

12 YEARS ON

EVALUATING VICTORIA POLICE'S RESPONSE TO THE HAILE-MICHAEL SETTLEMENT

Acknowledgements

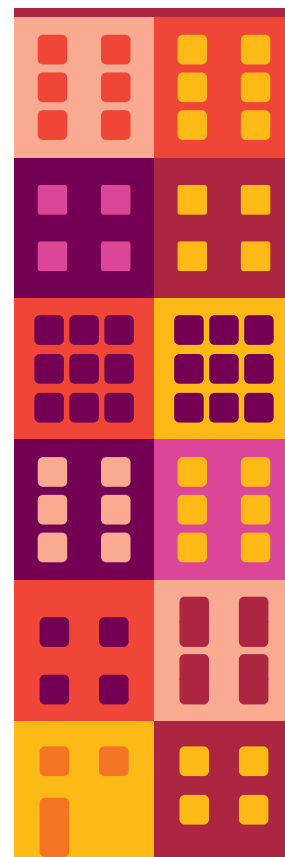
This report was authored by Dr Tamar Hopkins and Ilo Diaz. The authors would like to acknowledge the youth and community workers who contributed their voices to this report and IMCL's Michelle Reynolds, Anna Nguyen, Wallis Hamilton, Mark Phillips and Cassie Buttigieg for their editorial assistance.

Publication date:
October 2025

Design and illustration:
Susan Fitzgerald spinspin.com

Recommended citation: Diaz, D. and Hopkins, T. (2025) *12 Years On, Evaluating Victoria Police's Response to the Haile-Michael Settlement*. (Inner Melbourne Community Legal).

We work on the unceded lands of the Wurundjeri people of the Kulin Nations. We pay our respects to all Aboriginal elders, past and present.



Haile-Michael Settlement: A landmark case

In 2008, a group of courageous young men from the Flemington and North Melbourne high-rise communities took a historic stand against racial discrimination by Victoria Police.

Their bravery in filing a racial profiling lawsuit marked a pivotal moment in Victoria's history, compelling Victoria Police to confront and acknowledge the existence of systemic racism within its ranks. This landmark case not only highlighted the resilience and determination of these plaintiffs but also inspired future generations, giving them hope and encouraging them to understand and assert their rights.

This report critically examines the actions taken by Victoria Police over the past 12 years in response to the Haile-Michael Settlement. It explores the operational strategies implemented, evaluates their effectiveness in reducing racial profiling, and highlights the ongoing challenges and shortcomings. Despite these challenges, the bravery of the plaintiffs has paved the way for significant progress in the fight against racism and the pursuit of equality and justice. We extend our heartfelt gratitude to these young men for their courage and for changing the course of justice and police accountability in Victoria.

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Executive summary

"We were playing basketball at our local court. It was during Ramadan [and] most people were out and about, they had just broken their fast, and yeah as usual we were just spending time walking around the neighbourhood playing ball.

"We walked from the housing estates out onto the main street where the petrol station was." This is the moment when "two cops came out, and they were like 'what are you bloody idiots doing in the school?'... and it just started going off."¹

— DANIEL HAILE-MICHAEL

This was Daniel's experience, almost two decades ago, of being harassed and assaulted by police in the Flemington area. Daniel and his friends were constantly being harassed by police. Stopped. Searched. Questioned. Ordered to move on. Arrested. At times they were assaulted by police. For nothing else than just hanging out.²

They were all young black and brown people from the Flemington and North Melbourne high rise.

Then, in 2008, these brave young men — between the ages of 14–21 — did something that had not been done in Victoria before. They took the Victoria Police to court alleging racial discrimination. Daniel and his friends were determined that what was happening to them, would not be allowed to continue. They wanted to make sure that the next generation of young people — their younger siblings and even, in future, their own children — would not face the same harassment and fear.

The day before the race discrimination trial was due to start, on 18 February 2013, the case settled. As part of the settlement, Victoria Police agreed that racial discrimination was wrong and that it would take action to stop racism by Victoria Police.

It has been 12 years since this settlement. In this report, we review the material from Victoria Police and publicly available data, to see, what has changed — has Victoria Police delivered what it promised to these young men and their communities?

¹ Daniel Haile-Michael, 'Profiled' in Maxine Beneba Clarke, Ahmed Yussuf and Magan Magan (eds), *Growing Up African in Australia* (Black Inc, 2019) 157.

² Ibid.

What did the police do?

Victoria Police's response to the settlement in 2013, was to create a report titled *Equality is Not the Same* setting out its plan for change. Victoria Police then published reports on its progress every year until 2019.

The idea that creating equality sometimes requires treating people differently, is an important policy consideration in service delivery. However, treating people differently is not what was required from Victoria Police to address racial profiling. In 2007, a police officer explained to the white author of this report, 'we don't stop you in Flemington because you don't fit the profile'. While white people are free to cross Flemington, black people are subject to constant scrutiny, stops, questioning, searches, and even, as Daniel described above, assaults. In bringing their racial profiling claim, over-policed racialised youths were demanding they be treated the same as everyone else. They wanted lives free of unnecessary police invention and brutality. They were demanding equal treatment. Through its very naming of the *Equality is Not the Same*, Victoria Police signalled its misunderstanding of what was needed of it.

