

PAYING THE PRICE:

THE HUMAN COST OF RACIAL PROFILING

INQUIRY REPORT

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TABLE OF CONTENTS

INTRODUCTION	1
INQUIRY SCOPE AND OBJECTIVES	3
WHAT IS RACIAL PROFILING?	6
THE EXISTENCE OF RACIAL PROFILING	9
The Perception Of Profiling	10
RACIAL PROFILING DOESN'T WORK	15
THE EFFECTS OF RACIAL PROFILING	17
Compromising Our Future	18
Creating Mistrust Of Our Institutions	22
Alienation And A Diminished Sense Of Citizenship.....	30
The Impact On Our Communities.....	35
Changes In Behaviour	37
The Unseen Toll Of Racial Profiling	42
The Physical Effects Of Racial Profiling	48
The Economic Cost To Society Of Racial Profiling	50
THE IMPACT OF RACIAL PROFILING ON THE ABORIGINAL COMMUNITY	54
Outreach To The Aboriginal Community	54
Why A Separate Section For The Aboriginal Community?.....	55
The Aboriginal Experience Of Racial Profiling.....	56
The Effects Of Racial Profiling.....	57
<i>Compromising Our Future: The Cost To Our Children</i>	58
<i>Mistrust Of Institutions</i>	60
<i>Changing Behaviour: The Social Cost To The Community</i>	61
<i>Loss Of Dignity / Self Esteem</i>	62
<i>Conclusion</i>	64
RECOMMENDATIONS FOR FUTURE ACTION	67
APPENDIX A: MAJOR REPORTS RELEVANT TO RACIAL PROFILING AND ABORIGINAL PEOPLES	74
ENDNOTES.....	76

INTRODUCTION

While racial profiling has long been a concern for members of racialized communities,^{*1} recently there has been heightened public debate on the issue. The focus has primarily been on: whether racial profiling exists in Ontario, who engages in it, who is targeted, whether it is a legitimate practice and what can be done to prevent it. However, what has been noticeably absent from the public discussion is an analysis of the effect that racial profiling, or even a perception that it is occurring, has on those directly impacted and on Ontario society as a whole. Through its racial profiling inquiry, the Ontario Human Rights Commission (the Commission) hopes to fill this void by illustrating the human cost of profiling.

On December 9, 2002, the eve of International Human Rights Day, the Commission announced that it would conduct an inquiry into the effects of racial profiling on individuals, families, communities and society as a whole. The Commission emphasized that racial profiling is a human rights issue by stating that it is wrong and contrary to the principles of the Ontario *Human Rights Code*.

On February 17, 2003, the Commission's inquiry was officially launched with *Terms of Reference* that defined what constitutes racial profiling from the Commission's perspective, explained the purpose of the initiative and set out the Commission's process for hearing people's experiences.

Advertisements concerning the inquiry were placed in 43 Ontario daily newspapers, 17 weekly French newspapers and 30 ethnic and Aboriginal newspapers. As well, information was sent to approximately 1000 individuals and organizations. Submissions were received by telephone (from February 18th to 28th), by mail and through an online questionnaire on the Commission's Web site. The response received far exceeded the Commission's expectations. Over 800 people contacted the Commission, with approximately half of those contacts being about racial profiling. Most of the remaining submissions concerned racial discrimination and did not fit within the Commission's definition of racial profiling, but will be of use to the Commission as part of its larger project on race.

This Report would not have been possible without the contribution of so many Ontarians. The Commission would like to thank everyone who took the time to participate in our process. We recognize that it can be difficult to share these experiences and, in particular, their impact on individuals and families. Participants' willingness to come forward, in some cases many years after the

* Racialization is the process by which societies construct races as real, different and unequal in ways that matter to economic, political and social life.¹ This term is widely preferred over descriptions such as "racial minority", "visible minority" or "person of colour" as it expresses race as a social construct rather than as a description of persons based on perceived characteristics.

incident of profiling or after having moved away from Ontario, demonstrates the impact that this issue is having in our community.

INQUIRY SCOPE AND OBJECTIVES

The Commission's mandate is set out in the Ontario *Human Rights Code* (the "*Code*"), the Ontario law that prohibits discrimination and harassment in several areas including employment, housing and services. The purpose of the *Code* is explained in its Preamble and is, in essence, to achieve a society that provides equal rights and opportunities to all its citizens in which there exists a climate of mutual respect and understanding for the dignity and worth of each person. The Preamble states that this type of society, in turn, allows each person to feel a part of the community and to contribute fully to the development and well-being of the province. Therefore, the *Code* itself recognizes the importance of equality to the realization of full citizenship and human potential. Conversely, unequal treatment has a social cost which we cannot afford to ignore.

The Commission is often thought of as a body with which to lodge human rights complaints. While this is a key aspect of the Commission's mandate, it is only one tool available to the Commission to fulfill the aims of the *Code*. The Commission also has a critical role to play in raising public awareness about human rights issues and engaging in public education aimed at eliminating practices that are contrary to the purpose of the *Code*. The Commission is specifically empowered to (section 29 of the *Code*):

- advance human rights policy;
- promote an understanding, acceptance of and compliance with the *Code*;
- provide public information, education and research aimed at eliminating discrimination;
- review statutes, regulations, programs and policies and make recommendations on any aspect that may be inconsistent with the *Code*;
- initiate inquiries into problems and encourage and co-ordinate plans, programs and activities to reduce or prevent such problems; and
- encourage public and private organizations to undertake programs to address discrimination.

It is pursuant to this broad mandate that the Commission has undertaken this inquiry.

At the outset, the Commission set out what its inquiry does and does not do.

What the inquiry does:

- responds to community concerns about the impact of profiling;
- looks at the effects of profiling;

- measures the human impact of this practice on individuals, families, communities and society as a whole;
- considers profiling in a number of contexts including housing, services, education and private security;
- takes measures to ensure that participants do not reveal names or other information that could identify specific individuals during any public hearing process; and
- respects the privacy of all individuals.

What the inquiry does not do:

- does not investigate individual allegations of racial profiling;
- does not focus on one type of profiling or target a particular system in society, *e.g.* police;
- is not about numbers or statistics;
- is not another study and does not set out to prove or disprove the existence of profiling; and
- did not accept anonymous submissions.

The Commission's objective in undertaking this initiative has been to give those who have experienced profiling a voice to express how it has impacted them and to provide an analysis of how profiling affects more than just those communities most likely to experience it. The Commission hopes to raise public awareness of the harmful effects of profiling and in so doing illustrate the social cost of racial profiling. If we all understand how profiling undermines our social fabric, we are better positioned to take steps to ensure that no one within society engages in it.

The Report, therefore, does not contain a detailed discussion of the types of profiling described by each participant but rather focuses on the impact of the incidents. It should be emphasized, however, that contrary to common perception, racial profiling is not just about traffic stops by the police. It is a phenomenon that is widespread in our society, has many manifestations and can be practiced by virtually any person or any institution. It is also not a problem confined to the city of Toronto. Submissions about profiling were received from around the province and from people of all backgrounds.

The Report respects the confidentiality of the participants and also does not always identify the background of persons quoted. This is because, while certain communities experience certain forms of profiling in varying degrees unique to those communities, the phenomenon of profiling has many universal features. Moreover, some individuals and communities are relatively more empowered to come forward to the Commission to discuss their experiences. Therefore, with the exception of the experience of Aboriginal persons, for the reasons described in that section, the Report is not organized according to impacted communities. It is also worth noting however, that the greatest number of submissions about profiling were received from persons who identified as African Canadian.

The Report begins with a brief explanation and definition of racial profiling. In addition, the Report explains the human cost of racial profiling on the individuals, families and communities that experience it. It details the detrimental impact that profiling is having on societal institutions such as the education system, law enforcement agencies, service providers and so forth. It also outlines the business case against profiling – in essence the economic loss sustained as a result of racial profiling.

At the same time as raising public awareness, it is also the Commission's desire to bridge the divide between those who deny the existence of racial profiling on the one hand and the communities who have long held that they are targets of racial profiling on the other. It is time to listen to those who have raised their concerns and to commence a constructive dialogue aimed at addressing them regardless of whether you believe that profiling is a reality or a perception.

To this end, the Report stresses the need to listen to the concerns of those who believe profiling to be a problem. It explains why profiling is not a legitimate or even fruitful practice. And it provides recommendations for monitoring whether profiling may be occurring in a particular context, strategies for preventing or for ending the practice where it already exists.

This document will form the basis for future work by the Commission, both in terms of raising public awareness about racial profiling and in the Commission's larger work on race, which includes as its goal the development of a Commission policy statement on racial discrimination. The Commission's policy statements provide information about the Commission's interpretation of specific provisions of the *Code*. They are important because the public has the right to expect that the Commission will deal with cases in a way that is consistent with its published policies. They also set standards for how individuals, employers, service providers and policy makers should act to ensure equality for all Ontarians.

However, it is clear that raising public awareness and developing policy statements is not enough. Nor can the Commission tackle racial profiling on its own. It is necessary for a number of individuals and organizations in Ontario, those in positions of influence and authority, to commit to tackling the serious concerns that have been raised by tracking the potential adverse impact of certain practices and implementing concrete measures to address these effects. The Commission hopes that these individuals and organizations will read this Report with an open mind and seriously consider the recommendations which are offered. This Report can serve as a useful tool in these organizations' own efforts to improve race relations.

Finally, it is important for each one of us to examine our own subconscious biases to see if we ourselves have stereotyped people inappropriately. We all have a role to play in combating racial profiling.

WHAT IS RACIAL PROFILING?

While many of the existing definitions of racial profiling, primarily originating in the United States, focus on law enforcement, the Ontario Human Rights Commission's *Terms of Reference* define racial profiling more broadly to include **any action** undertaken for **reasons of safety, security or public protection** that relies on **stereotypes** about race, colour, ethnicity, ancestry, religion, or place of origin rather than on reasonable suspicion, to single out an individual for greater scrutiny or different treatment. The Commission has noted that profiling can occur because of a combination of the above factors and that age and/or gender can influence the experience of profiling.

At the same time, the Commission has emphasized that racial profiling differs from criminal profiling which isn't based on stereotypes but rather relies on actual behaviour or on information about suspected activity by someone who meets the description of a specific individual. In other words, criminal profiling is not the same as racial profiling since the former is based on objective evidence of wrongful behaviour while racial profiling is based on stereotypical assumptions.

The Commission selected a broad definition of racial profiling for several reasons. First and foremost, it is the Commission's view that racial profiling is primarily a **mindset**. At its heart, profiling is about stereotyping people based on preconceived ideas about a person's character. As such, its practice is not limited to any one group of people or particular institution.

Stereotyping can be described as a process by which people use social categories (e.g. race, ethnic origin, place of origin, religion) in acquiring, processing and recalling information about others.

Practical experience and psychology both confirm that anyone can stereotype, even people who are well meaning and not overtly biased. Indeed, a frank exploration of each of our own assumptions and biases would lead many of us to realize that at some point or other we have stereotyped someone. We do this because it allows us to organize and simplify complex situations and give us greater confidence in our ability to understand, predict and potentially control situations.² But, while mental categories are absolutely essential in simplifying and understanding our information-rich environment, stereotypes are not appropriate, as they do not correspond to reality³. Because stereotyping may be subtle and unconscious, in many cases the person engaging in it may not even realize that it has occurred.

While it may be somewhat natural for humans to engage in stereotyping, it is nevertheless wrong. And, it is a particular concern when people act on their stereotypical views in a way that affects others. This is what leads to profiling.

Profiling can occur in many contexts involving safety, security and public protection issues. A few of the examples of profiling we heard during the inquiry include:

- a law enforcement official assumes someone is more likely to have committed a crime because he is African Canadian;
- school personnel treat a Latino child's behaviour as an infraction of its zero tolerance policy while the same action by another child might be seen as normal "kids' play";
- a private security guard follows a shopper because she believes the shopper is more likely to steal from the store;
- an employer wants a stricter security clearance for a Muslim employee after September 11th;
- a bar refuses to serve Aboriginal patrons because of an assumption that they will get drunk and rowdy;
- a criminal justice system official refuses bail to a Latin American person because of a belief that people from her country are violent; and
- a landlord asks a Chinese student to move out because she believes that the tenant will expose her to SARS (Severe Acute Respiratory Syndrome) even though the tenant has not been to any hospitals, facilities or countries associated with a high risk of SARS.

Although anyone can experience profiling, racialized persons are primarily affected. The Commission mostly heard of experiences of profiling from people who identified as Aboriginal, African Canadian, Arab, Chinese and South East Asian, Latin American, South Asian and Muslim. A number of people who described themselves as Caucasian or White also participated in the inquiry and recounted witnessing incidents of profiling or experiencing profiling as a result of their relationship with a person from one of these other communities.

Typically, but not always, profiling is carried out by persons in a position of authority. Persons who are in a position to engage in racial profiling need to be especially vigilant to check their assumptions and biases. And, organizations need to acknowledge that just as each of us can stereotype, so too can their members, even if there is no institutional policy that allows the use of, encourages or even tolerates profiling. Discussing a concern with profiling is not the same as saying that every member of an organization profiles, that profiling is an intentional policy of the organization or even that it is an intentional action of those who engage in it. While profiling can be intentional, it can also be inadvertent. Therefore, saying that profiling occurs should not necessarily be interpreted as an accusation that those who engage in it are racist.⁴

In fact, many participants in our process discussed the difficult job that those in a position of authority, especially the police, have. They nevertheless emphasized that racial profiling can occur because of the challenges of the job. Similarly,

many acknowledged that many persons in an organization may be doing their job admirably but that others, who are stereotyping, are having a significant impact on the community and its perception of the organization as a whole.

“The police have a tough job to do.... We all have built in stereotypes and instincts that sometimes we count on.” (S.P.)

“Well, I think there are a lot of damn good men on the force, but I think there are people who are not good. Prejudice is in all of us and if you are in a position of power you can wield it.” (N.S.)

“I do not think that all the individuals that are in this organization display racial profiling characteristics or stereotypical judgments. However the ones that do it manage to give the entire organization a negative image.” (R.G.)

“I do believe that this was profiling by two individuals and not the entire police force. I believe that generally the police do a very professional job under often difficult conditions.” (L.R.)

“I know that police are there to help and suffer a lot of abuse in the jobs they do - however they are still humans with thoughts and opinions - You cannot put them on a pedestal and expect them to always leave personal life opinions out of their duties.” (M.N.)

“The cops should not judge us all the same and the public should not judge all police officers the same.” (N.W.)

It is also important to note that concerns with profiling relate directly to the concepts of discretion and power. Persons in society who hold positions in which they exercise a large degree of discretion have more of an opportunity to engage in profiling and are also more likely to be perceived to be engaging in racial profiling in the exercise of their discretion. Similarly, those in a position of power may consciously or unconsciously exercise that power differently when dealing with racialized persons. And, because these individuals are entrusted with power over others in society, it is particularly important that they be accountable when widespread concern is being expressed about the way in which that power is exercised. This was recently acknowledged by one of Ontario's top law enforcement officials at the 98th annual conference of the Canadian Association of Chiefs of Police.⁵

THE EXISTENCE OF RACIAL PROFILING

The Commission has consistently stated that the purpose of its racial profiling inquiry is not to prove or disprove the existence of racial profiling. It is the Commission's view that previous inquiries have considered this and have found that it does occur.

Moreover, as discussed above, racial profiling is a form of racial stereotyping. As racial stereotyping and discrimination exists in society, it also exists in institutions such as law enforcement agencies, the education system, the criminal justice system *etc.*, which are a microcosm of broader society.

Racial profiling has long been acknowledged to exist in other western nations, most notably the United States and Great Britain. In the absence of proactive measures to ensure that profiling does not take place in Ontario, there is no reasonable basis to assume that we are immune to the problem.

In addition to the logical reasons for concluding that racial profiling exists in Ontario, there have been numerous studies which have confirmed differential treatment of racialized groups in different contexts. The African Canadian Legal Clinic has identified at least 15 reports issued since the 1970s dealing with police/minority relations in Canada.⁶ Early Ontario reports included those of the Walter Pitman Task Force (1977) and a 1979 Report by Gerald Emmett Cardinal Carter to the Civic Authorities of Metropolitan Toronto and its Citizens.

In 1988, the Solicitor General of Ontario appointed Clare Lewis as chair of the Race Relations and Policing Task Force. The Task Force's 1989 report concluded that visible minorities believed they were policed differently: "They do not believe that they are policed fairly and they made a strong case for their view which cannot be ignored."⁷ The Task Force found that racial minorities would like to participate in law enforcement and crime prevention but are "denied integration into community life when labelled as crime prone."⁸ The report noted that the worst enemy of effective policing is the absence of public confidence⁹ and emphasized that police reliance on a "bad apple theory" to explain incidents does not help solve police race relations problems.¹⁰ The Task Force presented 57 recommendations to the Solicitor General covering monitoring, hiring and promotion, race relations training, use of force and community relations.

Stephen Lewis' 1992 *Report to the Premier on Racism in Ontario* on the issue of police/visible minority relations concluded that visible minorities, particularly African Canadians, experienced discrimination in policing and the criminal justice system. Stephen Lewis recommended that the Task Force on Race Relations and Policing be reconstituted owing to perceived inadequacies with the implementation of the 57 recommendations in its 1989 report. A second report of the Task Force was published in November 1992 which examined the status of

the implementation of the recommendations from the 1989 report and offered additional recommendations.

In 1992, the Ontario government also established the Commission on Systemic Racism in the Ontario Criminal Justice System. This Commission studied all facets of criminal justice and in December 1995 issued a 450 page report with recommendations.

To date, this is the most comprehensive report on the issue of systemic racism in Ontario's criminal justice system. The review confirmed the perception of racialized groups that they are not treated equally by criminal justice institutions. Moreover, the findings also showed that the concern was not limited to police.

In addition to the various task forces, social scientists, criminologists and other academics have studied racial profiling using different social science research methods. Some have used qualitative research techniques and field observations while others have employed quantitative research and examined official records. Regardless of the method used, these studies have consistently showed that law enforcement agents profiled racial minorities.¹¹

A.B.L.E., the Association of Black Law Enforcers acknowledges the existence of racial profiling:

*A.B.L.E. acknowledges that the vast majority of Law Enforcement Officers in our Country perform their duties in a professional, honourable and ethical manner. We believe this because we are also these Officers. At the same time, we accept the presence of the Law Enforcement phenomenon known as Racial Profiling. As Black and Minority Officers, we live in two worlds that allows us to intimately understand the issues that affect our Community and our profession.*¹²

Ontario courts have also accepted the existence of racial profiling.¹³ For example, in a decision issued in April 2003, the Ontario Court of Appeal stated:

*In the opening part of his submission before this court, counsel for the appellant [the Crown] said that he did not challenge the fact that the phenomenon of racial profiling by the police existed. This was a responsible position to take because, as counsel said, this conclusion is supported by significant social science research.*¹⁴

The Perception Of Profiling

Regardless of whether profiling can be proven to occur in any given context, the widespread perception among racialized groups that it is occurring is cause for concern.

