



Racial Equity Impact Assessment of TTC Enforcement Activities

Date: April 14, 2021

To: TTC Board

From: Chief Diversity and Culture Officer

Summary

In December 2020, the TTC committed to a 10-Point Action Plan to build greater diversity and inclusion. Acknowledging a history of systemic racism and bias, the TTC continues to focus on implementing targeted initiatives to identify, address and prevent systemic racism and create an organization that is inclusive for customers and employees. This work is supported through the TTC's commitment to a system wide Anti-Racism Strategy.

As noted in the December 2020 report to the TTC Board, the Third-Party Review of Data in Several Key Areas, (Action Item 3) is critical for systemic change.

In 2019, the TTC retained Dr. Akwasi Owusu-Bempah and Dr. Scot Wortley, researchers with the University of Toronto, to conduct an independent review of the historical customer data derived from the TTC's Fare Inspector and Special Constable Service activities (the Racial Equity Impact Assessment). Their assessment and inquiry employs a variety of research and investigative techniques intended to:

- Identify racial disparities in key enforcement outcomes;
- Determine the causes of these disparities; and
- Identify appropriate measures for reform.

Having completed their Phase One review, the researchers found that between 2008 and 2018, both Black and Indigenous people were over-represented in TTC enforcement incidents, and in both TTC charges and cautions. Reference to enforcement activities includes cautions and charges related to fare inspection, and safety and security incidents.

The findings further support the critical need for the TTC's ongoing work to identify, prevent and address racism, anti-Black racism and anti-Indigenous racism, in the workplace and in the delivery of services, and to build trust with Black, Indigenous and racialized communities.

The TTC received the report late last year and has taken the information to heart. In addition to the TTC's commitment to a system wide Anti-Racism Strategy, in December, the TTC Board endorsed the TTC's 10-Point Action Plan for Diversity and Inclusion. The

Plan represents 10 things the TTC can do and is doing right now to improve the experience for both employees and customers.

The TTC has already begun to make changes based on the Phase One Report. These changes include:

- The Special Constable Service and Revenue Protection Departments now report to the Chief Customer & Strategy Officer, a critical component of reorienting their mandate, goals, and values.
- The TTC continues to work on culture change within the Revenue Protection Department and the Special Constable Department through our Culture Change Program which includes Structuring for Success, Rewriting Policies and Procedures, Implementing Supporting Technologies as well as Redesigning Training and Monitoring Systems.
- Upon commissioning the report, changes were made to the Fare Inspector and Special Constable training programs to include Ethical Decision Making and Recognizing Discretion, Recognizing Implicit and Explicit Bias.
- With respect to policy development, an initial review has been completed of the policies concerning the Use of Discretion and the Collection of Disaggregated Race-Based Data, including an initial review by Arleen Huggins. The TTC is currently in the process of a comprehensive stakeholder consultation process to move this recommendation forward. The TTC is also developing an Anti-Racism policy.

The comments section of this report:

1. Details the Phase One interim findings of the independent Racial Equity Impact Assessment (“REIA”) conducted by Dr. Akwasi Owusu-Bempah and Dr. Scot Wortley;
2. Outlines the Phase One REIA action plan by the Revenue Protection and Special Constable Departments at the TTC;
3. Details the planned next steps (REIA Phase Two) by Dr. Akwasi-Owusu-Bempah and Dr. Scot Wortley and;
4. Outlines TTC wide actions to further identify, prevent and address systemic racial discrimination.

Recommendations

It is recommended that the TTC Board:

1. Direct staff to report back on progress to implement the recommendations by Dr. Owusu-Bempah and Dr. Wortley through the regular reporting of the Revenue Protection and Special Constable Service Departments’ culture change reports.

Financial Summary

A total of \$2.4 million is included in the 2021 Operating Budget, approved by the TTC Board on December 21, 2020 and City Council on February 18, 2021 to support the anti-racism initiatives described in this report. This includes both previous base funding

and funds added as part of the 2021 Budget including three new positions for the TTC's Racial Equity Unit, dedicated to anti-racism initiatives, as follows:

- An Indigenous Consultant to support the roll out of anti-Indigenous racism training and assist with measures to remove barriers in employment and the delivery of services to our customers;
- A Racial Equity Education and Training Consultant to support the development and delivery of ongoing diversity, inclusion and anti-racism training initiatives at the TTC; and
- A Racial Equity Customer and Employee Engagement Consultant to advance employee and public consultations, including development of the TTC's Customer Racial Equity Advisory Committee and Employee Racial Equity Advisory Committee.

The funding also includes support for external services to provide anti-racism and confronting anti-Black racism training, data collection and analysis, the REIA, and public and employee consultations.

The Interim Chief Financial Officer has reviewed this report and agrees with the financial impact information.

Equity/Accessibility Matters

The TTC is committed to promoting and supporting diversity and inclusion in all policies, procedures, processes, programs, and services, to reflect and respond to the needs of our employees and customers.

The REIA of TTC enforcement activities conducted by Dr. Owusu-Bempah and Dr. Wortley has substantiated concerns of racial profiling and racial inequities impacting Black and Indigenous transit users.

To ensure that the voices of Black, Indigenous and racialized communities are included in advancing the TTC's understanding of this impact, Dr. Owusu-Bempah and Dr. Wortley will be conducting a series of focus groups with communities. These focus groups will commence in spring 2021 and will allow the researchers to learn more about the experiences of Black, Indigenous and racialized persons when using the TTC, their concerns about racial profiling and data collection in TTC transit enforcement activities, and their ideas about how to address and prevent racism on and within the TTC.

This information will inform the Phase Two report and recommendations to the TTC by Dr. Owusu-Bempah and Dr. Wortley, the results of which will be provided in a future update to the Board.

Decision History

At its April 11, 2019, meeting, the TTC Board adopted a Member motion requesting a report on policies and procedures currently in place to govern enforcement, training, collection, retention, access, sharing and destruction of personal information collected in respect of the TTC's Fare Inspection Program.

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

[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2019/April 11/Reports/Decisions/22 Request for Report on Policies Personal Information Fare .pdf](http://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2019/April%2011/Reports/Decisions/22%20Request%20for%20Report%20on%20Policies%20Personal%20Information%20Fare%20.pdf)

At its meeting on July 16, 17 and 18, 2019, City Council had before it the Ombudsman Toronto Enquiry Report: Review of the Toronto Transit Commission’s Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors

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

CC9.2 City Council adopted the recommendations contained within the Ombudsman Toronto report, and further directed the TTC to adopt the Toronto Action Plan to Confront Anti-Black Racism, work with the Confronting Anti-Black Racism Unit to address anti-Black racism through ongoing learning and development initiatives for all staff, and to review Transit Enforcement’s policies and practices with the anti-Black racism analysis tool. In addition, City Council requested that the TTC Board direct the TTC Chief Executive Officer to report to the Executive Committee in Q1 2020 on the TTC’s adoption of Toronto Action Plan to Confront Anti-Black Racism and status of implementation of the Ombudsman Toronto’s recommendations.

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

On December 15, 2020, the TTC presented the report, Embrace Diversity: The TTC’s 10-Point Action Plan and Five Year Diversity and Human Rights Plan. The report outlined the TTC’s commitment to advance its objectives around diversity and inclusion and the development of 10 items for immediate action through the 10-Point Action Plan.

[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2020/December 15/Reports/7 Embrace Diversity 10 Point Action Plan.pdf](http://www.ttc.ca/About%20the%20TTC/Commission%20reports%20and%20information/Commission%20meetings/2020/December%2015/Reports/7%20Embrace%20Diversity%2010%20Point%20Action%20Plan.pdf)

Issue Background

In April 2019 the TTC Board directed the CEO to report back on the policies and procedures currently in place that govern enforcement, training, collection, retention, access, sharing and destruction of all personal information collected as part of the Fare Inspection Program and that the report includes a breakdown of the demographic information of those individuals who have had their information collected over the past two years. That report was to include an Equity Impact Evaluation.

In March and July 2019, the Toronto Star published articles that raised concerns about the TTC Transit Enforcement Unit’s (TEU) practice of collecting and documenting customer data, including race-related data, following by-law infractions, and that racialized customers were disproportionately being targeted by the TTC. Additional concerns of racial bias and racial profiling were further raised by the Ombudsman Toronto in July 2019.

In response to the TTC Board’s directive and community and media allegations of racial bias, the TTC engaged independent experts Dr. Scot Wortley and Dr. Akwasi Owusu-Bempah to analyze this data and conduct a racial equity impact assessment of the activities performed by the former TTC Transit Enforcement Unit (now TTC Special

Constable Service and Revenue Protection Departments) and a review of its policy and training materials, with a focus on decision making and exercise of discretion. This assessment includes enforcement activities for the period of 2008 to 2018.

The independent review by Dr. Owusu-Bempah and Dr. Wortley supports TTC work to identify and monitor for racial disparities in enforcement activities.

Comments

1. REIA Phase One Interim Report

An executive summary of the Phase One interim report from Dr. Owusu-Bempah and Dr. Wortley, can be found in Attachment A of this report. The full report can be found at as Attachment C.

Dr. Owusu-Bempah and Dr. Wortley's Phase One report includes the following:

- Part B provides an analysis of TTC enforcement data, highlights possible explanations for the observed racial disparities, and provides suggestions for additional analysis to be conducted during the next phase of their work;
- Part C of the report documents the findings of focus group sessions with members of the Special Constable Service and Revenue Protection Departments (previously the Transit Enforcement Unit);
- Part D of the report presents an analysis of decision making and the exercise of discretion within the Transit Enforcement Unit. This part also provides a series of recommendations to guide further TTC policy development and inform practice; TTC Action Item & 2017 Ombudsman recommendation: develop a "Use of Discretion Policy (update to be provided in Q2 2021 to the TTC Board).
- Part E of the report provides a literature review on the use and effectiveness of body-worn cameras; and
- Part F presents a set of preliminary recommendations for the collection, analysis and reporting of race-based data; TTC Action Item: Develop a Disaggregated Race-Based Data Collection policy (update will be provided in Q2 2021 to the TTC Board).

Recommendations provided by Dr. Owusu-Bempah and Dr. Wortley for policies pertaining to the use of discretion and for the collection, analysis and reporting of race-based data can be found in Attachment B of this report.

As noted above, the TTC has identified two action items based on the Phase One review. Further details regarding TTC work to advance these items are noted in the management response (Phase One Action Plan) below.

2. REIA– Phase One Action Plan

The TTC is committed to ensuring that all customers are treated in a fair and equitable manner which prohibits racial discrimination in the provision of services. In response to racial bias allegations in enforcement activities (includes fare inspection, and safety and

security activities), the TTC stopped the collection of race-based data in early 2019. In order to identify potential problems or trends, proper collection of race-based data is required. The TTC will commence the collection of race-based data after new policies, procedures and training have been approved and implemented and after a public consultation process.

The Revenue Protection and Special Constable Service Departments are now acting on the preliminary recommendations contained in this report. Both departments continue to work closely with Dr. Owusu-Bempah and Dr. Wortley by participating in and learning from experts, community stakeholders and our customers. Departmental team members will continue to be engaged as we address the recommendations.

The recommendations in the Phase One REIA can be summarized in two key items:

1. The TTC should identify and reaffirm the mandate, goals and values of the Special Constable Service and Revenue Protection Departments and align these with the mandate, goals and values of the TTC; and
2. The TTC should develop policies, guidance, standards and training on the use of discretion and the collection and reporting of race-based data.

REIA Preliminary Action Plan

To address the recommendations contained within the Phase One Interim REIA, the following action plan has been developed:



Item # 1 – Identify and reaffirm the mandate, goals and values of the Special Constable Service and Revenue Protection Departments

The REIA includes recommendations regarding identifying and reaffirming the mandate, goals and values of the Revenue Protection and Special Constable Service departments. The progress to date is as follows:

- A reorganization of the Transit Enforcement Unit was initiated in early 2020 to split the department into two departments – Revenue Protection and Special Constable Service. This re-organization addressed the most urgent and important issue facing the Unit - changing the culture of the departments while enhancing their focus on the key priorities of transit safety, security and maximizing revenue protection.

- In July 2020, the Revenue Protection and Special Constable Service Departments moved from the Operations Group to the Strategy and Customer Experience Group. This signals the TTC's commitment to putting the customer at the centre while we modernize our service to better serve our customers and the residents of Toronto.
- TTC staff are in the process of reviewing the uniforms, training, customer service practices, mandates, job roles and the supporting organizational structures for the Revenue Protection and Special Constables Service Departments. This review will be conducted with the advice of the TTC's External Advisor on Diversity and Inclusion, Arleen Huggins.

Item #2 – Develop policies, guidance, standards and training on the use of discretion and the collection and reporting of race-based data

The development of policies and guidelines/procedures, especially public-facing policies, are complex and take time. The policies are grouped into several batches, starting with the Use of Discretion and Raced-Based Data Collection. An initial review has been completed of the policies concerning the Use of Discretion and the Collection of Disaggregated Race-Based Data, including an initial review by Arleen Huggins. Throughout the development process the TTC will engage in comprehensive consultations that include expert stakeholders, community stakeholders, City Councillors and members of the public.

New policies, procedures and training will guide the use of discretion and the collection, analysis, reporting and use of race-based data. These policies, guidelines and procedures will ensure greater transparency and accountability in order to provide transit services free from racial discrimination and intersecting forms of discrimination which are prohibited under the Ontario Human Rights Code.

Expert consultations were conducted in late March 2021 with key stakeholders, including:

- City of Toronto – Confronting Anti-Black Racism Unit
- City of Toronto – Indigenous Affairs Office
- Ombudsman Toronto
- Information and Privacy Commissioner of Ontario (IPC)
- Ontario Human Rights Commission

As result of these consultations, the Dr. Owusu-Bempah and Dr. Wortley along with TTC representatives, will engage with additional expert stakeholders. Community stakeholder consultations on the policies will be initiated in Q2 2021, with a primary focus on Black and Indigenous communities. These consultations will be facilitated by Dr. Akwasi Owusu-Bempah and Dr. Scot Wortley. Public and City councillor consultations will seek to validate the guiding principles of the policies.

A detailed implementation work plan to respond to all recommendations within this preliminary REIA will be presented to the Board at the June 2021 meeting. As we continue under the guidance of Dr. Owusu-Bempah and Dr. Wortley we continue to

revise the work plan in response to the expert, community and public consultations as we progress to the final recommendations in the Phase 2 REIA.

Culture Change Program in Revenue Protection (RP) and Special Constable Service (SCS)

The objective of the Culture Change Program is to have a revenue protection and safety and security service that is customer-focused and founded in respect and dignity for customers and fellow employees. In order to achieve this goal, improvements are required to the manner in which that work is done in these departments while considering recommendations from various third-party reports, expert and community consultations, the TTC's External Advisor on Diversity and Inclusion, Arleen Huggins and industry bench marking with our peers.

Key third-party reports that were used as inputs into the Culture Change Program include:

- 2017: Ombudsman Toronto Report: An Investigation into the Toronto Transit Commission's Oversight of its Transit Enforcement Unit;
- 2019: Ombudsman Toronto Enquiry Report: Review of the Toronto Transit Commission's Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors;
- 2019: Auditor General's (AG's) Report – Review of Toronto Transit Commission's Revenue Operations: Phase One – Fare Evasion and Fare Inspection;
- 2020: Confronting Anti-Black Racism (CABR) Unit internal report – An Initial Review of TTC Transit Enforcement Policies and Practices from an Anti-Black Racism Analysis; and
- 2020: Dr. Owusu-Bempah and Dr. Wortley – Toronto Transit Commission Racial Equity Impact Assessment: Interim Report.

In order to affect change internally and externally, we must take a holistic approach to change, and look at people, processes and technology in order to achieve the change objective. The RP & SCS Culture Change Program is founded upon four pillars:

- Structure for Success – standardize job titles in accordance with job titles across the TTC e.g. Sergeant becomes Supervisor. Also remove barriers in the recruitment, onboarding and performance evaluation processes to support diversity and inclusion;
- Rewrite policy and procedures – in alignment with third-party reports;
- Implement supporting technologies – Body Worn Camera (BWC), In car camera (ICCS), Mobile Bylaw Ticketing, SCSRP to enhance Revenue Protection and Special Constable Service Programs; and
- Redesign training and monitoring systems – to ensure Revenue Protection and Special Constable staff meet the multiple objectives of safety, security, revenue protection and TTC brand ambassadors (Culture Change).

In June 2021, a progress report on the Revenue Protection and Special Constable Service culture changes that are underway will be presented to the TTC Board for information.

The TTC will be providing updates on the Revenue Protection and Special Constable Service Culture Change programs progress multiples times this year, as our commitment to achieving a customer-focused mindset is founded in respect and dignity for customers and fellow employees.

The interim REIA report recommendations have informed the overall Revenue Protection (RP) and Special Constable Service (SCS) Culture Change program.

With the release of the Phase Two REIA, TTC staff will update the Culture Change program deliverables to address any additional recommendations. The Phase Two REIA report will also provide additional guidance on the development of new policies, guidelines and procedures. In order to operationalize the policies, related procedures and training will be developed in conjunction with the release of the Phase Two REIA.

Refer to *Attachment D – RP & SCS Culture Change Program: planned reports 2021* for scheduled updates to the TTC Board on the program.

3. REIA Phase Two

Having completed their Phase One work, the planned next steps for the REIA by Dr. Owusu-Bempah and Dr. Wortley include:

- A review of how other transit and enforcement agencies have approached issues related to race and racism;
- Further analysis of the TTC's data;
- An analysis of use of force incidents involving TTC enforcement staff;
- An analysis of race-based complaints against TTC enforcement staff;
- Consultations with leaders and stakeholders from Black, Indigenous and other racialized communities;
- Consultations with TTC executives;
- A series of focus group discussions designed to hear the concerns of TTC customers;
- A survey of TTC staff; and
- A survey of TTC customers.

Phase Two of the REIA will include a series of final recommendations addressing race-based data collection, strategies for eliminating bias from TTC enforcement activities and policies designed to improve public perceptions of the TTC, internal and external race-relations. The Phase Two report will be provided in a future update to the Board anticipated for Q1 2022.

4. TTC Wide Actions to Further Identify, Prevent and Address Systemic Racial Discrimination

The TTC is committed to the elimination of all forms of racism in the workplace and the delivery of services to TTC customers. The findings and recommendations set out in the REIA provided by Dr. Owusu-Bempah and Dr. Wortley require action to ensure racism is eliminated in the delivery of TTC services and within the TTC as a whole.

The TTC is actioning the following through our commitments under the 10-Point Action Plan and Anti-Racism Strategy:

1. Development of a Racial Equity Unit (10 Point Action Plan Item 1 – Structure for Success)

Diversity and culture are top priorities of the TTC. Reporting into the new Diversity Department, the TTC's Racial Equity Unit will support and advance the TTC's Anti-Racism Strategy and work to adopt the Toronto Action Plan to Confront Anti-Black Racism, ensuring involvement with Black, Indigenous and racialized community members and employees. The TTC has recruited two Anti-Racism Policy Consultants for the Racial Equity Unit and recruitment for the Manager of Racial Equity is currently under way. Recruitment for an Indigenous Consultant, Education Consultant and Employee and Customer Engagement Consultant will also occur in 2021.

2. Consultation and engagement

Consultation and engagement are critical to meaningful change. To support these measures, the TTC is retaining experts with experience and involvement in Black, Indigenous and racialized communities to conduct consultations on anti-racism initiatives. Further, as noted above, Drs. Owusu-Bempah and Wortley will be conducting a series of focus groups with members of these communities in spring 2021.

3. Launching a Community Racial Equity Advisory Committee (C-REAC) and Employee Racial Equity Advisory Committee (E-REAC)

The development of these committees in 2021 will ensure sustainable ongoing consultation and engagement on work to identify, address and prevent racism, including anti-Black racism and anti-Indigenous racism within the TTC.

4. Development of an Anti-Racism Policy

The TTC is advancing the development of an Anti-Racism Policy. This policy is currently in development.

5. Review of Policies

An initial review of Revenue Protection and Special Constable Service policies with and anti-Black racism lens has been completed in partnership with the CABR Unit. The TTC's Anti-Racism Policy Consultants are continuing work to review these policies as well as the TTC's employment policies, systems and processes.

6. Confronting Anti-Black Racism Training (10-Point Action Plan Item #7 – Organization wide Training)

Confronting Anti-Black Racism Training, provided by the CABR Unit is being rolled out across the TTC, and has been completed by a number of employee groups, including:

- All Revenue Protection and Special Constable Service employees;
- The TTC's Executive Team;
- Senior Management;
- Staff in the Employee Development Section;
- Lead trainers from the Operations Training Centre;
- Strategy and Service Planning staff; and
- All staff in the Diversity and Culture Group including Talent Management, Diversity and Human Rights and Investigations Departments.

All TTC leaders will be trained by July 2021. A full roll out of training to the TTC's 12000 plus unionized employees is anticipated to begin Q3 2021.

7. Anti-Indigenous Racism Training (10-Point Action Plan Item #7 – Organization wide Training)

The TTC will be launching anti-Indigenous racism training in 2021. Once developed, Revenue Protection and Special Constable Service staff will be prioritized to receive this training.

8. Anti-Racism Training (10-Point Action Plan Item #7 – Organization wide Training)

The TTC is also launching enhanced diversity, inclusion, anti-racism (including anti-Islamophobia and anti-Semitism), accessibility and human rights training in 2021. Once developed, Revenue Protection and Special Constable Service employees will also be prioritized to receive this training.

Progress on these items were reported in December 2020 and will be provided in our Anti-Racism Strategy update and Embrace Diversity Update anticipated for summer 2021.

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Signature



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Attachments

Attachment A – Racial Equity Impact Assessment Executive Summary by Dr. Scot Wortley and Dr. Akwasi Owusu-Bempah

Attachment B – Use of Discretion and Race Based Data Collection Recommendations

Attachment C – Racial Equity Impact Assessment by Dr. Akwasi Owusu-Bempah and Dr. Scot Wortley

Attachment D – Attachment D – RP & SCS Culture Change Program: planned reports 2021

Attachment A

TORONTO TRANSIT COMMISSION RACIAL EQUITY IMPACT ASSESSMENT: INTERIM REPORT

EXECUTIVE SUMMARY

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A Report Prepared for the Toronto Transit Commission, October 24, 2020

EXECUTIVE SUMMARY

The Toronto Transit Commission (TTC) provides an essential service to the millions of people who live, work and travel in the city. Like other public services, the TTC has an obligation and legal duty to treat its customers in a fair and equitable manner. In response to community and media allegations of racial bias, the TTC is conducting a racial equity impact assessment of the former TTC Transit Enforcement Unit (now the TTC Special Constable Service and Revenue Protection) enforcement activities, and ongoing changes to the structure and nature of enforcement work. This assessment and inquiry employs a variety of research and investigative techniques intended to identify racial disparities in key enforcement outcomes, to determine the causes of these disparities and to identify appropriate measures for reform. This interim report is structured as follows:

- Part B provides an analysis of TTC enforcement data, highlights possible explanations for the observed racial disparities, and provides suggestions for additional analysis to be conducted during the next phase of our work;
- Part C of the report documents the findings of our focus group sessions with members of the former Transit Enforcement Unit;
- Part D of the report presents our analysis of decision making and the exercise of discretion within the Transit Enforcement Unit. We provide a series of recommendations to guide further policy development and inform practice;
- Part E of the report provides a literature review on the use and effectiveness of body-worn cameras;
- Part F presents a set of preliminary recommendations for the collection, analysis and reporting of race-based data.

In the concluding section of the report we outline the work to be conducted in phase two of our assessment.

Note on Language

Throughout this report we use the terms “Transit Enforcement Unit”, “Fare Inspectors” and “Transit Special Constables” to identify the entities that existed at the time that our initial research was conducted. As a result of restructuring within the TTC, the Transit Enforcement Unit has split into two distinct entities, “Revenue Protection” and the “Special Constable Service” departments. We use the terms Revenue Protection and Special Constable Service when making current and forward looking statements to reflect these developments.

B. Analysis of TTC Enforcement Data

The inquiry examined data from 121,816 TTC enforcement incidents captured between January 2008 and December 2018. The results suggest that both Indigenous and Black customers are grossly over-represented in the TTC enforcement data. For example, although they represent only 8.8% of Toronto’s population, Black customers were involved in 19.2% of all TTC enforcement

incidents documented during the study period. Therefore, Black people are 2.2 times more likely to appear in TTC enforcement data than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto's population (0.8%), Indigenous people were implicated in 3.0% of all TTC enforcement incidents. In other words, Indigenous people are 3.7 times more likely to appear in TTC enforcement incidents than their presence in the general population would predict. The presence of White people in TTC enforcement incidents approximates their presence in the general population. All other racial groups are significantly under-represented in TTC enforcement incidents. Indigenous people have the highest overall TTC enforcement rate (11,164 per 100,000), followed closely by Black people (6,963 per 100,000). The Indigenous enforcement rate is 3.1 times greater than the White rate (3,578 per 100,000) and 3.5 times greater than the aggregate City rate (3,177 per 100,000). The Black enforcement rate is 1.95 times greater than the White rate and 2.2 times greater than the aggregate City rate. The rates for all other racial minority groups fall significantly below the White rate and the rates for both Indigenous and Black people. Further analysis reveals that Black and Indigenous people are grossly over-represented in both caution and charge incidents. The data indicate that Black and Indigenous people are significantly over-represented in all of the major offence categories captured by the TTC data. In other words, the over-representation of Black and Indigenous peoples in the TTC enforcement dataset cannot be explained by their involvement in any one offence. Black and Indigenous offenders are over-represented in TTC enforcement statistics regardless of the route or location (i.e., bus, streetcar, subway station, etc.);

The Impact of Gender

Our inquiry examined the impact of gender on the racial disparities noted above. This analysis found that Black and Indigenous males are particularly over-represented in TTC enforcement incidents that involve City of Toronto residents. Although they represent only 4.0% of Toronto's population, Black males were involved in 14.6% of all enforcement incidents recorded during the study period. In other words, Black males were 3.65 times more likely to be involved in TTC enforcement incidents than their presence in the general population would predict. Although they represent only 0.4% of the population, Indigenous males were involved in 1.9% of enforcement cases. In other words, the representation of Indigenous males in the TTC enforcement dataset is 4.75 greater than their presence in the general population. White males are also significantly over-represented in the TTC enforcement data (Odds Ratio=1.62). However, the over-representation of White males is far less than the over-representation of either Black males (Odds Ratio=3.65) or Indigenous males (Odds Ratio=4.75). Males from all other racial minority groups are under-represented in TTC enforcement incidents. White women (Odds Ratio=0.63), Indigenous women (Odds Ratio=0.60) and women from other racial minority groups (Odds Ratio=0.46) are significantly under-represented in the enforcement data. Black women, however, appear in the data at a rate that is equal to their representation in the general population (Odds Ratio=1.04). Overall, Indigenous males have the highest TTC enforcement rate (11,491 per 100,000), followed closely by Black males (8,942 per 100,000). The Indigenous male rate is 2.9 times greater than the rate for White males (3,978 per 100,000). The Black male rate is 2.5 times greater than the White male rate. Among women, Black females have the highest enforcement rate (2,598 per 100,000), followed by Indigenous females (1,750 per 100,000), White females (1,555 per 100,000) and other minority females (1,135 per 100,000). The enforcement rate for Black females is 1.7

times greater than the rate for White females and 2.3 times greater than the rate for other minority females. Interestingly, the enforcement rate for Black females is also significantly higher than the rate for other minority males;

The Impact of Unique Individuals

Our results indicate that 63,709 unique individuals were responsible for the TTC enforcement incidents documented between 2008 and 2018. This works out to an average of 1.36 incidents per individual in the dataset. The number of TTC enforcement incidents, per unique individual, ranged from 1 to 548. The individual with 548 documented cases was a Black male who averaged 49.8 incidents per year over the eleven-year study period. However, it must be stressed that 87.5% of the unique individuals in the dataset were involved in only one TTC enforcement incident. An additional 8.5% of the sample were involved in only two incidents. Only 4.3% of the unique individuals in the TTC dataset were involved in three or more enforcement incidents during the study period. We recalculated TTC racial disparities counting unique individuals only once. This strategy eliminates the impact of statistical outliers who have been involved in multiple enforcement incidents. The results reveal that controlling for the impact of unique individuals does little to reduce overall racial disparities. Counting unique individuals only once, Black people are still 2.1 times more likely to appear in the TTC enforcement dataset than their presence in the general population would predict. However, the proportion of enforcement incidents involving Indigenous people does drop significantly, from 3.0% to 1.2%, once we control for the impact of unique individuals. In other words, unique Indigenous individuals, who have been involved in multiple TTC enforcement incidents, appear to be responsible for the particularly high Indigenous enforcement rates observed in the study. After controlling for unique individuals, the enforcement rate for Black people (4,896 per 100,000) exceeds the rate for Indigenous people (3,495.6 per 100,000). Nonetheless, the enforcement rates for both Black and Indigenous peoples remain significantly higher than the rates for White people and people from all other racial minority categories;

The Impact of Customers Who Live Outside Toronto

One out four individuals (22.6%) captured by the TTC enforcement data live outside of the City of Toronto. The results indicate that racial disparities in TTC enforcement incidents persist after the exclusion of cases involving outside residents. Indeed, the proportion of all enforcement incidents involving Black people jumps from 19.2% to 19.6% after outside residents have been eliminated from the sample. Furthermore, although the proportion of incidents involving Indigenous customers drops from 3.0% to 2.2%, Indigenous people continue to be significantly over-represented in the TTC enforcement data.

Benchmarking TTC Users

A potential concern with the analysis above is that it does not properly “benchmark” the population that most frequently uses TTC services. We therefore recalculated racial disparities using data

from the Canadian Census that estimates the population of Toronto residents, 15 years or older, that uses public transit to commute to work for paid employment. The results suggest that racial disparities in TTC enforcement activity decline somewhat when we use commuter rather than general population benchmarks; For example, Black people represent 10.7% of the public transit commuting population, as opposed to only 8.8% of the general population. This drops the Odds Ratios for the Black population from 2.23 using the general population benchmark, to 1.83 using the commuter benchmark. Nonetheless, using the commuter benchmark, Black people are still significantly over-represented in the TTC enforcement data. Indeed, the Black enforcement rate (26,709 per 100,000) is still 1.5 times greater than the White rate (17,989 per 100,000), 2.6 times greater than the Asian rate (10,197 per 100,000), 4.6 times greater than the South Asian rate (5,854 per 100,000) and 1.8 times the city average (14,511 per 100,000). Further analysis suggests that the use of the commuter benchmark *does not* reduce the vulnerability of Black males with respect to TTC enforcement activity. After using the commuter benchmark, Black males are still grossly over-represented in TTC enforcement incidents. Although Black males represent only 3.9% of Toronto's commuting population, they represent 14.6% of those involved in TTC enforcement incidents. In other words, Black males are still 3.74 times more likely to appear in the TTC enforcement dataset than their presence in the commuting population would predict. Overall, using the commuter benchmark, Black males have by far the highest TTC enforcement rate (54,043 per 100,000). The Black male rate is 1.9 times higher than the White male rate (28,976 per 100,000), 4.9 times greater than the rate for other minority males (11,128 per 100,000) and 3.7 times greater than the city rate (14,511 per 100,000). Among women, Black females have the highest rate (10,808 per 100,000), followed by White females (9,338 per 100,000) and other minority females (5,364 per 100,000). In sum, the over-representation of Black people in TTC enforcement incidents cannot be explained by their greater than average presence among TTC commuters.

Trends in Racial Disparity

Our analysis reveals that racial disparities in TTC enforcement activity declined significantly between 2008 and 2018. For example, in 2008, Black people were involved in 25.6% of recorded TTC enforcement incidents. This figure stays above 21% until 2013, when it drops to 19.8%. By 2018, Black people were involved in only 15.7% of TTC enforcement incidents. In 2008, Black people were 3 times more likely to be involved in TTC enforcement incidents than their presence in the general population would predict. By 2018, they were only 1.76 times more likely to be involved in enforcement incidents. A similar trend exists for Indigenous people. For example, in 2012, Indigenous people were involved in 4.8% of all TTC enforcement incidents. By 2018 this figure had dropped to only 0.3%. In 2012, Indigenous people were 6.4 times more likely to appear in TTC enforcement incidents than their presence in the general population would predict. By 2018, Indigenous people were under-represented in TTC enforcement efforts. One might conclude, therefore, that racial disparity is less a problem today than it was in 2008. However, racial disparities in TTC enforcement data declined at precisely the same time that missing racial data increased. There is a strong correlation. We feel that it is highly likely that the increase in missing racial information between 2008 and 2018 serves to mask or obscure the true extent of racial disparities in TTC enforcement activities.

Conclusions

The size of the observed racial disparities are, at a minimum, consistent with allegations of racial bias. All else being equal, if people from all racial backgrounds are treated equally by TTC enforcement officials, we would not expect to uncover racial disparities as large as those documented in our analysis. However, other possible explanations must be given serious consideration. To begin with, some might argue that Census benchmarking – including Census estimates of the commuting population -- do not accurately capture the racial characteristics of TTC riders. If the benchmarking data used in this study underestimate Black and Indigenous TTC ridership, the enforcement rates for Black and Indigenous Torontonians may be somewhat inflated. Others might argue that racial differences in TTC enforcement rates reflect racial differences in offending behaviour. In other words, TTC enforcement staff treat all people equally, but Black and Indigenous people are more likely to engage in fare evasion, trespassing, loitering, bylaw infractions and public order offences. Proponents of this position may point to the under-representation of Asians, South Asians and other minorities as evidence that the system is not racially biased. However, we cannot, at this time, dismiss the possibility that bias – conscious, unconscious and systemic – has contributed significantly to the gross racial disparities observed in the TTC enforcement data. Racial bias, for example, may subject Black and Indigenous riders to higher levels of surveillance, by TTC fare inspectors and special constables, than riders from other racial backgrounds. Heightened surveillance, in turn, would render Black and Indigenous riders more vulnerable to detection. In other words, racial profiling may make Black and Indigenous riders more likely to be caught for violations than White riders who engage in exactly the same behaviour. Another form of potential bias involves officer discretion once a violation has been detected. Previous research suggests that some law enforcement officials are more likely to formally caution and charge minority customers than White customers. White customers, on the other hand, are more likely to be dismissed or given a verbal warning. Our final report will contain additional analysis of the TTC enforcement data in an effort to further determine the role racial bias may play in TTC enforcement decisions;

C. Transit Enforcement Unit Focus Group Findings

As part of our inquiry we conducted a series of focus groups with TTC staff who are involved directly or indirectly in fare inspection and enforcement activities, and in the collection and analysis of enforcement-related data. The purpose of these focus groups was to learn about the roles and responsibilities of the Fare Inspectors (FIs) and the Transit Special Constables (TSCs), and to understand how they enforced relevant rules, policies and laws. Our aim was also to gain an understanding of how the historical TTC enforcement data had been collected and to examine how members of the former Transit Enforcement Unit (TEU – now the TTC Special Constable Service and Revenue Protection Departments) explained the racial differences in enforcement outcomes that emerged from the analysis of this data. Finally, we sought to identify obstacles to reform and solicited recommendations for reform from members of the Transit Enforcement Unit. Between November 26th and December 23, 2019, we conducted six separate focus groups with Fare Inspectors (two sessions) Transit Special Constables (two sessions) Transit Enforcement Unit Supervisors (one session) and staff responsible for data management (one session).

We set out to explore the enforcement activities to members of the TTC's TEU. In particular, we were interested in how members of the Unit went about their work, how they collected data from members of the public, and in their opinions, why they believed Black people were over-represented in the historical enforcement data. We heard about the challenges faced by members of the enforcement team, particularly in relation to the social problems that permeate the TTC, difficulties experienced with respect to the technology available to them and their concerns about staffing levels. We also learned that there are several main uses for the enforcement data collected by members of the TEU, these include checking riders previous evasion history, confirming identity and conducting background checks, for the purposes of court proceedings, and for internal reporting and trends analysis. Questions about the accuracy of the data, and specifically, about the accuracy of the racial categorization or classification of riders were raised in response to our questions examining why Black people were over-represented in the historical enforcement data. In terms of explaining the observed racial differences in enforcement action, some respondents outright denied the possibility that racism was an underlying cause, pointing to diversity within the Unit as an example of why racial discrimination could not be present. Other respondents suggested that differential rates of offending were responsible for the differential enforcement outcomes, that is that Black people were more likely to violate fare policy and thus more likely to be cautioned or ticketed for doing so. Some respondents suggested that elevated levels of poverty experienced by Black and other racial minority groups in Toronto increases their likelihood of fare evasion. Furthermore, the increased presence of these groups in the geographical locations targeted by the enforcement team resulted in a higher likelihood that they would be caught violating fare policy.

We also heard about the various negative consequences stemming from the public release of the racially disaggregated enforcement data. First, respondents recounted the increased difficulties they have faced in engaging with members of the public, and with Black people in particular. Second, we heard that internal priorities and directives had become inconsistent as the Commission worked to address allegations of discrimination and to improve customer relations. This, it was felt, created additional challenges for enforcement staff. Finally, we were provided with recommendations for improving the relationship between the TEU and transit riders. The introduction and updating of technology to allow staff to more efficiently carry out their work was viewed a necessary step forward. One technology that garnered a lot of support from respondents was body worn cameras which were perceived as providing increased accountability for both riders and enforcement staff. Finally, increased anti-racism and anti-discrimination training for members were seen to be beneficial.

In sum, our focus group sessions garnered rich data to inform our inquiry and will prove valuable as we move on to the public consultation phase. In the next section of the report we turn to a review of decision making and discretion at the TTC.

D. A Review of Decision Making and Discretion at the TTC

The ability to choose from a range of options in deciding how to proceed with a matter is both desirable and unavoidable for many decision makers in public service. It would be impossible to identify a course of action to be followed in every situation and in every possible circumstance. Importantly, front-line staff typically operate in a range of situations, outside of the direct supervision of their superiors. Therefore, the exercise of discretion is an important, and inevitable, aspect of enforcement activities. However, when left unchecked, or not sufficiently guided by law and policy, the ability to choose from a range of options when dealing with members of the public provides opportunity for the differential exercise of authority.

Drawing on academic literature, we reviewed what is known about decision making and the exercise of discretion in enforcement settings. We also identified key decision-making points within revenue protection work where racial and other forms of discrimination are likely to arise. Through an analysis of TTC policies and training documents, we found a relatively high level of guidance with respect to some of the most consequential areas of decision-making undertaken by members of Revenue Protection and the Special Constable Service (e.g. use of force). Conversely, our review uncovered less guidance or policy surrounding the less consequential, though much more frequent exercises of authority (e.g. fare inspection). In our assessment, existing TTC policy and training documents provide a strong foundation to structure and guide decision-making. We believe that greater attention to, and emphasis of rights protecting legislation, combined with the removal of verbal warnings as an enforcement option will serve to strengthen existing policy and training. We suggest that considerations should also guide the development of a dedicated discretion policy.