When looking at the evidence, 12 years since publishing *Equality is Not the Same* our evaluation has found:

- Stakeholder engagement became a practice of silencing and surveillance;
- Racial profiling was a ban in name only;
- Police resist oversight and public reporting;
- Racial profiling continues to be a problem in Victoria Police practice.

A review of the research being conducted on policing and race in Victoria found racial profiling continues to be a problem.



Summary of key findings

Driving while black

- A driver who is racialised has **4.9 times** the odds of a white person of being unjustifiably investigated after they have been stopped by the police. This means they are more likely to be subject to such actions as having their vehicle searched without reason, being asked to justify why they are driving in a particular area, and having their passengers questioned.
- The **odds increase to 7.4** if the person is perceived to be African, Aboriginal, Middle-Eastern/Muslim and Pasifika — compared to a white person.

Walking while black

- A person perceived as African, Aboriginal, Middle Eastern/Muslim or Pasifika has **3.5 times** the odds compared with a white person of being stopped to be asked if they saw someone or something; and three times the odds of being stopped because they 'looked suspicious'.
- A stopped racialised person from these groups has **seven times** the odds of having their phone searched than a white person.

We were not all in it together

- Racialised people received more fines during COVID-19 pandemic in 2020 compared to their population size in Victoria:
 - People perceived to be African/Middle Eastern were **four** times more likely to be issued a COVID fine.
 - People perceived to be First Nations were **2.5 times** more likely to be issued a COVID fine.
- People perceived to be African or Middle-Eastern people were **5.4%** (CI 3.5–7.4%) **more likely** than white people to be issued with a fine that involved questioning.

Differential Search Rates

- Compared to their population size in Victoria:
 - First Nations people were **11 times** more likely to be searched than white people.
 - People perceived to be African were **six times** more likely to be searched than white people.
 - People perceived to be Pacific Islanders were **four times** more likely to be searched than white people.
- People perceived to be African, Middle-Eastern/Mediterranean, Asian, Indian were less likely than white people to be found in possession of a reportable item after being searched than white people.

Solutions

We talked to young people who experience racial profiling and work with communities who are over and under-policed. We asked them what solutions they recommended. They made the following calls for meaningful and practical change.

REDUCE

- 1.1** Remove police patrols from public housing estates. Where necessary, replace with community-led safety patrols and non-police response teams that can respond holistically to community concerns.
- 1.2** Remove police from schools and replace with non-criminalising professionals.
- 1.3** Remove police from youth services.
- 1.4** Take police out of mental health call outs.
- 1.5** Decriminalise drugs and create non-stigmatising safe injecting spaces in diverse spaces.

RESTRICT

- 2.1** Create an independent Police Ombudsman, that can effectively investigate and hold to account any racial profiling and other forms of misconduct by Victoria Police.
- 2.2** Legislatively ban random vehicle, street and public place stops and monitor all police stops to ensure their actions are justified on objectively reasonable grounds.
- 2.3** Ensure stakeholder engagement with critical voices but not for the purpose of criminalisation.
- 2.4** Tighten police discipline processes and procedures to centre victims of police harm, and to ensure police are held accountable for the trauma they cause.

REINVEST

- 3.1** Stop resourcing police to do work that other services should or could provide.
- 3.2** Invest in community led and culturally appropriate services, not police.
- 3.3** Increase the availability of community-based police powers training for young people and increase the availability of different types of culturally appropriate resilience training for young people that empowers them and their communities.

Introduction

On 18 February 2013, six young men of African background (one of whom was also First Nations) settled their racial profiling claim against the Chief Commissioner of Victoria Police in the Federal Court of Australia (*Haile-Michael v Konstantinidis*).

This claim, originally brought by 17 young African and Afghani men, alleged the police had engaged in racial discrimination when they stopped, searched, questioned, arrested and used force against them. The case settled the day before the two-month trial was scheduled to begin. From the point of view of the young men running the case, the aim of the settlement was to ensure that Victoria Police would take action to stop its officers from engaging in racial profiling.

In the Haile-Michael Settlement agreement, the six applicants and the Chief Commissioner agreed that Victoria Police would initiate two independent public inquiries into police field contact policies and police cross-cultural training. In order to do this, in mid-2013, Victoria Police appointed Julian Gardiner to independently oversee its process. It then contracted Cultural and Indigenous Research Centre Australia (CIRCA) to conduct an inquiry into its field contact policies³ and engaged Michelle Grossman et al from Victoria University (VU) to study Victoria Police's cross-cultural training practices.⁴ It then called for public submissions and received a huge volume of submissions from legal and community organisations and individuals.

