



**Independent Expert Assessment Report:  
Toronto Police Service  
Race-Based Data Collection Strategy Phase I**

Submitted to

**Toronto Police Services Board  
and  
Toronto Police Service**

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## Brief Biographies of Authors

**Dr. Lorne Foster** is a Full Professor and the Director, Institute for Social Research (ISR) at York University, which is a leading university-based survey research centre in Canada. He holds the York Research Chair in Human Rights and Black Canadian Studies (Tier 1). He also created the Diversity & Human Rights Certificate (DHRC), established in association with the Human Resources Professional Association (HRPA). This initiative is the first academic-industry partnership sponsored by a regulatory organization. His work on public policy formation and scholarship on the human rights approach to inclusive organizational change ranks among the best in its field and has consistently helped to open doors to new scholarly explorations through a synergistic laboratory of academic-and-industry collaborations.

**Dr. Les Jacobs** is a Full Professor and the Vice-President, Research and Innovation, at Ontario Tech University. Previously, he held at York University the York Research Chair in Human Rights and Access to Justice (Tier 1) leading the new Access to Justice Data Science Lab, while serving as Director of the Institute for Social Research. He completed his PhD at Oxford University. He joined Ontario Tech University and York University after having held full-time teaching positions at the University of British Columbia and Magdalen College, Oxford University. He was appointed a Fellow of the Royal Society of Canada (FRSC) in 2017 for his internationally recognized data science contributions to equality of opportunity, human rights, and access to justice research.

For over a decade, Drs. Foster and Jacobs have worked in partnership with police services and public sector agencies across the province in areas of data collection and human rights, focusing in particular on human rights projects engaging racialized communities. They work together with the Ottawa Police Service (OPS) on the two largest Race Data Traffic Stop Projects in Canadian policing history. They collaborated with the Windsor Police Service (WPS) to conduct a program evaluation, using a human rights lens, examining all of their operational policies and regulations. They served as expert consultants for the Ontario Government and the Anti-Racism Directorate (ARD) on the formation of the *Anti-Racism Act, 2017*, and the development of the first Anti-Racism Data Standards (Standards) for collection, use and management of race data. They served as expert consultants for the Honourable Justice Michael Tulloch on both the Independent Oversight Review and the assessment of the police civilian oversight bodies – the Special Investigations Unit (SIU), the Office of Independent Police Review Director (OIPRD) and the Ontario Civilian Police Commission (OCPC); and the Independent Street Check [Carding] Review. They collaborated with the Ontario Government and the Cabinet Office (CO) on a whole-of-government review of the Workplace Discrimination and Harassment Policy (WDHP) and Respectful Workplace Practice (RWP). They continue collaborations with various police services – including Waterloo Regional Police Service (WRSP), Ottawa Police Service (OPS), Peel Regional Police (PRP) and York Regional Police (YRP) – to help develop race data collection strategies for all their interactions with the public. Their major academic publications include *Racial Profiling and Human Rights in Canada: The New Legal Landscape* (Irwin Law Books, 2018).



## Executive Summary

In a complex and multi-racial society like Canada, race-based data collection can provide measurable evidence to address inequities, racism, and discriminatory practices. Quantitative indicators can highlight stark inequities in systems and organizations, providing evidence to decision-makers to show clear patterns and trends. Without comprehensive data, the quality of decision-making, the allocation of resources, and the ability to understand the social and economic realities of the country is severely impaired. At present, race-based data is primarily collected in only a few key systems, including health care, education, and more narrowly in the justice sector. Regrettably, the need for rigorous data is far greater than the inadequate collection approaches that result in limited data availability.

To address increased data comprehension in contemporary policing, the Toronto Police Service (TPS) has introduced the Race and Identity-Based Data Collection (RBDC) Strategy. The RBDC Strategy expects to build a robust and comprehensive analysis framework that can extend to different types of interactions, including use of force and strip searches in arrests, release, charges, searches and apprehensions. This will support training; monitor and evaluate policies, procedures, and practices; and, facilitate understanding of any potential systemic racial disparities in policing outcomes.

This report serves as an independent expert assessment of the activities of the RBDC Strategy, with a special focus on the first phase of race-data collection and analysis in Use of Force (UoF) and Strip Search (SS) activities. It takes as a central premise that the police profession is vital to the good functioning of a democratic society.<sup>1</sup> In this respect, modern policing can be assisted by human rights based data collection with a view to eliminating discrimination in the delivery of services in policing, and advancing evidence-responsible relationships with equity-deserving groups. As the Ontario Human Rights Commission (OHRC) noted, data collection for a purpose consistent with the *Human Rights Code* can be a very useful and often essential tool for achieving strategic organizational, human rights, equity and diversity goals.<sup>2</sup> Hence, comprehensive race data collection in a human rights-observant context is an indelible link between law enforcement and a sustainable, equitable and democratic social order.

The key assessments in this report include:

- The TPS RBDC strategy reflects the best practices for race data collection from a human rights perspective and is a model for other police services in Canada.
- The comprehensive approach to race-based data collection taken by the TPS is especially valuable because it lays the groundwork for undertaking analysis and reporting that examines issues of systemic racism across the service.
- The principled approach to race-based data analysis exemplifies the best practice standards of international human rights organizations.
- A major weakness in the RBDC stakeholder engagement is that there has not been sufficient consultation with Indigenous communities (e.g., specific to issues of Indigenous data sovereignty, data governance and data sharing agreements).

