

## Watchdogs, oversight and Ontario's thin blue line: How the stakes got so high



TYLER DAWSON, OTTAWA CITIZEN

More from Tyler Dawson, Ottawa Citizen

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A review is underway of police oversight in Ontario. And pressure to find reforms has rarely been higher.

Andrew Loku lay on the floor dead. Near his body was the hammer the 45-year-old had been holding when police pumped two bullets into his chest.

His death, in the hallway of a Toronto apartment building last July, had unfolded in a matter of moments — it was five minutes from the time a neighbour called police until the fatal confrontation with police.

From there, the timeline stretches out. It would be eight days before Ontario's police watchdog, in search of answers, interviewed the officer who shot Loku. It would be nine more months before the public was told what had happened.

Next March, eight months from now, Ontarians will find out whether the events of that night in Toronto will prompt a fundamental change to the oversight of police forces in this province.

It is change, some say, that has been years in the making.



The killing of Loku spawned a massive outcry in Canada's largest city. Black Lives Matter Toronto protested from a tent city in front of the city police headquarters and picketed outside of the home of Ontario Premier Kathleen Wynne, demanding answers. The incident, in the minds of protesters, was hardly isolated. It had been less than a year since Michael Brown was shot dead on the streets of Ferguson, Mo., by officer Darren Wilson. The death caused outrage across America, sparking massive protests. Even outside of the United States, it was galvanizing.

"It was a really big moment for all of us, black people globally, because there was something about the ways in which Mike Brown died and how he was brutalized by police and dehumanized in such disgusting and vile ways that everyone could connect to," says Yusra Khogali of Toronto's Black Lives Matter.

In the United States, those tensions are still simmering. Two more black men were killed by police this week, caught on cellphone video. Then, on Thursday night, what seems to have been a tipping point: five police officers were shot dead in an ambush in Dallas. While the circumstances remained unclear,

the Dallas police chief, David Brown, says “The suspect (later killed by police) said he was upset at white people; the suspect said he wanted to kill white people,” according to the New York Times.

Almost a year ago in Toronto, protesters were asking similar questions to those in America: Who had shot Loku, and why? What was the officer’s name?

They wanted to see any video footage from within the apartment building.

But that was not the way things are typically done. When a police officer kills or injures someone in Ontario, the silence is almost absolute. Police forces immediately decline to comment and instead refer inquiries to the SIU, which is equally tight-lipped. When investigators finish their work, a report is submitted by Tony Loparco, the director of the unit, to the attorney general.

A summary is usually the most Ontarians get. The detailed reports explaining the findings of the investigation have — until now — not been made public.

On April 29, 2016, the Ministry of the Attorney General released the heavily redacted report into Loku’s death. Many details were absent, particularly about the shooter, but others are missing, too: The report declines to say which floor of the building Loku died on and whether or not officers went up or down the stairs on the way to confront him.

Of the 34-page report, only nine pages were released to the public.

At the same time the province announced that Michael Tulloch, an Ontario Court of Appeal judge, would review police oversight. He has until March 31, 2017 to report back.

“What I wanted to have, because you know a lot of concern came from Black Lives Matter, so I thought it was important to have someone that will review it, that is a very highly respected person in the black community, and so I was very pleased to be able to have Justice Tulloch,” says former attorney general Madeleine Meilleur at Queen’s Park.

The Citizen repeatedly requested interviews over May and June with current staff at the SIU, director Loparco and any available management; those inquiries were declined or ignored. “He is simply unable to fulfill all those requests while he is fully engaged in the important and pressing business of the unit,”

says spokesman Jason Gennaro in an email. Thirteen questions were sent to the SIU, with two specific issues seeking comment — there were no answers provided.

Meilleur was lauded for her willingness to take on the issue, and to go ahead with Tulloch's review, but the file has now passed to the new attorney general, Ottawa MPP Yasir Naqvi.

The review will examine not just the Special Investigations Unit, which looks into serious injury, death and sexual assault by police, but also two other bodies, the Office of the Independent Police Review Director, which deals with public complaints, and the Ontario Civilian Police Commission, which hears appeals from police disciplinary action and investigates chiefs, officers and members of police service boards.

