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Toronto

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Enquiry Report: Review of the TTC's Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors

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Presentation to Toronto City Council

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The Incident

- On February 18, 2018, three Toronto Transit Commission ("TTC") Transit Fare Inspectors (along with several Toronto Police officers) forcibly detained a young Black man on a streetcar platform at St. Clair Avenue West and Bathurst Street.
- There was widespread concern: the public, the media, elected officials and the Ombudsman wanted to know why the fare inspectors detained him, whether they used unnecessary force and whether anti-Black racism was a factor.
- The TTC launched an internal investigation, publicly releasing its report in July 2018. With one small exception, it cleared the fare inspectors of any misconduct.



Ombudsman Toronto's Enquiry

We conducted a detailed review of the TTC's investigation, to see if it was appropriately thorough, fair and transparent and if its conclusions were reasonable.

We examined:

- The TTC investigation report
- The full contents of the TTC's investigation file
- Video documentation from various sources
- Relevant corporate documents, policies, and procedures
- Media reports

We also interviewed the TTC investigators.

We did not investigate the underlying incident, which is the subject of a court action.



Findings: TTC Investigation Fell Short

While the TTC's investigation had many good features, it was lacking in several important areas.

It should have:

- Asked more questions
- Acknowledged and analyzed the fact that fare inspectors are expected to disengage when there is a potential for conflict
- Transparently analyzed evidence that could have supported a finding of unconscious racial bias
- Ensured adequate structural independence for the internal investigator for fare inspectors
- Ensured its expert witness had adequate independence, reviewed all relevant evidence and prepared their own report
- Identified important facts in dispute and made clear findings of fact
- Applied a different standard of proof in some of its analysis



Six Recommendations

Ensure that investigations are independent and impartial

1. Develop a plan to strengthen the independence of internal investigations of the Transit Enforcement Unit
2. Strengthen documentation of the Unit Complaints Coordinator's terms of reference and their role and mandate.
3. Consider creating a protocol for retaining external investigators in appropriate cases.



Six Recommendations, including:

Clarify the Standard of Proof

4. All relevant TTC policies and training should clearly state that the standard of proof that applies in investigations of complaints about Transit Fare Inspectors is proof on a balance of probabilities.



Six Recommendations:

Use Expert Opinions Appropriately

5. TTC should document in its investigation policies and procedures that any expert witness it retains should not have ties to the TTC.
 - The expert witness should provide written confirmation that they understand they are being asked for a fair, objective and non-partisan opinion.
 - TTC should demonstrate that the expert witness prepared their opinion after reviewing all relevant evidence and without the TTC's assistance.



Six Recommendations:

Additional Investigator Training

6. Develop a plan to provide additional training to internal investigators to equip them with the necessary tools to conduct an investigation fairly and independently.



Next Steps

- TTC management has accepted all the recommendations
- They have committed to implementing them by December 31, 2019.
- Ombudsman Toronto will follow up until we are satisfied that implementation is complete



The Broader Context

- This is not the first time Ombudsman Toronto has reviewed the TTC's oversight of the Transit Enforcement Unit. In 2017, we released our report of a large systemic Investigation and we continue to follow up on those recommendations.
- We have also looked into additional complaints and concerns about the unit.
- We remain concerned about the TTC's oversight of this unit, and have broader questions about the unit's structure and culture.
- The public is also concerned about whether racial profiling exists at the TTC.



TTC Commitments

Following constructive discussions with Ombudsman Toronto, TTC management has committed to:

- Developing a broad and comprehensive anti-racism strategy across the organization
- Implementing changes to shift the structure and culture of the Transit Enforcement Unit from a culture of enforcement and compliance to one based on rider security, service, respect and dignity



Acknowledgments

Thank you to:

- Ombudsman Toronto staff
- TTC staff and leadership



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