

## Inspectorate of Policing Public Complaint Form

**Please send this completed form to:**

**Email:** [iopcomplaints@ontario.ca](mailto:iopcomplaints@ontario.ca) or

**Mail:** Public Complaints - Inspectorate of Policing  
25 Grosvenor St., 15<sup>th</sup> floor  
Toronto, ON M7A 1Y6

If you have questions about how to complete this form, please email [iopcomplaints@ontario.ca](mailto:iopcomplaints@ontario.ca) or call 416-314-4130 / 1-888-333-5078.

### Before you begin:

- Please ensure all sections of the complaint form are complete. An incomplete form may delay the processing of your complaint.
- You will be required to provide some personal information in order to complete this form; we do not accept anonymous complaints.
- The Inspector General of Policing only handles complaints related to compliance with Ontario's Community Safety and Policing Act and its regulations by:
  - police services
  - police service boards
  - organizations that employ special constables
  - This includes complaints about the provision of adequate and effective policing.
- We also accept:
  - complaints regarding the conduct of police service board members
  - complaints about police service board policies and procedures established by Chiefs of Police
- Complaints related to the actions of individual police officers should be directed to the [Law Enforcement Complaints Agency](#) or the [Special Investigations Unit](#). Complaints about the conduct of special constables should be directed to their employers.

Members of a police service and special constables can make a disclosure of misconduct under section 185 of the Community Safety and Policing Act. Contact [iopdisclosures@ontario.ca](mailto:iopdisclosures@ontario.ca) , or 416-314-4130 / 1-888-333-5078 for more information.

## Step 1 of 5

### Complainant Information

Last name (required):  First name (required):   
Preferred name (optional):  Pronouns (optional):   
Date of birth (optional):

### Contact Information

Address line 1 (required):   
Address line 2 (optional):   
Province (required):  Postal code (required):   
Country (required):   
Preferred method of correspondence (required): Email  Mail   
Email (required):   
Please include a telephone number we can use to contact you during business hours  
(Monday to Friday, 8:30 am to 5 pm, excluding holidays).  
Telephone (primary) (required):   
Telephone (alternative) (optional):

### Accommodation needs (optional)

The Inspectorate of Policing adheres to the *Ontario Human Rights Code* and the *Accessibility for Ontarians with Disabilities Act*. If you have any accommodation requests, please describe them below.

### Board membership

Are you a current or previous member of a police services board, including OPP detachment or First Nation OPP board? (required)

No:  Yes:

**If yes:**

Your role in the organization (optional):

Other role description and/or organization description (optional):

**Representative**

You do not need a representative to file a complaint. However, if you have someone assisting you with your complaint, please provide their contact details. By supplying their information, we will be able to share the details of your file with your representative and they will be copied on any future correspondence related to your complaint.

Will you be using a representative?

No:

Yes:

**If yes:**

Last name (required):

First name (required):

Address line 1 (required):

Address line 2 (optional):

City (required):

Country (required):

Province (required):

Postal code (required):

Email (required):

Telephone (required):

**Other agencies**

Have you reported this complaint to another agency, such as the Law Enforcement Complaints Agency or the Special Investigations Unit? (required)

No:

Yes:

**If yes:**

Agency name (required):

## Step 2 of 5

### Complaint details

Date of incident: Please identify the date span relevant to your complaint to the best of your knowledge.

From (required):  To (required):

### Board member complaints

**Only complete this part of the form if your complaint is about the conduct of a police service board member.**

If your complaint is about another matter, skip this section and go directly to the next section.

Examples of subject individuals include:

- a member of a police service board
- a member of an Ontario Provincial Police detachment board
- a member of a First Nation Ontario Provincial Police board

Last name (required):

First name (required):

Organization the individual is associated with (optional):

### Policing complaints

**Only complete this portion of the form if your complaint is about:**

- the adequacy and effectiveness of policing provided under this Act or its regulations
- a failure of a subject organization including a systemic failure to comply with the Community Safety and Policing Act and its regulations (Other than misconduct), or
- the policies or procedures of a police service board or Chief of Police

Examples of subject organizations include:

- a police service, including the Ontario Provincial Police
- a police service board
- an Ontario Provincial Police detachment board
- a First Nation Ontario Provincial Police board
- an organization that employs special constables

Organization (required):

## Step 3 of 5

### Complaint summary

Please include as much information as possible about your complaint in the text box below, such as:

- Who is your complaint about?
- What is your complaint about?
- Where did the incident occur?
- When did the incident occur?
- Why are you filing this complaint?
- How does the incident impact you or the community as a whole?
- What outcome are you seeking by filing this complaint?

### Summary (required):

See Schedule A attached.

## Step 4 of 5

### Witnesses

Witnesses include any individuals who may have information that is relevant to your complaint.