Liberal MPP Yasir Naqvi spoke to reporters outside of Broadview Public School on Wednesday outlining his platform for the coming provincial election. OTTAWA, ONT., MAY 14, 2014--NAQVI (Pat McGrath/OTTAWA CITIZEN) ASSIGNMENT #117067 CITY story by Rob Bostelaar SAXO--0515 elxn Naqvi VIDEO--YES

Newly-named Attorney General Yasir Naqvi. PAT MCGRATH / THE OTTAWA CITIZEN

The issues go well beyond what's spelled out in the Order in Council. "We want to give Justice Tulloch the latitude and the independence to be able to look at all aspects," Naqvi says.

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This is not the first time the SIU has been reviewed or its practices scrutinized. The organization has been steeped in conflict since it was created, caught between a public and media that demand increasing transparency and the men and women paid to keep us safe, empowered to kill if necessary, who have long bristled at civilians reviewing its conduct.

This is the story of those tensions.

## THE BACK STORY

Many of the problems with oversight have been known for 25 years. Julian Falconer, a Toronto lawyer who's dedicated much of his career to seeking justice for families of police violence, says the issues

“have been studied to death.” That includes two reviews by Judge George Adams, two scathing reports from André Marin, then-Ontario ombudsman, and also a former director of the unit, plus another from Judge Patrick LeSage and one by Rod McLeod.

“If there’s a problem, it can’t be that it hasn’t been looked at,” says Falconer. “I hate to resort to Nike: Just do it.”

So why haven’t we “just done it” and fixed the system that oversees policing?

The answer to that question is complex, its roots decades old.

In the 1970s and ’80s, news started to trickle out about a technique favoured by the Toronto police Hold-up Squad to extract confessions. “It consists of handcuffing a person, usually naked, then tightening a plastic bag over his head so that he begins to suffocate,” explained The Canadian Press in August 1983.

At the time, relations between minority communities and the Toronto police were not good. This eventually led, in 1981, to a complaints system solely for that police force.

But by the end of the 1980s, oversight began to spread across the province, spurred on by several key incidents. In December 1988, 17-year-old Michael Wade Lawson was shot and killed by two Peel police officers in Mississauga. He had, the officers said, been running them down in a stolen car.

Inconveniently for them, Lawson had died from a bullet in the back of his head. The death was quickly labelled an execution. The court, though, heard the officers had fired into the back of the car after it had gone by them. The two officers were acquitted by an all-white jury in April 1992.

In April 1989, a task force on race relations reported to the solicitor general. One of its recommendations was to create a civilian oversight body to hold police accountable. In 1990, as part of the Police Services Act, the SIU was created, labelled at the time by Ottawa Police Association president John Petersen as a “Toronto solution applied to the whole province.”

Today — crucially — as in 1990 or 1980, police oversight is practically inextricable from race relations.

Justice John Osler — who had survived a gunman opening fire in his courtroom in 1982 — became the SIU's first director on Sept. 26, 1990. Those early years weren't easy. The SIU faced interminable opposition from police forces, criticism over its professionalism, its investigative prowess and the lengths of its investigations.

Howard Morton, the second director of the unit (William Wolski was briefly the interim director after Osler) from September 1992 to March 1995, says, "The difficulty began almost immediately," in his relationship with the police, though officers thought at first they'd have an easier time because Morton was a Crown attorney.

"The police still felt they could make it go away, that it wasn't going to last, right," Morton says. "Quite frankly, it was just an ongoing battle almost from Day 1."

Peter Tinsley, who's now the vice-chairman for North America with the Institute for Justice Sector Development, an NGO that works to address rule of law issues in struggling nations, became the unit's director in January 1999. The SIU then had practically no forensic capabilities, and its Toronto high rise headquarters meant that parking took "an enormous bite out of the budget for no good reason at all."

"The (unit's) first nine or 10 years were not good years," Tinsley says. "There was nobody more surprised than me when I accepted the appointment."

For years, directors struggled to get the unit into a properly functioning system, under onslaught from police unions, lawyers and pundits. "(It) is a good idea plagued by poor management, poor funding and ill luck," wrote the Citizen's editorial board in September 1994.

## POINTS OF CONTENTION

Among the major debates in the early days was whether or not police had a "duty to co-operate" with an SIU investigation. The answer became law in the Police Services Act in 1999, as refusing to co-operate with the SIU became "a neglect of duty," writes former SIU director Ian Scott in the book *Issues in Civilian Oversight of Policing in Canada*.