- The employment of multiple benchmarks in race data analysis has great promise for uncovering any potential racial incongruities.
- The strength of the UoF and SS analysis plans is the commitment to in-depth, multi-faceted analysis that links race data from UoF and SS incidents to other sources of data.
- The 2020 TPS findings on UoF and SS demonstrate an advanced level of objectivity and measurability through careful statistical applications and an appropriate multiple benchmarking approach, which inform the findings about racial disparities.
- The 2020 TPS findings on UoF and SS reveal concerning levels of racial disparities.

*The Strengths of the RBDC Strategy:*

- The RBDC Strategy introduces race as a primary unit of analysis, in broad alignment with the Race Data Standards set out in the *Anti-Racism Act, 2017* (ARA), designed in part to make visible systemic racism in policing through the collection and analysis of disaggregated race data. Race-based data has seldom been part of Canadian information systems to date.
- The TPS's Equity, Inclusion and Human Rights Unit (EIHR) plays an essential role in the administration of the RBDC Strategy and is well positioned and qualified in data science to provide in-house administration of a multifaceted data collection and complex analysis to support the Policy's purpose to identify, monitor and eliminate potential systemic racism and racial bias in policing.
- The RBDC Strategy, administered by the EIHR, is a key platform in the construction of new data infrastructure to fuel progressive change and innovation in policing that –
  - a) Uses disaggregated data and applies an intersectional lens.
  - b) Introduces multiple benchmarking in UoF and SS for comparative focus and scalable racial disproportionalities and disparities.
  - c) Accounts for relevant factors and creates a context for a nuanced picture.
- The RBDC Strategy is important to contextualize the frequency and magnitude of UoF and SS, the factors influencing UoF and SS decisions, the safety and effectiveness of UoF and SS intervention options, and the development of best-practice officer training in de-escalation techniques, and other anti-discrimination initiatives. Without race-based data, systemic changes that address inequality and discriminatory policies and practices will be more difficult to accomplish.
- The RBDC Strategy integrates anti-racism data standards but also measures to mitigate the risk of harm. These measures include ensuring privacy, security and confidentiality; training staff to collect data; and committing to transparency and accountability for its use. Community engagement is also incorporated to inform collection, analysis and reporting.

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- The RBDC Strategy seeks to encourage shifts of awareness and practice, by centering racial equity and community voice within the context of data integration and use.
  - The RBDC Strategy is calculated to phase-in and scale up data collection gradually to grow data comprehension over different police interactions, and to enable organization-wide changes in internal information systems.

*Limitations of the RBDC Strategy:*

- Building data infrastructure without a strong human rights lens to contextualize understanding of historical and structural disadvantage of racialized and marginalized groups will exacerbate existing inequalities along the lines of race, gender, class, and ability. In order to prevent bias in data and ensure the RBDC Strategy systematically promotes racial equity and the public good, it must be more sharply focused through a human rights lens that is explicit and operationalized.
- Many Indigenous and Black communities plagued by data inequities strongly emphasize the importance of engagement, transparency, and ownership and control of information emanating from their communities (including how it is collected, used, managed, analyzed, interpreted, and reported publicly). Indigenous nations, in particular, seek to exercise Indigenous data sovereignty through the interrelated processes of Indigenous data governance and decolonizing data.<sup>3</sup> Black communities have also called for all research on or involving members from their community to give respect to community members' perspectives, knowledge and values.<sup>4</sup> The RBDC Strategy lacks specific attention 'data sharing agreements'<sup>5</sup> with Indigenous and Black communities and their representatives and partners in an effective way to respect Indigenous and Black interests in data governance.

*Concerning Findings of Phase 1:*

2020 Use of Force Race Data:

- There are concerning differences by race in use of force incidents, with Black persons accounting for almost 40% of those individuals involved, compared to their presence in enforcement actions (24%) or in the resident population (10%).
- Members of the public involved in a UoF incident inevitably experience different levels of force, some perceived as more life-endangering or psychologically damaging than others. The TPS data for 2020 shows that there are significant racial differences in these experiences, and that the experiences of Black



individuals were more likely to be perceived as life-endangering or psychologically damaging interactions.

- The findings suggest that concerns by the officer that a person may have a weapon did not account for the racial differences in experiences with more life-endangering levels use of force. Nor does the history of offences by a person account for racial differences in use of force incidents.

#### 2020 Strip Search Race Data:

- In October 2020, TPS implemented a new search of persons procedure that included the requirement that all strip searches must be authorized by a supervisor. Strip searches were 6 times more likely under the old procedure than under the new one.
- There was some over-representation by race in strip searches following an arrest, including for Indigenous, Black and White persons.
- White subjects made up almost half of the subjects who were strip searched following an arrest, significantly lower than their percentage in the arrest population. Black subjects made up 31% who were strip searched following an arrest, significantly higher than their percentages in the arrest population.
- Indigenous subjects made up 4% of strip searched and 3% of those arrested. While these are relatively small proportions, they were over-represented in strip searches (1.3X) compared to their presence in all arrests. Other racialized groups were under-represented in strip searches relative to arrests.

#### *Recommendations to improve the RBDC Strategy:*

- A. Prompt public reporting of all race-based data findings.
- B. Develop and implement an Indigenous engagement strategy for race-based data collection.
- C. Focus on internal engagements within the TPS community.
- D. Use well established racial disproportionality and disparity indices to identify the significance of UoF and SS findings to set progressive performance targets to reduce racial disparities.
- E. Increase the collection and analysis of intersectional subject data for future reporting.
- F. Continual improvement of the linking of TPS data in all administrative systems.



