



British Columbia's
Office of the Human Rights
Commissioner

Equity is safer: Human rights considerations for policing reform in British Columbia



Submission | November 2021



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BCOHRC recognizes the important relationship between protecting the natural environment and protecting human rights. One way we reduce our environmental impact is by limiting print copies of our reports. However, if you have difficulties reading this report in its electronic format, you are welcome to contact our office to request a printed copy.

Support for impacted communities: The data we are releasing points to a trend of over policing of racialized people in British Columbia. We recognize this information will be deeply disturbing for many people in our province to hear. This issue, while critical to examine, is extremely challenging, especially for people who have experienced or witnessed negative interactions with police or law enforcement. Members of police services who are shocked by these statistics and concerned with the conclusions drawn may also feel the need for support. British Columbians who experience distress at hearing this news or who need immediate help can access a list of crisis lines and emergency mental health supports we have compiled on our website at: bchumanrights.ca/support

This publication can be found in electronic format on the website of British Columbia's Office of the Human Rights Commissioner: bchumanrights.ca/SCORPA

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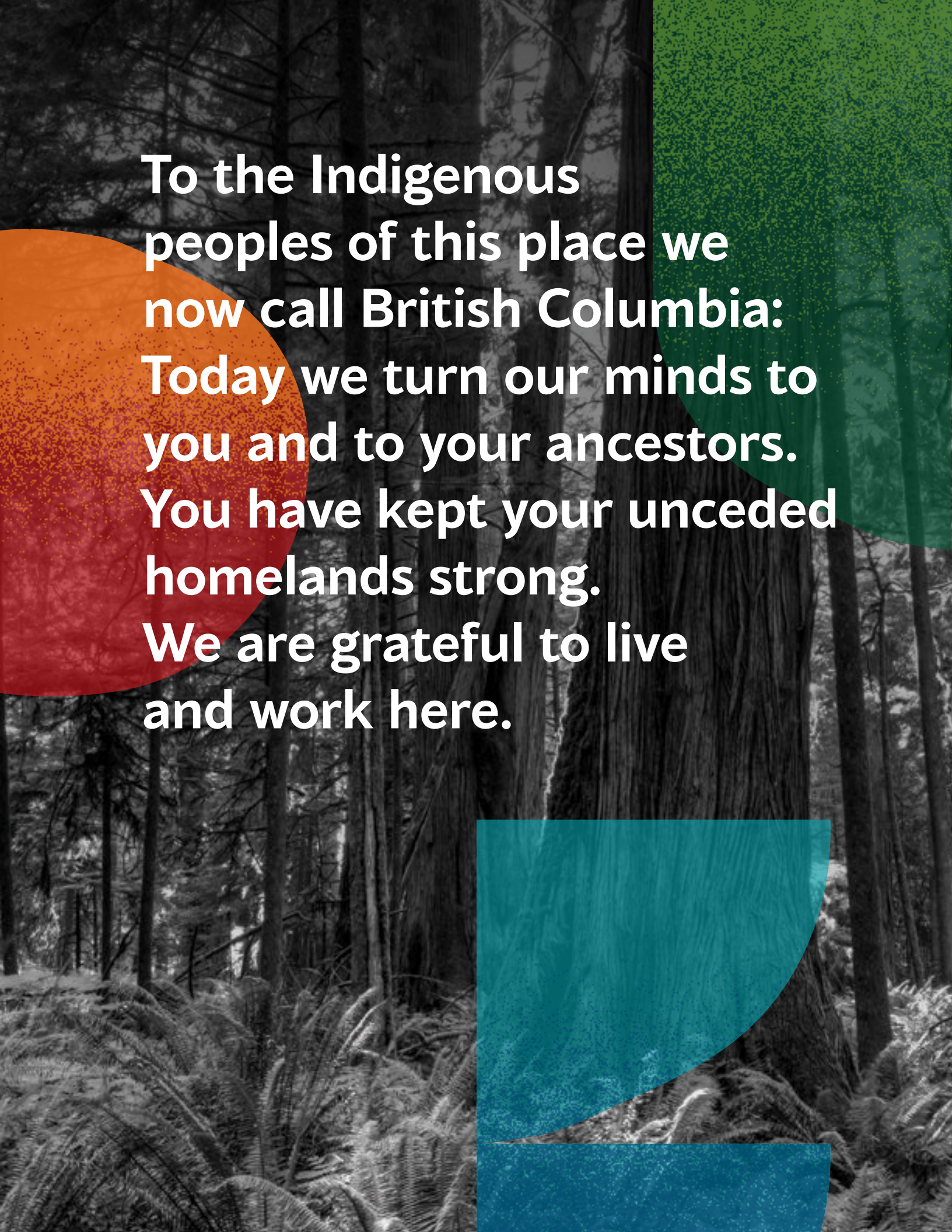


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**To the Indigenous
peoples of this place we
now call British Columbia:
Today we turn our minds to
you and to your ancestors.
You have kept your unceded
homelands strong.
We are grateful to live
and work here.**

November 2021

MLA Doug Routley
Chair of the Special Committee on Reforming the Police Act
Parliament Buildings
Victoria, B.C. V8V 1X4

Dear Mr. Routley,

I have the honour of making these submissions to the Special Committee on Reforming the Police Act of the Legislative Assembly of British Columbia.

We are grateful to those who supported the preparation of these submissions and we acknowledge that the experiences of those most directly impacted by the issues detailed in these submissions are the heart and soul of this work.

Sincerely,



Kasari Govender
B.C.'s Human Rights Commissioner

cc: Clerk of Committees

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Executive summary

The time for debate about whether systemic racism exists in policing is over — particularly, but not exclusively, as it affects Indigenous and Black people in British Columbia. It is time to act.

Communities that have long been adversely impacted by discriminatory policing have consistently shared their stories and called for change, including before the Legislative Assembly of B.C.'s Special Committee on Reforming the Police Act (SCORPA). The analysis of data from the Vancouver and Nelson Police Departments and the Surrey, Duncan and Prince George RCMP completed by Professor Scot Wortley (see [Appendix B](#)) confirms what communities have long been saying:

- that Indigenous and Black people are either grossly or significantly overrepresented in arrest/chargeable incident statistics, depending on the jurisdiction. Hispanic and Arab/West Asian people are also overrepresented in many police jurisdictions.
- that a great deal of police activity involves people experiencing mental health issues. Indigenous, Black and Arab/West Asian people are also significantly overrepresented in these types of police interactions in many jurisdictions.
- that, while women are generally underrepresented in police arrest/chargeable incident statistics, Indigenous women are either grossly or significantly overrepresented in arrest statistics in most jurisdictions examined in B.C. In many cases their arrest rate exceeds that of white men, for example.

These racial disparities are not necessarily only the product of bias in policing practices themselves, as systemic racism within many systems leads to the over criminalization of people who are Indigenous, Black or otherwise marginalized. Regardless of the confluence of factors, police services — alongside other actors in the justice system and across government — have an obligation to proactively tackle systemic inequalities that impact Indigenous and Black people (and other groups as detailed in the Racial disparities in British Columbia police statistics report).

In these submissions, B.C.'s Human Rights Commissioner recommends reforming a range of policing activities in B.C. in order to reduce systemic racism and improve safety — by improving equity — for the people of B.C.

We make the following recommendations for police reform based on four key premises:

- that policing in this country is rooted in colonial mandates to control Indigenous people in order to bring settlers onto the land¹
- that the primary purpose of policing is to promote and protect community safety
- that discriminatory policing undermines rather than protects communities, or conversely that equity is essential to community safety
- that police reform is both possible and essential

These recommendations are a starting point to achieving equity in policing:

Realizing B.C.'s obligations to Indigenous peoples

- 1 The B.C. government should work with Indigenous peoples on a government-to-government basis on legislative amendments to the *Police Act*.
- 2 The B.C. government should provide funding to enable Indigenous peoples to be partners in *Police Act* reform.

Disaggregated data

- 3 The Ministry of Public Safety and Solicitor General should take steps to amend the *Police Act* to expressly authorize the police to collect race-based and other demographic data for the purpose of addressing systemic discrimination in policing.
- 4 The Ministry of Public Safety and Solicitor General should require the Director of Police Services to use the Indigenous data governance model and work with the Community Governance Board established under the data legislation to develop and oversee the disaggregated policing data standards.
- 5 Pending the establishment of a Community Governance Board, the Director of Police Services should engage with community and utilize an Indigenous data governance model to develop standards under s.40(1)(a.1)(vii) of the *Police Act* specific to the collection, use and disclosure of disaggregated police data.²
- 6 The Ministry of Public Safety and Solicitor General should establish provincial data retention schedules in consultation with a Community Governance Board (or via community engagement prior to the establishment of a Community Governance Board) and require all police services to maintain disaggregated and de-identified data in data warehouses for research and other legitimate purposes.
- 7 The capacity of the Office of the Information and Privacy Commissioner for B.C. should be expanded to enable the investigation of complaints or concerns about the collection, use or disclosure of data covered by the provincial policing data standard.

Street checks

- 8 The Ministry of Public Safety and Solicitor General should amend Provincial Policing Standard, 6.2 Police Stops (or subsequent standards that relate to police stops) to reduce the exercise of discretion, ensure accountability for police actions and ensure that information is collected only for the purposes of accountability, as detailed on page 47 of these submissions.

- 9** The Ministry of Public Safety and Solicitor General should implement an Unbiased Policing Standard specific to traffic stops. This standard should expressly address conducting traffic stops without bias by requiring all police services to have a policy that minimizes officer discretion in proactive policing practices like sobriety checkpoints.

De-tasking the police

- 10** The B.C. government should work with all levels of government including Indigenous, federal, provincial and municipal governments to establish a framework to redirect funding from police budgets and to invest in civilian-led services for people experiencing mental health and substance use crises, homelessness and other challenges that could be satisfied through increased social service provision rather than a criminal justice response.
- 11** The Ministry of Public Safety and Solicitor General should adapt 9-1-1 services to ensure police are only involved in responding to people experiencing a mental health crisis as a last resort and not as the default first-responders. More details are set out on page 58 of these submissions.
- 12** The B.C. government should make significant investments in civilian-led (i.e., led by community-based agencies rather than by police or health authorities) mental health and substance use services including:
- establishing urgent response centres staffed by multidisciplinary teams that include mental health clinicians, nurses, social workers and peer workers who can provide wraparound support that extends beyond the medical model of diagnosis and treatment
 - increasing investments in complex care housing and substance use treatment for people with severe mental health and substance use needs. More details are set out on page 58 of these submissions
- 13** The B.C. government should address the intersection of policing, homelessness, mental health and substance use when developing the provincial homelessness strategy.
- 14** School boards should end school liaison officer (SLO) programs unless they can demonstrate an evidence-based need for them that cannot be met through other means. In making this assessment, school boards must centre the impact of continuing SLO programs on Indigenous, Black and other student populations.
- 15** The psychosocial and educational roles of SLOs should be re-assigned to civilians with experience in coaching and leading other extracurricular activities, child and youth counselling, trauma-informed practice, sexual assault prevention, substance use education and bullying prevention. The funds and resources which would otherwise go to SLO programs should be redirected to civilians to fulfill these roles.

Police accountability

- 16** The Ministry of Attorney General should provide funding for legal advocacy programs, including legal aid, to provide advice and representation to people involved in complaints or investigations by the Civilian Review and Complaints Commission for the RCMP (CRCC), Independent Investigations Office (IIO), Office of Police Complaints Commissioner of British Columbia (OPCC) and the BC Human Rights Tribunal.
- 17** The Ministry of Public Safety and Solicitor General should develop a plan and timeline to achieve the goal of complete civilianization of the IIO as soon as possible.
- 18** The OPCC should develop a plan and timeline to achieve the goal of complete civilianization of the OPCC as soon as possible.
- 19** The Ministry of Public Safety and Solicitor General should develop a plan and timeline to require the CRCC (when responding to B.C. complaints) to move towards the goal of complete civilianization as soon as possible.
- 20** The Ministry of Public Safety and Solicitor General should ensure that either the RCMP are brought under the jurisdiction of the OPCC, as recommended by the Commission of Inquiry into Policing in B.C., or that the law and complaint processes for the OPCC and the CRCC are harmonized.
- 21** The Ministry of Public Safety and Solicitor General should expand the mandate of the OPCC to enable the OPCC to investigate complaints itself, assume the responsibility for any investigation or refer complaints to the IIO for investigation. If the OPCC's authority is expanded, OPCC staff must be provided with necessary training.
- 22** The Ministry of Public Safety and Solicitor General should use its regulation making authority in s.74(2)(t.4) of the *Police Act* to immediately expand the IIO's mandate to include sexual assault investigations. If the IIO's authority is expanded, IIO investigators must build expertise on the dynamics of gender-based violence.
- 23** The recommendations made by Battered Women's Support Services to SCORPA for government to undertake a comprehensive evaluation of police responses to domestic violence and sexual assault should be adopted.
- 24** The Attorney General should take steps to amend B.C.'s *Human Rights Code* to include social condition and Indigenous identity as protected grounds.
- 25** The *Police Act* should be amended to ensure that police boards are representative of the communities they serve and specifically of communities who are disproportionately impacted by policing, including by requiring every police board to have Indigenous representation.

- 26** The Ministry of Public Safety and Solicitor General should work with the RCMP in B.C. to establish local civilian police boards or councils for different areas of the province.
- 27** The Ministry of Public Safety and Solicitor General should develop additional public reporting requirements for police boards to improve police board transparency and accountability.
- 28** The B.C. government should establish a robust and well-funded Indigenous civilian police oversight body (or branches within established reputable civilian oversight bodies within a jurisdiction), which must include representation of Indigenous women, girls and LGBTQ2SAI+ people, inclusive of diverse Indigenous cultural backgrounds, as called for in the final report of the Inquiry into Missing and Murdered Indigenous Women and Girls. The Indigenous civilian oversight body should have the powers set out in more detail on page 71 of these submissions.
- 29** Until the provincial government establishes Indigenous civilian oversight bodies, a civilian monitor should be appointed for every investigation into an incident that results in death or serious harm to an Indigenous person. The government should remove any barriers to their effective participation.

In the name of human rights, equality, safety and justice, the Human Rights Commissioner urges the Select Standing Committee on Reforming the Police Act — and, subsequently, the Government of British Columbia — to adopt these recommendations alongside the important submissions of many others, and not to shy away from reimagining the role of police in our province.



Introduction

From mental health to the opioid crisis, from homelessness to poverty, the police have become the answer to a wide range of community safety issues. As a result, the range of policing activities has increased, all too often at the expense of Indigenous, Black and racialized communities, people with low incomes and those experiencing substance use and mental health issues.

In the face of widespread critique of police for racial profiling and disproportionate uses of force, there is a growing interest in changing the dominant model of community safety.³ At the same time, racism is institutionally entrenched and despite new programming, policies and promises, change is slow in coming.

Our recommendations for police reform are based on four key premises:

- that policing in this country is rooted in colonial mandates to control Indigenous people in order to bring settlers onto the land⁴
- that the primary purpose of policing is to promote and protect community safety
- that discriminatory policing undermines rather than protects communities, or conversely that equity is essential to community safety
- that police reform is both possible and essential

Who we are

BC's Office of the Human Rights Commissioner (BCOHRC) envisions a province free from inequality, discrimination and injustice where we uphold human rights for all and fulfil our responsibilities to one another. We strive to address the root causes of these issues by shifting laws, policies, practices and cultures and do this work through education, research, advocacy, inquiry and monitoring.

The role of B.C.'s Human Rights Commissioner was established as an officer of the Legislature in 2019 by the Legislative Assembly of British Columbia. Commissioner Kasari Govender was appointed to lead the creation of the new organization and carry out the mandate of the Office. She began her five-year term in September 2019.

