at 0758 hours, a concerned citizen attended the front desk of 12 Division to report that he had observed a male armed with a knife in the parkette across

the street from 12 Division. The citizen provided a detailed description of the male and the last location he had observed him.

The front desk staff at 12 Division notified the Toronto Police Service (T.P.S.) Communications Services (Communications) who dispatched numerous uniformed officers to the parkette.

At 0800 hours, four uniformed police officers from 12 Division responded to the call and arrived at the parkette at 0801 hours. The officers were joined by Police Constable Andrew Davis (66115) from 12 Division who was off duty and on his way to a paid duty assignment when he stopped en route to assist.

When the officers pulled into the parking lot of the parkette they immediately encountered the Complainant who appeared agitated and had a large knife concealed in a sheath on his belt.

When the officers saw the knife they directed the Complainant to lay on the ground. As the directions were given to the Complainant, two of the officers drew their Conducted Energy Weapons (C.E.W.) and Constable Davis drew his service issued pistol.

The Complainant did not comply with the officers directions to lay down on the ground and he started to walk backward away from the officers into the park. The officers followed him into the park from the parking lot while continuing to issue commands for him to lay on the ground. The park was empty at the time this event was unfolding.

One of the officers discharged their C.E.W., which was ineffective. A second officer then discharged his C.E.W., which was also ineffective due to the heavy clothing being worn by the Complainant.

At this time, the Complainant took the knife out of the sheath and held it in his hand. The officers ordered the Complainant to drop the knife. The Complainant continued to walk backwards away from the officers and refused to drop the knife. The Complainant raised the knife to his throat and began cutting his throat. When the Complainant raised the knife to his throat, Constable Davis discharged two rounds from his service pistol, striking the Complainant twice.

When Constable Davis discharged his firearm, he was 15 metres away from the Complainant (sourced from the S.I.U.).

After being shot, the Complainant turned away from the officers and ran as the officers pursued him on foot.

The officers caught up to the Complainant at the intersection of Black Creek Drive and Trethewey Drive.

The officers subdued and handcuffed the Complainant and immediately commenced life saving efforts.

Toronto Paramedic Services (Paramedics) arrived on scene and transported the Complainant to Sunnybrook Health Sciences Centre.

The Complainant was treated for two gunshot wounds and a deep laceration to his neck.

After surgery, the Complainant was stabilized and a form 42 under the *Mental Health Act* (M.H.A.) was issued by the examining physician.

Criminal charges were not pursued against the Complainant by the Service.

The entire encounter with the Complainant was captured on the B.W.C. of all five involved officers.

The S.I.U. was notified and invoked its mandate.

The S.I.U. designated Police Constable Andrew Davis (66115) of 12 Division as a subject official; eleven other officers have been designated as witness officials.

Summary of the Toronto Police Service's Investigation

The Professional Standards Investigative Unit (P.R.S. I.N.V.) assisted by the Professional Standards (P.R.S.) – SIU Liaison (S.I.U. Liaison) conducted an administrative investigation as is required by provincial legislation.

This investigation examined the circumstances of the firearm discharge in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The P.R.S. I.N.V. and S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);
- Procedure 01-02 (Search of Persons);
- Procedure 01-03 (Persons in Custody);
- Procedure 08-03 (Injured on Duty Reporting);
- Procedure 08-04 (Members Involved in a Traumatic Critical Incident);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-01 (Incident Response (Use of Force/De-Escalation));
- Procedure 15-02 (Injury/Illness Reporting);
- Procedure 15-03 (Service Firearms);
- Procedure 15-09 (Conducted Energy Weapon);
- Procedure 15-17 (In-Car Camera System) and;

- Procedure 15-20 (Body-Worn Camera).

The P.R.S. I.N.V. and S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act, 2019*;
- Ontario Regulation 603/20 (Conduct and Duties of Police Officers Respecting Investigations by the S.I.U.)
- Ontario Regulation 926 (Equipment and Use of Force)

Conclusion:

The P.R.S. I.N.V. and S.I.U. Liaison investigation determined that the T.P.S.'s policies and procedures associated with this firearm discharge and resulting injuries to the Complainant were lawful, in keeping with current legislation, and written in a manner which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The P.R.S. I.N.V. and S.I.U. Liaison investigation determined the conduct of four of the twelve designated officers was not in compliance with the applicable provincial legislation regarding the Standards of Conduct and relevant T.P.S. procedures.

The administrative investigation identified and substantiated that a designated witness officer failed to utilize their I.C.C.S. as is directed in Procedure 15-17 (In-Car Cameras). This breach of the I.C.C.S. procedure was mitigated by the fact this officer did utilize his/her issued body-worn camera which captured the substantive event that was being investigated by the S.I.U. Misconduct was substantiated and the matter was resolved at the unit level.

The administrative investigation identified and substantiated that the first attending Sergeant failed to comply with Procedure 13-16 (Special Investigations Unit). Specifically, the Sergeant did not comply with Procedure 13-16 and their training when they mishandled the subject official's firearm. This error did not have an impact on the S.I.U.'s investigation. Misconduct was substantiated and the matter was resolved at the unit level.

The administrative investigation identified and substantiated that a designated witness officer failed to comply with Procedures 15-01 (Incident Response (Use of Force/De-Escalation)) and 15-17 (In-Car Camera System). Specifically, this officer failed to utilize their I.C.C.S. as is directed in Procedure 15-17 (In-Car Cameras). This breach of the I.C.C.S. procedure was mitigated by the fact that this officer did utilize their issued body-worn camera which captured the substantive event that was being investigated by the S.I.U. Misconduct was substantiated and the matter was resolved at the unit level.

It was also substantiated that this officer failed to sufficiently utilize de-escalation tactics as required by Procedure 15-01 (Incident Response (Use of Force/De-Escalation)) and

police training. Misconduct was substantiated and the matter will be proceeding to a police tribunal hearing.

The administrative investigation identified and substantiated that Constable Andrew Davis (66115) of 12 Division failed to sufficiently utilize de-escalation tactics as required by Procedure 15-01 (Incident Response (Use of Force/De-Escalation)). It was also identified and substantiated that Constable Davis used unnecessary force against the Complainant when he discharged his firearm when there was no risk of bodily harm or death to any officer or member of the public. Finally, it was identified and substantiated that Constable Davis acted in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the Police Service when he failed to utilize appropriate de-escalation tactics, discharged his firearm when it was not justified to do so and when he used excessive force on the Complainant.

This matter will be proceeding to a police tribunal hearing at the conclusion of the criminal proceedings.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

November 6, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation into the Custody Injury of Complainant 2023.24

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act, (S.I.U.A.) 2019*

S.I.U. Terminology

Complainant – Refers to the Affected Person(s)

SO – Subject Official

WO – Witness Official

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated September 28, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”*

The following S.I.U. *Incident Narrative and Analysis and Directors Decision* has been reprinted from the S.I.U. Director’s report, number 23-TCI-129, which can be found via the following link:

https://www.siu.on.ca/en/directors_report_details.php?drid=2547

S.I.U. Incident Narrative

“The evidence collected by the SIU, including interviews with the Complainant and officers present at the time of the events in question, and video footage that captured the incident in parts, gives rise to the following scenario. As was his legal right, the SO chose not to interview with the SIU or authorize the release of his notes.

In the afternoon of April 30, 2023, the Complainant was standing in an alcove south of the entrance/exit doors of a Tim Hortons restaurant, located on the west side of Victoria Street, just north of Dundas Street East. He had just provided a small item to a woman when he was approached by uniformed TPS officers.

The SO was a backseat passenger in an unmarked police vehicle being operated by WO #1. WO #2 and WO #3 were also in the vehicle. The officers were patrolling in the area of Yonge Street and Dundas Street for drug transactions. While on Victoria Street facing south towards Dundas Street East, WO #1 had observed the Complainant engaged in what he believed to be a drug transaction. He alerted his colleagues and drove to the area, bringing the vehicle to a stop curbside by the Tim Hortons, after which all four officers exited and rushed towards the Complainant.

The Complainant attempted to flee from the officers. He mounted an electric scooter he had with him and travelled north across the Tim Hortons a short distance before he was confronted by WO #2, at which point he jumped off his scooter and attempted to skirt around the officer on foot. The two grappled

momentarily, the officer losing his balance in the process, before the Complainant was tackled to the ground by WO #3.

The SO was knocked to the ground by the takedown and immediately engaged the Complainant, delivering four to five left-handed punches to the head area. Shortly thereafter, the officers were able to control the Complainant's arms and handcuff them behind the back.

The Complainant was bleeding from the face after his arrest and an ambulance was summoned to the scene. He was diagnosed at hospital with a broken right orbital bone and nasal fractures."

Analysis and Director's Decision

"The Complainant was seriously injured in the course of his arrest by TPS officers on April 30, 2023. One of the officers – the SO – was identified as the subject official in the ensuing SIU investigation of the incident. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant's arrest and injuries.

Pursuant to section 25(1) of the Criminal Code, police officers are immune from criminal liability for force used in the course of their duties provided such force was reasonably necessary in the execution of an act that they were required or authorized to do by law.

WO #1 had observed what he believed was a drug transaction. Whether or not the officer's surmise was accurate, I am unable to reasonably conclude that the decision to arrest the Complainant was unlawful. The interaction had occurred in an area known for drug-trafficking, and the outward behaviour of the involved parties was apparently consistent with a drug transaction.

With respect to the force used by the SO in aid of the Complainant's arrest, I am not satisfied it was excessive. The Complainant had demonstrated he was intent on escaping apprehension when he fled from the officers – first on his scooter and then briefly on foot. Thereafter, the SO was bowled over in the course of the Complainant's grounding. Though that appears to have been the result of WO #3's tackle of the Complainant, the impact would have imparted a sense of the violence of the encounter and the need to subdue the Complainant as soon as possible. On this record, when he failed to promptly release his arms to be handcuffed, as the weight of the evidence suggests was the case, the SO was entitled to resort to a measure of force to overcome the Complainant's resistance. The four or five punches delivered in quick succession would not appear a clearly disproportionate use of force in the heat of the moment.

In the result, while I accept that one or more of the Complainant's facial injuries were likely inflicted by the punches delivered by the SO, I am not satisfied on

reasonable grounds that they any of them are attributable to unlawful conduct on the part of the officer.

The file is closed.”

Summary of the Toronto Police Service’s Investigation

The P.R.S. – S.I.U. Liaison conducted an administrative investigation as is required by provincial legislation.

This investigation examined the circumstances of the custody injury in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);
- Procedure 01-02 (Search of Persons);
- Procedure 01-03 (Persons in Custody);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-01 (Incident Response (Use of Force/De-Escalation));
- Procedure 15-02 (Injury/Illness Reporting);
- Procedure 15-20 (Body-Worn Camera).

The S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act (S.I.U.A), 2019, s 31(1) Duty to Comply;*
- *Special Investigations Unit Act (S.I.U.A), 2019, s 20 Securing the Scene;*
- *Special Investigations Unit Act (S.I.U.A), 2019, s 16 (1) Notification of Incident.*

Conclusion:

The S.I.U. Liaison investigation determined that the T.P.S.’s policies and procedures associated with this custody injury were lawful, in keeping with current legislation, and written in a manner, which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The S.I.U. Liaison investigation determined the conduct of a designated official was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable T.P.S. procedures.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

This report recommends that the Board receive this report for information.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

November 6, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation into the Custody Injury of Complainant 2023.30

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act, (S.I.U.A.) 2019*

S.I.U. Terminology

Complainant – Refers to the Affected Person(s)

SO – Subject Official

WO – Witness Official

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated September 11, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”*

The following S.I.U. *Incident Narrative and Analysis and Directors Decision* has been reprinted from the S.I.U. Director’s report, number 23-TCI-183, which can be found via the following link:

https://www.siu.on.ca/en/directors_report_details.php?drid=2572

S.I.U. Incident Narrative

“The evidence collected by the SIU, including interviews with police officers who dealt with the Complainant during her time in custody and video footage that captured the incident in parts, gives rise to the following scenario. As was her legal right, the SO chose not to interview with the SIU or authorize the release of her notes.

The Complainant was arrested on the strength of outstanding warrants in the morning of May 13, 2023, in a laneway near Pape Avenue and Danforth Avenue, Toronto. Paramedics and police had been called to check on the welfare of two persons in the laneway who seemed impaired by drugs. WO #1, the lead officer on scene, handcuffed the Complainant, after which she was subjected to a pat-down search by the SO. No contraband was seized.

The Complainant was transported to 55 Division where she was subjected to a second search of her person. This one involved a somewhat more invasive search, namely, a frisk search in which the searching officer digs into a person’s pockets and removes outerwear for inspection. Again, no drugs were located.

In the evening of the day in question, having spent the afternoon at 55 Division, the Complainant was taken to a detention centre in Milton. Reportedly, the Complainant appeared drowsy on her arrival and was refused admission to the facility. Paramedics attended and transported the Complainant to hospital.

The Complainant was examined at hospital and eventually placed in the ICU. A nurse attempting to insert a catheter had located and removed a small plastic

container from the Complainant's vagina with suspected drugs inside. The Complainant was subsequently discharged from hospital."

Analysis and Director's Decision

"The Complainant was admitted to hospital on May 13, 2023, while in the custody of the TPS. The TPS notified the SIU of the Complainant's medical condition, prompting an SIU investigation in which the SO was identified as the subject official. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant's stay in hospital.

The offences that arise for consideration are failure to provide the necessities of life and criminal negligence causing bodily harm contrary to sections 215 and 221 of the Criminal Code, respectively. Both require something more than a simple want of care to give rise to liability. The former is predicated, in part, on conduct that amounts to a marked departure from the level of care that a reasonable person would have exercised in the circumstances.

The latter is premised on even more egregious conduct that demonstrates a wanton or reckless disregard for the lives or safety of other persons. It is not made out unless the neglect constitutes a marked and substantial departure from a reasonable standard of care. In the instant case, the question is whether there was any want of care on the part of the SO, sufficiently serious to attract criminal sanction, that endangered the Complainant's life or contributed to her medical condition. In my view, there was not.

There are no issues raised with the lawfulness of the Complainant's arrest. She was subject to a number of warrants and WO #1 was within his rights in taking her into custody. That being the case, the police also had the authority to search the Complainant as an incident of her lawful arrest pursuant to their common law powers.

*With respect to the care afforded the Complainant while in police custody, the only possible miscue would appear to be the fact that she was not dispossessed of a small plastic container of drugs. It remains unclear whether those drugs played any role in her ICU admission, but even if they did, the evidence falls short of making out any malfeasance on the part of her custodians in failing to locate them. The fact is, the Complainant was subjected to two searches, each of which appears to have been conducted with due diligence. It would be speculation to conclude that a further strip search, had it been conducted, would have discovered the plastic container. However, whether the officers had sufficient grounds to strip search the Complainant is arguable. As the governing law in this area makes clear, the police must establish reasonable and probable grounds justifying a strip search in connection with the need to discover weapons or evidence on the person searched: *R v Golden*, [2001] 3 SCR 679. The officers concluded that those grounds did not exist in the circumstances of this case. As the Complainant*

appeared mostly coherent and physically capable while in police custody, I am unable to reasonably conclude that the officers' assessment was clearly wrong.

In the result, as there are no reasonable grounds to believe that the SO or any of the officers involved in the Complainant's care while in police custody transgressed the limits of care prescribed by the criminal law, there is no basis for proceeding with criminal charges.

The file is closed."

Summary of the Toronto Police Service's Investigation

The P.R.S. – S.I.U. Liaison conducted an administrative investigation as is required by provincial legislation.

This investigation examined the circumstances of the custody injury in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);
- Procedure 01-02 (Search of Persons);
- Procedure 01-03 (Persons in Custody);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-01 (Incident Response (Use of Force/De-Escalation));
- Procedure 15-02 (Injury/Illness Reporting);
- Procedure 15-17 (In-Car Camera System); and
- Procedure 15-20 (Body-Worn Camera).

The S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act* (S.I.U.A), 2019, s 31(1) Duty to Comply
- *Special Investigations Unit Act* (S.I.U.A), 2019, s 20 Securing the Scene
- *Special Investigations Unit Act* (S.I.U.A), 2019, s 16 (1) Notification of Incident.

