

Handbook to Surviving BAD POLICING



Handbook to Surviving Bad Policing

This booklet is about helping you survive police harassment and abuse. This booklet is for everyone who has been targeted by the police, but especially for Aboriginal youth, young people of colour and recent immigrants.

For a long time, individual citizens and community groups have expressed anger about policing in our city. Popular expressions like Driving While Black (DWB) show how much we are aware that we can be the target of police harassment or abuse. People are often singled out for this mistreatment because they are:

- people of colour (Black, Latino, Asian)
- Aboriginal peoples
- survivors of the psychiatric system or have mental health problems
- low income or working class
- lesbian, gay, bisexual, transgendered or transsexual
- homeless
- sex-trade workers

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MANY PEOPLE AGREE that police are necessary to keep us safe and to protect our rights. But what happens when the police do not “serve and protect”? Historically, the government has controlled people with aggressive policing, instead of addressing the root causes of social problems (e.g. poverty, racism, etc.).

Chapter 1 begins with some history of policing in Canada, and an overview of what policing is like for people at risk of being targeted in Toronto today.

Chapter 2 looks at what the law says about your rights, how “real” those rights are when you are dealing with the police, and what you might try and do to avoid being beaten, charged or further harassed.

Chapter 3 is about how to take care of yourself after a bad experience with the police, including information about what to do if you are charged criminally, and how this might affect your immigration status.

Chapter 4 discusses how to make complaints against the police. Some of these individual responses might be helpful to you, but they can have major consequences. This booklet discusses how useful each response really is. Because of concern with the effectiveness of the individual responses.

Chapter 5 describes ways that we can fight back together. We do not have to accept the way policing is handled in Toronto. If we speak and act together, we will be safer and more powerful.

Chapter 6 of this booklet lists different resources for help, including community groups, lawyers, books and articles for further reading, and counsellors/counselling centres.

This booklet is for individual problems, and is also a tool to organize education and action in your community. We hope you will find it useful. We also hope that you will join the broader fight against poverty, racism and other forms of oppression. A fight back focused exclusively on policing can never lead to real and lasting justice.

Acknowledgements

Many people participated in the development of this project. Sadly, in the current social climate and the increase in police repression many people feel intimidated and are scared to put their names down.

Therefore, we would like to thank the focus youth groups from the Bathurst/Dupont area and the Jane/Finch area. Our appreciation to the “lasagna team” composed of still idealistic law students and other students that met during the summer and began to develop this booklet. We would like to extend a special thanks to Bella for her tireless work and unfaltering energy. Appreciation goes to the lawyers (Jacquie, Mary, Kevin, Trever) who provided content and editing support. The Committee to Stop Targeted Policing that provided encouragement and organized the launching of the handbook. Volunteers who read the handbook for clear language. And the artists who provided the pictures, lay-out and design. Finally, our sincere appreciation to the organizations that provided support with printing costs.

For more copies of this booklet, call

- *Parkdale Community Legal Services (PCLS) at 416-532-2411 ext. 263*
or
- *Ontario Public Interest Research Group at 416-978-7770.*

The booklet can also be downloaded from:

www.utoronto.ca. Click on ‘groups’, then ‘OPIRG’

Please feel free to make copies of this booklet.

DISCLAIMER

All legal information in this booklet is a basic overview only. The law can change very quickly. To get the most accurate and up-to-date information, call a legal clinic or a lawyer.

*This handbook was prepared by law students, community legal workers, and community activists. The law and procedures have been set out to the best of our ability. **ACCURACY IS NOT GUARANTEED**, however. There may be accidental misinterpretation or misapprehension of the law.*

The law and the court procedures are constantly changing. Many areas of the law are uncertain, and any opinion may have a different interpretation by a court of law.

The booklet also does not give any advice. To get advice about your particular legal problems, please see a lawyer. Some lawyers are listed at the end of this booklet.

**Persons using this handbook
DO SO AT THEIR OWN RISK.**

Chapter 1: What Is Policing?

History of Policing

When did policing start? Why were police forces created? How did they approach policing? The history of policing is complicated and it is different for different countries.

In the United States, urban police forces began to take shape soon after the ‘official’ end of slavery. Police were used to ensure the continued and unofficial institution of slavery.

In Britain, during the early 19th century, cities quickly became busy industrial centres. Lots of people from rural areas came to the city looking for work. Police were used by the state to control both the unemployed and those looking to improve working conditions through unions and public demonstrations.

In Canada the police were also needed by the state to control workers in cities such as Toronto and Montreal. The North West Mounted Police (NWMP – now RCMP or Royal Canadian Mounted Police) was started in Canada to deal with ‘the Indian Problem.’ It has been argued, that the police were used by the government to keep the Aboriginal population down and to make it easier for the government to take their land.¹

Recent clashes between police and Native people remind us that this history is still unfolding. At Gustafsen Lake, at Oka, at Ipperwash, and most recently at Burnt Church, police are used to fight on behalf of a government that continues to deny justice to the original inhabitants of this land.

They are still used, quite literally, as an occupying army.

At picket lines and protests, police are often used to intimidate. Homeless people often experience violence from police officers. People of colour – especially young people of colour – expect harassment and violence from police.

Policing in Canada Now: Why is it So Bad?



Violence, class conflict, racism, sexism, homophobia are still real problems in Canadian society. The news continues to try and scare us with the “threat” of “too many immigrants” coming into the country. There is still a lot of misunderstanding and mistreatment of people with mental health problems and physical disabilities. We also live with a widening gap of wealth where a smaller portion of the population controls most of

the money. Today, the government continues to use the police to preserve the way things are. This strategy helps people with power to keep their power and it tries to keep the rest of us more powerless.

Community groups in Toronto have asked why policing is so unfair and abusive and why we, the public, have no influence on how the police act. The police chief and most politicians will say that there are laws to control police behaviour. They also say that there are only a few “bad apples” in the police force, but most police are doing their job well. The reality is that usually the police investigate their own behaviour and there are plenty of ‘good apples’ that help and might even cover up for the ‘bad apples.’

Many experts on policing argue that it is really police culture itself that makes bad policing so possible. Even if individual officers want to “do the right thing,” police typically see themselves as above the law. This makes it easier for police to do illegal or improper things because they believe that they won’t have to be responsible for their actions.²

Canadian police departments are becoming more like American police departments.³ Canadian police associations and police forces are learning from American examples how to be more powerful. For example, the Toronto Police Association (the union for police officers) hired ‘volunteers’ to canvass communities in order to gain support for pro-police political candidates. This was illegal.⁴ The police should not be working to get politicians elected who support the police. The police are supposed to be working for all of us. But politicians help the police get helicopters, more deadly weapons and foster the use of pepper spray against unarmed protestors.

An Overview of Policing in Toronto

These days, it seems that policing in Toronto is getting meaner. While poor people, people of colour and young people have generally experienced the police as discriminatory,⁵ the situation seems to be getting worse. The police have a lot of political support right now and this makes it harder to make the police accountable to the public. Recently, the Ontario government has made new laws that make it even easier for the police to harass and charge impoverished people and youth of colour.

The Safe Streets Act

One of these new laws is called the **Safe Streets Act**. It is designed to keep poor people and young people off the streets and to make Toronto more comfortable for tourists and people who have money.⁶ Police can now give tickets for “squeegeeing” (washing car windows for donations), “aggressive”⁷ panhandling and leaving condoms and needles in parks. If you get more than one ticket you could be sent to jail. Police use these tickets to harass youth and homeless people. Cops have also been giving out lots of tickets for trespassing, being drunk in a public space or causing mischief. Most of the time people are not doing anything that hurts anyone. These days harmless actions – like just hanging out with friends in a park, having a drink, or asking for spare change beside the streetcar tracks⁸ – have become crimes when we know that the real crime is our government’s unwillingness to deal with poverty and homelessness.

Community Action Policing

There are more police officers around and this makes hassling of young people, people of colour and poor people more frequent and more violent.⁹ In the summers of 1999 and 2000, in some parts of Toronto (Jane and Finch, Parkdale, St. James-town, Regent Park and others), the municipal government

gave the police extra money to work overtime. The police walk around and bug people by asking them where they are going, what their name is and other questions that are none of the cops' business. This program is called **Community Action Policing**.¹⁰ More police in areas where there are lots of people of colour has meant that more reports of people being harassed, threatened and beaten are being received and its become harder and harder to complain about police abuse. Right now the budgets of other government services (welfare, schools, healthcare) are being cut, but the police get more money just by asking.

The streets belong to everyone. Things like the *Safe Streets Act* and *Community Action Policing* make us feel that some of us are not included in "everyone."

The Tory government, under Premier Mike Harris, has also changed the way a police complaint is made. It is now more difficult to make a complaint and most of the investigations of complaints are done by the police themselves. See the section on police complaints in Chapter 4 for more information.

Since 1995, when they were first elected, the Harris government has changed the kind of place Ontario is. The Harris (also known as the Tories) government cut money to lots of services that helped everyone in the city, including: community centres, schools, social services of all kinds, English as a Second Language classes, and recreational programs. They also cut welfare so people on welfare are really struggling to survive. This does not give welfare recipients much time or energy to get work.