In December 2013, following receipt of these reports, and the community submissions, Victoria Police released a report called *Equality is Not the*

Same that set out a multi-year response to the issues raised in the Haile-Michael proceedings, the submissions and the CIRCA and VU reports.⁵ Furthermore, Victoria Police's newly established 'Priority Communities Division' was tasked to implement the recommendations. In its first report Victoria Police wrote:

[W]here actions that so critically undermine confidence in policing such as racism or racial profiling remain a concern for communities, it is incumbent on us to be explicit in our zero tolerance of these and to demonstrate this commitment through action.⁶

The purpose of this report is to explore the action Victoria Police took to demonstrate its commitment to having a zero tolerance for racism and racial profiling. To do this, we examine the publicly known *operational strategies* Victoria Police implemented in response to the Haile-Michael Settlement 12 years ago. We then examine how effective these responses have been in reducing and/or eliminating racial profiling.

This report contains four parts:

Part 1 examines what is publicly known about Victoria Police's response to the Haile-Michael Settlement.

Part 2 examines statistical and other research evidence about whether racial profiling continues to occur in Victoria.

Part 3 examines some current experiences of racial profiling in Victoria.

Part 4 contains demands for change made by people impacted by racial profiling, as well as from youth workers that work with residents or visitors in the public housing estates spanning Flemington, North Melbourne, Carlton and Richmond. These recommendations provide essential insights into the genuine measures required to effectively address racial profiling in Victoria.

3 Cultural and Indigenous Research Centre Australia, Victoria Police, *Review of Field Contact Policy and Processes, Final Report*, November 2013 (Cultural and Indigenous Research Centre Australia, 2013) 86.

4 Michelle Grossman et al, *Learning to Engage — A Review of Victoria Police Cross-Cultural Training Practices* (Centre for Cultural Diversity and Wellbeing, Victoria University, December 2013) 208.

5 Victoria Police, *Equality Is Not the Same* (December 2013).

6 Ibid 2.

Evaluating Victoria Police's response to the Haile-Michael Settlement 12 years ago is of critical importance given Victoria Police's recent acknowledgement of the continuity of systemic racism and commitments to the Yoorrook Justice Commission to prevent it.⁷

Will Victoria Police and the Victorian Government learn from our findings, or will they make the same mistakes?

METHODOLOGY

This report uses a mixed method approach. The first part analyses publicly available material about Victoria Police's response to the Haile-Michael Settlement, including changes to the Victoria Police Manual, the *Equality is Not the Same* reports⁸ and the *Receipting Proof of Concept: Evaluation Report*.⁹ We ask:

What did Victoria Police do as a result of the Haile-Michael Settlement and could those activities be reasonably expected to reduce racial profiling in Victoria?

The second part examines data from the Haile-Michael case, provides simple statement of results of a survey described in *Understanding Racial Profiling in Australia*,¹⁰ Inner Melbourne Community Legal's *Policing COVID-19 in Victoria: Exploring the impact of perceived race on the issuing of COVID-19 fines in 2020*¹¹ and from other pieces of research conducted across Victoria. We ask:

Is there any evidence that racial profiling continues to be a problem in Victoria despite action taken by Victoria Police as recommended by Victoria Police's *Equality is Not the Same*?

The third part of this report is drawn from interviews conducted in September and October 2023 by Ilo Diaz, Advocacy Coordinator with the Police Accountability Project, with youth and community workers who work with young people who experience racial profiling in and around the

Flemington, North Melbourne, Carlton, Collingwood, Fitzroy and Richmond public housing estates.

Many of these workers have lived experience of policing themselves.

Obtaining these views is essential to counter-balance their absence in official Victoria Police documents that tends to alienate, exclude and silence more critical voices. These views have been obtained as a result of continuous and introspective work for and with these communities; trust has been developed through solidarity, rather than exploitation or criminalisation. We ask:

What are some current experiences of policing in and around the public housing estates in inner Melbourne? Do these experiences suggest that racial profiling continues to be practiced by Victoria Police?

The fourth part sets out demands for racial profiling prevention arising from views of youth and community workers who participated in those interviews. We ask:

What are the requirements that people impacted by racial profiling and their workers believe are necessary to prevent racial profiling?

ETHICAL CONSIDERATIONS

Interviewees were selected from the extended networks of youth workers who work alongside the Police Accountability Project. Interviewees were advised of the purpose of the interviews and whether they consented to participate. All interviewees were provided with a copy of this report before it was published to ensure their continuing consent to having their voices and suggestions included and where it was appropriate, were provided with legal advice about their participation. All interviewees are anonymous. Their suggestions will inform the advocacy work of the Police Accountability Project and will assist policy makers across Victoria in working to prevent racial profiling.

⁷ Yoorrook Justice Commission, *Yoorrook for Justice: Report into Victoria's Child Protection and Criminal Justice Systems* (Yoorrook Justice Commission, 2023).

⁸ Victoria Police — *Equality is not the Same* reports were published annually from 2013–2019. They are available: <https://www.police.vic.gov.au/equality-not-same> (viewed: 1/12/2023)

⁹ Victoria Police — Operation Review and Support Division. *Receipting Proof of Concept: Evaluation Report* (2019) <https://www.police.vic.gov.au/sites/default/files/2019-01/RPoC-Evaluation-Report-for-public.pdf>

¹⁰ Tamar Hopkins, *Understanding Racial Profiling in Australia* (University of NSW PhD Thesis, 2022)

¹¹ Tamar Hopkins and Gordana Popovic, *Policing COVID-19 in Victoria: Exploring the Impact of Perceived Race in the Issuing of COVID-19 Fines During 2020* (Inner Melbourne Community Legal, 2023).