Conclusion:

The S.I.U. Liaison investigation determined that the T.P.S.'s policies and procedures associated with this custody injury were lawful, in keeping with current legislation, and written in a manner, which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The S.I.U. Liaison investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable T.P.S. procedures.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

This report recommends that the Board receive this report for information.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

November 6, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation into the Custody Injury of Complainant 2023.32

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act, (S.I.U.A.) 2019*

S.I.U. Terminology

Complainant – Refers to the Affected Person

SO – Subject Official

WO – Witness Official

CW – Civilian Witness

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated September 28, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”*

The following S.I.U. *Incident Narrative and Analysis and Directors Decision* has been reprinted from the S.I.U. Director’s report, number 23-TCI-186, which can be found via the following link:

https://www.siu.on.ca/en/directors_report_details.php?drid=2573

S.I.U. Incident Narrative

“The evidence collected by the SIU, including interviews with officers present at the time of the events in question and video footage that captured the incident, gives rise to the following scenario. As was his legal right, the SO did not agree an interview with the SIU. He did authorize the release of his notes.

In the evening of May 14, 2023, the SO and his partner, WO #1, were dispatched to an address near Tapscott Road and Neilson Road, Toronto. A call had come in from the CW reporting that the Complainant, present at the location in violation of a release order, had assaulted her and stolen her vehicle. The officers were stopped at a red light on Washburn Way, facing north towards Tapscott Road, when they observed the Complainant operating the stolen vehicle behind them.

The Complainant was intoxicated at the time and had left in the CW’s vehicle. He failed to stop when told to do so by WO #1, who had momentarily exited his cruiser to issue the direction, and executed a U-turn to drive away from the police. He proceeded south on Washburn Way and eventually made his way westbound on Sheppard Avenue East from Gateforth Drive.

The SO followed the Hyundai on Sheppard Avenue a short distance, watching it turn left and come to a stop on the driveway of the Chinese Cultural Centre of Greater Toronto, 5183 Sheppard Avenue East, about 200 metres west of Gateforth Drive. The officer brought his cruiser to a stop behind the Hyundai, and he and WO #1 exited and approached the driver’s door.

At about this time, WO #2 and WO #3 were arriving on scene in another cruiser, which they brought to a stop in front of the Hyundai. Both officers exited and also made their way to the driver's door.

The Complainant was directed to exit the vehicle but initially delayed. He held onto the steering wheel as the officers attempted to remove him from the Hyundai. When he continued to delay his exit, the SO and WO #1 grabbed hold of the Complainant and forcibly extricated him from the vehicle, depositing him on the ground.

The officers rolled the Complainant onto his left-front and handcuffed his arms behind the back.

Following his arrest, the Complainant complained of pain to his left hip. An ambulance was called and transported him to hospital where he was diagnosed with a broken left hip and two left-sided fractured ribs.”

Analysis and Director's Decision

“The Complainant was seriously injured in the course of his arrest by TPS officers on May 14, 2023. One of the arresting officers – the SO – was identified as the subject official in the ensuing SIU investigation of the incident. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant's arrest and injuries.

Pursuant to section 25(1) of the Criminal Code, police officers are immune from criminal liability for force used in the course of their duties provided such force was reasonably necessary in the execution of an act that they were required or authorized to do by law.

The SO and the other involved officers were within their rights in seeking to take the Complainant into custody. The officers had cause to believe that the Complainant was operating a stolen vehicle while impaired by alcohol based on the information received via the 911 call and the smell of alcohol coming from the Complainant when they opened the driver's door of the Hyundai.

With respect to the force used by the SO and the other officers, namely, their application of bodily force to wrestle the Complainant out of the car and onto the ground, I am unable to reasonably conclude that it was excessive. The officers were right to want to remove the Complainant from the Hyundai as soon as possible. The Complainant was intoxicated and there was a real risk to the safety of the Complainant, the officers, and the broader public should he have the opportunity to continue to operate the vehicle. In the circumstances, I am satisfied the officers acted reasonably when they pulled the Complainant from the vehicle after he had delayed in removing himself. That tactic, as the video makes clear, was not executed with undue force. Nor does it appear that WO #1, when he

temporarily placed a knee on the Complainant's back and buttocks, acted with excess.

In the result, while I accept that one or more of the Complainant's injuries were incurred in the course of his arrest, there are no reasonable grounds to believe that any of them are attributable to unlawful conduct on the part of the SO or the other officers. As such, there is no basis for proceeding with criminal charges.

The file is closed."

Summary of the Toronto Police Service's Investigation

The P.R.S. – S.I.U. Liaison conducted an administrative investigation as is required by provincial legislation.

This investigation examined the circumstances of the custody injury in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);
- Procedure 01-02 (Search of Persons);
- Procedure 01-03 (Persons in Custody);
- Procedure 05-04 (Intimate Partner Violence);
- Procedure 07-06 (Ability Impaired/80 mgs and Over Investigation);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-01 (Incident Response (Use of Force/De-Escalation));
- Procedure 15-02 (Injury/Illness Reporting);
- Procedure 15-17 (In-Car Camera System), and
- Procedure 15-20 (Body-Worn Camera).

The S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act (S.I.U.A), 2019, SO 2019, c1, Sch 5*

Conclusion:

The S.I.U. Liaison investigation determined that the T.P.S.'s policies and procedures associated with this custody injury were lawful, in keeping with current legislation, and written in a manner, which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The S.I.U. Liaison investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable T.P.S. procedures.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

This report recommends that the Board receive this report for information.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

November 6, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation of the Alleged Sexual Assault Complainant 2023.37

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police, of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act* (S.I.U.A.), 2019

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated September 22, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges in this case”*.

The S.I.U. has not made the Directors Report public stating in part, *“pursuant to section 34(6) of the Special Investigations Unit Act, 2019, the SIU Director may exercise a discretion, subject to prior consultation with the complainant, to not publish the report if the Director is of the opinion that the complainant’s privacy interest in not having the report published clearly outweighs the public interest in having the report published.”*

Incident Narrative

On January 21, 2023, a uniformed police officer from 51 Division attended a building in response to a theft.

It was reported by the victim that on January 20, 2023, at 1930 hours, he had left his belongings in the loading dock area of the condominium building while he organized his moving van.

While the victim’s belongings were left unattended, a female later identified as Alleged Sexual Assault Complainant 2023.37 (2023.37) stole several items including \$2100 in cash. The theft was captured on the building surveillance video system.

The officer commenced an investigation which included reviewing surveillance video. Based on this investigation, the officer with the assistance of building security, identified 2023.37 who is a resident of the same building as the suspect.

The victim of the theft did not wish to pursue any criminal charges but did want 2023.37 to return the stolen money.

The officer attended 2023.37’s apartment and advised her of the theft investigation and her alleged role. 2023.37 was shown the surveillance video showing she was responsible for the theft. 2023.37 agreed to return the money to the victim in lieu of a criminal charge.

The initial investigation of the theft and the officer’s conversation with 2023.37 was captured on Body-Worn Camera (B.W.C.).

The officer completed a report detailing the theft, his investigation and the purposed resolution.

On May 27, 2023, the victim of the theft contacted the officer to advise the money was never returned.

On May 27, 2023, the officer attended 2023.37's unit and charged her with Theft not Exceeding \$5000.

After leaving the unit, the officer received a call from a female who identified herself as 2023.37's mother. The caller expressed her anger that her daughter had been criminally charged and alleged the officer had made inappropriate comments toward her daughter and had touched her inappropriately during the initial investigation on January 21, 2023. The caller advised the officer she would be attending 51 Division to file a complaint.

The officer immediately attended 51 Division and reported the allegation to his superior.

The S.I.U was notified and invoked its mandate.

The S.I.U. designated one officer as a subject official.

Summary of the Toronto Police Service's Investigation

The Professional Standards – S.I.U. Liaison (S.I.U. Liaison) conducted an administrative investigation as is required by provincial legislation. This investigation was reviewed by Specialized Criminal Investigations – Sex Crimes Unit in accordance to T.P.S. Procedure 13-16 (Special Investigations Unit).

This investigation examined the circumstances of the alleged sexual assault in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);
- Procedure 01-08 (Criminal Code Release);
- Procedure 05-05 (Sexual Assault);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-20 (Body-Worn Camera).

The S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act (S.I.U.A.), 2019*

Conclusion:

The S.I.U. Liaison investigation determined that the T.P.S.'s policies and procedures associated with this alleged sexual assault were lawful, in keeping with current legislation, and written in a manner that provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The S.I.U. Liaison investigation determined the conduct of the designated subject officer was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable T.P.S. procedures. The following additional comments are provided.

The S.I.U.'s investigation into this allegation which was aided by data provided to them by the Service resulted with the conclusion that there were no reasonable grounds to proceed with criminal charges.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

It is recommended that the Board receive this report for information.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

November 6, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation into the Custody Injury of Complainant 2023.38

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act, (S.I.U.A.) 2019*

S.I.U. Terminology

Complainant – Refers to the Affected Person

SO – Subject Official

WO – Witness Official

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated October 4, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”*

The following S.I.U. *Incident Narrative and Analysis and Directors Decision* has been reprinted from the S.I.U. Director’s report, number 23-TCI-214, which can be found via the following link:

https://www.siu.on.ca/en/directors_report_details.php?drid=2620

S.I.U. Incident Narrative

“In the morning of June 6, 2023, the TPS took a 911 call from the Canadian Tire store at 5 Joe Shuster Way, Toronto, about the Complainant. According to the caller, the Complainant had assaulted a store employee and damaged store property, after which she exited the premises in possession of a box-cutter. Police officers were dispatched to the area.

WO #3, who was working a paid-duty at a construction site in the vicinity of the Canadian Tire, heard of the 911 call via radio. He observed the Complainant with a box-cutter in her right hand, its blade extended, and attempted to have her drop the knife.

The Complainant was of unsound mind at the time and seemingly unable to respond to WO #3 in a meaningful way. She demanded that the officer “tase” her as he attempted to defuse the situation by engaging her in conversation. At one point, the Complainant did drop the box-cutter, only to access another one she had on her person when WO #3 approached to take her into custody. The officer immediately created distance at this time, aimed his CEW in her direction, and warned the Complainant that he would shock her if she did not drop the knife.

At the standoff between the Complainant and WO #3 continued, the SO and his partner, WO #2, on bike patrol, were approaching the scene from the north on Joe Shuster Way. Both officers dismounted their bikes and continued their approach on foot, unknown to the Complainant, who was facing south towards WO #3 at the time. As the SO neared to within two to three metres, he fired his CEW. The

probes from the weapon struck the Complainant in the back. The Complainant locked-up and fell backwards, striking her head in the process. With the Complainant on the ground, the officers removed the knife from her possession and handcuffed her behind the back.

The Complainant was transported from the scene in ambulance to hospital, where she was diagnosed with a skull fracture and subarachnoid hemorrhage.”

Analysis and Director’s Decision

“The Complainant was seriously injured in the course of her arrest by TPS officers on June 6, 2023. One of the arresting officers – the SO – was identified as the subject official in the ensuing SIU investigation. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant’s arrest injury.

Pursuant to section 25(1) of the Criminal Code, police officers are immune from criminal liability for force used in the course of their duties provided such force was reasonably necessary in the execution of an act that they were required or authorized to do by law.

By the time the SO fired his CEW at the Complainant, he and other officers responding to the scene had information that she had caused damage in the Canadian Tire, stolen and wielded a box-cutter from the store, and laid hands on a store employee. In the circumstances, the officer was within his rights in seeking to take her into custody.

With respect to the SO’s use of his CEW, I am satisfied that it was legally justified. The Complainant had hold of a box-cutter in a manner that was clearly threatening to herself and those around her. Moments prior, though apparently in crisis and perhaps not in complete control of her faculties, she had behaved erratically and violently inside the Canadian Tire. On this record, the officers were right to keep their distance from the Complainant while she was still in possession of the box-cutter, an item clearly capable of inflicting serious injury or death. The SO might have considered holding back to give negotiations some more time to work. That appears to have been the course adopted by WO #3. On the other hand, events were unfolding in a downtown intersection with bystanders around and it might well have been the more prudent course to bring the situation to resolution as quickly as possible. Given these considerations, I am unable to reasonably conclude that the SO’s choice was beyond the pale. Indeed, the CEW discharge did immediately result in the Complainant’s immediate incapacitation from a safe distance, albeit it was highly regrettable that she sustained serious injuries in her fall to the ground.

In the result, as there are no reasonable grounds to conclude that the SO comported himself other than within the limits of the criminal law in his brief

engagement with the Complainant, there is no basis for proceeding with charges in this case.

The file is closed.”

Summary of the Toronto Police Service’s Investigation

The P.R.S. – S.I.U. Liaison conducted an administrative investigation as is required by provincial legislation.

This investigation examined the circumstances of the custody injury in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);
- Procedure 01-02 (Search of Persons);
- Procedure 01-03 (Persons in Custody);
- Procedure 06-04 (Person in Crisis);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-01 (Incident Response (Use of Force/De-Escalation));
- Procedure 15-02 (Injury/Illness Reporting);
- Procedure 15-09 (Conducted Energy Weapons); and
- Procedure 15-20 (Body-Worn Camera).

The S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act (S.I.U.A)*, 2019, SO 2019, c1, Sch 5

Conclusion:

The S.I.U. Liaison investigation determined that the T.P.S.’s policies and procedures associated with this custody injury were lawful, in keeping with current legislation, and written in a manner, which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The S.I.U. Liaison investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable T.P.S. procedures.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

This report recommends that the Board receive this report for information.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

November 6, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

**Subject: Chief's Administrative Investigation into the Custody
Death of Complainant 2023.41**

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with the applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police, of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act* (S.I.U.A.) 2019

S.I.U. Terminology

Complainant – Refers to the Affected Person

SO – Subject Official

WO – Witness Official

ETF – Emergency Task Force

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated October 13, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the officials.”*

The following S.I.U. *Incident Narrative and Analysis and Directors Decision* has been copied from the S.I.U. Director’s report, number 22-TCD-226, which can be found via the following link:

https://www.siu.on.ca/en/directors_report_details.php?drid=2634

S.I.U. Incident Narrative

“The evidence collected by the SIU, including interviews with the SO and other officers on scene, and video footage that captured the incident in parts, gives rise to the following scenario.

Shortly after 3:00 a.m. of June 15, 2023, TPS officers began arriving at the Holiday Inn Express, 111 Lombard Street, Toronto, following 911 calls of an agitated male throwing items from the window of his hotel room. Among those officers was the SO, who essentially assumed a command role among the police presence. He was stationed on the street below the room in question. The WO was another of those officers. He and other officers assembled outside the hotel room.

The male was the Complainant. The Complainant was having a mental health crisis. He yelled, kicked at the room’s walls, broke a window, and threw items out onto the street below – Jarvis Street.

Officers from outside the Complainant’s door and those on Jarvis Street attempted to de-escalate the situation. They tried speaking with the Complainant to calm him down, assuring him that they were there to help. Efforts to enter the room failed as the Complainant had engaged the door latch. The ETF was contacted to attend the scene.

At about 3:20 a.m., the Complainant stepped outside the broken window onto a ledge, sat on the windowsill momentarily, then stood up, turned around, and jumped, falling to his death.

Cause of Death

The pathologist at autopsy was of the preliminary view that the Complainant's death was attributable to blunt impact trauma of head and torso”.

Analysis and Director's Decision

“The Complainant passed away on June 15, 2023, the result of a fall from a fourth-floor hotel window. As TPS officers were present outside his hotel room and on the street below at the time, the S.I.U was notified and initiated an investigation. The SO was identified as the subject official. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant's death.

The offence that arises for consideration is criminal negligence causing death contrary to section 220 of the Criminal Code. The offence is reserved for serious cases of neglect that demonstrate a wanton or reckless disregard for the lives or safety of other persons. It is predicated, in part, on conduct that amounts to a marked and substantial departure from the level of care that a reasonable person would have exercised in the circumstances. In the instant case, the question is whether there was a want of care on the part of the SO, sufficiently egregious to attract criminal sanction, that caused or contributed to the Complainant's death. In my view, there was not.