#### Witness 1 (optional)

|                 |                      |              |                      |
|-----------------|----------------------|--------------|----------------------|
| Last name:      | <input type="text"/> | First name:  | <input type="text"/> |
| Address line 1: | <input type="text"/> |              |                      |
| Address line 2: | <input type="text"/> |              |                      |
| City:           | <input type="text"/> | Province:    | <input type="text"/> |
| Country:        | <input type="text"/> | Postal code: | <input type="text"/> |
| Email:          | <input type="text"/> | Telephone:   | <input type="text"/> |

#### Witness 2 (optional)

|                 |                      |              |                      |
|-----------------|----------------------|--------------|----------------------|
| Last name:      | <input type="text"/> | First name:  | <input type="text"/> |
| Address line 1: | <input type="text"/> |              |                      |
| Address line 2: | <input type="text"/> |              |                      |
| City:           | <input type="text"/> | Province:    | <input type="text"/> |
| Country:        | <input type="text"/> | Postal code: | <input type="text"/> |
| Email:          | <input type="text"/> | Telephone:   | <input type="text"/> |

## Step 5 of 5

### Declaration

- I certify that the information provided in this complaint is true and accurate to the best of my knowledge, and I provide it to the Inspector General to be used pursuant to the Community Safety and Policing Act (required).
- I understand that the Inspector General may be required to disclose my information as required in connection with the administration of the Community Safety and Policing Act, for law enforcement purposes, or where otherwise required by law.

### Freedom of Information and Protection of Privacy

The personal information that you have provided on this complaint form is collected by the Inspector General pursuant to the Community Safety and Policing Act. The Inspector General's use of the information is subject to the Freedom of Information and Protection of Privacy Act. Should you have any questions about privacy protection, please contact the Freedom of Information and Privacy Office at the Ministry of the Attorney General at 416-326-4300.

Enter your first and last name, as entered in Step 1 of the form (required):

Vincent Ostberg

Date submitted:

22-Apr-2024

## SCHEDULE “A”

### To the Public Complaint of Vincent Ostberg and Melanie Beardy to the Inspectorate of Policing

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#### I. Overview

1. At approximately 10:30am on December 30, 2023, a 911 call was made to Thunder Bay Police Service (“TBPS”) to report that the body of a woman had been found in the home. The TBPS responded and identified the deceased to be 21-year-old Jenna Ostberg.
2. Jenna Ostberg’s death followed two previous 911 calls: an initial 911 call to TBPS requesting assistance to a home, and a second 911 call to cancel the original call for service.



3. The TBPS failed to respond to either of these calls.
4. The death of Jenna Ostberg follows multiple findings of systemic racism within the TBPS, including findings contained in:
  - a. *Broken Trust: Indigenous People and the Thunder Bay Police Service*, a systemic review of the TBPS by what was then called the Office of the Independent Police Review Director (“OIPRD”), dated December 2018;
  - b. *Thunder Bay Police Services Board Investigation, Final Report*, a report into an investigation of the Thunder Bay Police Services Board (“TBPSB”) conducted by Senator Murray Sinclair, dated November 1, 2018;
  - c. *Administrator’s Report to OCPC, dated August 18, 2022*, a report into the TBPSB authored by Malcolm Mercer, the Board Administrator appointed by the Ontario Civilian Police Commission (“OCPC”); and
  - d. the decision of Hearing Officer Superintendent (Ret.) Greg Walton with respect to the police discipline hearing, relating to the death of Stacey DeBungee, dated July 19, 2022.
5. In January 2024, at the Nishnawbe Aski Nation Chiefs in Assembly Winter Meeting, Mario Di Tomasso, Deputy Minister of Community Safety, was in attendance to reassure the leadership and the community members present and by livestream that the Ontario government would fulfil its promises. Specifically, that the *Community Safety and Policing Act* (“CSPA”) would be passed and proclaimed into force on April 1, 2024. In response, Chief Moonias of Neskantaga First Nation wanted to know what the Ontario government was going to do about the TBPS. Having lost another youth, 14-year-old Mackenzie Moonias, and with the knowledge “these families have no avenue,” Chief Moonias asked about the TBPS, and was told, “that is what we created the office of the police inspectorate for,” by Deputy Minister Di Tomasso.
6. This complaint is being made to Inspectorate of Policing as a result of the specific failure to provide adequate and effective policing in relation to the death and death investigation of Jenna Ostberg, the historic failure to provide adequate and effective policing to Indigenous people in Thunder Bay, and Ontario’s failure to disband the TBPS in the face of ongoing calls to do so from Indigenous leadership and communities.
7. The family of Jenna Ostberg has no confidence or trust in TBPS to perform the investigation into her death.
8. Rather than completing competent and unbiased investigations, the TBPS is a cold case file factory. Indigenous death investigations are incompetently investigated, inevitably reinvestigated, and eventually left to grow cold. A vicious circle is completed each time an investigation grows cold, and trust in the TBPS erodes.
9. Trust is essential to effective policing.