Why we are doing this work

The year 2020 was marked not only by a global pandemic but also by global protests against systemic racism. While many Indigenous and Black people have been drawing attention to these issues for years, recent incidents of police brutality have sparked widespread awareness of systemic racism in our institutions and increasingly loud calls for change.

It is in this context that the Legislative Assembly of B.C. appointed the [Special Committee on Reforming the Police Act](#) (SCORPA) to conduct a broad inquiry into policing and related systemic issues in B.C. The Human Rights Commissioner made oral submissions to SCORPA on Feb. 11, 2021. This document presents our written submissions to this Committee and makes our recommendations public.

Through these submissions we recommend reforming a range of policing activities in B.C. in order to reduce systemic discrimination and improve safety — by improving equity — for the people of B.C.

How we are doing this work

In preparation for these submissions, we conducted research and multiple consultation sessions. Between fall 2020 and summer 2021, we spoke to 22 community and academic experts through both roundtables and one-on-one consultations. BCOHRC's work is grounded in both a human rights-based and decolonizing approach, which include ensuring that community members are seen and listened to as experts in their own lives and fields of practice. Several community-based and academic experts⁵ also reviewed the draft submissions and provided feedback that was considered and incorporated into the submissions as appropriate. We are grateful to those who supported this work, including through gifts of wisdom, expertise and time.

In early 2021, the Human Rights Commissioner sent information requests to all police services in B.C. asking them to confirm the types of demographic data they collect for various policing activities.⁶ Every police service in B.C. is required to use the Police Records Information Management Environment (PRIME), also known as Versadex, as its record management system.⁷ Police services explained that they collect data for law enforcement purposes, to ensure public safety, to support the identification of and communication with individuals and to report to Statistics Canada's Canadian Centre for Justice Statistics. Police services collect demographic information from victims, witnesses and those accused of crimes or violations of the law, and record demographic information based on the perception of officers. In other words, the demographic data is a combination of self and third-party reporting and includes external perception of identity factors such as race.

In April 2021 the Commissioner sent detailed data requests to five police services: Vancouver Police Department, Nelson Police Department and the Surrey, Duncan and Prince George RCMP detachments. The Commissioner chose these police services as they represent different sized communities in distinct parts of the province with varying demographic populations. The Commissioner requested demographic data for a 10-year period on mental health/well-being checks, arrests and detentions and strip searches.

All five police services provided data for mental health/well-being checks, arrests and detentions and strip searches. The Commissioner is grateful to the staff of the Vancouver Police Department, Nelson Police Department and the RCMP E-Division for their significant work in responding to our requests and preparing the data for release.

We retained criminology experts Professors Akwasi Owusu-Bempah, Assistant Professor in the Department of Sociology at the University of Toronto, and Dr. Scot Wortley, Professor at the Centre for Criminology & Sociolegal Studies at the University of Toronto, who have particular expertise in race based policing data to assist us in preparing the data requests and to analyze the responses. A link to the report on policing data is provided in [Appendix B](#).

In July and August 2021, we provided the five police services who responded to our detailed data requests with time to review Professor Wortley's data analysis for the purposes of administrative fairness. Professor Wortley considered their feedback and incorporated it where appropriate.

After BCOHRC received the Racial disparities in British Columbia police statistics report in September 2021, we invited Indigenous Nations whose territories intersect with the police jurisdictions studied as well as several community organizations to share their views on the release of the report. Overwhelmingly, those who responded were in favour of the data being released.



Inequality in B.C.'s policing system

What is systemic racism?

Racism is not necessarily the product of overt actions between individuals. It does not require hatred or even explicit discrimination. Sometimes, even when people are well intentioned, the laws and structures of our society produce consistently discriminatory outcomes for Indigenous and racialized peoples, which is known as systemic racism.

Human rights law has long acknowledged that what appear to be neutral standards, rules or practices, may be discriminatory. This is so even if those standards are established for sound social or economic reasons and even if they seem to be applied equally. If those seemingly neutral standards affect, for example, Indigenous or Black people differently from others, then the standards may well be discriminatory and unjustifiable. In law, this is known as adverse effect discrimination. Some, but not all, of what we talk about when we talk about systemic discrimination in policing involves adverse effect discrimination.

In *Radek v. Henderson Development (Canada) and Securiguard Services (No. 3)*, the BC Human Rights Tribunal adopted the following definition of systemic discrimination:

“Discrimination... means practices or attitudes that have, whether by design or impact, the effect of limiting an individual’s or a group’s right to the opportunities generally available because of attributed rather than actual characteristics... It is not a question of whether this discrimination is motivated by an intentional desire to obstruct someone’s potential, or whether it is the accidental by-product of innocently motivated practices or systems. If the barrier is affecting certain groups in a disproportionately negative way, it is a signal that the practices that lead to this adverse impact may be discriminatory.”⁸

Systemic discrimination on the basis of race is systemic racism.

The issue is not whether there are a few bad apples or even many bad apples who work as police officers in B.C., although racist behaviour of individual officers can be evidence of larger issues of systemic racism in the institutional culture. The issue is whether practices or attitudes within B.C.'s police services have, whether by design or impact, the effect of violating human rights of certain racialized groups, including by disproportionately over policing certain communities or through the disproportionate use of force on certain populations.

There are several factors that can contribute to systemic racism, including implicit and explicit bias, structural design, cultural dominance or ethnocentrism and the failure to address historical wrongs. For example:

- On **implicit and explicit bias**: The Ontario Human Rights Commission (OHRC) recently found that Black people in Toronto are grossly overrepresented in discretionary, lower-level charges and are more likely than white people to face low-level charges with a low probability of conviction. For example, despite making up only 8.8 per cent of Toronto’s population, Black people represented 35.2 per cent of people involved in “out-of-sight” driving charges (such as driving without valid insurance), which are charges that only arise after a stop has already taken place, suggesting other motives for the stop such as implicit or explicit bias.⁹
- On **structural design**: In Surrey, a partnership between the City, the School District and the RCMP is designed to identify students at risk of gang activity. The project includes entering factors such as whether the student’s peer group is “uni- or multi-ethnic” and whether they were “hanging out with the wrong crowd” into a database.¹⁰ Using this type of information to train algorithms or as input data to generate forecasts about people that police may act on builds in problematic bias to the structure of the technology. Policy and procedures can be overtly designed in a discriminatory way or they can have that effect by implication.
- On **cultural dominance or ethnocentrism**: In sentencing an Indigenous offender in 2018, a judge of the Alberta Queen’s Bench noted: “She is in a system which is imposed upon Aboriginal people, and I use that word deliberately. Our history, in relation to Aboriginal people, is one of deliberate destruction. We have systematically destroyed their culture, their way of living. We have done everything we can to take from them their sense of spirituality and identity.”¹¹
- On the **failure to adequately address historical wrongs**: The First Nations Leadership Council have noted the importance of recognizing that, historically, police have played a role in perpetrating cultural genocide against Indigenous peoples. Over-enforcement and police brutality towards Indigenous peoples remain major concerns and systemic bias and the power imbalance between police and Indigenous peoples is “deeply entrenched and undeniable.”¹²



How do we know it exists in policing in Canada and B.C.?

Systemic racism in policing in Canada is well documented. The Supreme Court of Canada has recognized that we—Canadians—“have arrived at a place where the research now shows disproportionate policing of racialized and low-income communities.”¹³ In August 2020, when the OHRC released its second interim report in its inquiry into racial profiling and racial discrimination against Black people by the Toronto Police Services (TPS), Chief Commissioner Ena Chadha said:

“The time for debate about whether systemic racism or anti-Black racism exists is over. It is time to come together to change law enforcement institutions and systems that produce such disproportionate outcomes—community trust and safety, especially the safety of Black lives, depend on it.”¹⁴

Similarly, the Canadian Association of Chiefs of Police stated:

“We have study after study, including government-commissioned reports, that demonstrate we have an issue with systemic racism throughout our justice system, which includes our legal system, our courts and our police services.”¹⁵

The time for debate about the existence of systemic racism in policing in B.C. is also over. The evidence of discrimination in police services across Canada is prolific.

For example, the National Inquiry into Missing and Murdered Indigenous Women and Girls found:

- Indigenous women are vastly more likely to become involved in the criminal justice system compared to non-Indigenous women due to over-policing. For instance, while Indigenous women make up four per cent of the general population of Canada, they make up nearly 40 per cent of all federally sentenced women.¹⁶
- often, Indigenous people are treated as perpetrators and offenders. When crimes occur against Indigenous people, they do not receive the same access or outcomes as non-Indigenous people.¹⁷

The OHRC found that systemic racism is evident in the areas of street checks, use of force, proactive policing and arrests. Black people are significantly overrepresented in all use of force cases involving the Toronto police. For example, Black people were significantly overrepresented in investigations of serious injury, death or allegations of sexual assault by police relative to their representation in the general population. Between 2013 and 2017, a Black person in Toronto was nearly 20 times more likely than a white person to be involved in a fatal shooting by the police.¹⁸ Perhaps most shocking to non-Black Canadians, we also know from the OHRC’s work that the likelihood of a Black person being shot by police in Toronto is just as high as for a Black person in the average city in the United States.¹⁹

The significant overrepresentation of Black people in these incidents, as well as their gross overrepresentation in lower-level use-of-force incidents, cannot be explained by factors such as patrol zones in low-crime and high-crime neighbourhoods, violent crime rates and/or average income. The overrepresentation remained constant and significant even after controlling for these factors, suggesting that race was a much stronger predictor of police use of force.

Racial profiling is not just a problem in Ontario. The Nova Scotia Human Rights Commission found that within the Halifax region, Black people are grossly overrepresented in police street check statistics. Although overall street check numbers have declined significantly in recent years, racial disparities have not diminished and could not be explained by group-related age differences, criminal history or residential location. In fact, the street check rates for Black people are higher in predominantly white communities than communities with a relatively high Black population.²⁰ Analysis revealed very little evidence to support the argument that street checks lower crime. If anything, in Halifax, at the aggregate level of analysis, increased street check activity is related to small but statistically significant increases in both crime-counts and crime severity.²¹

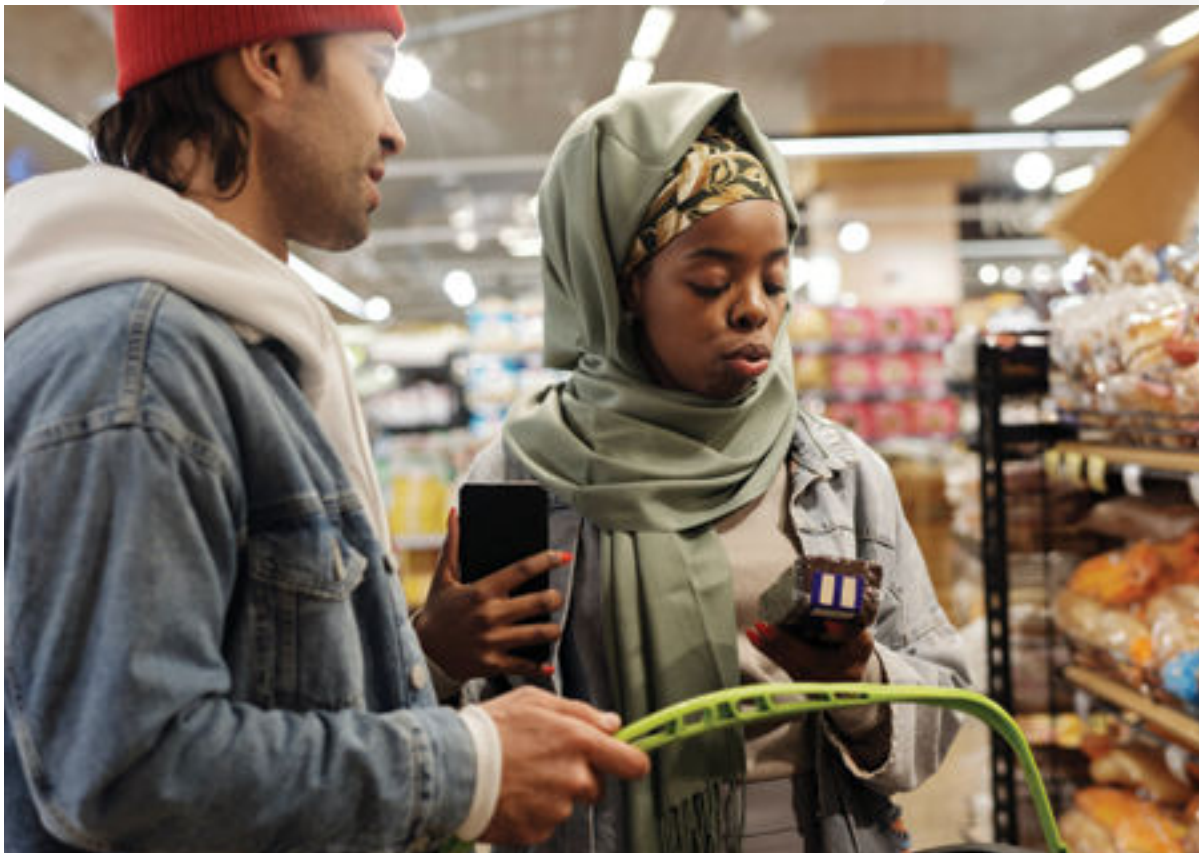
Here in B.C., a number of indicators and high-profile examples reveal the same problems:

- In 2013, Human Rights Watch documented extensive reports of physical and sexual abuse of Indigenous women and girls by police officers in Northern B.C. going back decades. Given police powers and the fear of retaliation against Indigenous women and girls, these cases are likely under-reported.²²
- The CBC maintains a “deadly force” database, which shows that Indigenous and Black people continue to be overrepresented in police-involved deaths in B.C.²³ According to CBC’s research, B.C. has the highest rate of police-involved deaths in the country.
- A 2019 human rights case illustrates many of the contributing factors to systemic racism: unconscious bias, cultural disconnect and failure to recognize historical context. In *Campbell v Vancouver Police Board (No. 4)*, the BC Human Rights Tribunal found that Ms. Campbell, an Indigenous woman and mother, was discriminated against by the Vancouver Police Department on the basis of race. Amongst other things the Tribunal wrote:²⁴
 - the actions of the police towards Ms. Campbell had the effect of perpetuating historical disadvantage against her as an Indigenous person
 - the officers who dealt with her that night were not equipped to understand her unique needs and circumstances as an Indigenous mother [including the historic abuses of Indigenous people by the police and other government agencies]
 - the officers drew on subconscious stereotypes to assess her as suspicious, possibly criminal and a threat to their mission. Their reaction to her was disproportionate and made matters worse

- On May 14, 2021, retired BC Supreme Court Justice Selwyn Romilly, a Black man, was wrongfully detained and handcuffed by Vancouver Police Department (VPD) police officers while out for a morning walk on Vancouver’s seawall.²⁵ Vancouver Mayor Kennedy Stewart, who is also the Chair of the Vancouver Police Board, responded that “such incidents are unacceptable and cannot continue to happen... I want to say again, all of our institutions are based on colonialism and as such, are systemically racist. This includes the City of Vancouver and the Vancouver Police Department. We must continue to acknowledge this reality and do our best to combat racism — especially in our government institutions.”²⁶ In contrast, despite the fact that the description of the suspect that police were looking for was 30–40 years younger than Romilly, VPD Chief Adam Palmer maintained that systemic racism isn’t evident in Canadian policing.²⁷ BC’s Office of the Police Complaint Commissioner asked the Vancouver Police Board to review the incident. At the time of writing, the Vancouver Police Board is investigating the incident.²⁸

“As police leaders, we must go beyond verbal affirmations. I, along with a consortium of the willing, are making bold and meaningful changes. We understand that the willingness to step out, implement changes, to drive out systemic racism without fear of failure is required and expected.”²⁹

— Peel Regional Police Chief Nishan Duraiappah



B.C. police data reveals disturbing racial disparities

The data examined from police services in B.C. demonstrates that racial disparities do exist in policing in B.C. Professor Wortley details various limitations of the policing data in Methodology and on pages 8–12 of his report.

