

# 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 subsection 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 subsection 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, pursuant to subsection 31(6) of the Act, by by-law, make rules for the effective management of the Toronto Police Service;

AND WHEREAS the Board may express its opinion or make recommendations to the Chief of Police on any aspect of policing in the municipality, while not directing the Chief of Police with respect to specific, operational matters or with respect to the day-to-day operation of the Toronto Police Service;

AND WHEREAS the Report of the Independent Civilian Review Into Matters Relating to the G20 Summit provides relevant guidance on interpreting the statutory mandate of the Board;

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

1 are particularly vulnerable and require an improved approach to policing  
2 relationships;

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

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

11  
12 AND WHEREAS the Working Group has recommended that the Board commission  
13 an independent review of Board policies as well as Service procedures and practices  
14 in relation to missing person investigations, particularly those involving individuals  
15 from the LGBTQ2S+, immigrant, Indigenous, South Asian, Middle Eastern, Black,  
16 homeless and marginalized communities more generally;

17  
18 AND WHEREAS the Board believes it would be beneficial and of assistance to the  
19 Board in carrying out its responsibilities pursuant to subsection 31(1) and  
20 subsection 31(6) of the Act to conduct a Review of the adequacy of the Board's  
21 policies, as well as the Service's procedures and practices related to missing person  
22 investigations, including a systemic evaluation of the manner in which the Service  
23 conducts such investigations and a review of certain specific missing person  
24 investigations identified in paragraph 2 below;

25  
26 AND WHEREAS the Board believes that it is important that the terms of reference of  
27 such a Review must be designed, among other things, to ensure that the Reviewer is  
28 truly independent;

29  
30 THEREFORE the Board is appointing a Reviewer to conduct an Independent Review  
31 into Board policies as well as Service procedures and practices in relation to missing  
32 person investigations, particularly those involving individuals from communities  
33 described above;

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

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

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

1  
2 AND the Reviewer may request any person, organization, the Chief, members of the  
3 Board, and any member employed by the Board or the Service to provide relevant  
4 information or records for the Review where the Reviewer believes that person or  
5 organization has such information or record in his, her, their, its possession, custody  
6 or control;

7  
8 AND the Reviewer may hold such meetings, interviews and consultations, and may  
9 make such procedural decisions with respect thereto, as the Reviewer deems  
10 advisable in her discretion in the course of the Review;

11  
12 AND the Reviewer, prior to commencing and throughout the Review, will consult  
13 with the Ministry of the Attorney General for Ontario, specifically Andrew Locke,  
14 Regional Director of Toronto Region or his designate (hereinafter "MAG"), and  
15 others in the Reviewer's discretion in relation to any ongoing criminal proceedings  
16 in order to ensure that no criminal proceedings are prejudiced by this Review;

17  
18 AND the Reviewer will consult with members, groups and organizations within the  
19 LGBTQ2S+ community, including those who have filed missing person reports in the  
20 past, and will engage an advisor to assist with the design and implementation of the  
21 community consultations;

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

27  
28 AND the Reviewer will establish an advisory group representing affected  
29 communities, such as the LGBTQ2S+ communities, the South Asian and Middle  
30 Eastern communities, the sex trade and the homeless communities in the City of  
31 Toronto, to ensure the community perspective is adequately considered prior to  
32 commencing and throughout the Review; advisory groups representing other  
33 stakeholders may be created formally or informally in the discretion of the  
34 Reviewer;

35  
36 AND the Reviewer will establish and maintain a website and may use other  
37 technology to promote accessibility and transparency to the public;

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39 AND the Reviewer will provide updates to the public, through the website or other  
40 means, on the status of the review, the contents of which cannot prejudice any  
41 ongoing criminal investigation or criminal proceedings,

42  
43 AND the Reviewer will conduct the Review without prejudicing any ongoing  
44 criminal investigation or criminal proceedings, including but not limited to the  
45 criminal prosecutions of Bruce McArthur and Kalen Schlatter, and will make a  
46 report to the Board without expressing any conclusion or making any

1 recommendation regarding the civil or criminal responsibility of any person or  
2 organization;

3  
4 AND in particular to ensure that any ongoing criminal proceedings involving Bruce  
5 McArthur are not prejudiced, when examining Project Houston and the missing  
6 person investigation of any alleged victim of Bruce McArthur, the Reviewer will not  
7 examine any facts after September 1, 2017 relating to the ongoing proceedings  
8 when it was determined that Bruce McArthur was a suspect, nor will the Reviewer  
9 examine any of the police contact with or consideration of Bruce McArthur,  
10 including as a person of interest, whether before or after September 1, 2017, nor  
11 will the Reviewer examine how the police determined the identity of any specific  
12 suspects;

