

## ***Perspective: Personal Experiences of Racialized Youth in their Interactions with Toronto Police Services and the Barriers they face to Obtain Justice***

**by Julia Huys and Emily Chan<sup>1</sup>**

### **Introduction**

*Perspective* provides first-hand accounts of racialized-youth interacting with the Toronto Police Services (TPS) throughout 2010-2011 and again in 2015.<sup>2</sup> This paper focuses on youth with intersecting identities including age, ethnicity, sexual orientation, sexual identity, residential location, and class. The majority of youth interviewed are, or were, homeless at the time of the interview. The paper concludes with a discussion of the barriers these youth face in accessing justice for the violation of their rights and provide recommendations for overseeing bodies as to how to make justice more accessible.

### **Experiences of Racialized Youth with Intersecting Identities**

Throughout the course of our research and practice, racialized youth expressed concerns about racial profiling, in addition to profane and abusive language by TPS officers and physical abuse. They learn quickly that they are unable to rely on the police for protection or professionalism. Instead, their interactions are marred by negativity and rights violations. This results in both psychological and emotional harm to the young person, including feelings of being excluded from society.

In our experience, youth believed that the root cause for the discrimination they encountered was based on their most identifiable feature, their race, which was then

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<sup>2</sup>Youth are defined as individuals under the age of 24. The 2011 project included in-depth interviews of youth and their first-hand experience with members of the Toronto Police Service; this was led by Johanna Macdonald, former SYLS lawyer at JFCY and Heather McDonald, a former Social Work Placement student at JFCY; *Changes – The Affidavit Project*, was co-written by J. Macdonald and Heather McDonald, a former Social Work Placement Student at JFCY. The 2015 project, *Street Youth of Toronto*, includes in-depth interviews and data collection from one-on-one meetings with homeless youth led by Julia Huys. An anonymous interview format was used to protect the identity of the youth, many of whom were fearful of their identities being known.

exacerbated by other intersecting identities, including but not limited to: age, class, features identifying their cultural background (such as clothing or facial characteristics), sexual identity, and sexual orientation.

Below are personal accounts of youth who experienced negative race-based comments by TPS officers:

Luis, age 18: "I heard the male cop ask my friend, 'where are you from?' I heard my friend answer, 'Toronto.' I heard the male cop ask again, 'no where are you from?' [...] I heard the male cop say some else, to the extent like, 'stop giving me a hard time.' I heard my friend answer, 'my parents are from Central America.'" <sup>3</sup>

Pasha, age 16: "another cop made fun of my scarf. He said, 'it's not the desert, you know.'" <sup>4</sup>

Karla, age 21: "I know the police mean well, but there is a lot of racism. They make it pretty clear I'm a "dirty squaw" – two officers once yelled that to me while I was walking down the street. One of the officers came up to me afterwards and apologized. I was the wrong girl, not the girl they were trying to talk to. So no, they don't make me comfortable." <sup>5</sup>

Race-based interactions often led the way to further discrimination and violation of rights. The change in the behavior of the police highlights how youth with intersecting identities in particular may experience high levels of discrimination. For example:

Jason, age 20: An Aboriginal youth, Jason reported that he was stopped because the officer did not like the brand of clothing he was wearing and he was then unreasonably searched. <sup>6</sup>

Simon, age 22: A racialized young person, Simon felt that he was initially stopped and questioned by police due to his race, but once the police officer learned that he was living in a shelter, the tone and nature of the interaction changed entirely. Simon immediately

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<sup>3</sup> Interview from 2011 Affidavit Project.

<sup>4</sup> Interview from 2011 Affidavit Project.

<sup>5</sup> Interview from 2011 Affidavit Project.