G. Incorporate 2020 and future UoF and SS race data findings into routine governance and operational processes.

H. Involve human rights experts in police training.

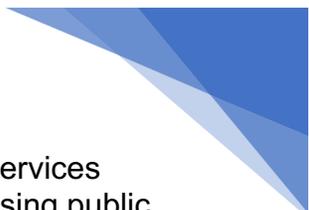
## Introduction

The application of a human rights lens on use of force and other interactions with the public has been an important recent development in the scrutiny of police services in democratic societies around the world, including Canada. The international human rights system provides the context for the application of a human rights lens on policing in Canada. That system recognizes the police profession is vital to the well-being of any democratic society. This was implicitly recognized in the Universal Declaration of Human Rights<sup>6</sup> more than seven decades ago, and has been explicitly stated in many United Nations human rights instruments that followed – including the Code of Conduct for Law Enforcement Officials,<sup>7</sup> The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials,<sup>8</sup> and a host of other declarations and guidelines.<sup>9</sup>

A central theme of international human rights instruments is that police services that respect human rights will gain benefits that advance the very objectives of law enforcement, while at the same time build a law enforcement structure that does not rely on fear and raw power, but rather on integrity, professionalism and legitimacy. Respect for human rights by policing agencies actually enhances the effectiveness of those agencies. When police are seen to respect, uphold and defend human rights:

- Public trust is built and community cooperation is fostered;
- Police are seen as part of the community, and performing a valuable social function;
- A contribution is made to the peaceful resolution of conflicts and complaints;
- Legal prosecutions are successful in court;
- The fair administration of justice is served and, consequently, confidence in the system is enhanced;
- An example is set for others in society to respect the law;
- Support is elicited from the media, from the international community and from political institutions.
- Police are seen as not only exercising power but also embodying legitimate authority.<sup>10</sup>

Applying human rights values is a vital tool for effective policing in today's world. Members of the public feel more confident in dealing and partnering with police and are more likely to respect, trust, and cooperate with police services when they feel the police respect their individual rights. Human rights base data collection can help build this kind of positive relationship between police and all of the communities they serve.<sup>11</sup>



However, racial differences in the use of force and strip searches by police services across Canada, and Ontario in particular, have become the subject of increasing public scrutiny and reproach. The collection and analysis of disaggregated race data for these types of interactions with the public has increased in tandem, as it has also become more apparent that high quality human rights based disaggregated data is crucial to better understand and reduce racial disparities and racial disproportionalities in these interactions. Indeed, in Ontario, race data collection by police services has been mandated by the provincial government through the *Anti-Racism Act, 2017*<sup>12</sup> and establishment of the *Data Standards for the Identification and Monitoring of Systemic Racism (Race Data Standards)*<sup>13</sup>.

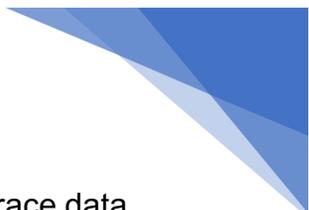
The Race Data Standards distinguishes between racial disproportionalities, racial disparities, and thresholds to indicate elevated levels of concerns. A racial disproportionality index is a measure of a racial group's overrepresentation or underrepresentation in the use of force or strip search by a police service relative to the group's representation in the community's population, either in terms of resident population or some subset such as those involved in police enforcement activities. A racial disparity index is a measure of group differences in incidents of use of force or strip searches by comparing those incidents for one racial group with those of another. Thresholds function to provide guidance about next steps and how to action findings from race data analysis of use of force or strip search incidents.

The ARA calls for the Province to address systemic racism and promote racial equity through a variety of means, including naming and addressing racism in all forms. Ontario's Race Data Standards were passed by Order in Council in April 2018 and provide police services with specific direction regarding the collection of race-based data. Ontario police services including the Toronto Police Service (TPS) are for the most part new to comprehensive disaggregated race data collection and analysis for in reporting on their interactions with the public.

## **PART 1: General Assessment of the TPS Race-Based Data Collection Strategy**

In September 2019, in alignment with the Anti-Racism Act and Race Data Standards, the Toronto Police Services Board (TPSB) approved the *Race-Based Data Collection, Analysis and Public Reporting Policy (Policy)* to identify, monitor and address systemic racial disparities in policing. The Policy builds on Ontario's Data Standards and was guided by the recommendations of its Anti-Racism Advisory Panel (ARAP). The purpose of the Policy are to:

- use race-based data collection, analysis and public reporting to identify, monitor and eliminate potential systemic racism and racial bias;
- improve the delivery of police services;
- preserve the dignity of individuals and communities; and
- enhance trend analysis, professional development and public accountability.



Employing a phased approach, the Toronto Police Service (TPS) examined race data collected as of January 1, 2020 for two interactions in Phase 1: Use of Force (as per the Province's regulation) and Strip Searches (in response to findings in the Office of the Independent Police Review Direction (OIPRD) 2019 report "Breaking the Golden Rule,"<sup>14</sup>). Phase two collection will expand to include other interactions – including arrests, charges, releases, diversions, and apprehensions (mental health and child protection).

The RBDC Strategy is not just about data collection and analyses. It encompasses five key elements necessary to build trust and undertake organizational change:

- internal change management
- training and governance
- communications
- information management
- community engagement

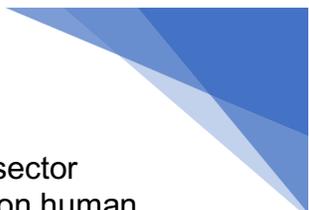
To carry out the Policy, TPS developed a Race and Identity-Based Data Collection (RBDC) Strategy, implemented by a dedicated team within the Equity, Inclusion and Human Rights Unit (EIHR). The work is steered by a Governance Committee with identified Implementation Leads from key TPS areas. The race-based data collection team provides subject matter expertise to:

- support the TPS;
- develop a comprehensive implementation process that integrates operational and analytical perspectives;
- engage internal and external stakeholders;
- conduct data analysis and reporting;
- form a community advisory panel to oversee analysis and reporting; and
- engage an independent researcher as per the Policy.