The SO and the other officers who responded to the Holiday Inn Express were lawfully placed throughout their engagement with the Complainant. An officer's foremost obligation is the protection and preservation of life. Aware of the events unfolding at the hotel and the Complainant's predicament, the officers were duty bound to attend to do what they reasonably could to assist the Complainant.

With respect to his conduct at the scene, I am satisfied that the SO comported himself with due care and regard for public safety and the Complainant's welfare. In the few minutes the sergeant had to work with, he and officers under his command attempted to assuage the Complainant with words of support and care. He authorized an entry into the room when verbal exhortations were going nowhere, and it seemed as if the Complainant was away from the broken window, but then promptly and, reasonably, in my view, changed course to direct no further entry attempts when the initial foray failed and appeared to agitate the Complainant. He decided at that point that their best tactic was to wait for the ETF to deploy at the scene. That too was a prudent decision given the additional expertise and resources at the ETF's disposal to deal with these types of

situations. Regrettably, the Complainant climbed outside the window and jumped before the ETF arrived or there was any further opportunity at a forced entry.

In the result, as there are no reasonable grounds to believe that the SO transgressed the limits of care prescribed by the criminal law in his dealings with the Complainant, there is no basis for proceeding with charges in this case.

The file is closed.”

Summary of the Toronto Police Investigation:

The P.R.S. – S.I.U. Liaison conducted an administrative investigation as is required by provincial legislation.

This investigation was reviewed by the Specialized Criminal Investigations – Homicide and Missing Persons Unit as required by T.P.S. Procedure 13-16 (Special Investigations Unit).

This investigation examined the circumstances of the custody death in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The P.R.S. – S.I.U. Liaison reviewed the following T.P.S. procedures:

- Procedure 06-04 (Persons in Crisis);
- Procedure 06-13 (Mobile Crisis Intervention Team);
- Procedure 08-03 (Injured on Duty Reporting);
- Procedure 08-04 (Members Involved in a Traumatic Critical Incident);
- Procedure 10-05 (Incidents Requiring the Emergency Task Force);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports); and
- Procedure 15-20 (Body-Worn Camera)

The P.R.S. – S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act (S.I.U.A), 2019*

Conclusion:

The P.R.S. – S.I.U. Liaison investigation determined that the T.P.S.'s policies and procedures associated with this custody death were lawful, in keeping with current legislation, and written in a manner, which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The P.R.S. – S.I.U. Liaison investigation determined the conduct of the designated officials was in compliance with the applicable provincial legislation regarding the

Standards of Conduct and applicable T.P.S. procedures. The following additional comments are provided in relation to the T.P.S. response to this event.

The T.P.S. Mobile Crisis Intervention Team (M.C.I.T.) was not available to assist with this call as they were not working at this time of day.

The officers responding to this event were equipped with Body-Worn Camera's which captured the initial attempted negotiations with the Complainant and his eventual fall. This video, coupled with interviews the involved officers provided to the S.I.U. provided an unparalleled perspective of what occurred and why, and assisted the S.I.U. in coming to their investigative findings.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

This report recommends that the Board receive this report for information.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

December 4, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation into the Custody Injury of Complainant 2023.42

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures and the officers' training.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act, (S.I.U.A.) 2019*

S.I.U. Terminology

Complainant – Refers to the Affected Person

SO – Subject Official

ETF – Emergency Task Force

PSD – Police Service Dog

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated October 12, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”*

The following S.I.U. *Incident Narrative and Analysis and Directors Decision* has been reprinted from the S.I.U. Director’s report, number 23-TCI-229, which can be found via the following link:

https://www.siu.on.ca/en/directors_report_details.php?drid=2632

S.I.U. Incident Narrative

“The evidence collected by the SIU, including interviews with the Complainant and officers who participated in his arrest, and video footage that captured the incident in parts, gives rise to the following scenario. As was his legal right, the SO chose not to interview with the SIU or authorize the release of his notes.

In the afternoon of June 16, 2023, the SO, a police service dog handler, and his dog were dispatched to assist with a search in a ravine north of 75 Eastdale Avenue. Uniformed officers had attempted a takedown of a vehicle in the area, apprehending the driver but not the passenger – the Complainant. Minutes earlier, a 911 call had been received from a residence in the area of Kingston Road and Woodbine Avenue, Toronto, reporting that the Complainant had discharged a firearm at the building located at that address. The Complainant was last seen running into the ravine with a gun in his waistband.

Joined by another police service dog handler and a team of ETF officers, the SO deployed the PSD on a long lead into the ravine. Within seconds of the dog’s entry into the bushes of the terrain, the PSD located the Complainant and bit into the area of the back of his upper right arm/shoulder. The Complainant had concealed himself supine in the bush attempting to evade apprehension.

ETF officers were quickly at the scene and eventually controlled the Complainant’s arms and handcuffed them behind the back.

A firearm was subsequently located and collected by police in the vicinity of the arrest.

The Complainant was transported to hospital following his arrest and treated for lacerations and puncture wounds to the right upper extremity, back and axilla.”

Analysis and Director’s Decision

“The Complainant was seriously injured in the course of his arrest by TPS officers on June 16, 2023. One of the officers involved in the Complainant’s arrest – the SO – was identified as the subject official in the ensuing SIU investigation of the incident. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant’s injuries.

The offence that arises for consideration is criminal negligence causing bodily harm contrary to section 221 of the Criminal Code. The offence is reserved for serious cases of neglect that demonstrate a wanton or reckless disregard for the lives or safety of other persons. It is predicated, in part, on conduct that amounts to a marked and substantial departure from the level of care that a reasonable person would have exercised in the circumstances. In the instant case, the question is whether there was a want of care on the part of the SO, sufficiently egregious to attract criminal sanction, that caused or contributed to the Complainant’s injuries. In my view, there was not.

By the time the ETF and police dog handlers convened at the ravine to search for the Complainant, they had cause to believe that he had just fired a gun indiscriminately at a building, a building at which his estranged partner resided and from which he was prohibited from being in proximity to. They were also apprised of information that the Complainant was still in possession of the gun as he fled into the ravine. On his record, I am satisfied that the police, in general, and, more specifically, the SO, were justified in deploying a police dog to assist in locating the Complainant.

I am also satisfied that the SO comported himself with due care and regard for the Complainant’s health and well-being throughout the dog’s deployment. Though it does not appear that the SO ever gave the police dog the order to bite and hold the Complainant, the fact that the PSD did so would not appear a marked departure from its training. The setting was a ravine consisting of dense bush, uneven terrain, and poor visibility – the sort of environment in which the dog might well have felt threatened and reacted naturally to defend itself by biting the subject. Of concern is the fact that the police dog did not promptly detach itself from the Complainant once ordered to do so by the SO. Indeed, the dog maintained the bite for an additional 15 seconds or so before the officer was able to pull the PSD free. Some allowance must be made for the fact that no police dog handler ever has complete control of a dog when it is deployed – there is always an element of unpredictability when using another sentient creature as a tool in an

officer's hands. The real question is whether the SO had any reason to suspect that the PSD was not likely to respond to his release direction within a reasonable period of time. On this question, one notes that the dog's training and certifications were up to date such that there is no real question of any criminal want of care in this case.

In the result, as there are no reasonable grounds to conclude that the SO transgressed the limits of care prescribed by the criminal law in his use of the police dog against the Complainant, there is no basis for proceeding with criminal charges in this case.

The file is closed.”

Summary of the Toronto Police Service's Investigation

The P.R.S. – S.I.U. Liaison conducted an administrative investigation as is required by provincial legislation.

This investigation examined the circumstances of the custody injury in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);
- Procedure 01-02 (Search of Persons);
- Procedure 01-03 (Persons in Custody);
- Procedure 04-27 (Use of Police Dog Services);
- Procedure 05-21 (Firearms);
- Procedure 10-05 (Incidents Requiring the Emergency Task Force);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-01 (Incident Response (Use of Force/De-Escalation));
- Procedure 15-02 (Injury/Illness Reporting); and
- Procedure 15-20 (Body-Worn Camera).

The S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act (S.I.U.A), 2019*

Conclusion:

The S.I.U. Liaison investigation determined that the T.P.S.'s policies and procedures associated with this custody injury were lawful, in keeping with current legislation, and

written in a manner, which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The S.I.U. Liaison investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct, the applicable T.P.S. procedures and the officers' training.

The details of this event including the applicable Body-Worn Camera (B.W.C.) footage, officer notes and the police service dog's (P.S.D.) training record were reviewed by Detective Sergeant Michael Quinn (5169) who has nine years of experience as a T.P.S. dog handler. Detective Sergeant Quinn concluded that the P.S.D. responded in accordance with the training provided to T.P.S. P.S.D.s. Additionally, Detective Sergeant Quinn concluded the P.D.S. handler acted appropriately and in line with his training in response to this event and specifically in his efforts to detach the P.S.D. from the Complainant.

The existence B.W.C. footage which captured the arrest of the Complainant was a pivotal piece of evidence which provided the S.I.U. with an unparalleled perspective of what occurred and why, and assisted them in coming to their investigative conclusion.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

This report recommends that the Board receive this report for information.

Financial Implications:

There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police



PUBLIC REPORT

December 4, 2023

To: Chair and Members
Toronto Police Services Board

From: Myron Demkiw
Chief of Police

Subject: Chief's Administrative Investigation into the Custody Injury of Complainant 2023.44

Purpose: Information Purposes Only Seeking Decision

Summary:

The Professional Standards (P.R.S.) – Special Investigations Unit Liaison (S.I.U. Liaison) investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct and applicable Toronto Police Service (T.P.S.) procedures and the officers' training.

Discussion:

Background

Whenever the Special Investigations Unit (S.I.U.) investigates an incident involving death, serious injury, the discharge of a firearm at a person or the allegation of a sexual assault, provincial legislation requires the chief of police of the relevant police service, to conduct an administrative investigation. This is the Chief's report in respect of this incident.

Relevant Board Policies and Compliance

- Toronto Police Service (T.P.S.) procedures
- *Special Investigations Unit Act, (S.I.U.A.) 2019*

S.I.U. Terminology

Complainant – Refers to the Affected Person

SO – Subject Official

WO – Witness Official

S.I.U. Investigative Conclusion

In a letter to the Chief of Police dated November 1, 2023, Director Joseph Martino of the S.I.U. advised, *“The file has been closed and no further action is contemplated. In my view, there were no reasonable grounds in the evidence to proceed with criminal charges against the subject official.”*

The following S.I.U. *Incident Narrative and Analysis and Directors Decision* has been reprinted from the S.I.U. Director’s report, number 23-TCI-254, which can be found via the following link:

https://www.siu.on.ca/en/directors_report_details.php?drid=2664

S.I.U. Incident Narrative

“The evidence gathered by the SIU, including interviews with the Complainant and the SO, and video footage that captured the incident in parts, gives rise to the following scenario.

In the morning of July 4, 2023, the SO was a passenger in a police cruiser operated by his partner, the WO, travelling south on Willowdale Avenue. They were responding to a report of a break and enter in progress at a business located on Willowdale Avenue. A man had called to report a van on the premises and persons loading items from the business into it.

The Complainant was one of the persons associated with the van. As the police cruiser approached the business, he jumped into the rear cargo compartment of the van before it accelerated off the property turning right to travel south on Willowdale Avenue. The rear door had not been fastened shut before the van departed, and it opened and closed as the vehicle accelerated. Shortly after the van left the business, the Complainant stood up, lost his balance, and fell onto the roadway through the open rear door.

The WO brought his police vehicle to a stop and he and the SO exited to pursue the Complainant, who had regained his footing and was fleeing south towards the Spring Garden Avenue intersection. The SO was first to reach the Complainant. The officer pulled the Complainant to the ground and, with the assistance of the WO, handcuffed him behind the back.

Later in the day, while still in the custody of the police, the Complainant was taken to hospital and diagnosed with a broken right arm.”

Analysis and Director’s Decision

“The Complainant was seriously injured around the time of his arrest by TPS officers on July 4, 2023. In the ensuing SIU investigation of the incident, one of the officers – the SO – was identified as the subject official. The investigation is now concluded. On my assessment of the evidence, there are no reasonable grounds to believe that the SO committed a criminal offence in connection with the Complainant’s arrest and injury. Pursuant to section 25(1) of the Criminal Code, police officers are immune from criminal liability for force used in the course of their duties provided such force was reasonably necessary in the execution of an act that they were required or authorized to do by law. The SO was within his rights in seeking to take the Complainant into custody. Given what he knew of the 911 call and what he observed as he arrived on scene, namely, a van accelerating away from the premises, the SO had grounds to arrest the Complainant in relation to theft.

With respect to the force used by the SO in aid of the Complainant’s arrest, essentially, a takedown, I am satisfied that it was legally justified. The Complainant was fleeing at the time attempting to evade apprehension. It made sense, in the circumstances, to ground the Complainant. Doing so would bring an end to his flight and place the officer in a better position to manage any continuing resistance from the Complainant. Once on the ground, there is no evidence of any strikes being brought to bear.

It remains unclear when precisely the Complainant broke his arm. In my view, it is more likely that the injury was incurred when he fell from the van onto the roadway than when he was grounded. Be that as it may, as there are no reasonable grounds to conclude that the SO comported himself other than within the limits of the criminal law in his engagement with the Complainant, there is no basis for proceeding with charges.”

Summary of the Toronto Police Service’s Investigation

The P.R.S. – S.I.U. Liaison conducted an administrative investigation as is required by provincial legislation.

This investigation examined the circumstances of the custody injury in relation to the applicable legislation, policing services provided, procedures, and the conduct of the involved officers.

The S.I.U. Liaison investigation reviewed the following T.P.S. procedures:

- Procedure 01-01 (Arrest);

- Procedure 01-02 (Search of Persons);
- Procedure 01-03 (Persons in Custody);
- Procedure 10-06 (Medical Emergencies);
- Procedure 13-16 (Special Investigations Unit);
- Procedure 13-17 (Notes and Reports);
- Procedure 15-01 (Incident Response (Use of Force/De-Escalation))
- Procedure 15-02 (Injury/Illness Reporting);
- Procedure 15-17 (In-Car Camera System); and
- Procedure 15-20 (Body-Worn Camera).

The S.I.U. Liaison investigation also reviewed the following legislation:

- *Special Investigations Unit Act (S.I.U.A), 2019*

Conclusion:

The S.I.U. Liaison investigation determined that the T.P.S.'s policies and procedures associated with this custody injury were lawful, in keeping with current legislation, and written in a manner, which provided adequate and appropriate guidance to the members. None of the examined policies and procedures required modification.

The S.I.U. Liaison investigation determined the conduct of the designated officials was in compliance with applicable provincial legislation regarding the Standards of Conduct, the applicable T.P.S procedures and the officers' training. The following additional comments are provided.

It was identified that a non-designated member failed to comply with Service Procedure 13-16 (Special Investigations Unit). Specifically, the on duty Staff Sergeant became aware that the Complainant had sustained a threshold injury but did not make the appropriate notifications for several hours.

This breach of procedure was identified and managed at the unit level through additional training with the Unit Commander of the division.

The existence of Body-Worn Camera and In-Car Camera footage which captured the Complainants fall, attempted escape and his arrest were pivotal pieces of evidence which provided the S.I.U. with an unparalleled perspective of what occurred and why, and assisted them in coming to their investigative conclusion.

Staff Superintendent Peter Code, Professionalism and Accountability, will be in attendance to answer any questions that the Board may have regarding this report.

Recommendation:

This report recommends that the Board receive this report for information.

