



Black Legal Action Centre

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Submission to the Standing Committee on Justice Policy

Re: *Bill 68: An Act with respect to community safety and policing*

Submission By:

THE BLACK LEGAL ACTION CENTRE (BLAC)

March 6, 2019

The Black Legal Action Centre (BLAC) is a not-for-profit corporation incorporated under the laws of Ontario to combat individual and systemic anti-Black racism by providing legal services to members of Ontario's Black communities. BLAC provides legal representation to clients with low or no income that identify as Black or African Canadian, including matters related to housing and shelter, income maintenance, social assistance, and other similar government programs, including human rights, health, employment, and education. BLAC engages in test case litigation; law reform; and community development; we deliver summary legal advice, brief services, and public legal education.

The experiences of Black Canadians today are rooted in our country's history of colonialism, slavery and segregation. Indeed, the issues that besiege the Black community as a result of this history of oppression and resulting anti-Black racism are long-standing, numerous, and daunting. The Black community's relationship with the police is one area of Black life that is fraught with distrust¹ as a direct consequence of violence, unjust criminalization, over-incarceration and often death. To this end, a recent report released by the Ontario Human Rights Commission reveals staggering over-representations of Black people in use of force cases. Despite comprising only 8.8% of Toronto's total population, Black people account for 70% of fatal police shootings, 36% of police shootings, 61.5% of deadly encounters and 28.8% of use of force cases.² These disparities are unacceptable.

¹ *REPORT OF THE Independent Police Oversight Review*, The Honourable Michael H. Tulloch (November 2018).

² *A Collective Impact: Interim report on the inquiry into racial profiling and racial discrimination of Black persons by the Toronto Police Service*, Ontario Human Rights Commission (November 2018).

Bill 68 fails to ensure adequate mechanisms for accountability and transparency. BLAC submits that a starting point for any improvement between the police and the community that BLAC serves is to ensure accountability and transparency in any police procedural or oversight function. Of significant concern to BLAC on its initial review of Bill 68 are the following:

- There is no requirement for a designated authority, such as a police chief, to notify the Special Investigations Unit (SIU) if a civilian dies or is seriously injured in the presence of an official – outside of death, serious injury, where a firearm is discharged at a person, or sexual assault by an official;
- There is no requirement to report to the public on why the SIU Director may choose not to investigate an occurrence;
- The independence, which ensures proper accountability, that is requisite in any oversight agency has been eliminated with respect to the Law Enforcement Complaints Agency (LECA);
- There is only the requirement to investigate when a police officer's firearm is actually discharged and not when any other weapon is used (baton, taser) or the firearm is drawn;
- Investigations are internal to the subject officer's service thereby removing what little independence existed previously through investigations by an unrelated service;
- Accountability is reduced by the reduction in the fine (\$5,000 or \$10,000 rather than \$25,000 or \$50,000) issued as a result of an officer's failure to comply with an SIU investigation; and
- There appears to be no obligation for the SIU to share information about an investigation with a victim's family or supports.

BLAC submits that these issues must be addressed prior to the final passage of Bill 68 in order to even begin to allay the myriad concerns and fears of our community in its interactions with police.

While Bill 68 has made references to the introduction of human rights training, which is laudable, it is BLAC's position that in order for training to be truly effective, it must be inclusive of our and other diverse communities and also accompanied by accountability measures. In addition, this should be the beginning of a process that ensures better accountability and not the end of the process.

Thank you.

per: THE BLACK LEGAL ACTION CENTRE