Studies have shown that racialized persons perceive that racial profiling is affecting them and also that White persons also believe that visible minorities are treated worse, for example, by the police¹⁵ and criminal justice system.¹⁶ In a recent survey of Oakville's Black youth aged 13 to 24, researchers were told that adults appear to brand them as troublemakers on the basis of "youthful indiscretions" more quickly than they do White kids doing comparable things. Similarly, they believe adults react differently to White and Black youth wearing the same type of clothing: White kids are assumed to be going through a "phase" while Black youth are more likely to be seen as potential criminals.¹⁷

The perception of racial profiling is so strong that it has found its way into popular culture. Recent television shows have dealt with the subject as have movies and music. For example, in his song "Mr. Cab Driver", popular African American rock artist Lenny Kravitz sings:

"Mr. Cab Driver don't like the way I look
He don't like dreads he thinks we're all crooks
Mr. Cab Driver reads too many story books"

There are many reasons why the perception of profiling is in itself of sufficient concern for the issue to be tackled. In a paper on community policing, Dr. Valerie Pruegger states:

*Police are a target for accusations of racism. This is a fact of life and the nature of the business. However, regardless of the accuracy of the charges, even the perception that the police are biased can lead to serious consequences in the larger and targeted communities. How the police respond can make a great deal of difference in gaining trust. Rather than reacting with defensiveness and denial, there needs to be a genuine attempt to work with racialized communities, to provide anti-racism training to police officers, and to have severe penalties for any breaches that will inevitably occur.*¹⁸

Police chiefs in the United States have acknowledged that it is important not to get bogged down in the debate over whether profiling occurs:

*Whether racial profiling by police officers is a matter of perception or reality loses significance when considering the widespread public belief in its existence and subsequent liability for law enforcement agencies that encounter allegations of racial profiling.... To restore public trust and improve community/police relationships, law enforcement agencies must address both the concerns of the community at large that are relevant to discriminatory policing, and the allegations of racial profiling made by ordinary citizens.*¹⁹

The experience of the United States has been that, whether practiced or simply a perception in any given community, racial profiling beliefs contribute to minority cynicism and mistrust towards the criminal justice system. The effects of these negative attitudes can include:²⁰

- People are less likely to cooperate with people they mistrust and may develop doubts regarding all aspects of the criminal justice system.
- Individuals with these perceptions may respond inappropriately to law enforcement officers out of mistrust or may retaliate for past-perceived injustices. Situations may therefore escalate unnecessarily putting both the citizen and officer at risk of injury.
- Safety concerns for officers and community members may be increased in hostile environments.
- Left unchecked, mistrust towards the criminal justice system can lead to civil unrest.
- It has even been suggested that mistrust of police can be the basis for acquittals in jury trials.²¹

The perception of racialized groups that they are being profiled must also be addressed due to the psychological impact of this belief. In other words, the impact of racial profiling, as discussed below, has a social cost whether profiling can be proven to be occurring or whether it is based on people's beliefs. It is therefore imperative that steps be taken to address the concerns raised.

An unwillingness to discuss community concerns about racial profiling, a denial of its existence or an unwillingness to implement measures to monitor whether it may be occurring and to prevent it, further undermines public confidence. A vicious cycle can be created where the perception of profiling is increased by a seeming unwillingness to address the concerns. The mistrust that is created has an impact on the ability of the relevant institution to carry out its mandate, as many institutions in society rely on public confidence to function effectively.

As with any type of human interaction, not talking about racial profiling will not make the concerns go away. It will only exacerbate existing tensions. The denial of problems of this nature has been shown to have several effects. First, communities fear being rebuked and silenced if they are vocal about their concerns. There can be a real backlash against those who speak out as they are seen to be the cause of the problem. In addition, denial of a problem can lead to the phenomenon of blaming the victim. Therefore, rather than seeing a social problem as contributed to by the existence of racial discrimination, the fault is laid squarely at the feet of the group involved.²²

Many inquiry participants noted that people may find it hard to believe that racial profiling occurs when it has not happened to them and expressed a hope that ordinary Ontarians who have not experienced profiling and those in a position of

power would listen to and keep an open mind regarding their concerns about profiling.

“It’s going to be hard to prove. If it doesn’t happen to the most powerful people in society, they won’t believe it.” (T.M.)

“It would be interesting if the powers that be would at least listen to the comments coming out of the affected communities. An entire community cannot have the same impression and ... all [be] deluded.” (R.M.)

“The issue of racial profiling should be taken very seriously. It is a widespread problem throughout many institutions, the criminal justice system, the medical system and the educational system. It is a destructive force in a diverse country like Canada, especially in large cities like Toronto.” (D.H.)

“[The racial profiling inquiry] to me means a controlled environment in which the people who feel offended ... and ... the people on the other side of the interaction can have a chance to dialogue in a non-heated, rational way. Because I think what I have seen in the media is a sense that it is a smear job on the Toronto police and that we are trying to tie their hands, as if Black people somehow aren't offended by crime, as if we want to see criminals go free. We don't want that. We want to go free. ” (A.B.)

Recent progress has been made as several law enforcement officials have either acknowledged that profiling does occur, may occur or that the perception that it occurs must be addressed.²³ For example, when announcing new guidelines concerning racial profiling, Kingston Police Chief Bill Closs is quoted as saying:

*Today we are setting an even higher standard for Kingston Police officers in that they are being asked to acknowledge and understand the existence of unlawful profiling/bias-based policing and the need to prevent it. While my officers and this service have never condoned this practice, the publicity generated by the allegations has cast a shadow over the Kingston Police. Racial profiling is not institutionalized in our service, but the perception cannot be ignored and police must respond to the reality or perception by going beyond denial and patronization.*²⁴

The Ontario Provincial Police have announced a pilot project to equip 38 cruisers in Toronto and Kenora with in-car digital video cameras. This will allow the OPP to assess allegations of racially motivated misconduct with objective evidence.²⁵

Toronto Community Housing Corporation has commissioned an independent report of certain enforcement practices in response to concerns that staff were using the *Trespass to Property Act* in a manner that was discriminatory to Black

youth. The report found that there was indeed a problem and Toronto Community Housing has implemented measures to remove and/or modify operational practices that have allowed systemic racism to occur. Toronto Community Housing has acknowledged that to address these concerns, it cannot work alone and has engaged the community, and youth in particular, to implement an action plan that responds to the report findings and recommendations. The action plan includes a thorough review of all enforcement-related policies, practices and procedures and outlines best practices that include:

- clarifying and confirming enforcement policies and procedures for staff and community;
- improved and more comprehensive mandatory training and measuring of security staff performance, especially in the area of diversity, human rights and equity;
- comprehensive community and youth outreach including developing a community safety committee, information for residents on security protocols, rights and responsibilities; and
- providing opportunities for youth involvement in the St. Jamestown (TCHC) community.

The Windsor District Black Coalition reports working with the Windsor Chief of Police and making some progress in agreeing upon measures to address concerns with racial profiling in Windsor:

- Regular consultation between the African Canadian community of Windsor, the Windsor Police Services administration and the Windsor Police Services Board to discuss matters raised by the African Canadian community and of mutual concern. Topics will include the number and type of complaints lodged by African Canadians about police encounters, community relations and minority recruitment strategies.
- Complaint forms to be made more readily available at the Police Headquarters front desk and on the Police Service's Web site.
- The Windsor Police Service will enforce its no tolerance policy on racial profiling, negative racial or cultural comments by police, the use of violence on handcuffed prisoners and harassment of complainants.
- The Police Service and Coalition are working together to produce and widely distribute a pamphlet outlining citizen's rights.

Other initiatives are the subject of ongoing discussion between the police and the community.

These types of efforts to acknowledge and address profiling concerns are to be commended and leveraged by these organizations. Others, in particular, should follow their example and learn from their best practices.

RACIAL PROFILING DOESN'T WORK

While one of the most common initial responses to racial profiling is a denial that it occurs, there are some who do not deny its existence but rather argue that it does and should occur because it is a useful and appropriate tool to focus limited resources on those who are most likely to be engaged in inappropriate behaviour.

However, there is strong evidence that racial profiling does not work. In fact, where racial profiling has been studied in the context of law enforcement, such as in the United States, it has been found by some scholars to be neither an efficient nor effective approach to fighting crime.²⁶ Studies in the United States have consistently found that while minorities (African American and Latino persons) were targeted more, the chance of finding contraband when their cars were searched was the same or less than White persons. In several studies, minorities were found to be statistically significantly less likely to have contraband found following a search. For example, a 2001 U.S. Department of Justice report on 1,272,282 citizen-police contacts in 1999 found that, although African Americans and Hispanics were much more likely than White persons to be stopped and searched, they were about half as likely to be in possession of contraband.²⁷

These studies have led experts in the United States to conclude that focusing only on one group will likely lead to persons who are committing crimes in other groups, often at the same rates, going unchallenged.

Similarly, when the U.S. Customs Service reformed their search procedures to eliminate racial, ethnic and gender bias in their search activity while instituting stronger supervisor oversight for searches, they were able to conduct 75% fewer searches without reducing the number of successful searches for contraband carrying passengers. And, the hit rates were essentially the same for 'Whites', 'Blacks' and 'Hispanics'. This means that by eliminating racial profiling, the Customs Service was more efficient and equally likely to catch passengers carrying contraband while reducing the number of innocent people who were subjected to the indignity of a search by three-quarters.²⁸

In addition to evidence concerning the ineffectiveness of racial profiling, it is also a practice that is logically flawed. Experts point out that even if certain crimes are mostly committed by members of a particular group, it does not mean that a particular person from that group is more likely to have committed a crime.²⁹ And, even if more crime is committed by a certain group that make up a small percentage of the population, it is still more likely that any given crime will have been committed by someone belonging to the majority group.³⁰

In any event, statistics suggesting that a particular group commits a disproportionate amount of crime can often be skewed because of racial profiling itself. If a particular group is stopped more often, even if they are committing less crime than the rest of the population, the fact that they are scrutinized more frequently will result in higher charge rates. This then becomes the justification for profiling. Some scholars therefore argue that, at the end of the day, statistics do not tell the offending behaviour of different races, but rather they measure the actions of the entity engaging in profiling.³¹

Therefore, there is significant evidence that racial profiling is neither an efficient nor an effective practice. And, the discussion that follows shows that racial profiling comes with a huge price tag to individuals, families and communities while negatively impacting the very institutions that practice it.

THE EFFECTS OF RACIAL PROFILING

To those who have not experienced racial profiling or do not know someone who has, it may seem to be nothing more than a mere inconvenience. However, racial profiling is much more than a hassle or an annoyance. It has real and direct consequences. Those who experience profiling pay the price emotionally, psychologically, mentally and in some cases even financially and physically.

As noted by criminologist Scott Wortley: “To argue that racial profiling is harmless, that it only hurts those who break the law, is to totally ignore the psychological and social damage that can result from always being considered one of the “usual suspects.”³² This feeling was well summarized by one of the participants in the inquiry:

“Some may feel this practice is justifiable because there are a lot of bad people out there and it is relatively easy/convenient to group certain clusters together based on statistics and probability factors, etc. Each person wants to be viewed and treated as an individual. Think about the harm that is being done to those who find themselves within a cluster they do not belong in. Who can begin to appreciate the level of frustration within these individuals and the future cost to society to disenfranchise these innocent citizens?” (R.R.)

The American Psychological Association notes that research psychologists have studied the psychological effects of racial profiling and found that “victim effects” of racial profiling include post-traumatic stress disorder and other forms of stress-related disorders, perceptions of race-related threats and failure to use available community resources.³³

Research psychologists have also examined the effects of racial profiling on broader society and have learned that societal effects include confirmation of feelings of racism, fear and financial costs.³⁴ The Commission’s inquiry has also revealed that the impact of profiling extends beyond those who directly experience it. It also impacts on families, friends, classmates, and neighbours. This means that the social and economic cost of racial profiling is widespread.

The sections that follow describe how racial profiling is affecting individuals, families, communities and Ontario society. They demonstrate why profiling is a harmful practice and illustrate the need for strong measures to combat profiling.

In planning the inquiry, the Commission consulted with many of the affected groups. Aboriginal community agencies stressed the importance of engaging Aboriginal people in a way that was responsive to the unique issues faced by this group and the need for specific discussion of the social and historical context of

Aboriginal people's experience with racial profiling. Accordingly, the Report contains a separate section dealing with the experience of Ontario's Aboriginal community. This is not intended to detract in any way from the experience of other communities that each have distinctive issues with profiling.

Compromising Our Future

The future well-being and prosperity of all Ontarians depends on our children and youth. We all want our own children and indeed all children to have a happy and fulfilling childhood and to become successful adults. And, society as a whole benefits when each child reaches his or her full potential and is not limited in his or her opportunity to contribute to the well-being of the province.

Yet, during the racial profiling inquiry, the Commission learned that one of the most significant and potentially long-lasting impacts of racial profiling is its effect on children and youth. Racial profiling in several contexts, in particular in the education system and in law enforcement, is compromising the future of our children and youth and, in turn, the future prosperity of all Ontarians.

Education is an international human right essential to the life of an individual and to a community as a whole.³⁵ In Canada, education is recognized and legislated as a fundamental social good. Education provides opportunities for personal, social and academic development and is important for future employment and integration in society. The school setting is one of the first places that children learn to relate to and interact with one another and with persons in positions of authority. It is often in relation to their teachers that children begin to develop a perception of themselves and of the world around them. As such, a student's experience in school can have a major effect on his or her self-image and self-esteem and on his or her development in later life.

The Commission heard that many have concerns with racial profiling in the education system. This concern was shared by members of several communities, in particular the African Canadian, Latin, Chinese, Vietnamese and Arab communities. The Commission was told of a perception that children from these groups may be stereotyped as "slow to learn" and aggressive, and are therefore considered to be the instigators of any conflict or problems at school. Behaviour that would likely be assumed to be harmless or just a "kid being a kid" if engaged in by another child is seen as threatening if a racialized child is involved. Participants in the inquiry further indicated there may be assumptions drawn that children from their communities are involved in gang activities when they hang out with kids of the same background. And, another common concern was that when a racialized child is involved in an incident with a White child, his explanation is less likely to be believed and he is more likely to be punished or to be punished more severely.

Zero tolerance policies were cited as being of significant concern to racialized communities. There is a strong perception that the *Safe Schools Act* and school board policies applying the *Act* are having a disproportionate impact on racial minority students. The Commission's research has found that there is some empirical evidence to support this belief, although it is difficult to gauge the impact of the *Act* and policies from a statistical standpoint due to the fact that data on race of students disciplined is not collected. Although there is little statistical evidence to confirm the widespread perception that racial minority students are disproportionately affected by zero tolerance, the authors of the study *Racial and Ethnic Minority High School Students' Perceptions of School Disciplinary Practices: A Look at Some Canadian Findings* conclude that the perception of racial profiling in the school system must be addressed because it is "a psychological reality for students which undoubtedly impacts on their schooling experience."³⁶

Participants emphasized that the *Safe Schools Act* and zero tolerance policies made by school boards appear to be having a broad negative impact not only on students, but also on their families, communities and society at large. The most commonly identified impacts are:

- loss of education and educational opportunities;
- negative psychological impact;
- increased criminalization of children often for conduct that does not threaten the safety of others; and
- promotion of anti-social behaviours.

Loss of education or loss of educational opportunity is one of the most significant and tangible losses a child can experience. At some schools, suspensions can be experienced as early as kindergarten to grade six. In some cases, students are out of school for a long period of time. The Commission heard that remedial work to be completed during the suspension is rarely assigned and, for students who are expelled, it is very difficult to get into an alternative program or another school. The result of this can be devastating to the child's future. Ambitions to pursue higher education can be shattered and even completing high school can be in doubt.

"He lost one and a half years of his schooling. He was one of the top students in his class. He was finishing Grade 13, and he had been doing all the documentation process to get into university. He lost that. ... He is trying to finish his high school at night..." (J.M.)

"My eldest son was one of the first victims of zero tolerance and this meant for him to lose two years of his school, his high school. ... Nobody was willing to take him. You know, it was very hard for him to go back and complete his high school. Not only because the schools didn't want him, but also because he had lost interest..." (S.M.)

There is also a concern that the increased use of suspensions and expulsions is pushing students to drop out of school. This fear seems to be well founded as there are American studies which confirm that suspension is a moderate to strong predictor of a student dropping out and that suspension and expulsion are one of the top three school-related reasons for dropping out.³⁷

Numerous submissions highlighted the negative psychological impact that profiling can have on children and youth who either witness or experience it. For example, one mother stated, "My children have been deeply affected, their morale has been tampered with and their emotional well-being has been destroyed." (K.L.) Another pointed out that the effects of profiling in school will likely have long-term consequences: "If this happens at schools where you are developing ideas and feelings of the world, then how do they expect Black youths to act or feel when they get out in the workplace?" (T.R.)

Even if the profiling did not occur in the school context, it can affect a child's performance in school or other future goals. One parent described the fact that an incident involving the local police force had such a profound psychological impact on his son that he is "down and does not want to go to school." In addition, this youth is a top athlete, with ambitions to represent Canada in the Olympics but this goal may now be in jeopardy. Another parent noted that as a result of a non-school related incident her son's "performance in school that year suffered."

Other parents noted that their children no longer wanted to pursue certain careers as a result of their perceptions of profiling: "My son's dreams have been shattered. Since the age of 4 he wanted to be a police officer, now he says that he will never be one." (M.P.) And young people's job prospects or ability to otherwise function in life can be directly impacted by profiling: "We have extreme stresses on young people who have become fearful. More than distrustful. They have become stoic. They've become very hard, very cold. They don't like to show emotion. They don't like to show fear. And that translates throughout their entire social life. Which means they are not very successful at negotiating jobs, or going down and negotiating loans. They become dysfunctional." (B.K.)

Another significant psychological consequence repeatedly cited by participants in the inquiry is the impact of racial profiling on a child's self-esteem and confidence. One woman described experiencing racial profiling as a six-year-old child. She was the only African Canadian child in the school and was repeatedly punished for "being bad" and labelled as developmentally delayed for engaging in normal childhood behaviours such as being talkative in class. The school suggested she be placed in a special education class. Her parents decided to move her to a new school where an IQ test indicated she should be placed in an enriched class. She is now completing her postgraduate degree in criminal

justice. Nevertheless, she describes a continuing impact of being profiled as a bad child from an early age:

“I felt humiliated. Guilty of something I had nothing to feel guilty about. I began to doubt my own abilities. Maybe I am stupid. Maybe I am a bad person. An unlikable child. Just perhaps. I even got an ulcer in my mouth due to it. Can you believe ... a 6 year old with an ulcer!! That experience has caused me much damage mentally. To my self-esteem, etc. Despite the fact that I am accomplishing much academically in my life, I still feel inferior to the majority (Whites) and try each day, through psychotherapy, to overcome this dark cloud that hangs over me. I was a good, kind, loving young child that didn't deserve to go through something like that. No child should.” (S.I.)