<sup>6</sup> Interview from 2015 Street Youth of Toronto Project, 2015.

felt more vulnerable and one of the officers became aggressive and abusive.<sup>7</sup>

In other instances, racial-profiling was a barrier to accessing services of the TPS. Racialized youth with intersecting identities reported difficulties in making police complaints:

Shannon, age 18: An Aboriginal woman, Shannon had been beaten by her family members and hospitalized for the evening. She had bruises on her face and torso. She was questioned by the police at the hospital, yet they did not take photographs of her injuries. Despite following up several times, there was a lack of action by the police, which she feels strongly was due to her being a young Aboriginal woman with no fixed address.<sup>8</sup>

Muneeba, age 23: A young Muslim woman, Muneeba attempted to make a police complaint about another resident at her shelter who had twice assaulted her. While making her statement police asked why she lived in a shelter, and insinuated that she was in the fact the aggressive one. After the police left the young woman broke down in tears over the sense of helplessness she felt and her overwhelming fear of life on the streets.<sup>9</sup>

Another common concern expressed by youth is the amount of physical force police officers use against them.<sup>10</sup> Blows to the head and face have the potential to cause permanent damage as brain development is ongoing in early adult years.<sup>11</sup>

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<sup>7</sup> Interview from 2015 Street Youth of Toronto Project, 2015

<sup>8</sup> Interview from 2015 Street Youth of Toronto Project, 2015

<sup>9</sup> Interview from 2015 Street Youth of Toronto Project, 2015

<sup>10</sup> Youth in both the 2011 and 2015 projects cited interactions with TPS officers that included being: hit, punched or kicked in the face or head; tackled upon detention; hit in the stomach; or grabbed by the neck.

<sup>11</sup> See: C. Lebel, C. Beaulieu, "Longitudinal Development of Human Brain Wiring Continues from Childhood into Adulthood" (2011) 31(30) *Journal of Neuroscience* 10937 at 10943; *see also*: Tammy Balaban, Nellemarie Hyde & Angela Colantonio, "The Effects of Traumatic Brain Injury During Adolescence on Career Plans and Outcomes" (2009) 29(4) *Physical and Occupational Therapy in Pediatrics* 367-383; *and* Heather M. Conklin et al., "Working Memory Performance in Typically Developing Children and Adolescents: Behavioral Evidence of Protracted Frontal Lobe Development" (2007) 31(1) *Developmental Neuropsychology* 103-128; Maria Roca et al., "The Role of Area 10 (BA10) in Human Multi-tasking and in Social Cognition: A Lesion Study" (2011) 49(13) *Neuropsychologia* 3525-3531.

Below are additional experiences and opinions shared by racialized youth with respect to their interactions with the TPS:

Oscar, age 16: “at least ten uniformed police officers followed us into the store and slammed [me] onto the floor.”<sup>12</sup>

Felix, age 17: “while the officer was beating me, I looked towards the other officer and he was backing away with his hands up. That officer’s face looked like he did not want to be involved with what was happening.”<sup>13</sup>

Mohammed, age 14: “we all told the cop that we did not have any weapons. The cop asked us to take our backpacks off. All of us took our backpacks off. The cop then looked inside all of our backpacks. He found no weapons.”<sup>14</sup>

Denise, age 17: “I think that the officers should have investigated a lot more before they busted through our doors, hurt us, broke, and lost our belongings. I think that when people are being cooperative, like we were being, that the officers should have respected our belongings more and been more humane to us.”<sup>15</sup>

Isaac, age 16: “I think police officers need to change how they interact with youth. I find they use their fists before their voices, and I think that is wrong.”<sup>16</sup>

### **Access to Justice and Barriers to Redress**

A complaint to the Office of the Independent Police Review Director (OIPRD) is often the most accessible complaint mechanism for racialized youth who have faced discrimination and abuse by the police.<sup>17</sup> However, the low probability of a complaint

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<sup>12</sup> Interview from 2011 Affidavit Project.

<sup>13</sup> Interview from 2011 Affidavit Project.

<sup>14</sup> Interview from 2011 Affidavit Project.

<sup>15</sup> Interview from 2011 Affidavit Project.