10. Put another way, the essence of effective investigations is **timeliness and community confidence**. As articulated by Senator Murray Sinclair in the *Thunder Bay Police Services Board Investigation, Final Report*:

[The] Respondents acknowledge a negative community perception regarding TBPS response to crimes reported by Indigenous people. They note, however, that frequently victims or witnesses are unwilling to file formal police reports. Without evidence, witnesses or video footage to investigate the incidents and lay charges, the likelihood of productive investigation is limited. Some officers noted that First Nations people occasionally give false or inconsistent information to police, which constrains their ability to investigate. They indicate that **until a climate of greater trust is established, pointless acts of racial violence will continue without investigation or redress**. [emphasis added]<sup>1</sup>

11. In light of the TBPS's historic and current failures to provide adequate and effective policing, the complainants request the following relief:
- a. a direction requiring the reassignment of the investigation into the death of Jenna Ostberg to a different police service, pursuant to section 125(2) of the *CSPA*; and
  - b. a direction dissolving the TBPSB and disbanding the TBPS, pursuant to section 126(1) of the *CSPA*.

## II. The Facts

### Events Leading up to Jenna Ostberg's Death

12. Jenna Ostberg was 21 years old at the time of her death. Prior to her death, Jenna had graduated from college and was working to get her driver's licence. She was an artist and a musician.
13. Jenna is survived by her parents, Vincent Ostberg and Melanie Beardy, as well as her siblings, Kylan, Matthew and Laura Ostberg.
14. The Ostberg family is Indigenous and are members of Bearskin Lake First Nation.
15. On July 14, 2023, Jenna was reported being assaulted by her boyfriend Malachi Mamakeesic and potentially other members of his family. Malachi Mamakeesic was charged in relation to this assault.
16. On or around July 16, 2023, a report was made to the TBPS by Melanie Beardy, Jenna Ostberg's mother. Having been released two days earlier from the hospital, Jenna was missing and believed to have gone to Malachi Mamakeesic's home. Police attended

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<sup>1</sup> Thunder Bay Police Services Board Investigation, Final Report, Senator Murray Sinclair, November 1, 2018, page 35, <[https://tribunalsontario.ca/documents/ocpc/TBPSB\\_Investigation\\_Final\\_Report\\_-\\_EN-FINAL-1.pdf](https://tribunalsontario.ca/documents/ocpc/TBPSB_Investigation_Final_Report_-_EN-FINAL-1.pdf)> [Sinclair Report].

Malachi Mamakeesic's house but were told by his mother, Shannon Kakepetum, that Jenna Ostberg was not there. Jenna subsequently returned to the Ostberg/Beardy home.

17. In October 2023, Jenna reported being assaulted by Malachi Mamakeesic, resulting in a stab wound to her leg. Jenna was seen by the Sexual Assault/Domestic Violence Treatment Centre at the Thunder Bay Regional Health Sciences Centre for treatment of the stab wound, as well as a Body Map under the care of a Dr. Lyon.
18. On October 8, 2023, Jenna contacted her mother, Melanie Beardy, telling her to call the police. Mealie called 911 and TBPS attended at Malachi Mamakeesic's house but were again denied entry by Shannon Kakepetum. Melanie states that the Officers who she spoke with said that Shannon would not let TBPS inside and closed the door behind her so that TBPS could not see into the home.
19. Melanie informed TBPS Officers that the next time they attended the residence they would carry Jenna Ostberg out in a body bag.

#### *TBPS's Failure to Respond to 911 Calls*

20. The Special Investigations Unit ("SIU") published a news release on January 3, 2024, which stated that a 21-year-old woman had been found dead in a Thunder Bay home after TBPS officers did not respond to a 911 domestic disturbance call.<sup>2</sup>
21. According to the January 3, 2024 SIU news release, three 911 calls were made to be TBPS on December 30, 2023, as follows:
  - a. At approximately 2:00am on December 30, 2023, TBPS received a 911 call about a domestic disturbance at a residence on Ray Boulevard. TBPS officers did not respond to the scene.
  - b. The same caller reportedly placed a second 911 call to "cancel" the call for service. TBPS officers did not respond to the scene.
  - c. A third 911 call was place from the same residence to indicate a woman was found deceased in the home. TBPS officers responded to the call and located the woman deceased.<sup>3</sup>
22. A subsequent news release by the SIU on January 11, 2024, stated:

*The caller had contacted police to report that the woman was an unwanted visitor at her home as there were court conditions that she and her son, also present in the home, were not supposed to be around each other. The caller was concerned that her son could be arrested for breach of the conditions and she asked that the police*

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<sup>2</sup> SIU Investigating Death of Woman in Thunder Bay, News Release, Special Investigations Unit, January 3, 2024, <[https://www.siu.on.ca/en/news\\_template.php?nrid=9186](https://www.siu.on.ca/en/news_template.php?nrid=9186)> [SIU News Release, January 3, 2024].

<sup>3</sup> SIU News Release, January 3, 2024.

*remove the woman from the home. The same caller subsequently contacted police to cancel the call for service, reporting that the woman had left the residence.”<sup>4</sup>*

23. It is still unclear to the Family of Jenna Ostberg why the 911 calls were originally reported by the SIU as a domestic disturbance, and why that was later changed in the January 11<sup>th</sup> news release.