With race as a primary unit of analysis, the collection of data for Use of Force and Strip Search incidents began January 1, 2020. The primary objectives of the Equity, Inclusion, and Human Rights Unit (EIHR) analysis for Phase 1 was to:

- Use disaggregated data and apply an intersectional lens;
- Comparative focus –racial disproportionalities and disparities;
- Account for relevant factors and context for a nuanced picture;
- Establish thresholds to identify where differences are notable and require attention and action.

The TPS commissioned Dr. Lorne Foster and Dr. Les Jacobs for the period from July 9, 2021 to June 30, 2022 to undertake an assessment of the RBCD Strategy Phase 1 data, working closely with EIHR to help understand the approach and decisions made regarding the analysis of racial disparity. Drs. Foster and Jacobs have had



extensive experience working in partnership with police services and public sector agencies in areas of data collection and human rights, focusing in particular on human rights projects engaging racialized communities.

The TPS strategy reflects the best practices for race data collection from a human rights perspective and is a model for other police services across Canada. There are three features of the strategy that are especially noteworthy. The first is the recognition that proactive engagement with racialized communities in Toronto to create opportunities for input into the development of the strategy is foundational. This helps to ensure that the strategy meets the needs of racialized communities, especially around concerns about misuse of race data, reporting, and the implementation of recommendations. The second feature is the emphasis placed by the strategy on the collection and analysis of disaggregated race data. Historically in Canada, the absence of reliable disaggregated race data has made many racial disparities in policing invisible and difficult to report on. The strategy enables new in-depth analysis and reporting on possible racial disparities. The third noteworthy feature is the commitment in the strategy to exploring more complex analysis of the disaggregated race data, including intersectionality in the subject data and linking the data collected to other TPS data bases. These three unique features support the operationalization of a broader more textured analysis that considers both contextual and contributing factors for a better understanding of UoF & SS, which can lead to shifts of awareness and progressive practice.

## **PART 2: Assessment of the Race-Data Collection, Analysis and Reporting**

*Racial bias and stereotypes are obstacles to equity that are so formidable and self-perpetuating in our society and major institutions including criminal justice and policing that they cannot be overcome without deliberate and self-reflective intervention. These adjustments are more likely to be successful if they incorporate evidence-based understandings, derived most effectively through valid and reliable race-data collection.<sup>15</sup>*

*"The aim of comprehensive engagement is to develop policies and design services from the bottom up that respond more effectively to individuals' needs, build community capacities and are relevant to their circumstances. Here, police-community engagement is reframed to regard the public as citizens whose agency matters and whose right to participate directly or indirectly in decisions that affect them should be actively facilitated. Such an approach honours the fundamental principle of a democratic state — that power is to be exercised through, and resides in, its citizens."<sup>16</sup>*

### **Comprehensive Race Data collection**



In 2020, the TPS began collecting disaggregated race data, following the *Data Standards for the Identification and Monitoring of Systemic Racism*, for all recorded occurrences. These occurrences include all arrests and other enforcement actions. This comprehensive disaggregated race data collection is the first undertaken by any major police service in Canada.

A comprehensive approach to race-based data collection is especially valuable because it lays the groundwork for undertaking analysis and reporting that examines issues of systemic racism across the TPS. Instead of siloing race-data collection for a particular type of incident such as traffic stops or UoF incidents, the TPS has enabled analysis and reporting that connects incidents to internal occurrence benchmarks such as arrests or calls for service rather than just external benchmarks such as general population representation. In the case of UoF incidents, the 2020 reporting by the TPS provides a level of detail about use of force incidents that is entirely new in Ontario, in particular, through the linkage of Use of Force Reports to other incident reports.

### **Data Analysis Approach**

The data analysis approach consists of two main components to guide discussions and reflect the phased approach to policy implementation:

1. *Analysis Framework*: A general approach that applies across all interactions and includes theoretical framework, research objectives and main methodologies to be used in race-based data analysis.
2. *Analysis Plans*: Specific analysis plans are designed for each type of interaction to reflect the particular context, outcomes and technical limitations associated with the collection of data for each interaction. Separate analysis plans will be developed to understand different types of interactions, including use of force and strip searches in arrests, release, charges, searches and apprehensions.

In the end, the numbers alone can only give a partial understanding of the influence of policing practices, policies and procedures. To achieve the Policy's purpose to create action plans and address any systemic racial biases, the TPS recognizes quantitative results should be complemented with qualitative information gathered from interviews with officers, affected communities, stakeholders, and subject matter experts; include audits of policies, procedures, and practices; and allow for evaluation of training and its effectiveness.

From our perspective, the strength of the data analysis approach mirrors the value of the comprehensive race data collection. If this approach is applied consistently as race data analysis and reporting expands to include more and more activities of the TPS, it will ensure the quality and integrity of that analysis and reporting.



## Analysis Framework

The RBCD Strategy Phase 1 began with an Analysis Framework that lays out principles, objectives and methodological approaches applicable for the analysis of diverse interactions. This framework is founded upon four basic principles:

- Centre race and racial disparities
- Reflect engagement
- Use sound methods
- Solution-oriented

A principled approach to race-based data analysis like this exemplifies the best practice standards of international human rights organizations. The commitment in the analysis framework to being solution-oriented resonates especially strongly with the forward-looking human rights lens we apply in this independent expert assessment.