Key findings from the data received from the Vancouver and Nelson Police Departments and Surrey, Duncan and Prince George RCMP include:³⁰

- Indigenous people are grossly overrepresented in arrests/chargeable incidents involving both the Vancouver Police Department and the Prince George RCMP. Indigenous people are significantly overrepresented in chargeable incidents involving the Nelson Police Department, the Surrey RCMP and the Duncan/North Cowichan RCMP.
- Black people are grossly overrepresented in arrests statistics involving the Vancouver Police Department. Black people are also significantly overrepresented in chargeable incidents involving both the Surrey and the Nelson Police Department. By contrast, they are underrepresented in chargeable incidents involving the Prince George RCMP. Their representation in chargeable incidents involving the Duncan/North Cowichan RCMP is approximately equal to their representation in the general population.
- Although they represent a relatively small segment of the population, Arab/West Asian people are grossly overrepresented in Duncan RCMP chargeable incidents and significantly overrepresented in arrests/chargeable incidents associated with Vancouver, Surrey and Prince George.
- Hispanic people are significantly overrepresented in arrests/chargeable incidents in both Vancouver and Surrey but underrepresented in chargeable incidents involving the Prince George RCMP.
- White people are underrepresented in chargeable incidents involving both the Prince George and Duncan/North Cowichan RCMP. Their representation in arrests/chargeable incidents involving the other three police jurisdictions is equal to their presence in the general population.
- Asian and South Asian people are significantly underrepresented in arrest/chargeable incident statistics across all the police jurisdictions in B.C. included in this study.
- Indigenous people are also grossly overrepresented in mental health-related incidents involving the Vancouver Police and the Surrey RCMP. They are significantly overrepresented in cases involving the Prince George RCMP.
- Black people are grossly overrepresented in mental health incidents involving both the Vancouver and Nelson Police Departments. They are significantly overrepresented in cases involving the Surrey RCMP.
- People of Arab/West Asian background are significantly overrepresented in mental health incidents involving the VPD, Surrey RCMP, Prince George RCMP and Duncan RCMP.
- Across all police jurisdictions, the representation of white people approximates or equals their representation in the general resident population.

- Both Asians and South Asians are significantly underrepresented in mental health incidents involving all five of the police jurisdictions in the current study.
- Black people are grossly or significantly overrepresented in strip searches involving all five police jurisdictions.
- Indigenous people are grossly overrepresented in strip searches involving the Vancouver Police Department. They are also significantly overrepresented in strip searches involving Prince George RCMP.
- Both Hispanic and Arab/West Asian people are significantly overrepresented in strip searches involving the VPD, the Surrey RCMP and the Prince George RCMP.
- Across jurisdictions, white people are either underrepresented in strip searches or their representation is equal to their presence in the general resident population.
- Across jurisdictions, Asians and South Asians are significantly underrepresented in strip search statistics. However, in Vancouver, the representation of South Asians is equal to their presence in the general population.
- The overrepresentation of Indigenous, Black and other people of colour (IBPOC) in strip search statistics is largely explained by their overrepresentation in arrests. However, even after benchmarking for the arrested population, Black people are overrepresented in strip searches involving the Vancouver Police Department, the Surrey RCMP, the Prince George RCMP and the Duncan RCMP. Hispanic and Arab/West Asian people also remain overrepresented in strip searches involving the Prince George RCMP.
- Indigenous and Black people are significantly overrepresented in arrests involving a broad range of offences. Both are far more represented in common, public disorder offences and administration of justice charges than crimes involving serious violence. These findings point to the prominent role the police play in enforcing public order and how this type of law enforcement can lead to the disproportionate criminalization of IBPOC people. The gross overrepresentation of Indigenous and Black people in administration of justice charges further demonstrates how initial contact with the justice system can lead to further criminalization and a cycle that is difficult to escape.
- It is well known in the research literature that women tend to be significantly underrepresented in police arrest statistics. However, in the current study Indigenous women emerge as a glaring exception to this general rule. Compared to their presence in the general population, Indigenous women are grossly overrepresented in arrests involving the Vancouver Police Department. They are also significantly overrepresented in arrests involving both the Surrey and Prince George RCMP. Within these jurisdictions, the arrest rate for Indigenous women significantly exceeds the arrest rates for white, Asian and South Asian males. Within all jurisdictions, the arrest rate for Indigenous women greatly exceeds the arrest rate for white women and women from all other racial backgrounds.

“The results of this examination are disturbing. Indigenous and Black people are either grossly or significantly overrepresented in British Columbia arrest statistics. Hispanic and Arab/West Asian people are also overrepresented in many police jurisdictions. Furthermore, the data indicate a great deal of police activity involves people suffering from mental health issues... Regardless of the cause, the overrepresentation of Indigenous, Black and other people of colour in police statistics is a problem that can no longer be ignored. Both government and police officials must make the reduction of racial disparities a priority.”

—Dr. Scot Wortley, Racial disparities
in British Columbia police statistics

The racial disparities outlined above are not necessarily only the product of bias in policing practices themselves, as systemic racism within many systems leads to the over criminalization of people who are Indigenous, Black or otherwise marginalized. Although examining the causes of the significant racial disparities was outside the scope of the study, Professor Wortley discusses three theories from criminology research: the bias thesis — in which the overrepresentation of Indigenous, Black and other people of colour in police statistics is attributed to discriminatory treatment by police and others in the criminal justice system — the civilian bias thesis — in which civilian racial biases may make the police more aware of incidents involving Indigenous, Black and people of colour and ultimately impact arrest statistics — and the offending thesis — in which the higher rates of offending by Indigenous, Black and people of colour are a result of a complex array of factors including colonialism and slavery rather than inherent characteristics. As noted by Professor Wortley, higher rates of criminality among racialized communities are not the result of inherent or behavioural tendencies, as such overtly racist theories have been completely discredited by the scientific community.

While it is not easy to isolate the cause of these significant disparities in policing outcomes, we have clear data that shows in some circumstances the problem lies in the bias of police officers. This can be seen, for example, in the exercise of discretion in both reactive and proactive policing measures. We also have clear data that the long-term impacts of colonization, immigration policies, systemic racism in the education system, labour force inequities, intergenerational trauma and other embedded social inequities lead to greater involvement of some communities in the criminal justice system.

We also know that regardless of the confluence of factors, police services — alongside other actors in the justice system and across government — have an obligation to proactively tackle systemic inequalities that impact Indigenous and Black people in particular (and other groups as detailed in the data analysis). Until all of us are safe and equal, none of us are safe and equal. We cannot claim to live in a human rights-respecting society when the use of coercive, traumatic, liberty-denying and sometimes fatal practices of police officers are disproportionately burdening certain communities because of the colour of their skin and the origin of their ancestors. Regardless of the source, inequities too often are revealed through the exercise of police power and therefore police bear a significant burden to address them.



The dangers of discriminatory policing

Disproportionate impacts of policing—including use of force—on Indigenous and Black people cannot be justified by a “tough on crime” agenda. Simply put, racial profiling does not make us safer; rather, systemic racism in policing undermines community safety. There are a number of reasons for this:

- When police are blinkered by stereotypes, their ability to run effective investigations is hampered.
- When police resources are spent addressing social issues such as health care, their attention is taken away from policing.
- When social issues such as mental health issues are dealt with from a law enforcement perspective instead of a health perspective, we neglect the health of those who require medical treatment and the mental health of our communities suffers, particularly among the most marginalized.
- When marginalized people do not trust that police will respect their human rights or their communities’ rights, or if police are not held to account if they fall short of human rights standards, marginalized people will be less likely to report crimes against them, including violent crimes.
- When Black and Indigenous people disproportionately face criminal sanctions, they also disproportionately face the long-term negative impacts of these penalties on their mental health, employment prospects and family relationships.

We also need to recognize that Indigenous, Black and other racialized individuals experience significant and long-term harm, intergenerational trauma and mental health impacts as a result of police interaction and becoming involved in the criminal justice system.

Racial profiling is both unjust and contrary to law. But there may be an even simpler argument against it: equity keeps us safer.

The Commissioner is heartened to see the recently released, but not yet in effect, Provincial Policing Standard 6.1: Community Partnerships and Equitable Policing, which is applicable to all police services in the province. The Standard describes its purpose as seeking “to provide consistent pathways for advancing equitable and unbiased policing throughout the province by requiring policies and procedures, training, audit activity and community engagement. The Standard will provide a basis for auditing and oversight by the Director of Police Services pursuant to Section 40(1) of the *Police Act*.”³¹ However, the Commissioner is concerned that the records identified, discretion embedded in the Standard and the frequency of review are inadequate to understand the nature of systemic discrimination and the impact of future interventions on achieving equitable policing in British Columbia.



Realizing B.C.'s obligations to Indigenous peoples

“The Police Act reform occurs at a pivotal time. Policing and justice institutions in B.C. and across Canada have been challenged to reckon with disturbing levels of systemic injustice and discrimination. The gravity of this committee’s mandate cannot be overstated. For Indigenous people, it is literally a matter of life and death.”

— Kukpi7 (Chief Judy Wilson) from Sk’atsin of the Secwépemc Nation on behalf of the Union of BC Indian Chiefs³²

Indigenous people are acutely aware of systemic racism in policing because they live with it. The data in our submissions starkly confirm the consistent gross overrepresentation of Indigenous people across different policing activities in the province. This fact alone requires a review of the *Police Act* through the lens of the *Declaration on the Rights of Indigenous Peoples Act* (*Declaration Act*), which the Legislative Assembly of B.C. passed into law in November 2019.³³ The *Declaration Act* establishes the *UN Declaration on the Rights of Indigenous Peoples (UNDRIP)*³⁴ as the province’s framework for reconciliation and requires, among other things, government to take “all measures necessary” to align provincial laws with *UNDRIP*.

Yet, in April 2021 the Indian Residential School History and Dialogue Centre at the University of British Columbia noted that “to date, in British Columbia, little visible progress can be seen on the implementation of the consistency of laws requirement in section 3.”³⁵ They note “there is a legal risk of side-stepping the clear obligation the Government of British Columbia and Legislative Assembly confirmed in Section 3, and re-igniting a new front in the seemingly endless necessity for Indigenous Peoples to fight in the courts to have basic legal imperatives implemented. More importantly, there is the social risk of escalating conflict and uncertainty as the promise of a new era of reconciliation is broken by old patterns of government inaction and intransigence.”³⁶

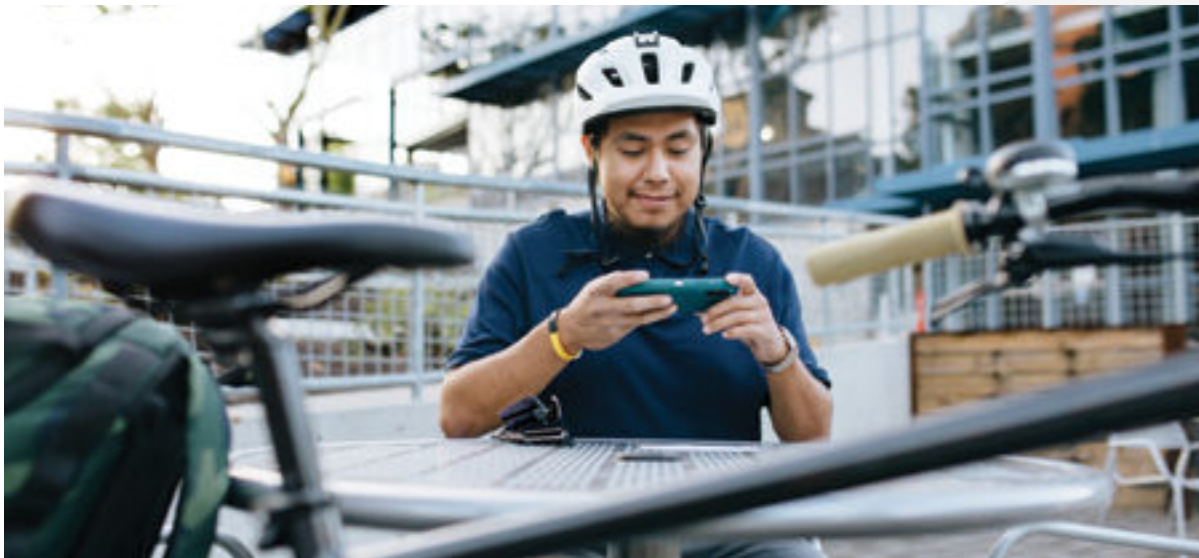
The Commissioner strongly urges the government to heed the call of numerous Indigenous presenters before SCORPA to honour the Province’s legal obligation and ensure that the *Police Act* is aligned with *UNDRIP*.³⁷

Based on the findings in these submissions, there is no doubt of the significant historic and ongoing impact of inequitable policing practices on the lives and rights of Indigenous people in B.C. and the rising urgency of applying the *Declaration Act* to *Police Act* reforms. The provincial government has recognized this need in drafting its action plan on implementing the *Declaration Act*, where it suggests that it will develop comprehensive policing reforms to address widespread concerns about systemic biases and racism within policing, including updating the *Police Act* and Provincial Policing Standards.³⁸ In addition, the recent Report of the Standing Committee on Public Safety and National Security recognized the elimination of systemic racism and discrimination against Indigenous peoples by police and the justice system should be considered a key and fundamental pre-condition of reconciliation with Indigenous peoples and is in keeping with *UNDRIP*.³⁹

The work required is not just consultation, but a new way of working with Indigenous peoples. It requires the province to meaningfully engage with Indigenous peoples on a government-to-government basis in legislative and policy development. It requires consent-based decision making. The Commissioner is concerned that if the B.C. government does not engage Indigenous peoples on a government-to-government basis in *Police Act* reform, it runs the real risk of jeopardizing the legitimacy of the provincial government's commitments to reconciliation and *UNDRIP*, commitments that are mandated by law.

Recommendations:

- 1 The B.C. government should work with Indigenous peoples on a government-to-government basis on legislative amendments to the *Police Act*.
- 2 The B.C. government should provide funding to enable Indigenous peoples to be partners in *Police Act* reform.





Disaggregated data

What is the issue?

Over the past year, there have been unprecedented calls for greater police transparency, including calls for the collection of race-based and other disaggregated demographic data. In B.C., disaggregated demographic data, including race-based data, about police incidents is not readily available, including for research purposes. However, the Attorney General is working with the Human Rights Commissioner and other stakeholders to introduce legislation that will “help reduce systemic discrimination and pave the way for race-based data collection essential to modernizing sectors like policing, health care and education.”⁴⁰

Disaggregated demographic data — information that tells us whether certain groups are disproportionately over policed, for example — can be essential to addressing systemic racism. We cannot act on what we do not know. However, data must only be collected with the purpose of addressing systemic racism and promoting equity, and it must be done in a manner that is respectful of the individuals and groups whose data is being collected.

What is disaggregated data?

Disaggregated data is data that provides sub-categories of information, for example by racial group, gender, age or mental disability. These are sometimes called demographic categories. Unlike aggregated data, which groups all demographic information together, disaggregated data can reveal inequalities and relationships between categories.