E. Literature Review: Body Cameras in Law Enforcement

The use of body worn cameras (BWCs) by law enforcement agencies has increased dramatically over the past decade. Unfortunately, relatively little research has evaluated the impact of BWCs – especially in the Canadian context. The empirical evidence on the efficacy of BWCs is quite mixed. Some studies suggest that body cameras have a civilizing effect on police-civilian interactions. For example, research suggests that BWCs can reduce police use of force and reduce complaints against the police. BWCs can also improve police evidence collection, shorten case resolution times, induce guilty pleas and produce cost savings. Taken together, the perceived benefits of BWCs can lead to improvements in police accountability and transparency and subsequently increase public confidence in the police. Other studies have found that BWCs produce few benefits (i.e., they do not reduce police use of force, racial bias or complaints against the police) and have little impact on public perceptions of the police. Researchers also highlight various concerns associated with BWCs including the high cost of purchasing and maintaining BWC equipment and storing BWC footage. Others have raised concerns about officer discretion with respect to turning on and off BWCs, civilian privacy and civilian access to BWC footage. The general consensus is that more research – using improved methodologies – is required to establish the true impact of BWC technologies;

F. Race-Based Data Collection and the TTC

Our inquiry was prompted, in part, by the public release of racially disaggregated TTC enforcement data. In line with findings from other enforcement services across the GTA, Ontario, and Canada, the TTC data demonstrate a significant over-representation of Black people in past enforcement activity. In order to better understand why certain minority groups – specifically Black and Indigenous peoples – are over-represented in enforcement outcomes, and to ensure fair and equitable treatment, many police agencies and public sector organizations are exploring how to standardize the collection, analysis and release of race-based data. In Ontario, this development comes partly in response to the introduction of the province’s *Anti-Racism Act* and accompanying *Anti-Racism Data Standards*. These initiatives have mandated the collection of associated data by specific agencies and have set out a framework for their storage, analysis and release.

We have been asked by the TTC to provide a preliminary set of recommendations around race-based data collection. Having collectively worked with both the province of Ontario to develop the provincial Data Standards, and more recently the Toronto Police Service Board (TPSB) to develop a race-based data collection policy for the Toronto Police Service, we recognize that a significant amount of groundwork in this area has already been done. As such, the TTC can learn from, and build upon, the work of these two organizations. Indeed, with some modifications, and pending community consultation, the TPSB policy should serve as a guiding framework for the TTC.

As part of our public consultations in Phase 2 of our inquiry, we will be seeking community input with respect to the collection, analysis and release of race-based data by the TTC. As such, these recommendations are subject to revision. We suggest that the TTC adopt interim measures to facilitate the collection of race-based data pending community consultation. Given the sensitive nature of this task, we want to stress that a final version of the policy should not be implemented without having first undertaken extensive community consultation. In the course of developing the TPSB race-based data policy, for example, the TPSB and TPS conducted dozens of focus groups with individuals and agencies across Toronto. Our final recommendations with respect to race-based data collection, analysis and reporting will be developed once our own community consultations have been completed. In the next section we outline the activities that will comprise the second phase of our research and be documented in our final report.

Next Steps

This report is one of two reports planned as part of this inquiry into TTC enforcement practices and race relations. In this report we provided a preliminary analysis of TTC enforcement data and, through focus groups, documented the experiences and perceptions of TTC enforcement staff. Although we have yet to draw final conclusions, our findings strongly reinforce the argument that race, racial bias and race relations are major issues in the context of TTC enforcement practices. These are issues that require a strong policy response. In this report we have provided insights into how that policy response could develop by reviewing the literature on both law enforcement discretion and body-worn cameras and providing preliminary recommendations with respect to

race-based data collection, analysis and dissemination. The planned next steps of our inquiry involve a number of additional research activities including:

- A review of how other transit agencies and enforcement services have approached issues related to race and racism;
- Further analysis of TTC enforcement data;
- An analysis of data related to criminal-incidents involving TTC enforcement staff;
- An analysis of use of force incidents involving TTC enforcement staff;
- An analysis of race-based complaints against TTC enforcement staff;
- Consultations with leaders and stakeholders from Black, Indigenous and other racial minority communities;
- Consultations with TTC executives;
- A series of town hall discussions designed to hear the concerns of TTC consumers;
- A survey of TTC enforcement staff;
- A survey of TTC consumers.

In addition to presenting our final research results, the final report will provide a series of final recommendations addressing race-based data collection, strategies for eliminating bias from TTC enforcement activities and policies designed to improve public perceptions of the TTC and both internal and external race-relations.

RECOMMENDATIONS: DECISION MAKING AND DISCRETION WITHIN THE TRANSIT ENFORCEMENT UNIT

- 1) The TTC and TEU should identify and reaffirm the mandate, goals and values of the TEU and align these with the mandate, goals and values of the TTC.
 - a. As noted above, a particular challenge faced by the TEU is the fact that it is an enforcement unit housed within a transportation authority. There are thus, at times, conflicting goals and priorities. The more these align, the less conflict will arise over the appropriate use of discretion.
 - b. The TTC and TEU should make a formal anti-racism statement and incorporate this statement into their core values statements.

- 2) The TTC should develop a brief policy statement that allows for the exercise of discretion (except where explicitly prohibited by superseding law or policy).
 - a. This document should explicitly state that staff are permitted to use discretion in the course of their duties (with the aforementioned exceptions).
 - b. This document should clearly articulate a set of values intended to guide/structure decision making and the exercise of discretion (i.e. fairness and equality).
 - c. This document should identify the authorities that govern enforcement work.
 - d. This document should identify all relevant rights protecting law and policy.
 - e. This document should explicitly state that staff exercise their discretion within the confines of the law/policy that govern their work and that decision making must be free of bias and discrimination on the grounds protected under law/policy.
 - f. This document should be developed in consultation with staff practitioners, relevant external organizations and with community input.

- 3) Key aspects of the proposed discretion policy should be incorporated into other relevant policy documents and training materials.

- 4) Fare inspection – Further guidance and standards are needed with respect to the initiation of fare inspection and the disposal of cases in order to ensure fair and equitable treatment. At present little is said in either the written policies or the training documents about what factors staff are to consider (or not consider) before initiating Proof of Payment (POP), and what factors to consider (or not consider) when fare evasion is uncovered. Much of this information is likely garnered through on-the-job training with Field Training Officers and needs standardization.

- 5) The TTC should strongly consider removing the “verbal warning” from the range of options open to TEU staff in relation to fare inspection (and other reasonable enforcement action i.e. under Criminal Code, Provincial Offences Act (POA)/ Trespass to Property Act (TPA)/Liquor Contron Act (LCA)).
 - a. As it stands, when confronted with a rider who cannot provide POP, TEU staff have previously had the following options available to them: 1) verbally warn the

¹ Source: Owusu-Bempah and Wortley REIA Interim Report 2020

rider that they need to pay their fare and to provide POP; 2) formally caution (written/documented) the rider for fare non-payment or failure to provide POP; 3) issue a ticket to the rider for fare non-payment or failing to provide POP.

b. The opportunity for differential enforcement with respect to fare non-payment is high, due to the lack of guidance given with respect to when to exercise each option (verbal warning, written caution, ticket) and due to ambiguity with the “educate, advise, enforce” model. Furthermore, because verbal warnings cannot be tracked, the extent to which differential enforcement exists remains unknown.

c. As such, written documentation should occur whenever non-enforcement is chosen with respect to fare non-payment; individuals encountered who have violated the fare policy and who cannot provide POP should be either formally cautioned (a written/documented caution) or ticketed.

d. TTC enforcement policy should dictate that previous formal cautions should not preclude a rider from being formally warned in subsequent cases.

i. In order to address the various social and other factors that impact upon the ability of riders to pay fares (i.e. mental health, poverty, malfunctioning equipment) a thorough system of review and of alternative measures/sanctions/non-sanctions should be considered.

e. Changes to this policy, and removal of the verbal warning option should be clearly articulated to TTC staff as well as to the general public. General awareness about the removal of the verbal warning option should clarify that the underlying intent is to promote equitable treatment of TTC riders.

f. Data on enforcement and non-enforcement practices, including information about the racial background of the individuals formally cautioned and ticketed should be systematically collected, analyzed and publicly disseminated. This information is crucial for anti-racism and anti-discrimination purposes. It can be used to identify problematic patterns and trends in enforcement, which can be used to inform training, policy and corrective/disciplinary action where necessary.

i. This change may require the adoption of new data collection technologies (both hardware and software) as well as modifications to related training and policy.

g. The TTC should consider removing the verbal warning option from other enforcement actions (i.e. under Criminal Code, POA/TPA/LCA) in order to increase oversight with respect to decision making.

6) The TTC and TEU should use caution when using historical enforcement data to inform future enforcement and deployment strategies. Historical data on the profile of fare evaders (i.e. age, race, gender) and location of high levels of evasion will be influenced in part by the biases of the people responsible for producing that data (i.e. inequalities in the initiation of investigations and in the exercise of discretion). If done without caution, using this data to deploy resources is likely to reinforce and reproduce earlier biased outcomes.

7) TTC and TEU enforcement-related policies should be publicly accessible via the TTC’s website and in accessible formats.

RECOMMENDATIONS: RACE-BASED DATA COLLECTION AND THE TTC TRANSIT ENFORCEMENT UNIT

1) The TTC should develop a written policy, set of procedures and training around the collection, storage and release of race-based enforcement data.

2) A TTC race-based data policy should clearly articulate a set of **Guiding Principles** outlining organizational commitment to fair and equitable customer service. As an example, core elements of the TPSB policy read as follows:

“The Board understands that bias and racism in society is impossible to deny, but must never be seen as inevitable or acceptable. As the employer, the Board knows that the Members of the Service are deeply committed to this principle. The Board also realizes that efforts to reduce or eliminate bias and to specifically address anti-Black and anti-Indigenous discrimination must focus on institutional and structural practices – practices that manifest in every institution and which are systemic in their nature – that can result in racial disparities and prejudicial treatment.

Guided by the constitutional and legal principles of the Canadian Charter of Rights and Freedoms, the Ontario Human Rights Code, Ontario’s Anti-Racism Act, and based on the principle that only what is measured can be effectively understood and improved, the Board recognizes the importance of collecting, analyzing and publicly reporting on data related to the race of those with whom police interact. Collecting, analyzing and reporting on this data is also critically important to the Board’s goal of eliminating racial bias, promoting equity, fairness and non-discriminatory police service delivery. In order to assess the effectiveness of legal, policy and procedural initiatives aimed at reducing bias, it is vital to track and publicly report on race-based data that is collected by police officers in the course of their duties. Ultimately, the Board views this Policy as vital to improving transparency, accountability, and oversight in how police services are delivered – necessary ingredients for continuing to build community trust and engagement between Members of the Service and the communities we serve.

The Board recognizes that the collection of race-based data is complex, multifaceted and sensitive and is a process that must be handled with respect and care. The process must protect an individual’s personal privacy and respect their dignity. The results of collecting race-based data must also lead to reliable and high-quality race-based statistics that contribute to informed public discourse and evidence-based decision-making...” (TPSB, 2019: 1-2).

The guiding principles developed by the TTC should align with broader institutional mission and mandate.

3) The TTC should clearly articulate the underlying **Purpose** of the race-based data policy. The TPSB policy advances the following as its foundational purpose:

“The purpose of this Policy is to use race-based data collection, analysis and public reporting to:

- identify, monitor and eliminate potential systemic racism and racial bias;
- identify equitable service delivery that can contribute to understanding and best practice;
- advance the delivery of police services that advance the fair treatment of every person by supporting the development of equitable policies, procedures, services and initiatives;
- preserve the dignity of individuals and communities; and
- enhance trend analysis, professional development and public accountability.

Importantly, this Policy and its implementation by the Service should not result in the stigmatization or stereotyping of any communities, and must have regard to the sensitive nature of the information that is collected so that the Service can protect the privacy of the individuals with whom it comes into contact.”

A key strength of the TPSB policy is that the clear articulation of an underlying purpose provides a reference point for the development of future policy and procedure. Furthermore, this information can be used to communicate the main reasons for developing the policy to members of the general public and to staff (serves as an educational tool).

4) The TTC should develop a set of formalized **procedures** for the collection of race-based data. We suggest that this procedure include the collection of both officer perception and citizen self-report data on race. In line with the provincial Data Standards, we suggest utilizing the following racial categories:

Race Categories

- a) Black
- b) East/Southeast Asian
- c) Indigenous
- d) Latino
- e) Middle Eastern
- f) South Asian
- g) White
- h) Another race category
- i) Prefer not to answer (applying only to self-report data)

5) The TTC should develop an accompanying **data analysis and reporting plan**. This plan should specify who will undertake the data analysis and what quality assurance measures will be put in place. This plan should specify periodic reporting requirements (for production of both internal and external reports). This plan should be developed with community input and validated by a subject matter expert.

- a. The TTC policy should outline how the race-based data will be used to foster equitable treatment, including what internal benchmarking efforts will be undertaken and how the data will be used to foster staff accountability.

6) The TTC should establish a **monitoring and evaluation framework** to foster the collection of high-quality data.

7) The TTC should develop an accompanying **training program** for new recruits and in-service recertification. This training program should outline the historical factors that led to the development and implementation of the race-based data collection policy and procedures; provide sufficient guidance with respect to data collection; and outline relevant authorities and legal considerations, including those related to privacy and the protection of personal information.

8) The TTC policy should mandate the provision of adequate resources necessary for implementation of the policy and associated procedural and training considerations.

9) The TTC should develop a comprehensive communications plan to inform internal and external parties about the purpose of the policy and the intended outcomes.

Attachment C

TORONTO TRANSIT COMMISSION RACIAL EQUITY IMPACT ASSESSMENT: INTERIM REPORT

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A Report Prepared for the Toronto Transit Commission, October 24, 2020

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EXECUTIVE SUMMARY

The Toronto Transit Commission (TTC) provides an essential service to the millions of people who live, work and travel in the city. Like other public services, the TTC has an obligation and legal duty to treat its customers in a fair and equitable manner. In response to community and media allegations of racial bias, the TTC is conducting a racial equity impact assessment of the former TTC Transit Enforcement Unit (now the TTC Special Constable Service and Revenue Protection) enforcement activities, and ongoing changes to the structure and nature of enforcement work. This assessment and inquiry employs a variety of research and investigative techniques intended to identify racial disparities in key enforcement outcomes, to determine the causes of these disparities and to identify appropriate measures for reform. This interim report is structured as follows:

- Part B provides an analysis of TTC enforcement data, highlights possible explanations for the observed racial disparities, and provides suggestions for additional analysis to be conducted during the next phase of our work;
- Part C of the report documents the findings of our focus group sessions with members of the former Transit Enforcement Unit;
- Part D of the report presents our analysis of decision making and the exercise of discretion within the Transit Enforcement Unit. We provide a series of recommendations to guide further policy development and inform practice;
- Part E of the report provides a literature review on the use and effectiveness of body-worn cameras;
- Part F presents a set of preliminary recommendations for the collection, analysis and reporting of race-based data.

In the concluding section of the report we outline the work to be conducted in phase two of our assessment.

Note on Language

Throughout this report we use the terms “Transit Enforcement Unit”, “Fare Inspectors” and “Transit Special Constables” to identify the entities that existed at the time that our initial research was conducted. As a result of restructuring within the TTC, the Transit Enforcement Unit has split into two distinct entities, “Revenue Protection” and the “Special Constable Service” departments. We use the terms Revenue Protection and Special Constable Service when making current and forward looking statements to reflect these developments.

B. Analysis of TTC Enforcement Data

The inquiry examined data from 121,816 TTC enforcement incidents captured between January 2008 and December 2018. The results suggest that both Indigenous and Black customers are grossly over-represented in the TTC enforcement data. For example, although they represent only 8.8% of Toronto’s population, Black customers were involved in 19.2% of all TTC enforcement

incidents documented during the study period. Therefore, Black people are 2.2 times more likely to appear in TTC enforcement data than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto's population (0.8%), Indigenous people were implicated in 3.0% of all TTC enforcement incidents. In other words, Indigenous people are 3.7 times more likely to appear in TTC enforcement incidents than their presence in the general population would predict. The presence of White people in TTC enforcement incidents approximates their presence in the general population. All other racial groups are significantly under-represented in TTC enforcement incidents. Indigenous people have the highest overall TTC enforcement rate (11,164 per 100,000), followed by Black people (6,963 per 100,000). The Indigenous enforcement rate is 3.1 times greater than the White rate (3,578 per 100,000) and 3.5 times greater than the aggregate City rate (3,177 per 100,000). The Black enforcement rate is 1.95 times greater than the White rate and 2.2 times greater than the aggregate City rate. The rates for all other racial minority groups fall significantly below the White rate and the rates for both Indigenous and Black people. Further analysis reveals that Black and Indigenous people are grossly over-represented in both caution and charge incidents. The data indicate that Black and Indigenous people are significantly over-represented in all of the major offence categories captured by the TTC data. In other words, the over-representation of Black and Indigenous peoples in the TTC enforcement dataset cannot be explained by their involvement in any one offence. Black and Indigenous offenders are over-represented in TTC enforcement statistics regardless of the route or location (i.e., bus, streetcar, subway station, etc.);

The Impact of Gender

Our inquiry examined the impact of gender on the racial disparities noted above. This analysis found that Black and Indigenous males are particularly over-represented in TTC enforcement incidents that involve City of Toronto residents. Although they represent only 4.0% of Toronto's population, Black males were involved in 14.6% of all enforcement incidents recorded during the study period. In other words, Black males were 3.65 times more likely to be involved in TTC enforcement incidents than their presence in the general population would predict. Although they represent only 0.4% of the population, Indigenous males were involved in 1.9% of enforcement cases. In other words, the representation of Indigenous males in the TTC enforcement dataset is 4.75 greater than their presence in the general population. White males are also significantly over-represented in the TTC enforcement data (Odds Ratio=1.62). However, the over-representation of White males is far less than the over-representation of either Black males (Odds Ratio=3.65) or Indigenous males (Odds Ratio=4.75). Males from all other racial minority groups are under-represented in TTC enforcement incidents. White women (Odds Ratio=0.63), Indigenous women (Odds Ratio=0.60) and women from other racial minority groups (Odds Ratio=0.46) are significantly under-represented in the enforcement data. Black women, however, appear in the data at a rate that is equal to their representation in the general population (Odds Ratio=1.04). Overall, Indigenous males have the highest TTC enforcement rate (11,491 per 100,000), followed closely by Black males (8,942 per 100,000). The Indigenous male rate is 2.9 times greater than the rate for White males (3,978 per 100,000). The Black male rate is 2.5 times greater than the White male rate. Among women, Black females have the highest enforcement rate (2,598 per 100,000), followed by Indigenous females (1,750 per 100,000), White females (1,555 per 100,000) and other minority females (1,135 per 100,000). The enforcement rate for Black females is 1.7

times greater than the rate for White females and 2.3 times greater than the rate for other minority females. Interestingly, the enforcement rate for Black females is also significantly higher than the rate for other minority males;

The Impact of Unique Individuals

Our results indicate that 63,709 unique individuals were responsible for the TTC enforcement incidents documented between 2008 and 2018. This works out to an average of 1.36 incidents per individual in the dataset. The number of TTC enforcement incidents, per unique individual, ranged from 1 to 548. The individual with 548 documented cases was a Black male who averaged 49.8 incidents per year over the eleven-year study period. However, it must be stressed that 87.5% of the unique individuals in the dataset were involved in only one TTC enforcement incident. An additional 8.5% of the sample were involved in only two incidents. Only 4.3% of the unique individuals in the TTC dataset were involved in three or more enforcement incidents during the study period. We recalculated TTC racial disparities counting unique individuals only once. This strategy eliminates the impact of statistical outliers who have been involved in multiple enforcement incidents. The results reveal that controlling for the impact of unique individuals does little to reduce overall racial disparities. Counting unique individuals only once, Black people are still 2.1 times more likely to appear in the TTC enforcement dataset than their presence in the general population would predict. However, the proportion of enforcement incidents involving Indigenous people does drop significantly, from 3.0% to 1.2%, once we control for the impact of unique individuals. In other words, unique Indigenous individuals, who have been involved in multiple TTC enforcement incidents, appear to be responsible for the particularly high Indigenous enforcement rates observed in the study. After controlling for unique individuals, the enforcement rate for Black people (4,896 per 100,000) exceeds the rate for Indigenous people (3,495.6 per 100,000). Nonetheless, the enforcement rates for both Black and Indigenous peoples remain significantly higher than the rates for White people and people from all other racial minority categories;

The Impact of Customers Who Live Outside Toronto

One out four individuals (22.6%) captured by the TTC enforcement data live outside of the City of Toronto. The results indicate that racial disparities in TTC enforcement incidents persist after the exclusion of cases involving outside residents. Indeed, the proportion of all enforcement incidents involving Black people jumps from 19.2% to 19.6% after outside residents have been eliminated from the sample. Furthermore, although the proportion of incidents involving Indigenous customers drops from 3.0% to 2.2%, Indigenous people continue to be significantly over-represented in the TTC enforcement data.

Benchmarking TTC Users

A potential concern with the analysis above is that it does not properly “benchmark” the population that most frequently uses TTC services. We therefore recalculated racial disparities using data

from the Canadian Census that estimates the population of Toronto residents, 15 years or older, that uses public transit to commute to work for paid employment. The results suggest that racial disparities in TTC enforcement activity decline somewhat when we use commuter rather than general population benchmarks; For example, Black people represent 10.7% of the public transit commuting population, as opposed to only 8.8% of the general population. This drops the Odds Ratios for the Black population from 2.23 using the general population benchmark, to 1.83 using the commuter benchmark. Nonetheless, using the commuter benchmark, Black people are still significantly over-represented in the TTC enforcement data. Indeed, the Black enforcement rate (26,709 per 100,000) is still 1.5 times greater than the White rate (17,989 per 100,000), 2.6 times greater than the Asian rate (10,197 per 100,000), 4.6 times greater than the South Asian rate (5,854 per 100,000) and 1.8 times the city average (14,511 per 100,000). Further analysis suggests that the use of the commuter benchmark *does not* reduce the vulnerability of Black males with respect to TTC enforcement activity. After using the commuter benchmark, Black males are still grossly over-represented in TTC enforcement incidents. Although Black males represent only 3.9% of Toronto's commuting population, they represent 14.6% of those involved in TTC enforcement incidents. In other words, Black males are still 3.74 times more likely to appear in the TTC enforcement dataset than their presence in the commuting population would predict. Overall, using the commuter benchmark, Black males have by far the highest TTC enforcement rate (54,043 per 100,000). The Black male rate is 1.9 times higher than the White male rate (28,976 per 100,000), 4.9 times greater than the rate for other minority males (11,128 per 100,000) and 3.7 times greater than the city rate (14,511 per 100,000). Among women, Black females have the highest rate (10,808 per 100,000), followed by White females (9,338 per 100,000) and other minority females (5,364 per 100,000). In sum, the over-representation of Black people in TTC enforcement incidents cannot be explained by their greater than average presence among TTC commuters.

Trends in Racial Disparity

Our analysis reveals that racial disparities in TTC enforcement activity declined significantly between 2008 and 2018. For example, in 2008, Black people were involved in 25.6% of recorded TTC enforcement incidents. This figure stays above 21% until 2013, when it drops to 19.8%. By 2018, Black people were involved in only 15.7% of TTC enforcement incidents. In 2008, Black people were 3 times more likely to be involved in TTC enforcement incidents than their presence in the general population would predict. By 2018, they were only 1.76 times more likely to be involved in enforcement incidents. A similar trend exists for Indigenous people. For example, in 2012, Indigenous people were involved in 4.8% of all TTC enforcement incidents. By 2018 this figure had dropped to only 0.3%. In 2012, Indigenous people were 6.4 times more likely to appear in TTC enforcement incidents than their presence in the general population would predict. By 2018, Indigenous people were under-represented in TTC enforcement efforts. One might conclude, therefore, that racial disparity is less a problem today than it was in 2008. However, racial disparities in TTC enforcement data declined at precisely the same time that missing racial data increased. There is a strong correlation. We feel that it is highly likely that the increase in missing racial information between 2008 and 2018 serves to mask or obscure the true extent of racial disparities in TTC enforcement activities.

Conclusions

The size of the observed racial disparities are, at a minimum, consistent with allegations of racial bias. All else being equal, if people from all racial backgrounds are treated equally by TTC enforcement officials, we would not expect to uncover racial disparities as large as those documented in our analysis. However, other possible explanations must be given serious consideration. To begin with, some might argue that Census benchmarking – including Census estimates of the commuting population -- do not accurately capture the racial characteristics of TTC riders. If the benchmarking data used in this study underestimate Black and Indigenous TTC ridership, the enforcement rates for Black and Indigenous Torontonians may be somewhat inflated. Others might argue that racial differences in TTC enforcement rates reflect racial differences in offending behaviour. In other words, TTC enforcement staff treat all people equally, but Black and Indigenous people are more likely to engage in fare evasion, trespassing, loitering, bylaw infractions and public order offences. Proponents of this position may point to the under-representation of Asians, South Asians and other minorities as evidence that the system is not racially biased. However, we cannot, at this time, dismiss the possibility that bias – conscious, unconscious and systemic – has contributed significantly to the gross racial disparities observed in the TTC enforcement data. Racial bias, for example, may subject Black and Indigenous riders to higher levels of surveillance, by TTC fare inspectors and special constables, than riders from other racial backgrounds. Heightened surveillance, in turn, would render Black and Indigenous riders more vulnerable to detection. In other words, racial profiling may make Black and Indigenous riders more likely to be caught for violations than White riders who engage in exactly the same behaviour. Another form of potential bias involves officer discretion once a violation has been detected. Previous research suggests that some law enforcement officials are more likely to formally caution and charge minority customers than White customers. White customers, on the other hand, are more likely to be dismissed or given a verbal warning. Our final report will contain additional analysis of the TTC enforcement data in an effort to further determine the role racial bias may play in TTC enforcement decisions;

C. Transit Enforcement Unit Focus Group Findings

As part of our inquiry we conducted a series of focus groups with TTC staff who are involved directly or indirectly in fare inspection and enforcement activities, and in the collection and analysis of enforcement-related data. The purpose of these focus groups was to learn about the roles and responsibilities of the Fare Inspectors (FIs) and the Transit Special Constables (TSCs), and to understand how they enforced relevant rules, policies and laws. Our aim was also to gain an understanding of how the historical TTC enforcement data had been collected and to examine how members of the former Transit Enforcement Unit (TEU – now the TTC Special Constable Service and Revenue Protection Departments) explained the racial differences in enforcement outcomes that emerged from the analysis of this data. Finally, we sought to identify obstacles to reform and solicited recommendations for reform from members of the Transit Enforcement Unit. Between November 26th and December 23, 2019, we conducted six separate focus groups with Fare Inspectors (two sessions) Transit Special Constables (two sessions) Transit Enforcement Unit Supervisors (one session) and staff responsible for data management (one session).

We set out to explore the enforcement activities to members of the TTC's TEU. In particular, we were interested in how members of the Unit went about their work, how they collected data from members of the public, and in their opinions, why they believed Black people were over-represented in the historical enforcement data. We heard about the challenges faced by members of the enforcement team, particularly in relation to the social problems that permeate the TTC, difficulties experienced with respect to the technology available to them and their concerns about staffing levels. We also learned that there are several main uses for the enforcement data collected by members of the TEU, these include checking riders previous evasion history, confirming identity and conducting background checks, for the purposes of court proceedings, and for internal reporting and trends analysis. Questions about the accuracy of the data, and specifically, about the accuracy of the racial categorization or classification of riders were raised in response to our questions examining why Black people were over-represented in the historical enforcement data. In terms of explaining the observed racial differences in enforcement action, some respondents outright denied the possibility that racism was an underlying cause, pointing to diversity within the Unit as an example of why racial discrimination could not be present. Other respondents suggested that differential rates of offending were responsible for the differential enforcement outcomes, that is that Black people were more likely to violate fare policy and thus more likely to be cautioned or ticketed for doing so. Some respondents suggested that elevated levels of poverty experienced by Black and other racial minority groups in Toronto increases their likelihood of fare evasion. Furthermore, the increased presence of these groups in the geographical locations targeted by the enforcement team resulted in a higher likelihood that they would be caught violating fare policy.

We also heard about the various negative consequences stemming from the public release of the racially disaggregated enforcement data. First, respondents recounted the increased difficulties they have faced in engaging with members of the public, and with Black people in particular. Second, we heard that internal priorities and directives had become inconsistent as the Commission worked to address allegations of discrimination and to improve customer relations. This, it was felt, created additional challenges for enforcement staff. Finally, we were provided with recommendations for improving the relationship between the TEU and transit riders. The introduction and updating of technology to allow staff to more efficiently carry out their work was viewed a necessary step forward. One technology that garnered a lot of support from respondents was body worn cameras which were perceived as providing increased accountability for both riders and enforcement staff. Finally, increased anti-racism and anti-discrimination training for members were seen to be beneficial.

In sum, our focus group sessions garnered rich data to inform our inquiry and will prove valuable as we move on to the public consultation phase. In the next section of the report we turn to a review of decision making and discretion at the TTC.

D. A Review of Decision Making and Discretion at the TTC

The ability to choose from a range of options in deciding how to proceed with a matter is both desirable and unavoidable for many decision makers in public service. It would be impossible to identify a course of action to be followed in every situation and in every possible circumstance. Importantly, front-line staff typically operate in a range of situations, outside of the direct supervision of their superiors. Therefore, the exercise of discretion is an important, and inevitable, aspect of enforcement activities. However, when left unchecked, or not sufficiently guided by law and policy, the ability to choose from a range of options when dealing with members of the public provides opportunity for the differential exercise of authority.

Drawing on academic literature, we reviewed what is known about decision making and the exercise of discretion in enforcement settings. We also identified key decision-making points within revenue protection work where racial and other forms of discrimination are likely to arise. Through an analysis of TTC policies and training documents, we found a relatively high level of guidance with respect to some of the most consequential areas of decision-making undertaken by members of Revenue Protection and the Special Constable Service (e.g. use of force). Conversely, our review uncovered less guidance or policy surrounding the less consequential, though much more frequent exercises of authority (e.g. fare inspection). In our assessment, existing TTC policy and training documents provide a strong foundation to structure and guide decision-making. We believe that greater attention to, and emphasis of rights protecting legislation, combined with the removal of verbal warnings as an enforcement option will serve to strengthen existing policy and training. We suggest that considerations should also guide the development of a dedicated discretion policy.

E. Literature Review: Body Cameras in Law Enforcement

The use of body worn cameras (BWCs) by law enforcement agencies has increased dramatically over the past decade. Unfortunately, relatively little research has evaluated the impact of BWCs – especially in the Canadian context. The empirical evidence on the efficacy of BWCs is quite mixed. Some studies suggest that body cameras have a civilizing effect on police-civilian interactions. For example, research suggests that BWCs can reduce police use of force and reduce complaints against the police. BWCs can also improve police evidence collection, shorten case resolution times, induce guilty pleas and produce cost savings. Taken together, the perceived benefits of BWCs can lead to improvements in police accountability and transparency and subsequently increase public confidence in the police. Other studies have found that BWCs produce few benefits (i.e., they do not reduce police use of force, racial bias or complaints against the police) and have little impact on public perceptions of the police. Researchers also highlight various concerns associated with BWCs including the high cost of purchasing and maintaining BWC equipment and storing BWC footage. Others have raised concerns about officer discretion with respect to turning on and off BWCs, civilian privacy and civilian access to BWC footage. The general consensus is that more research – using improved methodologies – is required to establish the true impact of BWC technologies;

F. Race-Based Data Collection and the TTC

Our inquiry was prompted, in part, by the public release of racially disaggregated TTC enforcement data. In line with findings from other enforcement services across the GTA, Ontario, and Canada, the TTC data demonstrate a significant over-representation of Black people in past enforcement activity. In order to better understand why certain minority groups – specifically Black and Indigenous peoples – are over-represented in enforcement outcomes, and to ensure fair and equitable treatment, many police agencies and public sector organizations are exploring how to standardize the collection, analysis and release of race-based data. In Ontario, this development comes partly in response to the introduction of the province’s *Anti-Racism Act* and accompanying *Anti-Racism Data Standards*. These initiatives have mandated the collection of associated data by specific agencies and have set out a framework for their storage, analysis and release.

We have been asked by the TTC to provide a preliminary set of recommendations around race-based data collection. Having collectively worked with both the province of Ontario to develop the provincial Data Standards, and more recently the Toronto Police Service Board (TPSB) to develop a race-based data collection policy for the Toronto Police Service, we recognize that a significant amount of groundwork in this area has already been done. As such, the TTC can learn from, and build upon, the work of these two organizations. Indeed, with some modifications, and pending community consultation, the TPSB policy should serve as a guiding framework for the TTC.

As part of our public consultations in Phase 2 of our inquiry, we will be seeking community input with respect to the collection, analysis and release of race-based data by the TTC. As such, these recommendations are subject to revision. We suggest that the TTC adopt interim measures to facilitate the collection of race-based data pending community consultation. Given the sensitive nature of this task, we want to stress that a final version of the policy should not be implemented without having first undertaken extensive community consultation. In the course of developing the TPSB race-based data policy, for example, the TPSB and TPS conducted dozens of focus groups with individuals and agencies across Toronto. Our final recommendations with respect to race-based data collection, analysis and reporting will be developed once our own community consultations have been completed. In the next section we outline the activities that will comprise the second phase of our research and be documented in our final report.

Next Steps

This report is one of two reports planned as part of this inquiry into TTC enforcement practices and race relations. In this report we provided a preliminary analysis of TTC enforcement data and, through focus groups, documented the experiences and perceptions of TTC enforcement staff. Although we have yet to draw final conclusions, our findings strongly reinforce the argument that race, racial bias and race relations are major issues in the context of TTC enforcement practices. These are issues that require a strong policy response. In this report we have provided insights into how that policy response could develop by reviewing the literature on both law enforcement discretion and body-worn cameras and providing preliminary recommendations with respect to

race-based data collection, analysis and dissemination. The planned next steps of our inquiry involve a number of additional research activities including:

- A review of how other transit agencies and enforcement services have approached issues related to race and racism;
- Further analysis of TTC enforcement data;
- An analysis of data related to criminal-incidents involving TTC enforcement staff;
- An analysis of use of force incidents involving TTC enforcement staff;
- An analysis of race-based complaints against TTC enforcement staff;
- Consultations with leaders and stakeholders from Black, Indigenous and other racial minority communities;
- Consultations with TTC executives;
- A series of town hall discussions designed to hear the concerns of TTC consumers;
- A survey of TTC enforcement staff;
- A survey of TTC consumers.

In addition to presenting our final research results, the final report will provide a series of final recommendations addressing race-based data collection, strategies for eliminating bias from TTC enforcement activities and policies designed to improve public perceptions of the TTC and both internal and external race-relations.

PART A: INTRODUCTION¹

The Toronto Transit Commission (TTC) provides an essential service to the millions of people who live, work and travel in the city. Like other public services, The TTC has an obligation and legal duty to treat its customers in a fair and equitable manner. As a result of allegations of racial bias, and the release of enforcement data by the *Toronto Star* that documented an over-representation of Black people in enforcement outcomes, we have been contracted by the TTC to conduct a racial equity impact assessment of the former TTC Transit Enforcement Unit (now the TTC Special Constable Service and Revenue Protection) enforcement activities, and ongoing changes to the structure and nature of enforcement work.² This assessment, and inquiry, involve employing a variety of research and investigative techniques intended to identify racial disparities in key enforcement outcomes and to determine the causes of these disparities. To this end, we have conducted extensive quantitative analysis of the TTC historical enforcement data from January 2008 to December 2018, conducted focus groups with TTC staff engaged in enforcement related work, reviewed enforcement related policies and procedures and consulted the relevant academic literature. This interim report presents the findings of our work to date.

The report is structured as follows:

- Part B presents the findings of our analysis of the TTC historical enforcement data, highlights possible explanations for the observed racial disparities in the data and provides suggestions for further analysis to be conducted during the next phase of our work;
- Part C of the report documents the findings of our focus group sessions held with members of the former Transit Enforcement Unit. Here we examine the nature of the work carried out by the Unit and examine how the race-based data presented in Part B was collected and utilized. We also examine the impact of the public release of this data on the functioning of the Unit and present a series of related recommendations;
- Part D of the report presents our analysis of decision making and the exercise of discretion within the Transit Enforcement Unit. Situated within the broader research literature, our analysis examines decision making and the exercise of discretion through an equity lens. Here we provide a series of recommendations to strengthen guide further policy development and inform practice;
- Part E of the report provides a literature review on the use and effectiveness of body-worn cameras;
- Part F presents a set of preliminary recommendations for the collection, analysis and reporting of race-based data;
- in Part G we outline the work to be conducted in phase two of our assessment.

¹ The initial version of this report was delivered to the TTC on June 5, 2020.

² Throughout this report we use the terms “Transit Enforcement Unit”, “Fare Inspectors” and “Transit Special Constables” to identify the entities that existed at the time that our initial research was conducted. As a result of restructuring within the TTC, the Transit Enforcement Unit has split into two distinct entities, the “Revenue Protection” and “Special Constable Service” departments. We use the terms Revenue Protection and Special Constable Service when making current and forward looking statements to reflect these developments.

PART B: AN ANALYSIS OF TTC ENFORCEMENT DATA

In this section of the report we provide an analysis of official enforcement data compiled by the Toronto Transit Commission (TTC) between January 2008 and December 2018. The dataset provided by the TTC includes information on 121,816 enforcement-related incidents – formal cautions and charges – involving TTC fare inspectors and special constables.

Important variables, associated with each enforcement incident, include:

- The race, gender and birthdate of the civilian;
- The type of offence;
- The date and time of the offence;
- The location of the offence; and
- Civilian residence.

The analysis presented below is designed to provide an independent analysis of TTC enforcement data. An examination of some aspects of this data was originally conducted by Ben Spurr of the *Toronto Star* (Spurr 2019). It must be stressed that the dataset provided by the TTC includes information on by-law infractions, posted-regulation infractions and minor crimes. The data does not provide information on major criminal incidents, arrests or criminal investigations that took place on TTC property and may have involved TTC enforcement staff.

The findings presented below are intended to address three major research questions:

- 1) To what extent do racial disparities exist with respect to TTC enforcement activities?
- 2) Do racial disparities vary with the use of different benchmarking techniques?
- 3) Do racial disparities persist after controlling for contextual variables including gender, type of offence and location of offence?

Measuring Race

During the study period, TTC fare inspectors and special constables often documented the personal characteristics – including the race, sex and birthdate -- of the customers they cautioned or charged. Based on our conversations with TTC staff, this information was collected for “suspect description” rather than equity purposes. It is also clear that TTC enforcement staff had received little training on the collection of racial data. As a result, some of the racial data involves officer perceptions of civilian race, while others involve civilian self-reported racial identity. It is also clear that officers were given little guidance with respect to specific racial categories. As a result, the race variable provided in the original dataset had 82 different racial classifications. Some of these classifications explicitly describe the civilian’s race (White, Caucasian, Asian, South Asian, Black, Indigenous, etc.), while other classifications seem to capture either ethnicity or country of origin (i.e., Australian, Barbadian, Danish, French, Jamaican, Chinese, Syrian, etc.).