### *TBPS's Failure to Provide an Adequate and Effective Investigation*

24. To the family's knowledge the investigation of the SIU is in respect of the actions of the TBPS, and that TBPS is conducting the investigation into the death of Jenna Ostberg. To the family's knowledge, the SIU investigation and the TBPS investigations are still ongoing.
25. The family of Jenna Ostberg received no communication from the TBPS between December 30, 2023, until January 8, 2024, and to date have received limited communication from TBPS with respect to the status of the investigation.
26. The family of Jenna Ostberg has requested the following:
- a. Handwriting analysis;
  - b. Reenactment;
  - c. Medical report regrading the stab wound; and
  - d. Proper interrogation and interview tactics.
27. The requests made by the family of Jenna Ostberg represent steps in any competent death investigation. To the family's knowledge, the TBPS has failed to address any of these concerns in their investigation of Jenna Ostberg's death.
28. To the family's knowledge, no one has been charged in relation to the death of Jenna Ostberg.

### **III. TBPS's History of Failing to Provide Adequate and Effective Policing for Indigenous People in Thunder Bay**

29. The TBPS has failed to provide adequate and effective policing for Indigenous people in Thunder Bay. The systemic racism that has manifested in policing is focused but not limited to incompetent death investigations in Thunder Bay.
30. Death after death of Indigenous persons in Thunder Bay, and especially of Indigenous youth, are dismissed as unworthy of a professional and unbiased investigation. The

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<sup>4</sup> Update: Investigation into Death of Thunder Bay Woman, News Release, Special Investigations Unit, January 11, 2024, <[https://www.siu.on.ca/en/news\\_template.php?nrld=9208](https://www.siu.on.ca/en/news_template.php?nrld=9208)>.

cumulative impact of these failed death investigations is unprecedented. There is no parallel in Canada for this, and it is all a result of the absolute refusal to disband the TBPS.

31. The TBPS has shown, as described below, that they are incapable of righting the ship.

### Seven Youth Deaths and Inquest

32. Between 2000 and 2011, seven First Nations youths, Jethro Anderson, Curran Strang, Paul Panacheese, Robyn Harper, Reggie Bushie, Kyle Morriseau, and Jordan Wabasse, died while attending school in Thunder Bay. All of the youths were from northern First Nation communities and had moved to Thunder Bay to attend secondary school. The death of each of the students was investigated by TBPS. Five of the students' bodies were found in the McIntyre or Kaministiquia Rivers.<sup>5</sup>
33. A Coroner's Inquest into the Deaths of Seven First Nations Youths (the "Seven Youth Inquest") was held in Thunder Bay between October 5, 2015, and June 28, 2016.<sup>6</sup>
34. The Seven Youth Inquest aimed to examine the circumstances surrounding the deaths of these youth and hear evidence directed to the prevention of future deaths of youths from remote First Nations during the course of their high school education in Thunder Bay.
35. At the conclusion of the Seven Youth Inquest in 2011, the jury directed recommendations to TBPS with respect to policies, training, and media communications in missing persons investigations, and recommended the implementation of a process to improve TBPS's cultural competency training.<sup>7</sup>

### Stacey DeBungee's Death and Investigation

36. On October 19, 2015, the TBPS received a 911 call from a member of the public reporting a deceased Indigenous male in the McIntyre River in Thunder Bay. This deceased person was later identified to be Stacey DeBungee of Rainy River First Nations.<sup>8</sup>
37. Approximately three hours after the discovery of Stacey DeBungee's body, the TBPS issued a press release that stated, "An initial investigation does not indicate a suspicious death. A post-mortem examination will be conducted to determine an exact cause of death. The male is still to be positively identified."<sup>9</sup>

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<sup>5</sup> Verdict and recommendations from the coroner's inquest in to the deaths of seven First Nations' youth in Thunder Bay between 2000 and 2011 <<https://www.ontario.ca/document/inquest-deaths-seven-first-nations-youths>> [Seven Youth Verdict and Recommendations].

<sup>6</sup> Broken Trust: Indigenous People and the Thunder Bay Police Service, OIPRD, December 2018, page 39 [Broken Trust Report].

<sup>7</sup> Seven Youth Verdict and Recommendations.

<sup>8</sup> Broken Trust Report, page 43.

<sup>9</sup> Broken Trust Report, page 128.