PART 1

Victoria Police's response

“Equality is Not the Same” is an odd name to give to a report and ongoing program of work that purportedly responds to allegations of racial profiling.

It is true that achieving equality does not necessarily mean treating everyone the same way. However, the key challenge in preventing racial profiling is to stop police from policing people *differently*; that is through unfairly and disproportionately criminalising and investigating First Nations and other racialised people and *not* white people. The name “Equality is Not the Same” itself indicates Victoria Police were applying the wrong equality principle to solve its racial profiling problem.

This report naming ‘confusion’ starts to make sense when we realise that the focus of Victoria Police’s 2013 *Equality is Not the Same* report was to change the perception of racial profiling.¹² Changing a perception is a very different task to changing the practice of racial profiling. Changing the perception of racial profiling requires changing communities making allegations, *not* necessarily changing police practices. This places the onus squarely on the communities affected by racialised policing practices.

This difference is highlighted by the case of former Assistant Commissioner of Police, Brett Guerin. In 2014, he was awarded a police medal, partly

for his work in changing the ‘perception’ of racial profiling in the Flemington and Kensington area.¹³ He subsequently resigned in disgrace following revelations of his homophobic, sexist and racist comments across the internet.¹⁴

Throughout the *Equality is Not the Same* report, Victoria Police only clearly acknowledged the existence of the ‘perception’ of racial profiling. Accordingly, its primary response became one of attempting to improve the trust and confidence of certain communities.¹⁵ This is not simply a matter of language. By claiming the problem is one of ‘perception’, the ‘problem’ of racial profiling then lies with the community alleging racial profiling and its lack of understanding of policing. The police can then address the community’s lack of understanding of policing through ‘community engagement’ and ‘education’. It is critical to observe this as is a deflection strategy that shifts the blame from the police and their operational practices to the targets of those practices.

The first *Equality is Not the Same* report (2013) focussed on five areas of action within Victoria Police:

1. **Community Engagement**
2. **Communication and Respect**
3. **Field Contact Policy and Process**
4. **Complaints Process**
5. **Cross Cultural Training**

In the next section we will briefly review these five areas before focussing on the one area that could potentially have made a difference to racial profiling in practice.

¹² Victoria Police, *Equality Is Not the Same* (n 5) 27.

¹³ IBAC, Operation Turon, *An Investigation into Alleged Misconduct by a Former Victoria Police Assistant Commissioner* (IBAC, October 2021) 11.

¹⁴ Nino Bucci, ‘Ex-Victoria Police Officer Brett Guerin Trolled People Online with Racist and Sexist Posts, Ibac Finds’, *The Guardian* (online, 26 October 2021) <<https://www.theguardian.com/australia-news/2021/oct/26/ex-victoria-police-officer-brett-guerin-trolled-people-online-with-racist-and-sexist-posts-ibac-finds>>.

¹⁵ Victoria Police, *Equality Is Not the Same* (n 5) 27.

STRATEGY 1

COMMUNITY ENGAGEMENT

Through its Priority Communities Division, Victoria Police introduced a raft of stakeholder engagement committees and forums. Building Victoria Police's capacity to facilitate stakeholder engagement is perhaps the most significant response by Victoria Police to the Haile-Michael Settlement agreement. Victoria Police now run the following reference groups through its Priority Communities Division: Aboriginal, Community Safety, Disability, Human Rights, LGBTIQ+, Mental Health, Multicultural, Seniors and Youth.¹⁶

The language of the *Equality is the Not the Same* 2013 report leaves the impression that the aim of stakeholder engagement was to build trust in police and reassure the community that they have been heard. However, when examined closely, the practice could be seen as silencing and surveillance of targeted communities.

At one level, stakeholder and community engagement was largely aimed at improving relationships and communication between nominated groups and Victoria Police, rather than focusing on changing the operational practices that generate racial profiling. The stakeholders Victoria Police engaged with on their committees were largely handpicked. For example, the Flemington & Kensington Community Legal Centre (the 'FKCLC'), the community legal centre who along with Arnold Bloch Leibler acted for the applicants in the Haile-Michael case, was not invited to join any of the reference groups. Furthermore, on 15 April 2019, the FKCLC's participation through appearing as a delegate of the Federation of Community Legal Centres to the Human Rights Strategic Advisory Committee was blocked.¹⁷

Notably, Victoria Police's *Equality is Not the Same* 2013 report did not discuss the need to overcome the power imbalance that exists when police engage in a formal stakeholder relationship with people with lived experience of racial profiling or police misconduct. Nor did it describe how they would fund the contribution of people with lived experience or the agencies that represent them during stakeholder engagements. Without managing the power imbalance that exists

between police and the people they consult, the police ensure their perspectives remain dominant and unchallenged. By selecting who they consult with, they ensure that critical voices remain silenced. A reported example of this ineffective consultation involves an agency being provided with police documents only minutes before a 'consultation' where they are being asked to express their views. This is not meaningful community consultation.