For the purposes of this report, the 82 different racial groups captured by the original data were recoded into seven distinct racial categories. These seven categories are consistent with the racial classification system employed by Statistics Canada and the Canadian Census. At times, the research team coded a person's race based on their country of origin. For example, a person labelled as German, Danish or Bulgarian would be classified as "White." A person labelled Chinese or Korean would be classified as "Asian." A person labelled as Jamaican or Nigerian would be classified as "Black." In general, persons identified as being from Africa and the Caribbean were classified as Black. People from European nations were classified as White. People from Asian countries (China, Korea, etc.) were classified as Asian. Persons from the Middle-East (Iran, Iraq, Syria, etc.) were classified as West Asian/Arab. Persons from South America and Mexico were classified as Latin American. Finally, persons from India, Pakistan and Sri Lanka were classified as South Asian.

We acknowledge that this coding system is not perfect and that errors in racial classification might have occurred. For example, a White person from Jamaica could have been improperly coded as Black, or a Black person from Germany could have been improperly coded as "White." However, we feel that such coding errors will only have a small, statistically insignificant impact on the final racial estimates used in this report. Indeed, the vast majority of the racial classifications originally made by TTC enforcement staff did, in fact, fit into one of our seven major racial categories. For example, our recoding produced a sample of 16,701 incidents in which the civilian was identified as Black. Of this number, 90% had been originally coded by a TTC staff member as Black (71.2%), Canadian Black (18.1%) or American Black (0.6%). In other words, only 10% of our final Black sample had to been classified according to country of origin. Similarly, our coding procedure produced a final sample of 47,337 White customers. Almost all of these respondents (93.2%) were originally classified by TTC staff as either Caucasian (65.3%) or "Canadian" White (28.2%). The results are similar for all other racial groups.

[Table 1](#) provides the racial breakdown of the customers involved in all TTC enforcement incidents captured by the data. It is important to note that civilian race is completely missing for 35,006 of the 121,816 incidents (28.7%). This is a serious data limitation that could dramatically impact racial disparity estimates. As a result, for the balance of the analysis presented in this report, we only use enforcement data in which the race of the customer has been recorded (see [Table 2](#)). This gives us a final sample size of 86,810 incidents. It is entirely possible that, due to the large volume of missing data, the findings presented below grossly under-estimate the true number of racial minorities involved in TTC enforcement incidents and the magnitude of racial disparities. We return to this point later in the report.

**TABLE 1:
Racial Background of Customers Recorded in the
TTC Enforcement Dataset**

| RACIAL GROUP | COUNT | PERCENT |
|-------------------------|----------------|----------------|
| Unknown/Missing | 35,006 | 28.7 |
| White | 47,337 | 38.9 |
| Black | 16,701 | 13.7 |
| Indigenous | 2,575 | 2.1 |
| West Asian | 1,069 | 0.9 |
| Asian | 13,538 | 11.1 |
| South Asian | 4,416 | 3.6 |
| Hispanic/Latin American | 1,174 | 1.0 |
| TOTAL | 121,816 | 100.0 |

**TABLE 2:
Racial Background of Customers Recorded in the
TTC Enforcement Dataset (Missing Cases Excluded)**

| RACIAL GROUP | COUNT | PERCENT |
|-------------------------|---------------|----------------|
| White | 47,337 | 54.5 |
| Black | 16,701 | 19.2 |
| Indigenous | 2,575 | 3.0 |
| West Asian | 1,069 | 1.2 |
| Asian | 13,538 | 15.6 |
| South Asian | 4,416 | 5.1 |
| Hispanic/Latin American | 1,174 | 1.4 |
| TOTAL | 86,810 | 100.0 |

Measuring Racial Disparities

Odds ratios and enforcement rates were calculated to determine the representation of specific racial groups in TTC enforcement activities. Odds ratios were calculated by dividing the percent of all TTC enforcement incidents involving a particular racial group by their percent representation in the general population. An odds ratio approaching 1.00 indicates that a racial group is neither over nor under-represented in TTC enforcement incidents. An odds ratio less than 1.00 indicates that the group is under-represented. An odds ratio greater than 1.00 indicates that the group is over-represented in TTC enforcement incidents. For example, an odds ratio of 2.00 indicates that a group is twice as prevalent in TTC cases as they are in the general population. By contrast, an odds ratio of 0.50 indicates that a group is 50% less represented in TTC enforcement incidents than their proportion of the general Toronto population would predict.

There is no set standard for determining when racial disproportionality (i.e., the over or under-representation of a particular racial group with respect to a specific social outcome) is cause for concern. For example, in the Ottawa Traffic Stop study, the researchers used the 20% rule (or an Odds Ratio of 1.20 or higher) to determine when a group was significantly over-represented with respect to involuntary police contact (Foster et al, 2016). For the purposes of this study we have used a higher threshold of 50%. In other words, for the purposes of the present analysis, an Odds Ratio of 1.50 or higher will be used to determine whether racial disproportionality is noteworthy or not. At times we will discuss the notion of “gross” racial disparity. For the purposes of this report, a gross racial disparity exists when the level of over-representation is 100% or greater (i.e., as indicated by an Odds Ratio of 2.00 or higher). In these cases, a particular racial group would be two times more prevalent in TTC enforcement incidents than their presence in the general Toronto population would predict.

A second disparity measure used in the current analysis is the TTC enforcement rate. The TTC enforcement rate (per 100,000) was calculated by dividing the total number of TTC cases per racial group by their population estimate and multiplying that figure by 100,000. The rate indicates the number of people, per 100,000 population, that were involved in a TTC enforcement incident during the study period. This case rate allows us to directly compare the experiences of different racial groups of varying size. For example, if Group A has a case rate of 10 per 100,000, and Group B has a rate of 5 per 100,000, we can accurately state that the members of Group A are twice as likely to become involved in a TTC enforcement incident than the members of Group B.

We must stress that the figures presented in the following tables are based on 2016 Census projections for the City of Toronto and the *total population* of TTC enforcement incidents documented between 2008 and 2018. These are not figures based on a random sample and therefore are not subject to the rules of probability theory. In other words, the observed racial differences do not have to be tested for statistical significance. All the racial differences documented in these tables should therefore be interpreted as “real” differences.

Finally, it should be noted that the odds ratios and TTC enforcement rates presented below are likely conservative. In other words, they may slightly under-estimate the true level of racial disparity in TTC enforcement outcomes. The issue involves the use of 2016 census estimates for the entire 2008-2018 study period. Previous research suggests that Toronto’s Black and other minority population is increasing at a faster rate than the White population. Thus, using 2016 Census estimates to measure the Black/other minority population in 2008 may slightly over-estimate the population size of these groups for that year -- and slightly under-estimate the size of the White population. This would serve to reduce the size of the racial differences that appear in the TTC enforcement data. In other words, the racial disparities outlined in this report may be smaller than the racial disparities that actually exist with respect to TTC enforcement incidents.

FINDINGS

[Table 3](#) presents the racial breakdown of TTC enforcement incidents that took place between 2008 and 2018. The results suggest that both Indigenous and Black customers are grossly over-represented in the TTC enforcement data. For example, although they represent only 8.8% of Toronto’s population, Black customers were involved in 19.2% of all TTC enforcement incidents documented during the study period. The Odds Ratio indicates that Black people are 2.2 times more likely to appear in TTC enforcement data than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto’s population (0.8%), Indigenous people were implicated in 3.0% of all TTC enforcement incidents. In other words, Indigenous people are 3.7 times more likely to appear in TTC enforcement incidents than their presence in the general population would predict.

Overall, White people represent 48.4% of Toronto’s population and 54.5% of all TTC enforcement incidents. In other words, the presence of White people in TTC enforcement incidents approximates their presence in the general population (Odds Ratio=1.1). Importantly, all other racial groups are significantly under-represented in TTC enforcement incidents. For example, although South Asians represent 12.4% of Toronto’s population, they were involved in only 5.1% of the TTC enforcement incidents captured during the study period (Odds Ratio=0.41). In other words, South Asian people are 59 percent less likely to be involved in a TTC enforcement incident than their presence in the general population would predict. People of Asian, West Asian and Hispanic backgrounds are similarly under-represented in the TTC enforcement data (see [Table 3](#)).

Indigenous people have the highest overall TTC enforcement rate (11,164 per 100,000), followed by Black people (6,963 per 100,000). The Indigenous enforcement rate is 3.1 times greater than the White rate (3,578 per 100,000) and 3.5 times greater than the City average (3,177 per 100,000).³ The Black enforcement rate is 1.95 times greater than the White rate and 2.2 times greater than the City average. The rates for all other racial minority groups fall significantly below the White rate, the City-level rate and the rates for both Indigenous and Black people ([Table 3](#)).

It should be noted that of the 86,810 incidents included in the current analysis, 35,923 (41.3%) involved a formal caution and 50,880 (58.7%) involved a charge or ticket. Further analysis reveals that Black and Indigenous people are grossly over-represented in both caution and charge incidents (see [Tables 4](#) and [5](#)).

[Table 4](#) presents the racial breakdown of TTC enforcement incidents that involved a caution.⁴ The results suggest that both Indigenous and Black customers are grossly over-represented in TTC caution data. For example, although they represent only 8.8% of Toronto’s population, Black customers were involved in 19.5% of all TTC cautions documented during the study period. The Odds Ratio indicates that Black people are 2.2 times more likely to appear in TTC caution data

³ The term “city average” is used to capture the aggregate city rate (total population) not broken down by race. It is presented in the tables in the bottom row entitled “Total.”

⁴ Considerable controversy emerged when it was discovered that the TTC was using Toronto Police Service “contact cards” to document cautions. It should be stressed that, unlike the TPS, the TTC was using contact cards to document and caution customers for actual violations of the law. The TPS, on the other hand, frequently used contact cards to document, for intelligence purposes, interactions with individuals that did not involve illegal activity.

than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto's population (0.8%), Indigenous people were implicated in 2.0% of all TTC cautions documented during the study period. In other words, Indigenous people are 2.5 times more likely to appear in TTC enforcement-related cautions than their presence in the general population would predict.

Overall, White people represent 48.4% of Toronto's population and 55.3% of all cautions issued by TTC enforcement officials between 2008 and 2018. In other words, the presence of White people in the TTC cautions data approximates their presence in the general population (Odds Ratio=1.1). Importantly, all other racial groups are significantly under-represented in TTC cautions. For example, although South Asians represent 12.4% of Toronto's population, they were involved in only 5.5% of the TTC cautions during the study period (Odds Ratio=0.44). In other words, South Asian people are 56 percent less likely to be involved in a TTC caution incident than their presence in the general population would predict. People of Asian, West Asian and Hispanic backgrounds are similarly under-represented in the TTC caution data (see [Table 4](#)).

Indigenous people have the highest overall TTC caution rate (3,135 per 100,000), followed closely by Black people (2,916 per 100,000). The Indigenous caution rate is 2.1 times greater than the White rate (1,501 per 100,000) and 2.4 times greater than the City average (1,315 per 100,000). The Black caution rate is 1.94 times greater than the White rate and 2.2 times greater than the City average. The caution rates for all other racial minority groups fall significantly below the White rate, the City rate and the rates for both Indigenous and Black people ([Table 4](#)).

[Table 5](#) presents the racial breakdown of TTC enforcement incidents that involved a charge or ticket. The results suggest that both Indigenous and Black customers are grossly over-represented in TTC charge data. For example, although they represent only 8.8% of Toronto's population, Black customers were involved in 19.1% of all TTC charges documented during the study period. The Odds Ratio indicates that Black people are 2.2 times more likely to appear in TTC charge data than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto's population (0.8%), Indigenous people were implicated in 3.6% of all TTC charges documented during the study period. In other words, Indigenous people are 4.5 times more likely to appear in TTC charges than their presence in the general population would predict.

Overall, White people represent 48.4% of Toronto's population and 54.0% of all charges issued by TTC enforcement officials between 2008 and 2018. In other words, the presence of White people in the TTC charge data approximates their presence in the general population (Odds Ratio=1.1). Importantly, all other racial groups are significantly under-represented in TTC charges. For example, although South Asians represent 12.4% of Toronto's population, they were involved in only 4.8% of TTC charges documented during the study period (Odds Ratio=0.39). In other words, South Asian people are 61 percent less likely to be involved in a TTC charge incident than their presence in the general population would predict. People of Asian, West Asian and Hispanic backgrounds are similarly under-represented in the TTC charge data (see [Table 5](#)).

Indigenous people have the highest overall TTC charge rate (8,030 per 100,000), followed by Black people (4,046 per 100,000). The Indigenous charge rate is 3.9 times greater than the White

rate (2,078 per 100,000) and 4.3 times greater than the City average (1,863 per 100,000). The Black charge rate is 1.95 times greater than the White rate and 2.2 times greater than the City average. The charge rates for all other racial minority groups fall significantly below the White rate, the City rate and the rates for both Indigenous and Black people ([Table 5](#)).

**TABLE 3:
Total Enforcement Activity (Cautions and Charges),
Toronto Transit Commission, by Civilian Racial Background, 2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Enforcement Incidents | Percent of Enforcement Incidents | Odds Ratio | Enforcement Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|--|---|-------------------|---------------------------------------|
| White | 1,322,656 | 48.4 | 47,337 | 54.5 | 1.13 | 3,578.9 |
| Black | 239,850 | 8.8 | 16,701 | 19.2 | 2.18 | 6,963.1 |
| Indigenous | 23,065 | 0.8 | 2,575 | 3.0 | 3.75 | 11,164.1 |
| Asian | 548,870 | 20.1 | 13,538 | 15.6 | 0.78 | 2,466.5 |
| South Asian | 338,965 | 12.4 | 4,416 | 5.1 | 0.41 | 1,302.8 |
| Hispanic/Latin | 77,160 | 2.8 | 1,174 | 1.4 | 0.50 | 1,521.5 |
| Arab/West Asian | 96,355 | 3.5 | 1,069 | 1.2 | 0.34 | 1,109.4 |
| Other | 84,650 | 3.2 | ----- | ----- | ----- | ----- |
| TOTAL | 2,731,571 | 100.0 | 86,810 | 100.0 | 1.00 | 3,177.8 |

**TABLE 4:
Total Cautions, Toronto Transit Commission, by Civilian Racial Background, 2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Cautions | Percent of Cautions | Odds Ratio | Caution Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|---------------------------|----------------------------|-------------------|-----------------------------------|
| White | 1,322,656 | 48.4 | 19,850 | 55.3 | 1.14 | 1,500.8 |
| Black | 239,850 | 8.8 | 6,995 | 19.5 | 2.22 | 2,916.4 |
| Indigenous | 23,065 | 0.8 | 723 | 2.0 | 2.50 | 3,134.6 |
| Asian | 548,870 | 20.1 | 5,368 | 14.9 | 0.74 | 978.0 |
| South Asian | 338,965 | 12.4 | 1,964 | 5.5 | 0.44 | 579.4 |
| Hispanic/Latin | 77,160 | 2.8 | 584 | 1.6 | 0.57 | 756.9 |
| Arab/West Asian | 96,355 | 3.5 | 439 | 1.2 | 0.34 | 455.6 |
| Other | 84,650 | 3.2 | ----- | ----- | ----- | ----- |
| TOTAL | 2,731,571 | 100.0 | 35,923 | 100.0 | 1.00 | 1,315.1 |

**TABLE 5:
Total Charges, Toronto Transit Commission, by Civilian Racial Background, 2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Charges | Percent of Charges | Odds Ratio | Charge Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|--------------------------|---------------------------|-------------------|----------------------------------|
| White | 1,322,656 | 48.4 | 27,486 | 54.0 | 1.11 | 2,078.1 |
| Black | 239,850 | 8.8 | 9,704 | 19.1 | 2.17 | 4,045.9 |
| Indigenous | 23,065 | 0.8 | 1,852 | 3.6 | 4.50 | 8,029.5 |
| Asian | 548,870 | 20.1 | 8,166 | 16.0 | 0.80 | 1,487.8 |
| South Asian | 338,965 | 12.4 | 2,452 | 4.8 | 0.39 | 723.4 |
| Hispanic/Latin | 77,160 | 2.8 | 590 | 1.2 | 0.43 | 764.6 |
| Arab/West Asian | 96,355 | 3.5 | 630 | 1.2 | 0.34 | 653.8 |
| Other | 84,650 | 3.2 | ----- | ----- | ----- | ----- |
| TOTAL | 2,731,571 | 100.0 | 50,880 | 100.0 | 1.00 | 1,862.7 |

The Impact of Unique Individuals

At this point in the analysis it is important to examine the impact that unique individuals may have on the overall racial disparities documented above. For example, individuals who have been subjected to multiple TTC cautions or charges could drive up the numbers for the racial group to which they belong. Unfortunately, the data that was provided by the TTC did not assign a unique identification number to the individuals involved in each incident. Thus, the research team had to create this number. We did so by first sorting the data by the individual's last name, birthdate and gender and then combining the information from these three variables to create a unique identification number. A visual examination of a random sample of 1,000 cases was used to confirm that each person in the dataset was assigned a unique identification number.

Our results indicate that 63,709 unique individuals were responsible for 86,810 TTC enforcement incidents documented between 2008 and 2018. This works out to an average of 1.36 incidents per individual in the dataset. The number of TTC enforcement incidents, per unique individual, ranged from 1 to 548. The individual with 548 documented cases was a Black male who averaged 49.8 incidents per year over the eleven-year study period. However, it must be stressed that 87.5% of the unique individuals in the dataset were involved in only one TTC enforcement incident. An additional 8.5% of the sample were involved in only two incidents. Thus, only 4.3% of the unique individuals in the TTC dataset were involved in three or more enforcement incidents during the study period (see [Table 6](#)).

[Table 7](#) recalculates TTC racial disparities counting unique individuals only once. This strategy eliminates the impact of statistical outliers who have been involved in multiple enforcement incidents. The results reveal that controlling for the impact of unique individuals does little to reduce overall racial disparities. For example, the proportion of enforcement incidents involving Black people drops just slightly from 19.2% to 18.4%. In other words, counting unique individuals only once, Black people are still 2.1 times more likely to appear in the TTC enforcement dataset than their presence in the general population would predict. However, the proportion of enforcement incidents involving Indigenous people does drop significantly, from 3.0% to 1.2%, once we control for the impact of unique individuals. In other words, unique Indigenous individuals, who have been involved in multiple TTC enforcement incidents, appear to be responsible for the particularly high Indigenous enforcement rates observed in [Tables 3](#) through [5](#). Indeed, after controlling for unique individuals, the enforcement rate for Black people (4,896 per 100,000) exceeds the rate for Indigenous people (3,495.6 per 100,000). Nonetheless, the enforcement rates for both Black and Indigenous peoples remain significantly higher than the rates for White people and people from all other racial minority categories ([Table 6](#)).

[Figure One](#) presents the mean number of enforcement incidents, per unique individual, in the TTC enforcement dataset. The results reveal that Indigenous individuals averaged 3.33 enforcement incidents, followed by West Asian individuals (mean=1.96), Black individuals (mean=1.46), White individuals (mean=1.43), Latin American individuals (mean=1.24), South Asian individuals (mean=1.12) and Asian individuals (mean=1.09). This finding further reinforces the argument that a few unique Indigenous individuals are driving up the TTC enforcement rate for all Indigenous people. However, such outliers do not appear to have a significant impact on the enforcement rates for all other racial groups.

Importantly, the data indicate that Black people are grossly over-represented amongst those involved in both single and multiple TTC enforcement incidents. Although they represent only 8.8% of Toronto’s population, Black people represent 17.8% of those involved in a single TTC enforcement incident, 23.0% of those involved in two incidents and 22.2% of those involved in three or more incidents (Table 8). In other words, compared to their representation in the general population, Black people are 2.02 times more likely to be involved in a single TTC enforcement incident, 2.61 times more likely to be involved in two enforcement incidents and 2.52 times more likely to be involved in three or more enforcement incidents (Table 9). In other words, the over-representation of Black people in TTC enforcement statistics cannot be explained by unique Black individuals who have been involved in multiple TTC enforcement incidents. By contrast, Indigenous people are not over-represented amongst those involved in only one TTC incident. However, compared to their representation in the general population, Indigenous people are 3.75 times more likely to be involved in two TTC enforcement incidents and 7.37 times more likely to be involved in three or more incidents. Once again, this finding suggests that a relatively few Indigenous individuals have had a disproportionate impact on the overall TTC enforcement rates for Indigenous people. However, the overall Indigenous TTC enforcement rate remains higher than the rates for White people and other (non-Black) racial minorities.

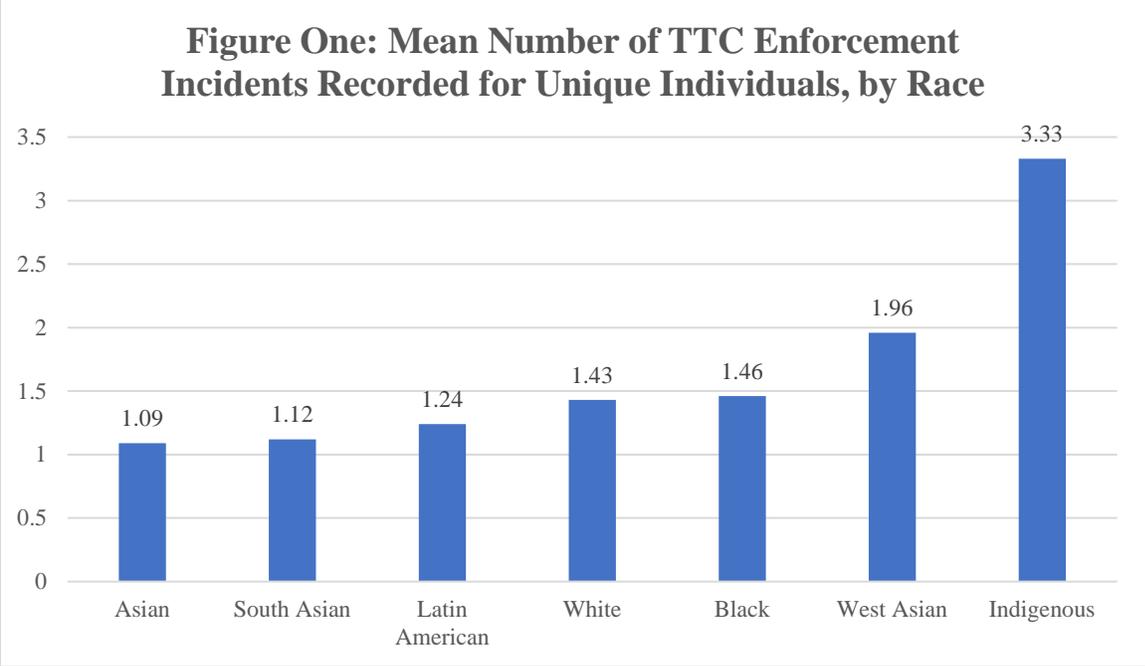
The representation of White people – among both single and multiple TTC enforcement cases – is approximately equal to their representation in the general population. The representation of Asian people in single enforcement cases is also similar to their presence in the population. However, Asian people are significantly under-represented with respect to those involved in multiple TTC enforcement incidents. Regardless of the number of enforcement incidents involved, South Asians, West Asians and Latin American people are consistently under-represented in the TTC enforcement data (see Table 8 and 9).

**Table 6:
Number of TTC Enforcement Incidents Recorded for
Each Unique Individual, 2008-2018**

| Number of TTC Enforcement Incidents | Count | Percent |
|--|---------------|--------------|
| One | 55,601 | 87.3 |
| Two | 5,388 | 8.5 |
| Three or More | 2,720 | 4.3 |
| TOTAL | 63,709 | 100.0 |

TABLE 7:
Total Enforcement Activity (Cautions and Charges),
Toronto Transit Commission, Unique Individuals, by Civilian Racial Background, 2008 to 2018

| Racial Group | Population Estimate | Percent of Population | Number of Unique Individuals involved in TTC Enforcement Actions | Percent of Unique Individuals involved in TTC Enforcement Actions | Odds Ratio | Unique Individual Enforcement Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|---|--|-------------------|---|
| White | 1,322,656 | 48.4 | 33,442 | 52.5 | 1.08 | 2,528.4 |
| Black | 239,850 | 8.8 | 11,742 | 18.4 | 2.09 | 4,895.6 |
| Indigenous | 23,065 | 0.8 | 793 | 1.2 | 1.50 | 3,438.1 |
| Asian | 548,870 | 20.1 | 12,349 | 19.4 | 0.96 | 2,249.9 |
| South Asian | 338,965 | 12.4 | 3,791 | 6.0 | 0.48 | 1,118.4 |
| Hispanic/Latin | 77,160 | 2.8 | 930 | 1.5 | 0.53 | 1,205.3 |
| Arab/West Asian | 96,355 | 3.5 | 662 | 1.0 | 0.29 | 687.0 |
| Other | 84,650 | 3.2 | ----- | ----- | ----- | ----- |
| TOTAL | 2,731,571 | 100.0 | 63,709 | 100.0 | 1.00 | 2,332.3 |



**TABLE 8:
Percent of Recorded TTC Enforcement Incidents, by Civilian Race**

| Racial Background | One Enforcement Incident | Two Enforcement Incidents | Three or More Enforcement Incidents | Percent Toronto Population |
|--------------------------|---------------------------------|----------------------------------|--|-----------------------------------|
| White | 51.6 | 56.2 | 62.6 | 48.8 |
| Black | 17.8 | 23.0 | 22.2 | 8.8 |
| Indigenous | 0.9 | 3.0 | 5.9 | 0.8 |
| Asian | 20.9 | 11.8 | 4.3 | 20.1 |
| South Asian | 6.4 | 3.7 | 2.0 | 12.4 |
| Latin American | 1.6 | 0.9 | 0.7 | 2.8 |
| West Asian/Arab | 0.9 | 1.5 | 2.3 | 3.5 |
| TOTAL | 100.0 | 100.0 | 100.0 | 100.0 |

**TABLE 9:
Degree of Representation (Odds Ratios) in TTC Enforcement Incidents,
by Civilian Race and the Number of Incidents Per Unique Individual**

| Racial Background | One Enforcement Incident | Two Enforcement Incidents | Three or More Enforcement Incidents |
|--------------------------|---------------------------------|----------------------------------|--|
| White | 1.07 | 1.15 | 1.28 |
| Black | 2.02 | 2.61 | 2.52 |
| Indigenous | 1.13 | 3.75 | 7.37 |
| Asian | 1.04 | 0.59 | 0.21 |
| South Asian | 0.52 | 0.30 | 0.16 |
| Latin American | 0.57 | 0.32 | 0.25 |
| West Asian/Arab | 0.26 | 0.43 | 0.66 |

A Focus on Toronto Residents

In this section of the report we explore the impact of TTC riders who reside outside of the City of Toronto. In our analysis, population estimates are based on 2016 Census projections for the City of Toronto. However, TTC riders often include people who reside outside of Toronto – including commuters from the Greater Toronto Area. Is it possible that these “outsiders” impact racial differences in TTC enforcement activities? To control for this possibility, we recalculate our racial disparity measures by excluding individuals who reside outside Toronto.

The dataset provided by the TTC included a variable labelled “Municipality.” This variable included a description of where the civilian involved in the enforcement-related incident resided. Sometimes this information included a specific address. At other times it only specified a region, city, or country (i.e., Scarborough, Ottawa, Vancouver, England, the United States, etc.). The original variable contained 2,032 unique entries. Through a painstaking process, the research team recoded this variable into two basic categories – those who clearly live in the City of Toronto and those who live outside of the City of Toronto. The “outside Toronto” category includes cases where the residence of the individual could not be identified. The data indicate that 19,624 of the 86,810 enforcement incidents in the dataset (22.6% of the sample) involved people who live outside of Toronto. The remaining 77.4% of enforcement incidents involve individuals who reside in the City of Toronto. It is these 67,186 incidents that are the basis of the analysis presented in this section.

[Table 10](#) presents the racial breakdown of TTC enforcement incidents – involving only known Toronto residents -- that took place between 2008 and 2018. The results indicate that racial disparities in TTC enforcement incidents persist after the exclusion of cases involving people who reside outside of the City of Toronto. Indeed, the proportion of all enforcement incidents involving Black people jumps from 19.2% to 19.6% after outside residents have been eliminated from the sample. Furthermore, although the proportion of incidents involving Indigenous customers drops from 3.0% to 2.2%, Indigenous people continue to be significantly over-represented in the TTC enforcement data.

Although they represent only 8.8% of Toronto's population, Black people were involved in 19.6% of all TTC enforcement incidents that involved City of Toronto residents ([Table 10](#)). The Odds Ratio indicates that Black residents of Toronto are 2.23 times more likely to appear in TTC enforcement data than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto's population (0.8%), Indigenous people were implicated in 2.2% of all TTC enforcement incidents that involved a Toronto resident. In other words, Indigenous people are still 2.75 times more likely to appear in TTC enforcement incidents than their presence in the general population would predict.

Overall, White people represent 48.4% of Toronto's population and 53.9% of all TTC enforcement incidents that involve Toronto residents. In other words, the presence of White people in TTC enforcement incidents approximates their presence in the general population (Odds Ratio=1.11). Importantly, all other racial groups are significantly under-represented in TTC enforcement incidents. For example, although South Asians represent 12.4% of Toronto's population, they were involved in only 5.2% of TTC enforcement incidents, involving Toronto residents, captured during the study period (Odds Ratio=0.42). In other words, South Asian people are 58 percent less likely to be involved in a TTC enforcement incident than their presence in the general population would predict. People of Asian, West Asian and Hispanic backgrounds are similarly under-represented in the TTC enforcement data (see [Table 10](#)).

After excluding non-Toronto residents, Indigenous people still have the highest TTC enforcement rate (6,326 per 100,000), followed closely by Black people (5,504 per 100,000). The Indigenous enforcement rate is 2.3 times greater than the White rate (2,738 per 100,000) and 2.6 times greater than the City average (2,460 per 100,000). The Black enforcement rate is 2.01 times greater than the White rate and 2.24 times greater than the City average. The rates for all other racial minority groups fall significantly below the White rate, the City rate and the rates for both Indigenous and Black people ([Table 3](#)).

[Table 11](#) presents the racial breakdown of TTC enforcement incidents, involving Toronto residents, that involved a caution. The results suggest that racial disparities with respect to TTC cautions are not diminished by the exclusion of incidents involving people who reside outside of the City of Toronto. Both Indigenous and Black customers are still over-represented in TTC caution data. For example, although they represent only 8.8% of Toronto's population, Black customers were involved in 20.2% of all TTC cautions, involving Toronto residents, documented during the study period. The Odds Ratio indicates that Black people are 2.3 times more likely to appear in TTC caution data than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto's population (0.8%), Indigenous people were implicated in 1.5% of all TTC cautions, involving Toronto residents, documented during the study period. In other words, Indigenous people are 1.9 times more likely to appear in TTC enforcement-related cautions than their presence in the general population would predict.

Overall, White people represent 48.4% of Toronto's population and 54.2% of all cautions, involving Toronto residents, issued by TTC enforcement officials between 2008 and 2018. In other words, the presence of White people in the TTC cautions data still approximates their

presence in the general population (Odds Ratio=1.12). Importantly, after excluding enforcement incidents involving non-Toronto residents, all other racial groups remain significantly under-represented in TTC cautions. For example, although South Asians represent 12.4% of Toronto's population, they were involved in only 5.6% of the TTC cautions that involved City of Toronto residents (Odds Ratio=0.44). In other words, South Asian people are 54 percent less likely to be involved in a TTC caution incident than their presence in the general population would predict. People of Asian, West Asian and Hispanic backgrounds are similarly under-represented in the TTC caution data (see [Table 11](#)).

Black Toronto residents have the highest TTC caution rate (2,255 per 100,000), followed closely by Indigenous residents (1,739 per 100,000). The Black caution rate is 2.05 times greater than the White rate (1,099 per 100,000) and 2.30 times greater than the City average (981 per 100,000). The Indigenous caution rate is 1.58 times greater than the White rate and 1.77 times greater than the City average. The caution rates for all other racial minority groups fall significantly below the White rate, the City rate and the rates for both Indigenous and Black people ([Table 11](#)).

[Table 12](#) presents the racial breakdown of TTC enforcement incidents, involving Toronto residents, that involved a charge or ticket. The results suggest that both Indigenous and Black customers are still grossly over-represented in TTC charge data after excluding incidents that involve people who live outside Toronto. For example, although they represent only 8.8% of Toronto's population, Black Toronto residents were involved in 19.3% of all TTC charges documented during the study period. The Odds Ratio indicates that Black Toronto residents are 2.2 times more likely to appear in TTC charge data than their representation in the general population would predict. Similarly, although they represent less than one percent of Toronto's resident population (0.8%), Indigenous Toronto residents were implicated in 2.6% of all TTC charges documented during the study period. In other words, Indigenous Toronto residents are 3.25 times more likely to appear in TTC charges than their presence in the general population would predict.

Overall, White people represent 48.4% of Toronto's population and 53.7% of all charges issued to Toronto residents between 2008 and 2018. In other words, after excluding non-Torontonians, the presence of White people in the TTC charge data still approximates their presence in the general population (Odds Ratio=1.1). Importantly, all other racial groups are significantly under-represented in TTC charges. For example, although South Asians represent 12.4% of Toronto's population, they were involved in only 4.9% of TTC charges, involving Toronto residents, documented during the study period (Odds Ratio=0.39). In other words, South Asian people are 61 percent less likely to be involved in a TTC charge incident than their presence in the general population would predict. People of Asian, West Asian and Hispanic backgrounds are similarly under-represented in the TTC charge data (see [Table 12](#)).

Among Toronto residents, Indigenous people have the highest overall TTC charge rate (4,587 per 100,000), followed by Black people (3,249 per 100,000). The Indigenous charge rate is 2.80 times greater than the White rate (1,639 per 100,000) and 3.10 times greater than the City average (1,479 per 100,000). The Black charge rate is 2.0 times greater than the White rate and 2.2 times greater than the City average. The charge rates for all other racial minority groups fall significantly below the White rate, the City rate and the rates for both Indigenous and Black people ([Table 12](#)).

**TABLE 10:
Total Enforcement Activity (Cautions and Charges),
Toronto Transit Commission, Toronto Residents Only, by Civilian Racial Background, 2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Enforcement Actions | Percent of Enforcement Actions | Odds Ratio | Enforcement Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|--------------------------------------|---------------------------------------|-------------------|---------------------------------------|
| White | 1,322,656 | 48.4 | 36,216 | 53.9 | 1.11 | 2,738.1 |
| Black | 239,850 | 8.8 | 13,202 | 19.6 | 2.23 | 5,504.3 |
| Indigenous | 23,065 | 0.8 | 1,459 | 2.2 | 2.75 | 6,325.6 |
| Asian | 548,870 | 20.1 | 11,002 | 16.4 | 0.82 | 2,004.5 |
| South Asian | 338,965 | 12.4 | 3,465 | 5.2 | 0.42 | 1,022.2 |
| Hispanic/Latin | 77,160 | 2.8 | 890 | 1.3 | 0.46 | 1,153.4 |
| Arab/West Asian | 96,355 | 3.5 | 952 | 1.4 | 0.40 | 988.0 |
| Other | 84,650 | 3.2 | ----- | ----- | ----- | ----- |
| TOTAL | 2,731,571 | 100.0 | 67,186 | 100.0 | 1.00 | 2,459.6 |

**TABLE 11:
Total Cautions, Toronto Transit Commission, Toronto Residents Only, by Civilian Racial Background, 2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Cautions | Percent of Cautions | Odds Ratio | Caution Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|---------------------------|----------------------------|-------------------|-----------------------------------|
| White | 1,322,656 | 48.4 | 14,532 | 54.2 | 1.12 | 1,098.7 |
| Black | 239,850 | 8.8 | 5,409 | 20.2 | 2.30 | 2,255.2 |
| Indigenous | 23,065 | 0.8 | 401 | 1.5 | 1.87 | 1,738.6 |
| Asian | 548,870 | 20.1 | 4,125 | 15.4 | 0.77 | 751.5 |
| South Asian | 338,965 | 12.4 | 1,505 | 5.6 | 0.45 | 444.0 |
| Hispanic/Latin | 77,160 | 2.8 | 457 | 1.7 | 0.61 | 592.3 |
| Arab/West Asian | 96,355 | 3.5 | 368 | 1.4 | 0.40 | 381.9 |
| Other | 84,650 | 3.2 | ----- | ----- | ----- | ----- |
| TOTAL | 2,731,571 | 100.0 | 26,797 | 100.0 | 1.00 | 981.0 |

TABLE 12:
Total Charges, Toronto Transit Commission, Toronto Residents Only, by Civilian Racial Background, 2008 to 2018

| Racial Group | Population Estimate | Percent of Population | Number of Charges | Percent of Charges | Odds Ratio | Charge Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|--------------------------|---------------------------|-------------------|----------------------------------|
| White | 1,322,656 | 48.4 | 21,684 | 53.7 | 1.11 | 1,639.4 |
| Black | 239,850 | 8.8 | 7,793 | 19.3 | 2.19 | 3,249.1 |
| Indigenous | 23,065 | 0.8 | 1,058 | 2.6 | 3.25 | 4,587.0 |
| Asian | 548,870 | 20.1 | 6,877 | 17.0 | 0.84 | 1,252.9 |
| South Asian | 338,965 | 12.4 | 1,960 | 4.9 | 0.39 | 578.2 |
| Hispanic/Latin | 77,160 | 2.8 | 433 | 1.1 | 0.39 | 561.2 |
| Arab/West Asian | 96,355 | 3.5 | 584 | 1.4 | 0.40 | 606.1 |
| Other | 84,650 | 3.2 | ----- | ----- | ----- | ----- |
| TOTAL | 2,731,571 | 100.0 | 40,389 | 100.0 | 1.00 | 1,478.6 |

Trends in Racial Disparity

In this section we explore whether racial disparities in TTC enforcement activity varied over the eleven-year study period. [Table 13](#) reveals that the number of recorded enforcement incidents varied dramatically over this time – from a low of only 4,966 incidents in 2013, to a high of 25,427 incidents in 2018. Except for 2011, the annual number of enforcement incidents recorded by the TTC remained below 10,000 between 2008 and 2015. However, the number of recorded incidents jumped dramatically to 18,557 in 2016 and climbed to over 20,000 cases for both 2017 and 2018. Between 2008 and 2015, the TTC recorded an average of 7,053 enforcement incidents per year. This figure rises to 21,797 incidents per year between 2016 and 2018.

Unfortunately, the data also reveal that, as the volume of recorded TTC enforcement incidents was increasing, the quality and completeness of the racial data was declining (see Figure Two). For example, from 2008 to 2011, only 11.5% to 16.9% of cases had missing racial data. By contrast, the proportion of enforcement incidents with missing racial data rises to 21.5% in 2012 and has stayed above twenty-five percent since 2013. Some years are particularly problematic. For example, in 2016, 44.5% of all racial data was missing and the proportion of missing racial data was 39.5% in 2015, 36.5% in 2013 and 35.0% in 2017. The huge volume of missing racial data for these years renders the measurement of racial disparities problematic.

Further analysis reveals that racial disparities in TTC enforcement activity declined significantly between 2008 and 2018. For example, in 2008, Black people were involved in 25.6% of recorded TTC enforcement incidents. This figure stays above 21% until 2013, when it drops to 19.8%. By 2018, Black people were involved in only 15.7% of TTC enforcement incidents. In 2008, Black people were 3 times more likely to be involved in TTC enforcement incidents than their presence in the general population would predict. By 2018, they were only 1.76 times more likely to be involved in enforcement incidents.