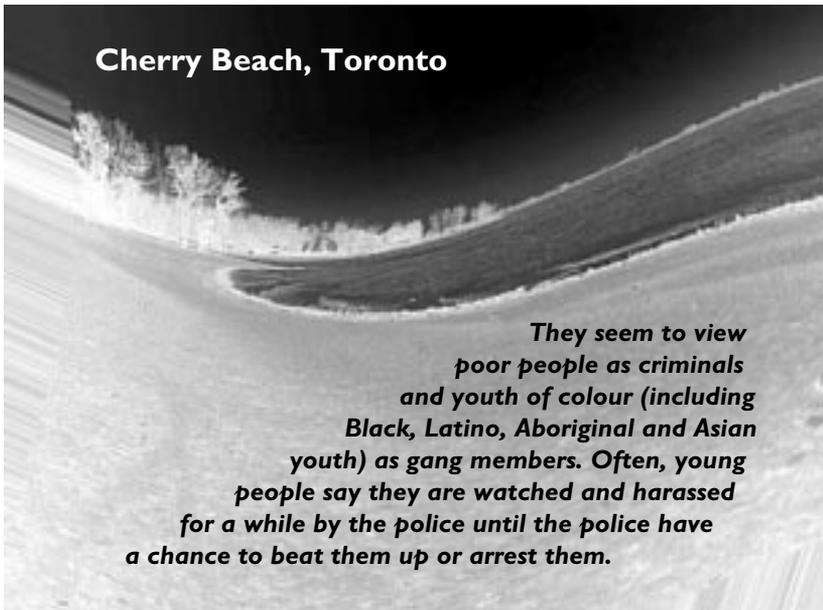
For people who do have jobs outside the home, the Tories have made it harder to get and keep safe jobs that pay a good wage. Recently, they passed a new law to allow bosses to make us work harder and longer for less pay. The Harris government changed the laws on renting so that there is less

housing for people who aren't rich. They also eliminated Second Stage Housing which has left women with fewer places to go to escape abusive partners. All of these changes have increased the number of people living in poverty, and more and more people now have to live on the streets. There are about 2000 evictions a month in Toronto at this time.

The government's answer to these social problems they have created is more cops with more power. They want "law and order" even if that means that kids get beat up and people who don't have money to pay tickets go to jail.

Police seem to think that if you are in a gang they can treat you worse than other citizens.

When people come together to speak about these injustices, we see that the police are used to keep us silent. Recently, police have been using more and more aggressive tactics on unarmed protestors, including pepper spray, tear gas, charging horses and arrests.



Chapter 2: Your Rights, Obligations and Survival Strategies for Dealing with the Police

<p>The Law Says...</p>	<p>The Reality is. . .</p>	<p>Some things to try. . .</p>
<p>The police have the right to ask you any question they want, but you <u>do not have</u> to:</p> <ul style="list-style-type: none"> · talk to the police · show them your identification (ID) or, · answer their questions. <p>unless you are being arrested or detained. The exception is when you are on a bicycle or driving a car (or any other motor vehicle). In this case, you must produce your driver's licence, proof of insurance and ownership of vehicle documents when asked.</p>	<p>Cops often make people who have not committed crimes and are not suspects in crimes stay with them, answer questions and produce ID. There are many reports of cops who harass and assault people who refuse to answer questions.</p>	<p>You might want to answer the question. You could point out that you know that you do not have to answer the question, but that you will do so anyway. You might answer the question politely and then ask them the same question. For example, if they ask you your name, you can tell them and then ask them what their names are.</p> <p>You might explain that you do not want to talk with them and keep walking. You might try to make a joke and point out that you are not doing anything wrong.</p>

<p>The Law Says...</p> <p>If the police assault you, it is a crime, just like if anyone else assaults you.</p>	<p>The Reality Is...</p> <p>Some cops beat up people, especially people that are seen as powerless (e.g. low income or homeless people, people of colour, Aboriginal people, etc.). These people are vulnerable to being beat up when they won't answer their questions or people that they are bringing in to the police station to arrest. They use their hands, feet, batons, pepper spray and guns to hurt people. Officers who see other police beat someone up usually don't tell anyone and might cover up for them if they are asked about it.</p>	<p>Some Things to Try...</p> <p>Protect yourself. Travel in groups and keep track of friends. Pay attention to what the cop is asking you to do. If you sense that the officer is getting mad, try to take note of the name and/or badge # before they begin hitting, kicking, or threatening you. Go to a doctor or a hospital right away- but one you choose yourself, not one the cops take you to. Try to get someone to take a picture of the injuries and write down what happened to you. If someone saw what happened, ask them if they will act as a witness and tell them to make detailed notes about what happened. Ask for their phone number.</p>
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The Law Says...	The Reality Is...	Some Things to Try...
<p>The strip-searching policy of the Toronto Police says that there must be a good reason to strip search you, that the strip search must be done by an officer of the same sex as you, and that you have a right to basic privacy during the search. The police also have to fill out forms after searches to give details about why, who by and how the search was done.</p>	<p>Strip searches have been done for no good reason, by officers of the opposite sex and in public. Police now have to fill out reports because of serious complaints of unnecessary body searches. Strip searches can be used to humiliate and degrade people.</p>	<p>Ask why the search is being done . Make it clear that you do not agree to being searched. Ask for your lawyer or the right to contact a lawyer. Ask for an officer of the same sex (if they do not use one) to do the search and that the witnessing officer also be of the same sex as you.</p> <p>If the search is still done, you can ask your lawyer to try and get a copy of the report on your search.</p>

<p>The Law Says...</p> <p>Police have a duty to protect all people from crime, including the crime of wife assault. The Metro Police Domestic Violence policy says that police must lay charges against a man who has hit his wife or girlfriend, even if she does not want charges laid.</p>	<p>The Reality Is...</p> <p>If you call the police because your husband/boyfriend is beating you, the police will check their computer system for any warrants issued for your arrest. This includes immigration warrants. The police can also go one step further and authorities.</p>	<p>Some Things to Try...</p> <p>If you are in serious danger, you may feel that calling the police is still your best option. If you can leave your abusive partner, call crisis lines for a list of shelters. If you experience any immigration problems or problems about custody of your child(ren), see an immigration lawyer, family lawyer or legal clinic right away.</p>
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<p>The Law Says...</p>	<p>The Reality Is...</p>	<p>Some Things to Try...</p>
<p>The police have to tell you why you are being arrested or detained. They have to explain your rights and let you call your lawyer. They have to let you talk to a lawyer in private and give you a phone number for a lawyer if you do not have one (duty counsel).</p> <p>If you are a youth (under 18 years old) the police have to let you call a lawyer and an adult that you trust. You have a right to have a lawyer and an adult you trust with you when the police interview you .</p>	<p>Police often don't tell you why you are being arrested. They don't tell you where you are going or let you use the telephone. Sometimes they don't let you talk to a lawyer or call your parents, and they trick people into talking about what happened.</p>	<p>Don't talk to the police after you have been arrested, even if you didn't do anything. Remember: the only conversations that are "privileged"¹¹ are the ones between you and your lawyer <u>only</u>. So if an officer or a guard offers to confer-ence call you to your lawyer (creating a three-way call), insist that you be allowed to call your lawyer and speak to them in private.</p> <p>You might want to tell them your name because that might help you to get released. Don't lie to them. Don't talk to anyone at the station or in jail about what happened because they may be the police, or working for the police. Remember the saying, 'anything you say can be used against you'. Explain that you want to talk to a lawyer and if you don't have one, ask for the phone number for duty counsel (free legal advice over the phone). This is available 24 hours a day.</p>

The Law Says...	The Reality Is...	Some Things to Try...
<p>The police are not allowed to be racist, sexist, homophobic, transphobic, or discriminate against you because you have a history of psychiatric treatment. You are supposed to be treated with respect and it is not supposed to matter how much money you have. Section 1 of the <i>Police Services Act</i> says that the service should be provided in accordance with the following principles:</p> <ul style="list-style-type: none"> • protecting the rights in the <i>Canadian Charter of Rights and Freedoms</i> • respect for victims • sensitivity to the multiracial and multicultural character of Ontario 	<p>The police act in racist, sexist, transphobic and homophobic ways. They treat you differently just because of your race, the country you were born in, your sex, your sexual identity, gender identity, your homeless status, or because you are on welfare. Many of them say and do things that violate your human rights.</p> <p>There have been numerous police killings of First Nations, African descended, Asian, Latino and other people of colour as well as transsexual and transgendered people, sex workers, psychiatric survivors and poor and homeless people.</p>	<p>Again, try to protect yourself by sticking together and watching out for your friends and families. If a cop does something racist, for example, try to pay attention to what they said or did. Try to get their badge #/name, make notes about it as soon as possible with as much detail (times, dates, witness(es), conversations with the police) as you can remember. Tell your story to someone you trust.</p> <p>If you were in a group when it happened, make your notes separately.</p> <p>If there was someone else who saw what happened, ask them if they will be a witness and get their phone #.</p>

Some Tips You May Want to Try to Keep the Situation from Getting Worse

- Act especially polite and respectful. The police think they are very important and it's a good idea to make them think that you think so too.
- If they ask you your name, tell them (unless you have a really good reason not to). Often they will leave you alone if you tell them your name and answer a few questions, but if you refuse it can become a big deal.
- Try to stay in a public place with friends and witnesses around you.
- Don't lie to them. It can be used against you and you could get charged.
- If they are being friendly, be friendly back. You can joke with them and still be firm about not answering questions.
- Don't call them coppers, pigs, or other disrespectful names to their faces.
- Try to stay calm and in control of your words, body language and emotions.
- Don't get into an argument with them
- Keep your hands where the police can see them, for example don't put them in your pockets.
- Don't tell the police that you are going to make a complaint/sue them/charge them/talk to the media about what they did to you.
- Don't run away.
- If they try to 'pat you down', don't resist but make sure you tell them you are not consenting to a search.
- If they are asking a lot of questions you don't want to answer, stay calm and insist on being allowed to speak with a lawyer.

