Barcelona, May 24th 2024

**Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement**

**United Nations Human Rights Council Subsidiary Body**

The Legal Clinic of the Universitat Pompeu Fabra[[1]](#footnote-1), in response to the invitation from the *Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement* to submit written contributions for the drafting of its annual report, submits for your consideration measures from different regions to ensure that examining the role of racial discrimination, stereotypes and biases is minimised, as well as proposing possible accountability measures.

1. **Discrimination in policing: racial profiling and racial bias**

When wanting to improve racial justice and equality in law enforcement it is inevitable to discuss discrimination in policing, especially racial profiling and racial bias. Ethnic minorities often are treated differently by law enforcement in a systematic way, leading to human rights violations and affecting the effectiveness and legitimacy of police[[2]](#footnote-2).

Minorities are more likely to come in contact with law enforcement and have fatal and nonfatal force be used against them, often due to bias, it is therefore important to understand the psychological mechanism behind it. All humans, including law enforcement officers, have two different types of attitudes that are important here: Explicit attitudes, which are conscious beliefs about a certain group. Implicit attitudes on the other hand are automatic associations and evaluations about groups[[3]](#footnote-3). These implicit attitudes, formed through stereotypes and repeated exposure to them creates implicit bias towards certain groups of peoples.  Continuous and repeated exposure to racial stereotypes can therefore lead to implicit racial bias, which are especially concerning as their hidden nature often keeps them undetected[[4]](#footnote-4). Even though explicit bias against minorities can lead to racial discrimination, they are easier detected, which is why it is especially important to try to eliminate implicit biases against racial minorities.

Implicit and explicit biases lead to racial discrimination by law enforcement. Stereotypes linking specific minorities to crime and violence affects law enforcement officer in a variety of ways, including  an increased use of force. This can occur, as biases can affect visual processing of officers and lead to wrong decisions, which are unrelated to concrete actions or attitudes[[5]](#footnote-5). These effects can not only be seen in high pressure situations, but can influence routine interactions between law enforcement and racial minorities, influencing who is perceived by officers as suspicious and dangerous. Racial biases therefore directly lead to racial profiling, which is defined by the Ontario Human Rights Code as:  “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.”[[6]](#footnote-6)

1. **Measures against racial bias and discrimination in policing:**

Across diverse jurisdictions, efforts to combat systemic inequalities and promote equitable treatment within policing have been multifaceted. Drawing upon different frameworks certain measures and best practices to minimize racial biases and racial profiling in policing were identified. To minimize racial biases in policing it is important to adopt a wide array of measures, seeing that racial biases often remain undetected, but still produce dramatic consequences for racial minorities.

**Substantive Acknowledgment:** Accepting the existence of racial profiling and its effects is essential to be able to reduce racial discrimination and bias in policing. Here it is especially important to ensure that officers and staff comprehend the historical context of policing marginalised communities and its ongoing implications for community trust and engagement[[7]](#footnote-7). For this purpose it is important to implement mandatory training programs that focus on the historical context of policing marginalized communities. This training should be delivered by experts in history, sociology, and cultural studies, such as academics, community leaders, and professionals with lived experience. to make the training engaging and practical it should employ interactive teaching methods such as workshops, group discussions, role-playing, and scenario-based exercises. To increase the impact of these trainings assessments before and after the training to measure changes in officers’ knowledge, attitudes, and perceptions regarding historical and cultural issues should be conducted. This is then to be used to evaluate the effectiveness of the training. Additionally training materials should be ensured to be accessible for officers outside of trainings[[8]](#footnote-8).

Apart from acknowledging context, continuous learning and adaptation to new developments and realities is necessary to reduce racial discrimination and bias in policing. One possible measure is comprehensive and ongoing **implicit bias training**. This training should help individuals recognize their own biases and understand how these biases can affect their interactions with the community[[9]](#footnote-9). This training has to be based on specific examples and case studies that illustrate how implicit biases can influence policing practices. To ensure effectiveness ongoing evaluation mechanisms to monitor the long-term impact of the training on officers' behaviour and community interactions should be established, by collecting feedback from both officers and community members to continuously improve the program[[10]](#footnote-10).

**Policy Guidance:** First and foremost it is essential for law enforcement to firmly enforce a policy of zero tolerance towards any manifestations of racism within policing, thereby fostering an environment of inclusivity, dignity, and respect for all individuals[[11]](#footnote-11). To ensure that this is respected within law enforcement regular reviews (e.g., quarterly or bi-annually) have to conducted on policing policies and procedures to ensure they do not perpetuate racial bias[[12]](#footnote-12). Communities and stakeholders should be engaged in the review process to ensure policies are fair and equitable. To facilitate community engagement public forums and workshops should be organised to solicit input from community members on existing policies and potential changes, making extra efforts to ensure that these events are accessible to all community members, including those from marginalized groups.

Additionally anti-racist action plans have to be developed to monitor progress in reducing racial discrimination in policing. These action plans should establish clear short-term and long-term goals, by outlining specific objectives, strategies, timelines, and metrics for success. Furthermore it is important to ensure that the plan is comprehensive and covers various aspects of law enforcement operations, including recruitment, training, policy enforcement, community relations, and accountability, as well as taking into account intersectionality.