The reluctance of officers appeared to be more than passive. Directors have often laid out in their news releases and reports — and in letters to police chiefs — grievances about investigations. (In a very recent instance, the Loku case, there was video of the incident in the building. But an officer "saw fit to

attempt to review and download the video recordings,” the director’s report says. And, the critical moment — Loku’s death — was missing. It didn’t appear anything untoward had happened to the video, the report says.)

This sort of grievance, says Scott, can be referred to the police service for followup (as can other issues involving non-co-operation). But he says often the police service simply decides nothing is wrong with the officer’s conduct. A better option, he believes, would be to find a way to independently adjudicate these complaints, such as referring them to the OIPRD or the OCPC. “These matters should be dealt with independently, and outside of the purview of the affected service,” he says.

Former Ontario Ombudsman.

Former Ontario Ombudsman. AARON VINCENT ELKAIM / THE CANADIAN PRESS

Another problem has been the definition of “a serious injury” that would fall into the SIU’s mandate. Marin, when he was the Ontario Ombudsman, found that the SIU definition of serious injury — adopted back in 1991 by the first director — wasn’t being used by all police; instead, some used narrower versions. The Osler definition says:

“‘Serious injuries’ shall include those that are likely to interfere with the health or comfort of the victim and are more than merely transient or trifling in nature and will include serious injury resulting from sexual assault.

‘Serious injury’ shall initially be presumed when the victim is admitted to hospital, suffers a fracture to a limb, rib or vertebrae or to the skull, suffers burns to a major portion of the body or loses any portion of the body or suffers loss of vision or hearing, or alleges sexual assault. Where a prolonged delay is likely before the seriousness of the injury can be assessed, the Unit should be notified so that it can monitor the situation and decide on the extent of its involvement.”

Marin reported the Ontario Provincial Police had rather conveniently lopped off the first clause in the SIU’s definition, which therefore restricted it. Today, there is still no universal definition of serious injury, meaning the SIU doesn’t always know which definition a police service is using, says Scott, and he’s long suggested it be codified in law.

Some, if not all, of the historical issues have been addressed — major increases in the unit’s budget over the years meant that it has expanded to 15 full-time investigators in 2014-15, with another 39 regional investigators, and more forensic capabilities, for example, have improved the quality of investigations over the years. As the outcry over recent shooting deaths and the subsequent lack of consequences — perceived or justified — attests, there are still many grievances about police oversight.

“The problems that existed when I was there still exist today,” says Morton, speaking slowly and thoughtfully from behind a desk in his Yorkville office. “The big difference ... is the police realize SIU is not going away.”

\*\*\*FREELANCE PHOTO - POSTMEDIA NETWORK USE ONLY\*\*\* TORONTO: FEBRUARY 3, 2012-- POLICE SHOOTING- Special Investigations Unit were called to the east-end street of Milverton Boulevard in Toronto where a 29-year-old man wearing only a hospital gown and armed with scissors, was shot by a police officer after a confrontation at around 10am on Friday, February 3, 2010. He was taken to hospital without vital signs. (Michelle Siu for National Post) ADD: Michael Eligon (victim)

A Special Investigations Unit investigator on scene of a shooting in Toronto. MICHELLE SIU

#### SIU IN THE CROSSHAIRS

Of the three oversight agencies in Ontario, the Special Investigations Unit is the most high profile. It gets the issues that make front pages — the shooting deaths, the assaults in custody, the car chases and broken bones during arrests. In 2014-15, it opened 266 investigations (and closed 253), the majority of them in-custody injuries. Only six were firearm deaths; 41 were allegations of sexual assault. Eleven of the investigations were in Ottawa.

Charges were laid in 13 cases against 12 officers.

But those numbers don't come close to those sent to the OIPRD; roughly 3,000 complaints are received annually, though many are referred back to individual police services for internal investigation.

Tulloch's review is specifically looking at a few issues, and they encompass all three of the oversight units: The government has requested he first examine whether or not SIU reports — past and future — should be released publicly, and whether or not the names of officers involved in incidents should be released. He'll also look at how to reduce overlap between the agencies, clarify mandates and “enhance the transparency and accountability of the police oversight bodies,” says the Order in Council. This, too, will look at whether or not there should be information sharing and whether or not demographic stats should be collected.

Despite the problems and criticism, the SIU was — and still is — a cutting-edge oversight body.

“I am a believer that the SIU is the most robust investigative tool for police use of lethal force or serious force in the country,” says Falconer, “and far from it ailing or being systemically damaged, it is an important unit.”