The four principles underlying the Analysis Framework are consistent with the principles of the United Nations Commission for Human Rights framework for a Human Rights Based Approach to Data (HRBAD)<sup>17</sup>:

- Participation
- Data disaggregation
- Self-identification
- Transparency
- Privacy
- Accountability

By organizing the data analysis framework around the principle of engagement in particular, the analysis framework promotes ethical decision making about analysis and reporting, which is a best practice for race-based data collection. Engagement informs internal and external stakeholders about what is valued by a particular organization, its employees, and management. Leveraging the data collection and values-based principles can inspire principled performance among employees, management and senior leaders, and align behavior with equity goals.

Engagement by the TPS requires input from internal Service members, community organizations, Indigenous communities, other key stakeholders and subject matter experts on the public reporting of race-based data, providing a roadmap facilitating the flow of data through the research process of collection, storage, cleaning, reduction, analysis, and finally reporting and recommendations.<sup>18</sup> From a human rights perspective, centering the data analysis framework in participation and engagement can help to ensure efforts and initiatives by police are relevant and in tune with local needs, improving public relations and perceptions of the process.<sup>19</sup>

TPS established a staged community engagement approach, which informed the framework, starting with identifying the different needs, interests and concerns of



relevant population groups. Regular consultations with key stakeholders, including policing experts, and organizations that reflect diverse communities, helped to ensure the consideration of multiple perspectives, and broad support for the approach could be achieved.

The three other principles are evident in the fact that the Analysis Framework supports different complementary approaches for understanding racial disparities and identifying possible solutions:

1. *Quantitative Analyses* to identify potential racial disparities and
2. *Qualitative Analyses* to uncover the assumptions, policies, procedures and/or practices that may be contributing to any disparities.

Race data analysis can help identify patterns of racial disproportionalities or racial disparities, and if so, the magnitude and changes over time. While it is important to understand trends and patterns within its appropriate context, the analysis is not expected to establish causal pathways or prove systemic racial bias exists, as the data is not appropriate nor fit for this purpose. ‘Replication’<sup>20</sup> and ‘triangulation’<sup>21</sup> are required going forward to increase the level of confidence in the findings. Repeat investigations that replicate the research studies, and further investigations using additional instruments that combine several research methods and ‘triangulate’ the study of the same phenomenon – such as qualitative interviews, reviews and audits of procedures, etc. – are required to help identify the root causes of any disparities found in quantitative analyses.

### **Community Engagement**

The principle of engagement is at its essence about conversations and dialogue, not merely information sharing. Extensive community engagement – both externally and internally – is fundamental for the successful development and implementation of any race-based data collection project. This engagement – hard conversations and open frank dialogue – should shape not only the nature of the data collection process, but also the data analysis and reporting.

Early and on-going engagement with racialized communities is a key best practice for the development of a race-based data collection strategy for any Canadian police service. This engagement helps to build trust with those communities, but just as important is that community engagement allows for information gathering that should shape substantially the actual strategy.

Over a five-month period from October 2019 to February 2020, the TPS had a series of community engagements. The 69 engagements involved 30 community organizations and 860 individuals. Geographically, these engagements occurred across the city. The engagements clearly targeted organizations tied to racialized communities in the city. An overview of the engagements was provided in an October 2020 report, *In the Communities’ Words: The Toronto Police Service’s Race-Based Data Collection*



*Strategy.* The engagements were also formalized in the creation of the Community Advisory Panel (CAP) in January 2021.

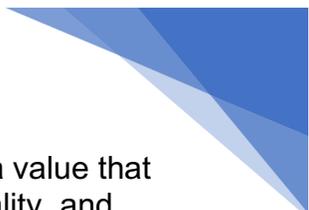
This level of initial community engagement provided an initial excellent partial foundation – partial, given the note below about Indigenous communities – for the TPS’ RBDC Strategy. EIHR must, however, continue to engage racialized communities across the city on the progress of the strategy. This ongoing engagement will translate into more organizations and individuals having a voice in the implementation of the strategy, including the development of action plans to follow up recommendations and the expanded scope for undertaking race-based analysis of different types of occurrences. Ultimately, the best practice is to have an iterative process of racialized community engagement beyond the creation of CAP.

It is noteworthy, however, that although consultations with Indigenous communities was a priority for engagement, a major weakness in the RBDC engagement is that there has not been sufficient consultation. The TPS recognized this weakness and has committed to a separate indigenous engagement strategy and reporting, but at this point this commitment has not been fulfilled. This is a serious shortcoming that should be addressed immediately. By design, consultations with indigenous communities for the purpose of race-based data collection should be iterative and ongoing throughout the development and implementation of the strategy.

The Toronto Police Service is in itself a very large, diverse community. The successful development and implementation of a RBDC Strategy requires support and “buy-in” from across the organization and principled champions across the ranks. Engagements – hard conversations and frank open dialogue, not just information sharing – within the TPS community that make transparent the human rights principles and purposes of race-based data collection are the best practice for effectively building that support and buy-in. This is particularly important with regard to data integrity and quality: primary data collection will be undertaken by frontline sworn officers and reviewed by their immediate supervisors. These officers and their supervisors need to not only receive mandatory training on race data collection, but just as important appreciate the value of the data collection as a human rights commitment. The latter is not an outcome that is guaranteed through mandatory training – it requires the sort of conversations and dialogue that are provided through genuine internal engagement. Although the TPS has undertaken considerable RBDC training and engagement, there is a need for ongoing strategic engagement around the importance of human rights with front-line sworn officers, especially as the 2020 Use of Force and Strip Search report is released and the use of comprehensive race data collection has a wider impact on TPS operations and activities.