Additionally law enforcement should further be encouraged to actively support and advocate for equity-oriented policies and practices both within its own operations and at broader societal levels. This should include evidence-based interventions aimed at addressing systemic barriers to racial equity and justice within law enforcement operations. Additionally law enforcement can collaborate with stakeholders and support legislative reforms that promote equity and justice at broader societal levels, by provide expertise and data to support the development of effective legislation and making public statements and provide testimonies in support of equity-oriented policies and reforms. This way law enforcement services can use their platform and influence to advocate for broader societal changes.

**Organizational Change:** Thorough organizational adjustments in law enforcement are needed to combat racial bias in policing. Here it is especially important to acknowledge that representation and diversity in law enforcement can have significant positive affects on equality not only within the police force but also for policing of marginalized communities. It is therefore important to prioritize initiatives to cultivate a diverse and representative workforce within law enforcement, actively recruiting, retaining, and promoting individuals from Black and other underrepresented communities to reflect the diversity of the populations served[[13]](#footnote-13).

Accountability and Transparency is a big issue when it comes to racial profiling and racial discrimination by law enforcement officers. Law enforcement services should therefore establish independent oversight bodies tasked with reviewing complaints and incidents of racial profiling and discrimination[[14]](#footnote-14). These bodies should have the authority to investigate, recommend disciplinary actions, and ensure accountability for any discriminatory behaviour by law enforcement officers. Additionally audits of policing activities, particularly focusing on data related to racial profiling and discrimination, should be publicly reported.

Furthermore it is necessary to implement clear protocols for addressing and remedying any instances of discriminatory behaviour by officers or staff, to increase trust in law enforcement. This can include disciplinary actions, retraining, or other corrective measures.

Unfortunately many instances of racial profiling and discriminatory behaviour by officers is often not reported by the victims due to fear and missing institutional mechanisms. It is therefore necessary to improve support services and access to justice for victims of racial discrimination and profiling by law enforcement officers. These services should be focusing on equitable treatment, cultural competence, and proactive measures to address unique needs and challenges faced by minorities within the criminal justice system. Here it is important develop user-friendly, anonymous reporting mechanisms, which have to be widely publicized and easily accessible to encourage victims to come forward without fear of retaliation[[15]](#footnote-15).

**Training of law enforcement officers:** Significant impacts are anticipated in combating racial bias within police training programs. These impacts extend beyond the confines of the training environment, permeating throughout law enforcement culture and practice[[16]](#footnote-16). Implicit bias training is specifically designed to address and reduce racially disparate treatment by police officers. It can therefore contribute to enhance safety for police officers and community members, by promoting thoughtful and judicious responses to situations and avoiding unnecessary escalations and ensure safer outcomes for all parties involved. However, current evidence does not definitively demonstrate its effectiveness in achieving this goal[[17]](#footnote-17). It is therefore important to implement comprehensive implicit bias training programs that go beyond surface-level understanding and delve deeply into the origins, effects, and ways to mitigate implicit biases. This training should further be focused on enhancing officers' communication skills through training programs that focus on cultural competence. By understanding diverse cultural perspectives and experiences, officers can improve their ability to interact respectfully and effectively with community members[[18]](#footnote-18).

The effectiveness of such training should be evaluated continuously by implementing feedback mechanisms to gather input from officers and community members about the training programs. This feedback can then be used to continuously refine and improve training content and delivery methods.

**Data Collection:** Improving data collection on racial discrimination in policing is not only necessary to improve training for law enforcement officers, but also to better understand its causes and effects. Standardized Data Collection methods should therefore be implemented[[19]](#footnote-19). Especially data on police stops, searches, arrests, use of force, complaints, and outcomes should be gathered, ensuring that the systems capture detailed information on each incident, including the context, the individuals involved, and the outcomes. This data should be disaggregated by race, ethnicity, gender, and other relevant demographics to identify patterns and disparities. Regular analysis of this data should be conducted to identify trends, patterns, and root causes of racial discrimination in policing, to later be used to inform policy changes, training programs, and operational procedures.

In accordance with the best practices and measures outlined above, the annual report of the Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement should include the following recommendations:

* **Acknowledgement**: To increase justice and equality in law enforcement it is of utmost importance to acknowledge the historical underpinnings and effects of racial profiling and racial bias in policing.
* **Engagement of affected communities**: All measures should be accompanied by a dialogue with affected communities to maximize understanding of the issues they face in their contact with law enforcement.
* **Policy Guidance**: Appropriate guidelines and policies should be adopted, including clear definitions of racial profiling and specific criteria, on when race is allowed to be used in suspect selection. Anti-racism action plans for law enforcement should additionally be drafted to achieve short- and long-term improvements.
* **Data collection**: Data collection on racial profiling has to be improved to identify issues and to measure the performance of implemented measures. Law enforcement should establish permanent data bases on racial profiling and make results public for more transparency.
* **Training of law enforcement officers**: Training on bias-free policing should be developed to increase understanding and provide tools for changing behavior. This training should be continuous and mandatory.
* **Accountability and Monitoring**: An independent body should be established to review policing in regards to racial discrimination and biases, as well as implementation of measures. This review should be made public, including further recommendations to minimize racial discrimination in law enforcement.

