

## **Appendix B**

### **Toronto Police Services Board**

#### **Terms of Reference for the Independent Civilian Review into Missing Person Investigations**

WHEREAS the Toronto Police Services Board (“the Board”) is responsible, pursuant to section 31(1) of the *Police Services Act*, R.S.O. 1990, c. P.15 (“the Act”), for the provision of adequate and effective police services in the City of Toronto;

AND WHEREAS the Board must, pursuant to section 31(1) of the Act, generally determine after consultation with the Chief of the Toronto Police Service (“the Chief”) objectives and priorities with respect to police services for the City of Toronto, establish policies for the management of the Toronto Police Service (“the Service”) and direct the Chief and monitor his performance;

AND WHEREAS the Board may express its opinion or make suggestions to the Chief of Police on any aspect of policing in the municipality, and make recommendations regarding, but not direct, operational matters of the Toronto Police Service;

AND WHEREAS a number of people, and in particular members of the LGBTQ2S+ communities in the City of Toronto, have gone or been reported missing and have later been identified as victims of serious violence;

AND WHEREAS Project Houston, the Toronto Police Service’s 18-month investigation into the disappearance of three missing men who have now been identified as victims of serious violence, was closed in April 2014 having found no evidence of criminal conduct;

AND WHEREAS members and groups within the LGBTQ2S+ communities in the City of Toronto have expressed concern over the manner in which the Toronto Police Services handle and have handled missing person investigations, including concerns that the handling of missing person investigations in the City of Toronto may have been tainted by implicit or explicit, specific and systemic bias;

AND WHEREAS there are intersections of minorities within the LGBTQ2S+ communities, including South Asian, Middle Eastern, 2-spirited, other racialized individuals, as well as those who are either homeless or work in the sex trade that are particularly vulnerable and require an improved approach to policing relationships;

AND WHEREAS the Board recognizes the need to repair its relationship with the LGBTQ2S+ communities in the City of Toronto and to foster ongoing positive relations with members and organizations within those communities;

AND WHEREAS the Board created a Working Group consisting of one Board member and three external members to advise the Board on the structural and process options for an independent external review or reviews;

AND WHEREAS the Working Group has recommended that the Board commission an independent review of Board policies as well as Service procedures and practices in relation to missing person investigations, particularly those involving individuals from the LGBTQ2S+, immigrant, Aboriginal, South Asian, Middle Eastern, Black, homeless and other marginalized communities;

AND WHEREAS the Board believes it would be beneficial and of assistance to the Board in carrying out its responsibilities pursuant to section 31(1) of the Act to conduct a Review of the manner in which the Service conducts missing person investigations and to conduct a Review of the adequacy of the Board's policies related to missing person investigations;

THEREFORE the Board is appointing a Reviewer to conduct an Independent Review into Board policies as well as Service procedures and practices in relation to missing person investigations, particularly those involving individuals from the LGBTQ2S+, immigrant, homeless and other marginalized communities;

AND to conduct the Review, the Reviewer will be provided with such resources as are required, and be authorized by the Board to engage lawyers, experts, advisors, researcher and other staff as the Reviewer deems appropriate, at reasonable remuneration, as approved by the Board;

AND the Chief will cooperate fully with the Reviewer in conducting the Review and will instruct members employed by the Service to cooperate fully with the Reviewer conducting the Review as deemed necessary;

AND the Chair and members of the Board will cooperate fully with the Reviewer in conducting the Review and will instruct all members employed by the Board to cooperate fully with the Reviewer in conducting the Review;

AND the Reviewer may request any person, organization, the Chief and any member employed by the Board or the Service to provide relevant information or records for the Review where the Reviewer believes that person or organization has such information or record in his, her, their, its possession, custody or control;

AND the Reviewer may hold such meetings, interviews and consultations, and may make such procedural decisions with respect thereto, as the Reviewer deems advisable in the course of the Review;

AND the Reviewer, prior to commencing and throughout the Review, will consult with the Ministry of the Attorney General for Ontario, specifically Andrew Locke, Regional Director of Toronto Region or his designate (hereinafter "MAG"), in relation to any ongoing criminal prosecutions in order to ensure no criminal prosecution is prejudiced by this Review;

AND the Reviewer will consult with members, groups and organizations within the LGBTQ2S+ community, including those who have filed missing person reports in the past, and will engage an advisor to assist with the design and implementation of the community consultations;

AND the Reviewer will ensure that adequate accommodations and supports are available to maximize community participation in the consultation process, including receiving submissions from various stakeholders, community groups and organizations;