Many participants noted that the psychological impact of racial profiling on their children has led to anti-social behaviour, even in young children. As well, concern was expressed that a potential long-term impact of profiling is an increased risk of criminalization. Several parents commented that one of their main fears was that racial profiling will lead their children, especially their sons, to view themselves as troublemakers and that this, in turn, will result in them behaving badly. Other parents described being terrified that their child will eventually get frustrated with incidents of profiling and react in a way that could lead to a confrontation with the authorities and criminal charges.

“...she has seen a change in him. He was a quiet obedient child now she is seeing a different child who does not listen to her anymore and also become very disruptive.” (C.L.)

“When you are a young person and people think you are bad, what is the point of behaving well anyway, if they are going to treat you like a criminal, why should you even bother trying to, you know, [be] better? ... My fear is that one of these days my kids are going to be a little too fed up with this and they are going to have an attitude, you know, and they are going to be arrested.” (S.M.)

“This situation actually scares me because I have teenage children and I have an older son, and I fear when they go into a mall ... I constantly counsel my son because of issues like this that occur about going out into the public and how to conduct yourself and what happens if something like this happens, the reaction is anger, the reaction is frustration, at their young age, if they react, then the situation escalates even further.” (L.V.)

“If kids are treated this way, society may as well build jails for them later in life.” (C.P.J.)

Persons who work with children and youth confirm that suspended students are more likely to hang out on streets and in malls creating the potential for increased contact with the police. Children who are out of school are more likely to meet anti-social kids and learn or engage in anti-social behaviours. For example, David R. Offord, Director, Canadian Centre for Studies of Children at Risk notes:

*Once kids are out of the mainline and expelled, then they are on a different path, for sure. First, they don't have much to do during the day. They may make contact with older kids or other kids who are having difficulties. ... There is some literature that points out if you put anti-social kids together it escalates their anti-social behaviour. ... It can have an impact on the community in which they live and, of course, it contributes to an important problem in Canada, which is serious anti-social behaviour, both violent and non-violent.*³⁸

Many parents reported raising their children differently because of a fear of racial profiling. This included counselling their children to behave a certain way, having rules about how their children dress in public and limiting when their children are permitted to go out and where they go. Parents felt that these strategies and coping mechanisms are necessary to prepare their children for potential incidents of profiling and to protect their children from the negative consequences. This type of experience cannot help but have a profound effect on a child or young person as the fear of racial profiling and the consequent need to alter his or her behaviour becomes ingrained in his or her psyche.

The section of the Report entitled **Changes in Behaviour** has a more detailed discussion of socialization of young people to cope with profiling; however, it is important to note here that these types of experiences during formative years are likely to have an even more significant and lasting impact on a young person than on an adult.

Creating Mistrust Of Our Institutions

A social cost of racial profiling that is closely related to “compromising our future” is the significant mistrust that develops, both in children and adults, of our key institutions.

No one would argue that public faith in institutions and systems such as the criminal justice system, law enforcement, customs and border control and the education system is a cornerstone to democracy, order and a harmonious society. All of these institutions require citizens to work positively and cooperatively with them to maximize their success in fulfilling their mandate. For example, a strong justice system requires citizens to have confidence in the fairness of the process; community policing relies on individuals trusting the

police and being willing to work with them; and, teachers can only function effectively when they have the respect of their students. The section entitled **The Existence of Racial Profiling** has a more detailed discussion of the specific importance of good community and police relations, based on the experiences of various jurisdictions in the United States.

However, racial profiling seriously erodes public confidence in these institutions. Numerous submissions described an increased personal or community mistrust of law enforcement officials, the criminal justice system, the education system, customs officials, store and mall security and society in general. One person who was himself a victim of a crime even described feeling “betrayed” by the police because of his perception that the police took his criminal investigation less seriously because the suspect was “Caucasian”. The sense of mistrust was most profound among racialized persons but also shared by a number of participants in the inquiry who described themselves as “White”. Therefore, the issue of mistrust is not just specific to one community; it permeates all sectors of society.

Mistrust can be engendered by personal experiences, witnessing an incident of profiling, knowing someone who has experienced profiling or simply due to the widespread perception that profiling exists in society. And, as discussed earlier this mistrust is heightened by unwillingness on the part of the institutions to acknowledge the concern and engage in a constructive process to address it. Participants also explained that their mistrust of institutions can be compounded by the knowledge that the institution lacks racial diversity or that its members are not given in-depth and ongoing anti-racism training.

As indicated earlier, the inquiry covered all forms of racial profiling and did not target the police. However, the institution that was most commonly identified as having lost the faith of an individual or community were police agencies across the province. Many submissions described a shift in perception about policing as a result of even a single incident. Other submissions indicated that a number of encounters had led an individual to lose trust in the police. Many parents described feeling that they needed to warn their children or other young persons in their families to be careful around the police.

“I used to tell all three of my children that they should smile and acknowledge police officers when they see them on the street. They are their friends. I can't confidently say that now to my grandchildren. I don't know what kind of reaction they will receive. I used to feel that it was safe. I no longer smile or acknowledge police officers. ...I would like nothing better than to be able to say to my grandchildren -- remember to smile at the police officers when you see them -- they are your friends. Turn to them when you are in trouble.” (T.S.)

“My nephew is the next generation and already at 15 years of age he has already developed a bias towards police.” (L.F.)

One very moving submission came from a young school teacher who described being surrounded by police cars, being ordered out of his car in the middle of the street and being asked if he had any drugs or weapons in the car. While one officer checked his identification, another searched his vehicle. This occurred in the middle of the day, in the community in which this man teaches. He felt like a spectacle, humiliated and very concerned should any of his students or any of their parents witness the event. This man had experienced numerous other police stops and searches in a very short time period leading him to feel very frustrated and mistrustful of police. He described the impact of these experiences on his ability to instil trust of the police in his students.

“Growing up as a Black child in Jamaica, I was taught by my grandmother to respect the police and I aspired to become a policeman during this period of my life. After coming to Canada at the age of 13, I became more and more wary of the police following numerous unfortunate experiences.... Over time, my views regarding the motives and operative methods of the police have changed dramatically from those taught to me by my grandmother. ... I have always been a law-abiding citizen and I've worked very hard to get a post secondary degree and an Ontario Teacher's Certification. I have worked with children through my adolescent years in coaching and general instructing programs. I was always instructed by my supervisors and others to encourage the children to develop a trusting relationship with the police. My philosophy as a teacher is based on teaching the children to focus on a solid education and to look for ways to have a better future. A segment of that philosophy pertaining to the interaction with the police is difficult for me to put across in a convincing manner based on my personal experiences. I want to change that uncomfortable and untrusting feeling I have towards the police.” (R.R.)

Some of the words that were used to describe the effects on relationships with police included: suspicion, distrust, anger, antagonism, hostility and fear. Many described fearing for their own safety when interacting with police officers and some said that, rather than feeling that the police were there to protect them from crime, they felt the need to be protected from the police.

“Even if I am standing in a MTHA [Metro Toronto Housing Authority] area with another university student and cops pass I always stop and look to make sure that I am not being challenged by the cops. It's a feeling of fear, and of being less than them as they are in an authoritative position. We shouldn't be afraid of people who are supposed to be protecting our rights.”(S.B.)

Parents in particular described feeling terrified that their children, particularly their sons, could come to harm every time they leave the house. One mother described the trauma of learning that her son, a University of Toronto student, was reading a book while waiting for the subway in the station near his home when he was pushed to the ground by two law enforcement personnel. Comments were made to the effect that he could not be a university student and that he could not afford to live in the upscale neighbourhood.

“My son graduated as an Ontario Scholar, from Ridley College. His awards are too numerous to mention. Suffice to say he will be one of tomorrow’s leaders if given the chance to survive. As a medical doctor I am now faced with the stark reality of statistical facts. The top three leading causes of death in males, ages 15 to 24, are homicides, suicides, and motor vehicle accidents. He does not drink, smoke, use illicit [drugs], and does not own a car. Will I get a call saying that he has been shot and killed by a police officer? The psychological trauma of these experiences often leaves the most pernicious scars.” (Dr. S.B.)

Many other parents described the feelings that they experience, for example:

“My friends who are White are bewildered because their sons do not get stopped, and my friends with Black children are afraid, because they have already had their own teenaged sons stopped, or they have young sons coming up who they know will experience the same treatment. ... [In the community] there is a chilling effect, a loss of trust, and fears for the safety of the children.” (D.W.)

“Now I feel very afraid for my two boys. I’m afraid for them to go out. I can’t sleep when they go out. I’m scared when they go out with Black friends. They’re like a magnet. It’s not fair that four Black kids can’t walk around.” (S.N.)

This same type of fear was reported by Stephen Lewis in his 1992 report on police-visible minority relations. And, a recent survey of youth in the Toronto area reported a fear of treatment by police.³⁹

For persons who have come from countries with repressive governments or law enforcement systems, feelings of mistrust are particularly acute as incidents can trigger memories of the system that they have left: “Many of the people in the Latin American community have come from countries where state policing and repression have been rampant. In fact, we have talked a lot about how some members of our community are fearful of police. We have a connection between police states and repression. [When] I was arrested, my family was quite shaken

by the experience, because it immediately brings memories of police repression.” (M.S.M.)

The Somali community in one Ontario city reported as having the same reaction to their experience with local police: “Among immigrants, the Somali population, the African population, it seems that the police here are no different from the police under dictatorships overseas. Where they have seen abuse and they experience abuse here they say, yeah, cops all over the world are just exactly the same. ... And this does not contribute to the kind of diverse cultural understanding, acceptance and involvement that this country is supposed to stand for.” (Windsor and District Black Coalition)

When discussing feelings of mistrust, most participants also mentioned that they lack faith in the processes that have been implemented to receive complaints against the police or other institutions such as the Canada Customs and Revenue Agency. Participants stated that they felt they were prevented or discouraged from filing complaints, that they lacked confidence in the complaints process as they perceived it to lack independence and that the outcome further compounded their sense of mistrust or injustice. A consistent theme that emerged was that of the appearance of a lack of independence, often described as “police investigating the police”:

“About three times I tried to put a complaint in to police. ... [The department] refused to disclose the procedures involved in filing a complaint. I found no way to get any justice.” (O.B.)

“There is nothing I can do, since I know how the system is, where is the independent body where to file a complaint?” (S.M.)

“I consulted a lawyer, who advised me that suing either the police or the family in civil court would not be beneficial. There would be little guarantee of victory and any award would not cover legal costs. I filed a complaint through the appropriate police services review board. The result was totally unsatisfactory. The reviewing officer merely compounded my humiliation by affirming that the police were not at fault.” (R.Y.)

Comments were also made about a loss of confidence in and respect for our justice system, for example: “I used to have faith and respect for our justice system. How foolish of me! The justice system only protects those they choose to, the rest of us are castaways, the ones not worthy because of either our social or economic background.” (M.Q.)

Unfortunately, some individuals’ feelings of mistrust of law enforcement and the justice system has resulted in a feeling of not wanting to go to the police with a problem or not cooperating with the police.

“I do not go to the police when I have a problem. I will not do so in the future, either. However, if there is a problem that absolutely requires police assistance and I can request help on the phone anonymously, so they can't see that I'm Black, then I will.” (T.B.)

“Profiling does nothing but create distrust and resentment when it is done. This in turn causes a negative backlash in the community. This is part of the reason that the police force gets very little cooperation when dealing with the Black community. If a person does not feel valued by the system, you will in turn see how that person can become a negative force.” (W.H.B.)

“People are afraid to talk to the police in the Black community... There are good cops, but the bad ones make us mistrustful of all police. It makes it hard for them to solve crime.” (S.N.)

Some even indicated that they felt that incidents of racial profiling would affect people's willingness to comply with the law.

“On the Canada Customs and Revenue Agency web site under Client Rights it states CCRA operates on the fundamental belief that its clients are more likely to comply with the law if they are treated fairly. ... Being interrogated and thoroughly searched eight out of nine times is not the same as being searched from time to time or being treated fairly. ... It is being targeted. It is imperative that to ensure people crossing the border respect Canadian laws, our Customs and Immigration Officers recognize that ethnicity, accent, country of citizenship, style of dress, or make of vehicle does not indicate criminal intent or criminal activity.” (L.E.K.)

“Where minority children are denied rights, verbally abused, physically threatened, belittled and disempowered, it can only have a predictable effect. That would be alienation from the law that these people purport to represent, creating a counter-culture where it is felt that “the law” is negative, should not be respected and should be challenged or disregarded completely. Aberrant behaviour becomes the norm for those who have no reason to respect the law. This does not serve the greater public good.” (B.K.)

In some cases, persons characterized police-community relations as marred by escalating conflict and noted that, in the community, many perceive the situation as becoming “explosive”.

These consequences of racial profiling have been confirmed by the experience of jurisdictions in the United States. And the Task Force on Race Relations and Policing headed by Clare Lewis confirmed in its 1989 report that “the worst enemy of effective policing is the absence of public confidence.”⁴⁰ Similarly, a study by Carl E. James concludes that the adversarial nature of police stops contributes strongly to Black youth hostility towards the police.⁴¹

While police agencies are negatively impacted in their ability to effectively serve the public by allegations of racial profiling, the effect on the individual who develops a mistrust of the police and criminal justice system can be even greater. A criminal defence lawyer has written:

*I cannot count the number of times when young Black clients have said to me in frustration, “If the police are going to arrest me anyway (when I haven’t done anything wrong), I might as well do something (bad), so at least I would deserve it.” This is a most insidious damage being wreaked on our youth by racial profiling. It perpetuates a cycle whereby youths lose respect for the law; this in turn leads a small number of them to act out.*⁴²

The mistrust of police was also cited as contributing to an unwillingness to pursue a career in policing. The relatively low representation of racialized persons in law enforcement agencies, particularly in senior positions, in turn has a negative impact on these agencies’ ability to effectively respond to community concerns with profiling.

Some reported losing respect for other types of authority figures as a result of their experiences: “I feel differently about security guards. Before I understood their job to protect the building, but now if I see a guard I want to avoid them and walk away. I don’t have respect for them.” (T.J.)

In the context of the education system, many parents reported feeling that they have lost faith in teachers and school administrators. They indicated that this loss of confidence makes them feel uncomfortable sending their child to school and that they must seek out opportunities to transfer their child to another school or take them out of school altogether for home schooling. In either case, major inconvenience can be the result, not to mention the disruption to the child. In addition, parents reported their children mistrusting the education system as well as losing respect for their teachers.

“[My son] is back at school now, and is nervous to even walk by the school office. He is very intimidated and traumatized by the issue. He gets anxious in the presence of the school officials. There is no trust after what they did to him. He stays clear of authority figures. The trust is broken. ... Focussing on his studies has become pressured and difficult. He is very

**uncomfortable in an environment that should be conducive to learning.”
(K.N.)**

“I tried to work with school staff with little success. I am angry and very frustrated and cannot take it any more. I have taken my child out of the school system and placed him in my mother's care and he is now doing home schooling.” (N.C.)

“I try to keep a positive head for my daughter's sake. But I truly feel uncomfortable leaving her at the school but feel like I have no choice at this time being a single mom.” (C.L.)

“I do not trust the public school system, the police or the court system. I feel betrayed, manipulated and abused. This is how I feel.” (E.M.)

In addition, parents indicated that they must constantly take steps to try to instill respect for persons in authority as this respect is undermined by incidents of profiling: “People in positions of authority are setting an example that I have to counteract daily to ensure that my children and their friends do treat others with respect. It is an uphill battle.” (K.I.) Obviously, this has a direct effect on the child's education and development as well as the education system's ability to deliver its services to these children.

Ultimately, it is society that is most harmed if racial profiling results in the loss of confidence in law enforcement, the criminal justice system, the education system and other institutions. As demonstrated by the impacts of profiling outlined above, the social cost of creating a mistrust of institutions includes a lack of respect shown to people associated with them, greater acting out against those institutions or the law, and an unwillingness to work with those institutions, for example by reporting crime, acting as witnesses, *etc.* The American experience has shown that these are tangible results of racial profiling and that eliminating racial profiling can result in bridges being built between the institutions and communities, to the greater good of all:

Many other U.S. cities have now followed similar strategies with similar results. Communities rally behind the approach, showing that if [law enforcement] authorities can use their power transparently and selectively – focusing [sic] not on whole classes of young people, but on clearly dangerous offenders, and even then judiciously and with fair warning – support for [law enforcement activities] will be forthcoming.⁴³

Alienation And A Diminished Sense Of Citizenship

It is public policy in Ontario, as expressed in the preamble to the Ontario *Human Rights Code*, to foster a province in which all persons feel an equal part of the community and able to contribute fully to the development and well-being of the province. Ontario is home to over 2 million people who identify as “visible minorities”.⁴⁴ Yet, the Commission’s racial profiling inquiry revealed that individuals belonging to these communities do not feel like equal members of our society. And this feeling exists for recent immigrants as well as for persons whose families have been here for many generations.

Many participants in the inquiry reported feeling like an unequal or less worthy member of society as a result of their experience of profiling. This realization was described as a humiliating, dehumanizing and painful one:

“How long do you have to live in Canada before you’re accepted? 150 years of contribution in this community seems not to be enough.” (A.M.)

“I have lived in Canada since January 1980, and have been here since I was three years old. I’ve gone to school in Canada since Kindergarten and being “Canadian” is the only identity I have. It became painfully clear at that moment that there were two levels of citizenship. Those of Caucasian descent, and those from other countries. I would never be able to be a full Canadian citizen -- one that was treated with all the privileges of being a citizen. It was a very dehumanizing experience.” (H.K.)

“[I felt] degraded, debased, ridiculed, and definitely not like a Canadian Citizen, which I have been for 90% of my life.” (L.L.)

“I was born in Toronto and have lived here all my life...I wish I could feel like my Canadian citizenship rights and status as a Toronto dweller were as secure as my White colleagues.” (S.S.)

“It is painfully obvious that these sales staff either assume that I am unable to purchase the expensive items in their establishment or in the alternative, am entering their establishment in order to steal their merchandise. This behaviour causes an enormous amount of self loathing. It continuously causes one to feel somewhat inferior.” (T.E.)