A similar trend exists for Indigenous people. For example, in 2012, Indigenous people were involved in 4.8% of all TTC enforcement incidents. By 2018 this figure had dropped to only 0.3%. In 2012, Indigenous people were 6.4 times more likely to appear in TTC enforcement incidents than their presence in the general population would predict. By 2018, Indigenous people were under-represented in TTC enforcement efforts (see [Figure Four](#)).

There may be a temptation to put a positive spin on the finding that racial disparities in TTC enforcement activities have declined over the past decade. One might conclude that, although still an issue, racial disparity is less a problem today than it was in 2008. However, the declining disparity finding is tempered by the dramatic increase in missing racial data. Racial disparities in TTC enforcement data declined at precisely the same time as missing racial data increased. There is a strong correlation. We feel that it is highly likely that the increase in missing racial information between 2008 and 2018 serves to mask or obscure the true extent of racial disparity in TTC enforcement activities. In other words, if the racial data were of higher quality, racial disparities would not have declined as significantly during the study period.

Why did the amount of missing racial data increase during the study period? We speculate that there are a number of potential reasons. Firstly, as the number of recorded incidents increased,

TTC staff may have had less time to complete the contact forms and were thus less likely to complete all data fields – including race. This workload issue might have been further complicated when TTC enforcement staff lost Special Constable status between 2010 and 2014. A third possibility is that some TTC staff members may have become concerned that racial data could be used to support allegations of racial bias. As a result, some TTC staff members, starting around 2012-2013, may have avoided filling out the race field when recording enforcement activities. This argument is supported by the fact that, by 2012, concerns about racial profiling had become widespread in the media. Furthermore, data from Toronto Police Service contact cards had been used to support allegations of racial bias. We may never know the answer to these questions. However, we can state that, due to the increase in missing data over time, the observed decline in racial disparities over time must be taken with a serious grain of salt.

Questions about data quality aside, the data reveal that, regardless of the year, TTC enforcement rates are much higher for Black and Indigenous customers than for White customers and those from other racial minority backgrounds (see [Table 14](#)). Indigenous customers had the highest enforcement rates from 2008 to 2015. Black customers had the highest enforcement rates from 2016 to 2018. From 2008 to 2015, the Indigenous rate is three to four times greater than the White rate. The Black rate is at least two times greater than the White rate from 2008 to 2012 and from 2016 to 2018. By contrast, with the exception of 2018, the enforcement rate for White people is always higher than the enforcement rate for other racial minority groups.

**TABLE 13:
Number of Documented TTC Enforcement Activities, by Year**

| YEAR | Total Cases | Cases with Completed Racial Data | Cases with Completed Racial Data that Involve Toronto Residents |
|--------------|--------------------|---|--|
| 2008 | 8,407 | 7,226 | 5,592 |
| 2009 | 6,755 | 5,976 | 4,744 |
| 2010 | 5,423 | 4,756 | 3,737 |
| 2011 | 11,148 | 9,265 | 7,038 |
| 2012 | 7,549 | 5,924 | 4,581 |
| 2013 | 4,966 | 3,151 | 2,543 |
| 2014 | 6,247 | 4,435 | 3,413 |
| 2015 | 5,929 | 3,585 | 2,773 |
| 2016 | 18,557 | 10,306 | 8,130 |
| 2017 | 21,408 | 13,913 | 10,690 |
| 2018 | 25,427 | 18,273 | 13,945 |
| TOTAL | 121,816 | 86,810 | 67,186 |

Figure Two: Percent of Recorded TTC Enforcement Activities with Missing Racial Data, by Year

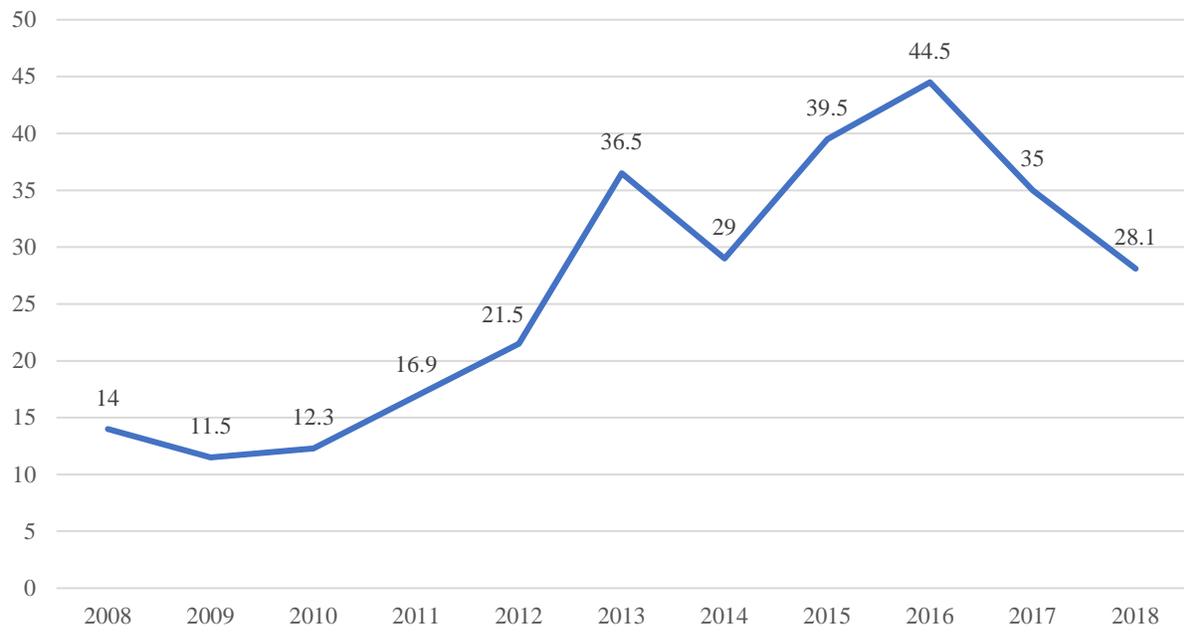


Figure Three: Percent of Recorded TTC Enforcement Activities Involving Black and Indigenous Civilians, by Year (Toronto Residents Only)

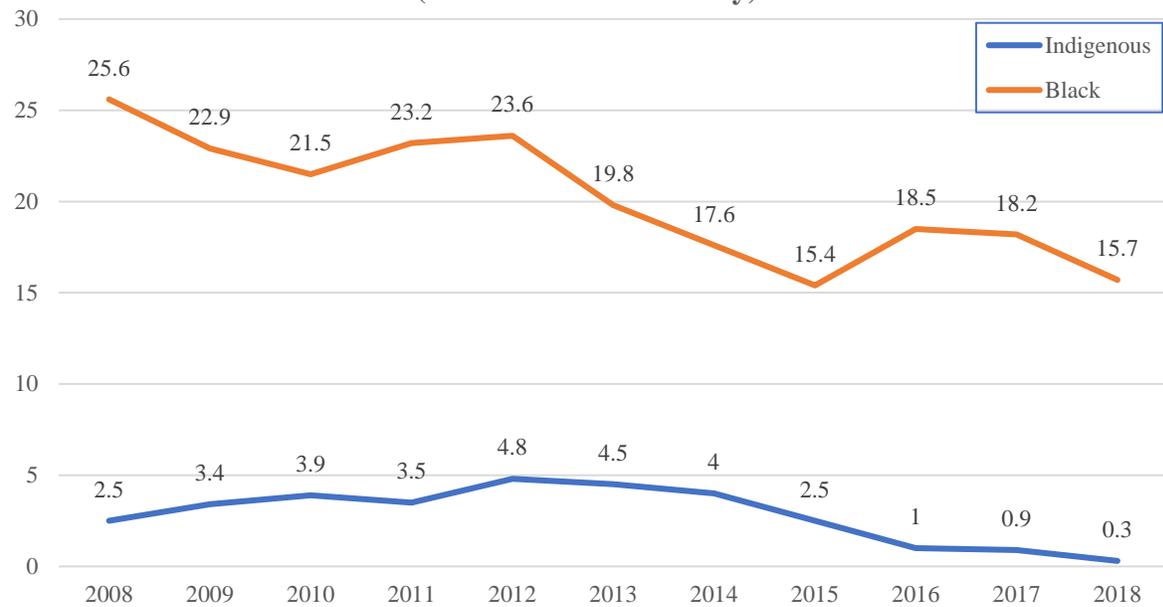
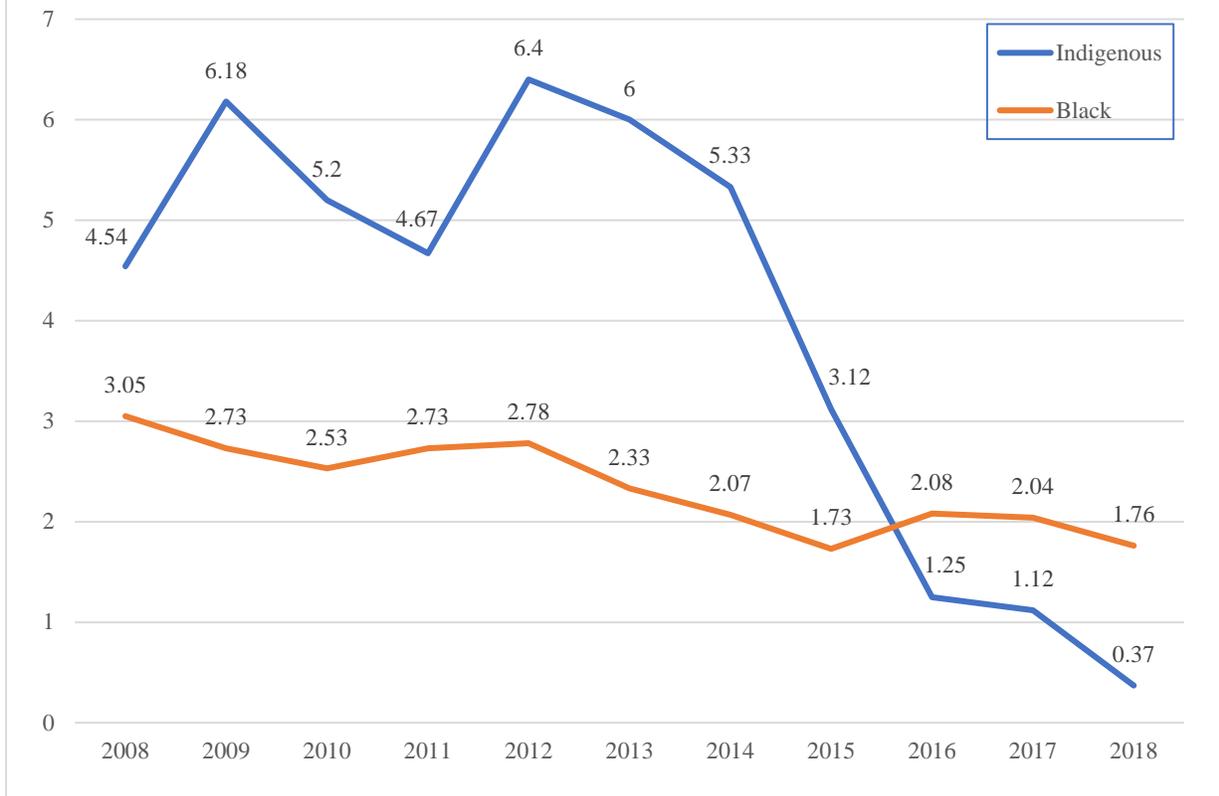


Figure Four: Black and Indigenous Over-Representation in TTC Enforcement Data (Odds Ratios), by Year (Toronto Residents Only)



**TABLE 14:
TTC Enforcement Rates (per 100,000), by Civilian Race and Year**

| YEAR | WHITE | BLACK | Indigenous | Other Racial Minority |
|--------------|--------------|--------------|-------------------|------------------------------|
| 2008 | 253.8 | 686.6 | 1,029.1 | 75.5 |
| 2009 | 216.9 | 520.7 | 1,190.7 | 70.7 |
| 2010 | 172.1 | 368.1 | 752.7 | 54.0 |
| 2011 | 318.2 | 748.1 | 1,276.9 | 100.2 |
| 2012 | 225.6 | 495.5 | 1,152.3 | 34.6 |
| 2013 | 131.9 | 230.6 | 591.7 | 21.2 |
| 2014 | 174.1 | 274.6 | 711.1 | 40.8 |
| 2015 | 136.5 | 178.4 | 303.5 | 41.0 |
| 2016 | 290.1 | 627.5 | 346.8 | 236.3 |
| 2017 | 397.5 | 811.3 | 424.9 | 295.7 |
| 2018 | 452.9 | 911.8 | 195.1 | 499.4 |
| TOTAL | 2,738.1 | 5,504.3 | 6,325.6 | 1,423.1 |

The Impact of Gender

The data reveal that seven out of ten individuals (68.9%) involved in TTC enforcement incidents are male. Only 31.1% are female. In this section we examine the intersection between gender and race and the extent to which racial disparities exist amongst both male and female populations.

[Table 15](#) reveals that both Black and Indigenous males are grossly over-represented in TTC enforcement incidents that involve City of Toronto residents. Although they represent only 4.0% of Toronto’s population, Black males were involved in 14.6% of all enforcement incidents recorded during the study period. In other words, Black males were 3.65 times more likely to be involved in TTC enforcement incidents than their presence in the general population would predict. Furthermore, although they represent only 0.4% of the population, Indigenous males were involved in 1.9% of enforcement cases. In other words, the representation of Indigenous males in the TTC enforcement dataset is 4.75 greater than their presence in the general population. White males are also significantly over-represented in the TTC enforcement data (Odds Ratio=1.62). However, the over-representation of White males is far less than the over-representation of either Black males (Odds Ratio=3.65) or Indigenous males (Odds Ratio=4.75). Interestingly, males from all other racial minority groups are under-represented in TTC enforcement incidents (Odds Ratio=0.71).

White women (Odds Ratio=0.63), Indigenous women (Odds Ratio=0.60) and women from other racial minority groups (Odds Ratio=0.46) are significantly under-represented in the enforcement data. Black women, however, appear in the data at a rate that is equal to their representation in the general population (Odds Ratio=1.04).

Overall, Indigenous males have the highest TTC enforcement rate (11,491 per 100,000), followed closely by Black males (8,942 per 100,000). The Indigenous male rate is 2.9 times greater than

the rate for White males (3,978 per 100,000) and 4.7 times greater than the city average (2,460 per 100,000). The Black male rate is 2.5 times greater than the White male rate and 3.6 times greater than the City rate. The rate for other minority males is 2.3 times lower than the rate for White males, 5.1 times lower than the rate for Black males, and 6.6 times lower than the rate for Indigenous males.

Among women, Black females have the highest enforcement rate (2,598 per 100,000), followed by Indigenous females (1,750 per 100,000), White females (1,555 per 100,000) and other minority females (1,135 per 100,000). The enforcement rate for Black females is 1.7 times greater than the rate for White females and 2.3 times greater than the rate for other minority females. Interestingly, the enforcement rate for Black females is also significantly higher than the rate for other minority males.

[Table 16](#) reveals that both Black and Indigenous males are grossly over-represented in TTC cautions that involve City of Toronto residents. Although they represent only 4.0% of Toronto's population, Black males were involved in 14.5% of all cautions issued during the study period. In other words, Black males were 3.63 times more likely to be involved in a TTC caution incident than their presence in the general population would predict. Furthermore, although they represent only 0.4% of Toronto's resident population, Indigenous males were involved in 1.2% of all TTC cautions. In other words, the representation of Indigenous males in TTC cautions is 3 times greater than their presence in the general population. White males are also significantly over-represented in TTC cautions (Odds Ratio=1.55). However, the over-representation of White males is far less than the over-representation of either Black males (Odds Ratio=3.63) or Indigenous males (Odds Ratio=3.00). Interestingly, males from all other racial minority groups are significantly under-represented in TTC cautions (Odds Ratio=0.70).

White women (Odds Ratio=0.71), Indigenous women (Odds Ratio=0.60) and women from other racial minority groups (Odds Ratio=0.47) are significantly under-represented in TTC cautions. Black women, however, appear in the cautions data at a rate that is slightly greater than their representation in the general population (Odds Ratio=1.19).

Overall, Black males have the highest TTC caution rate (3,542 per 100,000), followed closely by Indigenous males (3,037 per 100,000). The Black male caution rate is 2.33 times greater than the rate for White males (1,519 per 100,000) and 3.61 times greater than the city average (981 per 100,000). The Indigenous male caution rate is 2.0 times greater than the White male rate and 3.1 times greater than the City rate. By contrast, the caution rate for other minority males is 2.2 times lower than the rate for White males, 4.5 times lower than the rate for Indigenous males, and 5.2 times lower than the rate for Black males.

Among women, Black females have the highest caution rate (1,168 per 100,000), followed by White females (697 per 100,000), Indigenous females (589 per 100,000) and other minority females (456 per 100,000). The caution rate for Black females is 1.67 times greater than the rate for White females and 2.6 times greater than the rate for other minority females. Interestingly, the caution rate for Black females is significantly higher than the caution rate for other minority males.

[Table 17](#) reveals that both Black and Indigenous males are also grossly over-represented in TTC charges that involve City of Toronto residents. Although they represent only 4.0% of Toronto's population, Black males were involved in 14.7% of all TTC charges recorded during the study period. In other words, Black males were 3.68 times more likely to be involved in TTC charges than their presence in the general population would predict. Furthermore, although they represent only 0.4% of the population, Indigenous males were involved in 2.3% of TTC charges. In other words, the representation of Indigenous males in TTC charges is 5.75 greater than their presence in the general population. White males are also significantly over-represented in the TTC charge data (Odds Ratio=1.67). However, the over-representation of White males is far less than the over-representation of either Black males (Odds Ratio=3.68) or Indigenous males (Odds Ratio=5.75). Interestingly, males from all other racial minority groups are under-represented in TTC charges (Odds Ratio=0.72).

White women (Odds Ratio=0.58), Indigenous women (Odds Ratio=0.80) and women from other racial minority groups (Odds Ratio=0.46) are significantly under-represented in the charge data. Black women, however, appear in the charge data at a rate that is approximately equal to their representation in the general population (Odds Ratio=0.96).

Overall, Indigenous males have the highest TTC charge rate (8,454 per 100,000), followed by Black males (5,401 per 100,000). The Indigenous male charge rate is 3.4 times greater than the rate for White males (2,459 per 100,000) and 5.7 times greater than the city average (1,479 per 100,000). The Black male charge rate is 2.2 times greater than the White male rate and 3.7 times greater than the City rate. The rate for other minority males (1,058 per 100,000) is 2.3 times lower than the rate for White males, 5.1 times lower than the rate for Black males, and 8.0 times lower than the rate for Indigenous males.

Among women, Black females have the highest charge rate (1,430 per 100,000), followed by Indigenous females (1,161 per 100,000), White females (857 per 100,000) and other minority females (679 per 100,000). The charge rate for Black females is 1.7 times greater than the charge rate for White females and 2.1 times greater than the charge rate for other minority females. Interestingly, the charge rate for Black females is also significantly higher than the charge rate for other minority males.

TABLE 15:
Total Enforcement Activity (Cautions and Charges),
Toronto Transit Commission, Toronto Residents Only, by Sex and Civilian Racial Background, 2008 to 2018

| Racial Group | Population Estimate | Percent of Population | Number of Enforcement Actions | Percent of Enforcement Actions | Odds Ratio | Enforcement Rate (per 100,000) |
|------------------------------|----------------------------|------------------------------|--------------------------------------|---------------------------------------|-------------------|---------------------------------------|
| White Male | 645,960 | 23.6 | 25,696 | 38.2 | 1.62 | 3,977.9 |
| White Female | 676,690 | 24.8 | 10,520 | 15.7 | 0.63 | 1,554.6 |
| Black Male | 109,870 | 4.0 | 9,825 | 14.6 | 3.65 | 8,942.4 |
| Black Female | 129,980 | 4.8 | 3,377 | 5.0 | 1.04 | 2,598.1 |
| Indigenous Male | 10,835 | 0.4 | 1,245 | 1.9 | 4.75 | 11,490.5 |
| Indigenous Female | 12,230 | 0.5 | 214 | 0.3 | 0.6 | 1,749.8 |
| Other Minority Male | 546,925 | 20.0 | 9,508 | 14.2 | 0.71 | 1,738.5 |
| Other Minority Female | 599,080 | 21.9 | 6,801 | 10.1 | 0.46 | 1,135.2 |
| TOTAL | 2,731,570 | 100.0 | 67,186 | 100.0 | 1.00 | 2,459.6 |

**TABLE 16: Total Cautions,
Toronto Transit Commission, Toronto Residents Only, by Sex and Civilian Racial Background, 2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Cautions | Percent of Cautions | Odds Ratio | Cautions Rate (per 100,000) |
|------------------------------|----------------------------|------------------------------|---------------------------|----------------------------|-------------------|------------------------------------|
| White Male | 645,960 | 23.6 | 9,812 | 36.6 | 1.55 | 1,518.9 |
| White Female | 676,690 | 24.8 | 4,720 | 17.6 | 0.71 | 697.5 |
| Black Male | 109,870 | 4.0 | 3,891 | 14.5 | 3.63 | 3,541.5 |
| Black Female | 129,980 | 4.8 | 1,518 | 5.7 | 1.19 | 1,167.9 |
| Indigenous Male | 10,835 | 0.4 | 329 | 1.2 | 3.00 | 3,036.5 |
| Indigenous Female | 12,230 | 0.5 | 72 | 0.3 | 0.60 | 588.7 |
| Other Minority Male | 546,925 | 20.0 | 3,723 | 13.9 | 0.70 | 680.7 |
| Other Minority Female | 599,080 | 21.9 | 2,732 | 10.2 | 0.47 | 456.0 |
| TOTAL | 2,731,570 | 100.0 | 26,797 | 100.0 | 1.00 | 981.0 |

**TABLE 17: Total Charges,
Toronto Transit Commission, Toronto Residents Only, by Sex and Civilian Racial Background, 2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Charges | Percent of Charges | Odds Ratio | Charge Rate (per 100,000) |
|------------------------------|----------------------------|------------------------------|--------------------------|---------------------------|-------------------|----------------------------------|
| White Male | 645,960 | 23.6 | 15,884 | 39.3 | 1.67 | 2,458.9 |
| White Female | 676,690 | 24.8 | 5,800 | 14.4 | 0.58 | 857.1 |
| Black Male | 109,870 | 4.0 | 5,934 | 14.7 | 3.68 | 5,400.9 |
| Black Female | 129,980 | 4.8 | 1,859 | 4.6 | 0.96 | 1,430.2 |
| Indigenous Male | 10,835 | 0.4 | 916 | 2.3 | 5.75 | 8,454.1 |
| Indigenous Female | 12,230 | 0.5 | 142 | 0.4 | 0.80 | 1,161.1 |
| Other Minority Male | 546,925 | 20.0 | 5,785 | 14.3 | 0.72 | 1,057.7 |
| Other Minority Female | 599,080 | 21.9 | 4,069 | 10.1 | 0.46 | 679.2 |
| TOTAL | 2,731,570 | 100.0 | 40,389 | 100.0 | 1.00 | 1,478.6 |

Racial Disparities by Offence Type

In this section we examine racial differences in the types of offences customers were cautioned or charged with during the study period. We should remind the reader that the incidents contained in the current dataset capture rather minor offences including fare evasion, bylaw infractions and public order violations. The research team has not had the opportunity to examine TTC enforcement officers’ involvement in the investigation or enforcement of more serious criminal offences that may have taken place on TTC property.

The original dataset, provided by the TTC, contains a variable labelled OFFTYPE. This variable documented 98 different offence categories. Many of these categories contained less than 50 entries – far too small for a meaningful analysis of racial disparities. As such, the research team recoded these 98 offences into nine general offence categories. Each of these categories has at least 1,000 entries (see [Table 18](#)).

The data reveal that the most common offence involves “the violation of posted regulations.” Over a third of the customers in the TTC enforcement dataset (37.1%) were charged or cautioned for this type of offence. It should be noted that this offence category was present in the original dataset and has not been recoded. Furthermore, as a general category, it is impossible to identify more detailed information about the specific “posted regulations” that were violated. The second most common offence involved fare infractions (including fare nonpayment, improper use of transfers, etc.). Approximately one-fourth of all incidents (24.2%) involved this category of offence. Less common offences included trespassing on TTC property (8.2%), illegal solicitation on TTC property (7.7%), illegal entry or exiting of TTC property (6.9%), public order offences (6.4% -- i.e., causing a disturbance, fighting on TTC property, urinating or expectorating on TTC property, roller-skating on TTC property, laying down on TTC property, littering, etc.), smoking on TTC property (5.0%), loitering (2.4%) and alcohol-related offences (2.0%).

TABLE 18: Total Enforcement Activity by Offence Type, Toronto Transit Commission, Toronto Residents Only, 2008 to 2018

| TYPE OF OFFENCE | Number | Percent |
|---------------------------------|---------------|----------------|
| Public Order Offences | 4,314 | 6.4 |
| Fare Violations | 16,241 | 24.2 |
| Illegal Solicitation | 5,187 | 7.7 |
| Alcohol-related | 1,363 | 2.0 |
| Illegal Entry/Exit | 4,657 | 6.9 |
| Violation of Posted Regulations | 24,942 | 37.1 |
| Loitering | 1,585 | 2.4 |
| Smoking-related | 3,392 | 5.0 |
| Trespassing | 5,505 | 8.2 |
| TOTAL | 67,186 | 100.0 |

[Tables 19](#) and [20](#) demonstrate that Black customers are over-represented in all offence categories. However, this level of over-representation varies by offence type. For example, although they represent only 8.8% of Toronto's population, Black people are involved in 27.4% of loitering incidents, 24.7% of public order offences, 21.5% of illegal entry violations, 20.8% of trespassing cases, 20.6% of illegal solicitation incidents and 19.8% of fare violations. By contrast, Black people were involved in only 13.6% of alcohol-related offences, 16.7% of smoking-related violations and 18.1% of posted regulation violations. Overall, Black customers are grossly over-represented (defined as an Odds Ratio of 2.00 or greater) in seven of the nine offence categories. Black people are significantly over-represented (defined as an Odds Ratio of 1.50 or greater) for the other two offences (see [Table 20](#)).

Further analysis reveals that Indigenous peoples are also grossly over-represented in seven of the nine TTC offence categories. The only exceptions are fare violations (Odds Ratio=1.37) and posted regulation violations (Odds Ratio=1.13). For these two offences the representation of Indigenous customers approximates their presence in the general population (see [Tables 19](#) and [20](#)). The over-representation of Indigenous customers is greatest for alcohol-related offences (Odds Ratio=8.37), followed by loitering (Odds Ratio=5.75), illegal solicitation (Odds Ratio=5.75), public order offences (Odds Ratio=5.50), trespassing (4.63), illegal entry/exit offences (Odds Ratio=4.50) and smoking-related offences (Odds Ratio=2.75).

Overall, White customers are under-represented with respect to TTC fare violations and slightly over-represented with respect to all other offence categories (see [Tables 19](#) and [20](#)). However, offence-specific Odds Ratios for White customers never exceed the 1.50 level. In other words, in most cases, the representation of White people in all offence categories approximates their representation in the general Toronto population. By contrast, customers from all other (non-Black) racial minority groups are significantly under-represented in all nine offence categories. The degree of "other" minority under-representation ranges from 83% for both illegal solicitation and alcohol-related offences (Odds Ratios=0.17), to 70% for both trespassing and the violation of posted regulations (Odds Ratios=0.30), to 13% for fare violations (Odds Ratios=0.87).

Indigenous customers have the highest enforcement rates (per 100,000) for seven of the nine offences included in the analysis ([Table 21](#)). These offences include public order offences, illegal solicitation, alcohol-related offences, illegal entry/exiting, loitering, smoking and trespassing. Black customers, on the other hand, have the highest enforcement rates for both fare evasion and the violation of posted regulations. For all nine offences, the rates for both Indigenous and Black people greatly exceed the rates for both White and other minority customers. Furthermore, the offence-specific rates for other (non-Black) racial minority groups are consistently lower than the rates for White people. The only exception is fare evasion, where the rate for other minority groups slightly exceeds the White rate.

In sum, the data indicate that Black and Indigenous people are significantly over-represented in all of the major offence categories captured by the TTC data. In other words, the over-representation of Black and Indigenous peoples in the TTC enforcement dataset cannot be explained by their involvement in any one offence. Racial disparities exist across the range of offences.

TABLE 19: Percent of Total Enforcement Actions, by Offence Type and Race, Toronto Transit Commission, Toronto Residents Only, 2008 to 2018

| TYPE OF OFFENCE | White | Black | Indigenous | Other Racial Minority | TOTAL |
|---------------------------------|--------------|--------------|-------------------|------------------------------|--------------|
| Public Order Offences | 59.2 | 24.7 | 4.4 | 11.7 | 100.0 |
| Fare Violations | 42.6 | 19.8 | 1.1 | 36.4 | 100.0 |
| Illegal Solicitation | 67.4 | 20.6 | 4.6 | 7.3 | 100.0 |
| Alcohol-related | 72.7 | 13.6 | 6.7 | 7.0 | 100.0 |
| Illegal Entry/Exit | 58.1 | 21.5 | 3.6 | 16.8 | 100.0 |
| Violation of Posted Regulations | 51.5 | 18.1 | 0.9 | 29.4 | 100.0 |
| Loitering | 57.5 | 27.4 | 4.6 | 10.2 | 100.0 |
| Smoking-related | 68.3 | 16.7 | 2.2 | 12.9 | 100.0 |
| Trespassing | 63.1 | 20.8 | 3.7 | 12.5 | 100.0 |
| % Toronto Population | 48.4 | 8.8 | 0.8 | 42.0 | 100.0 |

TABLE 20: Degree of Representation (Odds Ratios), by Offence Type and Race, Toronto Transit Commission, Toronto Residents Only, 2008 to 2018

| TYPE OF OFFENCE | White | Black | Indigenous | Other Racial Minority |
|---------------------------------|--------------|--------------|-------------------|------------------------------|
| Public Order Offences | 1.22 | 2.81 | 5.50 | 0.28 |
| Fare Violations | 0.88 | 2.25 | 1.37 | 0.87 |
| Illegal Solicitation | 1.39 | 2.34 | 5.75 | 0.17 |
| Alcohol-related | 1.50 | 1.54 | 8.37 | 0.17 |
| Illegal Entry/Exit | 1.20 | 2.44 | 4.50 | 0.40 |
| Violation of Posted Regulations | 1.06 | 2.06 | 1.13 | 0.70 |
| Loitering | 1.19 | 3.11 | 5.75 | 0.24 |
| Smoking-related | 1.41 | 1.90 | 2.75 | 0.31 |
| Trespassing | 1.30 | 2.36 | 4.63 | 0.30 |

TABLE 21: Enforcement Rates (per 100,000), by Offence Type and Race, Toronto Transit Commission, Toronto Residents Only, 2008 to 2018

| TYPE OF OFFENCE | White | Black | Indigenous | Other Racial Minority | Total Population |
|---------------------------------|--------------|--------------|-------------------|------------------------------|-------------------------|
| Public Order Offences | 192.9 | 444.0 | 828.1 | 44.2 | 157.9 |
| Fare Violations | 522.7 | 1,343.8 | 806.4 | 516.5 | 594.6 |
| Illegal Solicitation | 264.3 | 446.5 | 1,040.5 | 33.2 | 189.9 |
| Alcohol-related | 74.9 | 77.5 | 394.5 | 8.3 | 49.9 |
| Illegal Entry/Exit | 204.5 | 416.9 | 728.4 | 68.4 | 170.5 |
| Violation of Posted Regulations | 971.9 | 1,881.2 | 1,023.2 | 640.3 | 913.1 |
| Loitering | 69.1 | 181.8 | 316.5 | 14.1 | 58.0 |
| Smoking-related | 175.2 | 235.6 | 316.4 | 38.1 | 124.2 |
| Trespassing | 262.5 | 477.0 | 871.5 | 60.0 | 201.5 |

The Impact of Commuters

A potential concern with the analysis above is that it does not properly “benchmark” the population that most frequently uses TTC services. In this section, therefore, we recalculate racial disparities using Census data that estimates the population of Toronto residents, 15 years or older, that uses public transit to commute to work for paid employment. This Census data was the product of a special order made to Statistics Canada. The data was provided to the research team by Ben Spurr, a reporter with the *Toronto Star*. It should be noted that this “commuter” benchmark is far from perfect. We feel that it potentially excludes a high volume of TTC users. For example, by only documenting customers who use transit to commute to work, this benchmark excludes the large number of young people who use the TTC daily to commute to high school, college or university. It also excludes unemployed people, those on social assistance and retired people who may also use the TTC on a frequent basis. Finally, the commuter benchmark excludes the large volume of Torontonians who may walk or drive to work, but use the TTC to access shopping, recreational and other entertainment opportunities. It should also be stressed that, for this report, we were not able to access data on the size of the Indigenous population that commutes to work. We will try to include this data in the final report.

The results suggest that racial disparities in TTC enforcement activity decline somewhat when we use commuter rather than general population benchmarks (see [Table 22](#)). For example, Black people represent 10.7% of the public transit commuting population, as opposed to only 8.8% of the general population. This drops the Odds Ratios for the Black population from 2.23 using the general population benchmark to 1.83 using the commuter benchmark. In other words, using the commuter benchmark, Black people are now only 1.83 times more likely to appear in the TTC enforcement dataset than their presence in the general population would predict. Nonetheless, using the commuter benchmark, Black people are still significantly over-represented in TTC enforcement. Indeed, the Black enforcement rate (26,709 per 100,000) is still 1.5 times greater than the White rate (17,989 per 100,000), 2.6 times greater than the Asian rate (10,197 per 100,000), 4.6 times greater than the South Asian rate (5,854 per 100,000) and 1.8 times the city average (14,511 per 100,000).

Further analysis suggests that the use of the commuter benchmark *does not* reduce the vulnerability of Black males with respect to TTC enforcement activity. After using the commuter benchmark, Black males are still grossly over-represented in TTC enforcement incidents. Although Black males represent only 3.9% of Toronto's commuting population, they represent 14.6% of those involved in TTC enforcement incidents. In other words, Black males are still 3.74 times more likely to appear in the TTC enforcement dataset than their presence in the general population would predict. Using the commuter benchmark, White males also emerge as over-represented in TTC enforcement data – but at a rate that is much lower than their Black male counterparts. White women and Black women are under-represented in the TTC enforcement data, as are both men and women from other racial minority groups (see [Table 23](#)).

Overall, using the commuter benchmark, Black males have by far the highest TTC enforcement rate (54,043 per 100,000). The Black male rate is 1.9 times higher than the White male rate (28,976 per 100,000), 4.9 times greater than the rate for other minority males (11,128 per 100,000) and 3.7 times greater than the city rate (14,511 per 100,000). Among women, Black females have the highest rate (10,808 per 100,000), followed by White females (9,338 per 100,000) and other minority females (5,364 per 100,000). In sum, the over-representation of Black people in TTC enforcement incidents cannot be explained by their greater than average presence among TTC commuters.

TABLE 22: Total Enforcement Activity (Cautions and Charges), Toronto Transit Commission, Public Transit Commuting Population, Toronto Residents Only, by Civilian Racial Background, 2008 to 2018

| Racial Group | Population Estimate | Percent of Population | Number of Enforcement Actions | Percent of Enforcement Actions | Odds Ratio | Enforcement Rate (per 100,000) |
|------------------------|----------------------------|------------------------------|--------------------------------------|---------------------------------------|-------------------|---------------------------------------|
| White | 201,325 | 43.5 | 36,216 | 53.9 | 1.24 | 17,988.8 |
| Black | 49,430 | 10.7 | 13,202 | 19.6 | 1.83 | 26,708.5 |
| Asian | 107,890 | 23.3 | 11,002 | 16.4 | 0.70 | 10,197.4 |
| South Asian | 59,185 | 12.8 | 3,465 | 5.2 | 0.41 | 5,854.5 |
| Hispanic/Latin | 17,415 | 3.8 | 890 | 1.3 | 0.34 | 5,110.5 |
| Arab/West Asian | 11,860 | 2.6 | 952 | 1.4 | 0.54 | 8,026.9 |
| Other | 15,895 | 3.4 | ----- | ----- | ----- | ----- |
| TOTAL | 463,000 | 100.0 | 67,186 | 100.0 | 1.00 | 14,511.0 |

**TABLE 23: Total Enforcement Activity (Cautions and Charges), Toronto Transit Commission,
Public Transit Commuting Population, Toronto Residents Only, by Civilian Sex and Racial Background,
2008 to 2018**

| Racial Group | Population Estimate | Percent of Population | Number of Enforcement Actions | Percent of Enforcement Actions | Odds Ratio | Enforcement Rate (per 100,000) |
|------------------------------|----------------------------|------------------------------|--------------------------------------|---------------------------------------|-------------------|---------------------------------------|
| White Male | 88,680 | 19.2 | 25,696 | 38.2 | 1.99 | 28,976.1 |
| White Female | 112,655 | 24.3 | 10,520 | 15.7 | 0.65 | 9,338.2 |
| Black Male | 18,180 | 3.9 | 9,825 | 14.6 | 3.74 | 54,042.9 |
| Black Female | 31,245 | 6.7 | 3,377 | 5.0 | 0.75 | 10,808.1 |
| Other Minority Male | 85,440 | 18.5 | 9,508 | 14.2 | 0.77 | 11,128.3 |
| Other Minority Female | 126,800 | 27.4 | 6,801 | 10.1 | 0.37 | 5,363.6 |
| TOTAL | 463,000 | 100.0 | 67,186 | 100.0 | 1.00 | 14,511.0 |

Racial Disparity by TTC Routes

In the next three sections of the report we explore the extent to which racial disparities in TTC enforcement activities vary across TTC routes, locations and stations. The first variable that we explore was labelled “Route” in the original dataset. This variable originally identified 130 different locations where TTC enforcement activities had taken place. However, many of these specific locations had very few entries (less than 50). Thus, the research team eventually recoded this variable into 12 different routes – each with 500 or more entries. Locations with less than 500 entries were recoded into the “other location” category.

[Table 24](#) reveals that seven out of every ten TTC enforcement activities took place on only three routes: 1) The Yonge Subway (24.3%); 2) The Bloor-Danforth Subway (23.0%); and 3) the Spadina Streetcar (21.4%). No other route accounts for more than 8% of all TTC enforcement activities.

[Tables 25](#) and [26](#) reveal that Black people are over-represented in TTC enforcement activities that took place on all of the identified routes. The Odds Ratios range from 1.73 at St. Clair station to 5.39 on the Scarborough RT. Black people are grossly over-represented (as defined by an Odds Ratio of 2.00 or higher) with respect to eight of the twelve routes (Bloor-Dundas Subway, Bathurst, Carleton, Dundas, Queen, Scarborough RT, Yonge Subway and Other). They are significantly over-represented (defined as an Odds Ratio of 1.5 or higher) with respect to the other four routes (Harbourfront, King, Spadina and St. Clair).

By contrast, the over-representation of Indigenous customers in the TTC data seems to be concentrated along only three routes (the Bloor-Danforth Subway, the Yonge Subway and the Queen Streetcar). The representation of Indigenous people is approximately equal to their presence in the population for both the College and Dundas lines and for the Scarborough RT. Indigenous customers are significantly under-represented in TTC enforcement activities that took place on all other routes including Bathurst, Harbourfront, King, Spadina and St. Clair.