In her study of the New South Wales Police-run Community Consultative Communities, Professor Janet Chan noted evidence that there was no systemic evaluation or monitoring of these processes and that consultations tended to be ritualistic and membership was not representative. Furthermore, she noted concerns that committee members were chosen for their 'compliance'.¹⁸ While research into stakeholder experiences of Victoria Police's reference groups is outside the scope of this report, we suggest the concerns noted by Professor Chan are likely to be issues in Victoria too.

Through the use of strategic Freedom of Information (FOI) applications, researcher Adelle Ulbrick was able to uncover evidence that the Priority Communities Division had an underlying agenda attached to its stakeholder engagement focus that was not described in the *Equality is Not the Same* report. She discovered that the Priority Communities Division's purpose was not only to engage in formal stakeholder engagement, but had an alternative motive: surveillance. Ulbrick discovered that the Priority Communities Division was engaged in creating Youth Specialist Officers and Youth Engagement Officers whose roles were to combine 'responsive-evidence based and pro-active intelligence based policing to drive police responses to high impact youth offending'.¹⁹ These stakeholder engagement roles were never intended to change policing practices, but rather to obtain contact with, intelligence about and further criminalise young people.

Ulbrick's work uncovers the inherent conflict of interest in the role that the Priority Communities Division plays in 'building trust' with targeted communities, whilst simultaneously 'collecting intelligence' using its theme of 'intelligence, connect and partner'.²⁰ The conflicted role of the

¹⁶ <https://www.police.vic.gov.au/reference-groups>

¹⁷ See 'Stop Data Working Group Timelines and Actions'.

¹⁸ Janet Chan, *Changing Police Culture; Policing in a Multicultural Society* (Cambridge University Press, 1997) 197, 198.

¹⁹ Adelle Ulbrick, *Predictive Policing and Young People* (Flemington & Kensington Community Legal Centre, 2021) 84, 31.

²⁰ Ibid 32.

Priority Communities Division indicates that facilitating police relationships into ‘priority’ communities was never about decreasing racial or other forms of discrimination, but to enhance the police reach into and criminalisation of these communities. This outcome could not have been further from the aim of the applicants in the Haile-Michael case.

STRATEGY 2

COMMUNICATION AND RESPECT

Victoria Police acknowledged it had issues in communicating respectfully towards policed people. To respond to these deficits, Victoria Police noted the research into procedural justice²¹ and its benefits. A leading procedural justice advocate has suggested that, as well as being polite, if police explain the reason for their engagement with an individual, the individual is less likely to perceive that they have been racially profiled.²² Communication is therefore seen as an important strategy to remove the perception of racial profiling.

This however misses a critical point. If police have an articulable and defensible reason for **why** they have stopped an individual, this means they are less likely to be engaging in racial profiling. The reason police provide for why they stop a person is critical. For example, if the police stop a young person who fits a detailed description of a person (i.e. clothing description, facial hair description, height, etc) involved in a theft that occurred five minutes ago at that location, and they explain this to the person, this is a defensible reason for interacting. If, however, they explain their stop of a black youth because they ‘fit a description’, this could meet procedural justice requirements, but is not sufficient to reduce racial profiling. Nor will it reduce the perception of racial profiling. One of the youth workers interviewed for this report said:

“[...] young people [...] just walking in a group and they’ll be like we’ve pulled over [by police] and [police] said ‘oh you fit the description of what happened somewhere’ [...] police just pull up on them and get their name and address and [the

young people,] they don’t know why. But one of the excuses, a lot of the young people said, police would say is you fit the description.”

— YOUTH WORKER

Racial profiling is not a communication problem, it is a practice problem. Police must genuinely identify a specific crime that a particular individual is connected to before they ask a person for their details; they cannot just identify a racialised individual they want to ‘check’.²³

Unless Victoria Police agree to communicate detailed reasons for a stop, Victoria Police’s intentions to communicate more politely is unlikely to prevent racial profiling or improve people’s perception of police.²⁴

In exploratory research for her PhD, one of the authors of this report examined the opinions of Victorians who thought that during their last interaction with a police officer, the officer was polite but unreasonable. In that study, 46 pedestrians/cyclists thought the police were polite but unreasonable. Twenty-nine of these people left the interaction with a negative opinion of the police, while five had a positive opinion of police at the end of the interaction. The study found that of the pedestrians/cyclists who thought police were polite, those who also viewed the police as unreasonable were much more likely to have a poor opinion of police at the end of the stop.²⁵ These results indicate that politeness in the absence of a reasonable basis to stop an individual, is unlikely to improve people’s perception of police.

STRATEGY 3

FIELD CONTACT POLICY AND PROCESS

In *Equality is Not the Same*, Victoria Police agreed to review its policies to ensure they did not lead to racial profiling, and so that they explicitly state that racial profiling is unacceptable, and that Victoria Police have zero tolerance for it.²⁶ They also agreed to ‘develop a data collection and monitoring framework that is relevant to and appropriate for Victoria.’²⁷ Furthermore they agreed to examine

21 Lorraine Mazerolle et al, ‘Shaping Citizen Perceptions of Police Legitimacy: A Randomized Field Trial of Procedural Justice’ (2013) 51(1) *Criminology* 33.