Individuals who felt that they had accomplished much and were contributing significantly to Canadian society contrasted their sense of value added to Canadian society with how Canadian society appeared to view them. They felt that no matter what they do and how successful they are, they are still assumed to be part of an undesirable element of society and this was very distressing to them.

“I am a young Black female who is university educated. I am also a homeowner and professional. I contribute to society as much as other Canadians. But [as a result of being followed by security] I felt that I was not worthy to be in their store. They may as well hang up signs in the store ‘For Whites only...’.” (A.C.)

“I am a secondary school teacher ... and a law-abiding citizen in every way. I am respected by my students and peers, but [because of the inappropriate questions I was asked by Customs on returning from Jamaica] I was made to feel like a second class citizen.” (Y.N.)

“[Being stopped because I was driving a car registered to a union] tells me I’m not good enough to work for a union, because I am Black. And this made me feel less than a human being. And this shows that my contribution to Canadian society is not valued.” (M.W.)

Persons who have immigrated from other countries also described a profound sense of not belonging as a result of experiencing profiling. They described it as a sense of being rejected by mainstream Canadian society and being told that they would always be considered an outsider. Some immigrants also told of a sense of disillusionment or betrayal as they had come to Canada to escape an unjust society and expected that they would be treated equally here.

One account that clearly illustrated this came from a woman who immigrated to Toronto from Chile. She had participated in a demonstration and was arrested along with other demonstrators. When she was taken before a Justice of the Peace for a bail hearing, the Justice of the Peace concluded that she should be denied bail based on a discriminatory assumption that since she was born in Chile and people from Chile are “known” for throwing stones, she must be a public danger. When her lawyer emphasized that she had been a Canadian for 27 years, the Justice of the Peace emphasized that she was born in Chile. As a result, she spent four nights in jail, simply because of racial profiling. The Justice of the Peace Review Council investigated the case and determined that the comments by the Justice of the Peace were inappropriate and he was required to issue an apology. But, this did not change the fact that a decision was made that resulted in this woman spending four days in prison. The initial charges were eventually withdrawn. She described the feeling that this experience left her with in the following words:

“It shakes [your] whole idea that you have become a Citizen of this country. In fact, you are told blatantly that you will never be a citizen, as when he said that because I was born in Chile, it didn't matter how many years I had been a Canadian citizen. You are told point blank that you don't belong here, no matter if you work, you know, how productive you are in society, etc., etc., you will not belong here. And so ... suddenly you are again reminded that you are an outsider, and as an outsider, you don't have the same rights...” (M.S.M.)

Persons who identified as Muslim, Arab and South Asian described feeling unwelcome after the tragedy of September 11, 2001. There was a significant reluctance on the part of members of this community to come forward with their accounts due to a fear of potential consequences. Nevertheless, some of the examples the Commission heard included:

- a Sikh man who wears a turban being asked to leave a plane at Pearson International Airport due to a passenger complaint;
- law enforcement officials going to the workplaces of community leaders and questioning them in front of colleagues;
- a money transfer agency refusing to transfer money to a man's parents without first conducting a security clearance because his first name is “Muhammad”;
- a Palestinian child being exposed to a guest speaker in her classroom whose presentation implied that Palestinian persons should not be trusted as they are raised to be hateful and perpetrate terrorist attacks;
- children and youth being subjected to comments linking them to terrorism by teachers and other students;
- being terminated from employment and/or having trouble finding a new job due to a perception of being a ‘security threat’;
- being questioned by law enforcement authorities due to membership in a Muslim religious organization; and
- being searched more often or scrutinized differently from others when flying or crossing the Canada/U.S. border.

Some of the effects of these incidents were described as follows:

“My daughter's stream of tears had my husband and I ready to pack our bags and leave. We have heard so much hate and incitement to hate post September 11, but we thought we could face it all as long as our children were protected. When our daughter came home crying, we knew we had lost our strength to go on and to stand up to racial profiling. It was simply becoming overwhelming.” (S.E.)

“My family is devastated as we no longer feel safe here. We are not sure what will be next. We don’t know what and who we are dealing with.” (M.A.)

“[As a result of this incident in which a Muslim man was questioned at work in front of co-workers] ... in many ways [he and his family] were hurt, because these were people who had come to Canada for a particular reason and felt very happy and were very -- I mean, in many ways proud of Canada and patriotic, so they felt that suddenly they were put under suspicion and that maybe their country didn’t trust them... they felt that they were not considered Canadians anymore.” (I.S.)

A common concern in this community is of facing increased deprivations of liberty in future or that persons’ names may end up on “lists” which will result in a loss of privacy, further incidents of questioning, or worse.

Representatives of Muslim, Arab and South Asian communities also pointed out that one of the chief complaints has been that it has been treated as a community to be looked into, rather than invited to help solve the problem. This community is just as concerned about Canadian safety and security as everyone else and would like to be invited to the table to offer assistance or advice on improving security for everyone, rather than to just be treated as a security threat.

In some cases, the sense of feeling like a “second class” citizen or unwelcome in Canada is so profound that some people described leaving or considering leaving Ontario. For example, a Korean woman described members of her family getting together to seriously discuss returning to Korea.

Not surprisingly, parents also described this feeling of damaged citizenship having taken its toll on their children. One mother who indicated that her sons have been stopped and searched by police numerous times, including two incidents where the officers pulled their guns, explained: “[This city] is their home and has been for 16 years, and they no longer feel welcome here.” (D.W.) Other parents stated:

“...he has always thought of himself as Canadian and very happy and everything, and he never had any problems. [I] remember four years ago when he was 12, would say, you know, there is no racism in Canada. ... [As he got older] and, again, as I said, first it was the stores, some of the stores and then ... at the school And you know, for him it is like feeling that he said, well, you know, so I am not really Canadian, am I? You know, that's what he asks me.” (S.M.)

“Just before take-off [my colleague and I were] called out from inside the plane and asked to bring out our carry on luggage. We were told ... that due to a security reason we will not be able to take this flight. After asking repeatedly for the reason I was told that a passenger complained to the pilot that I was staring at the passenger. The pilot considered this to be security risk. ... I wear a turban and the pilot mistook my identity for a Muslim person. ...[As a result of this incident] my son (15 years old) was really hurt and questioned if our religious values are safe as citizens of Canada.” (B.S.D.)

Finally, many described feeling ashamed to be part of a society where racial profiling exists and appears to be tolerated. This sense of embarrassment was particularly profound for participants in the inquiry who self-identified as White: “I felt embarrassed to be a Canadian and my husband [who immigrated from Latin America] changed his mind about what kind of a country this was.” (A.F.) It is clear that many people feel that racial profiling is un-Canadian, in the sense that it is not consistent with Canada’s values and reputation.

Undoubtedly, the damage to feelings of belonging and citizenship that results from racial profiling is undesirable on several different levels. Firstly, it is not consistent with the values that Canadians and Ontarians hold in high esteem. It should be of significant concern to us to know that fellow citizens do not feel that they are being treated with the same dignity and respect or feel as if they are seen as less worthy of recognition or value as a human being or as a member of Ontario society. Secondly, there is a direct cost to our society of fostering a two-tiered sense of citizenship. Experience has shown that persons who do not feel valued in society cannot contribute or participate to their full potential. And, if a large segment of our population is not attaining its fullest potential, neither is our community.

There are also long term social consequences of diminishing people’s sense of citizenship. Foremost among these are a diminished sense of patriotism, loyalty and national unity.

“Unless something is done, many people in Canada will of necessity feel less of a connection to Canada.” (H.K.)

“[After being questioned and thoroughly searched 8 out of 9 times when crossing the border], it is extremely difficult to develop a sense of loyalty to a country where each time one attempts to re-enter he is treated in such fashion.” (L.K.)

The Impact On Our Communities

Members of racialized communities in Ontario have described themselves as living within a perpetual state of crisis due to the effects of racism. The African Canadian community in particular stressed that racial profiling is having an overwhelming impact in their community. The sense of injustice that develops among individuals in these communities creates a state of psychological imbalance and inner conflict and reinforces their concern that racism exists and that they may be subjected to it at any time.⁴⁵

Research has found that, in these circumstances, minority groups use several coping strategies to deal with the effects of their experiences. In some cases people accept the negative stereotypes that are being applied to their group as true. In other words, they come to see themselves as inferior. They may be ashamed of their background, skin colour, *etc.*⁴⁶ For example, the Commission heard about a young boy named “Muhammad” who wanted to change his name to “Joe” as a result of his experiences after September 11th. Another strategy is to try to turn the negative experience into a positive one by fostering pride in one’s identity and by mobilizing for political purposes.⁴⁷

In addition, studies have repeatedly shown that racial discrimination results in disparities in the areas of housing, education, employment, economic status, arrests and court sentencing.⁴⁸

These effects on the communities who experience racial profiling were confirmed during the course of the Commission’s inquiry. Additional effects noted were that the experience of racial profiling compromises people’s ability to be represented in positions of power, results in community division and heightens community fear. Solidarity can also be fostered as communities rally together to tackle the problem of profiling.

One consistent community effect that emerged from the inquiry was the disempowering impact of profiling. Several participants used the words “impotent”, “powerless”, “helpless” and “emasculated” to describe how they felt as a result of one or more incidents of profiling. This was experienced when a person was subjected to profiling or when a friend, relative or role model was profiled. This sense of powerlessness can impact on an individual’s ability to seek out and gain positions of power or authority in society. This, in turn, means that these communities are not well represented in key societal institutions, including the ones that have some control over the issue of racial profiling itself.

For example, numerous accounts described persons from racialized communities no longer wanting to pursue a career in law enforcement or the justice system. Several people commented that these professions are not seen in a positive light among certain communities or in some neighbourhoods. One participant, himself a police officer, described an incident of profiling in another jurisdiction that

involved a disproportionate use of force and in his being accused of impersonating a police officer when his police identification was found. This incident reinforced his parents' concern with his career choice: "My parents who were already disappointed with my career choice [police officer] reaffirm their discontent with any news of these kinds of incidents." (S.B.) And other participants noted, in certain communities law enforcement is not seen as a career to aspire to: "Well, my son wanted to be an officer years ago (as a kid) but I had told him to find a profession that is more respectable in our community." (J.H.)

This phenomenon was not unique to law enforcement. The Commission also heard about profiling challenging people's ability to be teachers, social workers, youth workers, nurses, lawyers, and even to hold political office. A vicious cycle is created whereby profiling results in fewer minority persons being represented in positions of power, and with insufficient minority persons in these positions the problem of profiling cannot be effectively tackled.

Another effect of racial profiling is to create community division or an unwillingness to identify with one's community. For example, one individual who was the object of scrutiny after September 11th due to his involvement with a Muslim youth organization noted that this has resulted in youth and their parents being fearful of having any involvement in Muslim youth groups: "My community's youth are now discouraged by their parents to get involved in activities for Muslims out of fear of interrogations and wrongful persecution." (M.A.A.). Representatives of the Canadian Muslim Lawyer's Association and the Canadian Arab Federation confirmed a widespread fear of involvement in community groups or activities among Muslim, Arab and South Asian persons for fear that this might lead to an assumption by the authorities that they are a security threat. All other groups who participated in the inquiry also described the existence of community-wide fear of racial profiling.

On the other hand, several accounts noted that profiling has increased community unity and cohesion. In some instances, communities rallied behind someone who had experienced profiling to provide assistance, encouragement and support. Measures were taken such as the Latin American Coalition Against Racism launching a formal complaint about racial profiling by a Justice of the Peace, individuals starting petitions concerning incidents of profiling, forums being organized to discuss community concerns with profiling and so forth. The Windsor and District Black Coalition has been very successful in mobilizing the community and bringing the community's concerns to the local police service.

Several people noted that profiling has strengthened their resolve to serve as a positive force in their community through acting as a role model, working with youth and instilling pride in young persons about their identity. Some individuals who identified as White also indicated that as a result of witnessing profiling, they have become educated about racism and have taken actions against it.

“...I want over the years to be an example of someone who came out of Jane and Finch and to be respected for the things that I have done. To go back to the area and talk to the youth and help the youth find their way out.

**Many youth need a way out. They don't know the way out and [need] someone they can trust and someone to point them in the [right] direction.”
(D.G.)**

“I also educate my children on Black history, ensure that they are not channeled into any specific academic stream, and have discussions on issues such as this. I also try to ensure that the White people I am in contact with learn something about Black people, by serving as an example to dispel the stereotyping.” (R.T.)

“I have kept on working towards putting myself in a position to do something positive for others who may suffer from the same type of discrimination and harassment. I am studying to be a lawyer.” (A.A.)

However, while some have cited community cohesion and activism as an outcome of profiling that may be viewed as positive, it only arises as a result of something negative and at great cost.

Changes In Behaviour

One of the most striking impacts of racial profiling repeatedly described by participants in the inquiry was the effect it has on people's behaviour and activities. A large number of participants in the inquiry reported significantly altering their actions as a result of an incident of profiling or taking measures to avoid the experience of profiling.

People reported changing their driving habits in a number of ways. Some reported no longer driving a particular type of vehicle, e.g. an expensive car, a sports car or SUV, as they feel that such vehicles, when driven by racialized persons, attract police attention. Some even noted that they believe that particular brands of cars attract more scrutiny because of stereotypes that drug dealers or others involved in illegal activity favour that particular make and model. In addition, many people reported altering the tinting on their car, either by adding tinted glass or buying a vehicle that does not have tinted glass: “I have since gotten a very dark tint on my truck since that incident in the hopes that the fact that I am a Black woman driving a nice vehicle would become a non-issue.” (C.B.) Some even reported giving up driving altogether.

One participant described ten interactions with police which he felt involved racial profiling. However, he also listed several positive experiences with the police.

He went on to list a number of strategies he employs to avoid negative experiences.

**“I have looked at the way I speak to them. I still ask when I’m pulled over...why are you stopping me. I have no tint on my car for the last 7 years. I am very polite. I say ‘thank you’. I ask, ‘How are you today officer?’ My car is not the dream car anymore as I don’t want to be branded as one of “those”. My appearance appears to be more conservative.”
(N.W.)**

Many individuals also reported systematically checking their documentation and inspecting their vehicle every time they get in their car. They indicated that they feel that as they are more likely to be stopped and that they will not get any leeway should they forget a driver’s licence, proof of insurance or registration, they employ extra diligence to ensure that all these papers are in order each time they get in their car to drive. Similarly, participants stated that, as they do not want to attract police scrutiny, before driving they always check their vehicle to ensure all the lights are in working order, the license plate is clearly visible and that there are no other issues with the appearance or function of their car. Many noted that they are extremely careful to obey the rules of the road, such as coming to a complete stop at stop signs and driving within the speed limit.

While all of these measures to ensure that the law is being followed should be taken by all citizens, the reality is that those who do not experience profiling often take these things for granted. Most people do not double check their papers and inspect their car each and every time they go for a drive. This is because most people are rarely stopped and assume that they will not be pulled over on any given occasion. And, even if they are stopped, they expect to have a courteous and professional interaction with the police or customs officials and do not worry that the incident may prove humiliating or turn into an unpleasant situation. The communities who experience profiling told the Commission that they do not share this expectation.

“A regular person would go in their car and they would drive about, not worrying about anything, if their papers are okay. But it got to a point where leaving my house, I would make sure I would check if all my lights were working, if everything is there, if my licence is there, because I know that somewhere down the line I am going to get pulled over.” (R.R.)

“My son is East Indian and White and he had a dent in his car - slid on a snowbank and he wouldn’t drive his car because he hadn’t fixed it - it was still in working order. He took the bus because he thought the police would stop him because of the dent in his car. He was afraid of being stopped, he’s done nothing wrong, he doesn’t have a record. That was last week. I said, ‘You’ve got to be kidding’ but he said, ‘Nope’ and just took the bus.” (K.M.K.)

Aside from altering driving behaviours, many submissions also described individuals and families developing complex systems to cope with the experience of profiling. Several people reported imposing a “before dark” curfew on themselves and their family members, especially their teenage sons. Others described never walking alone or on certain streets or going to certain neighbourhoods. Some reported carrying cellular telephones at all times so they could call home to record experiences of profiling as they are happening. Others, especially parents, reported carrying cellular telephones so they could be contacted at all times in case their children need to reach them as a result of an incident of profiling.

“There is a young man who has married into my family and as soon as he became of driving age, he put a curfew on himself so he would not be caught driving after dark, so he curtailed his own freedom rather than face the harassment that he knows waits for him.” (A.B.)

“[I] stay in my house, and never walk alone, or too late at nights. Sometimes I walk on the back streets so that I can avoid them. ... Yes the Black kids in this community feel like they are being overpoliced. My friends and I are afraid to go anywhere because of them.” (A.C.)

One man changed the location of his wedding to avoid his guests having to cross the Canada-U.S. border. African Canadian persons in Windsor reported a particular impact as many have relatives living in the U.S. and can have particular problems when crossing the border. And several persons noted being more cautious about what they bring back from vacations or how they dress clearing customs: “I make sure I don’t do anything to attract attention to myself, including bringing back items that I am not supposed to bring back or bringing back more than what is allowed. To hear White travellers brag about the quantity of cigars and liquor that they brought back, and yet they were not questioned about it, was very insulting for us.” (M.J.)

Several participants described the difficulty that African Canadian men have in hailing taxi cabs. They indicated that in their experience, drivers are wary of picking them up because of stereotypes that they will either not pay for the ride or cause other problems. One man described how he now hails a cab:

“...there are ways for a Black man to get a cab in Toronto. The direct way is to stand in the middle of a busy street waving a large-denomination bill in the air. That almost always works. ... The indirect way also works quite well. Simply get a non-Black friend ... to flag down the cab. The first cab with its light on will stop on a dime for her. Then, the Black male can come out from the doorway of the building he is hiding in and get into the cab. Unfortunately, at this point, the cab driver will often ask for the money up

front. I normally refuse to do this because [others] ... are not required to do this.” (T.B.)

Some people actually reported choosing to live outside of Ontario as a result of having experienced one or more incidents of racial profiling which led them to believe that they would be safer in a different province or even in the United States.

“Given that the overall climate for ethnic Chinese is more hospitable in New York (at least that's how I feel), I am considering staying in New York after I graduate. I am also considering moving to Montreal... I am a Torontonian and will always be (I know the place like the back of my hand), but I will probably not return to live there because I (and some of my friends) feel that the Chinese are treated unfairly because our presence is seen as a "threat".” (K.C.)

And parents reported having their children change schools as well.

Developing these systems to deal with profiling reflects how serious a concern it is for the communities who experience it. It is a major part of their life experience such that they are forced to alter their behaviour around it. The perception that profiling will occur in future, hence measures are needed to avoid it or plan for it, also speaks to the widespread perception that profiling will continue to be a problem unless measures are taken to tackle it.