Chapter 3:

Taking Care of Yourself

After you have been harassed or abused by the police, you will probably need help, outside of making a complaint or community action.

This chapter looks at:

- I Defending Yourself Against Criminal Charges
- II Your Arrest and Your Immigration Status in Canada
- III Using the Criminal Injuries Compensation Board
- IV Court Support
- V Counselling

I. Defending Yourself Against Criminal Charges

If you have been charged by the police with one or more crimes, it is a very good idea to get a criminal defence lawyer working for you.

Once you are arrested, you have the right to speak to a lawyer, and any adult you trust if you are under 18 years old. To find a lawyer, please see Chapter 6 of this booklet.

While under arrest, you may need legal help right away. In that case, you could ask to speak to the “duty counsel” for help with a more immediate problem, like your bail hearing. The duty counsel may be able to help you bargain with the Crown Attorney for your release conditions. If the duty counsel has not come to an agreement that you feel comfortable with, then it is probably better for you to put off finalizing the agreement until the next day so that your own lawyer can come and argue for your release. Remember that you have

the final say in any agreement with the Crown, not your lawyer. Your lawyer has to do what you ask her or him to do.

LEGAL AID:

If you cannot afford a lawyer, you may be able to get a legal aid certificate.

Legal aid certificates are given out depending on

- how much money you and/or your family has,¹³***
and
- what you need legal help for.***

Many kinds of criminal charges will make you eligible for a certificate. If you are not able to get a certificate, you can appeal the decision. You might want to get help from a legal clinic for your appeal. Once you get a certificate, you can take it to a criminal lawyer who accepts legal aid work. See the phone numbers in the *Resources* section of this booklet.

In addition to using legal aid (see box above), you might be able to find a criminal lawyer who would be willing to represent you for free. Most lawyers do a small amount of “pro bono” (free) work. It is not easy to get free services from a private lawyer, but it might be worth trying especially if your case is or could be high-profile. You could also do fundraising in the community.

Another option for free legal services could be a legal clinic, but most legal clinics do not do criminal work. Also, clinics that do criminal work will only help people who have been charged with minor offences. Please see the list of clinics in the *Resources* section of this booklet.

If you got a ticket under the *Safe Streets Act*, the *Liquor Licence Act*, the *Highway Traffic Act* or another kind of ticket because you live on the street, you were “squeegeeing” or you were

asking for money on the street, take your ticket to the Ontario Coalition for Poverty (OCAP). They may be able to take the ticket to court for you. OCAP is listed in Chapter 6.

II. Your Arrest and Your Immigration Status in Canada

Immigration and refugee laws are very tricky. Below is some basic information only on how a criminal conviction could affect you. If you are not a citizen and you are convicted of a crime, it is important to talk to an immigration lawyer or a community legal clinic about your particular situation. Seek legal advice immediately.

How your status might be affected if you have one of the criminal problems listed opposite



Types of criminal convictions that could cause problems with your immigration status:

Type of Criminal Problem	EXPLANATION
<p>You are convicted of two or more summary offences</p>	<p>“Summary offences” are generally crimes that are considered less serious and have less serious penalties attached to them</p>
<p>You are convicted of an indictable or hybrid offence that may be punished by a maximum prison term of less than ten years</p>	<p>“Indictable offences” are generally more serious and have bigger/longer penalties</p> <p>“Hybrid offences” can be tried as “summary” or “indictable”</p>
<p>You are convicted of an indictable or hybrid offence that may be punished by a maximum prison term of at least 10 years</p>	<p>Same as above</p>
<p>You are considered a danger to the public</p>	<p>Immigration officials may see your arrest (even if you are not convicted) as making you a potential danger to the public in Canada</p> <p>They may also see your activities in community organizing against bad policing as making you someone likely to commit a “crime”</p>
<p>You are, or the police think you are, a member of a ‘gang’ or criminal organization</p>	<p>Even if you are not convicted of a crime, they could see you as dangerous if they decide that you are part of a gang or criminal organization</p>

III. Using the Criminal Injuries Compensation Board

If you were injured by the police, you might be able to get money from the Criminal Injuries Compensation Board. Your injuries can be either physical or emotional.

To apply for compensation from the Board, you must be: an “innocent victim” of a violent crime, someone who is looking after an “innocent victim” of a violent crime, or the dependant relative of an “innocent victim” who was killed by a violent crime. Obviously, “innocence” is a problem if the police beat you up and then charged you with a crime. Generally speaking, it is quite hard to get compensation if the officer that hurt you was not convicted. But it is an option you still might want to try.

You can apply to get compensated for one or more of these kinds of expenses:

- Medical bills (those you had to pay yourself)
- Prescriptions (those you had to pay yourself)
- Funeral expenses
- Lost wages (you were not able to work and not paid because of the injury)
- Pain and suffering
- Support of a child born as a result of a rape
- Loss of support because you were dependent on someone killed by the violent crime
- Cost of attending the hearing.

You may be able to get compensation even if no charges were laid, or no conviction was made against the violent police officer.

It is important to see a doctor and/or a counsellor as soon as possible after the assault/sexual assault. The doctor will help you collect the medical evidence you need for your application. You should also keep copies of all related bills and receipts, any documents that show you were off work (usually your pay stubs), and any statements from work showing benefits you received.

You should apply within a year from the date of the crime. If you are a minor, you can apply any time until you turn 19 years old. The whole process of the application usually takes a year to a year-and-a-half. The most you can get from the Board is \$25,000 or \$1,000/month, but few people get the maximum. Most compensation awards are about \$6,000 or less. If you are on Welfare, you will have to pay back any money you get except for money for “pain and suffering”.

It is not easy to get compensation from the Board for a number of reasons. In cases where you have been injured by the police, it is usually harder to get compensation. Your legal aid clinic or lawyer can tell you what your chances are.

IV. Court Support

If you go to court, or a hearing (in the case of a complaint or an application before the Criminal Injuries Compensation Board), it can be a very scary experience. The system usually seems confusing to those of us who are not familiar with it.

You can have friends and family come with you to any hearing. Your friends or family can be there for moral support, and they can also take notes for you. Taking notes is not necessary, but may help give the impression that you are watching the system for any unfairness or bias. It might also help you make sense of what happened after the fact. At trials the court usually makes a transcript of what was said, but written records are not made at hearings. You might also want to get

friendly media to cover your hearings (see **Media** section in Chapter 5).

Some services might also be available to support your “day in court.” If you were successful in getting criminal charges laid against an officer, you could use **the Victim/Witness Assistance Program**. These are government services that are supposed to help victims or witnesses get familiar with the legal system. Although these offices are seen as being tied to helping the Crown and the police, they can sometimes be helpful. It is important to go with your instincts: if you feel that someone from this service is not helpful and is too tied to the police you are probably right.

There are a few non-government court support services that you might want to contact. Please see Chapter 6: Resources.

V. Counselling

Going through any one of these individual options is probably going to be very emotionally draining. You might experience any of the following:

- Re-living the trauma of what happened with the police officer
- Difficulty sleeping/sleeping a lot
- Eating less/eating more
- Blaming yourself for what happened
- Fear/Anxiety
- Inability to focus
- Tiredness
- Depression
- Thoughts of killing or hurting yourself or others
- Other changes in your mood or mental health

Take care of yourself during this process. It's not just your imagination: these systems are defeating for most people. And because the options are slow, whether you are defending yourself or trying to make a complaint, it may be hard or impossible for you to heal from your experience until your legal situation or complaint is finished.

Trying to get justice adds to the stress you will already be experiencing because of mistreatment by the police. It is not exactly the same, but the experience of being abused by police can be compared to the experience of being tortured in other countries – countries where it is more obvious that people have little or no freedom.

By calling you names, or humiliating you through a strip search, the police are taking away your dignity and your sense of who



By calling you names, or humiliating you through a strip search, the police are taking away your dignity and your sense of who you are. This is a common military tactic used to “break down” a prisoner. If you know this ahead of time, it might help you be less affected by these degrading techniques.

you are. This is a common military tactic used to “break down” a prisoner. If you know this ahead of time, it might help you be less affected by these degrading techniques.

Mental or physical abuse by the police can feel similar to being tortured. It is important to remember that torture is not just a random act of violence, but part of a larger strategy for controlling society through certain people, or certain groups of people.¹⁴

Please refer to the Resources section of this booklet (Chapter 6) for places that offer free counselling. You might also want to start a support group for people and families that are living with and surviving police harassment and brutality.

Chapter 4: Making Complaints Against the Police

After you experience police mistreatment, it is natural that you will want justice. In this chapter you will find some information about complaint options. It is important to know that most people who have used these individual “solutions” have not received justice at all. There are serious downsides to each of these options for complaining about police mistreatment. Racism and other forms of discrimination will likely affect your ability to be successful in any of these processes. As mentioned in Chapter 1 of this booklet, policing operates with racist¹⁵ assumptions of who are “criminals” and who are not legitimate citizens. In the same way, all these complaint systems reflect and contribute to racism and other inequalities.

The chapter following this one gives information on collective or community strategies to deal with the roots or causes of bad policing. If you do use one of these individual complaints, it is a good idea to combine it with community action.

For all of these options, you should speak to a legal aid clinic or private lawyer about your particular case.

In this chapter, you can find information on the following individual options:

- I. Complaints Against the Police – 2 types
- II. Suing the Police
- III. Charging the Police
- IV. Human Rights Complaints

IMPORTANT: If you are thinking of making an individual complaint, laying a criminal charge or starting a lawsuit against a police officer, it is important to be aware that this may be very dangerous for you. You may put yourself and even your family and friends at risk, or more risk to be harassed, intimidated or assaulted by the police once the police find out that you are trying to exercise your rights. The police might even charge you falsely.