AND the Reviewer will engage a committee of advisors from affected communities, including but not limited to the LGBTQ2S+ communities, the South Asian and Middle Eastern communities, the sex trade and the homeless communities in the City of Toronto, to ensure the community perspective is adequately considered on all matters prior to commencing and throughout the Review;

AND the Reviewer will establish and maintain a website and may use other technology to promote accessibility and transparency to the public;

AND the Reviewer will provide regular reports to the public, through the website or other means, on the status of the review, the contents of which cannot prejudice any ongoing criminal investigation or criminal prosecution;

AND the Reviewer will conduct the Review without prejudicing any ongoing criminal investigation or criminal prosecution, including but not limited to the criminal prosecutions of Bruce McArthur and Kalen Schlatter, and will make a report to the Board without expressing any conclusion or making any recommendation regarding the civil or criminal responsibility of any person or organization;

AND in particular to ensure that any ongoing criminal proceedings involving Bruce McArthur are not prejudiced, when examining Project Houston and the missing person investigation of any alleged victim of Bruce McArthur, the Reviewer will not examine any facts after September 1, 2017, when it was determined that Bruce McArthur was a suspect, nor will the Reviewer examine any of the police contact with or consideration of Bruce McArthur, including as a person of interest, whether before or after September 1, 2017, nor will the Reviewer examine how the police determined the identity of any specific suspects;

AND the Reviewer may produce an interim report at the Reviewer's discretion and will produce a final report containing the Reviewer's findings, conclusions and recommendations and deliver it to the Chair and members of the Board for distribution to the public at or before the Board meeting in September 2019;

AND the report will be prepared in a form appropriate for release to the public, pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*;

AND these Terms of Reference should be interpreted in a manner consistent with the jurisdiction of the Board to ensure a broad and comprehensive Review in accordance with the Terms of Reference;

AND in the event that the Reviewer is unable to carry out any individual term of these Terms of Reference, the remainder of these Terms of Reference will continue to operate, it being the intention of the Board that the provisions of these Terms of Reference operate independently;

AND the subject matter of the Review will be:

1. A review of Board by-laws, policies and practices, including *The Way Forward* and any related reports that may have been considered by the Board, dealing with or relevant to missing person investigations and community relations to determine whether they are adequate to ensure effective, efficient and bias-free responses to missing person reports.
2. Without prejudicing any ongoing police investigation or criminal prosecution, a review of Service procedures, practices, protocols and actions in relation to missing person investigations, including but not limited to a review of Project Houston and the missing person investigations of Skandaraj Navaratnam, Abdulbasir Faizi, Majeed Kayhan, Salim Esen, Andrew Kinsman, Alloura Wells and Tess Richey, with a specific focus on
  - a. When a missing person event or report becomes a missing person investigation;
  - b. Whether adequate resources are dedicated at the Divisional and/or Service level to missing person investigations at inception and throughout the course of the investigation;
  - c. Whether culturally competent expertise is available to or relied upon by the Service for missing person investigations, including but not limited to expertise around gender identity, gender expression, race, ethnic origin and intersectionality;

- d. Whether the policies and practices adequately protect against implicit or explicit bias or discrimination (at the individual and systemic level) against members of the LGBTQ2S+ and other marginalized groups;
- e. Whether the Service is conducting missing person investigations in a unbiased, non-discriminatory manner, including consideration of the exercise of discretion by members of the Service in relation to decisions to record a person missing, or launch, resource and/or terminate missing person investigations and the experience of those who file missing persons reports with the Service;
- f. Whether there is adequate information sharing within the Service and between police services to ensure that similarities and links between missing person investigations can be identified quickly and effectively;
- g. Whether the Service has procedures, practices or protocols that limit who will be considered and/or investigated as a missing person and whether those policies are based on discriminatory or biased considerations;
- h. Whether the Service has procedures, practices or protocols and whether members of the public believe the Service has procedures, practices or protocols that intentionally or unintentionally discourage marginalized people, including but not limited to those without legal status in Canada or who are homeless, from being reported missing – including, without prejudicing any ongoing criminal investigation or criminal prosecution, an examination of what prevented Dean Lisowick and Kirushna Kumar Kanagaratnam from being reported missing;
- i. How and when the Service decides to advise or caution the public, or specific communities, about public safety concerns that arise from missing person investigations, including but not limited to information about suspected links or connections between missing person cases;
- j. How public messaging around missing person investigations is developed and whether cultural competence expertise is available or relied on by the Service in drafting public communications;
- k. How information about missing person investigations and policies surrounding missing person investigations are communicated internally within the Service and whether those methods of communication are effective; and