White people are under-represented in TTC enforcement activities that took place on Bathurst, Carleton, Dundas, Harbourfront, the Scarborough RT, and Spadina. Along all other routes, the presence of White people in TTC enforcement activities approximates their presence in the general population. By contrast, regardless of the route, people from other (non-Black) racial minorities are significantly under-represented in TTC enforcement activities.

TABLE 24: Number of TTC Enforcement Incidents Recorded for Specific Routes, 2008-2018

| Route | Number | Percent |
|-----------------------|---------------|--------------|
| Bathurst | 1,668 | 2.5 |
| Bloor-Danforth Subway | 15,439 | 23.0 |
| Carleton | 1,344 | 2.0 |
| Dundas | 1,493 | 2.2 |
| Harbourfront | 3,067 | 4.6 |
| King | 3,637 | 5.4 |
| Queen | 5,182 | 7.7 |
| Scarborough RT | 757 | 1.1 |
| Spadina | 14,398 | 21.4 |
| St. Clair | 2,454 | 3.7 |
| Yonge Subway | 16,339 | 24.3 |
| Other Location | 1,408 | 2.1 |
| TOTAL | 67,186 | 100.0 |

TABLE 25: Percent of TTC Enforcement Incidents, by Route and Race

| Route | White | Black | Indigenous | Other Racial Minority | TOTAL |
|-----------------------------------|-------------|------------|------------|-----------------------|--------------|
| Bathurst | 44.4 | 22.1 | 0.7 | 32.8 | 100.0 |
| Bloor-Danforth Subway | 62.1 | 21.7 | 3.4 | 12.8 | 100.0 |
| Carleton | 42.1 | 17.6 | 1.0 | 39.3 | 100.0 |
| Dundas | 38.3 | 23.9 | 1.0 | 36.8 | 100.0 |
| Harbourfront | 43.4 | 15.4 | 0.3 | 41.0 | 100.0 |
| King | 53.5 | 16.2 | 0.6 | 29.6 | 100.0 |
| Queen | 62.8 | 17.9 | 2.1 | 17.4 | 100.0 |
| Scarborough RT | 32.1 | 47.4 | 0.8 | 19.7 | 100.0 |
| Spadina | 42.0 | 17.0 | 0.4 | 40.5 | 100.0 |
| St. Clair | 53.9 | 15.2 | 0.3 | 30.5 | 100.0 |
| Yonge Subway | 60.8 | 20.5 | 4.0 | 14.7 | 100.0 |
| Other | 47.2 | 26.9 | 1.3 | 24.5 | 100.0 |
| Percent Toronto Population | 48.4 | 8.8 | 0.8 | 42.0 | 100.0 |

**TABLE 26:
Degree of Representation (Odds Ratios) in TTC Enforcement Incidents,
by Route and Race**

| Route | White | Black | Indigenous | Other Racial Minority |
|-----------------------|-------|-------|------------|-----------------------|
| Bathurst | 0.92 | 2.51 | 0.87 | 0.78 |
| Bloor-Danforth Subway | 1.28 | 2.47 | 4.25 | 0.30 |
| Carleton | 0.87 | 2.00 | 1.25 | 0.94 |
| Dundas | 0.79 | 2.72 | 1.25 | 0.88 |
| Harbourfront | 0.90 | 1.75 | 0.37 | 0.98 |
| King | 1.11 | 1.84 | 0.75 | 0.70 |
| Queen | 1.30 | 2.03 | 2.63 | 0.41 |
| Scarborough RT | 0.66 | 5.39 | 1.00 | 0.47 |
| Spadina | 0.87 | 1.93 | 0.50 | 0.96 |
| St. Clair | 1.11 | 1.73 | 0.37 | 0.73 |
| Yonge Subway | 1.26 | 2.33 | 5.00 | 0.35 |
| Other | 0.97 | 3.06 | 1.63 | 0.58 |

Racial Disparities by TTC Location

A second variable in the original TTC dataset was labelled “Area.” Rather than specify a route or station, this variable denotes the general location of a specific enforcement incident. The original “area” variable had 83 different categories. However, many of these categories had less than fifty entries. Thus, the research team recoded the variable into only eight categories. Each new category has at least 1,000 entries (see [Table 27](#)). According to the original dataset, a quarter of all enforcement locations (24.6%) were classified as “undetermined.” However, 39.0% of enforcement incidents were reported to have taken place on a bus and 22.9% had taken place on a streetcar. It appears that, in many cases, bus and streetcar incidents occurred as the vehicles entered a subway station or other transit hub. One out of forty enforcement incidents (2.6%) took place on a station concourse and another 2.5% took place on subway cars. A small proportion of cases also took place at automatic entrances (1.9%) or collector’s booths (1.5%).

[Table 28](#) and [Table 29](#) reveal that Black people are significantly over-represented in TTC enforcement incidents that took place at each location. Black people are grossly over-represented (as defined by an Odds Ratio of 2.00 or higher) with respect to incidents that took place on subway cars (Odds Ratio=3.06), collector’s booths (Odds Ratio=2.95), automatic entrances (Odds Ratio=2.66), concourses (Odds Ratio=2.26) and buses (Odds Ratio=2.10). Black people are significantly over-represented (as defined as an Odds Ratio of 1.50 or higher) in enforcement incidents that took place on streetcars (Odds Ratio=1.95) and other locations (Odds Ratio=1.69). Black people are also grossly over-represented in those incidents where location was deemed “undetermined” (Odds Ratio=2.64).

Regardless of location, Indigenous people are over-represented in TTC enforcement incidents (Tables 28 and 29). They are grossly over-represented (as defined by an Odds Ratio of 2.00 or higher) in incidents that took place on subway cars (Odds Ratio=6.87), collector’s booths (Odds Ratio=5.87), concourses (Odds Ratio=5.63) and automatic entrances (Odds Ratio=3.37). They are also grossly over-represented in cases in which the location was “undetermined” (Odds Ratio=4.13). Indigenous people are also significantly over-represented (as defined as an Odds Ratio of 1.50 or higher) in enforcement incidents that took place on buses.

In general, White customers are neither under or over-represented in TTC enforcement incidents that took place at different locations (see Tables 28 and 29). Their presence in enforcement incidents approximates their presence in the general population. By contrast, regardless of the location, people from other (non-Black) racial minority groups are consistently under-represented in TTC enforcement incidents.

TABLE 27: Number of TTC Enforcement Incidents Recorded at Specific Locations, 2008-2018

| Location | Count | Percent |
|--------------------|---------------|----------------|
| Automatic Entrance | 1,276 | 1.9 |
| Bus | 26,230 | 39.0 |
| Collector’s Booth | 1,029 | 1.5 |
| Concourse | 1,730 | 2.6 |
| Streetcar | 15,417 | 22.9 |
| Subway Car | 1,689 | 2.5 |
| Other | 3,294 | 4.9 |
| Undetermined | 16,521 | 24.6 |
| TOTAL | 67,186 | 100.0 |

**TABLE 28:
Percent of TTC Enforcement Incidents, by the Location of Incident and Race**

| Location | White | Black | Indigenous | Other Racial Minority | TOTAL |
|-----------------------------------|--------------|--------------|-------------------|------------------------------|--------------|
| Automatic Entrance | 52.2 | 23.4 | 2.7 | 21.8 | 100.0 |
| Bus | 47.5 | 18.5 | 1.4 | 32.5 | 100.0 |
| Collector's Booth | 51.4 | 26.0 | 4.7 | 17.9 | 100.0 |
| Concourse | 64.4 | 19.9 | 4.5 | 11.3 | 100.0 |
| Streetcar | 54.5 | 17.2 | 1.1 | 27.2 | 100.0 |
| Subway | 58.6 | 27.1 | 5.5 | 8.8 | 100.0 |
| Other | 65.3 | 14.9 | 3.6 | 16.2 | 100.0 |
| Undetermined | 59.5 | 23.2 | 3.3 | 13.6 | 100.0 |
| Percent Toronto Population | 48.4 | 8.8 | 0.8 | 42.0 | 100.0 |

**TABLE 29:
Degree of Representation (Odds Ratios) in TTC Enforcement Incidents,
by the Location of the Incident and Race**

| Location | White | Black | Indigenous | Other Racial Minority | TOTAL |
|--------------------|--------------|--------------|-------------------|------------------------------|--------------|
| Automatic Entrance | 1.08 | 2.66 | 3.37 | 0.52 | 100.0 |
| Bus | 0.98 | 2.10 | 1.75 | 0.77 | 100.0 |
| Collector's Booth | 1.06 | 2.95 | 5.87 | 0.43 | 100.0 |
| Concourse | 1.33 | 2.26 | 5.63 | 0.27 | 100.0 |
| Streetcar | 1.13 | 1.95 | 1.37 | 0.65 | 100.0 |
| Subway | 1.21 | 3.08 | 6.87 | 0.21 | 100.0 |
| Other | 1.35 | 1.69 | 4.50 | 0.39 | 100.0 |
| Undetermined | 1.23 | 2.64 | 4.13 | 0.32 | 100.0 |

Racial Disparities by Station

The third and final variable we explore was labelled “Location” in the original TTC dataset. This variable seems to identify the specific subway station or transit hub associated with each enforcement incident. The original variable had 104 different classifications. However, many of these classifications had fewer than fifty entries. Thus, for the purposes of analysis, we recorded the variable into 22 different categories – each with at least 500 entries. The results indicate that one-fifth of all enforcement incidents were associated with Spadina station, 8.7% took place at Union Station and 17.1% took place on TTC vehicles. The proportion of incidents that took place at all other stations falls below 5.0%.

[Table 31](#) and [Table 32](#) reveal that Black customers are significantly over-represented in TTC enforcement incidents that take place on vehicles and at TTC stations. Indeed, Black people are grossly over-represented (defined as an Odds Ratio of 2.00 or greater) in enforcement incidents that took place at 13 of the 22 stations specified by data. These stations include Bathurst, Bloor-Yonge, Broadview, Dundas, Dundas West, Eglinton, Islington, Main, Ossington, Scarborough Centre, Victoria Park and Wellesley. Black people are also significantly over-represented (defined as an Odds ratio of 1.50 or higher) in enforcement incidents that took place on TTC vehicles and at College, Finch, Queen, Finch, Spadina, St. Clair, St. George and Union stations.

The results also indicate that Indigenous people are grossly over-represented in enforcement incidents that took place at eleven of the twenty-two stations specified in the data. These stations include Bathurst, Bloor-Yonge, Broadview, College, Dundas, Dundas West, Main, Ossington, Queen, St. George, Victoria and Wellesley. Indigenous people are also significantly over-represented among incidents that took place on TTC vehicles and those that took place at Eglinton and Islington stations. Indigenous people are under-represented in enforcement incidents that took place at Scarborough Centre, Finch and St. Clair Stations (see [Tables 31](#) and [32](#)).

White people are neither over nor under-represented in enforcement incidents that took place at various stations. Regardless of location, their representation in enforcement incidents seems to be consistent with their presence in the general population. There are two exceptions, White people are significantly over-represented among incidents that took place at College Station (Odds Ratio=1.60). They are also significantly under-represented in cases that took place at Scarborough Centre (Odds Ratio=0.65). By contrast, regardless of location, people from other (non-Black) racial minority groups are significantly under-represented in the TTC enforcement data.

TABLE 30: Number of TTC Enforcement Incidents Recorded for Specific Stations, 2008-2018

| Station | Count | Percent |
|--------------------|---------------|----------------|
| On Vehicles | 11,497 | 17.1 |
| Bathurst | 2,460 | 3.7 |
| Bloor/Yonge | 3,373 | 5.0 |
| Broadview | 2,834 | 4.2 |
| College | 2,391 | 3.6 |
| Dundas | 2,330 | 3.5 |
| Dundas West | 1,935 | 2.9 |
| Eglinton | 925 | 1.4 |
| Finch | 1,551 | 2.3 |
| Islington | 1,427 | 2.1 |
| Main | 1,490 | 2.2 |
| Ossington | 718 | 1.1 |
| Queen | 1,117 | 1.8 |
| Scarborough Centre | 723 | 1.1 |
| Sheppard | 752 | 1.1 |
| Spadina | 12,155 | 18.1 |
| St. Clair | 1,828 | 2.7 |
| St. George | 734 | 1.1 |
| Union | 5,857 | 8.7 |
| Victoria Park | 1,127 | 1.7 |
| Wellesley | 2,169 | 3.2 |
| Other | 7,733 | 11.5 |
| TOTAL | 67,186 | 100.0 |

TABLE 31: Percent of TTC Enforcement Incidents, by Station and Race

| Station | White | Black | Indigenous | Other Racial Minority | TOTAL |
|-----------------------------------|--------------|--------------|-------------------|------------------------------|--------------|
| On Vehicles | 55.1 | 17.4 | 1.3 | 26.1 | 100.0 |
| Bathurst | 50.8 | 20.6 | 1.6 | 27.1 | 100.0 |
| Bloor/Yonge | 53.0 | 28.0 | 3.9 | 15.1 | 100.0 |
| Broadview | 47.5 | 23.1 | 2.2 | 27.3 | 100.0 |
| College | 77.5 | 15.5 | 2.4 | 4.6 | 100.0 |
| Dundas | 48.8 | 32.5 | 7.8 | 10.9 | 100.0 |
| Dundas West | 62.9 | 18.7 | 2.6 | 15.8 | 100.0 |
| Eglinton | 63.5 | 18.8 | 1.4 | 16.3 | 100.0 |
| Finch | 47.0 | 16.1 | 0.6 | 36.3 | 100.0 |
| Islington | 60.1 | 23.8 | 1.2 | 15.0 | 100.0 |
| Main | 59.9 | 21.1 | 3.3 | 15.7 | 100.0 |
| Ossington | 69.6 | 17.8 | 1.7 | 10.9 | 100.0 |
| Queen | 59.8 | 15.0 | 1.7 | 23.4 | 100.0 |
| Scarborough Centre | 31.4 | 47.7 | 0.7 | 20.2 | 100.0 |
| Sheppard | 55.1 | 16.2 | 1.1 | 27.7 | 100.0 |
| Spadina | 44.8 | 17.0 | 1.1 | 37.1 | 100.0 |
| St. Clair | 55.0 | 14.4 | 0.3 | 30.3 | 100.0 |
| St. George | 63.4 | 15.9 | 2.9 | 17.8 | 100.0 |
| Union | 45.1 | 15.1 | 0.9 | 38.9 | 100.0 |
| Victoria Park | 61.6 | 23.3 | 3.5 | 11.6 | 100.0 |
| Wellesley | 64.1 | 22.6 | 6.8 | 6.5 | 100.0 |
| Other | 61.3 | 21.6 | 3.2 | 13.9 | 100.0 |
| Percent Toronto Population | 48.4 | 8.8 | 0.8 | 42.0 | 100.0 |

**TABLE 32:
Degree of Representation (Odds Ratios) in TTC Enforcement Incidents,
by Station and Race**

| Station | White | Black | Indigenous | Other Racial Minority |
|--------------------|-------|-------|------------|-----------------------------|
| On Vehicles | 1.14 | 1.98 | 1.63 | 0.62 |
| Bathurst | 1.05 | 2.34 | 2.00 | 0.65 |
| Bloor/Yonge | 1.10 | 3.18 | 4.87 | 0.36 |
| Broadview | 0.98 | 2.63 | 2.75 | 0.65 |
| College | 1.60 | 1.76 | 3.00 | 0.11 |
| Dundas | 1.01 | 3.69 | 9.75 | 0.26 |
| Dundas West | 1.30 | 2.13 | 3.25 | 0.38 |
| Eglinton | 1.31 | 2.14 | 1.75 | 0.39 |
| Finch | 0.97 | 1.83 | 0.75 | 0.86 |
| Islington | 1.24 | 2.70 | 1.50 | 0.36 |
| Main | 1.24 | 2.40 | 4.13 | 0.37 |
| Ossington | 1.44 | 2.02 | 2.13 | 0.26 |
| Queen | 1.23 | 1.70 | 2.13 | 0.56 |
| Scarborough Centre | 0.65 | 5.42 | 0.87 | 0.48 |
| Sheppard | 1.14 | 1.84 | 1.37 | 0.66 |
| Spadina | 0.93 | 1.93 | 1.37 | 0.88 |
| St. Clair | 1.14 | 1.64 | 0.37 | 0.72 |
| St. George | 1.31 | 1.81 | 3.63 | 0.42 |
| Union | 0.93 | 1.72 | 1.13 | 0.93 |
| Victoria Park | 1.27 | 2.65 | 4.37 | 0.28 |
| Wellesley | 1.32 | 2.57 | 8.50 | 0.15 |
| Other | 1.27 | 2.45 | 4.00 | 0.33 |

Summary

Our analysis of TTC enforcement data, presented above, produced several significant findings:

- Both Black and Indigenous people are grossly over-represented in TTC enforcement incidents that took place between 2008 and 2018;
- Black and Indigenous people are over-represented in both TTC charges and cautions;
- The over-representation of Black and Indigenous males, in TTC enforcement incidents, is particularly pronounced;
- Racial disparities remain significant regardless of the Census benchmarking techniques employed. Racial differences remain strong if we use general population estimates or estimates of the commuting population;
- Racial disparities cannot be explained by individuals who have been involved in multiple enforcement incidents, nor the presence individuals who reside outside of the City of Toronto;
- Racial disparities exist across all major offence categories;
- Black and Indigenous people are over-represented in enforcement incidents across a wide range of TTC routes, locations and stations;
- Racial disparities appear to have declined somewhat over the eleven-year study period. Disparities were highest in 2008 and lowest in 2018. However, this data must be taken with a grain of salt. Between 2008 and 2018, the percent of enforcement cases with missing racial data increased dramatically – from 11% in 2009 to 44% in 2016. Thus, the early years of the study likely provide more reliable racial estimates than the later years;
- The completeness of the enforcement data – especially the racial data – is an important limitation of this study and something that requires policy discussion. We will return to this topic in Part F of this report.

What do the racial disparities, documented above, mean for the TTC? It is clear that the size of the observed racial disparities are, at a minimum, consistent with allegations of racial bias. All else being equal, if people from all racial backgrounds are treated equally, we would not expect to uncover racial disparities as large as those documented in the tables and charts presented in this section. However, other possible explanations exist. To begin with, some might argue that Census benchmarking – including Census estimates of the commuting population -- do not accurately capture the racial characteristics of TTC riders. Is it possible that the true population of TTC users is more diverse – i.e., more Black and more Indigenous – than the population estimates used in this study? If this is the case, the enforcement rates for Black and Indigenous Torontonians may be somewhat inflated.

Others might argue that racial differences in TTC enforcement rates reflect racial differences in offending behaviour. In other words, TTC enforcement staff treat all people equally, but Black and Indigenous people are more likely to engage in fare evasion, trespassing, loitering, bylaw infractions and public order offences. Proponents of this position may point to the under-representation of Asians, South Asians and other minorities as evidence that the system is not racially biased.

However, we cannot, at this time, dismiss the possibility that bias – conscious, unconscious and systemic – has contributed significantly to the gross racial disparities observed in the TTC enforcement data. Racial bias, for example, may subject Black and Indigenous riders to higher levels of surveillance, by TTC fare inspectors and special constables, than riders from other racial backgrounds. Heightened surveillance, in turn, would render Black and Indigenous riders more vulnerable to detection. In other words, racial profiling may make Black and Indigenous riders more likely to be caught for violations than White riders who engage in exactly the same behaviour. Another form of potential bias involves officer discretion once a violation has been detected. As discussed in the literature review presented later in this report, previous research suggests that some law enforcement officials are more likely to formally caution and charge minority customers than White customers. White customers, on the other hand, are more likely to be dismissed or given a verbal warning. The final report will contain additional analysis of the TTC enforcement data in an effort to further determine the role racial bias may play in TTC enforcement decisions.

To gain a better understanding about how the data presented above was collected and has been used, we next turn to a presentation of the findings from our focus groups with Transit Enforcement Unit staff.

PART C: TRANSIT ENFORCEMENT UNIT FOCUS GROUP FINDINGS

INTRODUCTION

As part of our inquiry we conducted a series of focus groups with TTC staff who are involved directly or indirectly in fare inspection and enforcement activities, and in the collection and analysis of enforcement-related data. The purpose of these focus groups was to learn about the roles and responsibilities of the Fare Inspectors (FIs) and the Transit Special Constables (TSCs), and to understand how they enforce relevant rules, policies and laws. Our aim was also to gain an understanding of how the historical TTC enforcement data had been collected and to examine how members of the former Transit Enforcement Unit (TEU – now the TTC Special Constable Service and Revenue Protection)⁵ explained the racial differences in enforcement outcomes that emerged from the analysis of this data. Finally, we sought to identify obstacles to reform and solicited recommendations for reform from members of the Transit Enforcement Unit.

Between November 26th and December 23, 2019, we conducted six separate focus groups with Fare Inspectors (two sessions) Transit Special Constables (two sessions) Transit Enforcement Unit Supervisors (one session) and staff responsible for data management (one session).

Focus Group Sessions

1. November 26, 2019 – Transit Special Constables (7 participants)
2. November 26, 2019 – Fare Inspectors (14 participants)
3. November 27, 2019 – Transit Enforcement Unit Supervisors (5 participants)
4. November 27, 2019 – Transit Fare Inspectors (12 Participants)
5. December 6, 2019 – Data Managers and Specialists (6 participants)
6. December 23, 2019 – Transit Special Constables (4 participants)

Staff were made aware of our focus groups through internal communication and via information sessions led by the research team. Participation in the focus groups was voluntary and staff were promised that their responses would remain anonymous. Focus group participants were asked a series of open-ended questions related to their work, the nature of data collection and on the issue of race and transit enforcement. The sessions lasted an average of two hours. In total we spoke to approximately 45 members of the Transit Enforcement Unit. All focus groups were held at TTC Head Office and facilitated by the lead researchers. The audio recordings from the focus groups were transcribed and imported into QSR's NVivo 12 data management and analysis software for coding and analysis.

⁵Throughout this report we use the terms “Transit Enforcement Unit”, “Fare Inspectors” and “Transit Special Constables” to identify the entities that existed at the time that our initial research was conducted. As a result of restructuring within the TTC, the Transit Enforcement Unit has split into two distinct entities, the “Revenue Protection” and “Special Constable Service” departments. We use the terms Revenue Protection and Special Constable Service when making current and forward looking statements to reflect these developments.

Below we provide the findings from our focus groups. The report is separated into the following sections

- Job Descriptions
- Job Challenges
- Data Collection and Use
- Race and Over-representation in TTC Enforcement Data;

We conclude with a series of recommendations stemming from the focus group sessions.

JOB DESCRIPTIONS

We started each focus group with introductions and then asked participants to provide the research team with a description of their jobs and duties.

Fare Inspectors

According to their official mandate, Fare Inspectors have a range of responsibilities including incident and emergency response, order maintenance, Proof of Payment (POP) inspection and enforcement, and special attention detail.⁶ The Fare Inspectors receive their main powers of authority as provincial offences officers under the Provincial Offences Act. As is the case in many enforcement settings, the actual work carried out by staff on a day to day basis is determined not only by official mandates, but also by institutional priorities and managerial and supervisory directives. At the time of our focus groups, the work of the Fare Inspectors was narrower than outlined in policy and more aligned with the stated objective of the Fare Inspector⁷. As one of the supervisors noted, *in regard to Fare Inspectors, they're provincial offences officers, by-law officers, like the City of Toronto would have. Parking authority or by-law officers. Their main role I guess would be to ensure people are paying their fares and issuing tickets.* As indicated by one of the Fare Inspectors in the following passage, the streetcar network was identified as their primary work environment at the time of our focus groups:

⁶ The full list of Fare Inspector responsibilities as outlined in the FI Policies Procedures and Rules Manual is as follows:

- Incident/emergency response;
- Order maintenance, crime prevention, law enforcement, high visibility patrols;
- Special attention details;
- Fare media inspections and enforcement;
- Proactive enforcement of TTC By-Law#1;
- Proof of Payment (POP) inspections and enforcement;
- Illegal entry checks and enforcement;
- Subway station security inspections;
- Transit Enforcement Unit program administration;
- Asset protection, access control and site security activities during subway service; disruptions, emergencies, special events and subway terminal closings;
- System Security Services.

⁷ According to the FI Policies Procedures and Rules Manual, “[t]he objective of a Fare Inspector is to provide customer service excellence while safely enforcing TTC By-Law No. 1 on all Proof of Payment lines and to reduce overall fare evasion through visual deterrence as well as the issuance of infraction notices.”

So, our prime objective is to get on Proof of Payment vehicles and conducting inspections so that would be primarily on streetcars, were not in the subway system yet, we're probably going to be getting into the subway system and on the buses sooner or later. But as of right now, our prime objective is to be on streetcars conducting Proof of Payment inspections. So, that's primarily what we do. If something else were to happen, like priority one or a major incident within the transit system, they usually call us to go into the subway to conduct crowd control. But our main objective is to be on the streetcars making sure that people are paying their fares.

POP checks involve asking riders for their Presto card, transfer or other fare medium and confirming payment and validity. Fare Inspectors indicated that while their primary responsibilities had previously extended beyond of the streetcar network and to other types of enforcement activities, these had recently been scaled back.

Transit Special Constables

Like the Fare Inspectors, the official mandate of the Transit Special Constables is quite broad, and like the FIs includes incident and emergency response, crime prevention and law enforcement, Proof of Payment inspections and enforcement, as well as subway station security and asset protection.⁸ As special constables, the TSCs receive powers of authority through an agreement between the TTC and the Toronto Police Services Board. The TSCs are also provincial offences officers under the Provincial Offences Act. As is the case with the FIs, the nature of the work carried out by the TSCs has also changed over time and is influenced by factors both internal and external to the TTC. The FIs saw themselves as performing a variety of law enforcement and service functions within the TTC, as one of our participants explained:

Without really saying it we perform police function, that's the easiest way to explain it. Yes, we can't identify as police, but the core function of our job is policing. We actively patrol the subway system, we actively respond to calls for public service on subways, street cars, Wheel-Trans as well as busses and non-public TTC property. TTC has essentially the same amount of non-public areas that we do public areas and really nobody knows that,

⁸ The full list of Transit Special Constable responsibilities as outlined in the TSC Policies Procedures and Rules Manual is as follows:

- Incident/emergency response;
- Order maintenance, crime prevention, law enforcement, high visibility patrols;
- Special attention details;
- Fare media inspections and enforcement;
- Proactive enforcement of TTC By-Law#1;
- Proof of Payment (POP) inspections and enforcement;
- Illegal entry checks and enforcement;
- Subway station security inspections;
- Transit Enforcement Unit program administration;
- Asset protection, access control and site security activities during subway service; disruptions, emergencies, special events and subway terminal closings;
- System Security Services.

right... So like I said, the core function of our job is a policing function. We conduct criminal investigations, we make arrests... Right we don't need to see that offence be committed, we can make an arrest based on witness accounts, also based on victim accounts. We take statements as well as seize evidence. We can make an arrest. We lay charges, provincially through a by-law or even criminally. We can release on the scene. If they don't meet the conditions of release, we transport them to jail. Or if they're apprehended under the mental health act we transport them to the hospital to seek medical treatment or what not. Right, so to me that's a policing function.

Another TSC described the range of criminal activity that they deal with:

Assaults, mischiefs, panhandlers, threats, emergency alarms, which could be anything from a false alarm to a guy with a knife on a train. People attacked all the time. The only calls we would actively not go into is with a person with a gun, and a person with a knife if we can avoid it like. If somebody is actively trying to go and stab, we aren't going to go in and risk getting injured. If it's just a person waving a knife around we're probably going to wait for police to get there.

The TSCs were careful to distinguish themselves from police officers but recognized that many of the functions they perform and issues they respond to are similar to those of the municipal police. In addition to their security and protective function, the TSCs indicated that they provide support for the FIs and had recently begun conducting POP inspections with FIs.

Line Supervisors

In addition to the FIs and TSCs we also spoke to their immediate supervisors as part of our research. Our focus group session with line supervisors included the Sergeants and Staff Sergeants responsible for the administration and oversight of the Transit Enforcement Unit and the training and supervision of the FIs and TSCs. The supervisors are responsible for overseeing the day to day operations of the Transit Enforcement Unit, dealing with frontline, administrative and training duties. From what we heard, the supervisors had extensive experience within the Unit, having worked their way up to their current positions and with many having occupied several different roles.

Data Service, Management and Analytics

Finally, we also spoke to the individuals responsible for the management, analysis and use of the enforcement data collected by the FIs and TSCs. Our focus group with the data specialists included statistical support clerks, court services coordinators and crime analysts. The statistical support clerks described their main duties as digitizing information from tickets and producing statistics based on this data. The court services coordinators compile relevant information and property related to tickets and other offences in preparation for court. In addition to managing relevant databases and conducting system audits, the crime analysts produce internal reports based on the

enforcement data collected by the TEU and respond to external requests for enforcement-related information.

JOB CHALLENGES

Before getting into questions specifically related to enforcement activities and the collection of data, we asked respondents to highlight the main challenges of their jobs. This information is useful in helping us explore how members of the enforcement team understand their work and their work environment, and ultimately, how they go about their jobs.

Dealing with Societal Problems

Some of the key challenges faced by members of the enforcement team relate to broader issues affecting our society that permeate the transit system. Indeed, respondents talked about issues arising out of poverty, homelessness and mental health, for example. Three respondents made the following remarks:

So, it's not just the public's safety we have to worry about, it's our employee's and as you mentioned earlier the new issues, or the building issues of Toronto that are encroached in the subways—we've become a rolling mobile shelter. There are no beds for people to go most nights, they choose to ride the system until the system shuts down. They get on the subway, then they get on busses at night and ride the busses. They cause problems and the officers usually don't complain. It's very unfortunate but you see more and more people who are using the subway as a place to stay warm. A place to get some sleep—you can get on any train, any time of the day. Then there is someone sleeping on the train. So it falls on us when we get on there and people are expecting us to step up and help this person, which is fine, help them, but they don't want to go anywhere. They want to stay in the train.

The thing is, on the TTC you're gonna deal with the rich, the poor, the brilliant minds and the mentally ill. And you know, one of the best analogies I ever heard was that the TTC is a microcosm for society. You know I always thought that was one of the most brilliant things I've ever heard. So, you're taking that whole group of society, everything, and you're putting them in vehicle that's XYZ size and you can create what is a natural pressure cooker all onto itself.

And everything's increasing right, population is increasing, gun violence is increasing, violence period is increasing. All your offences are increasing, mental health is through the roof, drug addiction is through the roof.

These varied problems facing members of society impact upon the work of the enforcement team and the decisions they have to make. For example, enforcement staff have to make decisions about whether or not to enforce fare policies with homeless individuals who appear unable to pay. Similarly, decisions have to be made about whether or not to remove people who are homeless or exhibiting signs of mental illness from TTC property. At times, these problems cause tension with

other TTC riders, who either want to see rules and policies being enforced, or who are sensitive to the issues and the challenges facing enforcement staff and desire leniency.

Lack of Direction/Clarity on Objectives/Inconsistency in Priorities

The challenges posed by the varied problems facing TTC enforcement staff are compounded by a seeming lack of clarity about the objectives and priorities of the Enforcement Unit. We heard from enforcement staff that they are receiving conflicting directives with respect to enforcing policy. This was particularly true with respect fare enforcement, as three of the FIs explained:

Everyday we are second guessing ourselves, can we, can we not? You'll even have your partner going "lets go for this, we can do this" and you're like "no we can't" and then you're arguing with each other because no-one knows what the hell to do. We have no standard operating procedures.

I think that the TTC may need to make a clear decision as to do they want fares enforced yes or no. If the answer is they want fares enforced then they have to be supportive, if they don't want fares enforced then they need to do something, it can't be one or the other, we cannot do our job and be customer service.

The problem is we don't know what our job is. We're as lost as you guys. One week we get told to sit, next week we get told its the polar opposite, so really we are going out there just lost. Like we go to inspect somebody, we don't know if we should be kicking them off, letting them ride. You have half the streetcars telling us, looking at us like we're evil, the other half saying good job and the next streetcars will be totally reverse I mean you just don't know, you just don't know.

From our conversations with enforcement staff, it is clear that these inconsistencies have arisen as a result of the TTC coming under increased public scrutiny with respect to both fare enforcement and the use of force. Two participants commented:

I think a lot of us are just really frustrated right now, our job is constantly changing, and especially from the public they've decided "oh you know, that you're intimidating so the TTC will grant these changes as well."

What the TTC is doing, they're just watering us down in a way, and the one time where they actually came out and they advertised who we are, they said, "Oh, these are the new customer friendly Fare Inspectors." What in the heck is a customer friendly Fare Inspector? And then from there, the conversation began. We had Facebook groups of a Fare Inspector sightings where we're hanging out what we're doing. And there were conversations on Reddit, well, who are these guys? And people would chime in and say, you don't need to show them ID. You can walk away from them, all good, no worries. And, it just became downhill from there.

Furthermore, inconsistency with respect to directives and priorities were attributed to the fact that there are multiple levels of management that ultimately oversee the work of the Enforcement Unit. Another participant remarked:

There's a big huge disconnect or huge distance in between direct management that we deal with, the immediate management that we have, and the upper management, right? There are two different directives from these two managements that we dealing with, right? Starting from upper management, the directive is customer service, focus on customer service. We're going to hire more numbers of FIs and TSCs more presence, more deterrents. People will pay. That's their directive. That's their focus and that's how they see it, right? Then we work under immediate management, which is enforcement officers, right? Special Constables, their focus, obviously it's enforcement, right?

The varied priorities and directives have influenced the ability of enforcement staff, particularly the Fare Inspectors to confidently and effectively do their jobs. Importantly, changes that were made towards a customer service orientation were perceived to have limited the ability of Fare Inspectors to effectively enforce fare policy and had resulted in a shift in customer sentiment and resulted in a lack of respect or deference being afforded to them.

Poor or Inadequate Technology and Lack of Access to Data in the Field

A further challenge experienced by members of the enforcement team related to access to consistent and reliable technology needed to carry out their work. These concerns related to a variety of devices and machines that the Enforcement Unit use, including handheld Presto card readers, the Presto tap machines on streetcars, other fare medium machines, as well as their radio systems. Members of the enforcement team also discussed the challenges faced by a lack of access to data while in the field.

These are the H card devices [HHPOS – Handheld Point Of Sale Units] that we use to inspect all the passengers or the customers of the TTC. First of all, most of the time they're dead. While we're working, they don't work properly. It would have a red screen and all of a sudden we're dealing with thousands and thousands of people expecting fare inspection... Second of all, when this works, it doesn't work properly. It's so slow. You press that button [speaker demonstrating with handheld device], it's almost five to 10 seconds delay and you have thousands of people are coming in and God knows if you stop, were to stop a person opposite to your color... Second of all is again, technology, streetcar Presto readers and fare medium machines do not work, not in service most of the time. People get on, they want to get off on the next stop. They're struggling with these machines, try to pay their fare and now we're standing there. The problem is, first of all, most of the time the machine itself is not working. It's not in service. Again, coming back to that point when it's working, it's not working effectively.

The first problem noted by this Fare Inspector relates to the card readers that are used to assess POP. Malfunctioning and slow operating machines hinder the ability of Fare Inspectors to do their jobs efficiently and have a negative impact on their relations with customers. Likewise, the

inoperability of Presto and other fare medium machines poses a problem of having to determine whether or not an individual should be held responsible for not having paid their fare. For example, we heard from FIs that they often had to deal with passengers who were unable to provide POP but who attributed that failure to malfunctioning machines. We also heard complaints about the radio system used by the enforcement team.

Another thing is radios, yes, they're the worst, it doesn't work. That's one question... It's one channel for entire system. And maintenance. So let me, let me explain this. Maintenance, janitors, any collectors, supervisors, myself, TSCs everybody listens to this radio. Everybody communicates on this radio. I believe enforcement officers should have a different channel. Not only different channel. We should have somebody sitting here separately to, for us to check this person to use discretion, for repeat offenders, the recidivism. To make sure that if I'm going to make this decision of giving this person a ticket, that I use that discretion based on how many times we actually gave him a written warning or a verbal warning and stuff like that.

As this Fare Inspector notes, the radio system used to conduct checks and communicate with other staff relies on just one channel. Without a dedicated channel, Fare Inspectors were reluctant or unable to radio-in for information about riders caught without POP to see if they had a history of fare evasion or any other information that could help the staff member make an informed decision about how to proceed. A lack of access to data in the field, both with respect to fare evasion history and criminal background were raised by the FIs and TSCs. Three respondents had the following to say:

The way it is set up here is if I want to do real time checks or call into our transit enforcement desk, he has to log into an excel spreadsheet, and you're searching for this person. That data, how it's entered, might not be accurate so you might have different variations and this system can't differentiate the AKA's [also known as] cause you got to look at 10 different entries and as opposed to CPIC [Canadian Police Information Centre] you'll have one hit and one score. You'll have the AKA's and you'll say ok this is that person. So for us you got to look at that database and the person at the desk might not be confident on computers or comfortable and he's running on an old system trying to run this check and you're on the other end trying to run this guy, trying to get descriptors, cause we don't have a picture or a database—so what we're doing is based on descriptions from previous entries to what we have now.

Essentially our hands are tied with the information... The nature of transit is moving right, so one day they can deal with somebody at Kipling and the next day they could be doing the same thing at Kennedy. You're in two different police divisions, you might get two different responses from calling into that criminal investigation, and you just never know what you're going to get. I personally have had situations where you make a criminal arrest and your choices are do I violate this person's charter rights or do I just let them go without confirming identity? So, you're in a spot where you can't win.

A lack of access to phones, info in subway and lack of access to CPIC makes our jobs more difficult and potentially dangerous.

We heard from TEU staff, both FIs and TSCs that they felt that they lacked access to adequate information in the field. For the FIs this related primarily to historical enforcement data that would allow them to search whether a given rider had been warned or ticketed for fare evasion in the past. For the TSCs, the primary concern with respect to a lack of data in the field related to their rather limited access to the CPIC database or other means of searching the criminal histories of the individuals they encountered. Although the TSCs were clear to point out that they did have some access to criminal history data, they stated that this access was rather limited. In their view, limited access to search an individual's criminal history posed a safety risk to themselves, to other TTC staff and to the TTC ridership.

Understaffed/Under Resourced

A related challenge for the TEU related to human resources. There was a perception amongst both the FIs and the TSCs that more enforcement officers were needed in order for them to sufficiently perform a public safety function and adequately respond to calls for service. Three of the respondents described the situation in the following way:

It's the geographical restrictions as well. A lot of the times, we're getting our numbers up now but when we first started you would have a foot team in the downtown core, you would have an east team which was Yonge street to the zoo, north of Steeles, and down to the lake, and west team from 427 to North of Steels to the lake. That's your zone.

All the time north of Eglinton "we got no cars, can you guys attend" well we have no cars, but we'll make our way, and then we're shifting from the downtown core. One of the big things is during the rush hour we try to stay in the downtown core because that's where most people are, and if there's an incident, a train stops, you'll have that backlog of thousands of people trying to get to Yonge and Bloor.

Back then it was about 6, we've gotten up now, one car per zone. Two people, one car. So if the subway team is at Union and in a fight with somebody, you could be at Jane & Lawrence in traffic and you're just sitting there and waiting.

