

1 Toronto Police Services Board

2
3 Terms of Reference for the Independent Civilian Review into
4 Missing Person Investigations
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6 WHEREAS the Toronto Police Services Board (“the Board”) is responsible, pursuant
7 to subsection 31(1) of the *Police Services Act*, R.S.O. 1990, c. P.15 (“the Act”), for the
8 provision of adequate and effective police services in the City of Toronto;
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10 AND WHEREAS the Board must, pursuant to subsection 31(1) of the Act, generally
11 determine after consultation with the Chief of the Toronto Police Service (“the
12 Chief”) objectives and priorities with respect to police services for the City of
13 Toronto, establish policies for the management of the Toronto Police Service (“the
14 Service”) and direct the Chief and monitor his performance;
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16 AND WHEREAS the Board may, pursuant to subsection 31(6) of the Act, by by-law,
17 make rules for the effective management of the Toronto Police Service;
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19 AND WHEREAS the Board may express its opinion or make recommendations to the
20 Chief of Police on any aspect of policing in the municipality, while not directing the
21 Chief of Police with respect to specific, operational matters or with respect to the
22 day-to-day operation of the Toronto Police Service;
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24 AND WHEREAS the Report of the Independent Civilian Review Into Matters Relating
25 to the G20 Summit provides relevant guidance on interpreting the statutory
26 mandate of the Board;
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28 AND WHEREAS a number of people, and in particular members of the LGBTQ2S+
29 communities in the City of Toronto, have gone or been reported missing and have
30 later been identified as victims of serious violence;
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32 AND WHEREAS Project Houston, the Toronto Police Service’s 18-month
33 investigation into the disappearance of three missing men who have now been
34 identified as victims of serious violence, was closed in April 2014 having found no
35 evidence of criminal conduct;
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37 AND WHEREAS Bruce McArthur has now entered guilty pleas and been sentenced
38 for eight counts of first degree murder, allowing for the Reviewer to fully examine
39 the circumstances surrounding the investigations into the disappearance of his
40 victims, including but not limited to how and when he was identified as a person of
41 interest or suspect and any deficiencies in such investigations;
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43 AND WHEREAS members and groups within the LGBTQ2S+ communities in the City
44 of Toronto have expressed concern over the manner in which the Toronto Police
45 Services handle and have handled missing person investigations, and specifically,

1 the investigations into the disappearance of Mr. McArthur's victims, including
2 concerns that the handling of missing person investigations in the City of Toronto
3 may have been tainted by implicit or explicit, specific and systemic bias;

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5 AND WHEREAS there are intersections of minorities within the LGBTQ2S+
6 communities, including South Asian, Middle Eastern, 2-spirited, other racialized
7 individuals, as well as those who are either homeless or work in the sex trade that
8 are particularly vulnerable and require an improved approach to policing
9 relationships;

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

14
15 AND WHEREAS the Board created a Working Group consisting of one Board
16 member and three external members to advise the Board on the structural and
17 process options for an independent external review or reviews;

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

24
25 AND WHEREAS the Board believes that the recent guilty pleas and sentencing of Mr.
26 McArthur require that it significantly expand the original Terms of Reference
27 recommended by the Working Group to enable the Reviewer to conduct a complete
28 and thorough examination of the relevant issues;

29
30 AND WHEREAS the Board believes it would be beneficial and of assistance to the
31 Board in carrying out its responsibilities pursuant to subsection 31(1) and
32 subsection 31(6) of the Act to conduct a Review of the adequacy of the Board's
33 policies, as well as the Service's procedures and practices related to missing person
34 investigations, including a systemic evaluation of the manner in which the Service
35 conducts such investigations and a review of certain specific missing person
36 investigations identified in paragraph 2 below, including but not limited to those
37 investigations into the disappearance of Mr. McArthur's victims;

38
39 AND WHEREAS the Board believes that it is important that the terms of reference of
40 such a Review must be designed, among other things, to ensure that the Reviewer is
41 truly independent;

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43 THEREFORE the Board is appointing a Reviewer to conduct an Independent Review
44 into Board policies as well as Service procedures and practices in relation to missing
45 person investigations, particularly those involving individuals from communities
46 described above;

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

6
7 AND the Chief will cooperate fully with the Reviewer in conducting the Review and
8 will instruct members employed by the Service to cooperate fully with the Reviewer
9 conducting the Review as deemed necessary;