38. This press release was approved by TBPS before conducting an investigation, before positively identifying Stacey DeBungee's body, before an autopsy had been performed, and before locating the witness whose Ontario health card was found near Stacey DeBungee's body.<sup>10</sup>
39. The following day, October 20, 2015, the TBPS issued a second press release relating to the death of Stacey DeBungee, which stated that the death had been deemed "non-criminal".<sup>11</sup>
40. Due to the lack of confidence in the TBPS investigation, the DeBungee family hired a private investigation agency in November 2015 to investigate Stacey DeBungee's death.<sup>12</sup> Among other findings, the private investigation revealed that Stacey's debit card had been used after his body had been recovered.
41. The death of Stacey DeBungee and subsequent death investigation by the TBPS garnered significant attention from both the Indigenous community and media, particularly because the Seven Youth Inquest had begun just two weeks before Stacey DeBungee's body was discovered in the McIntyre River and was in progress during the investigation into his death.
42. On March 18, 2016, Brad DeBungee, the brother of Stacey DeBungee, and Jim Leonard, former Chief of Rainy River First Nation, filed two complaints with the then OIPRD relating to the TBPS' investigation into the death of Stacey DeBungee (attached at Appendix C). The first complaint alleged misconduct by the officers involved in the investigation into Stacey DeBungee's death. This complaint was retained by the OIPRD on April 22, 2016, eventually resulting in an investigative report, dated February 15, 2018.<sup>13</sup> In response to this report, three TBPS officers were served with Notice of Hearings, pursuant to section 68(5) of the *PSA* then in force.
43. A hearing pursuant to the *PSA* was held in May and June of 2022, and found Staff Sergeant Shawn Harrison ("S/Sgt. Harrison"), the lead investigator in the investigation of Stacey DeBungee's death, guilty of neglect of duty and discreditable conduct.<sup>14</sup>
44. In his decision, Superintendent Greg Walton, the Hearing Officer in this matter, emphasized that S/Sgt. Harrison's decision-making was influenced by stereotypes about Indigenous people, stating, "because the deceased person was Indigenous, found in a river where other Indigenous men had been found drowned, with a high level of alcohol in their system, he assumed the very same circumstances must have therefore existed in this case."<sup>15</sup>

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<sup>10</sup> Decision with Reasons of Retired Superintendent Greg Walton, made under the *Police Services Act*, RSO 1990, July 19, 2022, page 9 [Decision of Supt. Walton].

<sup>11</sup> Broken Trust Report, page 128.

<sup>12</sup> Broken Trust Report, page 129.

<sup>13</sup> *Canadian Broadcasting Corporation v. Ferrier*, 2019 ONSC 34 (CanLII), at [paras 13-14](#) [Ferrier].

<sup>14</sup> Decision of Supt. Walton, page 6.

<sup>15</sup> Decision of Supt. Walton, page 115.

### Broken Trust Report

45. The second complaint filed by Brad DeBungee and Jim Leonard with the then OIPRD raised questions about systemic anti-Indigenous racism within the TBPS more broadly. The OIPRD also retained this complaint and announced the terms of reference for its own systemic review of the TBPS on November 3, 2016.<sup>16</sup>
46. Following a two-year investigation that examined thirty-seven (37) TBPS investigations involving sudden deaths dating back to 2009, the OIPRD's systemic review resulted in a report titled, *Broken Trust: Indigenous People and the Thunder Bay Police Service* (the "Broken Trust Report"), released in December 2018.
47. The historical and ongoing relationship between the Indigenous community in Thunder Bay and the TBPS is described in detail in the Broken Trust Report as "a crisis of trust".<sup>17</sup>
48. The Broken Trust Report makes forty-four (44) recommendations based on the OIPRD's findings and ultimately concludes that "systemic racism exists in TBPS at an institutional level."<sup>18</sup>

### One Year After Broken Trust

49. In February 2020, the OIPRD released a follow-up report titled, *One Year After Broken Trust: Report on Implementation* ("One Year After Broken Trust"). One Year After Broken Trust provides an update on TBPS's progress on implementing the Broken Trust Report's recommendations.
50. One Year After Broken Trust found that while important first steps had been taken to implement several of the recommendations, it was "still too early to assess the extent to which the recommendations will ultimately be implemented to the level required to earn trust with Indigenous communities."<sup>19</sup> Only four (4) of the forty-four (44) recommendations were found to have been fully implemented.
51. The conclusion of One Year After Broken Trust states, "The Chief of Police has committed herself – and the TBPS – to systemic change. The Board has committed itself to systemic change. They are to be commended for the positive change that has already taken place. Much more remains to be done. The OIPRD is optimistic that through ongoing meaningful discussions between all those impacted by the issues outlined in this report, Thunder Bay can become a model for systemic change."<sup>20</sup> Unfortunately, the office of the Chief of Police, the TBPS and the Board have failed to follow-through on these commitments.

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<sup>16</sup> *Ferrier*, at [para 13](#).

<sup>17</sup> Broken Trust Report, page 55.

<sup>18</sup> Broken Trust Report, pages 9-15.

<sup>19</sup> One Year After Broken Trust: Report on Implementation, OIPRD, February 2020, page 6 [One Year After Broken Trust].

<sup>20</sup> One Year After Broken Trust, page 65.