If, despite the serious risks, you decide to go ahead with a complaint or any other individual remedy, it is a good idea to get people and community groups to support you in your complaint against the police. See the section on Community Groups. Not only will these groups help you feel like you are not alone, but community awareness may keep you safer from more police harassment.

I. Complaints Against the Police

There are two (2) places where you can make formal complaints against the police. Both of these bodies are considered “civilian.” In other words, they are not technically part of the police.

First, there is the Special Investigations Unit (SIU), which can investigate complaints where a police officer is involved in the death or serious injury of a civilian (non-police officer). Second, there is the Ontario Civilian Commission on Police Services (OCCOPS), which deals with other complaints about the police and about police services.

A 1994 report found that people felt “...they would have more faith in the system if the investigation process was independent of the police. Only then would there exist the possibility of a fair and positive result for complainants.”¹⁶

a) *Special Investigations Unit (SIU)*

What?

The Special Investigations Unit (SIU) is a provincial government office that is technically separate from the police. The SIU was created to investigate killings or serious injuries by the police. Serious injuries can include broken bones, sexual assault, burns, loss of hearing or vision, or any other injury that required hospital treatment..

How?

To ask for an investigation to be done by the SIU, you have to write a letter to their office. You can do this on your own, or get help from a legal clinic or private lawyer.

Special Investigations Unit
Ministry of the Attorney General
5090 Commerce Boulevard
Mississauga, ON L4W 5M4

Tel: (416) 622-0748 (OSIU)
1-800-787-8529
Fax: (416) 622-2455
E-mail: inquiries@siu.on.ca

When?

There is no time limit to ask for an investigation. It is a good idea to send in your letter as soon as possible while the evidence is easier to get.

What Are the Problems?

The SIU is underfunded – only the Director of the SIU or the Attorney General of Ontario has the power to decide that there should be an investigation, so a lot of complaints do not get investigated at all.

The investigators are usually ex-police officers – even though they are not part of the police anymore, the fact that the investigators come from police culture may worry you.

The SIU does not seem to be able to force¹⁷ the so-called “suspect officer” to talk to the investigators – officers often refuse to talk to investigators when it is possible that their actions might lead to criminal charges.

The Director has all the power to decide whether the information gathered in the investigation should lead to criminal charges against the suspect officer(s).

There are very few criminal charges against individual police officers after the investigation – less than 5% of cases.¹⁸

Why Use It?

Even though there are problems with the SIU, it can be very powerful in a small number of cases. For example, in October 2000, the SIU laid charges of manslaughter against four police officers allegedly involved in the death of Otto Vass. Witnesses say these four officers beat Mr. Vass to death in August at the corner of College and Lansdowne streets. A group of people came together to support Mr. Vass’ family and to speak out against police violence. This group, Justice for Otto Vass, has helped to keep this terrible incident in the media, and the group has pressured the SIU to investigate and lay charges.

b) OCCPS

What?

The Ontario Civilian Commission on Police Services (OCCPS) is also an Ontario government office. It is supposed to make sure that the public have a simple and effective way to make complaints against individual police officers or police policies. OCCPS is technically separate from the police themselves, and it is also a “quasi-judicial” body. This means that OCCPS has a system to deal with complaints that is almost like a court.

How?

Only the victim or person directly affected by the police officer can make the complaint, e.g. a friend, family member, a community leader can't make the complaint for you. Your complaint must be in writing and you must sign it. You can write your letter in your own style, or you can use the standard complaint form provided at any police station and at some legal clinics.

You can mail/fax/hand deliver your complaint to any city police station or to the Commission office itself at:

Ontario Civilian Commission on Police Services
25 Grosvenor Street, 1st Floor
Toronto, Ontario
M7A 1Y6

Tel: (416) 326-1189
1-888-515-5005
Fax: (416) 314-2036
1-888-311-7555

When?

You must make the complaint within 6 months of the incident.

What are the Problems?

The Chief of Police has all the power to decide what to do with your complaint – this is not a good thing for people making complaints because the Chief has a strong interest to protect his “men”.

The Chief can dismiss the complaint for a number of different reasons including – the complaint was sent in past the six-month deadline; the person who wrote the complaint was not directly affected by the incident; or the Chief thinks that the complaint is silly, not serious, or not made in “good faith”.

OCCPS does not conduct its own investigations of complaints. When a complaint against a police officer is made with OCCPS, OCCPS simply passes the complaint back to the police. In other words, the police are allowed to investigate themselves, and OCCPS only looks at the findings. An OCCPS study done in the early 1990s showed that there is “serious mismanagement on the part of the force in handling of alleged misconduct by members of the force.”¹⁹

OCCPS is underfunded and OCCPS has said lack of funds is what prevents them from doing the investigations themselves.

You will likely be asked to take your complaint through “informal resolution” or mediation – everyone, including you, need to agree to do this. The mediation step can be very scary because you have to meet face-to-face with the officer against whom you have a complaint. A third person is present and is supposed to act as a neutral mediator, but they are often another police officer. Mediation is often not a good way to settle a disagreement when there is such a difference between the power of the two people in mediation.

The OCCPS system cannot force the suspect officer to hand over notes or speak to the investigating officer – police offi-

cers sometimes use the excuse that they are suffering from post-traumatic stress disorder and can't participate in the investigation.²⁰

The number of complaints that actually get to a hearing is very, very small.²¹

Even if your complaint gets to the hearing stage, the adjudicator (person who makes the decision/ruling) at the hearing is a police officer.

At the hearing, you are no longer really involved in the process – the complaint is presented by a “prosecuting” person who is also a police officer!

At the hearing, you may get to tell your side of the story, the reality is that it is often “your word” against the officer’s word – even if the hearing was not stacked with police officers, the word of a police officer is generally seen as much more official/reliable over your word.

II. Suing the Police

What?

Another way to deal with your complaint against the police is to sue a particular officer, and/or the police force as a whole. You do not need a criminal conviction against a police officer to sue them.

Like all private lawsuits, you can only sue the police for certain kinds of “legal wrongs” done against you. These include:

- Assault & Battery – when the police hurt you by beating you up or through some other intentional act
- Sexual Assault – when you are raped
- Negligence²² – when the police really screw up in failing to properly do their duty
- Malicious Prosecution – when the police falsely charge you with a crime/crimes as a way to scare or annoy you

How?

You will need a legal clinic or private lawyer to help you file the claim. See the section below called Small Claims Court for information on how to sue for smaller amounts and without a lawyer.

When?

You have only six (6) months to file a lawsuit in Ontario against the police²³.

What are the Problems?

Suing the police, or “taking them to court,” can seem like a good idea, but there are a lot of problems and difficulties. It is important to keep in mind that lawsuits are not as common in Canada as in the United States. Also, the money awards in

lawsuits are usually a lot lower in Canada than in the USA. And if you lose the court could make you pay the legal costs (lawyers' bills) of the police.

Here is a brief summary of some of the main obstacles to winning your case –

Racism and other biases/discrimination

As mentioned at the beginning of this section, the legal system does not work equally for people who are Aboriginal, of colour, youth, don't have money, are homeless, etc. For example, systemic bias and the bias of individual players in the legal system can affect how truthful you seem in the eyes of the law.

Costs

It is very expensive to sue anyone (for big cases usually tens of thousands of dollars). If you lose you could also be ordered by the court to pay some of the other side's expenses. Some lawyers might take on your case knowing that they may not get paid unless you win your case.²⁴

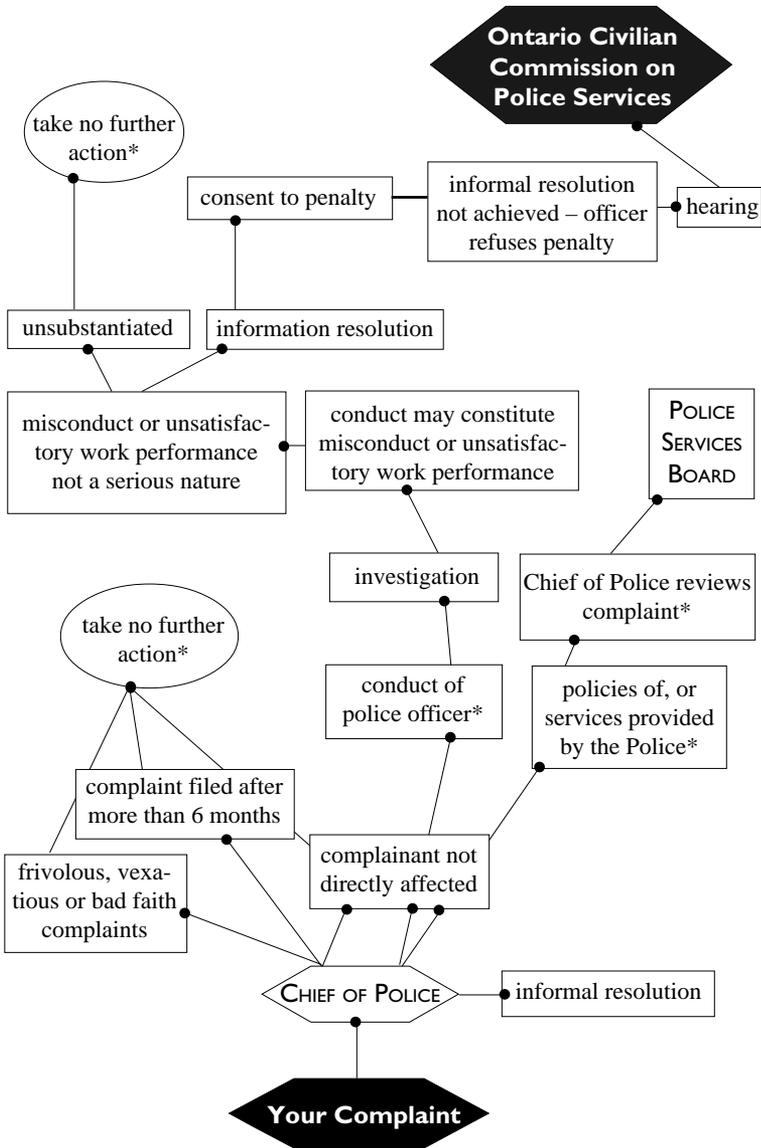
Delay

Lawsuits are a very slow process and this increases costs, frustration and often keeps you from feeling emotionally resolved about the incident with the police. A lawsuit can take several years to resolve. This can be emotionally and physically exhausting.