In addition, as discussed in the section **Compromising Our Future**, many parents reported restricting the actions of their children to minimize the risk of experiences of profiling. Similarly, they said they have no choice but to warn their children to anticipate future experiences of profiling and to teach them how to respond.

“I have warned my son to be very careful of where he goes and who he associates with. ... We have changed his winter coat from a black bubble jacket to a beige and black "ski" jacket and he is no longer allowed to wear a baseball hat. He did have his hair braided - which we have now cut to a very close shaved head ...I do not allow my son to go to the store without me. ... I try to avoid all situations of him being on the street alone. ... He gets a ride home from a friend's mom every day after school if he does not take public transit.” (M.N.)

“The coaches have now been driving the young men home after basketball practice, and I don't allow him to go out alone at night anymore.” (D.W.)

“Yes, my parents didn't want me driving late at night and I wasn't allowed

to go into "undesirable" neighbourhoods. Just the fact that my parents had to curtail my activities had a negative affect on all of us." (D.V.)

"I have a teenaged grandson who should be able to go out, visit his friends, and do the normal things that teenagers do. We don't allow him to. His mother chauffeurs him or I chauffeur him or his aunts chauffeur him or his uncle chauffeurs him." (M.W.)

"I remember as [my son] was growing up and starting to drive, some of the things that I would say to him: 'Listen. When they stop you, make sure they can see your hands. Make sure you have your overhead light on in the vehicle. Make sure your hands are up on the steering wheel. Make sure'." (M.W.)

This is a form of socialization, which is a process by which the child grows up to accept the basic social behaviour that is taught and practiced by his or her family. This teaching provides the child with an understanding of its world and forms the concept of identity. This socialization determines for our entire lives, our every day behaviour, our reflex-reactions, our moral values and how we see the world.⁴⁹ Therefore, the effects of having children and youth alter their behaviour or perception of the world as a result of racial profiling is profound and enduring. It will likely last them the rest of their lives and may be passed on to future generations.

Finally, a consistent trend that emerged in the submissions received was the normalization of the experience of profiling; in other words, when an individual accepts or expects that racial profiling will happen as a normal part of his or her life and feels that there is nothing that he or she can do about it.

People felt that they have no choice but to live their lives around the expectation that they, their family members and their children, especially their sons, will experience incidents of profiling. Many also expressed a sense of futility at trying to address profiling or a fear that attempting to speak out would result in repercussions. Several participants who identified as White and who had witnessed incidents of profiling also commented that when they expressed a sense of outrage about the incident to a friend, the response was that this is a normal experience that racialized persons have come to accept.

An African Canadian man, who had experienced the same feelings after an incident of profiling 30 years earlier, described the sense of futility and helplessness his son exhibited after being stopped by police three times in four weeks: "I kept saying [to my son], well, why don't you do something? I mean, I am willing to go with you to the police station or to a lawyer, what do you want to do? ... and he just said, there is nothing you can do, he was just absolutely -- I don't know the word. He is not the kind of a person to sort of stay in his room

and close the door. So I guess he felt like I felt 30 years before [when I experienced profiling], absolutely powerless, and humiliated.” (R.M.)

Others used the following words to describe their acceptance of profiling:

“That is the worst part of it all. We as visible minorities have accepted something that is completely and utterly unacceptable. This is wrong and must be righted.” (S.G.)

“It's life in any big city. When you are a part of a disadvantaged group, those with power will step on your rights at some point and time. This type of event has become normalized in my life and I live my life around it now.” (A.A.)

“It is alarming to see a generation of children expect and even accept that they have no civil rights.” (K.I.)

“This is a systematic occurrence that males like myself have lived with and will continue to live with. The next step for me is to educate my children especially my young boys that occurrences like this will occur with them and they should expect it. Nevertheless they should always obey and uphold the law and conduct themselves decently.” (R.G.)

“I have a life to live and the risk of creating more problems for myself or others of my background is enough of a deterrent not to try and do something.” (T.E.)

This sense of acceptance and futility was very moving as it showed how deeply ingrained the perception of the problem of profiling is in Ontario. It also demonstrated the profound effect it is having on the psyches of those who experience it.

The Unseen Toll Of Racial Profiling

One of the most fundamental needs of every human being is the need for human dignity. Human dignity means being treated with respect and having a sense of self-esteem and self-worth. It is concerned with physical and psychological integrity and empowerment. Perhaps nothing inflicts greater psychological and emotional damage on a person than to compromise his or her sense of dignity.

Racial profiling does just that. It violates human dignity by sending a message to the person that he or she is less worthy of consideration and respect as a human being. The impact of racial profiling on people's dignity and self-esteem was confirmed in almost every submission to the Commission's inquiry.

“You think you are like any one else and you find out actually you are not, because you are treated in a special way. It's humiliating.” (A.B.)

“It is such a humiliating experience where one is singled out for something he/she has no control over.” (S.G.)

“I felt very embarrassed, angry, shocked and hurt. I had never been put through this kind of confrontation in front of others. ... I am still shaken about it. As I type, my hands are shaking.” (T.S.)

The impact on dignity was so significant that people wrote about incidents that had happened as much as 30 years earlier: “I have never forgotten the sense of powerlessness or the sense of absolute humiliation that I felt.” (R.M.)

And, the effect was not confined to the person who experienced profiling. Parents, especially, described a significant emotional or psychological impact of an incident of profiling experienced by a child: “As a mother I feel depressed. Every time the phone rings, I believe that it is the school calling to say that my son is in trouble.” (C.P-J.) Other people indicated that they had not told their families of incidents to protect them from the hurt that it would inflict: “I never told any of my family. All my family is in Trinidad, the States, England, I didn't want to tell them because I didn't want to unnecessarily hurt them because of my experience.” (G.V.)

Many people reported feeling profound embarrassment and shame at an incident of racial profiling that occurred in public or in front of family, friends or co-workers. They feared that people would assume that they had done something inappropriate to bring on the incident. For example, an African Canadian man who teaches in an elementary school and was pulled over and searched by police during the day in the neighbourhood in which he teaches said: “What if a parent of one of my students was driving by at that moment and saw me in the middle of the street on a police car with my hands up, with my back turned to them? Obviously, they would think twice about sending their kids back to my class, right? Also, what if, as we know, children are very [impressionable], and if they see something, even if they don't believe it, it is going to be in the back of their minds. They are going to think about it and say maybe he did do something.” (R.R.) Similarly, the Commission heard about a Muslim man worried that his co-workers would think he was a security threat after he was questioned about his beliefs and activities while at work.

An African Canadian father of the Jewish faith described an incident that occurred when his teenage sons went to pay a utility bill for their mother at their bank branch. Unfortunately, their mother had unknowingly received several counterfeit \$10 bills which she gave her sons. Rather than asking questions to

determine whether the boys were involved in illegal activity or whether they were unknowingly in possession of the bills, the bank manager assumed the worst and called the police. When the police arrived, it was again assumed that the young men were involved in illegal activity and they were handcuffed and detained for seven hours. The police interrogated the boys in a very aggressive fashion, without contacting their parents. They were brought home in handcuffs in front of the neighbours. The father noted the embarrassment caused by the incident: "My younger son's Rabbi and teacher who lives next door to us witnessed his student being led in handcuffs by the police. How do you think this will affect my son's reputation at his Yeshiva (school)?" (J.B.)

Others described the humiliation associated with profiling events as follows:

"I was also embarrassed (i.e. in front of Bayview Mall at 8:00 in morning - children going to school - my neighbourhood - police car flashing lights on - siren had also been used - very upsetting). I was so upset that I had to go home and settle down and was subsequently, late for work." (P.B.)

"I felt embarrassed in front of my two passengers who both have PhD's and are engineers and are both involved with the U of T..." (R.R.)

"[I felt] humiliated and disempowered because I was openly disrespected in front of my children as well." (K.I.)

Many reported feeling blamed for society's problems or being made to feel like a criminal simply by virtue of race, colour, ethnic origin, religion or ancestry: "These incidents leave me very discouraged as I seem to be lumped in with a bad or criminal element of our society although I know right from wrong and have a determined desire to better myself without breaking the law." (R.R.)

Several noted that their experience involved being challenged on their social status or place of employment. By way of example, an African Canadian mother stated that when her son told the law enforcement officials that he attends University of Toronto, they suggested he could neither be a student there nor a resident of the affluent neighbourhood he was in. Another man reported an incident where officers challenged his assertion that he was a paid employee as opposed to a volunteer. One woman described an incident where she was pulled over after the officer had "run her plates" and discovered that her car was a company car, which the officer found suspicious. Another woman was told that she couldn't be the owner of the expensive car she was driving as it was registered to a company. In fact, it was her company.

A young African Canadian woman described an incident she experienced with her mother who is a doctor. When paying for a meal at a restaurant, the restaurant employee called the credit card company to see if the card had been

reported stolen solely because the card said “Dr.” on it and was being used by an African Canadian woman.

A police officer who experienced an incident in another jurisdiction was accused of “impersonating a police officer” when his police badge and identification were found. And, A.B.L.E., the Association of Black Law Enforcers, reported similar incidents where African Canadian law enforcement officials are assumed not to be officers due to their skin colour.

All of these individuals felt very demeaned by the assumptions that had been made that because of their skin colour, they could not hold the social status that they do.

Many reported that racial slurs and comments were used during the incident of profiling, further compounding the impact on human dignity.

Many people explained that racial profiling caused problems in their relationships with others. Several people reported problems in spousal relationships as a result of profiling: “That incident for a couple of hours really stayed with me and I got into kind of a little confrontation with my girlfriend because I was so upset.” (R.M.). In one instance, spousal breakdown was cited as a consequence of racial profiling. The man, who reported losing his job because of profiling related to September 11th and consequently suffering depression, indicated that his marriage has broken down as a result.

Persons in inter-racial relationships described unique issues that were raised for them as a result of profiling. Some reported experiencing profiling because of the nature of their relationship. For example, racialized women reported incidents where they were assumed to be prostitutes because they were in a car with a White man who was assumed to be a customer, and racialized men described being stereotyped as pimps if accompanied by White women.

Almost everyone in an inter-racial relationship reported that the White partner was deeply affected and felt responsible when the racialized partner was exposed to profiling.

“My husband was also deeply hurt. I was in a weeping rage when I got home that night and whenever we discuss the incident I go back to those same emotions. The impact on him is that he feels he should be able to protect me, as his wife, from hurtful things. Through my experience he has been given a hint of what his brothers-in-law and father-in-law -- men whom he respects, loves and admires -- experience and the devastating emotions it generates. His tendency was to apologize and to feel ashamed. But he has nothing to apologize for. We are not our brothers’ keepers. We are individuals, to be judged as such and respected as such until we prove ourselves individually unworthy.” (A.B.)

Submissions discussed the impact that profiling has on friendships and other relationships between racialized and White persons. In some cases, an incident of profiling resulted in persons who self-identified as “White” becoming aware for the first time of the existence of profiling and realizing the impact it has on the people who experience it. Several people reported having a major transformation in their understanding of racism.

“I was in shock. As a White person I have never been exposed or witnessed such an attitude toward another person for no apparent reason. After I thought about it, I also felt sick. ... I now have a newfound understanding of the Black community and what they can face on a day-to-day basis.” (C.O.)

“There was another incident with my friend who is Black from Trinidad and was going first through the checkout at a store and paying for something. I was next in line and they were checking her out to see if she was stealing something. ... I couldn't believe it was happening. After leaving the store, I asked my friend if she saw that and my friend said, ‘Yes - get used to it, it happens’. If Black and White people just shopped together more often, they'd see this stuff happening. It just cannot keep on going this way, it is just too awful. I have a sadness inside, it is like a cancer. Something that is growing inside like a secret, a terminal growth, a horrible pathology. It demeans us all.” (K.K.)

Some participants described feeling as if they had to educate others about the phenomenon of profiling. And, unfortunately, some people reported pulling away from non-racialized persons because they have found that they are not empathetic, deny the existence of profiling or say it is a legitimate practice.

“You know my neighbours believe stuff like this doesn't go on, and I have to educate them. It does happen to me. I am a businessman, have people working for me, I'm a regular church goer. When they read the Toronto Star they think it is absolute nonsense, and when I tell my story, they say, stuff like that does happen.” (S.P.)

“This has definitely changed my relationship with most White people I know, as I have become aware that for many of them my rights do not matter. I believe that it has drawn me closer to other immigrants, as well.” (O.B.)

“I also feel that the level of tolerance has improved but many White people, especially those who have had very limited daily exposure to Black people, grossly misunderstand Black peoples' life experiences.” (R.T.)

As discussed above, the American Psychological Association and others⁵⁰ have documented the psychological effects of profiling and the submissions received in the Commission's inquiry confirm them. Profiling takes a profound psychological and emotional toll on those who experience it and their families and friends: "It is sad indeed that we have to live under such a cloud. It is frightening, it is degrading, and there are high emotional tolls on all of us. Both the children and their parents..." (D.W.) Another participant described profiling as a "psychological time bomb". (B.K.)

Many of the people who participated in the inquiry described direct psychological impacts including: fear, anxiety, intimidation, and feelings of helplessness and hopelessness. And, others reported manifestations of these feelings such as tearfulness, nightmares, difficulty sleeping, suicidal thoughts, depression and drug abuse. Several participants reported seeing, or having their child see, a psychologist or therapist to cope with the mental aftermath of racial profiling.

"[Being unjustly pulled over and spoken to in this aggressive and bullying fashion] affected my work, my health, my relationship, my ability to cope. ... I almost lost my job because I was unable to cope for quite some time after this incident. I had nightmares about it, panic attacks, and ultimately ended up in hospital and later therapy [for Post Traumatic Stress Disorder] because of it." (C.B.)

"That experience has caused me much damage mentally. To my self-esteem, etc. Despite the fact that I am accomplishing much academically in my life, I still feel inferior to the majority (Whites) and try each day, through psychotherapy, to overcome this dark cloud that hangs over me." (S.I.)

"Now I feel very afraid for my two boys. I'm afraid for them to go out. I can't sleep when they go out." (S.N.)

"Even now, I would sometimes wake up in the middle of the night from nightmares as I relive the experience in my mind." (L.H.)

"At the time I felt violated. I would cry at night after these things happened, sometimes." (O.B.)

It is impossible to quantify the cost to those individuals, their families and friends, their communities and society overall of these psychological effects. Nevertheless, it is clear that the emotional and psychological damage inflicted by profiling is significant and we as a society cannot afford to ignore it.

In addition to indirect costs imposed by the emotional and psychological toll of racial profiling, some participants in the inquiry reported direct financial costs of profiling.

Direct financial costs include legal fees from defending criminal charges that result from profiling and costs of civil suits that people have brought against organizations they allege profiled them. For example, one participant described a young man having to use university tuition money to defend unfounded charges resulting from profiling.

Participants in the inquiry reported financial consequences due to a loss of employment income either on a temporary or permanent basis. The Commission received several submissions from Muslim persons of Arab or South Asian origin who reported losing their jobs as a result of a perception that they might be a security threat after the terrorist attacks of September 11th. These individuals also reported having a very hard time regaining employment for the same reason: “I posted my resume on the net. I used to get at least 20 hits per day before 9/11, but after that, I only got 11 in one month, only because of my name and my place of education, Tehran, Iran.” (M.I.)

Interactions with police can result in people not being able to get security clearances for certain jobs, thereby directly compromising their job prospects: “Consequently this has affected my career path as well. I have a charge now, although no convictions but in the kind of work I do, ... my job prospects have dramatically narrowed.” (S.B.) In addition, the Muslim and Arab communities have expressed concerns that incidents of profiling in the United States may compromise their ability to secure jobs that involve travel to the U.S.

Moreover, the destruction to a profiled individual’s sense of self-esteem and self-worth described earlier in this Report can have a direct impact on his employability. A person may not even apply for a job because of self-doubt. If he does apply, it is likely that he will walk into the interview worried that the interviewer will apply stereotypical assumptions. In essence, his experience results in doubt that he will ever be judged fairly and on the basis of something other than the colour of his skin: “And if a young Black man comes into an employment situation where he has been attuned to react in that way to authority and confronted with an authority that may hire and fire, well you can see that he may have ...not a very productive attitude towards what would otherwise be an opportunity.” (H.M.) None of this is conducive to this individual gaining employment and, once hired, he may perform well below his potential for the same reasons.

The Physical Effects Of Racial Profiling

Some participants in the inquiry recounted physical effects as a result of their experience of profiling. In some cases, these effects concerned their physical autonomy, dignity and privacy, for example, being strip searched, being frisked, sometimes by officers of the opposite sex, or having intimate body areas

searched in public. In other cases, people were made to endure uncomfortable conditions while the incident of profiling occurred such as being made to stand in pouring rain or freezing cold for a long period of time or having a two-year-child sweating in a snowsuit during an excessive delay at Customs.

Other examples related to physical injuries as a result of excessive force or an aggressive response to a situation. The inquiry revealed that one manifestation of racial profiling can be a more physical or aggressive response based on the race, colour, ancestry, ethnic origin, place of origin or religion of the person. For example, a man who self-identified as older and White recounted an incident when he was in a store and got into a dispute with the sales clerk. The police were called and this person left the store at the same time as a young Black man. When the police arrived “they saw a shabbily dressed, middle-aged White guy and a smartly dressed Black man exit the store simultaneously, they proceeded to pounce on the Black guy, slam him up against the front window of the store, smash his face against the glass, and then started to cuff him. Instead of sneaking off during the excitement, I stood my ground and waited for them to figure out their mistake. ... When they realized that I was the suspect, did they treat me in the same violent fashion they had treated the Black guy? No. They simply got my side of the story, and took my ID information as we stood around outside the store.” (D.P.)

In another example, an African Canadian man, himself a police officer, was in another town and had been out with friends. The man admits that he was jay-walking when an officer stopped him but the response of the officer was disproportionate as he “slammed [him] against the wall of the restaurant without any warning”. The officer then handcuffed the man and despite his complete cooperation, slammed him against the trunk of his car and conducted a hasty search. On finding the man’s police identification card and badge, the officer did not accept that this individual was himself a police officer and threatened to charge him with “impersonating a police officer”:

“I know that I was not completely free of blame in the events that led to my contact with the police that night; I had been drinking, and I was jay walking, but it seemed so disproportionate to what transpired following my contact with the police. ... I was also embarrassed that my friends had to witness me getting thrown around and manhandled. I was in physical pain for a few minutes while the police officer jammed my arm to my back to handcuff me, and slammed my face down on his car. I felt like fighting back, and actually thought about this as an option as I could not even imagine under what pretext the police officer could legally be interfering with me. I felt like I was being assaulted. I was ashamed at how fellow officers sometimes behave and how it can belittle and victimize regular citizens.” (S.B.)

One man reported receiving compensation from the Criminal Injuries Compensation Board as a result of a physical assault precipitated by profiling. This person has also moved to the southern United States as his injuries are permanent and are affected by cold weather.