A lack of bodies restricted the movement of the TSCs during peak times and concentrated their efforts in certain parts of the city. We did hear from staff that hiring is currently underway in an effort to increase the size of the TEU.

To summarize, the main challenges faced by members of the TEU arise from the myriad social problems that permeate the TTC system, relate to a seeming lack of direction or clarity on priorities for the Unit and stem from perceived staffing and human resource issues, particularly on the Special Constable side. The lack of clarity or direction was attributed most directly to the publication of racially disaggregated enforcement statistics. In the next section we begin to explore the collection and use of this enforcement data.

DATA COLLECTION AND USE

If you look at what a police officer does in a day or what a special constable does in a day, sure they have that gun for the time they need to use it, and sure they have their lights and their sirens—but the majority of what they do is relying on data. Access to it, you know what I mean. Cross-referencing things, being able to collect and account for what they're doing.

One of the primary reasons for undertaking the present review was to gain an understanding about how members of the TEU collect and utilize data in the course of their work. The discussion presented above highlighted the perceived importance of data for enforcement work. Below we examine the use of this data.

Check Evasion History and Inform Decision-Making

One of the primary uses of the data collected by the enforcement team was for the purposes of checking for previous fare policy violations and other infractions. Focus group participants indicated that data on previous fare evasions, for example, were useful in making decision about how to proceed with an individual who had violated fare policy. Two of the Fare Inspectors had the following to say:

The idea was, so you write the written warning, put those in what it's called a Hindsight system, where you log in, you can search, and then you see this person has been warned before, ok you're getting a ticket.

Because you know the whole point with how the program even started was I should be able to do my job and elevate as I'm dealing with things, so you go through verbal warnings, written warnings, to a provincial offence ticket, to a summons, to an arrest. If I dealt with you 7 times on 7 different occasions, and I've worked my way up the line you know, and it's just like I had to talk to you 10 times today you're getting arrested. When we were doing written warnings, that was the point, was that I could sit there and have some form of way of determining whether or not this person was in the system.

The use of the data in this way was confirmed by the data specialists who would respond to inquiries and requests for database searches from staff in the field.

The FIs would call and say "I know I came in contact with this person. Can you look them up in the system and tell me..." So we'd search by their badge number, "if I issued them anything" so it could just be verbal warning, it could be written, as you said, a contact card, so they want to know. "So I wrote them a contact card, how many did I write?" Or "How many was written for them? What were the charges?" That would help them determine whether they will be issuing a ticket or not, or another verbal.

Instead being issued a ticket, an individual could be verbally warned (leaving no paper trail) or formally cautioned. Previously, this formal caution would have been documented the Hindsight database (a practice which has since been suspended). The decision whether or not to ticket an

individual for fare evasion may be influenced by evidence of prior fare evasion; someone with a “clean” record might be formally cautioned and have their details entered into the database, whereas a someone who had previously been cautioned, as evidenced by the formal caution in the database, might be ticketed.

Confirm Identity and Conduct Background Check

As three of our participants explained, another use for data collected in the field (and accessed from third parties, such as the TPS) is to verify offender identity and to check whether an individual has a previous criminal history or poses a danger to the public or a member of staff:

Like the police officer conducting that same investigation—you can confirm that person’s identity and connect them to any occurrences that may have happened in the last 24 hours, see if they’re wanted.

So, you would be able to complete a thorough investigation of somebody that’s on the property as well as if there’s any danger to yourself or others, any warrants...

I think the answer to your question when it comes to data entry and collecting it and all that, the biggest Achilles heel of that department is the lack of technology. You walk into this office and you feel like you came into 1995. Right, but you appreciate where I’m coming from. When I first walked in here, I’m like, this is a joke. We got to upgrade this, and so they came into the office, that’s fine. When I logged into our SES system the first time, and which is our reports, we go, this is serious, this is what we’re using—and you know besides reports and that, currently when we update our call sheets. When I’m done my shift today, I have to type each one in, time I received the call, time I showed up on scene, time I cleared the call, and the disposition.

As noted by these TSCs, the TTC’s own databases, as well as information held by the TPS and in the CPIC database can prove useful for verifying subject information and identifying possible personal safety issues. Outdated information systems and a lack of access to data in the field, as noted in the section above, are seen as serious impediments to the work of the TEU.

Documenting Information for Court Proceedings

The information collected and stored by the TEU was also deemed useful and necessary for court proceedings, as the following quotes from three of our participants makes clear:

A lot of our data was actually, like the demographic part was actually a lot was used by our prosecutors. So, let’s say 80% of the tickets go to early resolutions where you talk to prosecutors about the case. So, you [riders] don’t have to identify yourself under our bylaw, so a lot of the times they just do it verbally, the problem with that is they make up a “Joe Shmoe” and that persona actually comes down here and they say “no, that’s not me.” They look at the description saying “White male, tall” meanwhile he’s got alike a neck tattoo there. That’s what a lot of the information was actually being used for.

But when I show up to court a year from now, you look like the person I spoke with that day. Cause I can't remember after doing like, what he said, 12,000 inspections or something a year I just can't remember that many people.

FIs and TSCs noted that they rely on the information collected to provide details of an interaction and description of offenders in court. The data specialists we spoke to also said that this data is used to prepare for proceedings and is also shared with TTC prosecutors.

Administrative Uses

The data specialists we spoke to advised that data collected by the TEU was used for various strategic and administrative purposes, as three of the respondents explained:

We have weekly and monthly reports that [name redacted] and I will work on. We also have FOI requests and you can have an ad hoc request.

So, basically its used in-house in terms of performance management, then it's used for the executive boards... It's used to keep a track of our fare evasion statistics, criminal statistics, we use it for resource allocation of officers, and then, like you said, any FOI requests... Anything that can support any kind of business case, community engagement teams go out and speak to schools in some troubled areas, or speaking to operators if they're saying that they're not getting the support they require and make them feel safe. That kind of stuff. Any kind of stuff across the entire Commission.

When we get the opportunity to do so as well, we try and use it to track trends, or some descriptions, like somebody that might be a multiple offender. Particularly if you got like a graffiti case going on, someone purposely causing mischief and that kind of stuff.

Data is used for internal purposes, including management, strategy and planning. It is also used to produce reports on fare evasion and to identify evasion hotspots. The same is true of the information collected about criminal incidents; increases or decreases in specific types of offences, crime hotspots, or serial offenders may be identified using the data.

Use of 208 Cards

A key line of inquiry for our investigation relates to the nature of the data collected by the TEU. Specifically, much controversy has arisen from the fact that the TEU was using a variant of the Toronto Police Service's 208 cards that were linked to the controversial practice of 'carding'. The use of the 208 cards and the practice of carding itself by the Toronto Police Service was problematic because it resulted in the collection of huge amounts of personal information from members of the public, the vast majority of whom had not engaged in any criminal activity or wrongdoing. Prior to the introduction of regulations surrounding the collection, retention and release of personal information by the police during civilian interactions, there was little

guidance or governance with respect to what type of information could be collected, how it could be used, how long it could be kept for, or who it could be shared with.

Participants in our focus groups pointed out that, although the TTC had been using the 208 cards previously used by the TPS, the TEU itself did not engage in the practice of carding. According to our respondents, the TEU used the 208 cards to document instances where they had dealt with a rider for a specific violation or offence, rather than for generally intelligence gathering purposes as the TPS had done. The quotes below were each provided by a different respondent in the context of this discussion:

We called them caution cards, not contact cards. If we were writing one of those, you were spoken to for some particular offense... and the reason we're writing this is so there can be a record that you have been cautioned for something, and that when you're found by another officer doing the same thing... "Oh, it turns out you have been cautioned 3 times before, well you're getting a ticket this time."

When we were doing written warnings, that was the point, was that I could sit there and have some form of way of determining whether or not this person was in our system... Carding is a completely different beast than what we were doing, and you guys know this, it's a completely different beast.

Ours was never an arbitrary thing, it wasn't a database made up of, "hey you look like somebody I might be looking for." I write down your name so I can say I saw you at Kennedy station at 9 o'clock on a Friday. Ours was always based on an infraction, it was always, I kept thinking, we didn't have the luxury of having that many officers out on the field to go around arbitrarily approaching people and saying, "you look like somebody I'm looking for". It was always offender based.

Shortly after his report [in the Toronto Star] came out, our union representative tried to tell him [the reporter], "look, we don't stop people randomly by their appearance, we stop them for an act they've committed right, an act they've been caught committing".

So, when the article first came out, it was basically saying that it's carding, in a way, it's just exactly like carding. And if you do look at both separately, there are similarities. But it wasn't really investigative journalism in my opinion. Because nobody really sat down and looked at it, and said, ok. Are they just stopping people randomly? Hey, you you're running for a train, come here, I'm going to talk to you and write down your information, no. You're investigating a by-law offense. If you look more often than not, if you look at the by-law. All of the offenses, putting your feet up, laying down, right, smoking, there's tons of different things. It was just kind of, TTC is carding and a lot of us were having issues with the way it was a knee jerk-reaction to that article in the media. Which was simply shut it down. Not, ok we're going to pause it, and we're going to look at maybe what exactly happened, and we're going to come out with a press conference and we're going to talk about it—and we're going to compare the stark differences to what the TO police was doing, and what we're doing...

Up until our status was removed, our caution cards were the TPS what is it 208 contact cards, they would go to Toronto police and they would use them as intelligence but they're still legitimate because they're still an associated offence to do it. It was an information sharing tool, and...2: One of the things we were told when you fill up those cards, I forget what the section was. It would say, reason for investigation 3: Reason for contact, nature of contact, and it would actually have to put what law, whether it was by-law, trespass, criminal, you would have to put what they violated, what session, so that was the suspicious person inputting the data they would know where to put it.

Although our respondents were adamant that they did not engage in carding as practiced by the Toronto police, we were informed that the data collected on the 208 cards by the TEU had previously been shared with the Toronto Police Service. Two of our respondents provided the following explanations:

So, we use our database, primarily for cautions and charges right. That's what our database was for and all the broken windows stuff we just input it into our own database. We stopped sending all of those to Toronto police. Previous, it would all go down to Toronto police and all be put on a master main index ManX the 208 system. So once we lost status we stopping giving them everything and just gave them stuff that was serious injury...

When 208's were active for TPS, even if we wrote a ticket, we wrote the 208 as well. We did it for the same offence, but we did it so that it would go to TPS and be for intelligence purposes because that again timestamps that individual to that location at that time and if the crime does get committed around there, they have access to search that. It's happened before where officers contact card has identified a suspect and that card and that copy is as far as where it's went to with security and with us and then once we were in the office it was secure in a box and the information was taken and it was destroyed the card so.

Again, although the forms used by the TTC to collect information were very similar to the contact cards used by the TPS, our respondents were adamant that the TEU did not engage in the practice of carding. Instead, we heard that these forms were used to collect information about individuals who had committed an offence or infraction. This information was used for a variety of purposes, including identity verification and prior offence history checks, for the purposes of court proceedings and for internal administrative analysis and reporting. In the next section we explore our respondents' perceptions about the over-representation

ON THE OVERREPRESENTATION OF BLACK PEOPLE IN THE TTC ENFORCEMENT DATA

A key aspect of our inquiry centres on trying to understand why Black people are over-represented in the TTC's historical enforcement data. In order to better develop this understanding, we asked members of the TEU a series of questions relating to the racial disparities in enforcement outcomes. In addition to asking why, from their perspectives, Black people are over-represented in the data, we also wanted to examine how their work has been impacted by the public release of

this data, and how they suggest improving customer relations moving forward. First, we asked staff about the over-representation of Black people in the data.

A Note on Racial Classifications, Ethnicity and Country of Origin

Our analysis of the historical enforcement data revealed over 80 different classifications used to describe the race/ethnicity/country of origin of the individuals captured in the TTC's enforcement database. As a first step towards understanding why Black people were over-represented in the data, we sought to first determine why there were so many different classifications used to describe people (some examples of the descriptors captured in the database include Black Jamaican, Polish, Canadian White, Caucasian, Somalian, Israeli, Brazilian, South Asian, Black No Nationality). Our participants explained that there was no standardized method for determining or capturing race. Furthermore, it was explained to us that the data was being collected so that it would be useful in the future, primarily to help confirm the identity of an individual. Below are some of the explanations provided by different participants:

In all honesty, there is no actual training to tell you, "Okay, we go like this, this, this, or whatever." So if you're sitting on there and you're talking to an individual, for me personally, if I know that the person, I can just pick up on where they're come from, because I either ask them, or I can just tell what their past was, for example. That's how we put it down... So when they're talking about that race-based thing, it's making us seem like we're like picking them out. No, we either ask them, or you've seen it from somewhere, either their identification that has been given of some sort, or something that way. That's why it's being put down in there as that.... So, say if I was talking to a Black Jamaican Canadian, I'd have all this information down. Say if I just put down that they are Black. The next person that's probably investigating them wouldn't know, or they wouldn't pick up on it. But now that I've put down that they're Jamaican and I put all that other information that I can put down on there, they're like, "Wait, this is the person that I talked to last week, and you did the same thing last week. So, we gave you a warning last week, so you're not getting a warning this time, you're going to get a ticket, now," right?

I also think another factor is perception. So, when someone comes across an individual who has a darker skin tone, they could just assume they are Black. But they could be from South Asia or they could be from other places where their complexion is just darker. And then it's like if you're not Black, you're White, you're Asian or you're Indian. It's like you're kind of grouped into those four categories. So just based on perception, perhaps? Because I'm not going to say I am Black, I'm this, I'm that, you know?

So I believe where a big misconception came from is we rely mostly on complexion so when you compare that to the Toronto census, people identify as certain things but doesn't take into account that you can be South East Asian, Middle Eastern, South American, when I'm writing down the skin colour its strictly the complexion I'm seeing from you, so I think those juke the stats as showing what they were choosing for certain groups as opposed to other groups.

For most of the time this information that we have is given to us, that person is in fact from Jamaica or that person is Black we may write that down. As far as the skin colour, it's what we perceive at first.

I think it's just the officer's approach, like personally I, when we had those I would write I mean Black, White, Asian. I would very rarely ask, but ____ might here say "hey what's your background?" It's just whatever that officer's approach to that situation is.

As noted by the respondents, there was little consistency in terms of the methods used to determine the racial background of the individuals entered into the database. At times, the information was based on the subjective judgement of the staff member, others might explicitly ask, and other information, such as country of origin might be gleaned from identification examined in the course of an investigation.

Denying Discrimination

Once we had discussed methods of documenting individuals captured in the historical enforcement data, our conversations shifted to focus on why the racial disparities exist. One set of responses we heard can be characterized as a denial that racism or racial discrimination is a cause of these disparities, as the following quotes from several participants makes clear:

And a lot of us, it's just frustration, like right now we're being branded as racists, but we're not racists, we have the most diverse group here. A lot of us speak different languages and stuff like that.

For example, when they said they like targeted Black people, I'm Black, I work here. Even my colleagues, I've never seen any of them do that. I would call them out on it. So, when they're sitting there and saying that, I'm just in the back thinking to myself, "Where are you guys getting this information from?"... I've had countless conversations with other passengers who were of African-Canadian descent, and they're having the same conversation. And actually, they come and say, "Listen, you guys don't need to listen to the media, because that's not true." I'm on here every single day, and I'm doing this job. There are other African-Canadian Fare Inspectors that are on this job, too, and if that were the case we would have probably blown the whistle on that... Right?

I just think it's honestly, when you watch those Fare Inspectors at Spadina, that's the big one. That whole off-board. No, honestly, all they're doing is the behaviour. It's not the colour, it's not a particular group you're looking for. You are scanning 50 to a 100 people coming off one of those streetcars. If you're just quickly picking out the one that's trying to walk around everybody else. The one that's making no effort to show you anything.

But I think as far as you're saying, you're asking, who we're checking if we're checking specific people, I think a lot, or a good deal of that could be also that people are not paying attention. When they're sitting there on the streetcar with their head in their phone like this. And the next thing you know there's an officer's standing there right there asking you

for your fare. And I can't tell you how many times on a given basis, well, do you check everybody else? Because they're not paying attention, do I just check the entire row? And I just made my way to you. But because you're too busy focused your phone, you're not seeing it. So, I think a lot of complaints, a lot of the people are complaining up there, "I'm being targeted. They're just checking me," and people just not paying attention.

Yeah. I think if our point is whoever we check, whoever we come across, you don't have proof of payment. You get a ticket. That's statistical information now that's being recorded. Now people are going on the basis of racism. Well, racism hasn't been proven within the department. Right, it's just been put on us and already we've pointed the finger, there's racism in the department, which is not the case. And if there is, then, well, it hasn't been proven. They're pretty much putting that label on us now, which has perpetuated this. "You guys are targeting a certain color, a certain nationality, what have you." However, the conversation that needs to be had is, if these are the statistics, they're the statistics. I mean if it shows that Black people are getting tickets, well why is that happening? And if there's no racism here, and that's what the stats show, that's just what the stats show. It's hard to swallow that information because of the world that we live in today. It's very easy to say it's due to racism. Well, then prove it. If there's an officer that's being racist, then let's prove it. Go through and say, is this person targeting Black people? Because all of his or her tickets are written for Black people or for Sikhs or what have you. But what we, in the society that we live in, we want to shy away from what's being presented to us. We can't digest that information because there's something wrong with it. So, you know what? Let's use a scapegoat, let's throw in racism.

Our participants raised a number of themes countering the assertion that they engage in discriminatory enforcement, including pointing to racial diversity within the unit itself and the presence of a number of Black staff. While some questioned the accuracy of the enforcement statistics, others challenged popular narrative, suggesting that the allegations of bias coming from TTC customers result from the fact that people are not paying attention to their surroundings and the enforcement activity around them.

Equal Enforcement – Unequal Offending

When asked to explain the racial differences in enforcement outcomes, one line of reasoning from TTC staff was that Black people and members of some other racial minority groups were more likely to engage in fare evasion and other offences. The following quotes from several of the respondents captures this view:

I hate to say it but a lot of the Black guys are using the child presto cards. I can pick them out before they come through the gate. Sure enough boop they tap, and I say can I see your card for a second. Yeah it's a child card you can't use that.

A lot of these complaints there frustrating for us to hear like there's nothing we can do about it, but I mean at the end of the day when you hear these complaints, especially when there is a ticket issued right, cause a lot of times there is. The person is never qualifying if there is fare evasion right. There's a reason why we're talking to people. We don't get any

pleasure out of stopping and talking to anybody like it's a job, so we're working. But you haven't paid so you get the ticket and they'll break it down you know to "it's because I'm this" and like, literally has nothing to do with it. Like [name redacted] said, most of the time we're like this, we got a machine and were trying to check like 100 people coming out of the vehicle, going as fast as they can through that vehicle, you don't look at anybody you see green cards all day, that's it. right, and then you find the offence, you ticketed the offence "here you go" and somebody's ethnicity has zero to do with it.

See I think a very interesting thing was that when [the reporter] was making articles in the Star, and he finally showed up to court, you know to see what was happening on the court side of things. Once again, the rich and the poor, the mentally ill and the brilliant minds are all in the court room, but the one message that was always consistent: guilty, I didn't pay. I didn't pay, I didn't pay, I didn't pay, I didn't pay, I didn't pay. We're not talking to you, if you paid your fare, "thank you very much have a wonderful day"... Like you know, but I mean the only reason we talk to you is you didn't pay or there's something that happened that's against our bylaw.

Just to go along with what both these guys said, I totally agree that it's a misrepresentation, because being Black, I see a lot of people that are evading. But that's no lie, like, it's a lot of minorities. I want to be the first one to admit it. It's a lot of minorities, but we wouldn't target you just because of that. If anything, I think the government has to do a better job at understanding what the social circumstances are for that, and seeing what they could do about it, because that's not our problem. We're just there for one thing, and that's checking. Either you have, or you don't. And if you don't, then we're going to act accordingly. But it has nothing to do with race. At least for me. And everyone in this room, it's not.

As noted in the quotes above, some staff argued that the racial differences in enforcement outcomes were not a product of racial discrimination, but rather that some groups offend at higher rates than others. Furthermore, some staff who pointed to differential rates of offending as a cause of the racial disparities in enforcement outcomes, also pointed to the various social problems facing some minority groups as a root cause of their offending behaviour.

[T]o me, this is a bigger issue than what we can have control over. I feel like we didn't... I feel like, with the economic status, what's really going on outside of transportation, it's something that we can't control. Right? There's obviously... It's obviously known that certain minorities are struggling financially, but yet they need to still transport themselves somehow. And if these individuals can't afford it, although there's programming, there's programs out there, is there really enough financial assistance?

If you know, you got the same city who's turning around and saying, you know what? Yes, we know we're very diverse, what have you, and we help out everybody. If you see that a group needs social assistance, what are you doing with that? So, the problem is beyond us. What are we doing for these people who are living in poor areas? Or let's cut funding for help up for programs and communities and what have you to help them. Now they jump on transit. Well, you have a fare? No, I can't. I can't even put bread on the table.

Similarly, some respondents pointed to the areas in which they focus their efforts as influencing who is subjected to enforcement action.

I think part of that article they didn't look at either is you know I mean our, some of our enforcement practices, let's say we're going to go in to do a legal entry detail and we look at Victoria Park vs. Rosedale. If I'm at Victoria Park, which is one of our, you know what I mean, stations where we get a lot more by-law offences, you're going to get a much more diverse demographic of people, just based on the buildings in the area, and where it is in the city vs. if I go to Rosedale, and I do the same detail, I'm not going to run into that. You know what I mean, diverse group of people. So, if you look at it station by station, at the station we stop this many people and this many skin-colour. It's going to show that we're stopping maybe more Black people, Asian, at Victoria Park vs. Rosedale. But that, there was no context given to that. It was just we're stopping more of this here and it was unfair. I mean we're not, from an enforcement aspect as well, we're going to go to the stations where we know there's problems happening. We don't enforce evenly at every station because we don't have the people and the resources and we go where we know there's problems and our traffic stations and yeah. Cause we're not going to find it necessary at Chester station

As noted above, some of our respondents suggested that the racial disparities in enforcement outcomes were the result of differential rates of offending. Importantly, some of our respondents pointed to social issues such as poverty as a driver of offending behaviour, and noted that these issues are not distributed equally across the city. Indeed, as noted in the previous quote, it was suggested that members of the TEU are deployed to stations and in areas that have both high levels of fare evasion (and other violations/offences) and that serve a more racially and ethnically diverse population than stations that receive less attention.

Labelled Racists Accused of Racism

We asked respondents specifically to tell us what impact the Toronto Star reporting on racial disparities in enforcement outcomes at the TTC and the subsequent public and policy attention to the issue has had on their work. Among the common responses to this question was a feeling that members of the TEU are perceived by the public as racists. Furthermore, respondents indicated that had been accused of racism by passersby as they stopped to offer assistance to riders in need. The following quotes from three of our respondents are illustrative.

They are making it harder, and the race-relations have gone way downhill because of some of the things we're going to talk about. I'm sure. But you know it's bad when a person comes up to me, a Black male or female, and says I'm trying to get to such and such a location and I say sure, I take out my book where my map is. I say we're here right now, as I'm speaking somebody will come by and say "why are you harassing that person"? They'll look at me confused and I'll say apparently I'm harassing you cause you're a Black man and they'll say "this man is giving me directions, what is wrong with you". This is what it has come to, where we are constantly, they have developed this dialogue where we are villains, we are violating people's rights.

The fact is this happened on Yonge and Bloor, I was helping a minority, and young couples who actually were coming from Mississauga, they were asking directions, two people start “leave them alone, you’re harassing them”. And they’ve like, they stuck up for me, they said “listen, he’s giving us directions, why don’t you mind your own business”

Don’t forget, when you’re talking to people, there’s always, everybody around them. Like, nothing stops. Like when you’re sitting there talking to somebody, there’s still thousands of people moving around. They take notice because we’re in uniform. They take notice. Then, all of a sudden, they stop, whether they have an interest in the person you’re talking to, they know them or they, maybe similar background, or they have the opinion that you’re picking on that person. So they’ll stop and they’ll try to stand up for that person. Meanwhile, this person might need directions. You might be trying to help them if they’re lost, or they might separated from their child. Now you’re the bad officer because you actually stopped that person.

While some respondents thought that the situation had worsened since the Toronto Star’s reporting, one staff member suggested that allegations of racism have existed for a long time.

We’ve always been accused of picking on people because of their race. Always. That’s just part of the job. And, we’re trained how to disable, “absolutely, that’s not the case I’ve been here for 45 minutes, I’m on camera, I’ve checked all these people, look at all the tickets, I can assure you that I’m checking everybody, that chooses not to swipe their pass, if you don’t want me to check your pass, swipe your pass”, you know, it’s that simple. And so, we’ve always been accused of that. It’s just now, doesn’t matter what we’re doing. I could be standing there helping a little old lady who’s just fell down and someone’s gonna walk by, “leave her alone, man, I’ll pay her fare!”, like, you’re dealing with a mentally ill person who’s been violent and they’re of colour. And you have to, you are in an officer safety situation, where you have to focus, and you’re being walked up on by other people of colour going, “I wanna know what’s going on”, “sir, just stand back for a second, I’m just trying to de-escalate, I’m trying to talk to this fellow here”, and they are demanding to split my time. Well, that’s always existed, that is just absolutely gone, almost every single time. And you don’t have the ability to sit there and pull aside a guy. I had guys walk up and say, “I wanna see the evidence, I wanna see the evidence, what’s going on here, I wanna see the evidence”, like buddy, this isn’t a courtroom, you gonna have to stand back, you’re gonna get someone hurt. And it’s probably gonna be me, right. Or, I’m gonna have to speed up and arrest this guy, opposed to just talking to him, because I’m not getting any room to operate here, and that’ll be the safest course of option. So, it’s really really gone off the charts over the last, I would say 5 years for sure, but in the last just two or three. It is almost automatic. That I’m being accused...

Other officers discussed difficulties and challenges that the negative public sentiment poses with respect to their work.

Like it's hard to do our job right now cause we're being branded as racists, but we're not racists. We just do an enforcement role and then they have an honour system that doesn't

work in our society unfortunately, so people we don't hand out lollipops, people are gonna hate us regardless, right.

And in particular, as noted by the quotes from several staff below, with respect to engaging with Black customers.

Real life example, I've tried not to intervene with my own people that much, because I always get, "Oh, you're such a sell-out! Oh, look at you, you're Black, you think you're better than me." Or, "yo, why you targeting me? Come on, let me off, sister." I'm like, "yo, bro, I'm not your sister!" It's always like, they try to use this race thing to get out of things.

And also, to what she's saying, when I know I'm working with other colleagues that are of a different race than I am, and I know that when they see a Black individual, they're more reluctant to go and check them, because of what the media's put out. So it's more on me to go and deal with that person. Because at least now, if I'm dealing with that Black individual, that Black individual can't turn around and tell me that I'm being racist because we're of the same race. Mind you, it's happened to me where they still come up and tell me, "Well, you're being racist." Pardon me? How am I being racist if we have the same skin color? The only reason I'm talking to you is because of what your actions were. Right?

And so, just to echo those two officers, what they were saying, when people, passengers, brought up the race card, it becomes a trump card. The social norms, the social media, feed it to them, this is their first defensive weapon. And it's mostly useful to use it against us. Our guys are more reluctant to go up and check the Black race right now. I work with a lot of officers. They're like, "Okay, you can deal with it." I work with them, no problem. But now we have to have a topic like, you do not want to check certain people, because they just want to get into the media issue.

I would actually have to admit, I have let somebody go on a caution, because of that race-card brought up and it was just after the St. Claire incident and the first thing in my mind is oh god here I am and there's tons of camera's and she's bringing up the race card & I'm like what is this going to look like.

In addition to the accusations of racism and interruptions while assisting racialized customers, our focus group respondents discussed the increased hostilities they face as they try and engage in their fare evasion work. As noted in the previous quote, the allegations of racism have led some staff members to disengage from their enforcement work.

De-Policing and Rider Complaints

As a result of public hostility towards members of the enforcement team and the allegations of discrimination that have been put forth, some respondents indicated that they have become increasingly reluctant to engage in enforcement work for fear they'll receive a complaint against them. The views of several of these respondents are captured below:

Since that whole Toronto [Star] incident came out, this whole department has changed... We're like walking on eggshells, exactly. "Okay, well, I'm not going to ticket that person, because if I ticket that person, and they say this and they call it in, I'm probably going to be suspended for like a week, or they might investigate me." What's the point of doing it? Just let them go. It's not even worth it! Right? And the public sees this. And that's basically why we're in the situation we're in right now.

Morale is definitely down and people are concerned about getting complaints and you know, they wanna go out and do their job and they wanna do it properly, but they're worried that they won't get supported or a complaint will come in and it's very frustrating.

I'm afraid to charge anybody unless I be judged, so this group, this identifiable group perhaps, I'm gonna caution you because, oh my God, I don't wanna have to sit in [redacted name] office and have to explain why there's a complaint that's come in. Well so, that's why we see what we see or, we're just gonna turn a blind eye. You know that guys got a beer, I'm not bothering with it. Forget it.

For some, this fear of engaging with individuals that are likely to be hostile or cause trouble results in the targeting of people they believe will be compliant, as several respondents explained:

When you speak to the Fare Inspectors, they'll tell you that they essentially only ticket people that they deem the sheep. People who will stand around, be cooperative, and show their ID.

Personally, I don't go past asking two or three questions. If I'm talking to you and you're just telling me, "No, no, no," I'm just going to move on to the next person or I'm going to get off the streetcar because I'm not going to stand there and have this argument. I'm not going to do it. At the end of the day, I'm not going to get anywhere. And what, that's going to lead to me getting cussed off again? Or then, you know what? It just explodes. So instead of having to stand there, I'd rather save myself the embarrassment and just continue on. You know what I mean? But what he said basically are the main reasons. But on top of that you have people that are just going to be like, "No." I don't want to show you."

When you see that the problem's going to escalate, give them discretion now. I'm pushed to do that and have a customer service approach to a person only that you think that it's going to escalate. So, what's left is the person who complying, and is the perfect candidate for this ticket. "Oh, I made a mistake. I'm sorry." That's the person that's left.

And then we have this one problem with our discretion because now we're not able to do the job with integrity because the person who is going to say, "Hey, you know what? I'm sorry, I forgot to pay today. Is going to give you their ID and all this stuff." And they're going to get the ticket because there's pressure on us to show that we're doing our job up there, right? That we're trying to get back \$65 million. But then the other person who says, "I'll never pay," laughs in your face in front of everybody, that person doesn't get a ticket. So then personally it's like, "Well, I'm giving this person a warning. I'm giving all these

people a warning because how is it fair that I have to go and ticket them, and not someone else when that's not fair and equitable at all.

As illustrated above, there was widespread perception amongst members of the enforcement team that race relations had deteriorated since the racially disaggregated enforcement data had been publicly released. As such, interactions with some riders had become more hostile and some members of staff had responded by scaling back their enforcement efforts or focusing their efforts on riders they believed would be compliant and less likely to complain.

Personal Consequences

In addition to discussing changes to their work environment, some respondents told us about how the strained relationship with the public and the allegations of discrimination had affected them personally.

So, a lot of people are touching up on is, is mental health. We bring it home with us. It's only natural, it's human, you're talked down to, you're threatened, you're assaulted day in and day out. Might not be physical all the time, but it's horrible daily for me every day. And they put us as a lot of people are saying, in the most conflicting areas, they'll put us on Spadina, they'll put us on Queen street, they'll put us on Dundas street. And those are the areas where there are a lot of mentally ill people. There's all social services, injection sites, this and that. And everyone just hops on and off the vehicles because we're not on every vehicle.

So, I'm just going to touch on how it has impacted me personally. For example, since this all started coming out, my girlfriend at her workplace, she tells people what I do for a living, and she has now stopped doing that, due to the fact that the response she's been getting from her colleagues who are Transit riders, so is she who rides, so she knows what I go through. And she's been getting negative feedback at work, and relationships are changed because of the fact that they know she's with me, and what I do for a living, and the position that those individuals have over me now, due to the media.

I just think, I don't know, maybe just leave. What if it gets a little different when you're not able to do your job like that? Like I know sometimes I take it personally because all of us are coming from backgrounds where we're proactive, frontline responders and we go out there with one goal in mind and that's to conduct our job properly and to have someone just look at you and shit on you, basically. It hits you differently. It comes with a lot of different emotions, like mentally, you know what I mean? And it's embarrassing because that's happened to me a lot of times and you take it home. I know that this is just about, oh like how can you not do your job? But it also leads into how it affects you outside of work too. And I can't speak on everybody. But when I first started this job, it was a lot for me to handle because I was working 10 hours a day, sometimes up to eight days in a row and I was just getting shitted on every single day. But then they want me to come in here and provide customer service. No, I don't want to try customer service because I believe in discipline. Do you know what I mean? And that's what we're here to do. If I let everybody

off or if I'm just there taking all this stuff, what do you think is going to happen to me? I'm like a dying plant like they're not feeding us here. Like that's what I'm trying to say at the end of the day.

According to some of our focus group participants, the problems associated to the stresses of the job were further compounded by a seeming lack of support and understanding from various levels of management. This rang particularly true with respect to dealing with increased public scrutiny stemming from the allegations of racial bias and the resulting changes made within the TEU (i.e. directives around fare evasion, how to respond to and deal with customers). The following quotes from our participants are illustrative:

Well, why not listen to us and understand what we're doing... I don't like to have to bash my employer, or to undermine anything that's going on. No. We all work hard and we all want to work hard. But when you keep getting hammered, eventually you're just going to say, "Well, what's the point?" But our management doesn't understand that. They're like, "Go out there, you get paid. You get paid, go out there." But nothing is ever spoken on of safety, of security, of job satisfaction. There's never a why. Why have we reached the state of alert today? Why? And you guys tell us. Everybody else will tell us how to do our job, but yet nobody listens to us, the people that actually do their job. And it's okay, their voices will be heard. But everybody seems to know what our job is about, but you're not asking the person who has boots on the ground and goes Out there and does it every day.

So that's a big disconnect we have from our management and the upper management because you have your CEO telling you, "I don't want you to do this," and then your supervisor 'll be like, "Why aren't you writing any tickets?" It's like, "I'm doing what I'm comfortable doing." And they're not in our shoes, they're not Fare Inspectors, none of our supervisors are or have been Fare Inspectors, so we're getting directives or orders and commands from people that have no idea, no experience. I've written thousands more tickets than my supervisor has, then I'm getting spoken to about what I'm doing by someone who has no idea as to what I encounter daily.

I think it's a result of being a law enforcement entity inside of the commission right, Our priorities on this floor and to our peace officer status, requirements from Toronto police upstairs and the floor below. They [management] don't care about that right, because they have a different job. So, although we operate similar to a police service, our support for the resources and stuff we need just isn't there. We're a transportation company.

A perceived lack of support from management was acutely felt with respect to rider complaints.

Our CEO has also come out and said he will not back us publicly or in any sort of investigation for a fare related offense that turns into an arrest. Turns into a video. So that also weighs onto your mind right, people have kids, families, a pension to worry about. So it's like do I engage that person, do I not, you know what I mean. Just based on my maybe 5 seconds of observing them, do I think they're going to be compliant. There's a thousand friends that go through your head like that, and then you have to choose either one or the other essentially and I know myself again, I've let people go because it's not worth. So

there's change here, and you're going after people who are more accepting to your charge. Well, how is that fair? That's not fair.

TTC doesn't have our back. You can go log on the TTC Customer Service Twitter. The first thing they'll say, "Oh, do you have any concern or discrepancy of the officer's conduct? Complaint line right here. Go complain." They don't even ask us what happened or how this... They come to the conclusion, "Go complain." What are we going to get? A one-week suspension off the road? Go into our supervisor's office, have a nice chat? For what? For three dollars and twenty-five (price of a fare)?

Our focus group participants noted a variety of negative consequences stemming from the publication of the racially disaggregated enforcement data and subsequent changes to the Unit. As evidenced in the data presented above, some of these consequences related directly to their ability to engage with the public and to carry out their duties. Other consequences were more personal in nature. Furthermore, a perception that management was not providing staff with adequate support further compounded the challenges they faced. In the next section we examine proposed recommendations for improvement.

RECOMMENDATIONS FOR IMPROVEMENT

To finish each focus group, we asked participants what measures could be taken to improve the current situation. We heard a range of responses, including a need to introduce new technology for the collection and utilization of data, as well as mechanisms that would promote accountability, such as body-worn cameras and specialized training.

Technology

As we noted in the section of the report entitled “Job Challenges”, many participants in our focus groups pointed to inadequate and outdated technology as a major challenge and source of frustration in carrying out their work. Not surprisingly then, improved information systems and the introduction of updated software and data management systems were put forth as recommendations.

If the expectations of us were to just go out there, wave to people, write the odd ticket for smoking, I could totally get the technology and the systems that we have in place, but it's probably the third time that I've said it. We're expected to do just slightly less than the police are. It's not safe. It's not fair to the officers here, their families, the general public to be operating the way that we do. The morale in this department is extremely low and a lot of it is to do with that lack of technology and that lack of efficiency.

Included in the proposed technological updates were better and more reliable hand-held card readers, more reliable and dedicated communications channels, and the utilization of more comprehensive and suitable databases such as NICHE or MANIX. Respondents were asked

specifically if they thought body-worn cameras would be effective in providing accountability and improving relations with the public. We heard resounding support for the introduction of this technology.

You know what, it keeps everybody honest... For those who do have unconscious bias and are in this organization, they're going to get caught on camera and it might not happen the first year or second year, but eventually their true colours will show up and those are the people who make this job bad that need to be weeded out.

The vast majority of complaints that come in are typically about Fare Inspectors—I guarantee you, and I'm sure the data shows, in the US, as soon as body cam's got on police officers, frivolous complaints just dropped. I guarantee that's what'll happen.

Body cams, it's been proven in the US, complaints drop significantly against law enforcement when the public knows they're being recorded.

The respondents in our focus groups supported the introduction of body-worn cameras to foster accountability among both staff and members of the public. Indeed, while some participants agreed that body-worn cameras would be useful in monitoring the actions of TEU members, other suggested that it could reduce the number of complaints lodged against staff. In general, participants felt that that accountability afforded by body-worn camera's goes both ways; staff may be less likely to discriminate and the public less likely to be rude, hostile or to lodge baseless complaints. Concerns, however, were raised about the implementation of this technology, for example, whether recording would be automatic or would have to be initiated by the individual wearing the device, and about how long the recordings would be kept and who would have access to them.

Training

Finally, our respondents suggested that more training around issues related to diversity and anti-racism would be useful.

One last thing is that one thing I noticed from last place I worked at is that we don't have any progressive training done, trends in policing. We have nothing right now, we can't go to Toronto Police college, we can't go OPC, we're not going to the Canadian Police College. I mean, these are other areas that our officers should be going but every so often, certain officers, not even, all officers should be getting the training that the police are doing, in the new trends of policing. Doing our job functions.

