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November 14<sup>th</sup>, 2012

Deirdre Williams  
Toronto Police Service Board

Attn: Toronto Police Services Board

**Re: Nov. 14<sup>th</sup> TPSB Meeting Agenda Item #3  
Chief William Blair's report to the TPBS on issuing receipts to persons who are stopped  
by the police**

On behalf of Justice for Children and Youth (JFCY), the Youth and Police Advocacy Working Group (YPAWG), and the youth we work with, this letter voices concern about four main areas of Chief Blair's report to you. We have five recommendations based on those concerns. To implement these recommendations, we ask that you continue to review, revise, and create Toronto Police Service Board (Board) policies that clarify police roles and responsibilities to provide non-discriminatory policing services to civilians in Toronto.

JFCY provides select legal representation to low-income children and youth in Toronto and vicinity. We are a non-profit legal aid clinic that specializes in protecting the rights of those facing conflicts with the legal system, education, social service or mental health systems. We give summary legal advice, information and assistance to young people, professionals, and community groups across Ontario.

The YPAWG is a collective of at-risk and street-involved youth serving organizations advocating for better interactions between youth and police in our city. YPAWG engages in community activities and education on issues relating to police and youth relations. Taking into account the power difference within the relationship between police and youth, YPAWG encourages and assists youth serving agencies, youth, and the Toronto Police Service to be respectful of their roles and responsibilities, and accountable for their actions.

### **Background**

The Chief's report relates to motions passed during the April 5th, 2012 Board meeting. The original agenda item leading to the motions resulting in the Chief's report was about the collection of demographic statistics on persons being stopped by Toronto Police Service members. The collection and analysis of demographic statistics was requested by the Board so they may

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potentially quantify the alarming reports and realities highlighted by Toronto Star journalists and community groups about the effects of racial profiling and the existence of discriminatory policing practices in Toronto, particularly between police service members and racialized young men in our city.

In addition to the Board requesting an auditor general's statistical report on potentially discriminatory conduct, community members asked the Board to also pass a policy requiring Police Service members to provide a contact receipt to those stopped and questioned by Service members. In a letter dated March 21st, 2012, JFCY importantly requested that the Board require Service members to provide civilians with BOTH a physical copy of the information recorded during the stop, **AND an information sheet on civilian rights during their stop.**

In consultation with youth, JFCY and YPAWG are concerned that civilians in Toronto continue to be stopped, questioned, and searched in a discriminatory manner based on their age and race and often other protected grounds of discrimination such as disability, sexual orientation or gender. In addition to such discrimination, the youth we work with report extremely negative interactions with the Toronto Police Service including illegal stops, searches, harassment, derogatory language, and physical assaults, for which available remedies for the experienced wrongs are few and far between.

In addition to our continued efforts to resolve these extremely serious grievances affecting our most vulnerable civilians, we depose that:

**It is unacceptable that anyone in Toronto continues to be asked to answer questions posed by Toronto Police Service officers about their personal lives without any notification by officers about whether they are obliged to remain in the presence of the officer, whether they are required to answer any of the questions posed, or even whether they are being suspected of any criminal activity.**

**A. Issue - Creating policy that promotes protecting the community by safeguarding fundamental rights**

Chief Blair reports that the Toronto Police Service is striving to find a balance between the role of officer's protecting the community, and the individual rights of those in the community being stopped (para 4-5 discussion portion).

The *Police Services Act* which governs policing requires that services shall be provided in accordance with safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*. Services shall also be provided in accordance with the need to ensure safety and security in neighbourhoods (*PSA* s. 1).

These two interests do not require a balance. Respect for individual rights and the safety and

security of the community are not in conflict. In fact, one supports the other. Our Toronto Police Service must do both.

Recommendation #1: The Board must create a strong policy tying these two obligations together – safeguarding individual rights and protecting the community.

We applaud the Toronto Police Service and Board for working to implement policy and procedures under by the *Police Services Act* to safeguard fundamental individual rights and protect communities, but regret that Chief Blair has drawn a divide and suggested that some kind of balancing of interests is required, instead of promoting a culture and practice where rights and safety are respected in concert. Indeed, these two interests must go hand in hand when working within a community with high police presence.