<sup>16</sup> Interview from 2011 Affidavit Project.

<sup>17</sup> Section 2(1) of the *Human Rights Code*, RSO 1990, c H.19 and section 2(1)(a)(i) of the *Police Service Act Code of Conduct* both prohibit discriminatory conduct.

leading to disciplinary measures decreases their motivation to enter into the formal complaints system through the OIPRD or the police service.<sup>18</sup>

Another viable complaint mechanism for discriminatory conduct by the TPS is by filing a complaint to the Human Rights Tribunal of Ontario (HRTO). Until recently, once a complaint was made to the OIPRD, complainants did not have the option to then seek redress via the HRTO, whether that complaint to the OIPRD was successful or not.<sup>19</sup> Then, in 2013 the Supreme Court of Canada ruled that it would be unfair to bar a HRTO hearing following a civil complaint.<sup>20</sup> This has opened the door to further civil action following a generally ineffective OIPRD process.<sup>21</sup>

These existing avenues for redress, however, fail to address some of the underlying barriers for youth. These barriers include legitimate fears of retaliation for speaking up, a lack of trust and bitterness towards the police, a lack of social supports, and feelings of hopelessness fueled by the thought that they will not be believed.

Even youth willing to engage in a legal process to seek redress are met with challenges. Such challenges include: the collection and preservation of evidence; inability to meet thresholds of proof; difficulty in articulating the circumstances surrounding the events in question and/or the impact the events had on them; and an inability to pay court fees or legal counsel. Youth may also be re-victimized through the adversarial system, attacks on their credibility and the recounting of events. Lastly, even if successful, the final outcome taken against an officer who acted wrongly may be far from satisfactory.

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<sup>18</sup> In a 2011 Report, the OIPRD reported that there were 4,083 complaints received from January 2009 to March 2011. Between April 2010 and March 2011, only 10 less serious conduct violations and 26 serious conduct violations were referred to a disciplinary hearing.<sup>18</sup> Similar statistics were reported for 2010. The TPS 2011 Statistical Report holds similarly low findings of any misconduct among police members. In 2010, the TPS received 1,147 complaints, and investigated 740 of them. 131 investigations are not concluded. The report cites a mere 30 findings of misconduct identified, representing 5% of those investigated. Please refer to: Toronto Police Service, *2011 Annual Statistical Report* (Toronto, Ontario) at 11

<sup>19</sup> The HRTO previously held that the OIPRD was a “proceeding” under Rule 45.1 of the *Human Rights Code*, and therefore the matter had already been adjudicated.

<sup>20</sup> *Penner v. Niagara (Regional Police Services Board)*, 2013 SCC 19 at 66.

<sup>21</sup> See *Ontario (Ministry of Community Safety and Correctional Services) v. De Lottinville*, 2015 ONSC 3085

## **Moving Forward – Areas for Potential Policy Reform**

The authors believe that making TPS misconduct complaint mechanisms more accessible to racialized youth is a fundamental step in fighting discrimination against these youth. Areas for potential policy discussion and reform include the following:

- Amending the *Police Services Act* so that police officers are mandated to provide information on how to make a complaint about the TPS if an individual is dissatisfied with the service they received.
- Creating policy that recognizes that racialized youth will face unique barriers when accessing complaint mechanisms.
- Starting with a presumption when assessing complaints about TPS conduct that racialized youth with intersecting identities are likely to have different experiences with the TPS than other youth.
- Supporting direct access to the HRTO, rather than an initial complaint to the OIPRD.
- Creating a Youth Advisory Committee to assist in the continued use of youth voice.
- Creating avenues for racialized youth to access additional assistance in the complaints process.

## **Conclusion**

The recommendations outlined in this report can be used to inform future discussions, policy reform and action plans. Addressing youth, race and intersecting identities to address discrimination and rights-violations is an important step towards repairing damage caused by racially charged police misconduct and towards enhancing trust between youth and police.