22 Tom R Tyler, ‘Racial Profiling, Attributions of Motive and Acceptance of Social Authority’ in Richard L Wiener et al (eds), *Social Consciousness in Legal Decision-Making: Psychological Perspectives* (New York: Springer, 2007) 61.

23 Steve Martinot, *The Machinery of Whiteness. Studies in the Structure of Racialization* (Temple University Press, 2010) 72. See also, R. v. Digiacomo, 2008 ONCJ 105 (CanLII).

24 Victoria Police, *Equality Is Not the Same* (n 5) 27.

25 Hopkins, T. ‘The psychological impact of policing without reasonable grounds’ in Paul Oluwatosin Bello (Edited) *The Institutions of Law Enforcement* (IntechOpen, 2025). London.

26 Victoria Police, *Equality Is Not the Same* (n 5) 32.

27 Ibid 35.

receipting options to identify which methods are appropriate to trial.²⁸ In our view, these are critically important pledges that if effectively implemented have the potential to reduce the risk of racial profiling. We will return to Victoria Police's implementation of these pledges in the next section of this report.

STRATEGY 4

COMPLAINTS PROCESS

Equality is Not the Same recognised the impact of Victoria Police's internal complaints system on people's confidence in making complaints.

To address the issue, Victoria Police agreed to:

"Review our communication and feedback mechanisms, including the accessibility of information about complaint handling options and process; communication and feedback processes; and accountability and transparency mechanisms."²⁹

It appears that Victoria Police's solution to an ineffective internal complaints system was to communicate better.

Examining how Victoria Police understood improving its communication to complainants was going to reduce racial profiling provides an enlightening glimpse into their theory of change. If police view racial profiling as a perception problem on the part of the victim and not an actual problem with the police and their responses, then improving their communication to victims makes sense. If they can better explain to the victim how they were not racially profiled to them, the problem is resolved.

If people don't trust the police to investigate themselves, providing better information about how police investigate themselves and communicating better to complainants is not going to reduce racial profiling. Furthermore, a reduction in complaints does not reflect an absence of racial profiling or indicate that police are meeting community expectations. There are many reasons why people from diverse racial communities might be reticent to report allegations of racial profiling. If the police are serious about using the complaint system to address racial profiling, they should support the creation of an independent body to investigate complaints.

There are at least two critical aspects of an effective complaint system that are missing from Victoria Police's current system. The first is the cultural and institutional independence of complaint investigators. Leaving police to investigate themselves is unacceptable and does not meet international standards.³⁰ A second requirement is that complaint investigators require a thorough understanding of the human rights issues (including racial profiling) involved in the complaints people have.

To understand racial profiling, complaint investigators need a broad understanding of how the phenomenon of racial profiling operates in Victoria, and how this impact on individual stops, before they can commence any investigation into whether racial profiling has occurred in any particular instance. Until Victoria Police supports the creation of an independent complaint investigation body that understands how racial profiling occurs, operates transparently (including through public reporting), and puts the complainant at the centre of the process, Victoria Police's pledges towards improving its own complaint handling are like moving the deck chairs on the Titanic.

In 2018, a bipartisan Victorian Parliamentary Committee recommended the overhaul of Victoria Police's complaint system.³¹ Victoria Police and the Police Association argued against its conclusions. While police may argue that their internal complaints system could be sufficient with appropriate communication, the evidence suggests that they are failing to achieve even the goals they set for themselves in 2013: communication, transparency and accountability.

In IBAC's 2022 report into Victoria Police's complaint investigations of Aboriginal people, IBAC found that almost 10 years after the *Equality is Not the Same* commitments, police investigating complaints by Aboriginal people failed to analyse human rights, failed to keep complainants updated with progress, were biased, lacked impartiality and did not manage conflicts of interest.³²

Predictably, the former Chief Commissioner of Police, Shane Patton, told the Yoorrook Justice Commission in 2023 that during the last five years, only one police officer had been dismissed for

28 Ibid 36.

29 Ibid 38.

30 Tamar Hopkins, *An Effective System for Investigating Complaints Against Police* (Victoria Law Foundation, 2009).

31 Independent Broad-based Anti-Corruption Commission Committee, *Inquiry into the External Oversight of Police Corruption and Misconduct in Victoria*, vol 8 (Parliament of Victoria, 2018).

32 IBAC, *Victoria Police Handling of Complaints Made by Aboriginal People, Audit Report* (Independent Broad Based Anti-Corruption Commission, May 2022) 10, 11.

racism related matters, one has been transferred, one has received a good behaviour bond and a few others have received lower-level sanctions.³³ We know others have resigned such as Brett Guerin.³⁴ Given that in 2023 Victoria Police operated the largest police service in Australia (21,624 staff in total)³⁵, and the evidence we provide below of continuing racial profiling, these numbers are likely to represent a tiny fraction of the problem.

