

MEMORANDUM OF UNDERSTANDING

Between:

The Ontario Human Rights Commission

-and-

Peel Regional Police

-and-

Regional Municipality of Peel Police Services Board

The Parties

Peel Regional Police (hereinafter referred to as PRP) is a municipal police service governed by the *Police Services Act*, R.S.O. 1990, c. P. 15 (*PSA*) and the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56 (*MFIPPA*).

The Regional Municipality of Peel Police Services Board (hereinafter referred to as PRPSB) is the civilian body responsible for the governance of the PRP pursuant to the *PSA*.

The Ontario Human Rights Commission (hereinafter referred to as OHRC) is an arm's-length agency of the Ontario government, established under the Ontario *Human Rights Code* (*Code*) to prevent discrimination and to promote and advance human rights in Ontario.

The PRP, PRPSB and OHRC, collectively referred to as the Parties, have engaged in a dialogue to undertake this Human Rights Project (Project).

Under section 1 of the *PSA*, police services must be provided throughout Ontario in accordance with certain principles, including the importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*; the need for cooperation between the providers of police services and the communities they serve; the importance of respect for victims of crime

and understanding of their needs; the need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society; and the need to ensure that police services and police service boards are representative of the communities they serve.

Pursuant to section 41(1) of the *PSA*, the duties of the PRP Chief include ensuring that PRP provides community-oriented police services and that its members carry out their duties in a manner that reflects the needs of the community. Chief Duraiappah has advocated for thoughtful and meaningful opportunities to better serve the Region of Peel. Additionally section 31 of the *PSA* compels police services boards to ensure the provision of adequate and efficient police services in the communities they are responsible for.

PRP has also leveraged the findings of the Canadian Centre for Diversity and Inclusion (CCDI). The CCDI recognized that PRP has put a number of policies, programs and initiatives in place across different aspects of policing in the community and for employees. However, room to grow and improve exists. With the support of the PRPSB and PRP's Strategic Plan, key practices and initiatives will be identified to further improve equity, diversity and inclusion.

Given Peel Region's engaged, racialized and diverse community, PRP and PRPSB are committed to take a leadership role among all police agencies in Ontario in addressing and overcoming systemic racism in policing. As Chief Duraiappah stated to the House of Commons Standing Committee on Public Safety and National Security on August 14, 2020:

"As police leaders, we must go beyond verbal affirmations. I, along with a consortium of the willing are making bold and meaningful changes. We understand that the willingness to step out, implement changes, to drive out systemic racism without fear of failure is required and expected."

This Memorandum of Understanding (MOU) incorporates the terms of the Confidentiality Agreement previously signed between the Parties. Any conflict(s) between the MOU and the Confidentiality Agreement are governed by this MOU.

Background

This year has seen unprecedented attention around issues of systemic racism in policing globally and locally. The Parties have a mutual interest in working together to develop and commit to legally binding remedies (Remedies) aimed at eliminating systemic racism including anti-Black and anti-Indigenous racism from policing. The Remedies will also aim to promote transparency and improve racialized communities' trust in policing.

Systemic racism is defined by the Government of Ontario's Anti-Racism Directorate (ARD) as:

Systemic racism consists of organizational culture, policies, directives, practices or procedures that exclude, displace or marginalize some racialized groups or

create unfair barriers for them to access valuable benefits and opportunities. This is often the result of institutional biases in organizational culture, policies, directives, practices, and procedures that may appear neutral but have the effect of privileging some groups and disadvantaging others.¹

The Ontario Association of the Chiefs of Police (OACP) recently released a fact sheet on systemic racism, in which they cited the ARD definition of systemic racism and noted:

Simply put, systemic racism refers to the policies and practices entrenched in social institutions that cause harm to racialized groups (Black, Indigenous, and People of Colour). Systemic racism is not something that a few people or institutions choose to practice. It is a core feature of social, economic, and political systems. Further, these systems (and the systemic racism that exists within them) are interdependent, interactive and compounding on each other.²

The Parties recognize that systemic racism exists throughout policing and must be eliminated. Systemic racism in institutional activity covered by human rights legislation, such as policing may amount to forms of systemic racial discrimination that are legally prohibited.