Financial Implications:

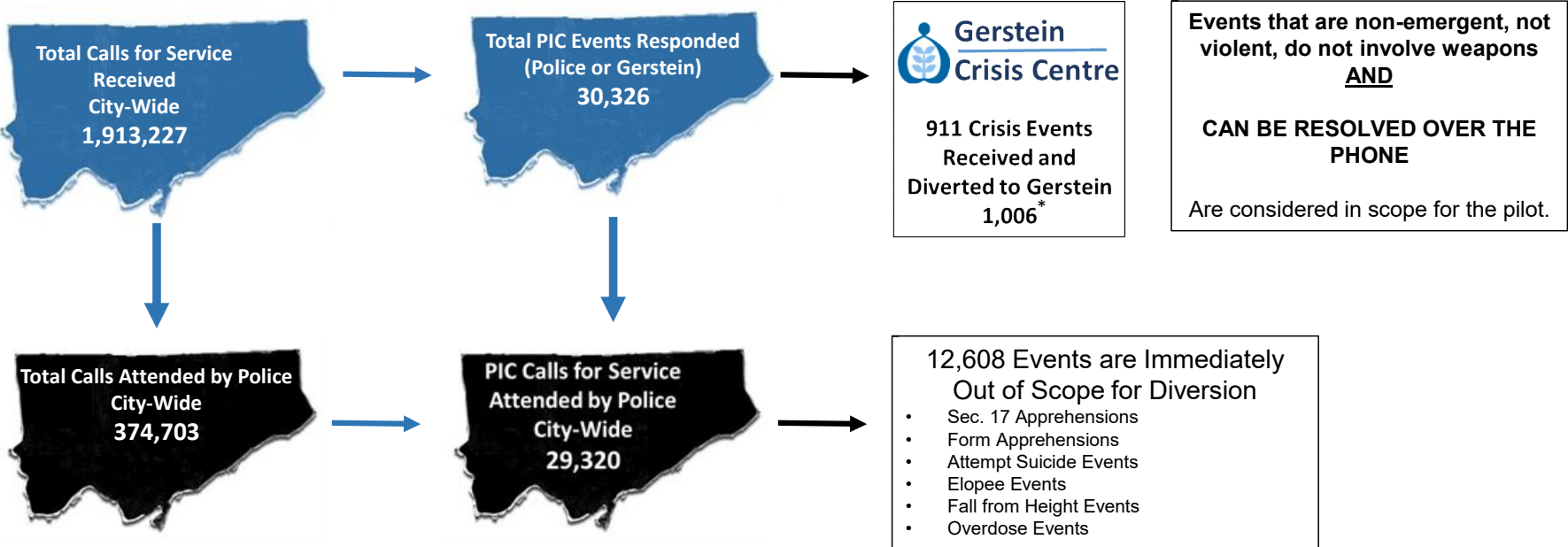
There are no financial implications arising from the recommendation contained in this report.

Respectfully submitted,

Myron Demkiw, M.O.M.
Chief of Police

Update on Call Diversion - Gerstein Crisis Centre

TPS Crisis Call Diversion Pilot - Events potentially in scope (subject to diversion criteria)
 Term 2 (Oct 4, 2022 - Sep 9, 2023) - Approx. 11 months of data

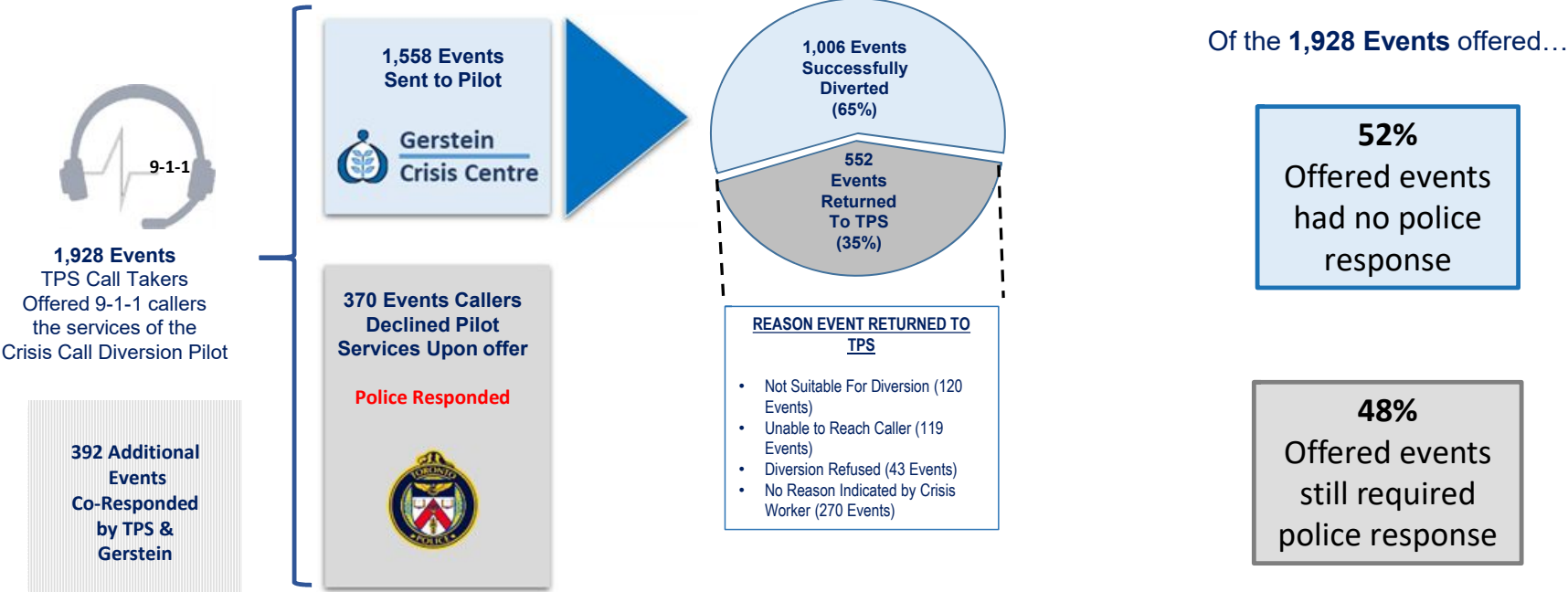


* Excludes co-response

Update on Call Diversion - Gerstein Crisis Centre

TPS Crisis Call Diversion Pilot - Results

Term 2 (Oct 4, 2022 - Sep 9, 2023) - Approx. 11 months of data



**Toronto Police Services Board
Public Meeting
January 11, 2024**

**** Speakers' List ****

2. Confirmation of the Minutes from the regular public meeting held on held on December 19, 2023.

Deputation: Derek Moran (in person)

3. Update on the Implementation of the Board's Policy on Use of Artificial Intelligence Technology

Deputations: Kris Langenfeld (virtual)
Maria Amuchastegui (virtual)
Derek Moran (written deputation included) (in person)

Patricia Kosseim (written deputation only)
Information and Privacy Commissioner of Ontario

Patricia DeGuire (written deputation only)
Chief Commissioner, Ontario Human Rights Commission

5. Receipt of Donation

Deputation: Miguel Avila (in person)

7. City Council Decision – Infrastructure and Environment Committee Item 7.4 Updates on Vision Zero Road Safety Initiatives - New Traffic Calming Policy, Community Safety Zone Criteria, Zebra Marking Policy, Approach to Area-Based Speed Limit Reductions and Related Council Requests

Deputation: Miguel Avila (in person)

8. City Council Decisions – MM 12.28 – Hate Speech and Other Hate Activities, EX9.2: Implementation Update: Auditor General Recommendations on 9-1-1 Operations and Responses to Calls for Service by the Toronto Police Service, EX9.10: Update on the Toronto Community Crisis Service Proposed Expansion Plan

Deputations: Bryant Greenbaum (written deputation included) (in person)
Tammy Baruch (in person)

9. Chief's Administrative Investigation Reports

Deputations: Kris Langenfeld (virtual)

Dave Shellnutt (in person)
The Biking Lawyer LLP

Zoe Newman (in person)
Jews Say No to Genocide

Suzanne Shoush (virtual)
Doctors for Defunding Police

Desmond Cole (in person)
No Pride in Policing Coalition

So in this report it mentions - “Definitions - For the purpose of this Policy, the following definitions will apply: Biometrics: data on the measurements of physical and behavioural features of individuals (e.g., facial features, voice, gait) that could be used to identify the individual.”

[Jensen v. Stemmer et al.](#), 2007 MBCA 42 (CanLII)

Court of Appeal of Manitoba — Manitoba

2007-04-25 | 39 pages | cited by [19 documents](#)

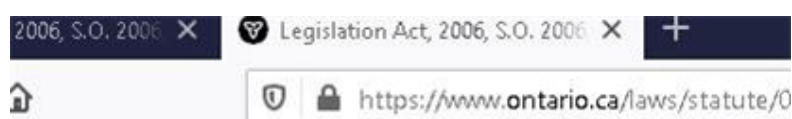
Torts — False arrest and imprisonment — Public interest

Damages — Punitive damages — General Deterrence and denunciation

Practice and procedure Torts

[...] In the latter case, **Rothstein J.** (as he then was) described an internal “progress report procedure” in this way (at para. 14): [...] ... **The direction to officers and members of the RCMP to observe and comply with the manuals does not confer on them the force of law.** This is the same type of directive one would expect to find any business organization, implicitly or explicitly. [...] **It is a notice to employees that they are expected to follow the procedures applicable to them. Such procedures may have the force of law if they are contained in statutes or regulations, or Commissioner’s standing orders, but a direction to follow procedures, of itself, does not give the procedures the force of law.** [...]

The word “INDIVIDUAL” is mentioned 18 times in this report.



“individual” means a natural person; (“particulier”)

ROMANS 2:11

“For there is **no respect of persons** with God.”

KING JAMES VERSION (KJV)

JAMES 2:9

“But if ye have respect to **persons**, ye commit **sin**, and are convinced of the law as **transgressors**.”

KING JAMES VERSION (KJV)

[Toronto \(City\) v. C.U.P.E., Local 79](#), 2003 SCC 63 (CanLII), [2003] 3 SCR 77

Supreme Court of Canada — Canada (Federal)

2003-11-06 | 83 pages | cited by [2,932 documents](#)

patent unreasonableness — relitigation — doctrine of abuse of process — reasonableness simpliciter — estoppel

[...] We emphasized, first, that **the rule of law** provides that the law is supreme over the acts of both government **and private persons**. [...] Put another way, the relationship between the **state and the individual** must be regulated by law. [...] “At its most basic level”, as the Court affirmed, at para. 70, “the rule of law vouchsafes to the **citizens and residents** of the country a stable, predictable and ordered society in which to conduct their affairs. [...]

[Settled Estates Ltd. v. Minister of National Revenue](#), [1960] SCR 606, 1960 CanLII 6

Supreme Court of Canada — Canada (Federal)

executors — individual — personal corporation — members of his family — taxation

[...] Nor do I think that the appellant can get any assistance from ss. 63(1) and (2) of the Income Tax Act, **which define a trust and then go on to define a trust as an individual as follows:** [...] 63(2). **A trust or estate shall, for the purposes of this Act, and without affecting the liability of the trustee or legal representative for his own income tax, be deemed to be in respect of the trust or estate property an individual.**.... [...]

[R. v. Stoddart](#), 1987 CanLII 168 (ON CA) — 1987-07-15

Court of Appeal for Ontario — Ontario

stand-asides — jury selection process — peremptory challenges — jurors — neighbour

[...] The rights set out in s. 15(1) are those of "every **individual**". This is the only provision in the Charter which grants rights to "every **individual**". [...] Similarly, **Black's Law Dictionary**, 5th ed. (1979), **defines** the term as follows: [...] **a noun, this term denotes a single person as distinguished from a group or class, and also, very commonly, a private or natural person as distinguished from a partnership, corporation, or association; but it is said that this restrictive signification is not necessarily inherent in the word, and that it may, in proper cases** [...] , **include artificial persons.** [...]



Information and Privacy
Commissioner of Ontario

Commissaire à l'information et à la
protection de la vie privée de l'Ontario

January 10, 2023

VIA ELECTRONIC MAIL & ONLINE SUBMISSION

Ann Morgan
Chair
Toronto Police Services Board
40 College Street
Toronto, ON M5G 2J3

Dear Ms. Morgan:

RE: *Update on the Implementation of the Board's Policy on Use of Artificial Intelligence Technology* in relation to the facial recognition mugshot database program and other AI technologies used by the Toronto Police Service

I am writing to provide the Toronto Police Services Board (the Board) with the submission of the Information and Privacy Commissioner of Ontario (the IPC) regarding a report entitled, *Update on the Implementation of the Board's Policy on Use of Artificial Intelligence Technology* (the Report) scheduled to be discussed at the Board's [public meeting](#) of January 11, 2024. In the interest of transparency to the public, I will be posting this letter to the IPC's website.

The Report describes five artificial intelligence systems currently in use by the Toronto Police Service (the Service). The Report indicates that the Service has assessed one of those technologies as *high risk* under the Board's [Policy on Use of Artificial Intelligence Technology](#) (the Policy). That *high-risk* technology involves the use of facial recognition to search the Service's mugshot database.

The present deputation focuses primarily on the Board's consideration of the Service's facial recognition mugshot database program. I am particularly concerned that the Board may conclude its review of the Service's facial recognition mugshot database program as early as January 11, without the benefit of the IPC's soon to be released *Facial Recognition and Mugshot Databases: Guidance for Police in Ontario* (the *Guidance*).

The IPC has been consulting interested parties on its *Guidance* for months. My office shared a draft version with the Service and the Board in the spring of 2023 and received detailed written comments, many of which were very helpful and have since been thoughtfully considered and integrated. In our view, the *Guidance* benefited substantially from the input of all those who participated in the *Guidance* consultation, including senior staff of the Service and the Board.



2 Bloor Street East
Suite 1400
Toronto, Ontario
Canada M4W 1A8

2, rue Bloor Est
Bureau 1400
Toronto (Ontario)
Canada M4W 1A8

Tel/Tél : (416) 326-3333
1 (800) 387-0073
TTY/ATS : (416) 325-7539
Web : www.ipc.on.ca

In view of the speed with which the Board appears to be moving, I have decided to provide the Board with an advance copy of the text of the final *Guidance* (attached). The IPC will be formally publishing the *Guidance* in English and French in the coming weeks. You will see that the *Guidance* provides Ontario police services boards and police services - including those already operating facial recognition mugshot database programs - with a comprehensive set of recommendations designed “to help reduce specific risks associated with facial recognition mugshot database programs.” These recommendations include:

- commit to reviewing your current program against this guidance as soon as possible,
- ensure that the design and operation of your programs, including use of any third-party service providers, meet all legal requirements and include rigorous privacy and transparency safeguards and controls,
- conduct a comprehensive privacy impact assessment (PIA), make the PIA report - or a summary of it - publicly available, and conduct other risk assessments such as security, human rights, and algorithmic impact assessments as needed, and ensure these are combined or coordinated with your PIAs, conduct meaningful public consultations with affected communities and ensure they consider the privacy and equity concerns of marginalized communities, including those who are disproportionately affected by systemic discrimination and over-policing practices,
- limit the purpose of your facial recognition mugshot database program from the beginning, by focusing on generating investigative leads for the purpose of identifying individuals reasonably suspected of having committed a serious offence, and ensure this purpose is maintained over time and complies with applicable law and the privacy principles of reasonableness, necessity, and proportionality,
- before putting in place a facial recognition mugshot database program, and on an annual basis thereafter, review your arrest record policies and retention schedules, and purge your mugshot database(s) of records that reflect or may facilitate excessive, discriminatory, or unlawful police practices,
- set and follow clear standards for ensuring minimum photo quality of probe images, clear rules and processes for their retention and secure destruction, and appropriate oversight mechanisms for regularly confirming compliance,
- take steps to test for bias and inaccuracy in the performance of the FR system as a whole, set and follow transparent procedures for human review and accuracy controls, and document all assessment results,
- ensure you have clear and publicly available policies and procedures on access, correction, and expungement rights, and
- post up-to-date, readily available, plain language information about your program on the websites of both the police services board and the police service to foster ongoing transparency.

The IPC urges the Board and the Service to consider and follow the IPC’s *Guidance* before you conclude your review of Toronto’s facial recognition mugshot database program under the Policy. In addition, we note that the Ontario Human Rights

Commission's (OHRC) December 14, 2023 report, [From Impact to Action, the final report on its inquiry into anti-Black racism by the Toronto Police Service](#) (*From Impact to Action*) contains several relevant findings and recommendations that the Board ought to also carefully consider.