## **Benchmarks**

A benchmark is a point of reference or a baseline against which outcomes may be compared, assessed or measured.<sup>22</sup> Benchmarks are integral to the calculation of racial disproportionalities and disparities, and for determining thresholds at which



disproportionalities and disparities require remedial action.<sup>23</sup> A threshold is a value that represents a ‘notable difference’ that if met or exceeded, indicates an inequality, and require attention and action.<sup>24</sup>

The RBDC race data analysis for 2020 reporting employed a multiple benchmarking strategy aimed at robust statistics that can yield dimensionality and nuance for uncovering any potential racial incongruities. Using the appropriate benchmark(s) to represent the exposure of an at-risk or subject magnitude of racial disproportionalities and disparities in particular outcomes is fundamental. The different nuanced stories that multiple benchmarks help to tell gives us a fuller picture.

The RBDC Strategy employs three prominent benchmarks:

1. *Resident Population Benchmark* – the most commonly used external baseline.
2. *Enforcement Actions Benchmarking* – populations experiencing enforcement actions (i.e., arrest, cautions/tickets for serious provincial offences, apprehensions, diversions, “subject” or “suspects”).
3. *Arrests Benchmarking* – populations arrested.

Resident population benchmarking is a common default approach in data collection that relies on the local resident population as a baseline to identify any disproportionate impacts of policing. Such a general population benchmark used to identify disproportionalities, whether or not it is adjusted for age or by different geographic entities (i.e., census tract, subdivision, metropolitan area, etc.), reflects the cumulative impacts of various systems, institutions, and societal dynamics that contribute to the over-representation of specific groups in particular policing outcomes, including but not exclusively, the role of policing. Enforcement action benchmarking and arrest benchmarking afford the opportunity to drill down into the interstices of police-civilian service types, area characteristics and other factors that contribute to the influence of police practices, policies and procedures. More concretely, this sort of benchmarking can inform solutions that are designed to reduce racial disproportionalities and disparities.

### **Analysis plans for each Use of Force and Strip Search interactions**

The EIHR Phase 1 disaggregated data analysis specific to Use of Force (UoF) and Strip Searches (SS) explores racial disproportionalities and the magnitude of the variances in outcomes pertaining to UoF and SS incidents involving the Toronto Police Service. Prior reporting by the TPS did not provide disaggregated race data. Though the absence of race data analysis may give the semblance of equal treatment, colour-blind data analysis can actually keep us from tackling important problems of systemic racism by making invisible disparities that exist between racial groups. Without race-based data, systemic changes that address inequality and discriminatory policies and practices will be more difficult to accomplish.



The TPS approach to the analyses of UoF and SS incidents, as outlined in the RBDC Analyses Framework, means the focus is on identifying disparities and disproportionalities based on race, as well as any intersections with gender, age and other attributes, that may have negative impacts on people's experiences of and trust in police. The analysis plans also consider calls for service or incidents involving specific offences that reflect the level of need of a particular community. Having accurate location data for all interactions that are part of the reference population (i.e., enforcement actions) can provide insights about what works and does not work in different locations across the city.

The strength of these plans is the commitment to in-depth, multi-faceted analysis that links race data from UoF and SS incidents to other sources of data. This analysis plan has immense promise, especially for the purposes of finding solutions for systemic racism in policing.

### **PART 3: Assessment of Use of Force and Strip Search Race Data Analysis for 2020**

As noted above, in 2020, the TPS began collecting disaggregated race data, following the *Data Standards for the Identification and Monitoring of Systemic Racism*, for all recorded occurrences. These occurrences include all arrests and other enforcement actions. This comprehensive race data collection covered all Use of Force (UoF) and Strip Search (SS) Incidents. Phase 1 of the RBDC strategy requires the EIHR to undertake an analysis of the 2020 data for these two types of interactions with the public. These two types of interactions have for racialized communities raised elevated levels of concerns about racial disproportionalities and racial disparities.

Comprehensive race data collection by the TPS is important to contextualize the frequency and magnitude of UoF and SS, the factors influencing UoF and SS decisions, the safety and effectiveness of UoF and SS intervention options, and the development of best-practice officer training in de-escalation. The 2020 TPS findings on UoF and SS demonstrates an advanced level of objectivity and measurability through careful statistical applications and an appropriate multiple benchmarking approach, which inform the findings about racial disparities. The introduction of new race data collection fields and procedures to an existing data collection system was a formidable one that posed unique methodological and reporting opportunities and challenges.

#### **Use of Force Findings**

The EIHR analysis finds that the TPS had 692,837 interactions with the public, with only 949 constituting reportable UoF incidents. These incidents involved 1,224 members of the public. The police pointed firearms in 371 of incidents; in four of these incidents firearms were discharged, resulting in fatal injuries for two members of the public. The 2020 race data analysis and reporting by the TPS provides a level of detail about use of

force incidents that is entirely new in Ontario, in particular, through the linkage of Use of Force Reports to other incident reports.

The introduction of disaggregated race data collection for UoF incidents in 2020 enables, among the 1224 members of the public involved in these incidents, a comprehensive analysis of the racialized persons subject to use of force by the TPS.