13  
14 AND the Reviewer may produce an interim report at the Reviewer's discretion and  
15 will produce a final report containing the Reviewer's findings, conclusions and  
16 recommendations and deliver it to the Chair and members of the Board for  
17 distribution to the public at or before the Board meeting in April 2020;

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

21  
22 AND these Terms of Reference should be interpreted in a manner consistent with  
23 the jurisdiction of the Board to ensure a broad and comprehensive Review;

24  
25 AND in the event that the Reviewer is unable to carry out any individual term of  
26 these Terms of Reference, the remainder of the Terms of Reference will continue to  
27 operate, it being the intention of the Board that the provisions of these Terms of  
28 Reference operate independently;

29  
30 AND the subject matter of the Review will be:

- 31
- 32 1. A review of Board by-laws, policies and practices, as well as *The Way*  
33 *Forward* and any related reports that may have been considered by the  
34 Board, dealing with or relevant to missing person investigations and  
35 community relations to determine whether they are adequate to ensure  
36 effective, efficient and bias-free responses to missing person reports.  
37
  - 38 2. Without prejudicing any ongoing police investigation or criminal  
39 prosecution, a review of Service procedures, practices, protocols, and  
40 actions in relation to missing person investigations, including but not  
41 limited to a review of Project Houston and the missing person  
42 investigations of Skandaraj Navaratnam, Abdulbasir Faizi, Majeed Kayhan,  
43 Salim Esen, Soroush Mahmoudi, Andrew Kinsman, Alloura Wells and Tess  
44 Richey, with a specific focus on  
45

- 1 a. When a missing person event or report becomes a missing person  
2 investigation;
- 3
- 4 b. Whether adequate resources are dedicated at the Divisional and/or  
5 Service level to missing person investigations at inception and  
6 throughout the course of the investigation;
- 7
- 8 c. Whether culturally competent expertise is available to or relied upon  
9 by the Service for missing person investigations, including but not  
10 limited to expertise around gender identity, gender expression, race,  
11 ethnic origin and intersectionality;
- 12
- 13 d. Whether the policies and practices adequately protect against implicit  
14 or explicit bias or discrimination (at the individual and systemic level)  
15 against members of the LGBTQ2S+ and other marginalized groups;
- 16
- 17 e. Whether the Service is conducting missing person investigations in a  
18 unbiased, non-discriminatory manner, including consideration of the  
19 exercise of discretion by members of the Service in relation to  
20 decisions to record a person missing, or launch, resource and/or  
21 terminate missing person investigations and the experience of those  
22 who file missing persons reports with the Service;
- 23
- 24 f. Whether there is adequate information sharing within the Service and  
25 between police services to ensure that similarities and links between  
26 missing person investigations can be identified quickly and  
27 effectively;
- 28
- 29 g. Whether the Service has procedures, practices or protocols that limit  
30 who will be considered and/or investigated as a missing person and  
31 whether those policies are discriminatory or biased in their effect or  
32 application;
- 33
- 34 h. Whether the Service has procedures, practices or protocols and  
35 whether members of the public believe the Service has procedures,  
36 practices or protocols that intentionally or unintentionally discourage  
37 marginalized people, including but not limited to those without legal  
38 status in Canada or who are homeless, from being reported missing –  
39 including, without prejudicing any ongoing criminal investigation or  
40 criminal prosecution, an examination of what prevented Dean  
41 Lisowick and Kirushna Kumar Kanagaratnam from being reported  
42 missing;
- 43
- 44 i. How and when the Service decides to advise or caution the public, or  
45 specific communities, about public safety concerns that arise from  
46 missing person investigations, including but not limited to

1 information about suspected links or connections between missing  
2 person cases;

3  
4 j. How public messaging around missing person investigations is  
5 developed and whether cultural competence expertise is available or  
6 relied on by the Service in drafting public communications;

7  
8 k. How information about missing person investigations and policies  
9 surrounding missing person investigations are communicated  
10 internally within the Services and whether those methods of  
11 communication are effective; and

12  
13 l. Whether effective policies, procedures, and practices are in place to  
14 ensure adequate investigative consideration of serial killers,  
15 especially based on missing person reports where there is no overt  
16 evidence of foul play.