In particular, the OHRC report confirms that Black people are charged at a disproportionately higher rate, overrepresented in cases that resulted in a withdrawal of charges, and their cases are less likely to result in a conviction compared to cases involving White people. Moreover, the report indicates that "68% of charges were stayed or withdrawn in Ontario in 2018–19, which indicates broad patterns of over-charging that result in courts being flooded with cases that are very unlikely to result in convictions." Recalling that, as of May 2019, the Service's mugshot database contained approximately 1.5 million mugshots, it is conceivable that tens or even hundreds of thousands of the mugshots retained by the Service may be associated with individuals who have *never been convicted of a criminal offence and face no outstanding criminal charges*. In this context, the IPC agrees with the OHRC's recommendations that the Service should:

- limit the use of AI technologies until privacy and human rights assessments are conducted, and the OHRC, IPC and experts in technological/algorithmic racial bias are consulted, and
- purge its database of photographs, fingerprints or other biometric information from charges that do not result in convictions (for example, the IPC suggests doing so, once a reasonably short defined period – such as one year – has elapsed following a final disposition).

The IPC believes that its *Guidance* and the OHRC's *From Impact to Action* report will assist both the Board and the Service as you continue the vital work of identifying and mitigating the privacy and human rights risks associated with your facial recognition mugshot database program. Taking the time necessary to complete this work would be consistent with Chief Demkiw's September 5, 2023, acknowledgement that the Service's "use of facial recognition software, while a valuable tool for investigators, raises concerns from community members in relation to improper use and surveillance". It would also allow time for the Service to complete the audits discussed by the Chief in his September 2023 [Annual Audit Report](#) with respect to the Service's facial recognition mugshot database controls and the Service's policies and processes for the destruction of adult fingerprints, photographs and records of dispositions associated with non-conviction dispositions.

Additional concerns

The Report under consideration also discusses four other artificial intelligence or AI technologies currently being used by the Service and designates these as *low risk* technologies. In our respectful view, none of these technologies can reasonably be described as *low risk* under the Board's own Policy. At a minimum, consider that:

1. the Service's use of an automated fingerprint identification system (AFIS), two automated license plate recognition systems (one for police vehicles, and one for parking enforcement, including to identify stolen vehicles), as well as the BriefCam "could be used to assist in the identification of individuals for the purpose of their arrest, detention or questioning", and
2. the Service's use of AFIS appears to amount to "an application which links biometrics to personal information."

Both these factors are consistent with the definition of a *high-risk technology*, as per the Board's Policy. In this context, we recommend that:

- the Board direct the Service to either re-designate these four AI technologies as high risk and proceed to comply with the mitigation related requirements of the Policy (per section 19) or re-evaluate them under the Policy, before reporting back to the Board (per section 16).

Lastly, we note that the Board is amending the definition of artificial intelligence technology to exclude technologies which require a privacy impact assessment but are not ultimately determined to involve the use of "AI as it is generally understood." On this last point, we offer the following recommendations:

- in making determinations as to whether privacy-impacting technologies or programs include (or do not include) the use of artificial intelligence, the Service should be thorough and rigorous in its evaluation and documentation of how it reached its decisions,
- with the rapid adoption of artificial intelligence in software development, an existing technology can quickly and easily evolve to include AI functionality, potentially without the full knowledge of its users. On that basis, we recommend the regular evaluation of all privacy-impacting technologies to ensure that those that were originally deemed "non-AI" have not since adopted AI functionality that would require further assessment under the Policy, and
- whether privacy-impacting technologies used by police engage AI functionality or not, it is a best privacy and transparency practice to make details of the technology available to the public, in support of preserving and promoting public accountability and trust in law enforcement.

In light of all of the above, our overarching recommendation to the Board is that it and the Service commit to taking the additional time necessary to carefully assess and mitigate the privacy and human rights risks associated with all five of the artificial intelligence systems currently in use by the Service.

The Board, the Service, the OHRC, and my office, have had a strong track record of communicating openly and working cooperatively to help achieve transparent and accountable service delivery designed to protect the privacy and human rights of Ontarians. I remain committed to that approach here and welcome further consultation and engagement in the weeks and months ahead.

Sincerely,

A handwritten signature in black ink, appearing to read "Kosseim". The signature is written in a cursive style with a large initial "K" and a long horizontal stroke at the end.

Patricia Kosseim
Commissioner

CC: Myron Demkiw, Chief

Enclosure

Facial Recognition and Mugshot Databases: Guidance for Police in Ontario

Information and Privacy Commissioner of Ontario

This guidance by the Office of the Information and Privacy Commissioner of Ontario (IPC) is intended to enhance understanding of rights and obligations under Ontario’s access and privacy laws respecting police use of facial recognition technology in connection with mugshot databases. It should not be relied upon as a substitute for the legislation itself or as legal advice. It does not bind the IPC’s Tribunal that may be called upon to independently investigate and decide upon an individual complaint or appeal based on the specific facts and unique circumstances of a given case. For the most up-to-date version of this guidance, visit www.ipc.on.ca.

Acknowledgement

The IPC shared a draft of this guidance with a number of interested parties, including:

- Academics
- Civil society and human rights organizations
- Criminal defense, legal aid and lawyers’ organizations
- Members of the IPC's Strategic Advisory Council
- Municipal police services
- Provincial government ministries
- Privacy, human rights, and law commissions

The IPC appreciates the thoughtful comments provided by these organizations and individuals.

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Section 1 – Introduction

Background

In May 2022, the Information and Privacy Commissioner of Ontario (IPC) joined with federal, provincial, and territorial counterparts across Canada (FPT commissioners) to issue a [joint statement](#) calling for a clear, comprehensive legal framework to address the risks to privacy and other fundamental rights related to police use of facial recognition technology in Canada.¹ In the meantime, they released [privacy guidance](#) to clarify police privacy obligations under current laws and to help ensure that any use of facial recognition minimizes privacy risks and respects privacy rights.²

Police services in Ontario have begun using facial recognition technology, among other biometric technologies, to carry out public safety initiatives more efficiently. When used responsibly, facial recognition technology used in connection with mugshot databases may help police identify investigative leads.

[Facial recognition](#) (FR) is an artificial intelligence (AI) technology that collects and processes sensitive personal information to identify or verify an individual’s identity. FR uses image processing software to analyze an individual’s facial features, such as the width of the nose, the length of the jawline, and the distance between the eyes (e.g., as they appear in a photograph). [FR algorithms](#) turn facial features into a [faceprint](#) of an individual. A facial recognition system can then compare two faceprints and return a [similarity score](#) or match faceprints by searching a reference database of a large number of images for a list of potential candidates whose similarity score is at, or above, a given [threshold](#).

Police-operated mugshot databases consist primarily of mugshot records, including photographs, also known as booking images, of individuals who have been charged with [serious crimes](#). Using FR on mugshot databases can improve the police’s ability to identify unknown individuals by improving the speed and scale of [identification](#).

Despite the intended benefits of facial recognition systems, the technology raises significant legal, privacy, and ethical challenges given its potential to provide biased or inaccurate results and undermine rights and freedoms. Jurisdictions around the world continue to struggle with how to regulate its use.³

In addition, members of the public, civil society, government, and academia have expressed their concerns about the general risks associated with the use of facial recognition, including:

- risks to privacy and other fundamental rights, including the right to equality and non-discrimination, such as:
 - gender and race-related bias and inaccuracy
 - system or human errors that can lead to individual consequences, such as undue or excessive scrutiny or suspicion, or being subject to wrongful detention, arrests, or charges
 - over-policing of low-income, Black, Indigenous, and other marginalized communities

- a lack of transparency, accountability, and oversight of the organizations adopting FR
- the potential misuse, manipulation, and unauthorized access to individuals' [biometric information](#)

At the time of publication of this guidance, the lawfulness of police facial recognition mugshot programs, including compliance with the *Canadian Charter of Rights and Freedoms* (the Charter), has yet to be addressed by the courts or a tribunal. Meanwhile, there is no clear or comprehensive set of legal rules in effect in Ontario governing police use of facial recognition technology, including for mugshot database programs. While the *Identification of Criminals Act* (ICA) permits police to photograph individuals charged with serious crimes and compile related information for law enforcement purposes, the act does not address the use of facial recognition technology, AI technology, biometrics, or biometric databases. The act also does not address what safeguards or controls are required to ensure necessary, proportionate, and non-discriminatory police FR mugshot practices. This leaves gaps in the current law, which, if left unaddressed, risk serious harms to individuals' right to privacy and other fundamental human rights.

Scope of guidance

This Ontario-specific guidance for police use of facial recognition in connection with mugshot databases builds on the FPT guidance of May 2022. During provincial consultations on proposed FPT guidance, Ontario police services and other groups identified the need for more practical regulatory guidance on specific use cases of FR by police. **In response, this guidance addresses the specific use case of facial recognition software use by police to identify individuals using a mugshot database in Ontario.**

The terms “facial recognition mugshot database program,” “FR mugshot database programs” and “programs” are used interchangeably throughout this guidance to refer to this specific application.

The guidance provides recommendations to help reduce specific risks associated with FR mugshot database programs. It includes key privacy, transparency, and accountability-related considerations to design, use, and govern such programs responsibly. It also has a glossary of terms and a summary of recommendations in the appendices.

Purpose of guidance

The IPC developed this guidance to help Ontario police services and police services boards (police)⁴ meet their obligations under Ontario's access and privacy laws. The guidance should be used by police that are considering setting up a facial recognition mugshot database program, including any joint programs. The guidance also applies to police that have already started using facial recognition for these types of programs. The IPC recommends that police commit to reviewing their current programs against this guidance as soon as possible.

This guidance is not an endorsement of the use of facial recognition technology to improve or accelerate searches of mugshot databases. It acknowledges that using facial recognition on mugshot databases is not without risks. This guidance also does not replace the need to have a broader debate about how laws should be updated to govern police use of facial recognition more effectively. Rather, it is intended to contribute to discussion and decision-making about whether and how police may responsibly use facial recognition in connection with mugshot databases while respecting the rights of persons and diverse groups in Ontario. Like other advanced AI technologies, public sector use of facial recognition in Ontario needs to be built on clear and binding guardrails that effectively address safety, privacy, accountability, transparency, and human rights.⁵

The following are recommended steps to take before, during, and after implementing an FR mugshot database program. However, police may need to put in place additional privacy protections depending on the nature, complexity, and scope of risks posed by their specific program.

Section 2 – Pre-implementation: key policy and legal considerations

When considering the privacy impacts of a proposed technology program, such as the use of facial recognition in connection with mugshot databases, police should assess whether the benefits will clearly outweigh the risks. They should also consider if the program is necessary and proportionate in the circumstances before deciding how to use the technology in a manner that respects privacy and human rights. The following are key considerations to address during the planning, development, and testing stages before operating an FR mugshot database program.

Key consideration 1: lawful authority and lawful operation

The goal of identifying individuals who are reasonably suspected of having committed a serious offence is a legitimate law enforcement purpose. That said, FR mugshot database programs impact the reasonable expectation of privacy of individuals, particularly individuals whose mugshots the police retain and use in a mugshot database after their charges have been dismissed or withdrawn.

In this context, questions arise about the source and scope of police powers to create, store, and use biometric faceprints in mugshot databases and the absence of adequate safeguards and controls. In these circumstances, a carefully considered, incremental, transparent, and accountable approach to using facial recognition is necessary to ensure public trust. Providing the public with information about the source and scope of the lawful authority to act is particularly important where there is legal uncertainty and significant concerns about the adequacy of safeguards and controls.

Police have a duty to ensure that they have lawful authority and are acting lawfully. To ensure lawful authority for the design and operation of an FR mugshot database program in Ontario, police should consider the following key factors:

- A facial recognition mugshot database program involves the collection, retention, use, and disclosure of personal information and must comply with the *Freedom of Information and Protection of Privacy Act* (FIPPA) and the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA).
- The creation of faceprints generally involves collecting new and sensitive personal biometric information, separate and apart from any photographs used in creating that biometric information.⁶
- FIPPA and MFIPPA permit police to collect, retain, and use personal information and to disclose this information to each other for legitimate law enforcement purposes. However, where the collection, retention, use, or disclosure of personal information attracts a reasonable expectation of privacy, it must be independently authorized under common law or statute.⁷ In addition, police are generally not permitted to collect, retain, or use personal information that was collected or compiled by another law enforcement agency, institution, or a third-party service provider contrary to law.⁸
- Canadian courts have held that the collection, retention, use, and disclosure of non-conviction arrest records under the *Identification of Criminals Act* (ICA), such as mugshots and fingerprints, attract a diminished, but nonetheless, reasonable expectation of privacy within the meaning of section 8 of the Charter.⁹
- A facial recognition mugshot database program must comply with *Ontario's Human Rights Code* and the Charter, including the privacy rights protected under section 7 and section 8 and the equality rights protected under section 15. Charter and human rights analyses should consider and address the long-standing concerns about disproportionate policing practices vis a vis Indigenous, racialized, and other marginalized communities and the ways they may be overrepresented in the collection of faceprints and their retention and use in mugshot databases.¹⁰ The necessity and proportionality analysis of a facial recognition mugshot database program will also be relevant under section 1 of the Charter.

- The ICA authorizes the identification of certain individuals using “measurements, processes and operations of fingerprinting, palm printing and photography”. However, the ICA does not refer explicitly to facial recognition or facial recognition-augmented databases. Police who assume that the ICA authorizes the creation and comparison of faceprints in biometric databases are advised to carefully review the scope of their authority and ensure that they have rigorous safeguards and controls in place.¹¹
- Even if a court or tribunal eventually determines that the ICA or some other law authorizes the creation and comparison of faceprints in biometric databases, authority derived under the ICA for collecting mugshots is limited to those individuals charged with serious crimes, and ICA authority for retaining mugshots is limited to what is necessary and proportionate.
- Agreements between police and any third-party vendors or commercial service providers of facial recognition technology should contain terms and conditions that ensure compliance with laws applicable to police in Ontario, including restrictions on the collection, access to, retention, use, and subsequent disclosure of personal information. Third-party vendors or commercial service providers and their products must also comply with applicable private-sector privacy laws, including the *Personal Information Protection and Electronic Documents Act (PIPEDA)*.

Recommendations:

- 1.1. Ensure you have lawful authority to operate a facial recognition mugshot database program and your authority is clearly documented before you start the program. If you are already operating a program, re-evaluate lawful authority as soon as possible.
- 1.2. Ensure that the design and operation of your program, including use of any third-party service providers, meet all legal requirements and include rigorous privacy and transparency safeguards and controls.
- 1.3. If there are any gaps in lawful authority, legal compliance, or rights protections, you should adjust the scope of the FR mugshot database program to ensure compliance with the law and the protection of fundamental rights.

Key consideration 2: guiding principles

To help ensure public trust, police should develop and publicly communicate the principles that will guide their decisions and actions when using facial recognition technology in connection with mugshot databases. Public trust and community acceptance of a program will depend on the transparency of the guiding principles and a demonstrated commitment to respect and uphold them.

At a minimum, a statement of principles should commit to using facial recognition in a way that:

- is necessary and proportionate to the purposes of the program
- respects human rights and upholds human dignity as a fundamental value
- respects individuals’ rights to privacy and access to information
- prevents harms to individuals and groups
- is transparent and accountable to the public
- always involves human oversight and interpretation of results by trained operators
- treats all potential matches as investigative leads only
- evaluates system performance and mitigates inaccuracy and bias as much as possible
- upholds the integrity of the criminal justice system and the administration of justice
- achieves community safety objectives that outweigh the risk of harms

Recommendations:

- 2.1. Draft and publicly communicate a statement of guiding principles for the use of FR in connection with mugshot databases that addresses the delivery of fair, effective, and equitable policing services in a manner that protects and advances privacy, transparency, accountability and human rights.
- 2.2. Respect and adhere to these principles throughout all stages of the development and operation of a facial recognition mugshot database program.

Key consideration 3: mugshot databases and related policies

The responsible design and operation of your FR mugshot database program require that the program be structured and governed to account for the underlying information environment in which the program will be deployed.

Policing leaders should consider the growing body of evidence that arrest records contained within a mugshot database program may be associated with discriminatory or disproportionate policing¹² and continue to take up their responsibilities to reverse the impact of these historical and current police practices. When operating or considering developing an FR mugshot database program, police must assess and address the extent to which investigative practices and the contents of mugshot databases reflect discriminatory investigative, arrest, and charging practices. A critical component of this work relates to establishing appropriate mugshot records retention and destruction requirements.

With a few limited and narrow exceptions, there are no statutory retention or destruction requirements for personal information collected under the ICA.¹³ Instead, the responsibility for setting such rules and requirements is left to the discretion of those responsible for establishing record retention schedules, effectively police services boards.