From the Legal Clinic of the Universitat Pompeu Fabra we hope that our contribution will be valuable for the annual report of the Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement. We remain at your disposal for any clarification in relation to this written contribution.

1. Elaborated by Judit Valls of the Master Advanced Legal Sciences and Katalina Kapp of the Master Global and European Law, International Human Rights Law course. [↑](#footnote-ref-1)
2. Barsamian Kahn, K., & Martin, K. D. (2020). The Social Psychology of Racially Biased Policing: Evidence-Based Policy Responses. *Policy Insights From the  Behavioral and Brain Sciences*, *7*(2). <https://doi.org/10.1177/2372732220943639>, p. 108. [↑](#footnote-ref-2)
3. Ibid, 108-109. [↑](#footnote-ref-3)
4. Richardson, L. S. (2015). Police Racial Violence: Lessons from Social Psychology. *Social Science Research Network*. <https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2641114_code1050716.pdf?abstractid=2641114&mirid=3>,p. 2965. [↑](#footnote-ref-4)
5. Barsamian Kahn, K., & Martin, K. D. (2020). The Social Psychology of Racially Biased Policing: Evidence-Based Policy Responses. *Policy Insights From the  Behavioral and Brain Sciences*, *7*(2). <https://doi.org/10.1177/2372732220943639>, p. 109. [↑](#footnote-ref-5)
6. Policy and guidelines  on racism and racial  discrimination. (2005). In www.ohrc.on.ca. Ontario human Rights Commission. Retrieved May 10, 2024, from <https://www.ohrc.on.ca/en/policy-and-guidelines-racism-and-racial-discrimination>, p. 19. [↑](#footnote-ref-6)
7. Ontario Human Rights Commission. (2019). Eliminating racial profiling in law enforcement. Approved by the OHRC. <https://www3.ohrc.on.ca/sites/default/files/RACIAL%20PROFILING%20Policy%20FINAL%20for%20Remediation.pdf>, p. 55. [↑](#footnote-ref-7)
8. [Civilian Review and Complaints Commission for the RCMP. (2022, March 30). Review of the RCMP’s Bias-Free Policing Model Report | Civilian Review and Complaints Commission for the RCMP. Retrieved May 12, 2024, from https://www.crcc-ccetp.gc.ca/en/review-rcmps-bias-free-policing-model-report](https://www.crcc-ccetp.gc.ca/en/review-rcmps-bias-free-policing-model-report)  [↑](#footnote-ref-8)
9. Gino, F. (2021, August 30). Unconscious bias training that works. Harvard Business Review. Retrieved May 14, 2024, from <https://hbr.org/2021/09/unconscious-bias-training-that-works> [↑](#footnote-ref-9)
10. Miller, J., Quinton, P., Alexandrou, B., & Packham, D. (2020). Can police training reduce ethnic/racial disparities in stop and search? Evidence from a multisite UK trial. Criminology & Public Policy, 19(4), 1259–1287. <https://doi.org/10.1111/1745-9133.12524>, p. 1281. [↑](#footnote-ref-10)
11. Police Race Action Plan Improving policing for Black people. National police chiefs council (2022) <https://www.npcc.police.uk/our-work/police-race-action-plan/>, p.11. [↑](#footnote-ref-11)
12. Policy on eliminating racial profiling in law enforcement | Ontario Human Rights Commission. (n.d.). Retrieved May 12, 2024, from <https://www.ohrc.on.ca/en/policy-eliminating-racial-profiling-law-enforcement> [↑](#footnote-ref-12)
13. Police Race Action Plan Improving policing for Black people. National police chiefs council (2022) <https://www.npcc.police.uk/our-work/police-race-action-plan/>, p.13. [↑](#footnote-ref-13)
14. Ibid, p.17. [↑](#footnote-ref-14)
15. Ontario Human Rights Commission. (2019). Eliminating racial profiling in law enforcement. Approved by the OHRC. <https://www3.ohrc.on.ca/sites/default/files/RACIAL%20PROFILING%20Policy%20FINAL%20for%20Remediation.pdf>, p.55. [↑](#footnote-ref-15)
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18. [[Civilian Review and Complaints Commission for the RCMP. (2022, March 30). Review of the RCMP’s Bias-Free Policing Model Report | Civilian Review and Complaints Commission for the RCMP. Retrieved May 12, 2024, from https://www.crcc-ccetp.gc.ca/en/review-rcmps-bias-free-policing-model-report](https://www.crcc-ccetp.gc.ca/en/review-rcmps-bias-free-policing-model-report)](https://www.crcc-ccetp.gc.ca/en/review-rcmps-bias-free-policing-model-report)  [↑](#footnote-ref-18)
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