STRATEGY 5

CROSS-CULTURAL TRAINING

In its 2013 report, Victoria Police identified a part of its organisation structure, the ‘People Development Command’, that would be responsible for a thorough overhaul of police cross-cultural training, including the implementation of unconscious bias training. The training describes using community members as part of the training strategy to reduce police bias. We wonder how these community members were obtained? Were they paid for their considerable service to police? How were the community member’s rights and mental health (given the trauma they may have to describe) to be protected and how was the clear power imbalance that exists between police and the community addressed?

Through questioning in the Tanya Day Inquest, we know that the Priority Communities Division is not involved in educating police about unconscious bias.³⁶ Furthermore, the Chief Commissioner of Police told the Yoorrook Justice Commission that the 3.5 hours of Aboriginal cultural awareness training they having been running would not be rolled out to all police until the end of 2024.³⁷ This is after over 30 years after the Royal Commission into Aboriginal Deaths in Custody recommendations and 12 years after Victoria

Police’s commitment to Haile-Michael and his friends. Furthermore, the Chief Commissioner admitted that there was no mandatory training for custody officers until he ordered it to be mandatory recently.³⁸

The 2015 *Equality is Not the Same* report stated that 150 officers were trained in a pilot in Southern Metropolitan Division.³⁹ The following year’s report declared ‘cross-cultural’ training completed, with the material to be reviewed every six months.⁴⁰ In 2017, the Culture, Community and Diversity (CCD) Resources Hub factsheet was viewed 21,000 times.⁴¹ In 2019, 318 members of People Development Command had completed the compulsory CCD training,⁴² out of a police workforce of 21,399.⁴³ The total number of police officers trained in cross-cultural awareness since 2013 does not feature in the 2015 *Equality Is Not the Same* report.

Along with concerns about the small number of police being trained, there are two further issues.

The first concerns the cultural awareness training that is being provided to police. In the Haile-Michael proceedings, training materials surfaced that trained police to stereotype African youth as “dangerous”.⁴⁴ This example reveals that “cultural awareness” training risks becoming “stereotype enhancing” training.

The second issue is the absence of clear evidence that cultural awareness training actually changes police behaviour,⁴⁵ particularly in the absence of accountability and monitoring of the rule changes.⁴⁶ Police won’t change their behaviour unless they face enforceable consequences, including dismissal.⁴⁷

33 Yoorrook Justice Commission, ‘Transcript of 8 May 2023 Yoorrook Justice Commission’.

34 Ibid 511.

35 Productivity Commission, *Police Services Data Sheet 6A* <<https://www.pc.gov.au/ongoing/report-on-government-services/2023/justice/police-services>>.

36 Finding into the death of Tanya Day (Coroners Court of Victoria, State Coroner of Vic, 9 April 2020) 560.

37 Yoorrook Justice Commission (n 33) 504, line 45. Also see p 513.

38 Ibid 505.

39 *Equality is not the same: Report Two* (2015)

40 Appendix 1 — *Equality is Not the Same: Report Three* (2016)

41 *Equality is Not the Same: Phase Two* (2017–18), 7.

42 *Equality is Not the Same: Phase Three* (2018–19), 8.

43 <https://www.police.vic.gov.au/sites/default/files/2020-01/Victoria%20Police%20Employee%20numbers%20Dec%202019.pdf>

44 ABL and FKCLC, *Submission to Victoria Police Inquiry into Field Contacts and Police Training 2013* (2013).

45 Jonathan Kahn, *Race on the Brain, What Implicit Bias Gets Wrong About the Struggle for Racial Justice* (Columbia University Press, 2018).

46 Michael Shiner and Paul Thornbury, *Regulating Police Stop and Search: An Evaluation of the Northamptonshire Police Reasonable Grounds Panel* (Open Society Justice Initiative, 2019).

47 For example, evidence before the Coroner in the Inquest into Kumanjaji Walker revealed that one of the police

While we don't directly assess training in this report, we do explore the effectiveness of police cross-cultural training on the outcomes of policing in Victoria. Is there evidence the last 12 years' worth of training following the *Equality is Not the Same* report has been effective in reducing or eliminating in racial profiling in Victoria?

SEARCHING FOR EVIDENCE OF CHANGE

In considering Victoria Police's five responses to the Haile-Michael Settlement, there is one area that could have had a clear operational impact: changes to field contact policies and processes including data collection.

FIELD CONTACT POLICIES AND PROCESSES

This section examines:

1. Changes to Victoria Police's Field Contact policies;
2. Victoria Police's data collection attempts; and
3. Flemington and Kensington Community Legal Centre's analysis of the policies and procedures.



Ban on racial profiling

In 2015, Victoria Police introduced a number of changes into the Victoria Police Manual including a ban on racial profiling, and new Field Contact rules and interaction with the public rules.⁴⁸

While this outwardly appears as an improvement on the existing processes, the implementation was problematic. Victoria Police's 2015 ban on racial profiling read, in part, like this:

Target or criminal profiling is the association of particular offences with patterns of behaviour of a suspect. Behaviour and physical appearance such as ethnicity, clothing or frequented locations, can be included as part of that profile for the purpose of describing or identifying the suspect. What is excluded is using race, colour, language, ethnicity, ancestry or religion as the **primary reason** to stop, investigate or interview a person or make a policing decision.

This definition is problematic and unlawful.