I think the other thing that needs to happen is, there has to be an understanding. It's come to the point where even if you do make a mistake, even if it's an honest mistake and they determine that you acted in a way that's racist or unconscious, they're like that short training we had with the use of force incident. Everyone has unconscious bias, it's human nature, whether you acknowledge you have it and to try and say ok, I wish there was a way

to let people know ok, if you made a mistake and it was an honest mistake, and then there is no harm no foul, can we stop calling for everyone to be fired, everybody and just think. Let's look at this as a learning experience, and the officers learn or the employees learn, moving forward I know that's not something for you guys it's just become a level of it's almost no tolerance whatsoever, for anything you know. We're changing behaviour as if we're going to fire every person, you know let's say for minor discretion. Cause right now it seems like if you have a minor discretion, much like an unconscious bias, then hey you know what, you did this and you're fired. Here you go, but that person is going to go, what are we doing for that behaviour and that officer? His future you know endeavours and he's just going to reinforce that unconscious bias, he's going to go up in life. You know, continue that way. You know if we're trying to grow it, we need to start teaching these guys, you this guy gets a minor fraction, something that might have been you know so innocent or harmless, and if it continues you know you know it's a bigger problem. But there are those who can learn from their indiscretions, I mean and that's only human nature. We need to grow or we're going to get stuck in this rut firing everybody.

I'm just going for my comparison, they gave us an actual day to day training on diversity. I'm just coming, I don't know what it was like for you...I can see instructors a lot of exercises, talking about unconscious biases and you know you're like holy crap, I was totally off on that, but it helps you recognize some of your preconceived notions on certain groups that come into your circle of life.

Our respondents acknowledged that they receive some training on interacting with a diverse ridership as part of their core training program and had recently begun to receive training specifically dealing with Anti-Black racism. More training, specifically tailored to the work that they do, was seen to be beneficial.

CONCLUSIONS

We set out to explore the enforcement activities to members of the TTC's TEU. In particular, we were interested in how members of the Unit go about their work, how they collect data from members of the public, and in their opinions, why they believed Black people were over-represented in the historical enforcement data. We heard about the challenges faced by members of the enforcement team, particularly in relation to the social problems that permeate the TTC, difficulties experienced with respect to the technology available to them and their concerns about staffing levels. We also learned that there are several main uses for the enforcement data collected by members of the TEU, these include checking riders previous evasion history, confirming identity and conducting background checks, for the purposes of court proceedings, and for internal reporting and trends analysis. Questions about the accuracy of the data, and specifically, about the accuracy of the racial categorization or classification of riders were raised in response to our questions examining why Black people were over-represented in the historical enforcement data. In terms of explaining the observed racial differences in enforcement action, some respondents outright denied the possibility that racism was an underlying cause, pointing to diversity within the Unit as an example of why racial discrimination could not be present. Other respondents suggested that differential rates of offending were responsible for the differential enforcement

outcomes, that is that Black people were more likely to violate fare policy and thus more likely to be cautioned or ticketed for doing so. Some respondents suggested that elevated levels of poverty experienced by Black and other racial minority groups in Toronto increases their likelihood of fare evasion. Furthermore, the increased presence of these groups in the geographical locations targeted by the enforcement team resulted in a higher likelihood that they would be caught violating fare policy.

We also heard about the various negative consequences stemming from the public release of the racially disaggregated enforcement data. First, respondents recounted the increased difficulties they have faced in engaging with members of the public, and with Black people in particular. Second, we heard that internal priorities and directives had become inconsistent as the Commission worked to address allegations of discrimination and to improve customer relations. This, it was felt, created additional challenges for enforcement staff. Finally, we were provided with recommendations for improving the relationship between the TEU and transit riders. The introduction and updating of technology to allow staff to more efficiently carry out their work was viewed a necessary step forward. One technology that garnered a lot of support from respondents was body-worn cameras which were perceived as providing increased accountability for both riders and enforcement staff. Finally, increased anti-racism and anti-discrimination training for members of the TEU were seen to be beneficial.

In sum, our focus group sessions garnered rich data to inform our inquiry and will prove valuable as we move on to the public consultation phase. In the next section of the report we turn to a review of decision making and discretion within the Transit Enforcement Unit.

PART D: A REVIEW OF DECISION MAKING AND DISCRETION AT THE TTC

INTRODUCTION

The provision of discretion is common among decision makers in public service (Lipsky, 1980). The ability to choose from a range of options in deciding how to proceed with a matter is both desirable and unavoidable. It would be impossible to proscribe a course of action to be followed in every situation and under every conceivable circumstance. Furthermore, front-line staff typically operate in a range of situations, outside of the direct supervision of their superiors. As such, public servants are often authorized to use their own judgement when deciding on a course of action to be taken in the context of their work, providing that action abides by an established set of rules, laws and parameters.

The aim of this document is to provide insight into the existence and use of discretion in enforcement-oriented settings. Although the Transit Enforcement Unit has undergone a transition from a traditional policing model to a customer service and security model, some of the powers afforded to the Special Constable Service are granted under an agreement with the Toronto Police Service Board and governed/regulated by Ontario's Police Services Act. Beyond providing support and assistance for customers in need, a portion of the work carried out by the Special Constable Service and Revenue Protection departments still fall into the category of enforcement – checking fares, issuing tickets, arresting crime suspects, and supporting municipal police. For this reason, the following discussion about the exercise and control of discretion is drawn from knowledge gleaned from police research and framed largely within a security and enforcement context.

Our analysis is also firmly situated within the current context of TTC-community relations and we acknowledge the fact that the review of TTC enforcement and discretion policy has been prompted by a number of factors. These include citizen concerns about racial discrimination (specifically anti-Black racism) and the need to provide fair and equitable treatment to all transit riders, as well as a recommendation from the City of Toronto Ombudsman. We also acknowledge ongoing concerns about revenue protection and recovery and are mindful of the policy-focused and practical changes prompted by these concerns.

Drawing on academic literature, this document reviews what is known about decision making and the exercise of discretion in enforcement settings. This information will be helpful in guiding internal policy development, in developing and revising training materials and in public consultation and communication. The document reviews the policy making process and identifies key considerations with respect to the development of guidelines structuring enforcement activities. The document also identifies key decision-making points within revenue protection work where racial and other forms of discrimination are likely to arise. Finally, the document provides a preliminary analysis of existing TTC policy and training documents as they pertain to the exercise of discretion and advances a set of recommendations for the development of future policy and training.

BACKGROUND: DECISION-MAKING AND DISCRETION IN ENFORCEMENT SETTINGS

What is Discretion?

In his text entitled *Street-level bureaucracy: Dilemmas of the individual in public services*, Lipsky (1980) examined the behaviour of front-line staff involved in the delivery of policy within public agencies. He referred to these actors as ‘street-level bureaucrats’, identifying them as the public employees who interact directly with citizens and who have a wide-range of discretion in the exercise of their work. Included in these employees are the teachers, police officers, general practitioners and social workers who implement public policies on a day to day basis (Lipsky, 1980:3). Lipsky noted however, that these street level bureaucrats have to respond to citizens and situations with only a limited amount of information, under time constraints, and with a set of rules that do not perfectly align with the realities of the job. As a result, street-level bureaucrats develop a range of responses, which they can do because they have a certain level of autonomy (discretion) in their work (Lipsky, 1980: 14; Tummers and Bekkers, 2014). Lipsky’s work has prompted a thorough analysis of the exercise of discretion across a range of occupations in recent decades (Brodtkin 1997; Hill and Hupe 2009; Hupe and Hill, 2007; Sandfort 2000; Tummers et al. 2009; Tummers and Bekkers, 2014; Vinzant et al. 1998). (From Tummers and Bekkers, 2014).

Although formalized law enforcement agencies have existed for over two centuries, it was only in the 1960s that police administrators, politicians and members of the public began to fully acknowledge and reckon with the existence of discretion within policing (Davis, 1969; Goldstein, 1963). This acknowledgement came in response to growing recognition that “full enforcement” of the law is neither practical nor desirable and in light of concerns about the inconsistent exercise of police powers (Bronitt and Stenning, 2011).

Discretion refers to the ability to choose what should be done in a particular situation. Within a law enforcement context, discretion has been defined in the following way:

A public officer has discretion whenever the effective limits on his power leave him [or her] free to make a choice among possible courses of action or inaction (Davis, 1969: 4).⁹

The exercise of discretion is particularly salient in law enforcement settings due to the range of decision-making powers afforded to law enforcers, the relatively unsupervised nature of their work, and given the range of personalities, situations and changing environments they encounter on a day to day basis. The various areas in which law enforcers an exercise discretion include choosing objectives, determining appropriate methods of intervention, deciding how to dispose of cases, and choosing investigative measures and procedures (Bronitt and Stenning, 2011; Goldstein, 1977). Indeed, under specified circumstances, an officer has the ability to decide: whether or not to stop and detain an individual; whether or not to conduct a physical search; whether or not to issue a verbal warning or written caution; whether or not to issue a ticket; whether or not to initiate

⁹ Davis recognized that the discretion afforded to officials is typically limited or structured by a set of policies and guidelines designed specifically to foster the appropriate exercise of discretion (David, 1969).

an arrest, and subsequently, to take that individual into custody or to release them at the scene; what charges to pursue; and crucially, whether or not to use physical force and ultimately how much force should be used (Worden and McLean, 2014). This range of decision-making possibilities enables law enforcers to carry out their work effectively, while at the same time presenting a number of distinct challenges for the decision-maker, their superiors, the organization or agency that they work for, and for society at large.

Why Permit the Exercise of Discretion?

There are a variety of reasons why the presence and exercise of discretion is both necessary and desirable in enforcement settings. First, laws and policies are often written such broad terms so that it is impossible to render a clear interpretation of the original intent of that law or policy. Whereas an individual caught in the act of pickpocketing by an officer may provide a clear-cut example of theft, determining exactly what behaviours constitute “disturbing the peace” is much less evident, and likely dependent on factors such as time of day, location and circumstances of the individual(s) involved. As Goldstein (1963) notes, ambiguity in law may be intentional, in order to provide greater flexibility in enforcement; it may result from the fact that it is impossible to envisage the full range of problems to be encountered by an agent; or it could result from limitations of language used to describe offences and infractions (1963: 141). Irrespective of its cause, ambiguity necessitates discretion as it leaves the enforcers of law and policy in a position of having to determine the forms of conduct which are to be subject to enforcement action (Ibid).

Another important factor that necessitates the use of discretion are limitations on personnel and other resources. Unless law enforcers were assigned to monitor all individuals and all public and private spaces, it is impractical to assume that any enforcement agency has the ability to detect all law or policy violating behaviour within its jurisdiction or that it has the resources necessary to prosecute all known offenders (Goldstein, 1963: 142). As such, law enforcers, with priorities often set by their managers and superiors, are left to choose which individuals, behaviours and specific geographical areas will be the focus of their enforcement efforts. Here it is important to recognize that the priorities of management, front-line supervisors and the officers themselves may not always align due to differences in experience, orientation or outlook, and understanding of the environment and the problems within it.

Discretion may also be exercised by law enforcers in an effort to achieve some form of social good. There are many instances where full enforcement of law and policy might be seen by the officers themselves or by the general public as unjust and unnecessary, or where the desired objective of the law can be achieved without its full imposition. In the present context, few members of our society would likely see it as acceptable for an enforcement official to eject a homeless person from publicly accessible private property for failing to pay admission when temperatures reach the minus double digits in the depths of winter. In the absence of any other problematic behaviour, the officer might be seen as rightly exercising their powers not to fine or remove the person from the property in light of the possible consequences to that individual’s health and wellbeing. In other instances, a stern warning or detailed information about the penalties or punishments associated with a given infraction could be enough to prompt future compliance.

As a result of the ambiguity of law, resource constraints, conflicting objectives, and societal expectations, discretion can be seen as both necessary and desirable aspect of law enforcement. However, the existence of discretion also presents a number of potential problems.

Problematic Aspects of Discretion

Although discretion can be seen as both necessary and desirable, it does pose a series of potential problems for decision-makers, their superiors and for society at large.

The first concern that arises with respect to the presence of discretion is whether under-enforcement or leniency reduces the deterrent effect of law and policy, thus emboldening potential offenders and fostering a sense of impunity (Cordner and Scott, 2014). This is the philosophy underlying “broken windows” and zero-tolerance approaches to policing that were popularized in the United States and other countries throughout the 1980s and 1990s. The argument underlying this approach is that small-scale criminal and public order offences, if not properly dealt with, set the stage for further and more serious forms of offending (Wilson and Kelling, 1982). While the efficacy of the broken windows approach has been questioned (Harcourt, 2009), and the negative impact of aggressive policing on public perceptions of law enforcement well documented (Gau and Brunson, 2010), there is a real possibility that widespread knowledge about the underenforcement of law/policy could precipitate further offending behaviour. Thus, limits on the exercise of discretion may be needed to promote adherence to the law.

A second problem that arises from the presence of discretion in decision making is that it may be exercised differently with members of different groups. If law enforcers decide, for example, to underenforce law or policy or are consistently more lenient with majority group members within a society, and less so with members of minority groups, then the exercise of discretion can lead to disparate and potentially discriminatory outcomes. Indeed, much research attention has been paid to whether and how discretion influences racial, ethnic, class and gender differences in police stop and search practices, arrest decisions, and in the use of force (Worden and McLean, 2014). While discretion is necessary, for the reasons articulated above, the potential for disproportionate and discriminatory outcomes necessitates appropriate training, oversight and guidance for decisionmakers.

Finally, the exercise of discretion, or more accurately, decisions to be lenient and to underenforce law and policy can lead to a loss of revenue for organizations such as the TTC. If staff decide not to ticket riders who fail to pay their fare or who use prohibited or inappropriate mediums (such as adults using child cards), then the organization loses out on that fare and on the money generated from the ticket for violating the fare policy. The extent to which lost revenue should guide enforcement practices must be balanced with a variety of factors including fiscal realities and considerations of the broader social environment.

FACTORS INFLUENCING DECISION MAKING IN ENFORCEMENT SETTINGS

In order to effectively guide law enforcement decision making and the use of discretion, it is important to understand the factors that influence decision making in this context. A fairly large body of research has been devoted to this subject (Cordner and Scott, 2014). Worden and McLean (2014) separate the prominent explanations for police decision making into three broad categories: 1) situational factors; 2) officer characteristics and outlooks and; 3) organizational factors.

Situational Factors

Situational factors are those factors that are external to the decision maker and that form the immediate decision-making environment (Worden and McLean, 2014). These include legal factors, such as the seriousness of the offence, and extra-legal factors, such as the demeanour of the suspect. Research suggests that the seriousness of the offence and the strength of the evidence both increase the likelihood that the police will exercise their authority. Thus, when confronted with an offender alleged to have committed a serious infraction, and with strong evidence to confirm the alleged offender's role in committing the infraction, decision makers are more likely pursue formal action. Conversely, decision makers are less likely to pursue formal action when the infraction is minor in nature or the evidence linking an individual to that infraction is weak (ibid). As such, there may be more of a need for guidance and policy with respect to how decision makers should exercise their authority when dealing with less serious offences because this is where discretion is most likely to be exercised.

A related factor influencing the exercise of authority, and importantly, the decision to exercise leniency are the desires of the complainant. Law enforcers are less likely to take legal or punitive action if the complainant prefers leniency. In the present context, complainants include TTC Management (who can be seen as the guardians of TTC property and protectors of TTC revenue), supervisors from the Special Constable Service and Revenue Protection, TTC staff who may call upon the Special Constable Service and Revenue Protection to assist with unruly or aggressive customers and with fare evaders, as well as the TTC ridership who may be personally victimized by other riders. Available evidence suggests that enforcement action, is dependent at least in part, on the desire of these various complainant groups to see law and policy enforced.

Finally, demeanor of the suspect, that is the level of respect and deference that a suspect affords the decision maker also has an impact on decision making. Whereas rude and hostile people are more likely to have formal action taken against them by law enforcement officials, individuals who demonstrate respect for the decision maker's authority, who are polite and courteous, are more likely to benefit from the positive exercise of discretion in the form of some kind of leniency (Engel et al., 2019; Sykes and Clarke, 1975; Van Maanen, 1978). Conversely, individuals who are disrespectful or rude and hostile to decision makers are more likely to have formal action taken against them (ibid). When considering the impact of demeanor on law enforcer's decisions to exercise their authority, it is important to consider the impact that discriminatory law enforcement practices have on public perceptions of law enforcers. Members of certain groups may be more likely to be uncooperative or hostile with law enforcement officials precisely because they believe that they have experienced discrimination at the hands of law enforcers before or because they are

aware that discrimination exists within law enforcement. In the present context, media coverage of alleged discrimination could increase tension and hostility among riders who believe that members of their racial group have been discriminated against. This consideration should be explicitly addressed with members of the Special Constable Service and Revenue Protection moving forward and incorporated into related training and policy.

Officer Characteristics

Individual level explanations for differences in law enforcement decision-making have considered how situational cues are interpreted and evaluated and how the various options a decision maker is presented with are assessed. While the impact of individual outlooks and orientations on decision making may seem self-evident, research is mixed with respect to their impact. For example, early research demonstrated little connection between the racially prejudicial beliefs of law enforcers and their exercise of authority in the field (Reiss, 1971; Worden, 1989). Nevertheless, it is still generally accepted that decision makers with the same occupational outlooks may judge a situation differently, interpret situational cues differently, or perceive different ways of reaching the same objectives (deciding on courses of action) (Worden and McLean, 2014).

Some evidence suggests that a small number of officers in police agencies are responsible for a disproportionate proportion of citizen complaints and use of force incidents. Brandl et al. (2001), for example, found that less experienced officers were over-represented in complaints for excessive use of force. Scrivner (1994) identified five groups of officers who were disproportionately referred to psychologists due to use of excessive force: officers with personality disorders; officers whose job-related experiences – such as traumatic experiences – put the officers at increased risk of abusing force; young and inexperienced officers who were seen as impulsive and highly impressionable; officers who develop inappropriate patrol styles; and officers with personal problems (see Worden and McLean, 2014). Therefore, length of service, occupational experiences, as well as individual outlooks and personality traits may influence decision making. In the context of the TTC, caution should be taken with respect to the swift recruitment and onboarding of new members of the Special Constable Service and Revenue Protection departments who may lack experience enforcing law and policy, and thus be more susceptible to troubling decision-making patterns. Consideration should also be given to the exposure to traumatic experiences for members of the Special Constable Service and Revenue Protection , which may increase with length of service and involvement with accidents and other unfortunate events within the system.

Organizational Factors

The final set of factors known to influence decision making are those reflecting the characteristics of, or internal to, the law enforcement agency itself. For example, it is reasonable to expect that officers in small agencies exercise their discretion differently than officers in larger departments, as a result of different levels of supervision and varying agency cultures (Cordner and Scott, 2014). The extent to which an agency is centralized, specialized or formalized, as well as the internal climate and culture of an organization may also influence decision making (Ibid). The TTC's

Special Constable Service and Revenue Protection departments have and continue to experience a high level of fluidity in terms of its composition and structure, in the powers and responsibilities afforded to them, and in terms of the mandates and culture set by the larger organization within which they exist. Policy, guidelines and training around the exercise of authority and use of discretion will need to be measured against, and potentially modified according to ongoing developments with respect to these organizational factors.

GUIDING THE EXERCISE OF DISCRETION

Although discretion may be an inevitable and desirable component of decision making in enforcement settings, it is generally accepted that it should be guided and controlled in order to avoid related negative consequences, including inconsistencies in the exercise of authority, undue leniency and discrimination mentioned above (Cordner and Scott, 2014). In the present context, the exercise of discretion, depending on role or position, is already guided by law and policy, including: TTC Bylaw #1; the Criminal Code of Canada; the Ontario Police Services Act; the Provincial Offences Act; Mental Health Act; Liquor Control Act; the Trespass to Property Act; (agreement with TPS); the Toronto Municipal Code; (any others).

Because of limitations to law and policy, and given the broad range of factors and considerations not covered by existing law and policy, written policies and procedures have been increasingly used by law enforcement agencies to set out the parameters of discretion in certain types of cases and to offer guidance for the suitable exercise of discretion more generally (Cordner and Scott, 2014). Enforcement agencies may reinforce and tighten legal requirements, for example, by:

- (1) articulating exceptions to mandatory enforcement, (2) requiring written documentation whenever nonenforcement is chosen in an applicable situation, (3) identifying decisions that require supervisory approval, and (4) specifying penalties for failing to adhere to legal and policy mandates (Cordner and Scott, 2014: 10).

As a relevant example, Cordner and Scott also draw upon Scott's (1995) articulation of a policy that identifies the factors officers should and should not take into consideration when deciding when to make an arrest:

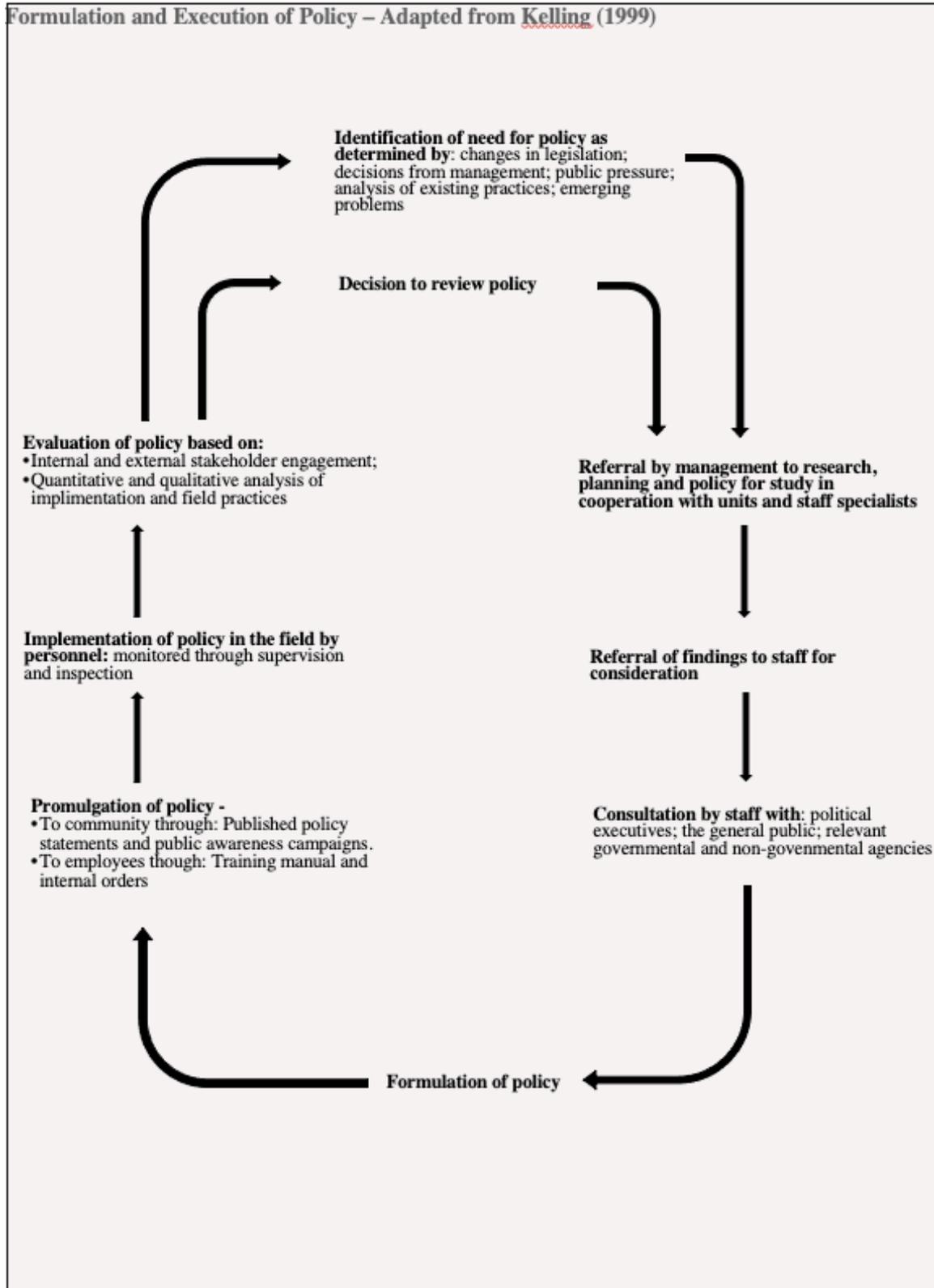
In general, police officers, using sound professional judgment, may take the following factors into consideration when deciding whether or not to arrest a citizen: (a) the seriousness and nature of the offense (generally, the more serious the offense, the more likely arrest is the preferred course of action); (b) the potential that arrest will effectively resolve a conflict; (c) the availability of legal alternatives to arrest that would adequately resolve the conflict or problem; (d) the likelihood that the citizen will be deterred from future violations by warning and education; (e) the officer's belief that the citizen made an honest mistake in violation of the law; (f) the victim-witness's interest in prosecution; (g) the likelihood of formal prosecution of the offense; (h) the potential that arrest will create more serious breaches of the peace or other problems (e.g., inciting riot); (i) legitimate competing priorities for police resources.

The following factors are among those that are improper for a police officer to consider in deciding whether or not to make an arrest: (a) the citizen's economic status, race, ethnicity, gender, or other status for which the law prohibits legal discrimination; (b) the revenue likely to be generated by fines or penalties imposed upon conviction; (c) the personal or professional relationship that the citizen has to the police officer or to other influential citizens; (d) the personal advantage to the officer for processing or avoiding processing of the arrest (e.g., overtime) (Scott, 1995 as cited in Cordner and Scott, 2014: 11).

The example above is rather specific to policing and would relate more closely to the work of the Special Constable Service than Revenue Protection. Nevertheless, while Revenue Protection may have to use slightly different standards with respect to decision making, its members have the power to decide who to stop in order to check fares, whether to ignore, warn or fully enforce fare evaders and people who engage in other bylaw infractions. Given the powers that both the Special Constable Service and Revenue Protection departments have, such policies can be effective in guiding decision making and should be complimented with both accreditation standards and comprehensive training programs. Below we provide an overview of a model for decision making in a law enforcement setting and put forth a number of suggestions to be considered in the development of decision-making guidelines.

Noted policing scholar George Kelling (1999) has provided a clear set of guidelines for the development and execution of law enforcement policy. He expands upon the cyclical and iterative process advanced by the President's Commission on Law Enforcement and Administration of Justice (1967) (see Figure 5).

Figure 5 Policy Development Process



As illustrated in the diagram, the development of policy in enforcement contexts involves a process of problem identification, research and consultation, policy formulation, public consultation, implementation and, evaluation. In the present context, it is important to acknowledge that policy review and development has been prompted, in part, by calls for action from other agencies (e.g. the Ombudsman Toronto, the CABR unit) and in response to community concerns about unequal treatment. The Special Constable Service and Revenue Protection departments also sit within the TTC, adding another layer of decision-making authority in the development of internal policy. As such, internal-external agency discussion, as well as broad community consultation, will be key to the policy development process. This should be considered in addition to the standards highlighted below.

Based on his work developing policy and guidelines for the New York City Transit Police Department, Kelling (1999:34) proposed 11 standards that policies should meet or adhere to:

- Recognize the complexity of police work.
- Acknowledge that police will use discretion.
- Recognize and confirm how police work is conducted.
- Advance a set of values that may be applied to the substantive work issue at hand.
- Put forward existing research, facts, or data about the substantive issue at hand.
- Undergo development by practicing police officers and citizens.
- Undergo public promulgation in a manner clear to officers, the general public, community stakeholders, and the courts.
- Include rules about what officers should not do.
- Emphasize police adherence to a process (application of knowledge, skills, and values), rather than any predictable outcome, because outcomes of police interventions are often wildly unpredictable regardless of officers' skills, intent, and values.
- Establish accountability standards that identify competent and/or excellent performance, violations of organizational rules, and incompetent or uncaring work, including performance within organizational rules.
- Receive recognition as an ongoing and continuing process.¹⁰

Given ongoing concerns and increased sensitivity to issues of bias and discrimination, it is important to incorporate measures to address these issues in the policy making process. In the current context, this means paying particular attention to the experiences and perceptions of Toronto's racialized communities, especially its Black populations, that appear to feel unjustly targeted by enforcement actions on the TTC. Ongoing community consultation combined with ongoing analysis of race-based enforcement data will be key to the successful development and implementation of a discretion policy.

With this set of standards and process in mind, it is also important to remember that guidelines and training can be undermined by managerial, supervisory and command level expectations about officer productivity – i.e., performance and enforcement targets that can supersede policy and

¹⁰ For a fuller description see Kelling, 1999: 33-45.

training in influencing officer decision making (Cordner and Scott, 2014: 11). As such, it is important to note that there may be tension between various policies and priorities. Conflicting priorities and mixed messaging will undermine the utility of any policy.

Ultimately, the decision of whether or not to institute a discretion policy or guidelines around the use of discretion will fall on TTC management. The above review is intended to provide TTC policy makers with information that will be useful in deciding on a course of action and should be treated as a key point of reference.

DECISION MAKING AND DISCRETION AT THE TTC

As noted above, members of the TTC's Special Constable Service and Revenue Protection departments are afforded a large amount of discretion with respect to the action they can take in deciding how to handle many aspects of their jobs. They typically work in pairs or small groups, beyond the direct supervision of their superiors, in different geographical areas of the city, with different environments and in a variety of different situations.

Below we identify the key decision-making points for consideration.

The Special Constable Service

Proof of Payment Related

1. Initiating request for Proof of Payment (POP).
 - a. Deciding how to proceed if rider cannot provide POP (e.g. verbal warning, formal caution, ticketing).
 - b. Removing or ejecting rider from TTC property if they cannot provide POP.

Other Enforcement Actions

2. Stopping and questioning riders in relation to criminal activity and bylaw infractions.
3. Initiating investigations for criminal/POA/TPA offences and bylaw infractions.
 - a. Deciding how to proceed if evidence that offence has taken place (e.g. verbal warning, formal caution, arrest).
4. Conducting physical search of person.
5. Use of physical force.

Revenue Protection

Proof of Payment Related

1. Initiating request for Proof of Payment.
 - a. Deciding how to proceed if rider cannot provide POP (e.g. verbal warning, formal caution, ticketing).
 - b. Removing or ejecting rider from TTC property if they cannot provide POP.

Other Enforcement Actions

2. Calling on Special Constables to request assistance.
3. Enforcement under POA/TPA
 - a. Deciding how to proceed if evidence that offence has taken place (e.g. verbal warning, formal caution, ticket/arrest)
4. Use of physical force.

This is by no means an exhaustive list of decision-making points, but rather an identification of key areas in which discretion can be exercised. Ongoing efforts at policy development should be attentive to other decision-making points.

REVIEW OF TTC POLICY AND TRAINING MATERIALS

In order to develop a set of recommendations for the TTC, we reviewed relevant training materials and policy, with a focus on decision-making and the exercise of discretion. It should be noted, that without extensive consultation with TTC staff with respect to the development and revision of the policy documents, and without actually partaking in the training exercises, our analysis is based largely on a reading of these materials at face value. With this consideration in mind, below we highlight the positive aspects of these materials and highlight areas for improvement.

Relevant TTC Policy and Documentation Reviewed

- TTC Bylaw No. 1
- TSC Policies Procedures and Rules Manual
- FI Policies Procedures and Rules Manual
- TTC Status Update – Anti-Racism Strategy and Ombudsman Recommendations (Feb 25, 2020)
- TTC Revenue Protection Strategy (February 25, 2020)

Relevant TTC Training Materials Reviewed

- Course Training Standard TTC Recruit Training (TSC)
- Course Training Standard TTC Recruit Training (FI)
- Ethical Decision-Making Training document

Positive Aspects

- Training and policy documents clearly acknowledge and allow for the use of discretion across many decision-making points.
 - Appropriate laws and policies that enable or prohibit action are clearly identified (governing authorities).
 - Areas where discretion cannot be exercised or where action cannot be taken are identified (e.g. outright prohibition on vehicle pursuits).
- Policies and training materials appear to have been developed with direct input from staff who have practical experience engaging in revenue protection and/or enforcement at the TTC or in other enforcement-oriented organizations.

- Training materials acknowledge and address issues of bias in decision-making and exercise of discretion.
- Comprehensive code of conduct is articulated in policy documents.
 - Consequences for violating some laws and policies are identified.

Areas for Improvement

- Value statements that articulate a commitment to fair and equitable treatment should be forthcoming earlier in policy and training documents.
 - Relevant laws, codes and policies that protect individuals' rights and promote equitable treatment (e.g. Human Rights Code) could be better identified in policy and training documents.
- Further guidance about decision making and the exercise of discretion at the lower levels of enforcement/action (e.g. fare inspection, Bylaw, POA/TPA enforcement) is needed.
 - Little guidance is given with respect to initiating investigations for fare evasion and on how to proceed when possible fare evasion has been identified.
 - The current “educate, advise, enforce” model provides little direction with respect to which option is to be chosen in a given situation, thus increasing the likelihood of differential enforcement.
- TTC policies that guide decision-making are not readily available to the general public, thus hindering transparency.
- Existing training materials have been developed with a policing and law enforcement orientation. A customer service and equity orientation could be further incorporated into these materials to align with the restructuring of the TEU and the transition away from a traditional policing model.
 - Discretion focused training materials could better identify and address rights protecting legislation and policy.
 - Discretion focused training materials should acknowledge and address the impact of suspect demeanor in influencing decision making. This training should be situated in historical context. Research demonstrates that law enforcers are more harsh when dealing with people who are uncooperative, hostile or disrespectful (Reisig et al., 2004; Sykes and Clarke, 1975; Van Maanen, 1978). Research also demonstrates that previous personal and vicarious experience with perceived police discrimination reduces positive perceptions of the police (Wortley and Owusu-Bempah, 2011). As such, we can expect Black people and members of other racialized groups, who feel targeted by law enforcement, to be less deferent and cooperative when dealing with law enforcers. Members of the Special Constable Service and Revenue Protection departments should be taught to understand that a history of poor relations, combined with allegations of racial bias, can lead to more tense interactions with members of specific racial groups. Before deciding on a course of action, members of the Special Constable Service and Revenue Protection departments should also be taught to consider whether their enforcement action is being motivated by aspects of a specific encounter that may itself be structured by historical and contemporary race relations.

With the above analysis in mind, we advance the following set of recommendations for the TTC with respect to the exercise of discretion by members of Revenue Protection and the Special Constable Service.

PRELIMINARY RECOMMENDATIONS

- 1) The TTC should identify and reaffirm the mandate, goals and values of the Special Constable Service and Revenue Protection departments and align these with the mandate, goals and values of the TTC.
 - a. As noted above, a particular challenge faced by the Special Constable Service is the fact that it is an enforcement unit housed within a transportation authority. There are thus, at times, conflicting goals and priorities. The more these align, the less conflict will arise over the appropriate use of discretion.
 - b. The TTC, Special Constable Service and Revenue Protection departments should develop a formal anti-racism statement to be incorporated into their core values statements.
- 2) The TTC should develop a brief policy statement that allows for the exercise of discretion (except where explicitly prohibited by superseding law or policy).
 - a. This document should explicitly state that staff are permitted to use discretion in the course of their duties (with the aforementioned exceptions).
 - b. This document should clearly articulate a set of values intended to guide/structure decision-making and the exercise of discretion (e.g. fairness and equality).
 - c. This document should identify the authorities that govern enforcement work.
 - d. This document should identify all relevant rights protecting law and policy.
 - e. This document should explicitly state that staff exercise their discretion within the confines of the law/policy that govern their work and that decision making must be free of bias and discrimination on the grounds protected under law/policy.
 - f. This document should be developed in consultation with staff practitioners, relevant external organizations and with community input.
- 3) Key aspects of the proposed discretion policy should be incorporated into other relevant policy documents and training materials.
- 4) Proof of Payment (POP) – Further guidance and standards are needed with respect to the initiation of POP and the disposal of cases in order to ensure fair and equitable treatment. At present little is said in either the written policies or the training documents about what factors staff are to consider (or not consider) before initiating POP, and what factors to consider (or not consider) when fare evasion is uncovered. Much of this information is likely garnered through on the job training with Field Training Officers and needs standardization.
- 5) The TTC should strongly consider removing the “verbal warning” from the range of options open to Special Constable Service and Revenue Protection staff in relation to

POP¹¹ (and other reasonable enforcement action - e.g. under Criminal Code, POA/TPA/LCA).

- a. As it stands, when confronted with a rider who cannot provide proof of payment, staff have previously had the following options available to them: 1) verbally warn the rider that they need to pay their fare and to provide POP; 2) formally caution (written/documented) the rider for fare non-payment or failure to provide POP; 3) issue a ticket to the rider for fare non-payment or failing to provide POP.
- b. The opportunity for differential enforcement with respect to fare nonpayment is high, due to the lack of guidance given with respect to when to exercise each option (verbal warning, written caution, ticket) and due to ambiguity with the “educate, advise, enforce” model. Furthermore, because verbal warnings cannot be tracked, the extent to which differential enforcement exists remains unknown.
- c. As such, written documentation should occur whenever nonenforcement is chosen with respect to fare non-payment; individuals encountered who have violated the fare policy and who cannot provide POP should be either formally cautioned (a written/documented caution) or ticketed.
- d. TTC enforcement policy should dictate that previous formal cautions should not preclude a rider from being formally warned in subsequent cases.
 - i. In order to address the various social and other factors that impact upon the ability of riders to pay fares (e.g. mental health, poverty, malfunctioning equipment) a thorough system of review and of alternative measures/sanctions/non-sanctions should be considered.
- e. Changes to this policy, and removal of the verbal warning option should be clearly articulated to TTC staff as well as to the general public. General awareness about the removal of the verbal warning option should clarify that the underlying intent is to promote equitable treatment of TTC riders.
- f. Data on enforcement and nonenforcement practices, including information about the racial background of the individuals formally cautioned and ticketed should be systematically collected, analyzed and publicly disseminated.¹² This information is crucial for anti-racism and anti-discrimination purposes. It can be used to identify problematic patterns and trends in enforcement which can be used to inform training, policy and corrective/disciplinary action where necessary.
 - i. This change may require the adoption of new data collection technologies (both hardware and software) as well as modifications to related training and policy.

¹¹ This is particularly salient with respect to Proof of Payment given the broad public attention to the issue and the frequency with which fare inspection occurs.

¹² This data will be useful in identifying racial disparities and uncovering biased or discriminatory decision making. This information can then be used to inform training, policy, and discipline where necessary. The following example is illustrative.

Case One: There are 100 White fare evaders, 50 receive a formal caution and 50 receive a ticket. There are 100 Black fare evaders, 50 receive a formal caution and 50 receive a ticket. No evidence of racial disparity in outcome.

Case Two: There are 100 White fare evaders, 50 receive a formal caution and 50 receive a ticket. There are 100 Black fare evaders, 25 receive a formal caution and 75 receive a ticket. Evidence of racial disparity in outcome.

Calls for further investigation.

- g. The TTC should consider removing the verbal warning option from other enforcement actions (e.g. under Criminal Code, POA/TPA/LCA) in order to increase oversight with respect to decision-making.
- 6) The TTC, Special Constable Service and Revenue Protection departments should use caution when using historical enforcement data to inform future enforcement and deployment strategies. Historical data on the profile of fare evaders (e.g. age, race, gender) and location of high levels of evasion will be influenced in part by the biases of the people responsible for producing that data (e.g. inequalities in the initiation of investigations and in the exercise of discretion). If done without caution, using this data to deploy resources is likely to reinforce and reproduce earlier biased outcomes.
- 7) TTC enforcement-related policies should be publicly accessible via the TTC's website and in accessible formats.