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11 AND the Chair and members of the Board will cooperate fully with the Reviewer in
12 conducting the Review and will instruct all members employed by the Board to
13 cooperate fully with the Reviewer in conducting the Review;

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15 AND the Reviewer may request any person, organization, the Chief, members of the
16 Board, and any member employed by the Board or the Service to provide relevant
17 information or records for the Review where the Reviewer believes that person or
18 organization has such information or record in his, her, their, its possession, custody
19 or control;

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21 AND the Reviewer may hold such meetings, interviews and consultations, and may
22 make such procedural decisions with respect thereto, as the Reviewer deems
23 advisable in her discretion in the course of the Review;

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25 AND the Reviewer, prior to commencing and throughout the Review, will consult
26 with the Ministry of the Attorney General for Ontario, specifically Andrew Locke,
27 Regional Director of Toronto Region or his designate (hereinafter "MAG"), and
28 others in the Reviewer's discretion in relation to the ongoing criminal proceedings
29 involving Kalen Schlatter in order to ensure that such criminal proceedings are not
30 prejudiced by this Review;

31
32 AND the Reviewer will consult with members, groups and organizations within the
33 LGBTQ2S+ community, including those who have filed missing person reports in the
34 past, and will engage an advisor to assist with the design and implementation of the
35 community consultations;

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37 AND the Reviewer will ensure that adequate accommodations and supports are
38 available to maximize community participation in the consultation process,
39 including receiving submissions from various stakeholders, community groups and
40 organizations;

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42 AND the Reviewer will establish an advisory group representing affected
43 communities, such as the LGBTQ2S+ communities, the South Asian and Middle
44 Eastern communities, the sex trade and the homeless communities in the City of
45 Toronto, to ensure the community perspective is adequately considered prior to
46 commencing and throughout the Review; advisory groups representing other

1 stakeholders may be created formally or informally in the discretion of the
2 Reviewer;

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4 AND the Reviewer will establish and maintain a website and may use other
5 technology to promote accessibility and transparency to the public;

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7 AND the Reviewer will provide updates to the public, through the website or other
8 means, on the status of the review, the contents of which cannot prejudice any
9 ongoing criminal investigation or the criminal proceedings involving Kalen
10 Schlatter,

11
12 AND the Reviewer will conduct the Review without prejudicing any ongoing
13 criminal investigation or criminal proceedings, including but not limited to the
14 criminal prosecution of Kalen Schlatter, and will make a report to the Board without
15 expressing any conclusion or making any recommendation regarding the civil or
16 criminal responsibility of any person or organization;

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19 AND the Reviewer may produce an interim report at the Reviewer's discretion and
20 will produce a final report containing the Reviewer's findings, conclusions and
21 recommendations and deliver it to the Chair and members of the Board for
22 distribution to the public at or before January 31, 2021;

23
24 AND the report will be prepared in a form appropriate for release to the public,
25 pursuant to the *Municipal Freedom of Information and Protection of Privacy Act*;

26
27 AND these Terms of Reference should be interpreted in a manner consistent with
28 the jurisdiction of the Board to ensure a broad and comprehensive Review;

29
30 AND in the event that the Reviewer is unable to carry out any individual term of
31 these Terms of Reference, the remainder of the Terms of Reference will continue to
32 operate, it being the intention of the Board that the provisions of these Terms of
33 Reference operate independently;

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35 AND the subject matter of the Review will be:

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- 37 1. A review of Board by-laws, policies and practices, as well as *The Way*
38 *Forward* and any related reports that may have been considered by the
39 Board, dealing with or relevant to missing person investigations and
40 community relations to determine whether they are adequate to ensure
41 effective, efficient and bias-free responses to missing person reports.
42
 - 43 2. Without prejudicing any ongoing criminal investigation or the criminal
44 proceedings involving Kalen Schlatter, a review of Service procedures,
45 practices, protocols, and actions in relation to missing person
46 investigations, including but not limited to a review of Project Houston,

1 Project Prism, any other opportunities to identify Bruce McArthur as a
2 person of interest or suspect and the missing person investigations of
3 Skandaraj Navaratnam, Abdulbasir Faizi, Majeed Kayhan, Salim Esen,
4 Soroush Mahmoudi, Andrew Kinsman, Alloura Wells and Tess Richey, with
5 a specific focus on