While collecting race-based data is critical, the Commissioner’s view is that we must collect more than just race-based data in order to realize the objective of reducing systemic discrimination. Olena Hankivsky, a professor at Simon Fraser University’s School of Public Policy, notes, “according to an intersectionality perspective, inequities are never the result of single, distinct factors. Rather, they are the outcome of intersections of different social locations, power relations and experiences.”⁴¹

The human rights crisis of missing and murdered Indigenous women and girls cannot be fully understood or addressed, for instance, if framed solely as an issue of racial oppression. Instead, we must understand how race, gender, disability and class intersect in these women’s lives and contribute to their experience of oppression, limitations in access to justice and supports and increased exposure to harm. We must build intersectionality into the approach to “avoid reductionistic approaches to people’s experiences, their identities and social inequalities and to provide for more accurate information to draw from in policy, practice and law.”⁴²

While we must not lose sight of this intersectional approach, the focus of these recommendations is the collection of data relating to race.

Why does it matter?

The purpose of collecting race-based and other demographic police data is to identify and monitor racial and other disparities in order to identify solutions to eliminate systemic racism and advance equity in policing.

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 in the context of the powers police exercise.⁴³

— Toronto Police Services Board

As First Nations Data Governance Champion Gwen Phillips says, “we are not measuring race, we are measuring racism. Racism is a systems failure; that must be made clear when talking about race-based data.”⁴⁴

Collecting disaggregated data has the following benefits for policing in B.C.:

- **It helps us understand the problem:** Disaggregated race-based police data will help illuminate problems with policing policies and practices that may result in racist outcomes.
- **It leads to good policy:** To move towards unbiased policing and effectively protecting community safety, we need data so we can define informed solutions to address the root causes of disparities or discrimination. Policies, practices and laws based on silence and omissions in data can cost human lives and damage human rights and human well-being.
- **It leads to dialogue:** The collection, use and disclosure of demographic data can serve as a basis for dialogue between community groups and police services, helping to identify issues of mutual concern and providing an evidence base to advocate for change.
- **It makes us safer:** Measuring racism is a critical step towards making communities safer because it will reveal where there are disparities in policing activities and enable informed solutions to address the root causes of disparities or discrimination. This in turn will not only help to address the overrepresentation of Indigenous and Black people in the criminal justice system but it will also result in an improved sense of safety for individuals who have been subject to biased policing.

Collecting disaggregated data can be an effective tool to help address systemic racism in policing. For example, in 2013 the City of Ottawa developed a study of police traffic stops that showed Black and Middle Eastern drivers were stopped at disproportionately higher rates than other ethnic groups surveyed. After the results were released, the police service created a multi-year action plan to address the problem.⁴⁵ In New York City, after the New York Civil Liberties Union analyzed racial disparities in “stop and frisk” data and the Federal District Court ordered reforms and further data collection, stops decreased by 98 per cent without any increase in crime.⁴⁶



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How can it go wrong?

“If you don’t do something to actually address the racism, you’re just documenting it better.”

— *Robyn Maynard, author of Policing black lives: State violence in Canada from slavery to present*⁴⁷

The risks associated with the collection, use and disclosure of race-based and other demographic data include:⁴⁸

- The collection of data relating to Indigenous people has often violated their data sovereignty by ignoring the right of Indigenous communities to own and control their own data.
- Disaggregated data can reinforce stigma and systemic oppression against marginalized people and communities. If, for example, a particular minority group is found to have a disproportionately high offending rate it could lead to further stereotyping of that group.⁴⁹
- Disaggregated data can be presented in ways that reinforce the idea that individuals and groups are to blame for their own marginalization by portraying them as lacking in some way or implying that identities are grounded in innate biological differences (rather than making racial divisions and associated stereotypes visible as social constructions).
- Disaggregated data has been used as a tool of oppression and surveillance over marginalized communities.
- While disaggregated data are usually de-identified or stripped of personal information, rapid advances in technology have led to a growing risk for the re-identification of data, raising privacy concerns.
- Over-researching social inequalities with little or no follow-up action to address those inequities can cause harm.

Without a strong community focused process and without clear and articulated goals around addressing systemic inequalities, there is more risk of disaggregated data doing harm.

What kind of data is already being collected?

In response to the Commissioner’s request for information on what data is currently collected, police services explained their right to collect information is not limitless. Police services explained they generally only collect demographic information when it is relevant to the case being investigated.

Municipal police services in B.C. are public bodies under the *Freedom of Information and Protection of Privacy Act (FIPPA)*. FIPPA authorizes the collection of personal information for the purposes of law enforcement. The RCMP are a government institution under the federal *Privacy Act* which authorizes the collection of personal information that directly relates to a police operating program or activity. There are other sources of legal authority for police services to collect personal information, including the common law. However, there does not seem to be consistency in the retention of such data across various agencies.

The police services reported that when an officer creates a report in PRIME, also known as a general occurrence report or a GO, the only mandatory demographic fields are name, age, sex and incident location. These fields are made mandatory by the software itself and not government or police policy.⁵⁰ When a police officer creates a GO report they may use information collected from victims, witnesses, the person accused of a crime or from the Computer Aided Dispatch (CAD) system operated by 9-1-1. This system has fields for name, sex, age and location of complainant. There is no field for race/ethnicity or mental health status in CAD, however 9-1-1 operators will ask for detailed descriptions of the subject of the complaint and/or victim for identification purposes.

All demographic fields in PRIME (other than name, age, sex and incident location), including “Dependency/Disability,” “Ethnicity” and “Mental Health Template,” are optional. Police officers may also enter additional information demographic information in free text in PRIME.

Within PRIME, there is a specific field for recording “Ethnicity.” The drop-down menu options include: Asian (this includes those sometimes classified as East Asian), Black, Caucasian/white, Hispanic, Indigenous (PRIME groups First Nations, Métis and Inuit people into a single category), Middle Eastern, South Asian, Other and Unknown.

Although race or ethnicity data is a discretionary field in PRIME, the amount of race-based data provided to the Commissioner’s Office was significant. Specifically:

- The Vancouver Police Department provided race data for 87.2 per cent of arrests, 91.7 per cent of mental health incidents and 96.4 per cent of strip searches.
- The Nelson Police Department provided race data for 95.9 per cent of chargeable incidents, 98.1 per cent of mental health incidents and 100 per cent of strip searches.
- The Duncan RCMP provided race data for 89.7 per cent of chargeable incidents, 93.3 per cent of mental health incidents and 100 per cent of strip searches.
- The Prince George RCMP provided race data for 98.2 per cent of chargeable incidents, 95.5 per cent of mental health incidents and 96.9 per cent of strip searches.
- The Surrey RCMP provided race data of 97 per cent of chargeable incidents, 96.4 per cent of mental health incidents and 100 per cent of strip searches.

Police services confirmed that demographic data is generally available for policing activities including street checks, well being checks, calls for service, strip searches and arrests and detentions. For use-of-force incidents, police services revealed some demographic data is collected, but it is not readily available for study or public access. For traffic stops, demographic data is generally not available unless it results in a violation ticket.

Individual police services may also have their own policies regarding data collection.⁵¹ Each police agency is responsible for the data it records in PRIME, including oversight and quality assurance.⁵² The differences among individual police policies on data management results in inconsistencies between police services.

Different types of RCMP records have different data retention schedules depending on the record. For example, the retention period for well-being and street check records is 24 months. The RCMP purges files from its operational data warehouse after a file is closed and the retention period has concluded, which means those records are no longer available to the RCMP or for research and study purposes. Using the example of well-being check records, if the RCMP were to run a report for well-being check data that is older than their 24-month retention period, the data would be incomplete. The further back the report goes beyond 24 months, the more records are missing because they have reached their purge date. Unlike other RCMP divisions in Canada, B.C. does not yet have a historical data warehouse. RCMP divisions in other provinces have a historical data warehouse in place where they retain information that has been stripped of personal information and approved for retention through a federal privacy impact assessment.

In order to provide the Commissioner with complete data sets, the RCMP provided two years of data related to chargeable incidents, mental health incidents data and strip searches for each jurisdiction requested. Providing additional years of data would have resulted in a distorted picture of what happened during that time because they are incomplete. By comparison both the Vancouver and Nelson Police Departments had a full 10 years of data available.

The Commissioner is very concerned that the RCMP, which is the largest police service in British Columbia responsible for policing approximately 70 per cent of the people in the province, does not currently retain data for research purposes after a file is closed beyond the date of retention periods established by the National RCMP, which in some cases are only 24 months. The Commissioner believes that the B.C. RCMP's failure to retain historical policing data for research and study purposes is deeply troubling as it contradicts principles of transparency and accountability in policing.

How can data make us safer?

Measuring and analyzing disaggregated data will make our communities safer by illuminating bias and enabling targeted responses to reduce systemic discrimination, racism and bias in policing.

“The exercise of police discretion... is a crucial factor in determining who comes into contact with the criminal justice system under what circumstances and what happens next. As front-line agents of the state, the police are the gateway to the justice system, and their discretionary decisions about who to stop, question and arrest have enormous impact on everything from perceived rates of crime, arrest statistics, rates of charge in criminal prosecution and, ultimately, who ends up being punished.”⁵³

— Dr. Benjamin Goold, Peter A. Allard School of Law,
University of British Columbia

Understanding how police discretion is exercised — as revealed by the data on the disproportionate impact of certain policing practices — will not only help to address the overrepresentation of Indigenous and Black people in the criminal justice system, but it will also result in an improved sense of safety for individuals who have been subject to biased policing.

Of course, data reveals more than bias: it also reveals the presence of other inequities described above flowing from the impact of colonization and systemic racism. Regardless of the source of the inequities revealed, data can lead to better policy, which will ultimately help make us all safer.

How can we do it better?

In the report [Disaggregated demographic data collection in British Columbia: The grandmother perspective](#), the Commissioner recommended a new framework for the collection, use and disclosure of disaggregated data that emphasizes the important differences between tools, process and purpose:

“Disaggregated data is merely a tool (to be utilized depending on the context and aim) and it must be accompanied by a process that supports the purpose of reducing systemic racism and oppression and achieving equity.

Without a well-defined and articulated process and purpose, there is more risk of disaggregated data doing harm... Disaggregated data as a tool should not be used without these foundations, and these principles of process and purpose must be applied at every stage of a disaggregated data initiative: collection, storage, use and disclosure.”⁵⁴

The report also quotes Dr. Kwame McKenzie, physician and full professor in the Department of Psychiatry at the University of Toronto, who emphasizes:

The collection of socio-demographic and race-based data is not an end in itself. It is one of many tools that may be used to promote... equity. The data needs to be appropriately analyzed as part of a clearly articulated plan for the development and implementation of equity focused interventions if it is to help reduce disparities.⁵⁵

The Commissioner recommended the government draft data legislation, namely an *Anti-Discrimination Data Act*, which would legislate the collection, use and disclosure of demographic data to advance equity and human rights. The Commissioner also recommended the development of a data governance model with Indigenous institutions and governments (based on nation-to-nation relationships) in support of self-determination and data sovereignty. This approach centres on the importance of establishing a strong relationship between government or other researchers and the affected community and is grounded in the concept of data sovereignty, in which communities lead decision-making as much as possible. This is the approach the Commissioner recommends in relation to the collection of disaggregated data by police services in British Columbia.

In [Disaggregated demographic data collection in British Columbia: The grandmother perspective](#), the Human Rights Commissioner recommended the greatest degree of community governance possible so that communities are active participants in deciding how the data about their own lives will be used to create positive change. Specifically, the Commissioner recommended the establishment of a Community Governance Board which would be empowered to make collaborative decisions with government on disaggregated data standards, including decisions on how data is collected, stored, used and distributed. These standards will include an overarching framework that will apply to the collection of disaggregated data across all areas of public service and have specific elements or distinct standards to be applied to different sectors such as policing.

Pending the establishment of the Community Governance Board, the Commissioner recommends the Director of Police Services engage with community to develop standards specific to the collection, use and disclosure of disaggregated police data. For greater clarity, the Community Governance Board will be engaged in this process through development of the data standards. The standards will be implemented by the police and the Office of the Information and Privacy Commissioner for B.C.'s mandate would be extended to investigate complaints about collection, use and disclosure of disaggregated data under the standards.⁵⁶



Recommendations:

- 3** The Ministry of Public Safety and Solicitor General should take steps to amend the *Police Act* to expressly authorize the police to collect race-based and other demographic data for the purpose of addressing systemic discrimination in policing.
- 4** The Ministry of Public Safety and Solicitor General should require the Director of Police Services to use the Indigenous data governance model and work with the Community Governance Board established under the data legislation to develop and oversee the disaggregated policing data standards.
- 5** Pending the establishment of a Community Governance Board, the Director of Police Services should engage with community and utilize an Indigenous data governance model to develop standards under s.40(1)(a.1)(vii) of the *Police Act* specific to the collection, use and disclosure of disaggregated police data.⁵⁷ Further to our recommendations in Disaggregated demographic data collection in British Columbia: The grandmother perspective, these standards should (if deemed appropriate in consultation with community):
 - require the purpose of the collection be defined. If police actions are rooted in stereotypes or bias, or if certain communities are overpoliced or face disproportionate levels of force, then this undermines community safety. Data collection and use must always be connected to the goals of equity and addressing systemic discrimination in policing
 - specify the relevant demographic categories and characteristics to be collected in PRIME. Very few demographic data fields are currently mandatory. This means data within the non-mandatory fields may or may not be collected, resulting in incomplete data sets. Additional demographic details are often written in free text in the incident reports, which is labour intensive to examine. The demographic fields in PRIME are critical because the data will only be as good as the available fields from which officers may choose
 - require the collection of perception data. The Commissioner recommends the collection of perception data because, for the purpose of addressing bias, the perception of race or ethnicity is more relevant than self-identified personal characteristics. The Community Governance Board may also consider the collection of self-identification data to better understand the disproportionate impact of policing practices, but this should be kept distinct from perception data

- require the collection of demographic data across the full spectrum of police services, including stop-and-question interactions, charges, arrests and releases
- invite those submitting police complaints to provide demographic data
- include requirements for public reporting and for the development of action plans to advance equity and meet the stated purpose based on the data analysis⁵⁸
- include requirements to use race-based and other demographic data to identify patterns of problematic conduct and take remedial action⁵⁹
- include requirements for privacy protection. In relation to individual harm, while disaggregated data is usually de-identified or stripped of personal information, rapid advances in technology and globalization are accompanied by a growing risk for the re-identification of disclosed data. Privacy protections should use the internationally recognized Five Safes model, which is the privacy protection model used by B.C.'s Data Innovation Program⁶⁰
- include requirements for training and quality assurance related to provincial data standards including data collection, use and disclosure
- include requirements for regular, broad engagement with members of affected communities

6 The Ministry of Public Safety and Solicitor General should establish provincial data retention schedules in consultation with a Community Governance Board (or via community engagement prior to the establishment of a Community Governance Board) and require all police services to maintain disaggregated and de-identified data in data warehouses for research and other legitimate purposes.

7 The capacity of the Office of the Information and Privacy Commissioner for B.C. should be expanded to enable the investigation of complaints or concerns about the collection, use or disclosure of data covered by the provincial policing data standard.



Street checks

What is the issue?

A street check occurs when “identifying information [is] obtained by a police officer concerning an individual, outside of a police station, that is not part of an investigation.”⁶¹ Along with other police activities, there has been rising public awareness about the negative impacts of police street checks, particularly on people who are homeless, young, Black, Indigenous, dealing with mental health issues or engaged in sex work.