52. As of April 2024, over 5 years after the release of the Broken Trust Report, only twenty-seven (27) of the forty-four (44) recommendations have been fully implemented.<sup>21</sup>

### *Criminal Charges against JP Levesque*

53. On May 23, 2017, then J.P. Levesque (“Former Chief Levesque”), then Chief of Police of TBPS, while on medical leave, was charged with obstructing justice and breach of trust by the Ontario Provincial Police (“OPP”). Following these criminal charges, the TBPSB placed Former Chief Levesque on administrative suspension.<sup>22</sup>
54. The criminal charges stemmed from an investigation, originally requested by the Royal Canadian Mounted Police (“RCMP”), in connection with an alleged disclosure of confidential information about then Mayor Keith Hobbs.<sup>23</sup>
55. On January 25, 2018, the charges of breach of trust and obstruction of justice against Former Chief Levesque were dismissed.<sup>24</sup>

### *Honourable Senator Murray Sinclair Report*

56. In response to concerns raised by First Nations leaders from Nishnawbe Aski Nation, Grand Council Treaty 3, and the Rainy River First Nations regarding the TBPSB’s oversight of police services following a series of deaths and race-based violence against Indigenous people in Thunder Bay, the OCPC retained the Honourable Senator Murray Sinclair (“Senator Sinclair”) to lead and direct an investigation of the TBPSB.<sup>25</sup>
57. The investigation led by Senator Sinclair was undertaken between July 21, 2017, and October 31, 2018, and resulted in a report titled *Thunder Bay Police Services Board Investigation, Final Report* (the “Sinclair Report”).<sup>26</sup>
58. The Sinclair Report found that the TBPSB:

*“...failed to recognize and address the clear and indisputable pattern of violence and systemic racism against Indigenous people in Thunder Bay. Moreover, the Board’s failure to act on these issues in the face of overwhelming documentary and*

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<sup>21</sup> Archived: OIPRD Director’s Message on Broken Trust 2023-2024, Law Enforcement Complaints Agency, March 28, 2024 <<https://leca.ca/archived-oiprd-directors-message-on-broken-trust-2023-2024/>>.

<sup>22</sup> Thunder Bay police chief placed on administrative suspension, CBC News, May 25, 2017 <<https://www.cbc.ca/news/canada/thunder-bay/thunder-bay-chief-administrative-suspension-1.4131120>>.

<sup>23</sup> Thunder Bay police Chief J.P. Levesque goes on trial Monday, CBC News, December 4, 2017 <<https://www.cbc.ca/news/canada/thunder-bay/police-chief-trial-levesque-1.4427053>>.

<sup>24</sup> Thunder Bay police chief expects to return to work after charges against him dismissed, CBC News, January 25, 2018 <<https://www.cbc.ca/news/canada/thunder-bay/thunder-bay-jp-levesque-decision-1.4503102>>.

<sup>25</sup> Sinclair Report, page iv.

<sup>26</sup> Sinclair Report, page iv.



*media exposure is indicative of willful blindness. The results of this failure are clear: 1) the absence of plans and policies to address the crisis in violent crime; 2) an oversight body disengaged from its basic functions of planning, policy development and community engagement; and 3) a major municipal institution lacking many of the basic instruments of good governance and oversight.”<sup>27</sup>*

59. The Sinclair Report provides forty-five recommendations, including recommendations regarding TBPSB governance policy; TBPSB planning; recruitment, retention, and promotion; oversight of the Chief and Deputy Chief; communication and transparency; relationships with Indigenous groups; training; and the appointment of an Administrator.<sup>28</sup>

#### Appointment of Administrator and Administrator’s Report

60. Following the release of the Sinclair Report, the OCPC issued an Order on December 14, 2018, to dissolve the TBPSB and to replace the TBPSB with an Administrator. Pursuant to the December 14<sup>th</sup> order, Thomas Lockwood was appointed as Administrator of the TBPSB for an initial term of one year.<sup>29</sup>
61. Thomas Lockwood’s term as Administrator was later extended by six months to July 1, 2020. In June 2020, the TBPSB announced that Thomas Lockwood’s term would not be extended further.<sup>30</sup>
62. On April 19, 2022, the OCPC issued an Order appointing an Administrator pursuant to sections 23(1) and 24(1) of the then *PSA*. The April 19<sup>th</sup> order states,

“In response to these requests for Commission intervention, the Commission conducted a preliminary review. Having reviewed the information gathered by the Commission, I am of the opinion that an emergency exists in the [TBPSB] oversight of the [TBPS]. The [TBPSB] is not able to work effectively as a board at a time when the earlier recommendations from [the Sinclair Report], are alleged to remain unfulfilled. The dysfunction of the [TBPSB] is being regularly reported in the media. It is reasonable to conclude that this continued public display of fundamentally divergent opinions among [TBPSB] members will have created significant doubt in the Thunder Bay community of the [TBPSB’s] ability to provide adequate oversight of the [TBPS].”<sup>31</sup>

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<sup>27</sup> Sinclair Report, page viii.

<sup>28</sup> Sinclair Report, pages 105-112.