In exercising their responsibilities to put in place records retention and destruction rules and requirements, police services boards should ensure that police retain mugshot records only for as long as is necessary and proportionate. At a minimum, the relevant rules, requirements, and processes should recognize and protect the privacy and equality rights of young people, racialized and Indigenous persons, and other vulnerable individuals and communities.

In addition, individuals who have never been convicted of a serious crime and do not face any current charges or proceedings should be protected against the excessive retention and use of their personal information, particularly as compiled in searchable mugshot databases. This requires that police update their mugshot databases to ensure that they accurately reflect the final disposition of criminal charges,¹⁴ and purge their mugshot databases of:

- non-conviction arrest records
- arrest records tied to summary offences, including hybrid offences¹⁵ after the Crown has elected to proceed on a summary basis and
- arrest records of persons dealt with under the *Youth Criminal Justice Act* (YCJA), after the YCJA access periods have expired¹⁶

Purging records from mugshot databases should be completed as soon as reasonably practical, with consideration for the need to retain records associated with linked cases or appeals. Exceptions to mugshot database purging requirements should only be permitted in highly limited circumstances. Police should clearly define these circumstances in police policies, procedures, records schedules, and other directives. The criteria or factors used to define these circumstances must be consistent with the laws described above, in [key consideration 1](#). When applying the criteria to an individual case, the decision should be documented and reviewed as part of [annual compliance audits](#).

Recommendations:

- 3.1. Before putting in place an FR mugshot database program, review arrest record policies and retention schedules, particularly those governing mugshot databases, to ensure they do not permit or facilitate the excessive, discriminatory, unconstitutional, or otherwise unlawful retention and use of mugshot records.
- 3.2. Before putting in place an FR mugshot database program, and on an annual basis moving forward, purge mugshot databases of records that reflect or may facilitate excessive, discriminatory, or unlawful police practices, including by purging:
 - non-conviction arrest records
 - arrest records tied to summary offences, including hybrid offences after the Crown has elected to proceed on a summary basis and
 - arrest records of persons dealt with under the *Youth Criminal Justice Act* (YCJA), after the YCJA access periods have expired
- 3.3. If you are currently operating an FR mugshot database program, review and purge mugshot records consistent with recommendations 3.1 and 3.2, starting as soon as reasonably practical but no later than one year following the release of this guidance and on at least an annual basis moving forward.

Key consideration 4: privacy impact assessments

Facial recognition mugshot database programs raise significant privacy risks related to how biometric facial data and other personal information may be collected, used, disclosed, and retained. These risks include the potential misuse of personal information, potential bias and inaccuracy, and technological or human errors that could result in false recognitions, wrongful arrests, and other types of intrusive investigative scrutiny.

You should assess, reduce, and monitor these and other risks throughout your program's lifecycle. Privacy safeguards and controls must be in place at the outset of your program's design and development to protect personal information, including [training data](#), biometric faceprints, probe images, mugshot databases, and information gathered from FR searches.

Widely recognized as a best practice, privacy impact assessments (PIAs) are a risk management tool that helps institutions assess the potential privacy risks of a program or activity.¹⁷ PIAs can also help identify the basis and extent of your lawful authority, improve transparency, and meet your privacy obligations under the law. To assist in understanding privacy risks, obligations and mitigation measures, consult with relevant privacy experts early in the PIA process.

Your PIA process should be documented in a PIA report. The PIA report should address all privacy risks and explain the related risk mitigation strategies, including those required to protect the privacy rights of individuals and communities whose personal information may be collected, retained, used, or disclosed in probe images and mugshot records. Risk mitigation strategies should include:

- documented policies and procedures for limiting the purposes of facial recognition searches
- logging all related uses and disclosures of personal information
- assigning senior staff with clear roles and responsibilities for monitoring privacy risks and ensuring compliance

PIAs should also reflect that FR mugshot database programs:

- involve the collection of new and sensitive personal biometric information, separate from any photographs used in the creation of that biometric information¹⁸
- impact the privacy of all individuals whose personal information may be implicated in the operation of a facial recognition system, not just the individuals whose images are returned as a potential match
- are one part of a system of arrest records that police have been gathering for many years, including non-conviction arrest records

- are an application of FR technology that operates without the knowledge or consent of affected individuals
- are used to generate investigative leads, including those that may cause unwarranted scrutiny and unnecessary or disproportionate record keeping (e.g., in criminal investigation files)
- may facilitate the disclosure of personal information to police in Ontario and other law enforcement agencies in Canada or other countries

You will likely also need to conduct other risk assessments to identify and mitigate security threats, human rights concerns, and AI technology risks, including those related to software and third-party service providers. This may require consultation with relevant experts. These assessments should be combined or coordinated with your PIA.

Recommendations:

- 4.1. Conduct a comprehensive PIA and document the process in a PIA report before putting in place an FR mugshot database program, including before a pilot program and any time there are significant changes made to an existing program.
- 4.2. Your PIA report should identify and address the privacy risks of using facial recognition technology in the mugshot database context (e.g., as described above) and include safeguards and controls that can be built into the program's policies and procedures to mitigate these risks.
- 4.3. Share the results of your PIA with your police services board and make the PIA report, or a summary of it, publicly available for transparency and accountability purposes.
- 4.4. Conduct other risk assessments such as security, human rights, and algorithmic impact assessments as needed, and ensure these are combined or coordinated with your PIA.

Key consideration 5: scope, purpose, and program policies

Program scope and purpose

To manage your FR mugshot database program responsibly, you should define and limit the program's scope and purpose. Having a clearly defined scope and purpose will help ensure that the privacy principles of reasonableness, necessity, and proportionality¹⁹ will operate to reduce privacy risks. A well-defined program scope and purpose can also help avoid scope creep, such as deploying facial recognition capabilities as an add-on to other police surveillance technologies.

A reasonable, necessary, and proportionately scoped program should focus on generating investigative leads for the purpose of identifying individuals who are reasonably suspected of having committed a serious offence.

Program Policies and Procedures

Once the scope and purpose of your program are clearly defined, you should develop and approve comprehensive policies and procedures consistent with the recommendations in this guidance. Including a glossary of definitions and key terms specific to your program in your policies and procedures will ensure a consistent understanding of technical components and processes among staff.

Recommendations:

- 5.1. Establish and limit the scope and purpose of your FR mugshot database program from the beginning, by focusing on generating investigative leads for the purpose of identifying individuals reasonably suspected of having committed a serious offence. Ensure the scope and purpose are maintained over time and comply with applicable law and the privacy principles of reasonableness, necessity, and proportionality.
- 5.2. Develop and approve comprehensive policies and procedures for your FR mugshot database program consistent with the recommendations in this guidance.

Key consideration 6: public engagement

Public engagement activities should begin during the earliest stages of the program's development, including before a pilot program. These activities should be timely, informative, and include opportunities for two-way dialogue about privacy and equity concerns with community members and subject matter experts. You should also engage with affected communities and interested parties, particularly over-policed groups such as individuals from Indigenous, racialized, and other marginalized communities.

You should consult the public on how you will use FR and protect fundamental rights, including the rights of those whose personal information may be contained in mugshot databases and the demographic makeup of such databases. Public engagement may require multiple phases to be meaningful, including sharing important information and updates, asking for feedback, answering questions, and engaging in critical dialogue. In the case of current or ongoing programs, public consultations should still occur even if you have not started this engagement work during the early stages of your program's development.

Ultimately, consulting with affected communities and interested parties and publicly showing you have anticipated and assessed the broader privacy and human rights issues raised by facial recognition *before* putting your program in place will promote accountability and transparency.

Recommendations:

- 6.1. Conduct meaningful public consultations with affected communities and interested parties about your program before putting it in place. In the case of current or ongoing programs, public consultations should still occur.
- 6.2. During your public consultations, ensure you consider the privacy and equity concerns of marginalized communities, including those who are disproportionately affected by systemic discrimination and over-policing practices.

Key consideration 7: transparency

Well before implementing a FR mugshot database program, you should be transparent with the public about your plans and the evolving nature of the program. Being transparent from the outset will help ensure public trust, including with vulnerable and over-policed communities. Transparency considerations are raised throughout this document and are not limited to this section.

Recommendations:

- 7.1. Post up-to-date, readily available, plain language information about the program on the websites of both the police services board and the police service to foster ongoing transparency.

This public information should include:

- the most current version of the program's policies and procedures
- the PIA and other risk assessments or, at a minimum, summaries of these assessments
- a plain language explanation of how your program works, including its scope and purpose, lawful authority, and safeguards and controls
- details about public consultations that have taken place, including a general description of the consultees, the nature of the consultation (focus groups, meetings, surveys), and a general summary of what was heard
- information about the procurement of the facial recognition system, including information about third-party service providers and their compliance with privacy obligations
- results of any testing for accuracy or bias, including a general description of the testing methodology
- statistics measuring the overall effectiveness of the program

- information about how individuals can request access to and correction of their personal information

Key consideration 8: pilot programs

If you decide to proceed with an FR mugshot database program, you should conduct a time-limited pilot program with clear goals and objectives before full implementation of the technology. An evaluation of the results of the pilot will assist you in making any necessary adjustments to key components of your program, including the PIA, program policies and procedures.

At a minimum, a pilot FR mugshot database program should evaluate:

- whether the intended benefits of the system are realized and whether any unforeseen risks or harms have appeared
- whether FR search requests and procedures are being followed correctly, including the effective documentation of search results (see [key consideration 11](#) for further details on documentation)
- whether staff using the FR system have been effectively trained to interpret matches returned by the system after a search query and to understand the capacities and limits of the system
- whether system parameters, such as minimum threshold settings for a match are set appropriately or need to be adjusted, for example to avoid [false positives](#) and support program evaluation
- whether there is any evidence of errors, inaccuracy, or bias in system outputs or in staff or officer interpretation of those outputs

Following an evaluation of the pilot program, consultees should be updated with its key findings as part of a meaningful public engagement process.

Recommendations:

- 8.1. Conduct a time-limited pilot program with clear goals and objectives before fully implementing the technology. Use the pilot to test the program and ensure its effectiveness in achieving the intended results, to identify and address any unintended issues or consequences, and to mitigate risks to privacy and human rights.
- 8.2. Evaluate and publicly report on the results of the pilot before implementation by sharing key findings with affected communities and interested parties as part of a meaningful public engagement process.

Section 3 – Key operational considerations

Key consideration 9: quality of probe images

Probe images are often collected by police during criminal investigations. These images can vary in quality. To support the lawful and accurate use of FR, reduce the risks of misidentification, and assist with your program's review and evaluation, you should set minimum standards for the quality of probe images. Specifically:

- Set standards for pixel density, lighting, percentage of face that is visible, and any other factor that is likely to significantly impact the accuracy of a facial recognition system's search results. These standards should be used to support rather than replace the judgement of trained operators. In addition, these standards should be used to support the effective and objective review and evaluation of your FR mugshot database program.
- Avoid the use of artist or composite drawings or photos of lookalike individuals as probe images. Studies have shown that facial recognition systems perform poorly on composite sketches, with a greater risk of misidentifying individuals and returning poor search results.²⁰

- Avoid digitally altering probe images. If altering an image is justified, (for example, when having to blur or remove the faces of other individuals in the background to protect their privacy), document any steps taken to alter it.

Recommendations:

- 9.1. To support the lawful and accurate use of facial recognition, set and follow clear standards for ensuring minimum photo quality of probe images consistent with the standards recommended in this guidance.

Key consideration 10: retention of probe images

To minimize infringement of privacy rights, you should ensure that your FR mugshot database program does not automatically save, store, or retain probe images after running a facial recognition search. Retain the original probe image only as long as necessary, for example, to preserve evidence in a criminal proceeding. Specific probe images that become evidence in a criminal proceeding may be subject to additional retention requirements under the rules of evidence, which are beyond the scope of this guidance.

Some probe images will not register a match when searched against a mugshot database. These are known as unidentified probe images. These too should not be retained for longer than necessary. Unless their continued retention is required by law or for the proper administration of justice, unidentified probe images should be destroyed as soon as any one of the following circumstances apply:

- the person is no longer a suspect in the associated criminal investigation
- the unidentified probe image is no longer relevant to the associated criminal investigation
- within 30 days of when the associated criminal investigation closes
- within 30 days of a final decision that an unidentified probe image was unlawfully collected
- the police services board's record retention rules require destruction or
- destruction is required by law (e.g., by a final court order)

You may need to retain probe images (including unidentified probe images) for longer than would otherwise be appropriate to run internal testing of your FR system's performance. Any retention of probe images for testing purposes should be limited to what is strictly necessary to meet accuracy or other performance requirements for your program. Images retained for testing purposes should be immediately destroyed once testing is completed.

Recommendations:

- 10.1. Set clear rules and processes for how long probe images (including unidentified probe images) should be retained and when they should be securely destroyed. These should be consistent with the circumstances described in this guidance.
- 10.2. Set an appropriate oversight process for regularly confirming compliance with applicable retention and destruction rules for probe images (including unidentified probe images).

Key consideration 11: accuracy, human review and oversight of results

To ensure accuracy, fairness, bias-free service delivery and the overall effectiveness of your program, you should document and explain how you will interpret and act on the results of FR searches. Testing and human oversight of these programs is essential to prevent overreliance on potentially faulty algorithms. Failure to carefully review the search results or placing too much confidence in them could result in the unnecessary or unfair investigation of an individual.

Accuracy

You should not assume the accuracy of FR software and the results generated by your FR system. FR systems can vary in quality, reliability and accuracy rates. Research has shown that racialized individuals and women are more likely to be misidentified by facial recognition technology.²¹ In addition, the performance of FR systems tends to decline for images that are more than five years old.²²

You will need to take steps to minimize inaccuracy and bias in the performance of your FR system as a whole. This should include internally evaluating whether system parameters, such as minimum threshold settings for a match are set appropriately or need to be adjusted, for example, to avoid false positives and support program evaluation.

A match between a probe image and a faceprint in a mugshot database will generally be assessed against a pre-established threshold (e.g., a specific similarity score or a predetermined number of potential matches). Selecting an appropriate threshold will depend on the nature and scope of your program. In setting an appropriate threshold, you must consider, identify, and mitigate risks to the rights and freedoms of individuals, including those belonging to groups associated with high false positive rates.

Trained operators

Only police staff who are trained operators of the FR system and who follow required policies and procedures should conduct facial recognition searches and reviews on behalf of requesting investigators.

Trained operators with the right expertise should determine whether there is a reasonable possibility for a potential match between a probe image and a mugshot image. Operators should be able to override search results returned by the FR system based on best practices for reducing errors and minimizing bias and inaccuracy.²³

Even with high probability that a given match generated by the FR system is accurate, results should always be reviewed by trained operators as a safeguard. **Resulting candidate matches should only be treated as investigative leads, and not as a positive identification of an individual.**

Oversight of results

Trained operators and senior staff responsible for the FR system should be accountable for their decisions and actions when using facial recognition. Both operators and senior staff should actively work to reduce the overall risks of inaccurate and biased results and explain how that is being done.

Recommendations:

- 11.1. Take steps to test for bias and inaccuracy in the performance of the FR system as a whole, on a regular basis. This should include internally evaluating whether system parameters, such as minimum threshold settings for a match are set appropriately or need to be adjusted, for example to avoid false positives and support program evaluation.
- 11.2. Set and follow transparent procedures for the human review and accuracy controls of your program. These procedures should outline who is responsible for conducting the review, how trained operators interpret and explain the results of FR searches and the training requirements necessary for the job. Trained operators should follow clear criteria and be able to provide a clear explanation of the steps and processes followed for generating investigative leads.
- 11.3. Set and follow requirements for documenting all FR searches and assessment results. This documentation should cover the probe image and match threshold that was used, the likelihood of a match, the output as determined by the FR system, the trained operator who conducted the search, the operator's post-assessment decision on whether to treat a potential match as a false positive or a potential investigative lead, and any other relevant information.

Key consideration 12: limited collection, retention, use, or disclosure of personal information and reasonable safeguards

Your policies and procedures should ensure that any collection, retention, use, or disclosure of records related to your FR mugshot database program is limited and consistent with the law.²⁴

As outlined in [key consideration 1](#), police forces in Ontario may only collect, retain, use, or disclose personal information under the rules of FIPPA and MFIPPA, as relevant to their police service. The collection, retention, use, or disclosure of personal information that attracts a reasonable expectation of privacy must be independently authorized under common law or a statute and will require an assessment of lawful authority. Special attention should be paid to limiting the collection, retention, use, or disclosure of biometric information, given its sensitivity compared to other types of personal information.