The B.C. government’s Provincial Policing Standard (the Standard), 6.2 Police Stops applies to street checks and beyond, covering any interaction between a police officer and a person which is more than a casual conversation and which impedes the person’s movement. For example, police stops include investigations of an offence, arrests and attempts to execute warrants.⁶² The Standard was introduced in response to public outcry following the release of evidence of the disproportionate impact of street checks on Black and Indigenous people in Vancouver. In particular, in 2018 the VPD released its response to a freedom of information request by the Union of BC Indian Chiefs (UBCIC) and BC Civil Liberties Association (BCCLA). That data showed, among other things, that despite representing two per cent of Vancouver’s population, Indigenous people were the subject of 16 per cent of the VPD’s street checks in 2017 and Black people, who constituted one per cent of Vancouver’s population, made up five per cent of street checks in that same year.⁶³

The Standard, in combination with the ongoing public dialogue on street checks, appears to have had some positive impacts.⁶⁴ In Vancouver, for example, from Jan. 15 to Dec. 31, 2020, there were 261 street checks recorded in PRIME.⁶⁵ The number of street checks recorded decreased by 94.3 per cent when compared to 4,544 street checks recorded during the same date range in 2019. However, some community groups report their street-involved Indigenous and Black constituencies continue to be stopped frequently but that those checks are not necessarily being recorded.

The most notable statistical disproportionality in the information from the VPD is that Indigenous people made up 23 per cent (20 of 87) of all proactive street checks; however, 55 per cent of the street checks involving Indigenous people (11 of 20) were the officer checking on the person’s well-being or safety.⁶⁶ As we discuss elsewhere in these submissions, police officers should not be the ones responsible for or conducting well-being checks. However, even accounting for checks conducted for a person’s well-being, street checks continue to disproportionately impact Indigenous peoples and can result in the harms discussed below regardless of intent.

In regard to street checks, there are three concerns arising from the Standard:

- bias inherent in discretionary stops and other proactive policing measures
- voluntariness of participation
- the collection and use of personal information collected during stops

“Policing and law enforcement services in BC must be delivered in a manner that respects rights and is free of discrimination.”

—Foreword to B.C. Provincial Policing Standard, 6.2 Police Stops

Proactive policing measures

The Standard allows for officer discretion and therefore bias to enter the police stop process. Stops are permitted where “the officer reasonably believes the interaction, and any information requested, serves a specific public safety purpose” (s.8(a)). The Standard also allows for proactive policing measures such as traffic stops (s.7(b)).

The Ontario Human Rights Commission’s report, [A disparate impact: Second interim report on the inquiry into racial profiling and racial discrimination of Black persons by the Toronto Police Service](#), demonstrates the harms that occur through discretionary — if lawful — street checks. For example, Black people were:

“[G]rossly overrepresented in charges relating to ‘out-of-sight’ driving offences, which only surface after an officer decides to check a driver’s licence plate or stop the vehicle... These disproportionate numbers raise concerns of systemic racism or anti-Black racial bias. Out-of-sight driving offences, by their very nature, are typically the result of proactive policing practices, where an officer uses their discretion to check a vehicle’s licence plate or stop a driver before they are aware that the driver may be implicated in an offence. In many of these situations, an officer will have observed the race of the driver before making the decision to pull them over.”⁶⁷

A disparate impact also shows that the degree of overrepresentation of Black people in lower-level use-of-force incidents was higher for cases involving proactive policing like traffic stops as compared to reactive policing, such as responding to a call for service.

The Commissioner is gravely concerned that the vast majority of street checks will never be reviewed by the courts. There are few, if any, cases that involve street checks that will result in charges that are actually heard by the courts. There will be no opportunity for courts to consider whether and how such street checks amount to psychological detention and a breach of *Charter* rights. As the Supreme Court of Canada noted in a case about a similar denial of liberty, “the affected individuals would often have no forum to challenge the legality of the arrest outside of a costly civil suit... For this reason, any standard outlined at the outset would have to be clear and highly protective of liberty.”⁶⁸ The level of discretion embedded in Standard 6.2 does not meet this high threshold for the protection of human rights.

It is this element of police discretion — with very few, if any, checks and balances on its exercise — which raises the spectre of systemic racism. The current Standard 6.2 does not sufficiently address these concerns.

Voluntariness of participation

The Commissioner is skeptical that street checks can be truly voluntary for those disproportionately subjected to them. And if street checks are not voluntary, they are likely to be unlawful. Police in our society do not have unlimited powers to stop and question people; on the contrary, those powers are subject to strict limits.

Section 8 of the Standard permits “interactions that may result in a request for a person to voluntarily provide identifying information... provided that the officer takes steps to ensure the information is provided voluntarily, including but not limited to advising the person that they are not required to answer any questions.” We know that street checks can result in psychological detention. As described in the findings of the *R. v. Le* case, psychological detention can occur when a person is not legally obligated to comply with a police officer’s direction or demand “but a reasonable person in the [person’s] position would feel so obligated.”⁶⁹

Effectively, psychological detention denies a person the choice of whether to speak with the police, even when they are not obligated to do so. Street checks are particularly problematic for those who are most highly policed, including people who are homeless, young, Black, Indigenous, living with a mental disability or engaged in sex work. It is not at all clear that any street check involving individuals belonging to one or more of these groups can be properly characterized as voluntary. Rather, it seems almost inevitable that these individuals will experience psychological detention as described in *Le* and elsewhere.⁷⁰ This is made even more poignant in the face of a lack of evidence that street checks are effective in addressing criminal activity.

Further, being stopped by the police — particularly if repeatedly for unjust reasons — has immediate and potentially long-lasting effects. It can be intimidating, humiliating, stressful, frightening and traumatic even if the person stopped leaves the interaction without being subject to use of force, arrest or fine. These immediate impacts should not be diminished.

The Commissioner commends the Standard for making explicit the duty of officers to ensure people understand they are not required to answer any questions. However, she remains concerned about how far such information can go in the face of the historical and current pressures to adhere to the authority of the police (regardless of whether they possess that authority at law) particularly for those most marginalized in our society. It is impossible to ignore the power imbalances at play in these interactions.

Use of personal information

Street checks contribute to the over policing, denial of liberty and disproportionate criminalization of people who are homeless, young, Indigenous, Black, living with a mental disability or engaged in sex work. Street checks are not merely an inconvenience; they take a toll on a person's physical and mental health and can impact their ability to pursue employment, educational opportunities and child apprehension cases.⁷¹ For example, the Honourable Michael Tulloch wrote in Ontario's [Report of the Independent Street Check Review](#):

Carding and even lawful street checks can also impact employment and educational opportunities. During the consultations, I heard from both members of police services and members of the public that this was a significant concern. Applicants who had good backgrounds and no prior police involvement have been turned down for employment with police services because their names showed up on a street check database as being associated with gangs. I also heard of other instances where people who shared the same or similar name with people who had a long history of street checks were denied employment opportunities with police services.

...

Street checks have also been used by agencies in non-criminal legal proceedings. For example, a child protection agency tried to use police contact cards to prove that parents were drug dealers simply because they were often carded in an area frequented by drug dealers.⁷²



How will addressing street checks make our communities safer?

It is a fundamental premise of modern policing that in order to be effective, the public must trust the police. Tulloch wrote in Ontario's [Report of the Independent Street Check Review](#):

Effective law enforcement is highly dependent on the cooperation of members of the public. The police must be able to act in a manner that fosters this cooperation. When a segment of society believes that it has been unfairly targeted by the police, it will de-legitimize the police in their eyes. The low positive result rate from random police stops means that the vast majority of the people being stopped have done nothing wrong. That undermines public trust in the police, ties up police resources and erodes the perception of police legitimacy.

It has been said that “the worst enemy of effective policing is the absence of public confidence.”⁷³ The concern that the practice of carding discourages cooperation with the police has been supported in several studies. People who mistrust the police may become more likely to take matters into their own hands rather than call the police for assistance.

When people stop cooperating with the police, either by not reporting crimes or not assisting as witnesses to crimes, crimes will go unsolved and/or unpunished. There is a risk that the number of crimes uncovered or solved because of carding could be outweighed by the number of crimes that are not reported or prosecuted because of the negative community reaction to the police.⁷⁴

The experience of impacted communities, research studies and the wave of global protests for racial justice in recent years clearly demonstrate the importance of public trust and how bias in policing has undermined that trust. Discriminatory police stops and street checks are a critical, but by no means the sole, cause of that loss of public trust.

How can we do it better?

Reducing street checks necessarily requires de-tasking the police from providing mental health care. We make recommendations on this issue in the [“De-tasking the police”](#) section below.

In addition, amendments to the Standard are required to reduce the exercise of discretion, ensure accountability for police actions and ensure information is collected only for the purposes of accountability. Below we set out our recommendations.

Recommendations:

- 8** The Ministry of Public Safety and Solicitor General should amend Provincial Policing Standard, 6.2 Police Stops (or subsequent standards that relate to police stops) as follows:
- a. “Police obligations when interacting with the public” (s.1) should be amended to include compliance with B.C.’s *Human Rights Code*.
 - b. “Decision to stop must not be based on identity factors alone” (s.4) should be amended to include a requirement for officers to have an “articulable ground” for the stop.
 - c. “Random or arbitrary stops not permitted” (s.5) should be amended to eliminate the word “arbitrary,” as it allows arbitrary police stops where “authorized by law or caselaw.” There are no lawful circumstances in which police can act arbitrarily.
 - d. “Collection of identifying information” (s.8) should be amended as follows:
 - i. s.8(a), which sets out when the police may request a person to voluntarily provide identifying information when the officer reasonably believes the interaction, and any information requested, serves a specific public safety purpose, should be amended to remove the word “including,” in order to make the list exhaustive. This would reduce the use of officer discretion and therefore the possibility of bias.
 - ii. s.8(a)(iv), which allows police to request a person to voluntarily provide identifying information when police are responding to a call for service should be eliminated. If a call is part of an investigative process, then it is lawful and is already included in s.7(e).
 - e. “Documentation of interactions” (s.10) should be amended to ensure that information collected during police stops is not recorded in a way that can show up in a PRIME search. Information collected during stops should be recorded for the sake of research and accountability in non-identifiable form (that complies with the data recommendations above) or in a database that is separate from PRIME.
- 9** The Ministry of Public Safety and Solicitor General should implement an Unbiased Policing Standard specific to traffic stops. This standard should expressly address conducting traffic stops without bias by requiring all police services to have a policy that minimizes officer discretion in proactive policing practices like sobriety checkpoints.



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De-tasking the police

What is the issue?

Recent years have seen increased calls to defund or de-task the police.⁷⁵ These calls are borne out of incidents where policing has resulted in injury, death and disproportionate harm to Indigenous, Black and other racialized communities and people living with a mental disability, engaging in substance use and experiencing poverty and homelessness, often in situations where there was minor, if any, criminal activity involved.

De-tasking the police requires re-delegating some tasks undertaken by police to agencies that are better suited — because of mandate, expertise, cultural alignment and effectiveness — to address that particular issue. This re-delegation must include a reorganization of public funds to ensure that health, housing and other socio-economic needs are met. De-tasking the police in key areas would improve community safety and particularly the safety of Indigenous, Black and other racialized communities who are disproportionately impacted by biased policing by investing in evidence-based services that reflect community needs.

Improving community safety requires a shift in focus from the police as default responders to other community safety strategies. Key steps include de-tasking police as first responders to mental health crises, substance use crises and homelessness, and reallocating funding towards health-based services and housing supports. It also entails building up educational supports to replace the role of police liaison officers in schools.

However, these are only examples of de-tasking and the Commissioner urges a comprehensive review of current policing activities to identify all activities that can be reassigned to civilians. Our reliance on police officers armed with lethal force options to conduct many routine tasks — from traffic stops to transit fare enforcement to well-being checks to being present in schools — is not a model that promotes healthy and equitable communities.⁷⁶

Mental health and substance use

“Mental health checks are supposed to be there to support and protect Indigenous people. Indigenous people use the system as a last resort. In our experience, more often than not, those are unhealthy and unsafe mechanisms to lean upon. That leaves us very vulnerable, as a people.”

— Councillor Allyson Fraser, Musqueam Indian Band⁷⁷

Police in B.C. far too often act as front-line mental health and substance use first responders. In 2020, the B.C. Ministry of Health reported that one in five interactions with the police involve someone with a mental health or substance use issue.⁷⁸ Another report, [Lost in transition: How a lack in capacity in the mental health system is failing Vancouver’s mentally ill and draining police resources](#), released by the Vancouver Police Department in 2008, found that of “all recorded police-attended calls for service in the City of Vancouver, 31 per cent involved a person who the attending member believed was suffering from poor mental health.”⁷⁹

Unfortunately, in B.C., a majority of people with mental illness access care in crisis.⁸⁰ The Ministry of Mental Health and Addictions stated to SCORPA that significant police resources are used sending uniformed officers to respond to mental health and substance use calls or to deal with issues relating to homelessness.⁸¹ For example, in 2020, the Saanich police spent nearly 1,200 hours waiting at hospitals for patients to be assessed, at a cost of more than \$75,000.⁸²

In B.C., people who use substances routinely experience street checks, harassment and detainment by the police, which may lead to psychological harm and overdose-related deaths.⁸³ Fear of police has contributed to a reliance on toxic substance supplies that further expose people to the risk of fatal overdose.⁸⁴ The issues are compounded by police surveillance of the limited harm reduction services and sites that are available to communities in urban settings.⁸⁵

A 2019 ethnographic study on the impacts of policing on overdose prevention sites reported that people who use substances experience:

- distrust of police
- being harassed while using outside, being forcefully displaced while sleeping outside and having tents, tarps and other belongings disposed of while unhoused
- being stopped and searched by police (particularly Indigenous people and people of colour)
- being hesitant to call emergency medical services during overdose situations because of uncertainty about whether police would attend and run warrant searches
- police presence and surveillance in the vicinity of overdose prevention sites
- police enforcing “red zones” preventing individuals from accessing areas where supports are available⁸⁶

The study pointed to the unintended health impacts that policing people who use substances can have, including reduced access to harm reduction and other services, rushed injections, increased risk of overdose and an increased risk of disease transmission. The study concluded that “while street-level policing practices in street-based drug scenes are often cited as critical to limiting access to the drug supply and reducing violence and disorder, they disproportionately target and impact racialized persons. Moreover, research has demonstrated how such models are not effective, but rather contribute to additional harms for people who use drugs, including increased violence.”⁸⁷

The Canadian Mental Health Association reports the following intersecting factors that are associated with greater risk of police involvement for people living with mental health issues including being male, racialized/IBPOC, having bipolar disorder and manic symptoms, a history of involuntary hospitalizations, substance use, unemployment, low socio-economic status and

homelessness.⁸⁸ In addition, racism, the ongoing effects of colonization and inequitable access to health care are risk factors in the lead up to and during a crisis response.⁸⁹

Police are default frontline responders to mental health crises, in part due to the operation of the *Mental Health Act*. Under Section 28, police can apprehend a person and take them to a physician for examination if the police officer is satisfied that the person is “acting in a manner likely to endanger that person’s own safety or that of the safety of others” and is “apparently a person with a mental disorder.” In practice, 9-1-1 calls get routed to police to do well-being checks and result in either apprehension and transportation to emergency for assessment by a physician, involvement of the criminal justice system if there is evidence of criminal activity or no further action. The consequence of relying on police as first responders and s.28 of the *Mental Health Act* is that it reinforces involuntary treatment as a “pipeline to services,” which is generally not the support or service that is needed by the person in crisis.⁹⁰

Several other factors have contributed to increased police involvement with people in mental health and substance use crisis, particularly those who are homeless, including decades of underfunding of community-based mental health and substance use care.⁹¹ Homelessness is also intimately connected to mental health and substance use issues. Homelessness continues to be a significant issue in B.C.: 7,655 individuals were identified as experiencing homelessness in the 2018 Report on Homeless Counts in the province.⁹² A total of 1,904 survey respondents identified as Indigenous, representing 38 per cent of all respondents (despite accounting for only six per cent of B.C.’s total population). The report included 219 children under the age of 19 and accompanied by a parent or guardian. Some 15 per cent were youth under 25 years of age.