CONCLUSIONS

The exercise of discretion is an important, and inevitable, aspect of law enforcement. However, when left unchecked, or not sufficiently guided by law and policy, the ability to choose from a range of options when dealing with members of the public provides opportunity for the differential exercise of authority. This review has identified that a relatively high level of guidance with respect to some of the most consequential areas of decision-making undertaken by members of the Special Constable Service and Revenue Protection (e.g. use of force). Conversely, there is less guidance or policy surrounding the less consequential, though much more frequent exercises of authority (e.g. Proof of Payment). In our assessment, existing TTC policy and training documents provide a strong foundation to structure and guide decision-making for members of both the Special Constable Service and Revenue Protection. We believe that greater attention to, and emphasis of rights protecting legislation, combined with the removal of verbal warnings as an enforcement option will serve to strengthen existing policy and training. These considerations should also guide the development of a dedicated discretion policy.

In the next section of the report we examine the academic literature on the use, efficacy and potential concerns of body worn cameras.

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PART E: LITERATURE REVIEW ON THE USE AND EFFECTIVENESS OF BODY-WORN CAMERAS

INTRODUCTION¹³

The enforcement branch of the TTC, as with other major law enforcement agencies throughout the globe, has recently considered the use of body-worn cameras (BWCs). Indeed, during our focus group discussions (described in Part C of this report), both fare inspectors and special constables maintained that they would welcome the introduction of this technology within their work environment. Thus, at the request of the TTC, we have included in this report a brief literature review that addresses the potential benefits – and potential limitations – of BWCs within law enforcement.

Research on body-worn cameras (BWCs) has greatly expanded in recent years and the literature and evidence continues to grow as an increasing number of police agencies choose to test and adopt the technology. There are several perceived benefits of the use of BWCs by law enforcement. These perceived benefits include: the reduction of use of force; decrease in complaints against officers; stronger evidence collection; the acceleration of court proceedings (i.e., quicker case resolutions); increased officer efficiency; cost-savings for police and the wider criminal justice system; improved relations between police and the community; and increased transparency and accountability. However, there are also a number of concerns associated with BWCs including: the privacy of officers and customers; storage of data; high cost; access to video documentation; and policy development.

Several major law enforcement services have adopted BWC technology, despite limited evaluation efforts. The academic research available on the topic has produced mixed findings. This section of the report begins with a brief overview of the use of BWCs in Canada. Following this introduction, we examine the perceived benefits and concerns associated with BWC technology. We explore each benefit and concern by reviewing the available academic (and in some cases non-academic) evaluation research to provide a comprehensive view of the impact BWC technology may have on law enforcement. Finally, the paper closes with a summary and discussion on the merits and potential consequences of proceeding with the adoption of BWC technology.

Body-Worn Camera Use in Canada

Most empirical and academic research on BWCs has been conducted in the United States and the United Kingdom. Therefore, most of our knowledge and evidentiary support of the technology is limited to these two jurisdictions. Several police departments around the world have tested the technology and are continuously choosing to roll-out BWCs to its officers. Despite the widespread implementation of BWCs in several nations, the deployment of this technology has been slow to non-existent throughout Canada.

¹³ This section of the report was prepared by Erick Laming, a PhD candidate at the Centre of Criminology and Sociological Studies at the University of Toronto.

Only a handful of agencies in Canada have tested or currently use body camera technology. A limited sample of these police services have conducted pilot evaluation studies. These services include: Victoria (2009); Edmonton (2012-14); Calgary (2012-14); Toronto (2015-16), Montreal (2016-17), Fredericton (2017), Medicine Hat (2017-18), Thunder Bay (2018-19), and Durham Region (2018-19). The largest Canadian police service – the Royal Canadian Mounted Police (RCMP) – has tested the technology and decided to suspend plans to adopt the technology. The Calgary Police Service is the only large service that has committed to full adoption. Most front-line officers in Calgary are already equipped with the technology. The Toronto Police Service (TPS) has limited plans to adopt the technology in the future, but has also stated that there is no guarantee and that adoption is entirely dependent on whether the technology can satisfy the expectations of the agency (Shum, 2017).

Our analysis suggests that, at the time this report was written, ten medium-sized and small police agencies in Canada currently utilize BWCs (for more information on BWC use in Canada and explanations for limited adoption, see Laming 2019). Moreover, there have been reports of a handful of municipal by-law officers and/or other types of law enforcement organizations that have piloted BWCs and may currently utilize a small number of cameras. However, information on these agencies are extremely limited and not much is known outside of a media report on the matter. There has been a general lack of research on BWCs in the Canadian context with most agencies choosing not to adopt the technology. The major reasons for non-adoption are highlighted below.

THE PERCEIVED BENEFITS OF BODY WORN CAMERAS

Since the widespread adoption of BWC technology, a significant amount of research has followed which allows us to understand and identify the advantages and disadvantages of BWCs. Two highly touted outcomes examined by researchers include the potential for BWCs to reduce police use of force and reduce complaints against officers. These outcome variables are regularly included in evaluations. Research strategies, for example, have employed randomized-control trials (RCTs) in which some officers are assigned to wear cameras, while other officers do not wear cameras. Reducing use of force and complaints against officers are often touted as the most valued benefits of adopting BWCs (Ariel et al., 2015). Additionally, BWCs are expected to civilize officer and citizen behaviour, enhance court evidence, produce cost savings, and improve accountability and transparency. The following section examines the perceived benefits of BWCs by discussing: a) officer performance; b) changes in officer and citizen behaviour, and perceptions of BWCs; c) evidentiary benefits; and d) cost savings.

Officer Performance

Empirical research on BWCs has produced strong evidence that the technology improves officer performance in several areas. Of the published RCT studies, the majority suggest that there are significant reductions of use of force and complaints against officers after the deployment of the technology (Ariel et al., 2015; Ariel et al., 2017; Braga et al., 2018; Henstock & Ariel, 2017;

Jennings et al., 2015, 2017). Most experimental research that has tested the effects of BWCs on use of force also measure the impact on complaints against officers (see Ariel et al., 2017). In Ariel et al.'s (2015) landmark study of police BWCs in Rialto, California, the researchers found that use of force was approximately 50% lower for officers who wore cameras compared to those who did not, and that complaints against officers dropped by 88% compared with the 12 months prior to the experiment.

Similarly, Jennings et al., (2015) found that officers wearing cameras in Orlando, Florida had a significantly lower prevalence of use of force incidents and accumulated a significantly lower number of serious complaints compared with the officers who did not wear the cameras. Jennings et al. (2017) conducted a similar study of the Tampa Bay Police Department and found that use of force decreased by more than 8% in the 12 months after body cameras were deployed compared to the pre-deployment period. Likewise, Braga et al. (2018) found that officers equipped with BWCs in Las Vegas had fewer complaints and use of force reports compared to officers not wearing cameras. In other experimental research, White et al. (2017a) found that both citizen complaints and use of force incidents decreased for both camera wearing and non-camera wearing officers after BWCs were deployed in Spokane, Washington. However, use of force incidents and citizen complaints increased for camera wearing officers during the post-experimental period. The researchers explain that officers may at first be willing to adjust their behaviour because of the novelty of the new technology but return to "normal" behaviour after the novelty wears off (White, et al., 2017a).

Moreover, agency evaluations have also found a reduction in complaints against officers after the introduction of BWCs. For example, the Mesa [Arizona] Police Department conducted a quasi-experimental research study and found that complaints against police who were wearing BWCs decreased by 60% (Mesa Police Department, 2013). The agency also found that complaints against officers not wearing cameras increased 36%. Further, the Phoenix [Arizona] Police Department conducted a similar study and found complaints against officers wearing BWCs declined 22% but increased 10% for officers not wearing cameras (Katz et al., 2014).

In other research, Ariel (2016) found that the use of BWCs by Denver [Colorado] police were associated with significant decreases in complaints against officers. Owens and Finn's (2018) research on the London Metropolitan Police suggest that officers wearing BWCs had fewer complaints than the control group of officers not wearing cameras. Also, officers wearing BWCs were less likely to receive an allegation of oppressive behaviour than the control group (Owens & Finn, 2018). In a meta-analysis of 10 RCT BWC studies, Ariel et al. (2017) found complaints against the police decreased by 88% after cameras were implemented.

In terms of whether BWCs have impacted officer proactivity, Wallace et al. (2018) observed a decrease in self-initiated calls for service by officers wearing BWCs in Spokane, Washington. The surveillance aspect of BWCs suggests that the technology may result in de-policing by officers (Wallace et al., 2018). This concept is also known as the 'Ferguson Effect,' which suggests that the increased public scrutiny of law enforcement will lead to a reduction of police activity to avoid accusations of racial profiling or illegitimate force. However, Wallace et al. (2018) found no evidence of de-policing in their study as there were no differences in officer activity, arrests, and response time between treatment (camera-wearing officers) and control (no cameras). Similarly,

Braga et al. (2018) found that camera-wearing officers made more arrests and issued more citations than their non-BWC counterparts. Conversely, research conducted by Hughes et al. (2020) found that officers made fewer low-level citations at the neighbourhood level, but that self-initiated activity and arrests for more serious crimes were not impacted by the implementation of BWCs. However, the researchers point out that the decrease in citations may represent a change in enforcement activities ultimately leading to a de-policing effect in certain neighbourhoods (e.g., predominately Black neighbourhoods). More research is necessary to determine the impact BWCs have on police activities, enforcement, and arrests, particularly at the neighbourhood level.

Citizen Compliance and Perceptions of BWCs

Police use of BWCs are expected to produce more compliant behaviour by citizens (White, 2014). In research examining assaults against officers, it was found that officers wearing cameras were assaulted by citizens less frequently than officers not wearing cameras (ODS Consulting, 2011). For example, officers wearing cameras in Aberdeen, U.K. were assaulted on one occasion compared to 62 assaults against officers not wearing cameras (ODS Consulting, 2011). Further, White et al., (2017a) found no relationship between officer injuries and the use of BWCs. Moreover, Ready and Young (2015) found that officers wearing cameras were more risk averse and cautious, and conducted significantly fewer stop-and-frisks and arrests than officers not wearing cameras. Ready and Young (2015) claim that “officers are more self-aware when the camera is on because the video may be reviewed internally by supervisors, or by public request via the Freedom of Information Act” (p. 454). Likewise, Owens and Finn (2018) found that officers were more aware of their interactions with the public when captured on BWCs and that officers would provide a verbal narrative of the situation for the recording.

Most empirical research on BWCs have examined use of force and complaints as the primary performance outcomes (Headley et al., 2017). White (2014) explains that although BWCs may improve citizen behaviour, “there is very little evidence to support this assertion outside of anecdotal reports in the media and preliminary results from a few evaluations” (p. 22). Moreover, Headley et al., (2017) found that officers wearing BWCs employed less intrusive methods to resolve incidents and had a reduction in arrests despite an increase in citizen contacts. Headley et al., (2017, p. 104) argue that officers continued to be active rather than abstaining from community interaction after BWC deployment and this may explain the increase in field contacts (see also Ready & Young, 2015). This further supports the notion that BWCs are not leading to decreased police activity in some jurisdictions and may result in proactive policing and increased self-initiated contact (see Wallace et al., 2018).

Several studies have examined police and community perceptions of BWCs. For example, Gaub et al. (2016) found that officers differed in their perceptions of BWC deployment across three jurisdictions. Officers in Tempe [Arizona] had positive perceptions whereas officers in Phoenix [Arizona] had negative perceptions. Spokane [Washington] officers had both positive and negative perceptions of BWC deployment (Gaub et al., 2016). However, all three departments were skeptical about the impact BWCs would have on citizen behaviour. Conversely, Jennings et al. (2015) found that officers in Orlando perceived that BWCs would improve citizen behaviour; however, officers were skeptical that cameras would have any influence on their decisions to use

force. In another study, Gramaglia and Phillips (2018) found officers in both Rochester and Buffalo [New York] believed that BWCs would affect their decisions in using force, but the use of cameras would not improve citizen attitudes toward police. Alternatively, Crow et al. (2017) found that public perceptions of BWCs were mostly positive in their survey of community members in Florida. Particularly, community members believed that BWCs would improve police and citizen behaviour, and enhance the collection of evidence (Crow et al., 2017; see also White et al. 2017b).

Evidentiary Benefits

Evidence from police agencies suggest that BWC video can improve and ensure evidentiary benefits. For example, the Phoenix Police Department examined the impact of BWCs on domestic violence case processing and found that “cases were significantly more likely to be initiated, result in charges filed, and result in a guilty plea or guilty verdict” (Katz et al., 2014, p. 3). It was also reported that cases were completed faster after body camera implementation, but this may be the result of additional court liaison officers employed who facilitated the case processing between Phoenix police and the prosecution office (see Morrow et al., 2016).

Research in the U.K. suggests that BWC technology improves evidence and secures criminal convictions (White, 2014). Results from several U.K. studies reveal that video from BWCs produce quicker resolution of cases, resolve significantly more cases through guilty pleas rather than criminal trials, and increase officer efficiency and time spent on patrol (ODS Consulting, 2011; White, 2014). Further, Owens et al. (2014) found support for prosecutorial utility of BWCs in that the officers wearing cameras had a higher proportion of intimate partner violence cases that resulted in a criminal charge compared to officers not wearing cameras. Evidence from the Queensland [Australia] Police Service also suggests that BWCs have had a positive effect on domestic violence cases. For example, BWC evidence has led to an increase in charges filed, arrests, and convictions in domestic violence cases (Axon, 2017).

A recent study of police in Australia by Clare et al. (2019) found that BWCs did result in benefits for officers in terms of evidence-gathering and cost/time efficiencies. However, the authors found that BWCs had little impact on court processes and outcomes. Although BWC evidence encouraged earlier guilty pleas, Clare et al. (2019) reported that there was no corresponding increase in the rate of guilty pleas or convictions.

Cost Savings

It has been widely argued that BWC technology will produce cost-savings for law enforcement agencies and the wider criminal justice system. However, most of these claims have come from manufacturers who have a significant stake in selling their products. For example, the CEO of Axon made claims in 2012 by stating that “our technology can resolve issues of false complaints, improve officer training and provide communities enhanced transparency. At less than one-third the cost of in-car video systems and through its ability to help reduce litigation costs, this system ultimately saves taxpayer dollars while also providing protection to officers” (Axon, 2012, para

5). These claims were being communicated publicly even though there had been no published scientific evidence on the efficacy or cost-benefits of BWC technology at that point. The company has continued to make similar claims throughout the years to push their products. Additionally, there have been some law enforcement officials who have also claimed that their agencies have saved money after their agency adopted BWCs.

Despite the claims by BWC manufacturers and some police officials about the cost saving potential, there have been very few academic studies that have examined the cost-benefit analysis of BWCs on law enforcement agencies. One study conducted by Braga et al. (2017) found that the Las Vegas Metropolitan Police Department could generate approximately \$4 million in savings annually associated with investigating less complaints. Although this study suggests the utility BWCs may have with cost-savings, it only reports projected savings and not actual monetary benefits. Cost-benefit analyses will likely become more prominent and valuable in the years ahead since law enforcement agencies will be able to accurately quantify the impact BWCs have on the organization with long-term trends and budget reports.

The perceived benefits of BWCs show potential value of this technology for law enforcement. A growing body of evidence suggests that BWCs can improve officer behaviour by reducing cases of use of force, complaints against officers, and lead to proactive policing. Body cameras may also improve relations between the police and the public through civilizing behaviours. Lastly, BWCs may provide significant utility for evidentiary purposes, lead to quicker resolution of cases, and provide considerable cost-savings. These perceived benefits highlight the potential for an overall improvement of police accountability.

POTENTIAL CONCERN WITH THE USE OF BODY WORN CAMERAS

There are several concerns related to the use of BWC technology. Several law enforcement agencies elected to adopt BWCs without first studying the effectiveness of the technology. As a result, agencies have had to revise and alter their expectations of the BWCs and accept the realities that come with technology that is constantly changing. The following section examines the potential concerns or limitations of BWCs by looking at: a) privacy issues; b) data storage; and c) the costs associated with the technology. The academic literature on BWCs also has conflicting findings regarding the impact the technology may have on use of force and complaints against officers. Thus, it is important to discuss the research that disputes the positive findings. This section closes with a discussion on this.

Privacy

One of the most pressing concerns of BWC technology is the privacy of citizens and officers. Body cameras are the next generation of video surveillance and have the potential of invading the privacy of innocent bystanders. Body cameras can capture a great deal of activity involving individuals who may be vulnerable or in vulnerable positions (e.g., victims of violence, witnesses, informants, people with mental illness). Critics point out that victims of crime and/or witnesses may be

reluctant to talk to the police because they do not want the footage to be seen or fear that they may be retaliated against if caught cooperating with the police (Stanley, 2015).

Officers entering private residences is another privacy concern. Officers are dispatched to a variety of calls every shift and some of these calls will include a level of intimate detail that is potentially captured on police video. A common example is a domestic assault case where an officer either captures an assault on camera or must record a statement from a party that describes the situation (Mateescu et al., 2016). The officer's BWC may capture some of the worst moments in a person's life because police are often called upon to intervene during challenging times.

The privacy of officers is also an important concern. A challenging aspect of any body camera policy is determining whether cameras will record continuously or intermittently. If the cameras are constantly recording, any privacy an officer has while on shift will be severely restricted (Stanley, 2015). Moreover, restricting when an officer can switch the camera on or off is a point of contention as it could potentially override one of the most important police powers: discretion (Taylor, 2016). Many body camera policies in the U.S. indicate that an officer may use discretion in deciding when to record. These policies direct an officer to begin recording once they are dispatched to a call, and to turn the camera off when it is determined the call is complete.

If an officer can choose when to record, they may decide not turn on their camera, or forget to turn their camera, in some situations, including situations that involve the use of force. This issue is complicated because incidents involving force are most often abrupt, unplanned, and require split-second decision-making. This issue is partially resolved with some manufactures whose cameras can begin recording 30-120 seconds prior to their activation by an officer, and this buffer period can account for prior events. Some newer camera models are equipped to automatically turn on when an officer leaves their patrol vehicle or as soon as a car's siren or lights are activated (Kambic, 2017). Nonetheless, concerns about officers discretion with respect to turning on or off BWC may limit their impact and whether they will ultimately be able to increase trust and confidence in law enforcement.

Another – largely unresearched concern – involves access to the images or video captured by body cameras. Some critics have argued that the police will largely control access to body camera images and may not readily release images that expose police misconduct. Questions also emerge with respect to civilian access to video that involves their own personal interactions with police officers. For example, if a civilian wants to file a complaint against a police officer, would they immediately gain access to video coverage of their interaction – or would that coverage be withheld and controlled by police organizations. Restricting access to BWC footage may limit the ability of the technology to improve police accountability.

Storage of BWC data

Storage and retention of body camera footage are major concerns for law enforcement agencies. Agencies must tightly control body camera data to guard against corruption and loss of files, deletion of data, hacking, tampering, copying, and any other threat to the integrity of the data. The available options for storing BWC data include: dedicated or local servers (stored on internal databases owned and operated by the police service) or cloud-based storage (operated by third-

parties where data are stored on secure websites). Several law enforcement agencies around the world have agreed to long-term contracts with manufacturers that offer cloud-based storage because of the perceived notion that it is less expensive.

Researchers have raised concerns about private-enterprise companies controlling or having access to police video data collected by the BWC. For example, Wood (2017) argues that “there are myriad concerns to be raised in having some or all digital evidence stored, maintained, and accessed through a private third party that is an economic stakeholder whose customer is police departments” (p. 42). This raises fundamental questions around the legal and ethical boundaries of a corporation housing massive amounts of public information. Contracts between law enforcement and companies such as Axon differ between agencies and unless a law enforcement agency asserts complete ownership of the data, Axon can be a co-creator of the data captured and stored by that law enforcement agency (Wood, 2017; see also Edmonton Police Service, 2015). Wood (2017, p. 47) explains that these issues are vital because longer contracts between Axon and law enforcement agencies may not adequately prepare for the future implementation of technological advancements from BWCs such as facial recognition software.

Data collected by body cameras may serve many useful purposes. Joh (2016) argues that data captured by BWCs will likely be subjected to a variety of software applications that would only further serve the interests of law enforcement. Body camera technology is advancing so quickly that new camera models will soon have the capability of employing facial recognition, licence plate recognition, and pattern recognition which can be used to identify, track, and compile records and profiles on individuals (Joh, 2016). For example, Axon aims to gather and accumulate extensive data collected by law enforcement agencies for technological advancements in the field. The company plans to make use of law enforcement information by developing tools that would be able to predict crimes and help police solve crimes more efficiently (see Kofman, 2017). This raises concerns because these predictive algorithms are meant to detect suspicious behaviour of people in certain areas; however, automated detection of suspicious activity lies in the eye of the beholder and is not as neutral or objective as it appears (Joh, 2017). These programs can entrench racial stereotypes into the system resulting in more aggressive law enforcement, notably against marginalized individuals (Kofman, 2017).

Costs associated with BWC technology

The costs associated with body camera technology are high and require long-term investment. Only one available academic study examined a cost-benefit analysis of BWCs and found that the local law enforcement agency could potentially save \$4 million annually due to less complaints and lawsuits (see Braga et al., 2018). However, there are several law enforcement agencies in the U.S. that have faced serious fiscal challenges of running body camera programs. In the aftermath of high-profile police use of force incidents in 2014 such as the deaths of Michael Brown in Ferguson, Missouri, and Eric Garner in Staten Island, New York, the U.S. government announced that it would invest \$75 million in law enforcement agencies for the implementation of body cameras (Crow et al., 2017). The U.S. government grants help initiate and fast-track the adoption of BWCs by police; however, it is too early to definitively determine how much money body

camera programs will cost law enforcement agencies annually especially given the limited research on costs associated with this technology (Smykla et al., 2016).

Some police services report high estimates for body camera technology, but according to Axon Canada (a subsidiary company of Axon) this is grossly exaggerated. Axon claims that BWC technology costs a fraction of what is reported by police services. Despite Axon's claims, large law enforcement agencies who have tested BWCs assert that the technology is cost-prohibitive. For example, both the Toronto Police Service and the Service de police de la Ville de Montréal have stated that the high cost of BWC deployment is a primary reason the agencies have opted against adoption of the technology. In Montreal, Axon publicly commented that the high costs cited by Montreal police were wrong, and that the city would save money because the cameras reduce paperwork which lead to a decrease in expenses (CBC News, 2019). This example highlights the concerning nature of third-party operators when it comes to criminal justice decision-making and should serve as a warning for agencies looking into BWC adoption.

Moreover, cloud-based storage may serve as a more cost-effective alternative, but it is important to understand that storage and costs will vary depending on the law enforcement agency. Thus, determining whether cloud-based storage is less expensive than internal storage cannot be definitively determined because each agency differs in their expectations and requirements of body camera technology. Also, there are other costs associated with BWC technology in addition to the hardware and software. Other financial considerations include operational costs which include reviewing, editing, and redacting hours of recorded video, as well as administrative costs in dealing with access to video (Letourneau, 2015). Some agencies may require additional staff to cover these areas and this could potentially result in more workload and higher costs (Letourneau, 2015).

Further, there have been several cases where law enforcement agencies reported that costs increased after BWC adoption and that new positions were created for personnel to deal with various information requests and data management concerns. Consider for instance that the Palm Beach Gardens [Florida] Police Department (Peters, 2018) and Minneapolis Police Department (Jany, 2018) had to hire additional employees to reduce the backlog of data management issues. There have been some cases where law enforcement agencies have had to suspend or terminate its BWC program because the costs were too significant for the organization to operate effectively (Kindy, 2019). Despite the limited academic research in this area, there are numerous examples from large, medium, and small law enforcement agencies in both Canada and the United States that cite high costs of BWC technology as barriers to their adoption and deployment.

Mixed Results from the BWC Literature

The use of force and complaints against officers have been measured in several studies to test the impact BWCs has on those variables. In the perceived benefits section, some studies provide evidence that use of force by police and complaints against officers decreased significantly post-BWC deployment for multiple law enforcement agencies. However, there have been multiple studies that have found no evidence that BWCs lead to a reduction in use of force by police or complaints against officers. It is important to briefly highlight some of these findings here.

In the largest randomized-controlled trial of BWCs to date, Yokum et al. (2017) found very small effects across all measured outcomes, including the use of force and complaints in their study with the Metropolitan Police Department [Washington, D.C.]. Notably, the outcome measures failed to reach statistical significance meaning there were no detectable, meaningful effects on use of force or complaints. Similarly, Peterson et al. (2018) reported that BWCs had no effect on whether officers used force during their study period in Milwaukee, Wisconsin. Additionally, Ariel et al.'s (2016) meta-analysis of ten BWC experiments found that the cameras had no effect on police use of force, and that the use of cameras led to an increased rate of assaults against officers. Further, some research suggests that use of force increased for officers wearing BWCs compared to those not wearing cameras (Clare et al., 2019). However, it is important to note that in these settings the use of force was already considered a low-frequency event which may help explain why force increased despite the intervention of BWCs (see Clare et al., 2019).

Moreover, the Edmonton Police Service piloted BWCs between 2012-14 and tested the impact the technology had on several measures including use of force and complaints. The methodology employed was a quasi-experimental which uses a non-randomized approach – meaning that cameras were not randomly assigned to officers participating in the study (most other research discussed in this paper employed randomized-controlled designs which are often hailed as stronger studies methodologically). The study found that there was no statistically significant evidence that the presence of body cameras reduced use of force (Edmonton Police Service, 2015). Further, officers reported that the presence of body cameras could cause them to hesitate to use appropriate levels of force which could create dangerous situations between the police and the public. Also, there was no evidence that BWCs had an impact on the number of complaints made (Edmonton Police Service, 2015). The results show that there were no statistically significant differences in the number of complaints pre- and post-implementation as well as between camera users and non-camera users.

The research findings are quite mixed and inconclusive on whether BWCs decrease the use of force by police. However, the majority of empirical evidence on whether BWCs decrease complaints against officers is overwhelmingly positive. It is important to note that although most research has shown a decrease in complaints against police post-BWC deployment, there is no definitive explanation for why this has occurred. Lum et al. (2019) explain that there may be many reasons why complaints against the police decrease after BWC deployment but offer that this measurement is problematic in understanding the true effects of BWCs on officer and/or citizen behaviour and interaction. Lum et al. (2019) claim that citizen complaints are rare compared to the number of police-citizen interactions and solely may not be the best measurement to determine the impact of BWCs on complaints. Rather, other types of methodologies such as ethnographies, social observations and analysis of BWC footage may be better in understanding the impact body cameras have on citizen complaints (Lum et al., 2019).

The perceived concerns of BWCs highlight potential issues with the technology. This section examined some of the important concerns relating to BWCs such as privacy of officers and citizens, data storage, and the high costs associated with the technology. Although there are several benefits of BWCs, the concerns analyzed here may negate some of the positive perceptions and benefits of the technology. Further, these concerns may pose challenges for implementing a successful body camera program.

SUMMARY AND CONCLUSIONS

The use of BWCs has been increasingly growing worldwide with more law enforcement agencies choosing to adopt the technology weekly. The empirical evidence on the efficacy of BWCs is generally mixed on several outcome variables. Most experimental research has examined the effects of BWCs on measures such as the use of force and complaints against officers. More recent research has attempted to determine the impact BWCs may have on officer proactivity, organizational and administrative policies, and officer and citizen perceptions.

This assessment has provided a detailed examination of the perceived benefits and concerns of BWC use by police. Some of the main perceived benefits include changes in officer behaviour such as reductions in the use of force; changes in citizen behaviour such as reductions in complaints against officers and more civilized interactions with police; enhanced evidence collection by police; improved court processes such as quicker resolutions of cases and increases in guilty pleas; positive perceptions of both citizens and officers for BWC use; and potential cost-savings for law enforcement agencies. Taken together, these perceived benefits can lead to improvements in accountability and transparency, and increase trust in police.

Conversely, research has shown that BWCs may yield just as many concerns regarding their use. Some of the main perceived concerns include privacy issues for both citizens and officers; BWC data storage and retrieval; policy development such as creating consistent guidelines on the appropriate use of the technology and disciplinary mechanisms for when officers violate policies; and high costs associated with the technology. Additionally, most research has shown conflicted findings regarding the effectiveness of BWCs on measures such as the use of force and complaints against officers. These mixed findings must be adequately weighed when examining the true effects of this technology.

Despite the growing research and empirical evidence on BWC technology, there are still several unexamined areas of interest. For example, there is no published or available research on the efficacy of BWCs in extreme climates. Some of the main manufacturers of BWCs assert that their cameras can operate in temperatures that range between -20 degrees and 50 degrees Celsius. However, many jurisdictions in Canada have severe climate changes, especially in the winter months that see temperatures fall well below -20 degrees. This raises possible concerns of how well cameras can operate in certain climates and conditions. Other under-examined research includes the use and efficacy of BWCs for other criminal justice and enforcement professionals (i.e., by-law officers, security, transit), and whether there are differential impacts of BWCs on different groups of people (i.e., Indigenous or Black). Finally, evidence of long-term costs for the wider criminal justice system is limited, and whether BWC evidence will impact the system in unintended ways is unknown (e.g., increased work for prosecution and defence, increase in freedom of information requests, court and administrative efficiencies, etc.).

The most recent and largest review of BWC research was conducted by Lum et al. (2019) in which they identified 70 empirical studies. Consistent with what has been provided in this assessment, the researchers found generally mixed results on the efficacy of BWCs in several areas. Lum et al. (2019) claim that perhaps the overall anticipated effects of BWCs may be overestimated. In

general, we need more research and evidence, notably in areas that have not been examined (or thoroughly examined) to determine the true effectiveness and utility of BWC technology. Regardless, the implementation of a BWC program is solely dependent on the expectations, needs, and goals of the law enforcement agency and that community looking to adopt the technology. These expectations, needs, and goals will differ across jurisdictions which makes BWC adoption a localized matter.

In the next section of the report we provide some preliminary thoughts with respect to the systematic collection, analysis and reporting of race-based data within the TEU.

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PART F: IN BRIEF: RACE-BASED DATA COLLECTION AT THE TTC

BACKGROUND

Our inquiry was prompted, in part, by the public release of racially disaggregated TTC enforcement data. In line with findings from other law enforcement services across the GTA, Ontario, and Canada, the TTC data demonstrate a significant over-representation of Black people in past enforcement activity. In order to better understand why certain minority groups – specifically Black and Indigenous peoples – are over-represented in enforcement outcomes, and to ensure fair and equitable treatment, many police agencies and public sector organizations are exploring how to standardize the collection, analysis and release of race-based data. In Ontario, this development comes partly in response to the introduction of the province’s *Anti-Racism Act* and accompanying *Anti-Racism Data Standards*. These initiatives have mandated the collection of associated data by specific agencies and have set out a framework for their storage, analysis and release.

Possible reasons to collect and publicly release race-based data include:

- Identify and explain racial disparities;
- Monitor racial disparities through time;
- Identify the extent of conscious, unconscious and systemic bias within the TTC;
- Identify individuals who treat minorities more harshly and target them for reassignment, retraining or dismissal.
- Develop and evaluate antiracism initiatives;
- Increase accountability;
- Increase transparency and improve public confidence.

We have been asked by the TTC to provide a preliminary set of recommendations around race-based data collection. Having collectively worked with both the province of Ontario to develop the provincial Data Standards, and more recently the Toronto Police Service Board (TPSB) to develop a race-based data collection policy for the Toronto Police Service, we recognize that a significant amount of groundwork in this area has already been done. As such, the TTC can learn from, and build upon, the work of these two organizations. Indeed, with some modifications, and pending community consultation, the TPSB policy should serve as a guiding framework for the TTC.¹⁴¹⁵ The TPSB policy is comprehensive and adheres to the provincial Data Standards. However, for the TTC’s purposes, we see several limitations with the TPSB’s policy: 1) The TPSB policy prioritizes the collection of officer perception over self-report data on civilian race and; 2) the TPSB policy prohibits the use of race-based data for the purpose of monitoring and addressing the activities of individual officers; 3) under the TPSB policy, officers will not be evaluated on the quality or accuracy of the data they collect and; 4) under the TPSB policy, officers can opt out of collecting race data if they feel stressed or traumatized by a use of force incident.

¹⁴ Due to the fact that TTC TEU Special Constable status is granted through an agreement with the TPSB it makes sense to align policy as much as possible.

¹⁵ The TPSB Race-Based data policy is available at: <http://www.torontopolice.on.ca/race-based-data/tpsb-race-based-data-collection-policy-sep-19-2019.pdf>.

With those limitations in mind, we draw upon the TPSB policy to provide a series of preliminary recommendations below.

RECOMMENDATIONS

- 1) The TTC should develop a written policy, set of procedures and training around the collection, storage and release of race-based enforcement data.
- 2) A TTC race-based data policy should clearly articulate a set of **Guiding Principles** outlining organizational commitment to fair and equitable customer service. As an example, core elements of the TPSB policy read as follows:

“The Board understands that bias and racism in society is impossible to deny, but must never be seen as inevitable or acceptable. As the employer, the Board knows that the Members of the Service are deeply committed to this principle. The Board also realizes that efforts to reduce or eliminate bias and to specifically address anti-Black and anti-Indigenous discrimination must focus on institutional and structural practices –practices that manifest in every institution and which are systemic in their nature –that can result in racial disparities and prejudicial treatment.

Guided by the constitutional and legal principles of the Canadian Charter of Rights and Freedoms, the Ontario Human Rights Code, Ontario’s Anti-Racism Act, and based on the principle that only what is measured can be effectively understood and improved, the Board recognizes the importance of collecting, analyzing and publicly reporting on data related to the race of those with whom police interact. Collecting, analyzing and reporting on this data is also critically important to the Board’s goal of eliminating racial bias, promoting equity, fairness and non-discriminatory police service delivery. In order to assess the effectiveness of legal, policy and procedural initiatives aimed at reducing bias, it is vital to track and publicly report on race-based data that is collected by police officers in the course of their duties. Ultimately, the Board views this Policy as vital to improving transparency, accountability, and oversight in how police services are delivered –necessary ingredients for continuing to build community trust and engagement between Members of the Service and the communities we serve.

The Board recognizes that the collection of race-based data is complex, multifaceted and sensitive and is a process that must be handled with respect and care. The process must protect an individual’s personal privacy and respect their dignity. The results of collecting race-based data must also lead to reliable and high-quality race-based statistics that contribute to informed public discourse and evidence-based decision-making...” (TPSB, 2019: 1-2).

The guiding principles developed by the TTC should align with broader institutional mission and mandate.

- 3) A TTC should clearly articulate the underlying **Purpose** of the race-based data policy. The TPSB policy advances the following as its foundational purpose:

“The purpose of this Policy is to use race-based data collection, analysis and public reporting to: identify, monitor and eliminate potential systemic racism and racial bias;

- identify equitable service delivery that can contribute to understanding and best practice;
- advance the delivery of police services that advance the fair treatment of every person by supporting the development of equitable policies, procedures, services and initiatives;
- preserve the dignity of individuals and communities; and
- enhance trend analysis, professional development and public accountability.

Importantly, this Policy and its implementation by the Service should not result in the stigmatization or stereotyping of any communities, and must have regard to the sensitive nature of the information that is collected so that the Service can protect the privacy of the individuals with whom it comes into contact.”

A key strength of the TPSB policy is that the clear articulation of an underlying purpose provides a reference point for the development of future policy and procedure. Furthermore, this information can be used to communicate the main reasons for developing the policy to members of the general public and to staff (serves as an educational tool).

- 4) The TTC should develop a set of formalized **procedures** for the collection of race-based data. We suggest that this procedure include the collection of both officer perception and citizen self-report data on race. In line with the provincial *Data Standards*, we suggest utilizing the following racial categories:

Race Categories¹⁶

- a) Black
- b) East/Southeast Asian
- c) Indigenous
- d) Latino
- e) Middle Eastern
- f) South Asian
- g) White
- h) Another race category
- i) Prefer not to answer (applying only to self-report data)

¹⁶ For a full description and examples of the groups captured within each category please refer to the provincial data standard.

- 5) The TTC should develop an accompanying **data analysis and reporting plan**. This plan should specify who will undertake the data analysis and what quality assurance measures will be put in place. This plan should specify periodic reporting requirements (for production of both internal and external reports). This plan should be developed with community input and validated by a subject matter expert.
 - a. The TTC policy should outline how the race-based data will be used to foster equitable treatment, including what internal benchmarking efforts will be undertaken and how the data will be used to foster staff accountability.
- 6) The TTC should establish a **monitoring and evaluation framework** to foster the collection of high-quality data.
- 7) The TTC should develop an accompanying **training program** for new recruits and in-service recertification. This training program should outline the historical factors that led to the development and implementation of the race-based data collection policy and procedures; provide sufficient guidance with respect to data collection; and outline relevant authorities and legal considerations, including those related to privacy and the protection of personal information.
- 8) The TTC policy should mandate the provision of adequate resources necessary for implementation of the policy and associated procedural and training considerations.
- 9) The TTC should develop a comprehensive communications plan to inform internal and external parties about the purpose of the policy and the intended outcomes.

As part of our public consultations in Phase 2 of our inquiry, we will be seeking community input with respect to the collection, analysis and release of race-based data by the TTC. As such, these recommendations are subject to revision. We suggest that the TTC adopt interim measures to facilitate the collection of race-based data pending community consultation. Given the sensitive nature of this task, we want to stress that a final version of the policy should not be implemented without having first undertaken extensive community consultation. In the course of developing the TPSB race-based data policy, for example, the TPSB and TPS conducted dozens of focus groups with individuals and agencies across Toronto. Our final recommendations with respect to race-based data collection, analysis and reporting will be developed once our own community consultations have been completed. In the next section we outline the activities that will comprise the second phase of our research and be documented in our final report.

PART G: NEXT STEPS

This report is one of two reports planned as part of this inquiry into TTC enforcement practices and race relations. In this report we provided a preliminary analysis of TTC enforcement data and, through focus groups, documented the experiences and perceptions of TTC enforcement staff. Although we have yet to draw final conclusions, our findings strongly reinforce the argument that race, racial bias and race relations are major issues in the context of TTC enforcement practices. These are issues that require a strong policy response. In this report we have provided insights into how that policy response could develop by reviewing the literature on both law enforcement discretion and body-worn cameras and providing preliminary recommendations with respect to race-based data collection, analysis and dissemination. The planned next steps of our inquiry involve a number of additional research activities including:

- A review of how other transit agencies and enforcement services have approached issues related to race and racism;
- Further analysis of TTC enforcement data;
- An analysis of data related to criminal-incidents involving TTC enforcement staff;
- An analysis of use of force incidents involving TTC enforcement staff;
- An analysis of race-based complaints against TTC enforcement staff;
- Consultations with leaders and stakeholders from Black, Indigenous and other racial minority communities;
- Consultations with TTC executives;
- A series of focus groups and town hall discussions (if the pandemic wanes) designed to hear the concerns of TTC consumers;ⁱ
- A survey of TTC enforcement staff;
- A survey of TTC consumers;

In addition to presenting our final research results, the final report will provide a series of final recommendations addressing race-based data collection, strategies for eliminating bias from TTC enforcement activities, policies designed to improve public perceptions of the TTC, and policies to improve both internal and external race-relations.

ⁱ At this point we are somewhat unsure how the COVID-19 pandemic may impact some of our original research plans. For example, our ability to hold in-person, town hall meetings may be curtailed by social distancing requirements. Details about the final stage of the inquiry will be worked out over the next month.

RP & SCS Culture Change Program: planned reports