On August 10, 2020, the OHRC released *A Disparate Impact*, the second interim report in the OHRC's Inquiry into racial profiling and racial discrimination of Black persons by the Toronto Police Service. PRP and PRPSB recognizes that systemic racism exists in Peel, and as such, are invested in taking up the OHRC's Call to Action in the report. While the findings in this report pertain to the Toronto Police Service, the issues are not unique to any one geographic region.

In its report, the OHRC issued a Call to Action for police services, boards and municipalities to formally establish a process with communities, organizations and the OHRC to adopt legally binding remedies that will result in fundamental shifts in the practices and culture of policing.

Objective

In February 2020, the OHRC and PRP began discussions around strategies to end systemic racism in policing. These discussions have centered around Remedies that aim to end systemic racism and discrimination in policing, promote transparency and enhance Black, other racialized and Indigenous communities' trust in policing throughout Peel Region.

¹ Government of Ontario, Anti-Racism Directorate, Glossary, <https://www.ontario.ca/document/data-standards-identification-and-monitoring-systemic-racism/glossary>.

² Ontario Association of Chiefs of Police, Fact Sheet on Systemic Racism, http://www.oacp.on.ca/Userfiles/Files/NewAndEvents/PublicResourceDocuments/OACP_Systemic%20Racism%20Fact%20Sheet_July%202020.pdf

The Remedies proposed by the OHRC build from the OHRC's Policy on eliminating racial profiling in law enforcement (Policy).³ The Remedies are founded upon seven integral principles identified in the Policy:

1. **Acknowledgement:** Substantively acknowledge the reality of racial profiling, including the impact it has on individual and community well-being and trust in law enforcement, and recognize the specific impact on Indigenous peoples and racialized communities and individuals.
2. **Engagement:** Actively and regularly engage with diverse Indigenous peoples and racialized communities to obtain frank and open feedback on the lived experience of racial profiling and effective approaches to combatting it.
3. **Policy guidance:** Adopt and implement all appropriate standards, guidelines, policies and strict directives to address and end racial profiling in law enforcement.
4. **Data collection:** Collect and analyze race data to identify and reduce disparity, and to manage performance.
5. **Monitoring and accountability:** Regularly monitor racial profiling, and set robust internal accountability mechanisms at the governance, management and operational levels.
6. **Organizational change:** Implement multi-faceted organizational change (for example, in relation to training, culture, hiring, incentive structures, etc.), consistent with the OHRC's guide, *Human rights and policing: Creating and sustaining organizational change*.
7. **Multi-year action plan:** Form anti-racist action plans featuring initiatives geared toward achieving short-term and long-term targets for advancing all of these principles.

In September 2019, the OACP committed to the above-noted seven key principles and confirmed support of the OHRC's Policy as the basis for preventing and addressing racial profiling in law enforcement.

Staff from the OHRC and PRP have been constructively working together to develop a proposed legally-binding agreement that will commit PRP and PRPSB to specific activities that aim to end systemic racism in policing and are guided by the seven key principles in the OHRC Policy.

³ Ontario Human Rights Commission, Policy on eliminating racial profiling in law enforcement, <http://www.ohrc.on.ca/en/policy-eliminating-racial-profiling-law-enforcement>.

PRP and the PRPSB will enter into a collaboration with the OHRC and Peel Region's diverse communities to establish Remedies that will result in sustainable shifts in the practices and culture of policing. These Remedies will represent PRP's and PRPSB's adoption of the OHRC's Call to Action in *A Disparate Impact*.

The Parties recognize demands from all communities, and particularly Black, other racialized and Indigenous communities, to "defund the police." The PRP and PRPSB recognize that gradually there has been an over-reliance on law enforcement for a variety of social and human service needs, such as dealing with situations involving mental health, addictions, housing, homelessness and older adult social isolation.