Protesters place signs out front of the Toronto police headquarters. COLE BURSTON / THE CANADIAN PRESS

‘UTTER BULLS\*\*T’

With the partial release of the SIU report into Andrew Loku’s death, those clamouring for more transparency have already won a victory of sorts in the court of public opinion. The limited amount of information, in particular, raised eyebrows and garnered plenty of criticism. For an agency whose mandate is all about accountability, the SIU just isn’t all that transparent or, perhaps as a result, accountable.

“All this information should be made public, because these are police officers that are accountable to us and we don’t even know if they’re out on the street and we encounter them,” says Khogali. “What they released so far” — in Loku’s death — “is utter bulls–t, because ... everything was omitted. So whatever they’re giving us right now isn’t working.”

But it’s complicated — civilian witnesses are promised confidentiality, a measure in place to secure co-operation.

“We cannot just say ‘Let’s fix it,’ because the witness were promised when they were interviewed that it will be kept confidential, so, you know, I don’t think it’s correct to just, myself, make that decision,” Meilleur says.

This isn’t a new question, though. In 1998, the Adams report said, “A public report seems central to providing the necessary accountability and community confidence.” The argument in favour of release is that a report allows the public to scrutinize the SIU’s work, says Jagmeet Singh, the MPP for Bramalea-Gore-Malton and the Ontario New Democrats’ justice critic.

“The concern from the public is they don’t know what the decisions are based on, they don’t know what the details are, they don’t know if the perspectives of independent witnesses are factored in, and it makes people feel less trusting in terms of the results of what the SIU concluded,” Singh says.

There’s widespread agreement on that. But Tinsley isn’t convinced that releasing the reports in full would be quite the victory for accountability that some are hoping for, though he says there were reports in his time as director he would have liked to release.

“I’m not sure it’s the magic bullet solution,” he says. “In part, the analysis in the reports included legal analysis, which wouldn’t be comprehensible to some people.”

The larger hurdle is privacy, both for officers and the public.

“The danger of disclosing information, in my humble opinion, is you compromise future witnesses,” says Robert Hughes, a former SIU investigator who’s now with the Western University campus police.

“There’s a reason for confidentiality and it’s because we want police officers’ information to be full and frank when we get it and we want civilian witness’ information to be full and frank when we get it.

“I think it’s a slippery slope.”

The question of anonymity of police, too, is another issue. Matt Skof, the president of the Ottawa Police Association, takes exception to the way officer names trickle out. Even if the SIU hasn’t released them, they can become public, he says, if an officer is suspended with pay, and names do end up coming out at coroner’s inquests.

“You’re putting people’s personal lives in jeopardy by outing them without even having an investigation,” Skof explains. “Even once the investigation’s concluded, if you’ve already outed the names or you’ve already put forward the names, it’s impossible to retract it. That causes a lot of problems.”

Undeniably, an SIU investigation is rough on officers.

“You’re putting the officer and his or her family through a very difficult period, as well as the people who are waiting to hear why this happened to their loved one,” says Joe Couto, spokesman for the Ontario Association of Chiefs of Police.

A potential workaround seems obvious, itself, though.

“There may need to be redactions, there may need to be consents, does this sound familiar? Yes, it happens every day,” Falconer exclaims.



Response time has been an issue for the SIU in some jurisdictions. ASHLEY FRASER

#### WHAT HAPPENS AT THE SCENE?

Even before the report-writing stage, SIU investigators need to secure the co-operation of police officers, both the officer who’s suspected of causing injury or death or committing a sexual assault and the others who saw what happened. The scene of the incident, though, can present the first hurdle.

In the Eastern Region, home to 15 per cent of SIU cases in 2014-15 — and where Ottawa is located — the SIU's response time to an incident was about three hours.

What can happen in that time? Sometimes, nothing: The scene is secured; SIU investigators arrive, and do their work. But a longtime complaint has been that police don't properly secure the scene, witnesses are moved or interviewed by police and the officers who are likely to find themselves under investigation leave or take time to confer with lawyers and other officers.

Sometimes, delays are simply because a serious injury (Scott used the example of broken ribs) wasn't realized until much later. But other times, odd things happen at scenes.

In September 2014, Peel Regional Police shot and killed 33-year-old Jermaine Carby. The officer (again unidentified, though later revealed at a coroner's inquest) refused to co-operate with the SIU investigation, and was cleared in July 2015.