Mediation

The courts in Toronto are now actively pushing for mediation in lawsuits. Mediation between parties with big differences in power can be a negative experience for people suing the police. Also, because the mediation might be mandatory, the parties are not necessarily coming to the bargaining table with the honest intention of resolving the matter.

The flow chart below may help you figure out how the OCCPS complaints work. If you look at the chart, you see that many of the paths lead to “no further action taken.”



* At these steps in the process, if you do not agree with the Police Chief’s decision, you can appeal it to the OCCPS.

Damages (the money the court awards if you are successful)

The biggest problem with the amount of money you are likely to get is that it is calculated according to how much the court feels you “lost” as a result of the assault/malicious prosecution, etc.; i.e. if you do not have a high income, the courts will not think you have lost much.

Also, if you did not have to pay much or any medical expenses, you will not get any money in this category of damages.

You could be awarded some money for the pain and suffering that you experienced, but in Canada these types of awards tend to be low and you need to also get (expensive) medical evidence.

“Punitive damages” is money to send a message or punish the police. This category of damages is generally not high and is usually very difficult to get. For example, you would probably have to prove that the police officer(s) beat you deliberately. And remember that if you are on Welfare, you will have to pay back any money that isn’t for “pain and suffering”.

“Onus of proof”

This means that if you are suing, you have to prove that things happened the way you said they did.

It is important to remember that in court, as in life, police are taken a lot more seriously than we are.

Duty to “mitigate” loss

The judge who hears your case, if it does not get settled, will want to see that you have “mitigated your losses.” In other words, you must have been doing things to take care of yourself and made sure you lost as little money as possible as a result of what happened with the police. For example, as soon as you recovered from your injuries, you went back to work, looked for a job, etc.

Why Use It?

The standard of proof is lower in lawsuits than for criminal charges. It is harder to prove that the police committed a crime than it would be to prove that they owe you money.

People started using lawsuits partly because the complaint systems that the Ontario government offers are so frustrating. A lawsuit gives you some control over the process. It can be combined with community actions to raise public awareness of the problem of bad policing. A lawsuit also forces the police to get legal help and deal with your complaint in some way. The media might also get interested in your case.

Using Small Claims Court

One option that is more hopeful in lawsuits is suing in the Small Claims Court. The big limit in this option is money. If you are suing before April 2001, the most you can sue for is \$6,000. As of April, 2001, this will go up to \$10,000.²⁵ The major advantage of using Small Claims Court is costs and time. It is supposed to be less complicated than the regular court, and often people use it without needing the help of a lawyer. If you do feel you need help, you can bring someone (including a lawyer, law student, agent, friend) to help you. You have to pay some money to file your claim, but it is a lot less than the costs of a regular lawsuit.

Recently, lawyers have been looking at using this court to help people who want to claim damages for personal injury caused by the police. This means that, like lawsuits in regular court, you need to prove the police caused you harm (physical, mental, or property).

To start a claim in Small Claims Court, you need to fill out a Claim Form. You can get these forms from any Small Claims Court (check the Blue Pages in the telephone book for your

nearest court). At the same time, you can also pick up a booklet written by the Ministry of the Attorney General called *How to Make Small Claims Court Work For You*. That booklet can also be found in many legal clinics. It is also available on the Ministry of the Attorney General website at www.attorneygeneral.jus.gov.on.ca.

III. Charging the Police

What?

You can also think about the option of charging the police for crimes like assault, aggravated assault, uttering threats, sexual assault, and murder.

How?

As you have probably figured out, usually criminal charges are laid by the police. The Crown Attorneys (the lawyers that prosecute “crime” on behalf of the state) can also lay charges. For obvious reasons, it is usually almost impossible to get a police officer or a Crown Attorney to lay charges against a police officer.

But you can try to lay a charge against a police officer yourself by swearing a private information (a sworn statement of what happened) before a **Justice of the Peace**.

To do this, you must contact a Justice of the Peace (or JP) at the court in the area where the police officer committed a criminal offence against you. It may be a good idea to get the help of a legal clinic or private lawyer to do this.

When?

There is a time limit of six months on charging people with certain crimes. Talk to your neighbourhood legal clinic or a private lawyer about this.

What are the Problems?

This is difficult to do: the Justice of the Peace is the only one who decides if she/he thinks that there are good reasons for a charge. If the police and the Crown have refused to charge the officer, it is going to be very hard for you to show the JP that she/he should lay charges. If the JP does lay a charge, then the Crown will prosecute and you will not have control of the process: you will be only a possible witness.

Another possibility is that the JP might let you go ahead with a private criminal prosecution, but then you will be responsible for prosecuting the police officer (e.g. you will have to pay a lawyer while the police officer's union will pay for his/her lawyer). You would also have to prove "beyond a reasonable doubt" that the officer committed the crime

IV. Human Rights Complaints

What?

According to the law (the Ontario Human Rights Code), you have a right to get equal treatment from the police. For example, as a young Black person, you are not supposed to be harassed just because of your race. The police are not allowed to discriminate against you because of personal characteristics that have nothing to do with crime and policing. The law calls these personal characteristics "prohibited grounds."

In reality, of course, police can and will say and do racist things, and may treat you differently for a combination of the characteristics listed above.

How?

If you want to start a human rights complaint, the Ontario Human Rights Commission tells you to call in to talk to someone and then they will mail you a form to fill out. You don't have

Prohibited Grounds of Discrimination

race	ancestry
place of origin	colour
ethnic origin	citizenship
creed (religion)	sex
sexual orientation	age
marital status	family status
handicap or disability	

to do that – another option is to go to a legal clinic and get help with your complaint. Some private lawyers also do human rights complaints although you will have to pay for this unless the lawyer is willing to work for you for free.

When?

You need to file your signed complaint within six (6) months after the incident. This means you need to contact the Ontario Human Rights Commission or a legal clinic/lawyer as soon as possible after the incident. It takes some time to put together the final complaint. Don't assume that just calling the Commission anytime before the deadline is going to be good enough.²⁶

What are the Problems?

The Ontario Human Rights Commission investigates only some of the complaints it receives. If you bring a complaint against the police, the Commission will likely choose not to deal with it by saying you should use the OCCPS complaint process instead. In this situation, you would have to argue

that the OCCPS does not offer civilian (i.e. “non-police) investigations of complaints, unlike the Ontario Human Rights Commission.

If the Commission does not dismiss your complaint, mediation is usually the next step. Mediation is voluntary so both you and the police officer would have to agree to do it. Again, mediation with the police is not usually a good idea.

If the mediation does not work things out, or there is no agreement to do mediation, then your complaint may go to investigation. This is where the slow process gets even slower. In the recent past, complaints have taken anywhere from 2 to 5 years to investigate.

After investigation, your complaint could be settled. In other words, the police could make you an offer. If the Commission thinks the offer is a good one, they will pressure you to take it.

Only a very small number (about 4%) of complaints ever get a hearing before the Ontario Human Rights Tribunal. This is a big drawback of the human rights system.

The human rights system also seems to be particularly ineffective when dealing with complaints of racism. It is clear from Commission data that significantly more complaints are dealing with issues of race than any other ground. But relative to complaints of sexual harassment, complaints founded on race or ethnicity are much more likely to be dismissed.²⁷

The 1992 Canadian Human Rights Commission study found that race complaints were more likely to be dismissed than other types of claims. The study suggested that the lower success rates exist because of the lack of expertise at human rights commissions, a particularly high number of so-called vexatious or frivolous complaints in the race category, and the ongoing social acceptance of racial discrimination.²⁸

Why Use It?

Many people who have used the human rights complaints system have found it very slow and frustrating. A good thing about this system is that you might not need a lawyer to use it. If the Commission decides that your complaint should get a hearing, then the Commission will be in charge of presenting the complaint at the hearing. Sometimes people use their own lawyers too, especially if they feel the Commission is not representing them well.

Another good part of this system is that, either at mediation or at a hearing, you can ask for different kinds of “remedies” to your complaint. You may not get all or any of the things that you ask for, but you can ask for creative remedies. Also, unlike OCCPS, it wouldn’t be police officers investigating your complaint.

Mediation/Settlement

At the mediation or settlement phase of the process, you may get offered things like money or a promise from the police to go through human rights training. You can ask for an apology, but it is very unlikely you will get one.

Hearing

If you actually get a hearing (very slight chance), and you actually win your hearing, then you will likely get some compensation.