**Table 1: An Overview of the Race Data Analysis for Use of Force Incidents in 2020**

<b>Race Group</b>	<b>Proportional Involvement in Use of Force Incidents</b>	<b>Proportion of Toronto Resident Population</b>	<b>Benchmark: Ratio of Share of UoF Incidents to Share of Resident Population (Disproportionality Index)</b>
<b>White</b>	36.1% (442 persons)	45.8%	0.8 times (under-represented)
<b>Black</b>	39.4% (482 persons )	10.2%	3.9 times (over-represented)
<b>East/Southeast Asian</b>	8.5% (104 persons)	20.7%	0.4 times (under-presented)
<b>Indigenous</b>	2.1% (26 persons)	0.9%	2.3 times (over-represented)
<b>Latino</b>	4.0% (49 persons)	3.2%	1.3 times (over-represented)
<b>South Asian</b>	4.0% (49 persons)	14.7%	0.3 times (under-represented)
<b>Middle Eastern</b>	5.9% (72 persons)	5.5%	1.1 times (over-represented)

Using a benchmark of resident population, the findings in Table 1 make evident that four racialized communities are over-represented in UoF incidents compared to their proportion of the resident population of the City of Toronto. This over-representation is especially evident for Black residents and Indigenous residents, although for the latter group the small numbers may distort the statistical significance of this over-representation. When other benchmarks are used such as enforcement action population, the overrepresentation of Black and Indigenous persons in use of force incidents is lower, but still present. The use of these multiple benchmarks provided in the analysis and reporting by the TPS is an especially valuable way to demonstrate the pervasiveness of this overrepresentation.

Another strength of the 2020 analysis and reporting is the exploration of racial differences in the exercise of levels of force. UoF incidents involve the exercise of different levels of force – physical force, less than lethal force, handgun drawn, firearm pointed – by police officers as they attempt to deescalate an incident. In other words, members of the public involved in a UoF incident inevitably experience different levels of force, some perceived as more life-endangering or psychologically damaging than

others. The TPS data for 2020 show that there are significant racial differences in these experiences, and that the experiences of Black individuals were by far the most likely to be perceived as life-endangering or psychologically damaging interactions.

Robust analysis of the UoF race data was also facilitated through links to other TPS data. Individual UoF incidents were linked to general occurrence data in 93.6% of the cases, which allowed for more indepth, contextualized analysis. In most cases, this data included call for service details. These findings suggest that concerns by the officer that a person may have a weapon do not account for the racial differences in experiences with more life-endangering levels use of force. Nor does the history of offences by a person account for racial differences in use of force incidents.

Interpreting racial disproportionalities and disparities is a critical step in identifying a potential threshold for notable racial inequalities and actionable insights.<sup>25</sup> The EIHR Phase 1 reporting did not establish appropriate and meaningful thresholds to identify where differences are notable and require attention and action. This is not to say that significant racial differences were not found in UoF reporting for 2020. Rather, this initial round of race-based UoF data collection did not have any basis for comparison to previous years. The inability to make comparisons against cross-sector and national findings, as well as the lack of established thresholds in prior studies and research literature, means the question of appropriate thresholds for UoF could not be adequately addressed, but should be addressed in future reporting.

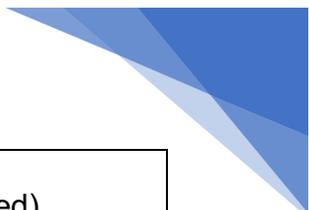
### **a) Strip Search Findings**

The TPS made 31,979 individual arrests in 2020, with 7,114 involving strip searches. It is notable, however, that only 354 of these strip searches occurred in the last three months of the year. In October 2020, TPS implemented a new search of persons procedure that included the requirement that all strip searches must be authorized by a supervisor. Strip searches were 6 times more likely under the old procedure than under the new one.

The comprehensive race data collection approach by the TPS has enabled insightful benchmarking for the strip search analysis and reporting. For example, the fact that race data for all arrests in 2020 has been collected means that arrests can be used as a benchmark, which is more meaningful than resident population. When race data for strip searches is disaggregated, in comparison to the proportion of arrests, the findings reveal over-representation for white, black, and indigenous persons, as reported in Table 2.

**Table 2: Race Differences in Strip Searches as a Proportion of Arrests**

<b>Race Group</b>	<b>Proportion of Strip Searches</b>	<b>Proportion of Arrests</b>	<b>Ratio of Share of Strip Searches to Share of Arrests (Disproportionality Index)</b>
<b>White</b>	45.5% (3240 persons)	42.6%	1.1 times (over-represented)



<b>Black</b>	31.2% (2223 persons )	27.0%	1.2 times (over-represented)
<b>East/Southeast Asian</b>	4.1% (295 persons)	6.4%	0.6 times (under-presented)
<b>Indigenous</b>	4.0% (286 persons)	3.1%	1.3 times (over-represented)
<b>Latino</b>	1.8% (126 persons)	2.5%	0.7 times (under-represented)
<b>South Asian</b>	3.4% (241 persons)	5.4%	0.6 times (under-represented)
<b>Middle Eastern</b>	2.9% (206 persons)	4.7%	0.6 times (under-represented)

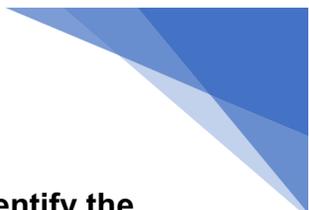
As Table 2 shows, the over-representation for the Black community is far less than what was found in the use of force data, but still concerning. Some other racialized groups who were over-represented in the use of force data are under-represented in the strip search data. Like UoF reporting for 2020, the EIHR Phase 1 reporting on strip searches did not establish appropriate and meaningful thresholds to identify where racial differences are notable and require attention and action.