In addition, you must ensure that reasonable security measures are in place to protect the personal information within your custody or control. This should include comprehensive administrative, technical, and physical controls and safeguards for the collection, retention, use, or disclosure of personal information.

Recommendations:

- 12.1 Ensure that the collection, retention, use, or disclosure of personal information is limited to what is necessary and proportionate for achieving the stated purpose of your FR mugshot database program.
- 12.2 Ensure that requirements for the collection, retention, use, or disclosure of personal information are well documented in supporting policies and procedures and account for the different parts of your FR program (e.g., mugshot databases, probe images, and training data).
- 12.3 Adopt comprehensive administrative, technical, and physical controls and safeguards for the collection, retention, use, or disclosure of personal information involved in the program, including safeguards that protect biometric data.

Key consideration 13: access, correction, and expungement rights

With limited and specific exceptions, individuals whose personal information is in your custody or control have a right to access and correct their personal information under section 47 of FIPPA and section 36 of MFIPPA. The general public, civil society groups, journalists, and others also have a general right of access to information under section 10 of FIPPA and section 4 of MFIPPA. Accordingly, you must have processes in place to respond to access requests and help individuals or their representatives exercise their access rights while complying with privacy requirements.

Additionally, individuals charged with a criminal offence have a common law right to request that their mugshots and other arrest records be expunged once their charges have been disposed of through a non-conviction disposition. In the absence of well-defined and justifiable exceptional circumstances, police must grant such expungement requests.

Recommendation

- 13.1. Ensure your policies and procedures comply with and accommodate access, correction, and expungement rights.
- 13.2. Ensure your policies and procedures and plain language information about access, correction, and expungement rights, are publicly available.

Key consideration 14: requests from other police services

There may be instances when you are asked to run a facial recognition search with a probe image on behalf of another police service to see if an unknown suspect can be identified in your mugshot database. To ensure accountability in these situations, you should create a standard form for use by the requesting police service that outlines the necessary terms and conditions to be met before you decide whether to approve the request, including:

- the request for a probe image search is submitted in writing (e.g., a form with the officer's name, badge number and contact information, the police service, date, details of the information being requested, and investigation number)
- the request is for a purpose consistent with the scope of your program (e.g., it relates to the investigation of a serious crime)
- the probe image is of sufficient quality to meet your minimum standards (see [key consideration 9](#))
- the information you share with the requesting police service will only be used as an investigative lead and will not be shared further without your express agreement
- the information you share will be permanently destroyed, deleted, or returned by the requesting police service as soon as either of the following applies:
 - the information is no longer necessary for the investigation, consistent with the destruction criteria for unidentified probe images set out in [key consideration 10](#) or
 - the associated mugshot-related records should be purged following the criteria set out in [recommendation 3.2](#).

You should maintain detailed records of any requests you receive from other police services and how you respond to those requests. This will ensure accountability and oversight, including for auditing and public reporting purposes.

Recommendations:

14.1. Set and follow clear policies and procedures for handling FR requests from other police services, including policies and procedures for:

- receiving and processing requests from other police services to run FR searches in your mugshot database
- disclosing the results of any potential matches to the requesting police service and
- maintaining detailed records and logs of all access and disclosures of personal information, such as FR search requests received, whether they were processed and how, their results, and the information returned to the requesting police service, if any

Key consideration 15: joint facial recognition mugshot database programs

Some police services in Ontario are considering combining their mugshot databases with that of others to enhance their collective ability to use FR to generate investigative leads. This would result in a joint facial recognition mugshot database program. This guidance also applies to any existing or potential joint programs.

Combining mugshot databases for the purpose of FR should be handled with additional caution as it can exacerbate the privacy and human rights risks of standalone programs. Consult with your subject matter experts, legal services, and the public when considering if a joint program is necessary and proportionate.

Assuming you have lawful authority to proceed, any initiative to combine mugshot databases should be limited to Ontario police services, at least until a clear and comprehensive legal framework for FR exists in Canada.

After conducting a joint PIA and other necessary risk assessments, police services boards and police services should work together to develop equivalent governance frameworks for all parties to a joint program, based on this guidance. This framework should include formal information-sharing agreements and related policies, procedures, and requirements binding the parties. Agreements should clearly limit police to using the shared mugshot records only for the purpose of a reasonable, necessary, and proportionately scoped program, running regular audits of the joint program, preparing a report required by the agreement, or for a purpose required by law.

Recommendations:

15.1. Each police service involved in a joint FR mugshot database program should consider their lawful authority to do so and follow all the considerations and recommendations in this guidance, including:

- conducting a joint PIA and other necessary risk assessments
- entering into a formal information-sharing agreement
- establishing related policies, procedures and requirements binding all parties of the joint program to equivalent standards and safeguards consistent with this guidance

15.2. The information-sharing agreement should clearly limit the use of shared mugshot records to the purposes of:

- a reasonable, necessary, and proportionately scoped program, (e.g., it focuses on only generating investigative leads for serious crimes)
- conducting and reporting on regular testing, reviews and audits of the joint program
- preparing a report required by the agreement
- or for a purpose required by law

15.3. Before combining databases, police should review their arrest record policies, record schedules and mugshot databases, and purge mugshot records that reflect excessive, discriminatory, or unlawful retention practices, including in relation to non-conviction arrest records set out in key consideration 3.

15.4. Each police services board involved should regularly audit and evaluate the effectiveness and appropriateness of any joint program and make audit reports and evaluations publicly available.

Section 4 – Program review and evaluation

Key consideration 16: ongoing monitoring and reassessment

Like other AI technologies, facial recognition used in connection with mugshot databases offers new opportunities for law enforcement and new challenges that require monitoring and reassessment. Monitoring and reassessment help maximize the potential for the technology to be operated in the most trustworthy and safe manner possible throughout its lifecycle.²⁵ If you put in place an FR mugshot database program, you should regularly monitor the performance and privacy risks of the FR system, along with any new developments in the use of FR technology. You should adjust your practices depending on your monitoring results and any new information, emerging risks and best practices. In doing so, you can mitigate and limit harms related to potential system errors or bias, misidentification, program deficiencies, security threats, or the misuse or mishandling of sensitive biometric information, which may result in having to re-evaluate and update the design and use of your program or FR system.²⁶

You should also review your PIA and any other completed risk assessments to confirm whether risks have been effectively reduced and if any unforeseen impacts have arisen. Where there are new impacts or risks, your PIA and program policies and procedures should be updated or re-evaluated accordingly. You should also consider consulting with the IPC if significant new risks or impacts arise.

Recommendations:

- 16.1. Once your FR mugshot database program is in use, regularly monitor and re-assess the performance and privacy risks of your system based on available information, emerging risks, best practices, and broader developments in the use of facial recognition technology.
- 16.2. Decide whether any existing risk assessments, including your PIA, program policies, procedures, or the overall design and operation of your program or FR system need to be re-evaluated and updated.
- 16.3. Consider consulting with the IPC if new impacts or privacy risks arise.

Key consideration 17: accountability

To demonstrate compliance and ensure ongoing public accountability, internal or external experts should run annual compliance audits of your FR mugshot database program.²⁷ At a minimum, compliance audits should assess:

- ongoing compliance with lawful authority and other legal requirements
- ongoing compliance with your program's policies and procedures
- the sufficiency and frequency of updates made to your program's policies and procedures, including updates to public information and reporting about the program
- the methods for reviewing the contents of the mugshot databases to reduce bias and maintain regular purging practices that follow retention rules and requirements
- any public complaints received about your program and how they were handled
- any privacy breaches that occurred and how they were handled
- third-party compliance with the privacy obligations of your program

Police services, through their police services boards, should also conduct annual program reviews to measure the overall effectiveness of their FR mugshot database program, including whether it is achieving the intended purpose and following the guiding principles. Program reviews should make use of demonstrable criteria, such as key statistics. At a minimum, these annual statistics should include:

- information about the size and demographic makeup of the relevant databases, including in relation to the categories of records described in section 3.2 (non-conviction, summary, and Youth Criminal Justice Act records)
- the number and nature of FR searches performed over the past year, including requests made by other police services
- metrics on the effectiveness of the program, such as the number of investigative leads generated as a result of FR used in connection with mugshot databases, and the number of charges and convictions associated with those leads

To support ongoing accountability and transparency, you should publicly report these annual statistics to inform the public about your program and strengthen public confidence that facial recognition technology is being used responsibly.

Recommendations:

- 17.1. Set and follow ongoing accountability measures, including annual compliance audits, to assess your program's compliance with legal requirements, rules, policies, and procedures. This should include compliance by any third parties involved in the program and annual program reviews to measure the overall success of your program in achieving its intended purpose and respecting its guiding principles.
- 17.2. Assess and publicly report on the results of annual compliance audits and program reviews, including by providing the public with annual information and statistics relating to the compliance, effectiveness, and appropriateness of your program.

Appendices

Appendix A: Summary of recommendations

Below is an abbreviated summary of key recommendations, for reference purposes only. Please refer to the guidance document for full recommendations.

When designing and using a facial recognition mugshot database program in Ontario, the IPC recommends police services boards and police services:

Key consideration 1: lawful authority and lawful operation

- 1.1. Ensure you have lawful authority to operate a facial recognition mugshot database program and your authority is clearly documented before you start the program. If you are already operating a program, re-evaluate lawful authority as soon as possible.
- 1.2. Ensure that the design and operation of your program, including use of any third-party service providers, meet all legal requirements and include rigorous privacy and transparency safeguards and controls.
- 1.3. If there are any gaps in lawful authority, legal compliance, or rights protections, you should adjust the scope of the FR mugshot database program to ensure compliance with the law and the protection of fundamental rights.

Key consideration 2: guiding principles

- 2.1. Draft and publicly communicate a statement of guiding principles for the use of FR in connection with mugshot databases that addresses the delivery of fair, effective, and equitable policing services in a manner that protects and advances privacy, transparency, accountability and human rights.
- 2.2. Respect and adhere to these principles throughout all stages of the development and operation of a facial recognition mugshot database program.

Key consideration 3: mugshot databases and related policies

- 3.1. Before putting in place an FR mugshot database program, review arrest record policies and retention schedules, particularly those governing mugshot databases, to ensure they do not permit or facilitate the excessive, discriminatory, unconstitutional, or otherwise unlawful retention and use of mugshot records.
- 3.4. Before putting in place an FR mugshot database program, and on an annual basis moving forward, purge mugshot databases of records that reflect or may facilitate excessive, discriminatory, or unlawful police practices, including by purging:
 - non-conviction arrest records
 - arrest records tied to summary offences, including hybrid offences after the Crown has elected to proceed on a summary basis and
 - arrest records of persons dealt with under the *Youth Criminal Justice Act* (YCJA), after the YCJA access periods have expired
- 3.2. If you are currently operating an FR mugshot database program, review and purge mugshot records consistent with recommendations 3.1 and 3.2, starting as soon as reasonably practical but no later than one year following the release of this guidance and on at least an annual basis moving forward.

Key consideration 4: privacy impact assessments

- 4.1. Conduct a comprehensive PIA and document the process in a PIA report before putting in place an FR mugshot database program, including before a pilot program and any time there are significant changes made to an existing program.

- 4.2. Your PIA report should identify and address the privacy risks of using facial recognition technology in the mugshot database context (e.g., as described above) and include safeguards and controls that can be built into the program's policies and procedures to mitigate these risks.
- 4.3. Share the results of your PIA with your police services board and make the PIA report, or a summary of it, publicly available for transparency and accountability purposes.
- 4.4. Conduct other risk assessments such as security, human rights, and algorithmic impact assessments as needed, and ensure these are combined or coordinated with your PIA.

Key consideration 5: scope, purpose, and program policies

- 5.1. Establish and limit the scope and purpose of your FR mugshot database program from the beginning, by focusing on generating investigative leads for the purpose of identifying individuals reasonably suspected of having committed a serious offence. Ensure the scope and purpose are maintained over time and comply with applicable law and the privacy principles of reasonableness, necessity, and proportionality.
- 5.2. Develop and approve comprehensive policies and procedures for your FR mugshot database program consistent with the recommendations in this guidance.

Key consideration 6: public engagement

- 6.1. Conduct meaningful public consultations with affected communities and interested parties about your program before putting it in place. In the case of current or ongoing programs, public consultations should still occur.
- 6.2. During your public consultations, ensure you consider the privacy and equity concerns of marginalized communities, including those who are disproportionately affected by systemic discrimination and over-policing practices.

Key consideration 7: transparency

- 7.1. Post up-to-date, readily available, plain language information about the program on the websites of both the police services board and the police service to foster ongoing transparency.

Key consideration 8: pilot programs

- 8.1. Conduct a time-limited pilot program with clear goals and objectives before fully implementing the technology. Use the pilot to test the program and ensure its effectiveness in achieving the intended results, to identify and address any unintended issues or consequences, and to mitigate risks to privacy and human rights.
- 8.2. Evaluate and publicly report on the results of the pilot before implementation by sharing key findings with affected communities and interested parties as part of a meaningful public engagement process.

Key consideration 9: quality of probe images

- 9.1. To support the lawful and accurate use of facial recognition, set and follow clear standards for ensuring minimum photo quality of probe images consistent with the standards recommended in this guidance.

Key consideration 10: retention of probe images

- 10.1. Set clear rules and processes for how long probe images (including unidentified probe images) should be retained and when they should be securely destroyed. These should be consistent with the circumstances described in this guidance.
- 10.2. Set an appropriate oversight process for regularly confirming compliance with applicable retention and destruction rules for probe images (including unidentified probe images).

Key consideration 11: accuracy, human review and oversight of results

- 11.1. Take steps to test for bias and inaccuracy in the performance of the FR system as a whole, on a regular basis. This should include internally evaluating whether system parameters, such as minimum threshold settings for a match are set appropriately or need to be adjusted, for example to avoid false positives and support program evaluation.
- 11.2. Set and follow transparent procedures for the human review and accuracy controls of your program. These procedures should outline who is responsible for conducting the review, how trained operators interpret and explain the results of FR searches and the training requirements necessary for the job. Trained operators should follow clear criteria and be able to provide a clear explanation of the steps and processes followed for generating investigative leads.
- 11.3. Set and follow requirements for documenting all FR searches and assessment results. This documentation should cover the probe image and match threshold that was used, the likelihood of a match, the output as determined by the FR system, the trained operator who conducted the search, the operator's post-assessment decision on whether to treat a potential match as a false positive or a potential investigative lead, and any other relevant information.

Key consideration 12: limited collection, retention, use, or disclosure of personal information and reasonable safeguards

- 12.1 Ensure that the collection, retention, use, or disclosure of personal information is limited to what is necessary and proportionate for achieving the stated purpose of your FR mugshot database program.
- 12.2 Ensure that requirements for the collection, retention, use, or disclosure of personal information are well documented in supporting policies and procedures and account for the different parts of your FR program (e.g., mugshot databases, probe images, and training data).
- 12.3 Adopt comprehensive administrative, technical, and physical controls and safeguards for the collection, retention, use, or disclosure of personal information involved in the program, including safeguards that protect biometric data.

Key consideration 13: access, correction, and expungement rights

- 13.1. Ensure your policies and procedures comply with and accommodate access, correction, and expungement rights.
- 13.2. Ensure your policies and procedures and plain language information about access, correction, and expungement rights, are publicly available.