You can ask for a number of different remedies like changes in police policy, human rights workshops for the police, posting anti-racism signs at police stations, etc. You might not believe, however, that any of those things will really change police culture and practices. You can also get money from a human rights complaint.

Basically, money awards could be one or more of the following types of damages:

- General damages including mental anguish (mental anguish has a maximum of \$10,000)
- Special damages including loss of wages, loss of pension benefits, loss of vacation entitlement, and reimbursement for costs you had to pay because of the human rights violation
- Interest on the money awarded to you
- Future expenses (awarded in a disability/accommodation case)
- Other expenses, e.g. counselling
- Compensation for rights infringements

Most financial awards are quite low (a few thousand dollars).

Chapter 5: Community-Based Ways to Fight Back

This booklet was created in a time period of increasing police powers (see Chapter 1: What is Policing?). One goal of the booklet is to provide people with information on their rights and tips on how to deal with police. But more importantly, the booklet can be used to talk about bad policing and to organize against it.

Many of us already know that it can be very dangerous to speak out against the police. People who have made complaints have later been charged with some criminal offence or experienced more harassment. There is safety in coming together to fight bad policing. And by working together to speak out together, we have a real chance at stopping the abuse of police power.

Also, police violence and abuse happens to communities, not just individuals. For example, if you have been harassed or assaulted by the police because you are a young person of colour, because you are homeless, then everyone who shares that characteristic is also at risk. To keep our communities safe, we need to think about bad policing as a community problem that needs community action.

Community Groups

An Overview

In the last two decades, a number of groups have formed with the goal of fighting back against bad policing. These groups have used different tactics including:

- Public demonstrations
- Educational workshops and conferences
- Lobbying to politicians
- Press conferences
- Meetings with police
- Legal support for individuals, including court support
- Challenges to bad laws
- Direct confrontation with police

In the middle of the 1990's, two government reports helped add weight to community concerns about policing: the Stephen Lewis Report and the Report of the Commission on Systemic Racism in the Ontario Criminal Justice System. Both reports were written after a lot of input from people and groups in the community. Both reports identified racism and racist policing as serious problems in Ontario.

Groups That Have Worked on Fighting Bad Policing

The **Black Action Defence Committee** (BADC) was formed in 1988 after a Black man was shot to death by the police. This group has been very successful in making the public more aware of the problem of racist and unfair policing. BADC also pressured politicians to make policing more accountable to communities. In particular, BADC focussed on the need for independent, non-police review of police misconduct. BADC was directly responsible for the creation of the Special Investigations Unit (see Chapter 4: Making Complaints Against the Police). Although the SIU is not as strong as BADC was hoping, it is an example of the power of collective action.

In the early 1990's, a coalition of different groups was formed. The **Coalition Against Police Violence** (CAPV) was made

up of community groups and social services. One of CAPV's activities was to collect individual complaints of police harassment and violence to create one big complaint where individual people could be anonymous. Unfortunately, OCCPS refused to accept a group complaint, but CAPV did help connect different groups working on policing.

Other groups (such as the **Metro Coalition for Police Reform**, the **Chinese Canadian National Council** and the **Urban Alliance on Race Relations**) have organized public meetings and conferences. Sometimes members of the police have been invited so that people could question the activities of the police.

Some groups chose to give individual support to people that had been victimized by the police. For example, the **Women's Action Against Racist Policing (WAARP)** provided court support for women of colour who had been beaten or otherwise mistreated by the police, and did some fundraising to pay courts costs. Often these women were charged with assault or assault police. Women who came to this group for help became key members of the group.

Early in 2000, the **Law Union of Ontario**, a group of lawyers committed to human rights, were successful in stopping the police union from publicly supporting pro-police politicians.

The **Justice for Otto Vass** committee has been following the investigation into the death of Otto Vass while in police custody. The group has been keeping Mr. Vass' death in the news. This has probably been a big part of getting criminal charges laid against the police officers.

The **Ontario Coalition Against Poverty (OCAP)** defends homeless and low income people against tickets given by the police. OCAP also is working on a legal challenge to the Safe

Streets Act, as well as being involved in more direct confrontations with the police. OCAP has been very successful in getting media attention.

Copwatch is a group equipped with video cameras and notepads. They go out at night and patrol the streets, keeping an eye on police and recording their interactions with people.

The **Committee to Stop Targeted Policing** has been monitoring the effects of the Community Action Policing program. They also update the Copwatch Information Line where people can find out more about what is happening around the city to fight police violence and racism. The CSTP will probably shift its focus to deal with the Community Oriented Response which is the same thing as CAP except that officers will do this full-time, not on overtime..

Almost all the above groups have also been involved in trying to change laws and pressuring politicians.

There are more groups active in fighting the way policing is done in Toronto. All of the groups use different styles and tactics to achieve their goals.

As people speak out, the police have been reacting. Policing of protestors has become more violent and police have been using pepper spray, tear gas and horses to make public protesting more difficult.

Starting your own group

Although many groups exist, there is room for more groups, especially groups that use different ways to resist bad policing.

If the groups listed in Chapter 6: Resources aren't working in your area or perhaps you have political differences with them, try starting your own group. Here are some things to think about and do.

Find like-minded people to work with. Talk to people to share ideas about how to do this and find out who you feel comfortable working with. Once you've decided on a group and on an approach, you can let people know about your group by postering, advertising on community radio and newspapers, and organizing seminars at local schools, community centres, churches, or workplaces. And be sure you really know who you are dealing with. Police might try to infiltrate your organization by pretending not to be police.

Who am I? This is an important question for anyone trying to organize against police harassment or brutality. Do you live in the community you are organizing in? Are you representative of the people who live there? If not, have you checked with community members to see if they want you there, or want to become involved in the project themselves? When not carefully considered, our actions could increase police violence and/or further strain relations amongst different groups in the community.

Be careful where you meet. Police might try to tap your phone or even your home if they think that you are organizing against them. Meet in legal clinics or other safe spaces.

Building Connections. Have your group make efforts to create links with other groups that are working for police accountability. Share resources, experience and strategies. Policing uses a tactic of “divide and conquer.” By supporting each other's actions, we weaken the effectiveness of “divide and conquer” strategies of the police and state.

What Your Community Group Can Do

Once you've formed a group, or joined an existing group, what are some things you can do? Here are just a few tactics.

TACTIC Consciousness-Raising

You could use this booklet, videos, books and other reports to talk about the issues. People could share stories about police harassment and abuse. It might also be important to talk and learn from each other about racism, sexism, class discrimination, etc. You might want to organize a workshop on policing, including information on your rights. For help with resources, or for one example of how to do a workshop, call Parkdale Community Legal Services (See Chapter 6: Resources).

TACTIC Organizing Demonstrations

Demonstrations can be effective ways to lobby the government and/or raise awareness of policing issues. Often demonstrations are organized to protest a specific example of police brutality.

If your group is relatively new, you may want to talk to another, more established group for tips on how to organize a demonstration and what to expect from the police at the actual demonstration. Or, you may want to join with other groups to make a bigger demonstration.

Your group could make a banner for itself. A banner is a good way of showing the government, police and general public that more people are coming together to fight back.

TACTIC Organizing a Community Meeting or Conference

If you want to organize a community meeting or conference, it is important for the group to have asked itself some questions, like:

Who is this for?

What is the ideal outcome of this event? Are you trying to

build bridges with politicians or police? If so, this will affect how you organize the event.

Is the event just for community members? If so, you might want to think about security and privacy.

Do you want the media there? Which ones?

The answers to these questions will help make clear the how, when and where of the event. Again, it is useful to talk to existing groups that have organized similar events if you want or need some advice.

TACTIC COPWATCH

Many groups in the US and Canada use the name Copwatch. These groups differ radically in their tactics. The New Jersey Copwatch sells buttons, posters, and T-shirts to help raise awareness and funds for their actions. New York City Copwatch monitors the media and compiles stories of police brutality. In Portland, Oregon, Copwatch successfully petitioned city council to strengthen civilian oversight in 1982.

One group in Toronto uses Copwatch to keep an eye on police and video-recording their interactions with people. You could join this group or create one of your own. You could use tape recorders, video recorders and people with notepads to let the police know you are watching them. There are some risks to think about whenever you film or watch the police.

You could also follow the way Block Parents works to make a system to keep your community safer.

TACTIC Using the Media

This is a more complicated tactic because the mainstream media is often not neutral or objective in covering community concerns. Mainstream media is a business, not a public service.

The information it provides mostly reflects the interests of a small minority in our society – people who are rich, white and powerful. Have you ever noticed that there is a “business section” for the Bay Street professionals, but no section for working people?

Reporters rely on police and other official sources for their stories. If they write an article that is critical of police, they will probably have a hard time getting police information in the future.

Some reporters don’t have time to search for ‘the truth’ or ‘the other side of the story.’ Media is interested in printing or airing news that “sells.” As a result, most news media reinforce racist ideas of who is a criminal and what is a criminal act.

When an officer kills someone (usually a person of colour), the media slowly begins to make the victim look like a bad person. Right after the murder, the media may report something completely unrelated, for example that this person was arrested years ago for getting into a fight. Over time, the media refers to the victim as a violent criminal, as if to say that they deserved to be beaten or killed by the police.

Some things we can do:

Write to newspapers

Some newspapers will print letters from the public. Some will even print letters that are critical of the police. Individual reporters can also be written to. Don’t hesitate to give a fake name, but some newspapers will contact you to confirm your name, number, etc. before they will print the letter.

Phone call-in shows

Many radio stations and some TV stations have call-in shows that will discuss police – especially when someone has re-

cently died at the hands of police. Again, don't hesitate to give a fake name.