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

1 Lisowick and Kirushna Kumar Kanagaratnam from being reported
2 missing;

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- 4 i. How and when the Service decides to advise or caution the public, or
5 specific communities, about public safety concerns that arise from
6 missing person investigations, including but not limited to
7 information about suspected links or connections between missing
8 person cases;
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- 10 j. How public messaging around missing person investigations is
11 developed and whether cultural competence expertise is available or
12 relied on by the Service in drafting public communications;
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- 14 k. How information about missing person investigations and policies
15 surrounding missing person investigations are communicated
16 internally within the Services and whether those methods of
17 communication are effective; and
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- 19 l. Whether effective policies, procedures, and practices are in place to
20 ensure adequate investigative consideration of serial killers,
21 especially based on missing person reports where there is no overt
22 evidence of foul play.

- 23
- 24 3. A review of Service procedures, practices and protocols for developing and
25 maintaining relationships with individuals and organizations within the
26 LGBTQ2S+ communities, especially as they impact on the effectiveness and
27 adequacy of missing persons investigations, including but not limited to:
- 28
- 29 a. The roles, responsibilities and efficacy of the LGBTQ Liaison Officer;
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- 31 b. The roles, responsibilities and efficacy of relevant Board and Service
32 Advisory Committees or Working Groups in terms of maintaining and
33 promoting communication between the Service and the LGBTQ2S+
34 communities;
- 35
- 36 c. The scope and efficacy of consultations and communications with
37 members and organizations within the LGBTQ2S+ communities about
38 missing person investigations;
- 39
- 40 d. The extent to which the Service engages or consults with individuals
41 and groups that reflect the diversity within the LGBTQ2S+
42 communities;
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- 44 e. The extent to which the police call upon organizations within the
45 LGBTQ2S+ (or other relevant communities) to assist with missing
46 person investigations at any stage;

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- f. The extent to which individuals and organizations within the LGBTQ2s+ communities are advised of public safety concerns arising from missing person reports and investigations, including but not limited to information about possible links between cases;
 - g. The views and perceptions of members of the LGBTQ2S+ and marginalized communities more generally about the manner and substance of public communications by the Service about missing person investigations;
 - h. The experience of members of the LGBTQ2S+ and marginalized communities more generally reporting concerns to the police, including but not limited to the experience of individuals with non-heteronormative sexual expressions (such as those who participate in public cruising or BDSM), and whether there are actual or perceived barriers in relation to their willingness or ability to share information with the police; and
 - i. The accessibility, transparency and effectiveness of any complaint process for identifying concerns on the part community members or groups about missing person investigations.
4. A review of current training of Service members in relation to missing person investigations, bias-free policing and community liaison to determine whether it adequately addresses
 - a. Cultural competence to respond to missing person reports within the LGBTQ2S+ communities;
 - b. Intersectionality and its impact on marginalization; and
 - c. Protecting against biased assumptions being made about individuals reported missing based on their race, sexual orientation, immigration status etc.
 5. A review of the efficacy of current training in relation to missing person investigations in ensuring that concepts taught are being operationalized by the Service.
 6. In the Reviewer's discretion, a review of formal and informal complaints made to the Service, the Board or the OIPRD related to missing person investigations.
6. Consideration of prior reports dealing with missing person investigations in Canada, relations between the LGBTQ2S+ community and the police, and the duty

1 on the police to notify the public of potential safety threats (including but not
2 limited to *Out of the Closet: Study of Relations Between the Homosexual Community*
3 *and the Police*, 1981, *Bernardo Investigation Review*, 1996, *The Review of the*
4 *Investigation of Sexual Assaults – A Decade Later*, 2010 and the Report of the *Missing*
5 *Women Commission of Inquiry* in British Columbia in 2012) to determine if past
6 recommendations have been implemented and/or effective and if not, why past
7 recommendations have not been implemented by the Board and/or the Service.

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9 7. Consideration, in the Reviewer’s discretion, of best practices in other jurisdictions
10 in relation to missing person investigations, bias-free policing and maintaining
11 positive working relationships with marginalized communities.

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13 AND the Reviewer will make recommendations as the Reviewer deems fit for the
14 mandate of the review and terms of reference, including but not limited to
15 recommendations on:

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

1 giving consideration to a model for independent oversight of compliance and
2 continuing community consultation;
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4 AND the Reviewer will propose a timeline for the implementation of each
5 recommendation.