Studies from the United States have shown associations between perceived racial discrimination and hypertension, self-reported health and days off sick.⁵¹ In addition, a United Kingdom study found victims of discrimination were more likely to have respiratory illness, hypertension, long-term limiting illness (a long-term illness or disability that limits daily activities or work), anxiety, depression and psychosis.⁵²

The physical impacts of profiling are profound and enduring.

The Economic Cost To Society Of Racial Profiling

The foregoing discussion of the negative impacts of racial profiling should make it evident that racial profiling has direct and indirect financial costs to individuals, businesses and society as a whole. There is, therefore, good reason to be concerned about racial profiling because of its economic cost to society, even if one belongs to a group that might not otherwise feel its direct effects.

But what are the direct economic costs to those who do not experience profiling? The Commission's inquiry learned that there are a number of ways in which racial profiling can affect an organization, including its bottom line. Firstly, many participants in the inquiry whose concerns about profiling involved private sector enterprises, such as stores and malls, reported boycotting those businesses. And, in some cases not only do those individuals boycott the store but so do friends, families and even entire communities if that business happens to earn a reputation for engaging in profiling type activities.

"I'm wiser now and very careful where I spend my hard earned dollars. I will never shop at a store that I consciously know profiles visible minorities." (A.C.)

"We were angry and hurt. We decided to go in one more time, to give the store the benefit of the doubt. The same thing happened the next time. We boycotted the store and told all our friends." (N.G.)

"And in a number of cases, there has been the handling of Black customers that has been quite offensive, leading to the leadership in Detroit telling Blacks that they shouldn't be coming to the casino..." (H.M.)

In the United States civil suits have been launched against several major retail stores alleging they engage in racial profiling. Research by three university professors in the U.S. found more than 80 cases citing consumer racial profiling filed in U.S. federal courts since 1990, with even more having been brought in state courts.⁵³ And, there have been several multi-million dollar settlements of these types of lawsuits. Of course, apart from the potential damages that could be awarded should the suit be successful, the cost to these businesses in damage to their reputation could be substantial.

Businesses may experience less direct losses as a result of racial profiling. For example, many businesses are seeking to increase diversity in their workforce. They realize that achieving equity and diversity is both the right thing to do and a key component of their business strategy. However, racial profiling may have a direct impact on an organization's ability to recruit and retain qualified racialized candidates. As noted earlier, profiling can have the effect of increasing anti-social behaviour and contributing to increased marginalization of racialized groups. In other words, profiling can directly lead to a reduction of the pool of available candidates who have skills or education required by businesses.

In addition to the issues above, racial profiling also has a very negative impact on the morale of racialized employees. One of the most direct descriptions of an employment-related effect of profiling described during the inquiry came from a man subjected to a racially poisoned work environment, in part due to an incident of racial profiling. While at work, this man, who is African Canadian, and two White co-workers heard a woman from a nearby gas station screaming for help after she had just been robbed. They chased after the culprit, a White man, and the African Canadian man was the one who tackled the perpetrator. By the time they got back, a SWAT team from a police force outside of Toronto was on the scene. The police asked, "Did you catch him?" The manager answered, "Yes", and an officer immediately assumed the African Canadian was the robber and grabbed him by the arm and said, "Come with me."

The two White employees involved in the capture were interviewed by the police for witness statements and ultimately received civilian citations while the African Canadian man did not. His employer did not stand up for him and other employees laughed at him because of this incident. He ultimately filed a human rights complaint and was successful in showing that this and other incidents contributed to a racially poisoned work environment.

**"Well, the people in my workplace felt it was funny to make different comments regarding race, racial harassment basically, and because the police grabbed me in that instance because I was the only Black person there, they thought it was hilarious. My manager at the time laughed until tears came out, because I was the person who was grabbed by the police. The police thought it was me, although I was the one who caught him."
(M.S.)**

This example highlights the importance of employers being understanding and supportive of employees who have experienced profiling. And while this example is extreme, the racial profiling incidents described in this inquiry had clear impacts on individuals' general level of morale, whether they occurred inside or outside the workplace.

It is widely acknowledged that employee morale is inextricably linked to customer satisfaction and organizational performance. Thus, through this link to the morale of the individual, the Commission concludes that racial profiling may well have an effect on the performance of both public and private sector organizations.

Another significant issue of concern to employers is employee mental and physical health and emotional well-being. As outlined earlier in this Report, racial profiling has a direct impact on all of these. An employee who has experienced profiling, directly or indirectly, or one who is simply concerned about its existence, will tend to worry that he or she may be profiled and this concern could very well have an impact on his or her job performance. And, there may be work time lost due to dealing with profiling (*e.g.* meeting with school officials, attending court *etc.*) or due to its physical, mental and emotional impacts.

Parents, in particular, described spending a great deal of time and exhausting their physical and emotional energy to deal with profiling issues that concerned their children, for example: "I was at my wits' end. Short-tempered, agitated and depressed. My doctor placed me on sleeping medication. I did not know what to do. I could not focus at work." (K.N.) Employers cannot help but be impacted when an employee is under this degree of stress.

The Global Business and Economic Roundtable on Addiction and Mental Health has estimated the cost of mental disorders at \$11 billion in productivity and \$33 billion in total.⁵⁴ It is clear that the stress to the individual, caused by racial profiling, forms some part of this cost.

Profiling may also directly interfere with an employee's ability to carry out day-to-day job functions. For example, an employee who travels a lot for work may be impacted by issues of profiling by airport security or Canada customs. One participant who is a professional and travels on business trips outside Canada reported being questioned and delayed several times at borders and airports since September 11th. He indicated that as a result he has curtailed business travel.

In addition, employees who drive company cars may be stopped for questioning only for the reason of being in a company vehicle, as happened to several persons who participated in the inquiry. Many people described being delayed for work, meetings and so forth as a result of incidents that involved profiling

Finally, there is the impact on Ontarians' standard of living. Research suggests that higher levels of social cohesion are significant contributors to a prosperous economy and society.⁵⁵ Social cohesion has been defined as "the ongoing process of developing a community of shared values, shared challenges and equal opportunity within Canada, based on a sense of trust, hope and reciprocity among Canadians".⁵⁶ It has been described as characterized by individuals having a sense of belonging to the community, participation in the management of public affairs, the recognition of tolerance of differences as a virtue and the maintenance of legitimate public and private institutions.⁵⁷

As illustrated in this Report, racial profiling, among other things, compromises our future through its impact on our children and youth, creates mistrust in our institutions, impacts our communities' sense of belonging and level of civic participation and impacts on human dignity. Therefore, social cohesion is no doubt undermined by racial profiling at a high economic cost to Ontario society.

THE IMPACT OF RACIAL PROFILING ON THE ABORIGINAL COMMUNITY

This section of the Report will focus specifically on what the Commission heard about racial profiling from members of Ontario's Aboriginal Community. The term "Aboriginal" is determined by the federal government to include four sub groups:

- "Status Indians" who are registered under the *Indian Act*⁵⁸;
- "Non-status Indians", not registered under the *Act*⁵⁹;
- Métis people⁶⁰; and
- Inuit.

Aboriginal persons have a long history of documented economic, social and historical disadvantage in Canada. Approximately 20% of Canada's Aboriginal population is located in Ontario and the majority of these individuals live off reserve in urban areas. Human rights issues affecting Aboriginal persons are, therefore, real and present in Ontario and fall within provincial jurisdiction.

In 1996, the Royal Commission on Aboriginal Peoples⁶¹ released its final report, one of the most extensive of its kind anywhere in the world. The reader is strongly urged to read this report as it contains a comprehensive history of disadvantage and systemic bias that has been generally recognized for many years. Many of these issues are evident both on and off reserve. Aboriginal persons in urban areas suffer from the cumulative and aggravated effects of poverty, lower education levels and discrimination.

Outreach To The Aboriginal Community

Throughout the planning and conducting of the inquiry, the Commission had ongoing contact with Aboriginal persons and with community agencies having a significant involvement in serving Aboriginal people. As the Commission was designing the project, staff met with representatives of the community agencies who stressed the importance of directly contacting members of the community and that a separate report would be required because of the unique issues faced by this group of people. It was extremely important, they said, to aggressively reach out to the Aboriginal community as many members of that community do not have access to newspapers, radio and television, which were the main communication tools used to advertise the inquiry. As a result several community agencies worked with the Commission to identify persons who could make submissions.

Individuals contacting the Commission over the phone, by mail or through the Web site were asked to identify themselves by race, one of the options being

“Aboriginal.” Additionally, separate community-based “private” meetings were held in Toronto and Brantford. In these meetings, individuals spoke privately with the Chief Commissioner and Commission staff.

The goal of this section is to highlight the words of the individuals who participated in the inquiry. Thus, there is a minimum of introduction and analysis with the words of the individuals being left to demonstrate the impact that these events had, and continue to have, on them when they occurred.

Why A Separate Section For The Aboriginal Community?

The notion of “racial profiling” and “racism” as being rooted in a different dynamic for Aboriginal people from the other groups the Commission heard from during the inquiry is key to understanding the impact and correcting the situation. As indigenous peoples, Aboriginal peoples in Canada occupy different political, historical and individual realities from other Canadians and many told us that, if we understood those realities a little better, many of the systemic and individual practices they regularly encounter would cease.

Many members of First Nations, Métis and Inuit communities object to being referred to as another “minority group” or “ethnic group.” Using this terminology when referring to Aboriginal peoples fails to appropriately respect what it means to be an indigenous person in Canada. Monique Lariviere of Montreal, Quebec explained it clearly and simply when she wrote to the Toronto Star: “[As] an aboriginal person and a member of the Cree nation, I belong to the Cree people and am not a member of a “minority”.⁶² Characterizing Aboriginal people as “ethnic minorities” fails to take into account the very important fact that her “people have been here since time immemorial.”

Furthermore, the historical treatment of Aboriginal peoples, much like the treatment of indigenous peoples by colonialist governments all over the world, is unique to them in Canada. Two particular government programs were noted in several submissions as having a profound effect on how Aboriginal persons perceive racial profiling, how it impacts them and how they respond to that type of treatment. These programs were the residential school system and the wholesale apprehension and adoption of Aboriginal children into non-Aboriginal families (known as the “60s Scoop”). Both of these programs, while implemented for the protection of Aboriginal children, would ultimately have been the cause of the extinguishment of Aboriginal culture in Canada.

“And that's when it made me realize and that was the trigger I think of residential school, because in residential school, this is what happened to me. In fact, the whole thing that happened was like residential school.... And then on top of that, in the schools, when we ended up in trouble, we were forgotten. We were left to our own. There was nobody who was

going to help us. So we were getting punished from the system, getting punished from our own, and it is just punishment. And that's what this was. That's how I felt it was. It was just like punishment all over again."

"So I grew up in Toronto, and that was in the '50s when there weren't too many Native people, and I also grew up as a foster kid. So those two things I think affected my life and how I was treated in different situations."

The Aboriginal Experience Of Racial Profiling

For members of the Aboriginal community, the experience of racial profiling has many significant differences from that of any other racialized community. Aboriginal people have their origins in North America. They have no other home. Many of the issues they face result from centuries of colonialism, much of which continues into the present. As a result, all too frequently, the impact of racial profiling further blocks them from full participation in the many benefits of Canada and Ontario. Furthermore, Aboriginal people find themselves at an intersection of racial, cultural, economic, educational and social disadvantage. That makes the experience entirely unique to them.

The Commission heard stories about a variety of situations in a wide variety of settings. Some people spoke about the intense humiliation they felt when dealt with negatively in plain view of others by storekeepers, security guards, transit employees and police. Others talked about the frustration they felt when trying to obtain some kind of service or fair treatment from government services, health care, *etc.*

An important observation is that many expressed very clearly the view that they were convinced that they were being treated differently because of their race and/or appearance. The following story came from an Aboriginal man who, during the early hours of the morning, had been out walking with his friend. After being asked for identification by police, he was accused of stealing the bicycle he had with him because he couldn't produce a bill of sale. In his submission, he clearly felt that the police would not have treated other people, who were also walking in the same area at that time of the morning, in this manner. The type of treatment they received, he said, was because of the fact that they were Aboriginal.

The following statement, made by a nurse who was immediately terminated following allegations that she had injured a patient, makes a similar point:

"I feel that racial profiling exists in my workplace. I feel that had I been anything but Aboriginal, I would not have been accused at all."

Frequently, the story tellers talked about the uselessness of making complaints to police, human rights commissions or other complaint mechanisms because they would not be taken seriously or, worse yet, would be treated like suspects.

“[A]fter a while people stop seeking help. They don't want to go near them. They don't want to have anything to do with them. Literally they just go, 'I have had enough of this. Like they won't hear me anyways, so I am not going'.”

The Effects Of Racial Profiling

The following quotation is a good example of the type of story that the Commission heard during the inquiry. It clearly expresses the unfairness that many participants felt at the treatment they received.

“There was three of us, and we decided we were going to walk to the park just over here and go and sit down on the park bench. And the park was full of people. ... It was warm, it was nice. And as I walked into the park, there was a policeman and a policewoman, and the policeman came up to greet us and he asked me for my ID. And I just said to him, 'Is there a reason why you want my ID?' And he said, 'Well, we have to check everybody's ID.' I don't know what he said, but I said, 'Why don't you ask that woman over there? Have you asked that woman over there for her ID? ... If you give me a good reason to give you my ID, then you know, I could do that for you. But until you do that, I can't do that for you. ... Why didn't you ask those other women over there?' He said, 'Well, we are trying to establish good community relations'. That was his answer to me. And that was it.”

But many do not find it easy to speak up for themselves. In a recent article in the National Post⁶³ Roger Obonsawin, Chair of the Aboriginal Peoples Council of Toronto, was quoted as saying that the Aboriginal community approaches problems differently from other communities. “There's a victim mentality that still exists very strongly within the Native community. You blame yourself and you don't want to bring attention to yourself.”

Frequently, the issues Aboriginal people face are of an urgent nature and need an immediate solution. Thus, the payoff for initiating a complaint about a housing crisis will not be worth the effort of going through a bureaucratic complaint process.

“In our community people are so worried about the bread and butter issues. You know, they worry if they have shelter and food to eat and, if they got children, that their children have food to eat. Anything else is almost secondary to them or is not important.... They are ... just so focussed on survival issues....”

Compromising Our Future: The Cost To Our Children

“He hated the cops after that and he was intimidated by them. Like he quit school after this. He didn't bother finishing, and this was like in June that this happened.” (Talking about a friend who had had an altercation with police where racial epithets were alleged to have been used.)

The future of Canadian society depends upon the future of our children. The experiences that young people have today greatly affect how they will deal with institutions, such as the criminal justice system, the education system, *etc.* as they enter their adult years. This is of particular significance where Aboriginal people are concerned, as children comprise such a considerable proportion of their population. The 2001 Canadian census revealed that Canada's Aboriginal population is a young group and growing at a rate more quickly than the general population⁶⁴. If this trend continues, Aboriginal people will make up a much greater proportion of Canada's adult population in 10 to 20 years, thus underscoring the importance of ensuring that they maintain a positive relationship with our institutions.

A young man, injured during an arrest, talked about how this affected him during later years:

“After that, I grew up with a lot of hatred towards the cops, especially white cops. And I forgot to mention also that they used racial slurs against us as they were beating us against the fence.”

Concerns regarding the entire criminal justice system's treatment of Aboriginal youth was a recurring theme in the submissions received by the Commission. The majority of the submissions received focussed on incidents with police and other criminal justice officials and there seemed to be a particular sensitivity to how police treat them.

It is well documented that Aboriginal peoples are vastly over-represented in the criminal justice system and that the treatment they receive, while there, is strikingly different from other racial groups.⁶⁵ While representing only 2.8 per cent of Canada's population, self-identified Aboriginal people represent approximately 17 per cent of the federal offender population. Adult Aboriginal

persons are incarcerated more than 6 times the national rate. Aboriginal inmates waive their rights to a parole hearing more frequently than do other inmates. And parole is denied at a higher rate than for non-Aboriginal offenders.

Several Aboriginal parents told us about how this affects their concerns for their children, both about how they expect them to be treated now and after they grow up.

“It is really hard when I teach my kids to have respect and to do what is right, and then to get treated like that from the court system and put down, you know, they are not being given a fair chance.”

“Well, I am thankful that they [my children] don't really look Indian; they are half Jewish. ... I don't want my children to be hurt. You know, and if they are hurt less than me, that's good, you know. And I am proud of who I am, I am proud of being a Native person, but I also feel the pain that comes with that.”

When asked what he is going to teach his children in order to prepare them for success in the community that he has had to contend with, one parent summed it up in the following words.

“I am going to teach them how to ask for help, but I know cops will protect my children because they are children, but I was a child myself, I was 17 -- if I could show you a picture and show you how small I was. I don't think I could tell my kids to trust the cops fully, especially when they are Natives.... Sometimes I wonder like is my kid safe? That's what I still think about now. Like what if my kids are 17 and they go through what I went through; are they going to be able to handle that? Because me going through life, I already went through a lot of hard times so I was able to deal with it, but my kids, I know I am going to be there for my kids, I am always going to be there, but for that to happen to them, I know I am not going to let that happen because I am going to be there.”

Numerous studies and reports about the justice system have documented how it is underserving Canada's Aboriginal population. Programs, like the Gladue Aboriginal People's Court⁶⁶ in Toronto, have been instituted to remedy this. However, where such programs have been implemented, continued vigilance and improvement are needed. Another parent told the Commission about her discouragement as a result of some things she had seen and heard while she and her son were waiting to go into Gladue Court.

“We were sitting outside of old city hall. I was sitting here [with my friend]. ... [M]y lawyer ... was here and there was a detective sitting there. There [were] all these people waiting to go in. They wanted to observe Gladue Court, and [the prosecutor was] sitting there and ... she tells the detective, ‘I should let you know L. has an alibi.’ And she says, ‘Can I see the records? I need to see the criminal records.’ So the detective handed her my son's criminal record. She reads it and hands it back to him, and she says, ‘He is a real work of art. He is a piece of s*.’ That [was] outside the court hall, in front of a lot of people.”**

The Commission heard how people lose faith in the system when they encounter this type of treatment, even more so when the program is specifically designed for them.

Mistrust Of Institutions

A young man told the Commission about how, as a youth, he was brutally arrested and received further injuries while in custody. He told the Commission about his lingering distrust of police even into his adulthood.

“Interviewer: So how do you feel when you see a police cruiser coming by or police?”

Response: I don’t really trust them, no.

Interviewer: You still have that.

Response: Like I know I can’t go to them for help because, I don’t know, I don’t see a trust there.”