With the existence of clear and open communications and positive police interactions, community members will feel more trusting towards Toronto Police Service members and seek to report crime or more readily assist with investigations of crime. Police Service members must be called upon to treat people respectfully, with dignity and act within the limits of the law – this is the only way that police will successfully engage with community members and be able to provide meaningful safety and protection within the community.

#### **B. Issue - Notification of stop purpose and information about public complaints**

We are also concerned about the evolution of the use of "street checks", as described in Chief Blair's report. Paragraph 4 and 5 of the "Discussion" portion of the report summary states that the purpose of "street checks" is for investigative AND community engagement purposes.

This dual-purpose goal of investigative and community engagement raises several serious concerns:

- Is community engagement a policing duty that attracts the authority of the police to collect and retain mass databases of personal information about civilians on the street in Toronto?
- Under our *Municipal Freedom of Information and Protection of Privacy Act*, does the Toronto Police Service have lawful authority to collect non-law enforcement personal information about civilians?
- At a minimum, if for community engagement purposes and not investigative purposes, must the Toronto Police Service members notify the individual the purpose for collecting their personal information?

The dual-purpose goal of "street checks" to encompass both an investigative and community engagement role requires that Toronto Police Service member be even clearer about what their

communication with civilians on the street means, so that fundamental rights are safeguarded, as required by the *Police Services Act*.

Without procedural requirements outlining an officer's responsibility to notify civilians about the service they are providing when asking questions, providing a contact receipt of a stop does facilitate accountability, safeguard rights, or build safety in our community.

Recommendation #2: Board policy should require officers to inform people of their rights when being stopped (can they leave, if not, why?, and can they speak with a lawyer?)

Many of our clients who are questioned by Toronto Police Service members are unaware they have a right to refuse to answer questions. They feel threatened, intimidated, and obliged to respond. Regardless of whether a stop is conducted in a coercive, threatening, or even pleasant manner, the inherent power difference between law enforcement agents and youthful civilians begs the question of the true voluntariness of answered questions.

Unfortunately, even civilians who know their rights and responsibilities when questioned by a Toronto Police Service member often feel nervous and threatened in police presence. Many of our clients also feel that if they ask questions about the interaction or try to assert their rights, that they may be treated more harshly by the Toronto Police Service officer who is interacting with them.

It is in the Toronto Police Service's interest to communicate how the Service manages interactions between Service members and civilians, especially the conduct of communications when civilians choose not to share personal information with Service members.

Clear policy and procedural guidelines on how the Service members are required to inform civilians about their rights and obligations is crucial to the proper functioning of the Toronto Police Service in upholding their core service and duties under the *Police Services Act*.

Recommendation #3: Board policy should require officers to provide information about the complaints process directly to people they interact with during any stop

The Toronto Police Service does not and must not tolerate discriminatory conduct by Service members. A policy and operational procedure should be created for informing a civilian about their right to make a complaint about the Service they receive. Feedback from people who are stopped by Service members will allow the Toronto Police Service to identify the origin of complaints and take appropriate action.

**C. Issue - Policy is required to ensure that the Service monitors compliance with the *Ontario Human Rights Code and Canadian Charter of Rights and Freedoms***

Chief Blair reported that the Diversity Management Unit does not have the expertise nor capability to monitor the activities of the Service members for misconduct or report to the Chief accordingly. The monitoring of compliance with the *Ontario Human Rights Code* is a crucial goal of the Board and Service, as compliance with the *Code* is required under the *Police Services Act*.

As a crucial element to rectifying the widespread accounts of discriminatory policing in Toronto, if not the Diversity Management Unit, then who shall conduct this monitoring?

Recommendation #4: Board policy must be in place relating to the monitoring of compliance with the *Human Rights Code* and the *Canadian Charter of Rights and Freedoms*

**D. Issue – Record keeping of personal information**

It is also important that the Board review existing policies and procedures relating to information collected by Service members. Some of this review may be addressed in a strong policy regarding police records access, disclosure, and purging of non-conviction information, to be addressed at item 21 on the agenda, but these issues are also important to consider at the front-end of Police Service “street checks” and record collection in order to evaluate compliance with privacy laws, the *Human Rights Code*, and *Canadian Charter of Rights and Freedoms* guarantees.

Recommendation #5: The Board should review, revise, and implement policy related to the access, retention, and destruction of information collected by the Police Service during a 'street check'

On behalf of JFCY and the YPAWG, thank you for your attention to this matter. I invite any comments or questions for further consideration.

Regards,



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