It is unacceptable that these gaps in care are being met by the police. People with mental health issues “get treated as criminals, arrested, charged, and jailed for a longer time” compared to the general population and often for petty crimes.⁹³ This is true even though police data from Ontario shows that “calls to intervene with ‘emotionally distressed persons’ or ‘persons in crisis’ rarely involve any violent activity and often no criminal activity at all.”⁹⁴

Not only are people living with mental health and substance use issues criminalized, but there is also a history of police violence towards them,⁹⁵ particularly Indigenous, racialized and low-income communities.⁹⁶ In 2020, police wellness check related deaths across Canada of Indigenous, Black and racialized people included D’Andre Campbell, Rodney Levi, Ejaz Chaudhry, Regis Korchinski-Pacquet and Chantel Moore. These deaths were not an aberration; we cannot forget other police-involved deaths, including the deaths of Frank Paul and Robert Dziekański.

CBC’s Deadly Force Database indicates that 68 per cent of all people killed during police confrontations in Canada were experiencing mental health or substance use challenges.⁹⁷ In 2019, the BC Coroners Service released a death review panel report into deaths that occurred between 2013 and 2017 during or shortly after a police encounter. Of the 127 deaths reviewed, more than two thirds involved a person with mental health issues and 61 per cent of the people who died experienced challenges related to illicit substance use. The Coroner’s review found:⁹⁸

- mental health issues, chronic alcohol use or substance use were “the primary reason police were called by the public, friends and family members” of the people who died
- more than half “were exhibiting mental health symptoms at the time of police contact”
- many of the deaths were of people living in rural or small communities
- Indigenous people accounted for six per cent of the population and 20 per cent of deaths reviewed
- 21 deaths were attributed to police use of force

The report [Rethinking community safety: A step forward for Toronto](#) explains that the higher level of violence results in part from the approach police take when responding to people in mental health crisis. They note that studies show that “police culture tends to emphasize forceful responses that quickly and definitively assert and maintain control” which “inhibits the potential for de-escalation” and that people who are experiencing mental health crisis “respond poorly to force and pressure, and fare better with time, space and positive engagement.”⁹⁹

Relying on the police as first-responders in these circumstances is a policy choice. A policy choice that many agree is inappropriate and too often leads to tragic outcomes.

Police themselves have called for better community mental health and substance use services. The Vancouver Police Department’s reports [Lost in transition](#) and [Policing Vancouver’s mentally ill – The disturbing truth](#) detail police frustration with the significant lack of mental health and substance use services and with police ending up acting as mental health workers.¹⁰⁰ The Vancouver Police Board recently passed a Resolution on Structural Racism stating they will “continue to urge the City of Vancouver and the Province of B.C. to dedicate more resources to social agencies so responses to people in crisis can be shifted away from policing.”¹⁰¹ In his submission to the Parliamentary Committee on Systemic Racism in Policing, Senator Vernon White, who was a long time RCMP

officer and Chief of Police in both Durham region and the City of Ottawa, explained that the “recent argument [to defund the police] is one that, in a different way, has been argued by police officers and police leaders for decades, except they have been arguing that the demands placed on them would often be better served by others.”¹⁰²

School liaison officers

Significant concerns have been raised by Black, Indigenous and other marginalized students — as well as their parents and communities — about the harms of having police in schools (“school liaison officer programs” or “SLO programs”).¹⁰³ These student and community concerns have resulted in school boards throughout the province reconsidering SLO programs. Both the Vancouver and New Westminster School Boards have voted to end their SLO programs as a result of these student and community concerns. However, at least in the case of Vancouver, there remains concern about whether the School Board’s resolution is enough to end the program.¹⁰⁴

The relationship between school districts and local police are managed locally by individual school boards with guidance provided by the Ministry of Education on maintaining safe schools.¹⁰⁵ SLO programs exist in many of B.C.’s schools, including in the following school districts: Burnaby, Central Okanagan, Coquitlam, Delta, Greater Victoria and Surrey.¹⁰⁶ SLO programs generally have broad mandates related to school safety, with individual officers having a great deal of discretion to implement their mandate.¹⁰⁷

Individual SLOs might engage in a wide range of activities in schools: from delivering education on substance use, dating violence and bullying to counselling students, investigating crimes, coaching teams and leading other extracurricular activities.¹⁰⁸ Notwithstanding the discretion SLOs have in how they meet their mandate, one of the defining features of SLO programs is that SLOs are assigned to particular schools, often with an on-site office and a regular, uniformed, armed presence. Proponents of SLO programs say they are necessary to ensure school safety and to build trust between youth and police.¹⁰⁹

While there is limited Canadian research on SLO programs (and while the vast majority of the research that exists takes a “race-absent” approach),¹¹⁰ what is increasingly clear from the American research on SLO programs — and what we can learn from the voices of most Indigenous, Black and other marginalized students — is that SLO programs make them less safe at school.¹¹¹ These students face significant harmful impacts if SLO programs continue, including disproportionately high rates of suspensions and expulsions of Black students. These effects can damage academic performance and future prospects, criminalize common student indiscretions, make students feel like they are under constant surveillance at school and signal to students whose personal and community histories involve oppressive police action that their school is not a welcoming space for them.¹¹²

In addition, research suggests that students generally feel safe at school regardless of whether an SLO is embedded in their school.¹¹³ Some of the most methodologically sound research concludes there is no evidence to support the notion that SLO programs make schools safer.¹¹⁴ Accordingly, the rationale for SLO programs is unclear. The fact that SLO programs continue in many of our schools when there is no clear reason for them is particularly problematic when taking into account the concerns regarding the negative impacts on Indigenous, Black and disabled students.

“As a black student, when the first thing I see when I walk into school in the morning is an armed police officer, it automatically gives me the message that ‘you aren’t really welcome.’”

—Vancouver student¹¹⁵

How will de-tasking make our communities safer?

The primary objection to de-tasking the police is that we need the police to keep us safe. Yet from all the research detailed above we know that when police are responsible for providing social services beyond policing, our communities become less safe — particularly for people who are most marginalized. This position is supported by many leaders in policing who want their resources to be dedicated to the actual tasks of policing rather than playing the role of health care provider, housing advocate, youth counsellor or other support worker.

It should not be a radical statement that police should be left to focus on policing rather than acting as all-purpose social service providers. Radical or not, structural change and bold action is required to ensure our dollars follow our commitments: that is, to shift public spending according to actual community needs.

How can we do it better?

Improved mental health, housing and substance use services

“Some would argue that more mental health workers, working hand in glove with the police responding to these calls, would be a better service. It’s been done, and it is better. However, even this response is a downstream service. The stark reality is that wait times to see much-needed mental health resources in the community are shockingly insufficient, and that investment in this upstream section of the health system is where it could make the greatest impact, and we would reduce the demand on police — most importantly, by having the right resource engaged at the right time for the right reason.”

— Hon. Vernon White, Senator and former Assistant Commissioner for the RCMP¹¹⁶

Mental health issues, homelessness and substance use challenges require a health and community response, not a police response. We can provide much better care and reduce criminalization, injury and death by investing in community services and moving away from a police-based response to a response that centres health and community solutions. Civilian-led crisis response teams should act as first responders to mental health calls with discretion to involve the police as needed. In addition, expansion of permanent, affordable and accessible housing that addresses the specific needs of marginalized communities can lead to lower rates of detainment and incarceration.¹¹⁷

There are many successful examples of this policy approach.

- In efforts to de-task the police from mental health responses, San Francisco successfully launched the pilot Street Crisis Response Team on November 30, 2020. The team provides clinical interventions and care coordination for people who experience behavioral health crises in public spaces in San Francisco. Each team includes one community paramedic, one behavioral health clinician and one behavioral health peer specialist.¹¹⁸
- British Columbia needs permanent, low-barrier, 24-hour operating, supervised consumption sites (SCS) and integrated harm reduction services. Notable prior and existing initiatives include Vancouver's Insite's services and mobile SCSs in Kelowna and Kamloops¹¹⁹ and SafePoint and Quibble Creek in Surrey,¹²⁰ which have successfully addressed barriers to self-injecting and reduced substance-related and structural risks. A 2013 ethnographic study based in Vancouver found that SCSs were especially effective for women and people with disabilities.¹²¹ 24-hour access to facilities have particularly proven to disrupt practices that create the conditions for reliance on toxic substance supply.¹²² Evaluation of Edmonton's Mobile Crisis Response Service, REACH 24/7, shows that for every dollar invested in REACH 24/7 there is at least \$1.91 of social value returned.¹²³
- A study by the Mental Health Commission of Canada into housing provided in Vancouver at "At Home/Chez Soi" showed a significant reduction in sentencing to the study participants, suggesting that housing effectively reduces crimes.¹²⁴ Further, a study by the Canadian Centre for Policy Alternatives showed that increased income assistance rates can reduce policing costs.¹²⁵
- Although partnered with police, Eugene-Springfield Metro Area, Oregon's long running White Bird Clinic-led mobile 'Crisis Assistance Helping Out in the Streets' (CAHOOTS) 24-hour mobile crisis intervention service is another noteworthy example. The CAHOOTS model employs community centered approaches to respond to community needs.¹²⁶ The CAHOOTS team responds to mental health related crisis calls by dispatching a mental health crisis specialist and a medic.¹²⁷ In 2019, out of 24,000 calls made to CAHOOTS only 150 interventions required police backup.¹²⁸ The program costs just over two million dollars per year,¹²⁹ saving an estimated \$8 million in public safety spending and \$14 million in emergency care and services annually¹³⁰ as compared to Eugene-Springfield's annual \$90 million police budget.¹³¹ Success of the CAHOOTS program has provided a blueprint for Mobile Crisis Response Teams in San Diego County¹³² and consultation on similar models in Portland and New York's crisis response programs.¹³³
- In 2017, the Kwanlin Dün First Nation in Yukon initiated the Community Safety Officers Program, which is an innovative program designed to strengthen relationships between the community and the RCMP.¹³⁴ It involves Indigenous people and community members trained as community safety officers who work to provide early detection, de-escalation and culturally responsive services. The program does not replace traditional police services but assists in conflict resolution, freeing up police officers to do other work.

- In February 2021, Toronto City Council “approved four community safety and crisis support service pilots that will test a new, non-police led approach to non-emergency, non-violent calls, including those involving persons in crisis and for wellness checks.”¹³⁵ “The pilots will create multidisciplinary teams of crisis workers with training in mental health and crisis intervention, de-escalation, situational awareness and field training prior to the pilots’ launch.”¹³⁶
- In early June 2021, the “City of Calgary, the Calgary Police Service and the Calgary Police Commission announced funding for programs and initiatives to advance equitable and effective crisis response systems and develop better ways to support Calgarians in crisis,” half of which comes from Calgary Police Service Budget Reallocation Funds.¹³⁷ The funding is aimed at strengthening “existing crisis supports by enhancing programs and services available to Calgarians affected by mental health, addiction, homelessness and other challenges.”¹³⁸ One of the goals of the program is to decrease demand on police as more appropriate services become available for Calgarians.
- In August 2021, the City of Victoria announced that it would be creating a new mental health response team,¹³⁹ “as part of a pilot project that will serve as an alternative to police response.”¹⁴⁰ The Peer Assisted Crisis Team will be first responders to mental health crises as opposed to police. The teams are being developed over the next year but will likely be “made up of members with lived experiences of mental health or substance use disorders, along with those with professional experience such as social workers, nurses, or clinical counsellors.”¹⁴¹



Recommendations:

- 10** The B.C. government should work with all levels of government including Indigenous, federal, provincial and municipal governments to establish a framework to redirect funding from police budgets and to invest in civilian-led services for people experiencing mental health and substance use crises, homelessness and other challenges that could be satisfied through increased social service provision rather than a criminal justice response.
- 11** The Ministry of Public Safety and Solicitor General should adapt 9-1-1 services to ensure police are only involved in responding to people experiencing a mental health crisis as a last resort and not as the default first-responders. Necessary emergency services adaptations include:
 - a. creating 24-hour mental health crisis response teams that are civilian-led and Indigenous specific mental health crisis response teams across B.C.
 - b. rerouting 9-1-1 calls about mental health crises from police to these mental health crisis teams
- 12** The B.C. government should make significant investments in civilian-led (i.e., led by community-based agencies rather than by police or health authorities) mental health and substance use services including:
 - establishing urgent response centres staffed by multidisciplinary teams that include mental health clinicians, nurses, social workers and peer workers who can provide wraparound support that extends beyond the medical model of diagnosis and treatment
 - increasing investments in complex care housing and substance use treatment for people with severe mental health and substance use needs, including:
 - i. Indigenous healing centres
 - ii. increasing community-based treatment for people living with concurrent mental health and substance use issues, including increased access to treatment beds
 - iii. funding permanent, low-barrier, 24-hour operating, supervised consumption sites and integrated harm reduction services, especially in mid-size cities and rural and remote communities
- 13** The B.C. government should address the intersection of policing, homelessness, mental health and substance use when developing the provincial homelessness strategy.

Improved educational supports

If school boards believe it is necessary to continue or implement SLO programs in their schools, they must demonstrate that need clearly, taking into account and being responsive to the concerns of Indigenous, Black and other vulnerable students in their districts. School boards' analyses cannot be "colour-blind" and cannot prioritize the views of police services over students, parents and communities.

There is no doubt that some vulnerable students have had positive experiences with SLOs who have been described as trustworthy, compassionate and relatable.¹⁴² Some of these students talked about how much value the SLO provided by getting them involved in sports or listening to them when they needed support. However, there seems to be no reason that other similarly trustworthy and skilled adults cannot fulfill that role for students without the risk of criminalizing Black, Indigenous and other students or subjecting them to other harms associated with SLO programs. As another Vancouver student said: "my personal suggestion is to get rid of them and use that funding for other youth engagement programs and mental health and substance (use) assistance programs. This is a better option than spending more excessive time to better the SLO program."¹⁴³

Teachers, administrators, counsellors, coaches, parent volunteers, support workers— not to mention their peers— and countless others can create the kind of welcoming and safe school environment all children deserve.

Recommendations:

- 14** School boards should end SLO programs unless they can demonstrate an evidence-based need for them that cannot be met through other means. In making this assessment, school boards must centre the impact of continuing SLO programs on Indigenous, Black and other student populations.
- 15** The psychosocial and educational roles of SLOs should be re-assigned to civilians with experience in coaching and leading other extracurricular activities, child and youth counselling, trauma-informed practice, sexual assault prevention, substance use education and bullying prevention. The funds and resources which would otherwise go to SLO programs should be redirected to civilians to fulfill these roles.



Police accountability

What is the issue?

Police carry weapons and have extraordinary powers and discretion to use them in the name of community safety. Accordingly, the police should be subject to extraordinary scrutiny and oversight. People who have had a discriminatory or dehumanizing experience with police find it challenging to know where and how to complain. If they do manage to navigate the legal avenues available to them, it is not clear they (or the public more broadly) are satisfied that justice has been done.

For example, the Commissioner has significant concerns with police accountability and transparency related to gender-based violence and racialized communities, both as first responders and as perpetrators.

Violence against women and girls in Canada is a serious, pervasive problem.¹⁴⁴ The Ending Violence Association of BC (EVABC) reports that sexualized and gender-based violence is the only violent crime in Canada that is not on the decline. Half of all women in Canada have experienced at least one incident of physical or sexual violence since the age of 16.¹⁴⁵ Indigenous women are killed at six times the rate of non-Indigenous women and are two and a half times more likely to be victims of violence than non-Indigenous women.¹⁴⁶ Women living with physical and cognitive impairments experience violence two to three times more than women living without impairments and 60 per cent of women living with a disability are likely to experience some form of violence.¹⁴⁷ And yet, EVABC also reports that only five per cent of victims report the violence they experience to police and that among the small percentage of cases that are reported there are low charge rates and even lower conviction rates.¹⁴⁸ Police accountability for adequately responding to these cases is key to their credibility — particularly for Indigenous women, women with disabilities and others — and is therefore key to the safety of women and gender-diverse people.