Change your own news habits

Although most TV is all about big business, some community radio stations, community television shows and small news publications do challenge police power. Community members are often encouraged to take part in the shows or stories. Instead of reading or watching mainstream news, try one of these community news sources.

Put out your own zine

Zines are small newspapers or magazines (usually a photocopied one-pager) that individuals put out to discuss a certain issue or topic that interests them. They are passed out informally through friends, schools, community centres, small bookstores and any other way the creators can think of. They're a great way to share points of view that you won't get from mainstream media.

Stickers, posters and other informal media

Stickers can be placed just about anywhere. You can also make posters. All you need is some time to make one, a few dollars for the photocopier and some tape or a staple gun. Wheat flour and condensed milk will make an excellent glue.

Culture Jamming

Culture jamming is a popular way of contradicting all the misinformation put out by mainstream media. It is important to know that the law considers this kind of activity illegal and you could be charged with mischief. When you see propaganda like a sign or a poster that has had its message altered, for example, a poster showing a cop with the words, "Out to stop crime," where the word "stop" has been changed to "commit" this could be considered culture jamming.

TACTIC Lobbying for Law Reform

While some police officers are worse than others, the real problem is with the power cops have in Ontario right now and the laws themselves. Changing laws is harder than getting an individual cop off the force (and that's hard enough!). There are a couple of different ways law can be changed.

Political Pressure

Talking with your Member of Provincial Parliament (MPP) at Queen's Park (the provincial legislature) might help. You can speak with them yourself or you could ask a leader in your community (or of a group) to work with you to put pressure on the MPP to address your concerns with the *Police Service Act*, the *Safe Streets Act*, and other laws that make it easier for the police to harass and hurt people. If your MPP is part of the Opposition (not one of Harris' Conservatives) they might want your help in attacking the laws and working to get them changed, both in the legislature and through the media.

To find out who your MPP is,
call Queen's Park at (416) 325-7340.

Unfortunately, most MPPs aren't interested in meeting with, or listening to, the concerns of Ontario residents who are poor or people of colour. Often they ignore us and would rather protect the interests of people who vote and have money. In that case you will need to work harder to get their attention. You can do this in different ways.

Media Pressure

You can use contacts in the media (like newspapers and radio) to talk to other people about the problem and put pressure on the politicians. Although there are problems with the media (see *Tactic: Using the Media* section), if your story is particularly extreme then the mainstream press might take an interest. Try getting your community's media involved. A

newspaper or radio station that is aimed at members of community might listen to you and might be better at representing what is going on. An article or radio coverage might connect you with other people who want laws changed and might put pressure on the government to make changes. Talk to someone who has used the press before to get advice on how to talk to them.

Political Demonstrations

If you and a whole bunch of your friends, or people who feel the same way as you, show up at a meeting or press conference or community event and make a big scene, often things start happening. Politicians don't like to be embarrassed (especially around election time) so sometimes that's the best way to make them talk about the problems you have with the laws that result in police misconduct. Talk to community and political organizations (likes the ones listed at the end of this booklet) about organizing a protest. It also really scares politicians when groups that they see as separate (like different ethnic groups or unions) work together! See the section *TACTIC: Organizing Demonstrations* above.

Using the Courts

If the government's laws violate the *Charter of Rights and Freedoms* because they are racist or sexist or infringe on your individual freedom rights, the courts can say that they are invalid. When this happens, the government must challenge that decision in a higher court or change the law. Some groups are working on challenges to the *Safe Streets Act* and to Ontario's welfare legislation. If you want more information about these you should call OCAP or your local legal clinic (see Chapter 6: Resources).

Of course, changing the law takes a long time and sometimes doesn't work. That's why people who are being targeted by the police need solutions right now to protect themselves.

But the problem is really with the law and the systems that support those unfair laws.

TACTIC Using City Politics

Although a lot of the laws the police use to harass people are provincial or federal laws, the City of Toronto government (City Council) also has a say in policing in three ways.

Money

City Council gives the police their budget so they have a lot of say in how the police spend their money. For example, the City decided to give the police more money for the Community Action Policing program (see Chapter 1: What is Policing?). They have a big budget and it is one of the few areas where the City is spending more money – unlike housing, welfare, recreation, libraries etc. The police have to explain to council how they spend their money.

Management

The City of Toronto also oversees how the police are managed. The Mayor and two City Councillors sit on the Police Services Board. The Police Services Board makes a lot of big decisions about what the police will do and how they will do it. The police have to explain to them what their plans and goals are. The politicians are supposed to ask the Chief of Police about the actions of the police.

By-laws

The City can make by-laws which the cops use to harass people. These include rules about who can be in city parks and when, and rules about trespassing and people making too much noise. The police use these by-laws to kick people out of public spaces, ask for their names, take pictures of them and to stop them from hanging out in certain areas.

To get these things changed we need to put pressure on City Councillors in the same way we would put pressure on provincial MPPs – through meetings, media and demonstrations. Some Councillors have a better idea about what the cops are really up to than others do. If you call them and ask them (or whoever answers their phone) a few questions about police in Toronto, you will be able to figure out quickly whose side they are on.

To find out who your Councillor is, call City Hall at
(416) 392-8016.

The telephone number for the Mayor's office is
(416) 395-6464.

Two organizations that challenge Toronto's politicians on issues around policing are the **Urban Alliance on Race Relations** and the **Committee to Stop Targeted Policing** (see Chapter 6: Resources for how to reach these and other groups).



Eric Drooker

Chapter 6: Some Resources

Emergency Telephone Numbers

Anduhyan Aboriginal Crisis Team	(416) 531-0330
Assaulted Women's Helpline	(416) 863-0511
Gerstein Centre Crisis Line – 24 hour crisis intervention service	(416) 929-5200
Toronto Rape Crisis Centre/ Multicultural Women Against Rape	(416) 597-8808

Community Organizations

Across Boundaries,

An Ethnoracial Mental Health Centre (416) 787-4421
www.web.net/~accbound

Across Boundaries is an ethnoracial community mental health centre which provides a range of supports and services to people of colour who are experiencing mental health problems

Anti-Racist Action (ARA) (416) 631-8835
ara@web.net <http://www.web.net/~ara>

ARA is part of a Canada-wide network that uses direct action and public education to fight against racism (including racist policing) and white supremacist movements.

Black Action Defence Committee (BADC)

(416) 656-2232 Fax: (416) 656-2252

BADC is one of the oldest organizations in Toronto dealing with police harassment and brutality.

Chinese Canadian National Council

(416) 596-0833 Fax: (416) 596-7248

toronto@ccnc.ca

Committee to Stop Targeted Policing

(416) 921-8668 ext. 28

Justice for Otto Vass

(416) 656-2232

justiceforotto@hotmail.com

On August 9, 2000, Otto Vass was beaten to death by four police officers. Justice for Otto Vass is following the trials of the police officers charged with the manslaughter of Mr. Vass.

Policing can kill you

Health Canada

Policing can harm your baby

Health Canada

Policing can be fatal

Health Canada

**Policing can cause heart
disease and stroke**

Health Canada

**Policing can brainwash
your children**

Health Canada

Policing can kill you

Health Canada

Photocopy and make stickers!

Latin American Coalition Against Racism (LACAR)

(416) 531-2411 ext. 248

lacar@tao.ca

LACAR responded with demonstrations and lobbying when police were using anti-crime posters that showed Latino youth in a racist light.

Ontario Coalition Against Poverty (OCAP)

ocap@tao.ca

OCAP Dundas and Sherbourne

(416) 925-6939

Fax: (416) 925-9681

OCAP Parkdale Office

(416) 530-1550

Fax: (416) 530-4335

OPIRG Toronto

(416) 978-7770

Fax: (416) 971-2292,

TTD: (416) 978-3098

opirg@campuslife.utoronto.ca

OPIRG Toronto is a volunteer-based group at the University of Toronto, with a mandate for action, education and research on environmental and social justice issues

Urban Alliance on Race Relations

(416) 703-6607

Fax: (416) 703-4415

June 13th Committee

june13committee@hotmail.com

The June 13th Committee, is a group created in response to the Toronto Police raid of the Bijou, a downtown gay porn bar.

Government Offices

City Hall – To find out who your city councillor is:

(416) 338-0338

Mayor's Office (416) 395-6464 Fax: (416) 395-6440

mayor_lastman@city.toronto.on.ca

Premier's Office (416) 325-1941 Fax: (416) 325-3745

webprem@gov.on.ca

Community Information Toronto (416) 397-4636

Community Information Toronto can tell you which legal clinic is closest to you and can provide information about women's shelters, counselling services or any other community agency.

Criminal Injuries Compensation Board (CICB)

(416) 326-2900

The CICB can provide financial compensation to victims of crime, including police brutality.

Legal Aid Ontario

(416) 598-0200

Legal Aid Ontario provides certificates for free legal help to those who qualify.

Ministry of the Attorney General (416) 326-2200

www.attorneygeneral.jus.gov.on.ca

The Ministry of the A.G. can provide copies of the Small Claims Court booklet.