Key consideration 14: requests from other police services

- 14.1. Set and follow clear policies and procedures for handling FR requests from other police services, including policies and procedures for:
 - receiving and processing requests from other police services to run FR searches in your mugshot database
 - disclosing the results of any potential matches to the requesting police service and
 - maintaining detailed records and logs of all access and disclosures of personal information, such as FR search requests received, whether they were processed and how, their results, and the information returned to the requesting police service, if any

Key consideration 15: joint facial recognition mugshot database programs

- 15.1. Each police service involved in a joint FR mugshot database program should consider their lawful authority to do so and follow all the considerations and recommendations in this guidance, including:
 - conducting a joint PIA and other necessary risk assessments

- entering into a formal information-sharing agreement
- establishing related policies, procedures and requirements binding all parties of the joint program to equivalent standards and safeguards consistent with this guidance

15.2. The information-sharing agreement should clearly limit the use of shared mugshot records to the purposes of:

- a reasonable, necessary, and proportionately scoped program, (e.g., it focuses on only generating investigative leads for serious crimes)
- conducting and reporting on regular testing, reviews and audits of the joint program
- preparing a report required by the agreement
- or for a purpose required by law

15.3. Before combining databases, police should review their arrest record policies, record schedules and mugshot databases, and purge mugshot records that reflect excessive, discriminatory, or unlawful retention practices, including in relation to non-conviction arrest records set out in key consideration 3.

15.4. Each police services board involved should regularly audit and evaluate the effectiveness and appropriateness of any joint program and make audit reports and evaluations publicly available.

Key consideration 16: ongoing monitoring and reassessment

16.1. Once your FR mugshot database program is in use, regularly monitor and re-assess the performance and privacy risks of your system based on available information, emerging risks, best practices, and broader developments in the use of facial recognition technology.

16.2. Decide whether any existing risk assessments, program policies, procedures, or the overall design and operation of your program or FR system need to be re-evaluated and updated.

16.3. Consider consulting with the IPC if new impacts or privacy risks arise.

Key consideration 17: accountability

17.1. Set and follow ongoing accountability measures, including annual compliance audits, to assess your program’s compliance with legal requirements, rules, policies, and procedures. This should include compliance by any third parties involved in the program and annual program reviews to measure the overall success of your program in achieving its intended purpose and respecting its guiding principles.

17.2. Assess and publicly report on the results of annual compliance audits and program reviews, including by providing the public with annual information and statistics relating to the compliance, effectiveness, and appropriateness of your program.

Appendix B: Glossary

Biometric information: Biometric information is personal information resulting from specific technical processing relating to the physical characteristics of an individual, used to confirm identity.

Facial recognition technology: Facial recognition technology uses image processing software to detect and analyze the features of an individual’s face to identify or verify an individual’s identity. While early versions relied on humans to manually select and measure the landmarks of an individual’s face, today, the process of creating a facial template or faceprint is fully automated by FR technology. Using advanced, deep learning algorithms trained on millions of examples, facial recognition technology creates three-dimensional faceprints consisting of close to a hundred biometric features from one or more two-dimensional images.

Facial recognition algorithms: Facial recognition works by performing a series of discrete tasks. There are four key tasks, each of which is automated using an algorithm. However, taken together, they form one overarching algorithm for the system. Their work may be described as follows:

- A *face detector* scans an image and picks out the faces in it.
- A *faceprint generator* takes an image of a face and creates a faceprint of it.
- A *faceprint comparator* compares two faceprints and returns a similarity score.
- A *faceprint matcher* searches a database of faces and (using the faceprint comparator) returns a list of candidates whose similarity score is at, or above a given threshold.

Faceprint: A faceprint is a template of the biometric features of a person's face. It contains a set of unique physical characteristics inherent to an individual that cannot be easily altered. Examples of biometric features encoded in a faceprint may include the distance between eyes, width of nose, shape of cheekbones and length of jaw line.

False positives: False positives are errors where the FR algorithm returns a candidate match in the database that is not of the individual in the probe image.

False negatives: False negatives are errors where the FR algorithm fails to return a genuine match in the database even though the database contains one.

Identification: Refers to determining the identity of an otherwise unknown individual. In the FR mugshot database program context, facial recognition compares a probe image against all other images in a database of pre-enrolled faces in an attempt to learn the individual's identity. This is sometimes referred to as "1: N" matching.

Non-conviction arrest record: A non-conviction arrest record is an arrest record where an individual was charged with a criminal offence if the charge was dismissed, withdrawn, or stayed, or resulted in a stay of proceedings or an acquittal.

Probe image: Facial recognition systems take as input one or more images of individuals whose identities they then try to discover or verify. This inputted image is known as a probe image. The way a probe image is entered into a facial recognition system for identification purposes may vary.

Serious crime: For the purposes of this guidance, serious crime means indictable offences or hybrid offences under a federal law such as the *Canadian Criminal Code*. This is consistent with the *Identification of Criminals Act*, which only permits the police to take mugshots of individuals:

- charged with an indictable or hybrid offence or subject to an appearance notice, undertaking, summons or order in relation to an indictable or hybrid offence
- charged with offences under the *Security of Information Act*
- apprehended under the *Extradition Act* or
- in lawful custody pursuant to section 83.3 of the *Criminal Code*

Indictable offences are the most serious offences under the *Criminal Code*. They include theft over \$5,000, aggravated sexual assault, and murder. A hybrid offence is a crime where a Crown attorney can decide whether to proceed summarily or by indictment, depending on the seriousness of the facts alleged. Note that police are not empowered to take mugshots of individuals charged with offences that are purely summary in nature.

Similarity score: To express the different ways faces may be similar or different, facial recognition systems calculate a similarity score, also sometimes referred to as a confidence score. This is a numerical value representing the degree of similarity between two faceprints based on the biometric features encoded in them. A lower value indicates less similarity, a higher value more.

Threshold: Even though two faceprints may have a positive similarity score, only those that meet or exceed a given threshold (e.g., a specific similarity score or a predetermined number of potential matches) are considered potential matches. Some facial recognition products allow the end user to set the threshold; others do not. How the threshold is set directly affects the number of results returned in a given search, with implications for the accuracy, including error rates, of the algorithm. Depending on the circumstances, some implementations may require higher thresholds than others.

Training data: The image processing algorithms that power FR are generated using machine learning methods that require a large number of labelled examples of individuals' faces for training. This set of labelled examples is known as the training data of the algorithm.

Endnotes

¹ See the joint statement by Federal, Provincial and Territorial (FPT) Privacy Commissioners on the [Recommended legal framework for police agencies' use of facial recognition](#).

² See the [joint statement by the Information and Privacy Commissioner of Ontario and the Ontario Human Rights Commission on the use of AI technologies](#).

³ See the Citizen Lab and the University of Toronto, International Human Rights Program's [To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada](#).

⁴ Where this guidance refers to police service boards, it should be read as including requirements for both police services boards and the Solicitor General who oversees the Ontario Provincial Police.

⁵ See the [joint statement by the Information and Privacy Commissioner of Ontario and the Ontario Human Rights Commission on the use of AI technologies](#).

⁶ See IPC [Investigation PC-010005-1](#), into the Alcohol and Gaming Commission of Ontario's use of facial recognition technology in Ontario casinos; the British Columbia Information and Privacy Commissioner (B.C.I.P.C.) [Investigation Report F12-01](#) into the use of facial recognition technology by the Insurance Corporation of British Columbia; [PIPEDA Findings #2020-004](#), into the Cadillac Fairview investigation; [PIPEDA Findings #2021-001](#) into the Clearview AI investigation; and B.C.I.P.C. [Investigation Report 23-02](#) into Canadian Tire Associate Dealers' use of facial recognition technology.

⁷ See [R. v. Orlandis-Habsburgo](#), 2017 ONCA 649 (CanLII), [R. v. Spencer](#), 2014 SCC 43, [2014] 2 S.C.R. 212; [R. v. El-Azrak](#), 2018 ONSC 4450 (CanLII); [R. v. Otto](#), 2019 ONSC 2514 (CanLII); [R. v. Marakah](#), 2017 SCC 59 (CanLII), [2017] 2 SCR 608; and [R. v. Jones](#), 2017 SCC 60 (CanLII), [2017] 2 SCR 696.

⁸ See IPC [MO-2225](#); IPC [PO-2826](#) and the Office of the Privacy Commissioner of Canada's Special Report: [Police use of Facial Recognition Technology in Canada and the way forward](#) on the investigation into the RCMP's use of Clearview AI.

⁹ See [R. v. Beare](#); [R. v. Higgins](#), 1988 CanLII 126 (SCC), [R. v. Doré](#), [2002] O.J. No. 2845 (OCA), [Lin v. Toronto Police Services Board](#), [2004] O.J. No. 170 (Ont. Sup. Ct.), [R. v. Strickland](#), 2017 BCPC 1 (CanLII), and [R. v. Strickland](#), 2017 BCPC 211 (CanLII), [R. v. M.O.](#), 2017 ONSC 1213 (CanLII), and [R. v. Fogah-Pierre](#), [2023] O.J. No. 1999 (ONSC).

¹⁰ See for example, [R. v. Le](#), 2019 SCC 34 (CanLII); the Ontario Human Rights Commission's Second Interim Report, [A Disparate Impact](#) and its Final Report, [From Impact to Action](#); the information on Toronto Police Service's [Race and Identity-Based Data Collection](#); and the August 26, 2022 [Toronto Star article](#) on disproportionality-related data from Peel Regional Police.

¹¹ Note that in *Beare*, the Supreme Court of Canada held that the ICA does not "grant unlimited powers to use unrestricted methods to establish identity. Only processes which have been sanctioned by the Governor in Council are authorized." In addition, the Court observed that the ICA provides for "publication of the results of tests for the purpose of affording information for those engaged in the execution or administration of the law, but I do not think it authorizes their unconstitutional retention."

¹² See for example, [R. v. Le](#), 2019 SCC 34 (CanLII); the Ontario Human Rights Commission's Second Interim Report, [A Disparate Impact](#) and its Final Report, [From Impact to Action](#); the information on Toronto Police Service's [Race and Identity-Based Data Collection](#); and the August 26, 2022 [Toronto Star article](#) on disproportionality-related data from Peel Regional Police.

¹³ The only exception to this is the requirements in sections 4 and 5 of the *Identification of Criminals Act* which mandate the destruction of fingerprints and photographs for offences dealt with under the *Contraventions Act* and *Cannabis Act* by way of a ticket.

¹⁴ See [Shanthakumar v. CBSA](#), 2023 ONSC 3180 (CanLII).

¹⁵ For more information regarding hybrid and summary offences, see the definition of **serious crime** in the Glossary of this guidance document.

¹⁶ See *R. v. Fogah-Pierre*, [2023] O.J. No. 1999 (ONSC) which makes it clear that youth records are to be routinely destroyed or at the very least, restricted such that no one, including police, can access them once the access periods set out in section 119 of the *Youth Criminal Justice Act* have ended.

¹⁷ For more information on PIAs, see the IPC's [Planning for Success: Privacy Impact Assessment Guide](#).

¹⁸ See IPC [Investigation PC-010005-1](#), into the Alcohol and Gaming Commission of Ontario's use of facial recognition technology in Ontario casinos; the British Columbia Information and Privacy Commissioner (B.C.I.P.C.) [Investigation Report F12-01](#) into the use of facial recognition technology by the Insurance Corporation of British Columbia; [PIPEDA Findings #2020-004](#), into the Cadillac Fairview investigation; [PIPEDA Findings #2021-001](#) into the Clearview AI investigation; and B.C.I.P.C. [Investigation Report 23-02](#) into Canadian Tire Associate Dealers' use of facial recognition technology.

¹⁹ For more information on these privacy principles within the context of police use of facial recognition, see the joint guidance by the FPT Privacy Commissioners on [Privacy Guidance on Facial Recognition for Police agencies](#).

²⁰ See Georgetown Law Center on Privacy and Technology's [Garbage In, Garbage Out. Face Recognition on Flawed Data](#).

²¹ See the Citizen Lab and the University of Toronto, International Human Rights Program's [To Surveil and Predict: A Human Rights Analysis of Algorithmic Policing in Canada](#).

²² See the New Scientist article on [Face recognition struggles to recognize us after five years of ageing](#).

²³ For more information on accuracy considerations, see the joint guidance by the FPT Privacy Commissioners on [Privacy Guidance on Facial Recognition for Police agencies](#).

²⁴ A record is defined in section 2 of both FIPPA and MFIPPA to mean "any record of information however recorded, whether in printed form, on film, by electronic means or otherwise."

²⁵ See the World Economic Forum's Insight Report: [A policy framework for responsible limits on Facial Recognition. Use Case: Law Enforcement Investigations](#).

²⁶ See the Organisation for Economic Co-Operation and Development (OECD)'s Chapter on [The Technical Landscape](#) in the book, *Artificial Intelligence in Society*.

²⁷ A police service or its board may wish to consider an independent third party to perform the compliance audit.



January 10, 2024

Ann Morgan
Chair
Toronto Police Services Board
40 College Street
Toronto, ON M5G 2J3

Dear Chair Morgan,

Re: Approval of high-risk technologies under the Toronto Police Services Board's Policy on the use of artificial intelligence technology

The Ontario Human Rights Commission (OHRC) welcomes the Toronto Police Services Board's (TPSB) update on its implementation of the *Policy on Use of Artificial Intelligence (AI) Technology* (AI Policy), as well as the inventory of technologies and the details of their use by the Toronto Police Service (TPS), which will be presented at the TPSB meeting on January 11, 2024.

This is an important update, as it identifies AI technologies used by the TPS and their respective risk levels. In particular, the AI Inventory in Appendix B of the update identifies one facial recognition technology used by the TPS that is "high risk".

During the TPSB's consultations to develop its Use of AI policy, the OHRC identified facial recognition technologies as raising serious human rights concerns given their potential to exacerbate, perpetuate or even initiate discriminatory practices. These concerns were also recently noted in [Impact to Action](#), the OHRC's final report into anti-Black racism by the TPS.

Section 19 of the TPSB's AI policy responds to safety concerns regarding the use of high and moderate risk technologies and states that the Chief of Police:

Will report to the Board, as soon as it is identified, concerning any AI technology in use by the Service prior to the adoption of this Policy, which is deemed to be of High or Moderate risk, including:

- a. the reason that the AI technology was deemed to be of this risk level, and,
- b. a plan to:
 - i. pause the use of the AI technology within no longer than three months,

- ii. evaluate the risk and any potential harms resulting from the use of the AI technology,
- iii. develop a mitigation plan, and
- iv. seek the approval of the Board for the continued use of this AI technology;

It is unclear whether the materials provided for the update are meant to constitute the report to the Board regarding high or moderate risk AI technologies as set out in Section 19. The OHRC is not aware of any publicly available report for an assessment of the high-risk technology identified, or of any planned pause in the use of the technology to seek approval from the TPSB for its continued use.

If the Chief is seeking approval for the continued use of the identified high-risk technologies, the materials currently available for the Board meeting do not appear to provide sufficient information about the TPS's plan to

- i. pause the use of the technology,
- ii. evaluate the risk of any potential harms resulting from the use of the technology, and
- iii. provide a comprehensive plan to mitigate identified risks.

Failure to address these elements of Section 19 significantly increases the risk of potential violations of the Ontario's *Human Rights Code*.

If the materials currently provided are solely for risk identification purposes, the OHRC looks forward to reviewing the full assessment report and plan, as required by section 19 of the TPSB's AI policy.

We are aware that transparency and public consultations regarding these assessments are important to ensure public trust in policing and implementation of a human rights approach. Thus, the OHRC encourages the TPS and TPSB to take these important steps as soon as possible.

The OHRC was pleased to provide its input in developing the TPSB's Use of AI policy and is happy to assist the TPS and TPSB in the implementation of that policy, to ensure the safe use of AI in policing.

Sincerely



Patricia DeGuire
Chief Commissioner

c.c. Dubi Kanengisser, Executive Director, Toronto Police Services Board

Place of Origin a Ont Human Rights Protected Ground

Audio from Online Video of Protest on 401 Bridge

<https://www.youtube.com/watch?v=ipkPq89t9PI>



**We got the Zionist national anthem coming up right
now**

The Zionist national anthem

Fuck Israel all day every day

Fuck Israel from our last breath

Fuck Israel if I am in jail or if I get shot

Fuck Israel,

Fuck Zionism

Fuck you and Fuck you

Fuck Israel

Fuck Israel Fuck you

You may be winning now but you

Fuck you you colonial settlers

Go back wherever you came from

Mother fuckers



Pro Israel Supporters Show Up At Palestine Protest In Toronto

 splashto
6.95K subscribers

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MOVE ISRAEL TO FORIDA

Sign at 401 bridge demonstration had a swastika inside Star of David

A synagogue a block away





Speaker also rallied against LGBT education in schools



Connections between anti-Zionism and Anti-Semitism and Anti-LGBT rights