17  
18 3. A review of Service procedures, practices and protocols for developing and  
19 maintaining relationships with individuals and organizations within the  
20 LGBTQ2S+ communities, especially as they impact on the effectiveness and  
21 adequacy of missing persons investigations, including but not limited to:

22  
23 a. The roles, responsibilities and efficacy of the LGBTQ Liaison Officer;

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25 b. The roles, responsibilities and efficacy of relevant Board and Service  
26 Advisory Committees or Working Groups in terms of maintaining and  
27 promoting communication between the Service and the LGBTQ2S+  
28 communities;

29  
30 c. The scope and efficacy of consultations and communications with  
31 members and organizations within the LGBTQ2S+ communities about  
32 missing person investigations;

33  
34 d. The extent to which the Service engages or consults with individuals  
35 and groups that reflect the diversity within the LGBTQ2S+  
36 communities;

37  
38 e. The extent to which the police call upon organizations within the  
39 LGBTQ2S+ (or other relevant communities) to assist with missing  
40 person investigations at any stage;

41  
42 f. The extent to which individuals and organizations within the  
43 LGBTQ2s+ communities are advised of public safety concerns arising  
44 from missing person reports and investigations, including but not  
45 limited to information about possible links between cases;

46

- 1 g. The views and perceptions of members of the LGBTQ2S+ and  
2 marginalized communities more generally about the manner and  
3 substance of public communications by the Service about missing  
4 person investigations;  
5
- 6 h. The experience of members of the LGBTQ2S+ and marginalized  
7 communities more generally reporting concerns to the police,  
8 including but not limited to the experience of individuals with non-  
9 heteronormative sexual expressions (such as those who participate in  
10 public cruising or BDSM), and whether there are actual or perceived  
11 barriers in relation to their willingness or ability to share information  
12 with the police; and  
13
- 14 i. The accessibility, transparency and effectiveness of any complaint  
15 process for identifying concerns on the part community members or  
16 groups about missing person investigations.  
17
- 18 4. A review of current training of Service members in relation to missing  
19 person investigations, bias-free policing and community liaison to  
20 determine whether it adequately addresses  
21
  - 22 a. Cultural competence to respond to missing person reports within the  
23 LGBTQ2S+ communities;  
24
  - 25 b. Intersectionality and its impact on marginalization; and  
26
  - 27 c. Protecting against biased assumptions being made about individuals  
28 reported missing based on their race, sexual orientation, immigration  
29 status etc.  
30
- 31 5. A review of the efficacy of current training in relation to missing person  
32 investigations in ensuring that concepts taught are being operationalized by  
33 the Service.  
34
- 35 6. In the Reviewer's discretion, a review of formal and informal complaints  
36 made to the Service, the Board or the OIPRD related to missing person  
37 investigations.  
38
- 39 6. Consideration of prior reports dealing with missing person investigations in  
40 Canada, relations between the LGBTQ2S+ community and the police, and the duty  
41 on the police to notify the public of potential safety threats (including but not  
42 limited to *Out of the Closet: Study of Relations Between the Homosexual Community*  
43 *and the Police*, 1981, *Bernardo Investigation Review*, 1996, *The Review of the*  
44 *Investigation of Sexual Assaults – A Decade Later*, 2010 and the Report of the *Missing*  
45 *Women Commission of Inquiry* in British Columbia in 2012) to determine if past

1 recommendations have been implemented and/or effective and if not, why past  
2 recommendations have not been implemented by the Board and/or the Service.

3  
4 7. Consideration, in the Reviewer's discretion, of best practices in other jurisdictions  
5 in relation to missing person investigations, bias-free policing and maintaining  
6 positive working relationships with marginalized communities.

7  
8 AND the Reviewer will make recommendations as the Reviewer deems fit for the  
9 mandate of the review and terms of reference, including but not limited to  
10 recommendations on:

- 11  
12 1. Board policies and Service procedures and practices relating to receiving and  
13 recording missing person reports, and conducting effective, efficient and  
14 bias-free missing person investigations;
- 15  
16 2. Board policies and Service procedures and practices related to the collection  
17 of data about the effectiveness of missing person investigations, including the  
18 satisfaction of those who filed or attempted to file missing person reports;
- 19  
20 3. Board policies and Service procedures and practices to ensure adequate  
21 training of Service members in relation to missing person investigations and  
22 bias-free policing;
- 23  
24 4. Board policies and Service procedures and practices to ensure that officers  
25 conducting or supervising missing persons investigations are qualified and  
26 well situated to ensure effective, efficient and bias-free investigations;
- 27  
28 5. Board policies and Service procedures and practices that will ensure  
29 appropriate accountability, including remedial and/or disciplinary measures,  
30 if members of the Service engage in biased or discriminatory conduct when  
31 receiving or investigating missing person reports;
- 32  
33 6. Board policies and Service procedures to create a framework for ensuring  
34 participation of members and organizations within the LGBTQ2S+  
35 communities in the process of monitoring and implementing any  
36 recommendations adopted by the Board and Service; and
- 37  
38 7. A framework for measuring, monitoring and publicly reporting on whether  
39 the recommendations of the Reviewer have been implemented by the Board  
40 or Service and if not, why not, as well as the effectiveness of any  
41 recommendations that are implemented by the Board or Service, including  
42 giving consideration to a model for independent oversight of compliance and  
43 continuing community consultation;

44  
45 AND the Reviewer will propose a timeline for the implementation of each  
46 recommendation.