<sup>29</sup> *Thunder Bay Police Services Board (Re)*, 2018 ONCPC 19 (CanLII), <<https://canlii.ca/t/hwmvj>>.

<sup>30</sup> Lockwood leaving police board, *The Chronicle-Journal*, June 27, 2020 <[https://www.chroniclejournal.com/news/local/lockwood-leaving-police-board/article\\_2659bd92-b967-11ea-bc0c-8bd537ab887b.html](https://www.chroniclejournal.com/news/local/lockwood-leaving-police-board/article_2659bd92-b967-11ea-bc0c-8bd537ab887b.html)>.

<sup>31</sup> Order of the Ontario Civilian Police Commission, in the Matter of Thunder Bay Police Service and the Thunder Bay Police Services Board under sections 23(1) & 24(1) of the Police Services Act, R.S.O. 1990, c. P.15, para 4: <[https://tribunalsontario.ca/documents/ocpc/Order\\_Administrator%20to%20the%20Thunder%20Bay%20Police%20Services%20Board\\_2022\\_04\\_19.pdf](https://tribunalsontario.ca/documents/ocpc/Order_Administrator%20to%20the%20Thunder%20Bay%20Police%20Services%20Board_2022_04_19.pdf)>.

63. Pursuant to the April 19<sup>th</sup> order, Malcom Mercer was appointed as the Administrator, for an initial term of six months.
64. On August 18, 2022, OCPC release a report titled, *Administrator's Report to OCPC, dated August 18, 2022*, authored by Malcom Mercer, which reviewed the Broken Trust Report, the Sinclair Report, and the work of the TBPSB since the beginning of 2019.<sup>32</sup>
65. The August 18, 2022, report states that there have been distractions and diversions of Board resources and attention over the past two years, and that the “work of the Board has suffered” as a result. Further the report states, “there has been unacceptable delay in advancing the OCPC recommendations and insufficient attention to policy implications of the OIPRD recommendations.”<sup>33</sup>
66. The August 18, 2022, report outlines steps that must be taken by the TBPSB to move forward, stating that “simply appointing new Board members and new police leadership will not be sufficient.”<sup>34</sup>

*Coroner's Inquest into the Deaths of Don Mamakwa and Roland McKay*

67. A Coroner's Inquest into the Deaths of Don Mamakwa and Roland McKay, two Indigenous men from Kasabonika Lake First Nation and Kitchenuhmaykoosib Inninuwug First Nation respectively, was held in Thunder Bay from October 11 to November 3, 2022. Both Don Mamakwa and Roland McKay were in police custody at the TBPS Headquarters when they died.<sup>35</sup>
68. Both Don Mamakwa and Roland McKay were in medical distress when they died. The Jury found Don Mamakwa's cause of death to be “Ketoacidosis, Complicating Diabetes Mellitus, Chronic Alcoholism, and Septicemia” while Roland McKay's cause of death to be “Hypertensive Heart Disease”.<sup>36</sup>
69. At the conclusion of the inquest, the jury issued thirty-five recommendations, including recommendations to TBPS with respect to policies and training related to individuals in custody and cultural competency.<sup>37</sup>

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<sup>32</sup> Administrator's Report to the Ontario Civilian Police Commission: The Thunder Bay Police Services Board, Malcolm Mercer, August 18, 2022, <[https://tribunalsontario.ca/documents/ocpc/Administrators%20Report%20to%20the%20OCPC.html#toc\\_container](https://tribunalsontario.ca/documents/ocpc/Administrators%20Report%20to%20the%20OCPC.html#toc_container)> [Administrator's Report].

<sup>33</sup> Administrator's Report.

<sup>34</sup> Administrator's Report.

<sup>35</sup> Inquest Date into the Deaths of Don Mamakwa and Roland McKay Announced, News Release, Ministry of the Solicitor General, September 21, 2022, <<https://news.ontario.ca/en/release/1002282/inquest-date-into-the-deaths-of-don-mamakwa-and-roland-mckay-announced>>.

<sup>36</sup> Verdict and recommendations from the Coroner's Inquest into the deaths of: Donald Mamakwa and Marlon Roland McKay, November 4, 2022, <<https://www.ontario.ca/page/2022-coroners-inquests-verdicts-and-recommendations#section-9>> [Mamakwa-McKay Verdict and Recommendations].

<sup>37</sup> Mamakwa-McKay Verdict and Recommendations.