The Commissioner also has significant concerns with accountability related to police as perpetrators of gendered violence. Critically, there are longstanding concerns about sexual violence perpetrated by Canadian police officers against Indigenous women, girls and children.¹⁴⁹ In B.C., Indigenous women and girls are more likely to experience police violence.¹⁵⁰ A 2013 report highlights that trans people are nearly four times “more likely to experience police violence” and seven times more likely to be physically assaulted by the police compared to cisgender people.¹⁵¹

A navigable system of police oversight is key to community trust and safety with these communities. There are numerous bodies responsible for police oversight and accountability in B.C.:

- Police boards are the governing bodies of municipal police services and determine the priorities of the police services. They also respond to service complaints.
- The Office of the Police Complaints Commissioner (OPCC) has jurisdiction over misconduct complaints about municipal police. When the OPCC receives a misconduct complaint it determines if the complaint is admissible. Admissible complaints are directed to a police service to conduct an investigation. The role of the OPCC is to oversee the police investigations.
- The Civilian Review and Complaints Commission for the RCMP (CRCC) has jurisdiction over misconduct complaints about the RCMP. When a complaint is made to the CRCC, typically the RCMP conducts the initial investigation and if a complainant is not satisfied with the RCMP's response they can request the CRCC to conduct a review of the RCMP's investigation.
- The Independent Investigations Office (IIO) investigates incidents resulting in serious harm or death involving police officers in B.C. to determine if the conduct was criminal.¹⁵²
- The BC Coroner's Service conducts inquests into deaths of individuals in the care or control of police at the time of their death.¹⁵³
- The BC Human Rights Tribunal hears complaints about discrimination in policing, including racial, sex, sexual orientation and gender identity discrimination, and the courts can hear civil claims against the police.

The police oversight system in B.C. has been criticized for many reasons including:

- the system is complex and difficult to navigate¹⁵⁴
- inadequate access to advocacy, legal representation and funding to bring forward complaints¹⁵⁵
- people who don't trust the police may also be reluctant to make a complaint out of fear of retaliation; Indigenous women may be hesitant to initiate complaints, particularly if the complaint relates to sexual misconduct, abuse or assault out of fear and lack of trust particularly Indigenous women¹⁵⁶
- police delays or failure to implement recommendations made by oversight bodies¹⁵⁷
- the system is not sufficiently independent; police investigating the police undermines public trust¹⁵⁸
- the IIO currently does not have a mandate to investigate sexual assaults by police officers¹⁵⁹

“We get complaints about police, and I have a really hard time convincing people to complete that process or even fully enter that process. In fact, I have a hard time actually feeling good about trying to talk them into entering that process.”

— Norm Leech, Vancouver Aboriginal Community Policing Centre Society¹⁶⁰

How will better police oversight make us safer?

Effective oversight has two important aims: ensuring public confidence and advancing the rule of law.¹⁶¹ True police oversight ensures that “police wrongdoing is properly investigated and officers are disciplined appropriately. In doing so, these mechanisms uphold the rule of law because they hold the police accountable to the law.”¹⁶²

Effective oversight is directly connected to public safety. Without effective oversight of police, community trust is undermined. Without community trust that policing is equitable, fair and accountable, community safety is undermined. Many will avoid reporting to the police if they don’t believe police will be held accountable to the law and to human rights standards.



How can we do it better?

Dedicated supports

“I think this committee should understand that Indigenous people, when they’re seeking assistance, come to the Native Court Workers, always. We are Aboriginal. Every single one of our workers is Aboriginal, and the people identify with us. They feel comfortable with us. They respect us, and they believe in what we say. When an Aboriginal person wants to complain about conduct by the police, they never go through the police complaints process. They come and see the native court workers.”

— Hugh Braker, Q.C., Native Courtworker and Counselling Association of British Columbia¹⁶³

Ensuring police accountability requires that individuals who want to make a complaint about the police, regardless of the forum, have dedicated support and representation to do so. Such dedicated resources do not currently exist for people who do not have the financial means to hire their own lawyer.

Community organizations that serve a range of marginalized groups — including women fleeing intimate partner violence and Indigenous women — told us clearly that their clients come to them regularly with concerns about the police. Their clients want their help to make a complaint. They provide it as best they can, but without dedicated support for this work it is simply not possible for community groups to meet their clients’ needs. Furthermore, the Commissioner is concerned that even if the complaints system is simplified, many of those who have complaints will require support to do so because of trauma, fear of retaliation or overwhelm.

Recommendation:

- 16** The Ministry of Attorney General should provide funding for legal advocacy programs, including legal aid, to provide advice and representation to people involved in complaints or investigations by the CRCC, IIO, OPCC and BC Human Rights Tribunal.

“I think it’s natural that former police officers will be biased in favour of police, because it’s hard not to be.”

—Rollie Woods, former police officer
and former Deputy Police
Complaint Commissioner¹⁶⁴

Increase civilian oversight

Researchers have found that jurisdictions that have civilian oversight receive significantly more complaints per capita than those that don't.¹⁶⁵ The presence of a civilian oversight body helps members of the public overcome the fear of filing a complaint against a police officer.¹⁶⁶ While there are many different models of civilian oversight, in its truest form civilian oversight involves only civilian investigators with ample authority to hold police accountable.

Independent Investigations Office

The IIO was formed on the recommendation of Justice Braidwood, who envisioned a fully civilian IIO within five years of its inception. When it opened in September 2012 the office had 35 per cent civilian investigators. By September 2014 that number increased to 46 per cent then to 57 per cent by March 2019. By April 2021, however, the number of civilian investigators at the IIO had decreased to 52 per cent.¹⁶⁷ The decrease in civilianization of the IIO is likely the result of the relaxation of the “five-year rule” (in which the IIO could not hire people who have been police officers in B.C. in the last five years) between Jun. 1, 2019 and Jun. 1, 2021 to provide the IIO with greater flexibility in hiring.¹⁶⁸

In his submission to SCORPA on Feb. 8, 2021, the Chief Civilian Director of the IIO recommended “allowing the IIO to hire from the widest pool of talent possible” meaning allowing the IIO to continue to hire former police officers. He explained that one of the main reasons for the relaxation of the five-year rule was because the IIO was having difficulty hiring investigators with the right experience to conduct criminal investigations. The Commissioner acknowledges the tension between civilianization and the need for the IIO to have trained and experienced investigators and believes this tension can be overcome in time and with rigorous training for civilian investigators.

According to a Canadian Press investigation, the vast majority of independent investigators staffing police oversight bodies in Canada are white men who are former police officers.¹⁶⁹ Civilianization could have the dual goal of avoiding pro-police bias as well as moving towards a diverse workforce that would better represent the communities it serves, another goal of the IIO. The Commissioner believes that, regardless of whether oversight bodies are able to act independently, until there is public trust in the institution of policing there will always be a reasonable apprehension of bias where oversight bodies are staffed with former police.

Recommendation:

- 17** The Ministry of Public Safety and Solicitor General should develop a plan and timeline to achieve the goal of complete civilianization of the IIO as soon as possible.

Office of the Police Complaints Commissioner and the Civilian Review and Complaints Commissioner

The OPCC and CRCC are referred to as civilian oversight bodies however neither is required by law to hire all, or even a percentage of, staff without policing backgrounds. In his February 2021 submission to SCORPA, the Police Complaints Commissioner reported that two thirds of OPCC staff do not have policing backgrounds.¹⁷⁰ In addition, while the head of the CRCC cannot be a former RCMP member, there is no similar requirement for the head of the OPCC, despite this being recommended by Commissioner Wally Oppal in the Commission of Inquiry into Policing in British Columbia.¹⁷¹

Recommendations:

- 18** The OPCC should develop a plan and timeline to achieve the goal of complete civilianization of the OPCC as soon as possible.
- 19** The Ministry of Public Safety and Solicitor General should develop a plan and timeline to require the CRCC (when responding to B.C. complaints) to move towards the goal of complete civilianization as soon as possible.



Expand oversight of police services

There are many ways in which police oversight should be expanded to ensure greater accountability.

Consolidation or harmonization of federal and provincial systems

Having two different complaints systems creates confusion and barriers for the public. All police officers in B.C. should be subject to the same expectations and consequences regarding misconduct. To the extent that there are any differences in the definitions or application of misconduct standards under the *Police Act* and *RCMP Act*, they should be brought in sync and reflect the necessity of unbiased policing.

For example, while the CRCC has authority to initiate investigations, the OPCC does not have that authority. Similar models exist in other provinces in Canada. For example, Saskatchewan's Public Complaints Commission can assume the responsibility of a police investigation at any point the Commissioner feels necessary to do so. Many organizations have recommended that the OPCC be provided with authority to conduct investigations.

Recommendations:

- 20** The Ministry of Public Safety and Solicitor General should ensure that either the RCMP are brought under the jurisdiction of the OPCC, as recommended by the Commission of Inquiry into Policing in B.C., or that the law and complaint processes for the OPCC and the CRCC are harmonized.
- 21** The Ministry of Public Safety and Solicitor General should expand the mandate of the OPCC to enable the OPCC to investigate complaints itself, assume the responsibility for any investigation or refer complaints to the IIO for investigation. If the OPCC's authority is expanded, OPCC staff must be provided with necessary training.

Oversight over discriminatory misconduct

As SCORPA heard, the IIO currently does not have a mandate to investigate sexual assaults by police officers. The Human Rights Commissioner agrees with Justice for Girls and Human Rights Watch that this exclusion amounts to discrimination on the basis of sex and recommends that this be remedied by expanding the jurisdiction of the IIO without further delay. Similar police oversight bodies across Canada and internationally include sexual assault in their mandate.¹⁷²

The Human Rights Tribunal is another mechanism for addressing police misconduct of a discriminatory nature. Adding Indigenous identity as a protected ground under the *Human Rights Code* is relevant to policing, as Indigenous people are over policed and disproportionately subjected to overuse of force by police. Adding Indigenous identity would provide another mechanism for access to justice for Indigenous peoples in dealing with police and would further promote compliance with the *Declaration Act*. This call has been echoed by many Indigenous leaders as well as the Human Rights Tribunal.

In addition, during our engagements with community we heard repeated concerns about police interactions with British Columbians who are living in poverty and how poverty is criminalized. Adding social condition to the *Code* would provide another accountability mechanism for those who believe they have been discriminated against by the police because they are living in poverty, including those who are homeless. Protections against discrimination on the basis of social condition (such as poverty and homelessness, or the appearance of either) is both urgent during the time of COVID-19 (when poverty for many is being entrenched) and also part of the implementation of the *Declaration Act*. Indigenous people are overrepresented in the group of people living in poverty and therefore are disproportionately impacted by discrimination on the basis of poverty. In addition, these forms of discrimination (along with discrimination on the basis of disability and gender, for example) are often intersecting and difficult to untangle. While the addition of Indigenous identity to the *Code* is essential on its own, it is not sufficient to satisfy the *Declaration Act* requirements.

Recommendations:

- 22** The Ministry of Public Safety and Solicitor General should use its regulation making authority in s.74(2)(t.4) of the *Police Act* to immediately expand the IIO's mandate to include sexual assault investigations. If the IIO's authority is expanded, IIO investigators must build expertise on the dynamics of gender-based violence.
- 23** The recommendations made by Battered Women's Support Services to SCORPA for government to undertake a comprehensive evaluation of police responses to domestic violence and sexual assault should be adopted.
- 24** The Attorney General should take steps to amend B.C.'s *Human Rights Code* to include social condition and Indigenous identity as protected grounds.

The role of police boards

In B.C., municipal police services are overseen by an appointed police board made up of civilians that determine the priorities, goals and objectives of the police service. Police boards consist of the mayor, one person appointed by the municipal council and up to seven people appointed by the Province. Among a police board's functions is the duty to establish policies and set the direction for the police service and exercise discipline for policy and service complaints.¹⁷³

Importantly, police boards act as the voice of the public and provide local input into the governance and management of police services. Police boards have been criticized for not being representative enough, transparent enough or accountable enough to the communities they serve.¹⁷⁴ In addition, as explained by the Honourable Wally Oppal in his submission to SCORPA, with respect to the RCMP: "The problem is that three quarters of this province is policed by the RCMP. They have no police boards so there is no governing local body that deals with the RCMP. I think that's a fundamental weakness when it comes to the relationship between the community and the police in those areas that are policed by the RCMP."¹⁷⁵

The Commissioner agrees it is critical to have a mechanism for local input into the governance and management of RCMP contract policing in the province.

Recommendations:

- 25** The *Police Act* should be amended to ensure that police boards are representative of the communities they serve and specifically of communities who are disproportionately impacted by policing, including by requiring every police board to have Indigenous representation.
- 26** The Ministry of Public Safety and Solicitor General should work with the RCMP in B.C. to establish local civilian police boards or councils for different areas of the province.
- 27** The Ministry of Public Safety and Solicitor General should develop additional public reporting requirements for police boards to improve police board transparency and accountability.

Indigenous oversight

The overrepresentation of Indigenous people in all aspects of the justice system in B.C. is well documented.¹⁷⁶ A human rights-based and decolonizing approach to the oversight of policing of Indigenous peoples would see a shift to Indigenous oversight bodies. Although Section 38.08 of the *Police Act* provides the Chief Civilian Director of the IIO with authority to appoint a civilian monitor to review and assess the integrity of a specific investigation, to date this authority has only been used once.¹⁷⁷ The Chief Civilian Director of the IIO has committed to appointing a second civilian monitor once a candidate has been identified.¹⁷⁸

Recommendations:

- 28** The B.C. government should establish a robust and well-funded Indigenous civilian police oversight body (or branches within established reputable civilian oversight bodies within a jurisdiction), which must include representation of Indigenous women, girls and LGBTQ2SAI+ people, inclusive of diverse Indigenous cultural backgrounds, as called for in the final report of the Inquiry into Missing and Murdered Indigenous Women and Girls. The Indigenous civilian oversight body should have the power to:
- a. observe and oversee investigations involving Indigenous people in relation to police negligence or misconduct, including sexual assault
 - b. publicly report on police progress in addressing findings and recommendations at least annually
- 29** Until the provincial government establishes Indigenous civilian oversight bodies, a civilian monitor should be appointed for every investigation into an incident that results in death or serious harm to an Indigenous person and that government removes any barriers to their effective participation.

Conclusion: Inequity undermines community safety

The role of police—the only role—should be policing in service of community safety. Police reform must stem from this fundamental question: How can we reimagine policing to ensure communities are actually made safer?

Whether we follow the path laid by human rights, the path laid by the rule of law or the path laid by community safety, all roads lead to the same place: inequities make us less safe. The data collected for these submissions demonstrate disturbing racial disparities in policing activities across British Columbia, revealing inequities that we must tackle head on if we are to improve community safety. These submissions lay the groundwork for reform, including changes to the way and amount of data that police services collect, police stops, what tasks fall to police and how they are funded and police accountability.

In the name of human rights, equality, safety and justice, the Human Rights Commissioner urges the Select Standing Committee on Reforming the Police Act and, subsequently, the B.C. government to adopt these recommendations alongside the important submissions of many others and not to shy away from reimagining the role of police in our province.



British Columbia's
**Office of the Human Rights
Commissioner**



Appendices

Appendix A: Glossary

Visit our online human rights glossary at: bchumanrights.ca/glossary

A

Accused

A person charged with a crime is called the accused. The accused is always presumed innocent until proven guilty.

Adverse effect discrimination

A rule or practice that seems fair but unintentionally singles out a group of people with a protected characteristic and results in unequal treatment.

B

Barrier

Anything that prevents a person from fully taking part in all aspects of society. There are many types of barriers; some examples are physical structures, poverty or lack of access to computers.