In the news release announcing that Carby's killer would be cleared, Loparco revealed that while the police had maintained Carby was brandishing a knife, the SIU investigators found no weapon on scene. It turns out, Loparco says, that an officer had removed the five-inch kitchen knife, handed it over to another officer who "several hours after the incident" gave it to the SIU.

"It is highly regrettable that one officer removed the knife from the scene. His ill-advised conduct has cast a pall over the integrity of the SIU's investigation," says Loparco in the release. It has, naturally, given rise to the conspiracy theories that there never was a knife in the first place, and that police later planted the knife with the SIU.

"That scene is not a police scene," says Marin. "That scene belongs to the SIU."

As well, questions remain over whether or not officers should have to co-operate with the SIU.

Officers get divided into categories during an SIU investigation. There are "subject" officers, whose conduct is the focus of the review; and there are "witness" officers, who are interviewed as the SIU collects evidence. Witness officers do have to submit notes and to an interview, but subject officers don't have to be interviewed, or turn over their notes to investigators.

Constitutionally, police get the same rights the rest of Canadians do — we can't be compelled to provide information that can be used against us in court. An officer who's just shot someone to death doesn't have to talk about it for that very reason, though there's a roiling debate about that.

"It's the biggest problem that there is," says Morton. He figures that Section 1 of the charter, which allows governments to limit rights, would apply to police in these circumstances: "They're acting in a public trust, they're carrying out actions in the public's name, and the public is entitled to know what they say happened."

"I think a free and democratic society requires the police to account for why they shot somebody," Morton concludes.

That can't happen, counters Skof, who, as the union boss is responsible for advocating on behalf of his members. "There's no abdication of your constitutional rights as a police officer. This is a criminal investigation."

One particular grievance of police is who is deemed a witness officer, versus a subject officer. There is a suspicion, if not an outright belief, that the SIU designates officers as witnesses when they ought to get the protections of subject officers. "SIU will try and designate as many people as witness officers to get their notes to get interviews," Skof explains.

Some of the significant historical questions have been resolved, though, including whether or not officers are allowed to consult with their lawyers before submitting their notes to the SIU. This debate ended in a court battle that reached the Supreme Court, which affirmed officers could not consult legal counsel first.

## THE HIGH BAR OF CRIMINAL CHARGES

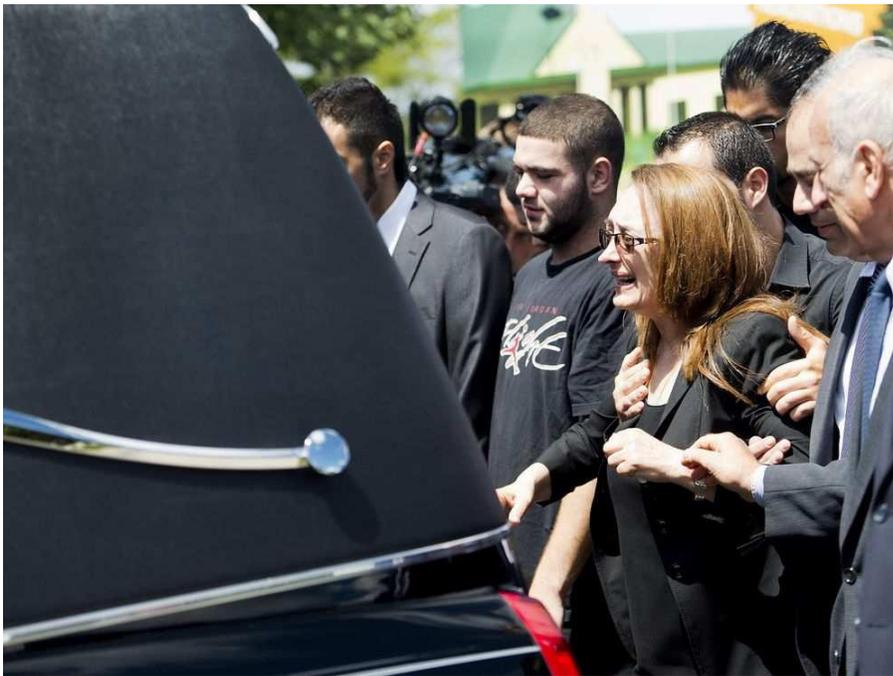
Given the mandate of the SIU and the cases it becomes involved in, there is often criticism when charges aren't laid, or when officers are cleared. This, says Margaret Beare, a professor at Osgoode Hall Law School, is because SIU investigations are criminal, and that's a high bar to clear.