**Recommendations**

Our independent assessment of the race-based data collection activities of the Toronto Police Service (TPS) since 2020, with a special focus on race-data collection and analysis in Use of Force (UoF) and Strip Search (SS) reporting is very positive, finding that the TPS has made immense strides with its RBDC Strategy in its first year, but also noting that there is still room for improvement.

The following eight recommendations are intended to provide guidance on how to make those improvements:

- A. **Regular Prompt Public Reporting of all Race-Based Data Findings** – Ensure that the public reporting of racial disparities in Use of Force and Strip Search incidents is transparent and prompt in order to fulfil the public sector obligations under the *Anti-Racism Act, 2017* (ARA) to eliminate systemic racism and advance racial equity. Prompt transparent reporting is fundamental for the Toronto Police Service to build trust with the racialized communities most affected by these incidents.
- B. **Implement an Indigenous Community Engagement Strategy for Race-based Data Collection:** This commitment is foundational for the TPS going forward.
- C. **Continue Meaningful Internal Engagements with Stakeholders across the TPS Community:** These engagements are key to ensuring the collection of high quality race data.

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- D. **Introduce racial disparity and disproportionality thresholds to identify the significance of UoF and SS findings** – In conjunction with *Data Standards for the Identification and Monitoring of Systemic Racism* and through engagement with racialized communities, explore disproportionality and disparity indices that can be used to establish threshold values for acceptable variances for all UoF and SS race data findings.
  - E. **Set Progressive Annual Performance Targets to Reduce Racial Disparities** – In consultation with racialized communities, performance targets and action plans to achieve those targets provide accountability measures that can be assessed in future UoF and SS reports.
  - F. **Continue to Increase the Collection and Analysis of Intersectional Subject Data for Future Reporting** – Race data often intersects with other vulnerable subject data such as gender, age, religion, sexual orientation, gender identity, ethnicity, and disability. An intersectional perspective on UoF and SS incidents links interdependent structural vulnerabilities and deepens the insight that there is diversity and nuance in the ways in which people are situated in police interactions.
  - G. **Incorporate 2020 and Future UoF and SS race data findings into routine governance and operational processes** to inform equity decision-making and better align with best practices in race-based data collection, analysis, and reporting.

Self-Standing Recommendation:

- H. **Involve Human Rights Experts in Training** – The *Police Services Act, Declaration of Principles* recognizes the importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*. However, in the past, although there has been some effort to incorporate human rights training in policing projects, this has been neither extensive nor intensive enough to develop real commitment in practice to human rights. Wherever possible it is desirable to involve local human rights experts in this training and to ensure that officers at all levels are fully exposed to it.

## Endnotes

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<sup>5</sup> Anti-Racism Directorate. (2018). *Data Standards for the Identification and Monitoring of Systemic Racism* (Standards), pp 10. <https://www.ontario.ca/document/data-standards-identification-and-monitoring-systemic-racism>.

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<sup>9</sup> The Law on Use of Force is identifying the human rights standards in question is embedded in the following instruments, including: the UN General Assembly, (1966) *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, *Treaty Series*, 999. <https://www.refworld.org/docid/3ae6b3aa0.html>; the Office of the United Nations High Commissioner for Human Rights. (1975). Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. <https://www.ohchr.org/en/professionalinterest/pages/declarationtorture.aspx>; UN Human Rights Office of the High Commissioner. (1975). *Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. <https://www.ohchr.org/en/professionalinterest/pages/declarationtorture.aspx>; UN General Assembly, (1963). *United Nations Declaration on the Elimination of All Forms of Racial Discrimination*, A/RES/1904, <https://www.refworld.org/docid/3b00f06558.html>; The United Nations. (1966). *International Convention on the Elimination of All Forms of Racial Discrimination*. Treaty Series 660. [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-2&chapter=4](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4); Un General Assembly, (1976). *Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid*. A/RES/31/80 <https://www.refworld.org/docid/3b00f0382c.html>; UN General Assembly (1948) *Convention on the Prevention and Punishment of the Crime of Genocide*, United Nations, Treaty Series, vol. 78. <https://www.refworld.org/docid/3ae6b3ac0.html>; United Nations (1955). *Standard Minimum Rules for the Treatment of Prisoners*, 30 August, <https://www.refworld.org/docid/3ae6b36e8.html>; and United Nations. (2005). Vienna Convention on Consular Relations 1963 Done at Vienna on 24 April 1963. Entered into force on 19 March 1967. United Nations, *Treaty Series*, vo1. 596, p. 261 [https://legal.un.org/ilc/texts/instruments/english/conventions/9\\_2\\_1963.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/9_2_1963.pdf).

<sup>10</sup> Lasso, J. A. Ibid. at vi.

<sup>11</sup> Ontario Human Rights Commission. (2011). *Human Rights and Policing: Creating and Sustaining Organizational Change*. Toronto: Government of Ontario, pp. 9.

<sup>12</sup> [https://www.ontario.ca/laws/statute/17a15?\\_ga=2.195057768.559027487.1626630579-1229155316.1572535711](https://www.ontario.ca/laws/statute/17a15?_ga=2.195057768.559027487.1626630579-1229155316.1572535711).

<sup>13</sup> Anti-Racism Directorate. (2018). *Data Standards for the Identification and Monitoring of Systemic Racism* (Standards). <https://www.ontario.ca/document/data-standards-identification-and-monitoring-systemic-racism>.

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<sup>25</sup> Anti-Racism Directorate. (2018). *Data Standards for the Identification and Monitoring of Systemic Racism* (Standards), pp. 50. <https://www.ontario.ca/document/data-standards-identification-and-monitoring-systemic-racism>.