- l. Whether effective policies, procedures, and practices are in place to ensure adequate investigative consideration of serial killers, especially based on missing person reports where there is no evidence of foul play.
3. A review of past and current Service procedures, practices and protocols for developing and maintaining relationships with individuals and organizations within the LGBTQ2S+ communities, including
    - a. The roles, responsibilities and efficacy of the LGBTQ Liaison Officer;
    - b. The roles, responsibilities and efficacy of relevant Board and Service Advisory Committees or Working Groups in terms of maintaining and promoting communication between the Service and the LGBTQ2S+ communities;
    - c. The scope and efficacy of consultations and communications with members and organizations within the LGBTQ2S+ communities about missing person investigations;
    - d. The extent to which the Service engages or consults with individuals and groups that reflect the diversity within the LGBTQ2S+ communities;
    - e. The extent to which the police call upon organizations within the LGBTQ2S+ (or other relevant communities) to assist with missing person investigations at any stage;
    - f. The extent to which individuals and organizations within the LGBTQ2S+ communities are advised of public safety concerns arising from missing person reports and investigations, including but not limited to information about possible links between cases;
    - g. The views and perceptions of members of the LGBTQ2S+ and other marginalized communities about the manner and substance of public communications by the Service about missing person investigations;
    - h. The experience of members of the LGBTQ2S+ and other marginalized communities reporting concerns to the police, including but not limited to the experience of individuals with non-heteronormative sexual expressions (such as those who participate in public cruising or BDSM), and whether there are actual or perceived barriers in relation to their willingness or ability to share information with the police; and

- i. The accessibility, transparency and effectiveness of any complaint process for identifying concerns on the part community members or groups about biased policing or discriminatory practices.
4. A review of current training of Service members in relation to missing person investigations, bias-free policing and community liaison to determine whether it adequately addresses
  - a. Cultural competence to respond to missing person reports within the LGBTQ2S+ communities;
  - b. Intersectionality and its impact on marginalization; and
  - c. Protecting against biased assumptions being made about individuals reported missing based on their race, sexual orientation, immigration status or similar grounds.
5. A review of the efficacy of current training in relation to missing person investigations in ensuring that concepts taught are being operationalized by Service.
6. A review of formal and informal complaints made in the past 10 years to the Service, the Board or the OIPRD related to missing person investigations.
7. A survey and review of prior reports dealing with missing person investigations in Canada, relations between the LGBTQ2S+ community and the police, and the duty on the police to notify the public of potential safety threats (including but not limited to *Out of the Closet: Study of Relations Between the Homosexual Community and the Police*, 1981, *Bernardo Investigation Review*, 1996, *The Review of the Investigation of Sexual Assaults – A Decade Later*, 2010 and the Report of the Missing Women Commission of Inquiry in British Columbia in 2012) to determine if past recommendations have been implemented and/or effective and if not, why past recommendations have not been implemented by the Board and/or Service.
8. A review of national and international best practices in relation to missing person investigations, bias-free policing and maintaining positive working relationships with marginalized communities.

AND the Reviewer will make recommendations as the Reviewer deems fit for the mandate of the review and terms of reference, including but not limited to recommendations on:

1. Board policies and Service procedures relating to receiving and recording missing person reports, and conducting effective, efficient and bias-free missing person investigations;

2. Board policies and Service procedures related to the collection of data about the effectiveness of missing person investigations, including the satisfaction of those who filed or attempted to file missing person reports;
3. Board policies and Service procedures to ensure adequate training of Service members in relation to missing person investigations and bias-free policing;
4. Board policies and Service procedures that will ensure that members of the Service will be evaluated in relation to their skills relevant to cultural competence and bias-free policing and that the results of any such evaluations will be taken into account when making hiring and promotional decisions;
5. Board policies and Service procedures that will ensure appropriate remedial and disciplinary measure are taken if members of the Service engage in biased or discriminatory conduct when receiving or investigating missing person reports;
6. Board policies and Service procedures to create a framework for ensuring participation of members and organizations within the LGBTQ2S+ communities in the process of monitoring and implementing any recommendations adopted by the Board and Service; and
7. A framework for measuring, monitoring and publicly reporting on the effectiveness of any recommendations that are implemented by the Board or Service, including giving consideration to a model for independent oversight of compliance and continuing community consultation;

AND the Reviewer will propose a timeline for the implementation of each recommendation.