"If the officer has done something incredibly unnecessary and incredibly ill advised, but not criminal, then the public is left thinking 'Oh my God, there's no accountability,' where in fact the mandate is

limited to criminal violation which, given the police powers ... it's such a rare, rare thing when somebody can be found responsible under an SIU-kind of mandate," Beare explains.

Even then, it is a cold comfort to families.

"If somebody shot my son, even though I'm a lawyer, I wouldn't care what the law was, I want that son of a ... you know, the family will never be completely happy unless there's charges, and there's not going to be a lot of charges. Most of the time, police are justified in the use of force," Morton says.



Sahar Bahadi mother of Sammy Yatim, centre, cries as she follows the hearse carrying the casket of 18-year-old at his funeral in 2013. NATHAN DENETTE / THE CANADIAN PRESS

#### MEASURING THE LENGTH OF THE THIN BLUE LINE

The public perception of police oversight in Ontario depends largely on whether the SIU is seen as just an extension of the thin blue line. That is, of course, a matter of perspective. But that perspective matters; the premise of civilian oversight is that cops can't investigate themselves, and even if they were to do so, the perception that it was biased would be damaging.

The director of the SIU cannot be a former police officer. But, investigators can be retired officers, though they're forbidden from investigating any police service they've worked for. Tulloch will review what role former officers will play.

"Once you're a cop you're still a cop because it's such a culture, so that culture takes on to the SIU," says Karyn Greenwood-Graham, whose son was shot dead by police in 2007 after robbing a pharmacy.

Marin says he found there was a "decidedly pro-police bent" when he did his ombudsman investigations. He said investigators were wearing rings, cufflinks and ties with police service insignias and using cop slang in their work.

Hughes, the former SIU investigator, says the unit has a bit of a "para-police culture," but that's because of the nature of the work. Like detectives, officers carry duty books and write reports and interview witnesses. "We conducted our daily routine the same way that any detective office in Ontario would've," Hughes explains. "It wasn't like a full working police culture because we did have a bit of variance in backgrounds, and we did work for the Ontario government."

Khogali, of Black Lives Matter, says the makeup of the SIU is important, and should be more heavily weighted with civilians.

"What's really at the heart of everything is the SIU, because that's who is protecting these police officers and allowing for these deaths and injustices to happen in our community like it's nothing," she says.

The perception certainly depends on which side of the thin blue line one stands.

"I understand the perception I suppose, but I mean that's not the case. It's funny, the police think that (we) — SIU investigators — are the other way; they think we're out to get them," says Hughes. "You're gonna have that. You're going to have people who doubt."

Some of the finest investigators in his day, Hughes says, were labour investigators because they knew how to do an investigation.

"The SIU cases are not whodunit," agrees Marin.



An SIU officer

documents the scene after an unmarked Ottawa Police van collided with a cyclist back in 2001. DAVE CHAN

#### QUALITY CONTROL

Police forces and their advocates have been among the harshest judges of the quality of work carried out by their watchdogs.

Skof says his officers would be disciplined if they produced the same quality of reports as SIU investigators. Who, he says, if not a police officer, knows how to conduct a proper criminal investigation? Ottawa police Chief Charles Bordeleau echoed those concerns at a recent editorial board with the Citizen.

Ottawa Police Chief Charles Bordeleau meets with the Ottawa Citizen Editorial Board.

Ottawa Police Chief Charles Bordeleau meets with the Ottawa Citizen Editorial Board. WAYNE CUDDINGTON

"I believe in oversight. We need that. But I think that there's changes that need to take place, from a structural perspective, in these three bodies, and there needs to be a higher accountability of their results and the outcomes that they have," he says, adding that he feels some OIPRD investigators are "not very stellar."

Coupled with this are police concerns over the power the SIU holds to lay charges. The discretion lies solely with the director, based on the report from investigators. Skof would like to see the power to have charges laid taken out of the SIU and handed over to the Crown attorney's office.

"You remove that ultimate power that they have," — SIU directors — "which is where all the problems lie, and you turn it over to another organization to actually make the decision so it doesn't all remain in one organization unfettered," he explains.

This, if done, would mimic what happens in British Columbia, where the Independent Investigations Office submits the report to the Crown. "The IIO does not recommend or lay charges. That is the purview of Crown," says Marten Youssef, director of public engagement and policy, in an email.