## Misconduct Charges and Criminal Charges against Sylvie Hauth

70. In late 2021, the Ministry of the Attorney General requested that the OPP investigate allegations of misconduct by members of the TBPS. That review led to an investigation by the OPP Criminal Investigation Branch and is ongoing.
71. In 2022, Sylvie Hauth (“Former Chief Hauth”), former Chief of Police of the TBPS, was suspended after the OCPC brought misconduct charges against Hauth under the then *Police Services Act*. Hauth retired in 2023 before those allegations could be tested in a hearing.
72. On April 9, 2024, Holly Walbourne, former lawyer for the TBPS, was arrested and charged under the *Criminal Code* with:
  - a. Obstruction of a public or peace officer;
  - b. Breach of trust by a public officer; and
  - c. Three counts of obstruction of justice.
73. On April 12, 2024, Former Chief Hauth was arrested and charged under the *Criminal Code* with:
  - a. Obstruction of a public or peace officer;
  - b. Breach of trust by a public officer; and
  - c. Two counts of obstruction of justice.
74. In July 2019, in recommendations of the Broken Trust report, the TBPS announced that Former Chief Hauth would sit on the Executive Governance Committee of a three-tiered oversight framework to manage and conduct the reinvestigation of the deaths nine (9) Indigenous persons.<sup>38</sup> The misconduct and criminal charges against Former Chief Hauth are incredibly concerning, especially in light of Former Chief Hauth’s role in these reinvestigations.

## **IV. Relief Requested**

75. As a result of TBPS’s history of failing to provide adequate and effective policing, particularly as it relates to Indigenous people; the TBPS’s failure to provide adequate and effective policing in relation to the death and investigation of Jenna Ostberg; and Ontario’s failure to disband the TBPS, despite ongoing calls from Indigenous leadership and communities in Thunder Bay; Jenna Ostberg’s family has no confidence or trust in TBPS to perform the investigation into her death.

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<sup>38</sup> Investigative Review Framework Update: Members Announced, News Release, Thunder Bay Police Service, July 31, 2019 <<https://www.thunderbaypolice.ca/news/investigative-review-framework-update-members-announced>>.

76. The Inspectorate of Policing has the authority to accept complaints where a police service has not provided adequate and effective policing, as described in the *CSPA* and its regulations.
77. In light of the TBPS's historic and current failures to provide adequate and effective policing, the complainants request the following relief:
  - a. A direction requiring the reassignment of the investigation into the death of Jenna Ostberg to a different police Service, pursuant to section 125 (2) of the *CSPA*; and
  - b. A direction dissolving the TBPSB and disbanding the TBPS, pursuant to section 126 (1) of the *CSPA*.

## V. Supporting Documents

78. Administrator's Report to the Ontario Civilian Police Commission: The Thunder Bay Police Services Board, Malcolm Mercer, August 18, 2022, <[https://tribunalsontario.ca/documents/ocpc/Administrators%20Report%20to%20the%20OCPC.html#toc\\_container](https://tribunalsontario.ca/documents/ocpc/Administrators%20Report%20to%20the%20OCPC.html#toc_container)>.
79. Broken Trust: Indigenous People and the Thunder Bay Police Service, OIPRD, December 2018 (attached at Appendix A).
80. *Canadian Broadcasting Corporation v. Ferrier*, 2019 ONSC 34 (CanLII), <<https://canlii.ca/t/hwv11>>.
81. *Canadian Broadcasting Corporation v. Ferrier*, 2019 ONCA 1025 (CanLII), <<https://canlii.ca/t/j49hl>>.
82. Decision with Reasons of Retired Superintendent Greg Walton, made under the *Police Services Act*, RSO 1990, July 19, 2022 (attached at Appendix B).
83. OIPRD Complaint of Brad DeBungee and Jim Leonard, dated March 18, 2016 (attached at Appendix C).
84. One Year After Broken Trust: Report on Implementation, OIPRD, February 2020 (attached at Appendix D).
85. Order of the Ontario Civilian Police Commission, in the Matter of Thunder Bay Police Service and the Thunder Bay Police Services Board under sections 23(1) & 24(1) of the *Police Services Act*, R.S.O. 1990, c. P.15, <[https://tribunalsontario.ca/documents/ocpc/Order\\_Administrator%20to%20the%20Thunder%20Bay%20Police%20Services%20Board\\_2022\\_04\\_19.pdf](https://tribunalsontario.ca/documents/ocpc/Order_Administrator%20to%20the%20Thunder%20Bay%20Police%20Services%20Board_2022_04_19.pdf)>.

86. *Thunder Bay Police Services Board (Re)*, 2018 ONCPC 19 (CanLII), <<https://canlii.ca/t/hwmvj>>.
87. Thunder Bay Police Services Board Investigation, Final Report, Senator Murray Sinclair, November 1, 2018, <[https://tribunalsontario.ca/documents/ocpc/TBPSB\\_Investigation\\_Final\\_Report\\_-\\_EN-FINAL-1.pdf](https://tribunalsontario.ca/documents/ocpc/TBPSB_Investigation_Final_Report_-_EN-FINAL-1.pdf)>.
88. Verdict and recommendations from the Coroner's Inquest in to the deaths of seven First Nations' youth in Thunder Bay between 2000 and 2011 <<https://www.ontario.ca/document/inquest-deaths-seven-first-nations-youths>>.
89. Verdict and recommendations from the Coroner's Inquest into the deaths of: Donald Mamakwa and Marlon Roland McKay, November 4, 2022, <<https://www.ontario.ca/page/2022-coroners-inquests-verdicts-and-recommendations#section-9>>.