Human Rights Complaints

Ontario Human Rights Commission (416) 314-4500

Jacque Chic (416) 531-2411 ext. 227

Parkdale Community Legal Services

Police complaints

Ontario Civilian Commission on Police Services (OCCPS) (416) 326-1189, 1-888-515-5005

Fax: (416) 314-2036 Toll Free Fax: 1-888-311-7555

Special Investigations Unit (SIU) (416) 622-0748
inquiries@siu.on.ca

Lawyers

Criminal

Paul Bennett
370 Bloor St. E.
(416) 962-1717

Paul Copeland
31 Prince Arthur Ave.
(416) 964-8126 x142

Catherine Glaister
31 Prince Arthur Ave.
(416) 326-2429

Jeff House
31 Prince Arthur Ave.
(416) 926-9402

Bob Kellerman
31 Prince Arthur Ave.
(416) 926-8034

Howard Morton
330 Bay Street
(416) 365-6300

Peter Rosenthal
688 St. Clair Ave. W.
(416) 657-1465

Community Legal Clinics

Aboriginal Legal Services
197 Spadina Ste. 600
(416) 408-3967

African Canadian Legal Clinic
330 Bay St. Ste. 306
(416) 214-4747

CLASP Osgoode Hall
Law School York University
(416) 736-5029
(minor offences only)

Downtown Legal Services
720 Spadina Ave., Suite 418
(416) 978-6447
(minor offences only)

Justice For Children and Youth
720 Spadina Ave., Suite 405
(416) 920-1633

Civil Litigators (for lawsuits)

Renée Lang
160 John St., 2nd Floor
(416) 598-0103

David Cass
5955 Yonge St. Ste 805
(416) 226-0055, ext. 31

Peter Rosenthal
688 St. Clair Ave. West
(416) 657-1465

Court Support

Victim/Witness Assistance Program (416) 326-2429

Counselling (416) 397-INFO (4636)

Other Reading

Community Legal Education Ontario (C.L.E.O.)

(416) 408-4420

www.cleo.on.ca

CLEO is a community legal clinic that produces clear language materials that help people understand their legal rights. Most CLEO publications are available in French and some are available in other languages.

CLEO publications include: *Prostitution and the law* (March 2000); *Police Powers: Stops and Searches* (February 2000).

Reports

Ontario Civilian Commission on Police Services (July 1999). "Report on a Fact-Finding into Various Matters With Respect to the Disciplinary Practices of the Toronto Police Service."

Ontario Civilian Commission on Police Services (August 1992). "Report of An Inquiry into Administration of Internal Investigations by the Metropolitan Toronto Police Force."

Ontario Legal Aid Plan (1994). *Uniform Treatment: A Community inquiry into the Policing of Disadvantaged Peoples*, Toronto, Canada.

Commission on Systematic Racism in the Ontario Criminal Justice System (1995). *Report and Report: A Community Summary*. Toronto: Queen's Printer for Ontario.

Useful Websites

<http://www.recorder.ca/police/PublicComplaints.html>

<http://www.interlog.com/~command/targetp.htm>

<http://www.torontopoliceboard.on.ca/faq.htm>

End Notes

- 1 Gabriella Pedicelli's book, *When Police Kill: Police Use of Force in Montreal and Toronto* (Véhicule Press), compares the development of policing in the United States, Britain and Canada.
- 2 *Serpico* & Lieutenant Arthur Doyle, in his essay, "From the Inside Looking Out: Twenty-nine years in the New York Police Department", in *Police Brutality: An Anthology* edited by Jill Nelson (New York: W.W. Norton and Co.) 2000.
- 3 Sara Schmidt, "Armed & Dangerous" in *This Magazine* Vol. 34, No. 1, July/August 2000, 19-24.
- 4 This kind of political activity is prohibited by the *Police Services Act of Ontario*.
- 5 "Under Surveillance: Race and Criminal Justice Surveillance in Canada" by Scot Wortley. Presented to the Toronto Police Services Board in December 1999 and *Report of the Commission on Systemic Racism in the Ontario Criminal Justice System*, 1995.
- 6 Committee To Stop Targeted Policing, *Who's the Target: A Report on Community Action Policing*, 2000.
- 7 Presently, the *Safe Streets Act* is being challenged. One of the problems is that it is vague and overbroad. "Aggressive" is defined as, threatening a person, obstructing their path, using abusive language, proceeding behind, alongside, or ahead of a person, begging while intoxicated, and begging in a persistent manner.
- 8 Some other places where you are prohibited from begging are close to an automatic bank teller, a public telephone, on a transit stop or on a TTC vehicle, a taxi stand, a parking lot, and public bathrooms.
- 9 In November of 1999 eleven Community groups and agencies made deputations to the Police Services Board about the negative effects of CAP and the increase in their clients' reports of violence and harassment at the hands of police to no avail.
- 10 See the report, *Who's the Target: A Report on Community Action Policing* by the Committee To Stop Targeted Policing, 2000. Note that in this year's budget the police are changing this program to what they call Community Response, which is based on the same principles.
- 11 At the time this booklet was written, the Canadian government was changing the *Young Offenders Act*. The changes might affect your rights when you are detained or arrested. Call Justice For Children and Youth for more information. They are listed in Chapter 5: Resources.

- 12 “Privileged” conversations are ones that are strongly protected by the law; it is very difficult for anything said in a “privileged” conversation to be used against you.
- 13 For example, a single person who has less than \$601 net income per month, and less than \$1000 in assets (savings, RRSPs, etc.) will be eligible. If you have more than that, Legal Aid will do a detailed evaluation on whether they think you have enough money to pay for a lawyer. There may be a \$25.00 processing fee which you can’t get back even if Legal Aid turns you down. If you are under 18 you may be able to get Legal Aid even if your parents do not qualify.
- 14 Christina Whyte-Earnshaw and Dieter Misgeld (eds.), *In Our Midst: Educational Aids to Work with Survivors of Torture and Organized Violence* (Toronto: Canadian Centre for Victims of Torture).
- 15 Also, policing is worse for certain other groups of people, including lower income people, homeless people, people with psychiatric problems, etc.
- 16 Ontario Legal Aid Plan, *Uniform Treatment: A Community Inquiry into the Policing of Disadvantaged Peoples* (Ontario Legal Aid Plan: Toronto, 1994) p. 31.
- 17 It is debatable whether or not the SIU has to power to make the police talk to the SIU investigators. Because of the extraordinary powers that police have, a legal argument could be made that information must be given to the investigators, although any information given could not be used in court against the suspect officer. The police chief and the police union take the position that police officers that are under investigation by the SIU do not have to talk or hand over their notes. Unfortunately, no one has yet challenged that position in court.
- 18 Special Investigations Unit, “SIU Occurrence Chart” in *SIU Hotline* (Vol. IV:I), Toronto, Summer 2000. Also available at www.siu.on.ca.
- 19 See OCCPS 1999 report, where a reference to 1992 report is made.
- 20 Even if the investigating officer is making the effort to be unbiased and really ask questions, the reality is that they often are blocked in their work by the “blue wall”. Susan Eng, former Chair of the Toronto Police Services Board, described the blue wall situation as “officers don’t tell on fellow officers” (*Globe & Mail*, 27.01.2000). In general, police officers go to great lengths to look out for each other. Even if an officer is willing to consider coming forward, the closed-rank culture of the police is a powerful discouragement from “snitching” on your “brothers.” Unfortunately, there are no effective sanctions in the *Police Services Act* that would punish officers for refusing to cooperate in either SIU or OCCPS investigations.
- 21 See the *Annual Report* of the Ontario Civilian Commission on Police Services, 1999.

- 22 In a famous recent case called *Jane Doe v. Toronto (Metropolitan) Commissioners of Police* (1998), 160 D.L.R. (4th) 697, a woman was successful in suing the police for “negligence in their duty to warn.” Ms. Doe had to fight hard to get the courts to even let her sue on this kind of wrong. It also took her over 10 years to do it and she was helped by a lot of community support and media attention. Ms. Doe was able to convince the judges that she should be able to sue the police for not warning women who were at particular risk of being assaulted by a serial rapist.
- 23 s. 7 of the *Public Authorities Act* makes the time limit to sue police shorter than for lawsuits against the general public. It might be possible to argue that this special time limit does not apply when the action you are suing for is malicious, illegal or intentional. It is best to try to avoid the problem of proving that you can extend the time, by seeing a lawyer right away.
- 24 In other provinces lawyers are allowed to take cases on a contingency fee basis. This means that if you win they get a percentage. This arrangement may mean that the lawyer may insist on having a lot/all of the control over the process (e.g. could accept an offer from the police that you don’t want, or could abandon your case without talking to you).
- 25 You can still sue the police for an amount higher than \$6,000 in Small Claims Court and you might want to do that to make a record of the amount you feel is really owed to you. The downside is that the balance of the “claim” is in name only – if you do an action in Small Claims Court you give up any right to get more than \$6,000 in that court, or in any other court. In other words, you can’t split up a claim for \$40,000 (for example) into \$34,000 and \$6,000 and try to claim the \$6,000 in Small Claims Court and the \$34,000 in another court.
- 26 Usually the Commission writes the complaint and sends it to you to look over. If you disagree with what they have written, the complaint can go back and forth and take some time before it is final. A legal clinic or lawyer might write the complaint for you instead, but that still takes time. If you do not file your final, signed complaint by the six-month deadline, the Commission can choose not to deal with your complaint simply because it is “late.”
- 27 Ontario Human Rights Commission, *Annual Report 1998/1999* (Toronto: Government of Ontario, 1999) at 77.
- 28 Susan Steffen, “Human Rights Commissions and Race Discrimination” in Errol Mendes (ed.), *Racial Discrimination: Law and Practice* (Toronto: Carswell, 1995) at 2-11 to 2-13.

For more copies of this booklet, call:

- Parkdale Community Legal Services (PCLS)
at 416-532-2411 ext. 263

OR

- Ontario Public Interest Research Group
at 416-978-7770

The booklet can also be downloaded from:

www.utoronto.ca

click on 'groups', then 'OPIRG'

Please feel free to make copies of this booklet.