PRP and PRPSB have committed to explore options with its regional Municipality and Ontario to reduce the scope of officer deployment and demand for policing services, inclusive of a systems level multi-sector planning model that proactively assesses needs and risks, and addresses them with community supports prior to requiring police involvement. The Parties commit to exploring options of reducing and realigning the role of police and the strengthening of other human services in the Region of Peel. This includes the coordinated investment and reinvestment of resources to support community-based health, wellness and equity initiatives, such as mental health supports, the establishment of a crisis intervention centre, youth engagement and a fund to support the safety and advancement of racialized communities in Peel.

Scope

The Project is a collaborative undertaking designed to provide PRP and PRPSB with human rights guidance from the OHRC on new and ongoing initiatives aimed at identifying and eliminating systemic racism in its delivery of services and in employment practices including the hiring, transfer, retention and promotion of PRP members.

In committing to this Project, the Parties agree to the following:

- a) The relationship between the Parties is established by this MOU
- b) The Project is not intended to resolve individual complaints filed with the Human Rights Tribunal of Ontario (HRTO)
- c) The Parties agree to work collaboratively to adopt binding remedies that will address structural changes, the role of policing, policy and procedural changes, accountability and monitoring, and communities' calls for de-escalation and defunding
- d) The Parties recognize the primacy of the *Code* and confirm that this Project in no way fetters the statutory powers and duties of the OHRC nor fetters the responsibilities of PRP and PRPSB in the exercise of their statutory duties.

The Project will be directed by a Project Sponsors Committee made up of the Chief Commissioner of the OHRC and the Chief of Police for PRP. The Project Sponsors Committee, or their representatives, will meet on a regular basis and will maintain the following features and functions:

- a) Engagement from the OHRC will include the involvement of the Chief Commissioner, the Executive Director, and/or staff members
- b) Engagement from PRP will include the involvement of the Chief of Police and other PRP members as assigned.

Community engagement

The Parties recognize that it is essential to hear from, and work with, Black, other racialized and Indigenous communities and allies as they consider appropriate ways to address systemic racism in policing. The Parties commit to robust engagement and consultation with Black, other racialized and Indigenous communities in the Peel Region to learn from their experiences and objectives before any legally binding agreement is finalized.

PRP and PRPSB recognize that it is timely and imperative to engage sincerely with the communities they serve and develop authentic solutions to challenge systemic racism, in order to reach PRP's vision of ensuring the safety and dignity of all our communities.

Project term

This MOU shall become effective on the date the agreement is signed by all three Parties, and shall continue in force for a period of six (6) months. The Parties can also agree to extend this MOU at any time, on mutual consent.

Any Party may end their participation in the Project at any time by sending a notice of termination (Notice) in writing to the other Parties. The Project shall end on the date the Notice is received by the other Parties. The Parties agree that the Notice can be sent by courier, regular mail or email to the Chief of Police; the Chief Commissioner and/or Executive Director of the OHRC; and the Chair of the PRPSB.

Amendment

This MOU may be amended at any time by the mutual consent of all Parties. All amendments shall be made in writing and signed by all Parties.

Outcomes

The Parties will immediately begin and continue to engage with Black, other racialized and Indigenous communities in Peel to develop legally binding Remedies to address systemic racism in policing.

The proposed agreement with Remedies will be brought before the PRPSB for approval in early 2021 and will be inclusive of timelines for implementation as well as mechanisms for accountability.

Following approval by the PRPSB and the Commissioners of the OHRC, the Parties will approach the HRTO to request a consent order. Pursuant to section 45.9(2) of the Code, the Parties can mutually request that the HRTO issue an order, which requires compliance with the terms of an agreed-upon settlement agreement. The Parties will file a joint application with the HRTO and mutually request a consent order from the HRTO.

Signatories



Ena Chadha
Chief Commissioner, Ontario Human Rights Commission

Dated: October 14 2020



Nishan Duraiappah
Chief of Police, Peel Regional Police

Dated: October 14, 2020



Ron Chatha
Chair, Regional Municipality of Peel Police Services Board

Dated: October 14 2020