Bias

A predisposition, prejudice or generalization about a group of persons based on personal characteristics or stereotypes.

Bias thesis

The bias thesis states that Indigenous, Black and other people of colour are overrepresented in police statistics because they are subject to biased or discriminatory treatment by the police and the broader criminal justice system. This is often contrasted with the higher minority offending thesis (see below).

C

Carding

Carding is when a police officer randomly asks someone to provide identifying information when the police officer has not seen the person engage in any objectively suspicious activity, the person is not suspected of any offence and there is no reason to believe the person has any information about any offence.¹⁷⁹ The police officer then records and stores the identifying information provided by the person in a police database. Carding is a type of street check (see below).

Civilianization

In these submissions, civilianization refers to employing people who are not police officers and have not been police officers in the past.

Common law

The part of Canadian law that comes from judicial precedent established through court decisions rather than statutes or legislation.

Cultural dominance

Cultural dominance refers to the control or rule maintained by a dominant group through ideological or cultural means. Cultural dominance is usually achieved through social institutions, which allow those in power to strongly influence the values, norms, ideas, expectations, worldviews and behaviors of the rest of society.

D

Data governance

Data governance refers to who holds decision making powers about the use, collection, dissemination and storage of data.

Data sovereignty

Data sovereignty can be understood as the right of a nation, group of people or individual to exert control over the governance of data collection, application and ownership.

De-identified information

De-identified information refers to data that has been ‘cleaned’ of details that would allow someone’s identity to be known. In qualitative and quantitative research, it can encompass both direct information (like someone’s name or date of birth) and contextual information that might make it easy to figure out someone’s identity (like someone’s job). De-identified information, then, is information that has been stripped of all “direct identifiers” — that is, all information that can be used to identify the people from whom information was derived.

Disaggregated data

Disaggregated data is data that provides sub-categories of information, for example by ethnic group, gender, occupation or educational status. These are sometimes called demographic categories. Disaggregated data can reveal inequalities and relationships between categories.

Disproportionate impacts

Situations where one group is more negatively affected than another by a particular law, policy or practice.

E

Ethnocentrism

The tendency to view others using one’s own group and customs as the standard for judgment or to see one’s group and customs as the best.¹⁸⁰

Ethnicity

Ethnicity involves being a part of or belonging to a particular cultural group and, often, participating in group customs, beliefs, traditions or language.

Equity

Equity is the condition that would be achieved if one’s identity no longer predicted, in a statistical sense, how one fares in life. Equity work includes work to address root causes of inequities, not just their manifestation. This includes elimination of policies, practices, attitudes and cultural messages that reinforce differential outcomes or fail to eliminate them.

Evidence-based

Information that is gathered from research conducted with review by fellow scientists or specialists (peer-review), clear and stated methods, evaluation and repeated studies that give the same outcome.

Explicit bias

Explicit bias is when a person is aware of their prejudices and attitudes toward certain groups. The person is conscious of the positive or negative preferences. Overt racism and racist comments are examples of explicit biases.

G

General Occurrence Report

General Occurrence (GO) reports are the primary documents used by police officers in B.C. to record information concerning their policing activities, including but not limited to calls for service, criminal investigations and suspicious activity. General occurrence reports are recorded and stored in PRIME (see below).¹⁸¹

Grossly overrepresented

‘Grossly overrepresented’ is a technical term used in criminology and sociology. Overrepresentation means a group of people with something in common (like their race) has experienced something (for example, being arrested) in greater numbers than their percentage of the population. Gross overrepresentation is the highest level of overrepresentation.

In these submissions ‘grossly overrepresented’ is equal to an odds ratio (see below) of 3.00 or higher. That means the level of overrepresentation is 200% or greater.

H

Higher minority offending thesis

The higher minority offending thesis maintains that Indigenous, Black and other people of colour engage in criminal activity at a higher level than other racial groups and this fact is accurately reflected in official arrest statistics. This is often contrasted with bias theory (see above).

I

Implicit bias

Also known as unconscious biases. Implicit or unconscious biases are the underlying attitudes and stereotypes that people unknowingly attribute to another person based on race, gender, ability or other personal characteristics that affect how they understand and engage with a person or group.

Indigeneity and Indigenous

Indigeneity is tied to land and place. The term ‘Indigenous’ recognizes this connection of being from and belonging to the land (for example, one could state, “I am indigenous to North America” or “I am indigenous to this body of water”).

Intersectionality

Intersectionality is a concept first developed by lawyer, activist and scholar Kimberlé Crenshaw in relationship to Black women and the law in the United States. Crenshaw noticed that the legal system failed Black women because it did not acknowledge, or address, systemic inequalities linked to the intersections of racism and sexism. Since that time the concept has been more broadly adopted in health care, education, and other areas. Olena Hankivsky, a professor at Simon Fraser University’s School of Public Policy, notes, “according to an intersectionality perspective, inequities are never the result of single, distinct factors. Rather, they are the outcome of intersections of different social locations, power relations and experiences.”

L

LGBTQ2SAI+

Short form for lesbian, gay, bisexual, transgender, queer, 2S (two spirit), asexual/aromantic, intersex.

M

Marginalized

Marginalized populations are groups and communities that experience discrimination and exclusion (social, political and economic) because of unequal power relationships in economic, political, social and cultural dimensions.

O

Odds ratio

An odds ratio is a measure of association between an exposure and an outcome. The odds ratio represents the odds that an outcome will occur given a particular exposure compared to the odds of the outcome occurring in the absence of that exposure. For example, an odds ratio might compare the relative odds of an arrest taking place given a person's race or gender: here, arrest is the outcome and race and gender are the exposure variables.

In these submissions, odds ratios were calculated by dividing the percent of all police incidents involving a particular racial group by their percent representation in the general population.

Overrepresented

Overrepresentation means a group of people with something in common (like their race) has experienced something (for example, being arrested) in greater numbers than their percentage of the population. See also: grossly overrepresented, significantly overrepresented

P

Perception data

In these submissions, perception data refers to information collected based on the perception of the person collecting it. For example, a police officer identifying a person's race for a report may do so based on the officer's perception of what race that person belongs to. This is in contrast to having the person self-identify their race.

Police liaison officers

See "school liaison officers" below.

Police stops

B.C. Provincial Policing Standard 6.2 defines a "police stop" as any interaction between a police officer and a person that is more than a casual conversation and which impedes the person's movement. A stop may include a request or demand for identifying information depending on the circumstances.

Police Records Information Management Environment (PRIME)

PRIME is the information management system police across British Columbia use to access data and other critical information. PRIME is used by 13 independent and provincial police services and 135 RCMP detachments in British Columbia.¹⁸²

Psychological detention

Psychological detention is a legal term used by the courts to describe when a person is stopped by police and the police have not physically restrained them, but the person nonetheless is not free to leave. Psychological detention can occur in two ways. The first way is if a person is legally required to comply with a police officer's direction or demand. The second way is if a person is not legally required to comply with a police officer's direction or demand but a reasonable person in the person's position would feel obligated to do what the police officer says and would think they were not free to go.

R

Race

Race refers to the groups that humans often divide themselves into based on physical traits regarded as common among people of common ancestry. However, race is a social construct rather than a biological one. This means that society forms ideas of race based on geographic, historical, political, economic, social and cultural factors, as well as physical traits. Scientists generally do not recognize race as having an actual genetic basis.

Racialization

Racialization is the process by which societies construct races as real, different and unequal in ways that affect economic, political and social life. Racializing means imposing those constructions onto people in ways that unequally impact economic, political and social life.

Racial profiling

Generally, racial profiling is a practice of targeting someone for suspicion of crime based on stereotypes connected to their race, ethnicity, religion or national origin.

The Supreme Court of Canada has said racial profiling is any action taken by one or more people in authority with respect to a person or group of persons, for reasons of safety, security or public order, that is based on actual or presumed membership in a group defined by race, colour, ethnic or national origin or religion, without factual grounds or reasonable suspicion, that results in the person or group being exposed to differential treatment or scrutiny. The Supreme Court of Canada also said racial profiling includes any action by a person in a situation of authority who applies a measure in a disproportionate way to certain segments of the population on the basis, in particular, of their racial, ethnic, national or religious background, whether actual or presumed.¹⁸³

Racism

Racism is the belief that one group, as defined by the colour of their skin or their perceived common ancestry, is inherently superior to others. It can be openly displayed in jokes, slurs or hate speech, or can be more hidden in unconscious biases. Racism is deeply rooted in attitudes, values and stereotypical beliefs. In some cases, these beliefs have become deeply embedded in systems and institutions that have evolved over time. Racism operates at a number of levels including individual and systemic levels.

Red zones

Areas where a person is not allowed to go because a judge ordered that the person could not enter that area as a condition of releasing them on bail after they are charged, but not convicted, of a criminal offence.

S

School liaison officers

School liaison officers (also known as police liaison officers) are sworn police officers who are assigned to a school or schools. School liaison officers' specific activities are decided upon by each school board.

Significantly overrepresented

Significantly overrepresented is a technical term used in criminology and sociology. Overrepresentation means a group of people with something in common (like their race) experience something (for example, being arrested) in greater numbers than their percentage of the population. Significant overrepresentation means that the disparity is statistically noteworthy.

In these submissions significantly overrepresented is equal to an odds ratio (see above) of between 1.50 and 3.00.

Socio-demographic

Socio-demographic qualities are those characterized by a combination of sociological and demographic characteristics including age, sex, education, migration background and ethnicity, religious affiliation, marital status, household, employment and income, among other things.

Sovereignty

Sovereignty is the right of a nation or group of people to exert control over governance of all aspects of their lives, including legal, political, economic, social and cultural factors.

Stigmatization

Stigmatization has been described as “a dynamic process of devaluation that significantly discredits an individual in the eyes of others.” The qualities to which stigma adheres can be quite arbitrary — for example, skin colour, manner of speaking, sexual preference, frequency of sexual activity or whether one lives with HIV/AIDS. Within particular cultural settings, certain attributes are seized on and defined by others as discreditable or unworthy. Stigma is constructed and reinforced in language.

Stop and frisk

“Stop and frisk” is a much-criticized crime-prevention strategy prominent in the United States. It is particularly associated with New York City between 2002 to 2013. Stop and frisk allows police officers “to detain someone for questioning on the street, in public housing or in private buildings where landlords request police patrols”¹⁸⁴ if the police officer reasonably believes the person has committed or is about to be involved in a crime. If police officers believe the person they detained is armed, they can conduct a frisk (also known as a search) by passing their hands over the person’s clothes. Stop and frisk has been widely criticized for contributing to systemic racism in policing in low income, Black and Latino communities.

Street checks

A street check occurs when a police officer obtains identifying information concerning an individual,

outside of a police station, that is not part of an investigation.

Structural

Structural means relating to or affecting the structure of something. In sociology, society is seen as a structure with interrelated parts designed to meet the social needs of the individuals in that society.

Structural change

Structural change occurs when there is a transformation in the interaction or arrangement of parts in a system, in networks of social relationships or in groupings such as caste, kinship, family and occupational groups. Structural change addresses the root causes of social issues through these transformations.

Structural design

In these submissions, structural design refers to how institutions, organization, programs or policies are designed and implemented.

Systemic discrimination

Systemic discrimination is patterns of behaviour, policies or practices that create and maintain the power of certain groups over others or reinforce the disadvantage of certain groups. Systemic racism is a form of systemic discrimination.

Systemic racism

Systemic racism consists of patterns of behaviour, policies or practices that create and maintain the power of certain racial groups over others or reinforce the disadvantage of certain racial groups.

U

Unconscious bias

The underlying attitudes and stereotypes that people involuntarily attribute to another person or group of people that affect how they understand and engage with a person or group. Also known as implicit bias.

Appendix B: Report on policing data

Professor Scot Wortley’s report “Racial disparities in British Columbia police statistics: A preliminary examination of a complex issue,” was completed in September 2021 for BC’s Office of the Human Rights Commissioner and provides a detailed exploration of the relationship between race and police activity in B.C.

In the report, Wortley analyzes race-based data received from five police services: the Vancouver Police Department, the Nelson Police Department and the Surrey, Prince George and Duncan/North Cowichan RCMP detachments. The findings reveal profound racial disparities with respect to police arrests or chargeable incidents, mental health incidents and strip searches.

In many of the jurisdictions examined in this report, Indigenous, Black, Hispanic and Arab/West Asian people are significantly overrepresented in police statistics. These racial disparities are not necessarily only the product of bias in policing practices themselves, as systemic racism within many systems leads to the over criminalization of people who are Indigenous, Black or otherwise marginalized.

Wortley’s results suggest that the relationship between race, crime and policing deserves far more policy attention than these issues have traditionally received.

The full report can be found at: https://bchumanrights.ca/wp-content/uploads/Wortley_Sep2021_Racial-disparities-police-statistics.pdf



Endnotes

- ¹ Canada, Parliament, House of Commons, Standing Committee on Public Safety and National Security, *Systemic Racism in Policing in Canada: Report of the Standing Committee on Public Safety and National Security*, 2nd sess., 43rd Parliament, 2021, Committee Report 6, 34-38, <https://www.ourcommons.ca/Content/Committee/432/SECU/Reports/RP11434998/securp06/securp06-e.pdf>. British Columbia, Legislature, Special Committee on Reforming the Police Act, Minutes of Proceeding, 1st sess., 42nd Parliament, Issue No. 12, 2021, 186 (Vancouver Aboriginal Community Policing Centre Society), <https://www.leg.bc.ca/content/HansardCommittee/42nd1st/rpa/20210226am-PoliceActReform-Virtual-n12.pdf>.
- ² Community Governance Board is BCOHRC language which may not be the language used in the government's anti-racism data legislation.
- ³ Canada, Parliament, House of Commons, Standing Committee on Public Safety and National Security, *Systemic Racism in Policing in Canada: Report of the Standing Committee on Public Safety and National Security*, 2nd sess., 43rd Parliament, 2021, Committee Report 6, 1, <https://www.ourcommons.ca/Content/Committee/432/SECU/Reports/RP11434998/securp06/securp06-e.pdf>.
- ⁴ Canada, Parliament, House of Commons, Standing Committee on Public Safety and National Security, *Systemic Racism in Policing in Canada: Report of the Standing Committee on Public Safety and National Security*, 2nd sess., 43rd Parliament, 2021, Committee Report 6, 34-38, <https://www.ourcommons.ca/Content/Committee/432/SECU/Reports/RP11434998/securp06/securp06-e.pdf>. British Columbia, Legislature, Special Committee on Reforming the Police Act, Minutes of Proceeding, 1st sess., 42nd Parliament, Issue No. 12, 2021, 186 (Vancouver Aboriginal Community Policing Centre Society), <https://www.leg.bc.ca/content/HansardCommittee/42nd1st/rpa/20210226am-PoliceActReform-Virtual-n12.pdf>.
- ⁵ These experts included Professor Akwasi Owusu-Bempah, Chuka Ejeckam, and Canadian Mental Health Association, BC Division.
- ⁶ In early 2021, the Commissioner asked each police service to confirm whether they collect specific demographic and incident data including age, gender identity, Indigeneity, mental disability, mental health status, race, ethnicity, skin colour, sex, sexual orientation, location of incident, residential location of accused and substance use. In addition, the Commissioner asked police services to confirm whether demographic data is collected for street checks, well-being checks, traffic stops, other investigative stops, calls for service, strip searches, use-of-force incidents, K9 deployment, injury reports, arrests and/or charges, detentions in police jails, post-charge treatment by police, diversions, victimization and complaints.
- ⁷ *Police Act*, Revised Statutes of British Columbia 1996, c 368, s.68.1, <https://www.canlii.org/en/bc/laws/stat/rsbc-1996-c-367/latest/rsbc-1996-c-367.html#sec68.1>.
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