In Ontario, Scott says, the system is that police lay charges directly, and so the SIU director doing so follows the same model; there is no screening by the Crown. It is, however, up to the Crown to withdraw charges if necessary, which will be laid out in court, something Scott says adds another layer of accountability.

"We have a tradition of independence of the police," says Scott. "What's happening with the SIU ... they've simply mimicked what happens in every other investigative agency in the province."



Protesters chant out front of the Toronto Police Headquarters. COLE BURSTON / THE CANADIAN PRESS

## THE QUESTION OF RACE

Police oversight was born out of racial tensions in Toronto and the perception of bias on the part of police. In the same way that carding and street checks have forced racism to the front of the public debate, Tulloch's review is looking at whether or not the SIU should keep race-based stats, as well as information about mental health (and how all of this should be collected.)

Previous analysis of SIU data by Scot Wortley, a University of Toronto criminologist, for the Ipperwash Inquiry found that "Aboriginal Canadians and African Canadians are highly over-represented in SIU investigations."

"I think that the more data we collect, the more evidence we have to then make informed decisions. It only can benefit us," says Singh, pointing out the statistics collected on carding. "That led to the conclusion that maybe skin colour and race was a factor in why they were being stopped."

Gerry McNeilly, the director of the OIPRD, says race data was something he would have liked to keep, but it wasn't an idea greeted with enthusiasm at the time the unit launched. "Everybody has come full circle now," he says.

Skof, on the other hand, says race data is "irrelevant."

"The data itself will never show racial profiling, it's as simple as that," he says. "It will show you who, where and when, but the why — that data is without context."

## THE ROAD AHEAD

Fundamentally, the current review is about public confidence in the system.

"For the justice system to work, the public needs to have trust in the administration of justice, and one of the elements of the administration of justice is the police," says Singh. "Greater accountability would bolster the public's trust in the administration of justice, and therefore the trust in the police."

But will anything change? Naqvi wouldn't commit outright to implementing whatever recommendations come across his desk, though he's suggested changes and updates are needed both to policing and oversight.

"I don't want to prejudge the outcome, that won't be wise on my end," he says. "I really do want Justice Tulloch to do his work."

Regardless of the outcome, not everyone will be happy. Changes could lead to court battles between the province and police unions and no doubt a lot of political will is needed to make major changes to oversight.

"There are always going to be hard core contingencies that you're never going to satisfy," says Scott. "The grim reality is that in a society where we arm our officers ... there are going to be circumstances where use of force is going to be used and sometimes that use of force is going to lead to death."

And in most cases, he says, the officers will be cleared.

"That's a rough comfort to those that've either suffered as a result of the use of force, or their family members who've had someone they love die."



A handout photo of Andrew Loku, shot dead by police, with his eldest daughter, left, and sons Emmanuel and Isaac in Toronto on Tuesday, July 14, 2015. J.P. MOCZULSKI / J.P. MOCZULSKI

## A DEADLY TIMELINE

At 12:02 a.m. on July 5, 2015, a phone call was made to Toronto police. A man with a hammer had threatened to kill the caller's friend. It was a dispute over noise.

At 12:05 a.m., Toronto police arrived at an apartment building on Gilbert Avenue, in York. The avenue intersects with Toronto's Little Jamaica.

They soon confronted the man with the hammer, 45-year-old Andrew Loku, ordering him to drop the weapon. "What are you gonna do, come on, shoot me," Loku told the officers, the hammer in his right hand, held above his head, according to the SIU director's report.

At 12:07 a.m., Loku, a father of five, was on his back on the floor, shot twice in the chest.

By 12:26 a.m., Loku was declared dead, despite first aid from two police officers and paramedics. Two bullet casings lay on the apartment building floor.

At 12:31 a.m., the Toronto Police Service notified the Special Investigations Unit that a cop had killed somebody. The unit investigates serious injury and death at the hands of police.

At 1:22 a.m. an SIU team was dispatched. Three SIU investigators were assigned, as were three forensic investigators.

By 1:43 a.m., they were on scene.

Only one officer was interviewed on July 5.

The officer who killed Andrew Loku — we don't know their name or rank or gender — did not speak to the independent oversight agency until July 13, eight days after the shooting.

On March 18, that officer was cleared.

It wasn't until April 29 that Ontarians finally got to hear what happened in Loku's final moments.