Many of our public institutions depend on the good will and the trust of the community in order to be able to effectively carry out their mandate. Frequently, people of Aboriginal origin told the Commission that the negative treatment that they receive from various services discourages them from taking advantage of many of those services taken for granted by mainstream communities. Following are some of the comments about this that the Commission heard during the inquiry.

“People in my generation have done so much and tried so hard to break down racism and racial profiling. Just when you feel like it's doing some good and making a difference, someone like that comes along and makes you feel like the situation is helpless.”

“So yeah, your hatred grows more and more if you have been dealing with

police in that way, I guess. I don't know. I know there are some good cops, but the majority are f**n a****s, so yeah. I have an intimate hatred with them.”**

“There is nothing you can do, so live with it. After all they are the police, and people will believe them, before they believe anything you as an individual have to say.”

“Nor do my friends phone the police for anything because that would be trouble.”

The negativity which many people feel about how they will be treated leads them to avoid using public institutions, like the police, to get assistance when it is appropriate. Aboriginal (and other) communities consistently report that while they frequently feel the brunt of greater law-enforcement attention from the police, they also receive less peace-keeping and other types of assistance.

“But I just figured this will never go anywhere, you know. So often that is what happens with Aboriginal people making complaints. Nothing happens, and it is time something happened.... I know others that are constantly harassed because they are Aboriginal or their children are Aboriginal.”

Still, many people have not completely given up.

“[The anger] is still there, but I have gone through a lot of healing. I am not saying that all cops are bad, some are, some aren't bad, some have a negative attitude.”

Changing Behaviour: The Social Cost To The Community

As a result of their experience, many of the people who told their story feel they have to be extremely vigilant and cautious to prevent repetitions of the treatment.

“I must be extra cautious, extra polite, extra calm.”

“It affects every person who lives in the city core. You're wary of where you live, that this type of incident could happen at any time. It's a fact of life of living in downtown Toronto.”

One or two painful experiences will have a powerful, lasting effect, especially if people perceive that it was something about them (their looks, their colour, their dress, *etc.*) that prompted a particular negative response.

“Since this incident I have been nervous of getting pulled over by the police in [my area], I pay extra careful attention to my speedometer and my driving, so as to not have any more run-ins with the [police in my area].”

The need to be “on your guard” and extra careful significantly detracts from a sense of safety and belonging. A homeless, Aboriginal man told the Commission about being assaulted by two police officers in plain view of other people, and how, as a result, he has changed his behaviour and how it has impacted his perception of himself.

“Yeah, I am more conscious of what I do. I am more conscious of what I have to say legally and whatever, what I have to -- I have to stay away from certain areas, you know, like especially alleyways. I get paranoid sometimes, unless I am with a couple of friends, [then] I’ll be okay. But if I am alone, I don’t f***n go -- I’ll hide to the max. That’s how f****d up -- I guess I am f****d up, in a way, after that incident.”**

It is the Commission’s position that people should not have to go to unusual extremes to prove their legitimate right to use public services such as public transit. An Aboriginal businessman told the Commission about how he was refused entry at a Toronto subway station because the date was smudged on his day pass. In addition to producing this pass, he was asked to show the receipt he had been given when he initially purchased it.

“Now, as a result of that I stapled the receipt -- or I carry it with me in my wallet until the end of the day. If I am buying a metro pass, I carry the receipt with me all month, just so that I can pull it out, but I shouldn’t have to do that. And just the thought of it, just remembering it has made me very angry again, and you know, we are not supposed to carry our anger like that.”

Unfortunately, the impact of all this is that many feel alienated and cannot comfortably participate in and take advantage of opportunities and services generally available to private citizens, despite the guarantees offered by the *Ontario Human Rights Code*.

Loss Of Dignity / Self Esteem

When one encounters a negative response in the normal course of their day, it can be surprising, shocking, or even devastating, depending on the circumstances. Police, security guards, teachers, social workers and other public officials are there to ensure our safety and security; however, when some of those who made submissions sought assistance, they found themselves treated as though they were a threat or that they had done something wrong.

“I was sick to my stomach, and most of all, felt a lot of hatred for myself because of who I am.”

One submission described a situation where a man who describes himself as a “dark-skinned Status Indian” was stopped by police while driving with his white wife in the Parkdale area of Toronto, an area known for prostitution and drugs. It did not appear to him that he had been stopped for any reason other than that he was driving at night in this particular area. Having established that the man and his wife had a legitimate reason for being there, the police officer then walked round their car and noting the front license plate was missing, pointed this out to him. When he replied he had been advised by a friend that a front plate was not required, the officer responded, “What, was he one of those Indian cops?” and wrote him a ticket. Subsequently, the man complained and the ticket was withdrawn. He describes his own and his wife’s thoughts and feelings:

“The constable assumed either my wife was a prostitute ... or that we were in Parkdale to buy drugs. When he could not find reasonable grounds to either arrest us or search our car, he came up with a totally bogus charge.... [I felt] angry, upset and powerless. There was no way I could defend us.... My wife continues to be upset and every time we are pulled over, she cannot control her anger.”

He continued by observing that such treatment “only makes the Police’s job harder. All police officers are perceived as racists and therefore, whatever they do is racist.”

Another submission came from a man who, with a group of his friends, had gone to a sports bar in Northern Ontario for some wings and a “couple of” beers. After one beer, the group (who were all Aboriginal) were told that it was their last drink and that they had to leave as soon as they were finished. They were told that they were likely to “get rowdy and start a fight sooner or later.”

“[I felt] angry, astonished, saddened and disheartened.”

He summed up his thoughts on racial profiling, stating that it is “[t]heir handicap, not mine.”

While some people are able to distance themselves from the experience and gain a perspective on it, others suffer more prolonged impact. The nurse, who was terminated after being accused of injuring a patient, told of her ongoing difficulties as a result of the incident.

“[When the racial profiling occurred] I felt violated and ashamed to be Aboriginal.... I am not the person I was before the allegations. I am angry all the time and feel depressed most of the time.”

Conclusion

“So we always think about the seven generations ahead of us, because they say when we go into the next world, when we finish our work, we are going to be looking back at our legacy, and the legacy I want for my children is to make sure that my moccasin tracks are well grounded with our culture, with our cultural teachings.”

Many participants expressed genuine hope and optimism regarding Canadian society's potential to reduce the incidence of racial profiling and their own ability to overcome its effects. They saw benefit in the Commission opening the dialogue in a way that does not so much lay blame, but attempts to get the public to appreciate and understand what it feels like to experience such treatment.

They also had suggestions to offer that would counteract both the incidence of racial profiling and its effects. Two participants had the following to say about the importance of public education:

“And so it is just stereotyping that is still fairly prevalent. And I think education, it has a lot to do with educating people. It is a long process.”

“I think that has been one of the most important aspects I think of having something like this, is that there is someone who is listening, because one of the biggest problems that I know that I have had is having that sense of all of, you know, this experience that includes racism that most people, most Native people understand and yet there is a feeling that it just goes into the air and nobody hears about it, nobody knows about it.”

Another solution that was offered was that Aboriginal peoples should have more representation on police forces, security forces, *etc.*

“[I]f there is a way to have more Native cops out there or some kind of Native help. Like if Native kids are having trouble or something, can they call their own people and you know, the people will come there and take over.”

The suggestion that organizations and agencies sensitize their staff and develop culturally appropriate services was the theme of one of the participants' remarks.

"I remember on one occasion a woman going into labour -- and things are getting better now in the labour rooms. But at that time just her traditions and her culture were not being respected and her wishes around childbirth. And of course, childbirth for First Nations people, for anybody, is really an amazing experience, a miracle is happening. And we have very specific things that we do at birth time, and those were not respected at that time, not even supported in any way. And I had to kind of do lots and lots of cross-cultural education to get them to understand that this is kind of like asking a Catholic not to do their rosaries during contractions, you know, it is the same kind of thing.... I would like to see the services that happen, the social services, the medical services, some of the legal systems to be a little bit more culturally aware of how to work with our people. I know many great strides have been made, but I really feel there needs to be a lot more."

The following quotation best sums up the experience of the Commission and many of those who shared their stories:

"I want to speak very honestly. One of the things that I saw when I first came in here was everybody had their little walls up, you know, and gradually, though, your hearts start opening. And that's how we say, you know, in our culture, we have to speak with our hearts, then things will come over."

But also, too, one of the things that I would like to see is that there be -- when I was asking the question this morning, 'Well, what can I tell the Commission? What can I tell the Commission?' Well, they say before you can say anything to anybody, you have to walk in their tracks, in their moccasin tracks, you know."

As an Aboriginal teacher, it would be good if you could come into one of our sweat lodges and feel the Earth, feel Mother Earth, feel her energy, be with us in a sweat lodge, be with us in a ceremony, because that's who we are. We are the caretakers of Mother Earth. You know, we are the caretakers of the universe. And that's our responsibility here, Mother Earth."

So if you could just, you know, I guess educate, with your mind, body and spirit, you know, the spiritual part which the culture has, the spiritual backdrop, think holistically, then you will be able to catch the spirit of what our people are trying to do, you know."

These people here, the stories that you hear, my story, her story, everybody's story, you know, it talks about trying to “de-spirit” that person. A lot of us through residential schools have had that, you know. I am a very stubborn person, and they didn't do it. I mean, they kicked me out because I wouldn't bow down to another way, to their religion, because our way is a way of life, it is a way of life, and it is a religion.

So that's how I would see it. And how you catch on to the spirit is by taking part in the ceremonies, but also open your ears, your eyes and your heart.”

RECOMMENDATIONS FOR FUTURE ACTION

The effects of racial profiling identified in this report raise significant human rights issues to which society must respond. We cannot afford to allow racial profiling to be tolerated and practiced in Ontario. The cost is simply too great. It is imperative that swift and effective action be taken.

To this end, the Commission is proposing some measures for action to address racial profiling. This is not intended to be an exhaustive list of best practices to combat racial profiling, as that has not been the focus of the Commission's work to date. Rather, the focus of the Commission's recommendations remain consistent with the purpose of the inquiry: to raise public awareness about racial profiling, to mobilize public action to put an end to it and to bridge the divide between those who deny the existence of racial profiling on the one hand, and the communities who have long held that they are targets of racial profiling on the other.

The discussion that follows is aimed at **all** organizations or institutions that may have a problem with racial profiling. This includes, but is not necessarily limited to:

- police services across the province (including the OPP and RCMP);
- all levels of the criminal justice system including crown counsel, justices of the peace, judges, prison guards and officials and those involved in parole and probation;
- all levels of the education system, particularly those involved in any way with the *Safe Schools Act* and zero tolerance policies such as school board officials, school administrators, principals, teachers, guidance counsellors, Ministry of Education officials;
- the Canada Customs and Revenue Agency;
- private security companies;
- malls, stores, restaurants, bars, theatres, casinos;
- taxi companies; and
- airport and airline security.

Government ministries responsible for some of the above institutions, such as the Ministry of Community Safety and Correctional Services, the Ministry of the Attorney General, and the Ministry of Education, also have a role to play in implementing the Commission's recommendations for action.

As indicated earlier, many studies have been undertaken on issues of police/minority relations and on racism in the criminal justice system (see Appendix A). Many of these reports put forward excellent recommendations covering race relations training, recruitment and retention of diverse police forces, measures for community based policing, effective police complaint

mechanisms, the use of force and many other areas. The number of studies that have been conducted have led racialized communities to tell the Commission that they feel that they have been “studied to death” and that what is now needed is action. However, few of the recommendations from these reports have been implemented or, if implemented, monitored to ensure their effectiveness.

Therefore, the Commission recommends that one of the first priorities is to conduct a review of the recommendations set out in earlier studies, set a timetable for implementation and establish a process for monitoring implementation and effectiveness. It is the Commission’s view that each body to which these reports apply should conduct its own review and set its own timetable for implementation of the recommendations relevant to it. However, it is also the Commission’s opinion that a central government agency should be responsible for overseeing this process and reporting on the implementation of the recommendations. In addition, this body should have a mandate to ensure that government policy development respects and promotes racial equity and diversity, should engage in public education activities and should facilitate relationships between those with concerns about racial profiling and public and private sector organizations that serve the public.

ACTION:

- 1. The government should establish a Racial Diversity Secretariat with a mandate to:**
 - **report annually on issues of racism in Ontario;**
 - **review and report on the implementation of recommendations in previous reports on racial profiling;**
 - **review and report on the implementation of recommendations in previous reports specific to Aboriginal peoples, in particular the 1996 Report of the Royal Commission on Aboriginal Peoples;**
 - **influence and support government policy development activities to ensure that racial diversity and equity are respected and promoted in all government initiatives;**
 - **facilitate dialogue between those with concerns about racial profiling and public and private sector service providers; and**
 - **engage in public awareness and education activities concerning racial diversity.**
- 2. All organizations and institutions entrusted with responsibility for public safety, security and protection should take steps to monitor for and prevent the social phenomenon of racial profiling, and develop or modify their policies, practices, training and public relations activities in this regard.**

- 3. Organizations or institutions that have, or are alleged to have, a problem with racial profiling should review recommendations set out in earlier studies, should report on those that have been implemented and establish a timetable for executing those recommendations that remain outstanding.**
- 4. With respect to Aboriginal persons, organizations or institutions involved in the delivery of services to the Aboriginal community should review their practices to ensure that they are adapted to the unique needs of Aboriginal persons and that their staff is properly trained in issues concerning the Aboriginal community.**

As discussed throughout this Report, one of the main barriers to addressing racial profiling is an unwillingness to admit that it is occurring or even that the perception that it is a problem is reason enough to be concerned and take action. It is the Commission's view that the evidence of the existence of racial profiling is incontrovertible; that this approach of denial does not work and only exacerbates tensions in our society. It is not conducive to either tackling racial profiling or to good community relations. Therefore, the Commission recommends that persons in positions of leadership acknowledge the problem of racial profiling and send a strong message that it is not tolerated.

ACTION:

- 5. Organizations or institutions that have, or are alleged to have a problem with racial profiling, should accept and acknowledge the existence of racial profiling as well as the need to address the concerns of the communities they serve.**
- 6. Persons in positions of leadership in Ontario, including government officials, should accept and acknowledge the existence of profiling and demonstrate a willingness to undertake action to combat it.**
- 7. All organizations serving the Ontario public should adopt a zero tolerance policy regarding racial profiling and should communicate it clearly to all staff.**
- 8. Economic analysts, business, private and public sector leaders should consider the effect of racial profiling when analyzing economic costs and productivity issues.**

What is also clear from the Commission's inquiry is that many persons who are affected by profiling are eager to engage in a constructive process to work with key organizations and leaders to identify their concerns and strategies for addressing profiling. In a few areas where this is already happening, there have been some positive gains made in terms of both building relationships and concrete measures to begin to tackle local issues of profiling. Therefore, the Commission would emphasize the importance of this type of dialogue between institutions and communities.

ACTION:

- 9. Organizations or institutions that have, or are alleged to have a problem with racial profiling should meet with concerned communities on an ongoing basis to discuss concerns and work with these communities to facilitate solutions.**

A recurrent theme in the racial profiling inquiry and the Commission's consultation on disability and education regarding zero tolerance policies and the *Safe Schools Act* emphasized the need to monitor whether there is a disproportionate impact on certain groups. In other words, where there is a concern expressed that policies or practices are having a particular effect on certain groups, organizations should take steps to assess whether this is in fact the case. This will normally involve the collection of data and production of statistics.

It is to be emphasized that the collection of data identifying individuals by *Code* grounds must be done with great care. Such data must only be used for the purposes of furthering the objects of the *Code*, such as to monitor and evaluate discrimination, identify and remove systemic barriers, ameliorate disadvantage and promote substantive equality. It should never be used to further marginalize or stigmatize a group. And, where the public interest is involved, organizations collecting the data should consult with affected communities and the Commission regarding the method of collection and the use of the data.

ACTION:

10. Where anecdotal evidence of racial profiling exists, the organization involved should collect data for the purpose of monitoring its occurrence and to identify measures to combat it. Such organizations should consult with affected communities and the Ontario Human Rights Commission to establish guidelines on how the data will be collected and its use. Such data should not be used in a manner to undermine the purposes of the Ontario *Human Rights Code*.

The participants in the inquiry were clear in expressing their view that the current process in place to receive complaints against institutions, particularly the police, does not have their confidence. The overwhelming feeling was that the process is not accessible, lacks independence and is not effective in resolving concerns. A complaint process that has the trust of communities is critical.

ACTION:

11. The Ministry of Community Safety and Correctional Services should undertake a public consultation to determine the best way to ensure that the police complaints mechanism is, and is seen as, independent and effective. Necessary changes to the current system should be made accordingly.

The need for training initiatives on racism and racial profiling was repeatedly mentioned by participants in the inquiry. While some organizations already provide such training, many felt that it needs to be strengthened. And, in other cases the perception is that no such training is provided at all. For example, many people noted that private security guards have a great deal of power but many receive no training at all on racism, race relations or racial profiling.

ACTION:

- 12. Organizations or institutions that have, or are alleged to have a problem with racial profiling should engage in ongoing effective training initiatives on racism, race relations and racial profiling.**
- 13. The Ministry of Education should incorporate anti-discrimination and diversity training in the elementary and secondary school curriculum. This should also be the case for private schools operating in Ontario.**

Another recurrent theme that came through in the inquiry is the need to ensure diversity in key societal institutions. This is achieved through recruitment, promotion and retention of racialized persons.

ACTION:

- 14. Organizations or institutions that have, or are alleged to have a problem with racial profiling should undertake measures to improve recruitment, retention and promotion of employees who are members of racialized groups.**

A number of other suggestions and best practices to tackle profiling have been identified to the Commission. While many of these are covered in more detail in the many reports and studies that already exist and are therefore addressed by recommendation 1 and 2, they are also worth repeating on their own:

ACTION:

- 15. Police services across the province should install cameras in police cruisers to allow for monitoring the interaction between the police and public.**
- 16. Police officers and private security guards should wear name badges that are clearly displayed.**

17. Organizations or institutions that have, or are alleged to have a problem with racial profiling should provide new staff with sufficient support to ensure that they learn appropriate practices and not resort to racial profiling due to the stresses of the job.

18. In conjunction with local communities, police services should develop educational materials, particularly aimed at youth, explaining citizens' rights.

19. Organizations or institutions that have, or are alleged to have a problem with racial profiling should study the best practices of other organizations that are dealing with racial profiling, both in Canada and abroad, with a view to implementing them.

The Commission will persist in its efforts to combat racial profiling and racial discrimination in Ontario. It will use its mandate to hold anyone engaging in racial profiling accountable in accordance with the Ontario *Human Rights Code*. And, the Commission will continue with the work it has begun on its larger project on race, which includes as its goal the development of a Commission policy statement on racial discrimination. The Commission further commits to training its own staff on issues around racial profiling and race and will also work with community groups and other organizations to continue to raise awareness in society about the negative effects of racial profiling.

The Commission is optimistic that through sincere commitment and sustained efforts, racial profiling can be stopped. However, it will take a concerted effort from a number of public and private sector organizations and even individuals to stop racial profiling. We all have a role to play in ending racial profiling. The time has come to act, the human cost of racial profiling is too great – our society is paying the price.

APPENDIX A: MAJOR REPORTS RELEVANT TO RACIAL PROFILING AND ABORIGINAL PEOPLES

Alan Andrews, Review of Race Relations Practices of the Metropolitan Toronto Police Force (for the Municipality of Metropolitan Toronto, 1992)

Arthur Maloney, *Report to the Metropolitan Board of Commissioners of Police* (for the Province of Ontario, 1975)

Canadian Heritage Multiculturalism, *National Forum on Policing in a Multicultural Society: Report on Strategies, Recommendations and Best Practices* (February, 2003)

Canadian Race Relations Foundation (CRRF), *Learning About Walking in Beauty: Placing Aboriginal Perspectives in Canadian Classrooms* (November 2002)

Clare Lewis, *The Report of the Race Relations and Policing Task Force* (Ontario, April 1989)

Clare Lewis, *The Report of the Race Relations and Policing Task Force* (Ontario, 1992)

David Cole & Margaret Gittens, *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (December 1995)

Gerald Emmett Cardinal Carter, *Report to the Civic Authorities of Metropolitan Toronto and its Citizens* (for the Municipality of Metropolitan Toronto, 1979)

Justice D. Morand, *The Royal Commission into Metropolitan Toronto Police Practices* (for the Province of Ontario, 1976)

Moving Forward Together: An Integrated Approach to Race Relations (Metropolitan Toronto Police, 1995)

Ontario Public Complaints Commission, *The Regent Park Report* (1985)

Performance Audit: The Public Complaints Process Toronto Police Service (City of Toronto Audit Services, 2002)

Policing a World Within a City: The Race Relations Initiatives of the Toronto Police Service (Toronto Police Service, January 2003)

Reva Gerstein, *Policing in Ontario for the Eighties: Perceptions and Reflections: Report of the Task Force on the Racial and Ethnic Implications of Police Hiring*,

Training, Promotion and Career Development (for the Ontario Ministry of the Solicitor General, 1980)

Royal Commission Report on Aboriginal Peoples (Indian and Northern Affairs Canada, October 1996)

Stephen Lewis, *Report to the Premier on Racism in Ontario* (Summer 1992)

Toronto Police Services Board, *Ensuring Public Accountability: A Background Paper on Initiatives of the Metro Toronto Police Services Board Regarding Public Complaints Against Police Officers* (for Metropolitan Legislation and Licensing Committee of the Metropolitan Council, 1992)

Toward a New Beginning – The Report and Action Plan of the Four-Level Government/African Canadian Community Working Group (1992)

Walter Pitman, *Now is Not too Late* (submitted to the Council of Metropolitan Toronto by Task Force on Human Relations, November 1977).

ENDNOTES

¹ *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System* (Toronto: Queen's Printer for Ontario, December 1995) (Co-chairs: D. Cole & M. Gittens) at 40-1.

² Public Service Commission of Canada, "Stereotyping" Monograph Issue 3 (October 1995), online: Public Service Commission of Canada <http://www.psc-cfc.gc.ca/publications/monogra/mono3_e.htm>.

³ J.A. Bargh & T.L. Chartrand, "The Unbearable Automaticity of Being" (July 1999) 54 *American Psychologist* 462-479.

⁴ The fact that racial profiling may occur on a subconscious level has been recognized, for example by the Ontario Court of Appeal in *R. v. Brown* (2003), 64 O.R. (3d) 161 at 165: "*The attitude underlying racial profiling is one that may be consciously or unconsciously held. That is, the police officer need not be an overt racist. His or her conduct may be based on subconscious racial stereotyping.*"

⁵ B. Powell, "Police Chiefs Told To Help The Helpless" *The Toronto Star* (26 August 2003). The article quotes Bill Currie, Deputy Commissioner of the Ontario Provincial Police as having said:

"We do not provide equitable service to marginalized people. [The Association's Policing and Aboriginal Peoples Committee] analyzed statistical, investigative and anecdotal information from across the country and we had no choice but to come to this regrettable conclusion. ... When you are dealing with marginalized people, you exercise power differently than you do with those who are advantaged or have status in society."

⁶ African Canadian Legal Clinic, *Anti-Black Racism in Canada: A Report on the Canadian Government's Compliance with the International Convention on the Elimination of All Forms of Racial Discrimination* (July 2002).

⁷ *The Report of the Race Relations and Policing Task Force* (Ontario, April 1989) (Chair: C. Lewis) at 14.

⁸ *Ibid.* at 20.

⁹ *Ibid.* at 23.

¹⁰ *Ibid.* at 26.

¹¹ See for example: S. Wortley, "The Usual Suspects: Race, Police Stops and Perceptions of Criminal Injustice" (Forthcoming in *Criminology*, paper presented at the 48th Annual Conference of the American Society of Criminology, November 1997); S. Wortley, *Racial Differences in Customs Searches at Pearson International Airport: Results from a Pilot Survey* (Report prepared for African Canadian Legal Clinic, 2002); C.E. James, " 'Up to No Good': Black on the Streets and Encountering Police" in V. Satzewich, ed., *Racism and Social Inequality in Canada: Concepts, Controversies & Strategies of Resistance* (Toronto: Thompson Educational Publishing, 1998) 157.

¹² D. Mitchell, "What does A.B.L.E. say about "Racial Profiling?" *Magazine Issued for 11th Annual Scholarship Awards Ball* (24 May 2003).

¹³ Cases concerning racial profiling include: *R. v. Brown*, *supra*, note 4, *R. v. Richards* (1999), 120 O.A.C. 344 (C.A.), *Peart v. Peel (Regional Municipality) Police Services Board*, [2003] O.J.

No. 2669 (Sup.Ct.). Another recent case discussed systemic racism in the criminal justice system in the context of sentencing: *R. v. Borde* (2003), 63 O.R. (3d) 417 (C.A.). See also, in the context of jury selection: *R. v. Parks* (1993), 84 C.C.C. (3d) 353 (Ont. C.A.) and *R. v. Williams*, [1998] 1 S.C.R. 1128 which recognize that racial beliefs are widespread enough in the broader community that in certain circumstances potential jurors can be asked direct questions about racial prejudice in jury selection.

¹⁴ *R. v. Brown*, *supra*, note 4 at 165.

¹⁵ S. Wortley, *Civilian Governance and Policing in a Multicultural Society* (Discussion Paper prepared for Multiculturalism Directorate Canadian Heritage for the National Forum on Policing in a Multicultural Society, February 2003) at 5.

¹⁶ *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System*, *supra*, note 1.

¹⁷ K. Arnott, "Black youths feel alienated in Oakville" *Oakville Beaver* (8 June 2003).

¹⁸ V. Pruegger, *Community and Policing in Partnership*, (Paper Developed for National Forum on Policing in a Multicultural Society, February 2003) at 8.

¹⁹ R. Leach, Chief of Police, Riverside CA, *Racial Profiling: A Police Manager's Perspective* (Paper for Risk Management Issues in Law Enforcement – A Public Entity Risk Institute Symposium, undated), online: <<http://www.riskinstitute.org/symposiumdocs/RacialProfiling-PERISymposiumPaper.pdf>>.

²⁰ Lamberth Consulting, "Racial Profiling – Effect on Our Nation", online: Lamberth Consulting <http://www.lamberthconsulting.com/research_nation.asp>.

²¹ "Recent Verdicts Concern Officials" *The Baltimore Sun* (27 January 2001).

²² Dr. V. St. Denis & Dr. E. Hampton, *Literature Review on Racism and the Effects of Aboriginal Education* (Prepared for Minister's National Working Group on Education, Indian and Northern Affairs Canada, November 2002).

²³ For example, Kingston Police Chief Bill Closs, Ottawa Deputy Police Chief Larry Hill and Bill Currie, Deputy Commissioner of the Ontario Provincial Police.

²⁴ G. McArthur & J. Pritchett, "It's official: racial profiling banned" *The Kingston Whig-Standard* (16 May 2003).

²⁵ T. Blackwell, "OPP to capture the moment on cruiser cameras: Force concerned about allegations of racism" *National Post* (12 September 2003).

²⁶ Numerous surveys in the United States, the largest being a survey by the U.S. Department of Justice, Bureau of Justice Statistics which reviewed 1,272,282 searches of citizens by police in 1999, have revealed that the chances of finding contraband after searching minorities (Black and Latino) are the same or less than finding evidence of crime on White persons searched. Similarly when the U.S. Customs Service re-evaluated their search procedures to eliminate racial, ethnic and gender bias in their search activity, they were able to conduct 75% fewer searches without reducing the number of successful searches for contraband carrying passengers: Lamberth Consulting, "Racial Profiling Doesn't Work", *supra*, note 20.

²⁷ This has led experts in the United States to conclude that profiling doesn't help the police catch criminals: see D.A. Harris, *Profiles in Injustice: Why Racial Profiling Cannot Work* (New York: The

New Press, 2002), in particular Chapter Four, "The Hard Numbers: Why Racial Profiling Doesn't Add Up" at 73-90.

²⁸ Lamberth Consulting, *ibid*.

²⁹ An assistant professor of public policy at the University of California at Berkeley, Jack Glaser, points out the illogicality of racial profiling by noting that if you see a pregnant person, that person must be a woman. But, if you see a woman that does not lead to the conclusion that she is pregnant. In fact the vast majority of women will not be pregnant: J. Glaser, "The Fallacy of Racial Profiling" *San Francisco Chronicle* (5 December 2001).

³⁰ Racial profiling has been justified by arguing that some groups commit a disproportionate amount of crime, relative to their percentage in the population. However, this approach has been argued to be logically flawed, as it is actually more likely that a member of the majority group will have committed the offence. For example, if group A represents 20% of the population but commits 40% of violent crimes and group B represents 80% of the population and commits 60% of violent crimes. It is true that group A commits a disproportionate amount of violent crime. However, if a violent crime takes place, it is still more likely that it was committed by a member of group B – a 6 out of 10 chance. It would therefore make more sense to be looking for someone in group B. A profile that looks for someone in group A will be wrong more than half the time: T. Wise, "Racial Profiling and It's [sic] Apologists" *Z Magazine* (March 2002), online: *Z Magazine* <<http://www.zmag.org/Zmag/articles/march02wise.htm>>.

³¹ *Profiles of Injustice: Why Racial Profiling Cannot Work*, *supra*, note 27.

³² S. Wortley, *Racial Differences in Customs Searches at Pearson International Airport: Results from a Pilot Survey*, *supra*, note 11.

³³ American Psychological Association, Letter to U.S. House in Support of the End Racial Profiling Act, H.R. 2074 (9 August 2001), online: American Psychological Association: <<http://www.apa.org/ppo/issues/pracialprof.html>>.

³⁴ *Ibid*.

³⁵ *Convention on the Rights of the Child*, Entry into force 2 September 2 1990, ratified by Canada 13 December 1991.

³⁶ M.D. Ruck & S. Wortley, "Racial and Ethnic Minority High School Perceptions of School Disciplinary Practices: A Look at Some Canadian Findings" (2002) 31(3) *Journal of Youth and Adolescence* 185 at 186,194.

³⁷ R.J. Skiba & R. Peterson, "The Dark Side of Zero Tolerance: Can Punishment Lead to Safe Schools?" (1999) 80(5) *Phi Delta Kappan* 372, online: <<http://www.pdkintl.org/kappan/kski9901.htm>>; L.M. DeRidder, "How Suspension and Expulsion Contributes to Dropping Out" *The Education Digest* (February 1991).

³⁸ Interview with David R. Offord, Director, Canadian Centre for Studies of Children At-Risk, McMaster University, 6 May 2003.

³⁹ V. Lu, "Youthful Fears Include Police Treatment" *Toronto Star* (16 January 2003).

⁴⁰ *The Report of the Race Relations and Policing Task Force*, *supra*, note 7 at 23.

⁴¹ C.E. James, *supra*, note 11 at 173.

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- ⁴² Raymond W. Li, Letters to the Editor, *Share* (19 June 2003) 9.
- ⁴³ D. Kennedy, "We need not yield to them: Some U.S. cities have made great strides in dealing with violent kids. But for starters, adults must act, says Harvard's David Kennedy" *The Globe and Mail* (18 August 2003).
- ⁴⁴ Statistics Canada, *Visible minority population, provinces and territories* (2001 Census), online: Statistics Canada <<http://www.statcan.ca/english/Pgdb/demo40b.htm>>. Statistics Canada indicates that the total "visible minority" population of Ontario based on the 2001 census was 2,153,045. Ontario's total population was 11,285,550. Listed "visible minority" categories are: Black, South Asian, Chinese, Korean, Japanese, Southeast Asian, Arab/West Asian, Latin American, visible minority not included elsewhere and multiple visible minority.
- ⁴⁵ C. Fröhlicher-Stines, "The Effects of Racism on Group and Individual Identity", Nationale Tagung de EKR, 20. Mar 2002, online: <http://www.ekr-cfr.ch/tagungen/2002/carmel_froehlicher_stines.pdf>.
- ⁴⁶ *Ibid.*
- ⁴⁷ *Ibid.*
- ⁴⁸ See for example: Canadian Race Relations Foundation, *Unequal Access: A Canadian Profile of Racial Differences in Education, Employment and Income* (Prepared for the Canadian Race Relations Foundation by the Canadian Council on Social Development, 2000), *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System*, *supra*, note 1 and Ontario Human Rights Commission, *Human Rights Commissions and Economic and Social Rights* (Research Paper, February 2000), online Ontario Human Rights Commission <<http://www.ohrc.on.ca/english/consultations/economic-social-rights-paper.shtml>>.
- ⁴⁹ C. Fröhlicher-Stines, *supra*, note 45.
- ⁵⁰ For example, Dr. Sanchez-Hucles, Professor of Psychology at Old Dominion University in Virginia has studied the effect of living with racism on minority citizens. She argues that chronic problems arising from the severe stress of racism should be viewed as a type of post-traumatic stress disorder. For a discussion of the psychological effects of profiling see D. Harris, *Profiles in Injustice*, *supra*, note 27 at 97-8.
- ⁵¹ N. Krieger, "Discrimination and Health" in L. Berkman & I. Kawachi, eds., *Social epidemiology*. (Oxford: Oxford University Press, 2000) 36.
- ⁵² S. Karlsen & J. Nazroo, "Relation between racial discrimination, social class, and health among ethnic minority groups" (2002) 92 Am J Public Health 624.
- ⁵³ "Lawsuits Cite Consumer Racial Profiling" *Associated Press* (9 June 2003).
- ⁵⁴ Global Business and Economic Roundtable on Addiction and Mental Health Web site: http://www.mentalhealthroundtable.ca/june_2003/HealthMandateArticles.pdf
- ⁵⁵ R.D. Putnam, "The Decline of Civil Society: How Come? So What?" 27 *Optimum* 27; D. Stanley & S. Smeltzer, *Many Happy Returns: How Social Cohesion Attracts Investment*, Draft, November, 1999, SRA-389 as cited in S. Vail, *Changing Values the Canadian Way* (Paper prepared for the Conference Board of Canada, September 2000) at 16.

⁵⁶ Policy Research Committee, *Sustaining Growth, Human Development and Social Cohesion in a Global World* (Ottawa, 1999) as cited in *Changing Values the Canadian Way*, *ibid.* at 15.

⁵⁷ J. Jenson, *Mapping Social Cohesion: The State of Canadian Research*, CPRN Study No. F/03, 1998 as cited in *Changing Values the Canadian Way*, *ibid.* at 16.

⁵⁸ In Canada, the *Indian Act* is responsible for the legal definition of who may be considered an "Indian", online: <http://www.nativetrail.com/en/first_peoples/metis_stats_indian.html>. "Status Indian" is applied to those individuals who have legal status under the *Indian Act* and whose names are recorded in the federal register provided by the Act. The Inuit are excluded from the application of the Act, although they are "Indians" under the definition of the term in the *Constitution Act* of 1982.

⁵⁹ The term "Non-status Indian" is applied to people who may be considered as "Indians" according to ethnic criteria, but who, for various reasons, are not entitled to registration under the *Indian Act*. In the past, Aboriginal persons lost their status when they obtained a university degree, when they volunteered to go to war (Aboriginal people were exempt from the draft), or when women married non-Aboriginals, or simply because they were in the woods on a hunting expedition when the federal registrar made a visit to their community.

⁶⁰ The term "Métis" is recognized in the *Constitution Act, 1982* and has been clarified recently by the Supreme Court of Canada in *R. v. Powley*. It does not encompass all individuals with mixed Indian and European heritage; rather, it refers to distinctive peoples who, in addition to their mixed ancestry, developed their own customs and recognizable group identity separate from their Indian or Inuit and European forbears. A Métis community is a group of Métis with a distinctive collective identity, living together in the same geographical area and sharing a common way of life.

⁶¹ *Royal Commission Report on Aboriginal Peoples*, (Ottawa: Canada Communication Group – Publishing, October 1996) (Co-Chairs: R. Dussault & G. Erasmus), online: Indian and Northern Affairs Canada <http://www.ainc-inac.gc.ca/ch/rcap/index_e.html>.

⁶² Monique Lariviere, letter to the *Toronto Star* (26 July 2003).

⁶³ J. Cowan, "The quieter minority: Black groups are vocal in their charges of racial bias. Now the city's natives want to be heard too." *National Post* (30 November 2002).

⁶⁴ Statistics Canada, "Census of Population: Immigration, birthplace and birthplace of parents, citizenship, ethnic origin, visible minorities and Aboriginal peoples" *The Daily* (21 January 2003), online: Statistics Canada <<http://www.statcan.ca/Daily/English/030121/d030121a.htm>>.

⁶⁵ Correctional Service of Canada, "Aboriginal Offenders" Background, online: Correctional Service of Canada <http://www.csc-scc.gc.ca/text/pubed/feuilles/off-ab_e.shtml>.

⁶⁶ To help understand what Gladue Court is, one person at the meeting gave the following explanation:

"Are you familiar with what Gladue Court is? It is at old city hall, and it is a specialized court. It is called Gladue Aboriginal People's Court, and it was created after the Supreme Court of Canada's decision in R. v. Gladue which deals with sentencing of Aboriginal people. And to go to Gladue Court, you have to be Aboriginal, and it is for bail hearings and for sentencing. So all the judges are trained on Aboriginal issues and are supposed to have better training on the Gladue decision."

For more information about the Gladue Aboriginal People's Court see Aboriginal Legal Services of Toronto's Web site: <<http://www.aboriginallegal.ca/gladue.php>>.