It is problematic because it fails to address the police behaviour that led to the Haile-Michael case itself. One of the reasons for initiating the Haile-Michael case was police behaviour sanctioned 'Operation Molto'.

'Operation Molto' was a 2006 police operation in the Flemington area that directed police to investigate young African males at the Flemington and North Melbourne housing estate.⁴⁹ Race was only one of four descriptors used in Operation Molto and yet the outcome was that the police singled out a particular racialised group for attention. While a very detailed, time limited profile in relation to a particular crime may have some probative value, any generalised description attached a generalised set of criminal offending is unacceptable. It is also unlawful.

Section 18 of the *Race Discrimination Act 1975* (Cth) (*Race Discrimination Act*) makes unlawful using race as a basis for a decision even if it is not the dominant or substantial reasons. That is, if race is a factor, it offends s 18 of the *Race Discrimination Act*.

involved in the death had failed to switch on his Body Worn Camera on numerous prior occasions. He was instructed to change his behaviour (wrapped over the knuckles) but was subject to no serious disciplinary outcome for these failures. Failures to follow rules must escalate to dismissal.

⁴⁸ Victoria Police, 'Interactions with the Public', *Victoria Police Manual (Policy Rules)*, 31 August 2015; Victoria Police, 'Human Rights Equity and Diversity Standards', *Victoria Police Manual (Policy Rules)*, 31 August 2015.

⁴⁹ ABL and FKCLC (n 44).

In 2021, the Victoria Police Manual definition of racial profiling was corrected, presumably to overcome this flaw. The problematic section was removed and the racial profiling provisions now read:

Employees must not make decisions based on generalisations or stereotypes about a person's attributes such as race, ethnicity, culture, religion, ancestry, language, age, gender identity, sex, sexuality, mental health or disability. Racial profiling is a form of discrimination and is against the law. Racial profiling involves making decisions that are not based on objective or reasonable justification, but on stereotypical assumptions about race, skin colour, language, ethnicity, ancestry or religion. Victoria Police has a zero-tolerance policy towards racial profiling.

Despite this policy, there is evidence of racially targeted operations established after 2015, which will be discussed in the next part of this report.

Targeted interactions

In their 2015 amendments, Victoria Police introduced the new concept of 'targeted interactions' into its policy manual. A targeted interaction is defined in the manual as an interaction where the police ask a person for their name and address or ask a person why they are present at a certain location.⁵⁰ The Police Manual states:

Any targeted interactions with members of the public should be justifiable and based on intelligence, the person's behaviour or reasonable suspicion. They cannot be based upon attributes such as race, colour, language, religion, nationality or national or ethnic origin, sexuality, gender identity or impairment unless relevant.

This policy is a clear step in the right direction towards prohibiting police stop and question powers except where they are justifiable on reasonable grounds.⁵¹ It is possible, if this policy were enforced, it might lead to a reduction in racial profiling.

Field contact reports

Victoria Police's policy changes regarding field contact reports are less positive. From 2015, Victoria Police policies limited police from submitting field contact reports into the police LEAP database, to circumstances where they reasonably believe an offence has occurred.⁵² While at first blush, this sounds appropriate, the problem is that the policy limits police from *submitting* field contact reports into the Victoria Police database, it does not prevent police from stopping and questioning individuals absent a reasonable belief that an offence has occurred.

This means that Victoria Police no longer keep records of stops and questioning that do not meet the 'reasonable belief standard'. Consequently, the bulk of their everyday contact with the public, including excessive stopping and questioning, is not recorded and cannot be analysed. This removes a critical evidence base for future claims under the *Race Discrimination Act* in Victoria.

The police could argue that the 'targeted interaction' policy solves this problem by limiting stopping and questioning to where the police have reasonable grounds, but the fact is they have no recording mechanism to measure if their targeted interaction policy is being complied with. As we shall see shortly, our research provides evidence that it is not being complied with.

This takes us to the second critical operational change component in the *Equality is Not the Same* report: data monitoring.

Data monitoring

In the *Equality is Not the Same* report (2013) Victoria Police stated it would:

... draw on the experience of our international counterparts to develop a data collection and monitoring framework that is relevant to and appropriate for Victoria. We will work with bodies such as the Victorian Equal Opportunity and Human Rights Commission (VEOHRC) and peak community organisations to adopt a methodology that meets expectations.⁵³

50 Victoria Police, 'Interactions with the Public', *Victoria Police Manual (Policy Rules)*, 31 August 2015.

51 This policy could be improved by removing the words 'intelligence, the person's behaviour'. The only reason for a targeted interaction should be 'finding a person committing an offence or holding a reasonable suspicion that a person has committed an offence'.

52 Victoria Police, 'Reporting Contacts and Intelligence', *Victoria Police Manual (Policy Rules)*, 9 May 2016.

53 Victoria Police, *Equality Is Not the Same* (n 5) 35.

In 2014 Victoria Police released a follow up *Equality is Not the Same Report* where it said it would:

Examine data collection (including the nature of the data collected), as well as enhancing monitoring, analysis and reporting processes and capabilities.⁵⁴

Victoria Police also stated that it planned to commence a pilot into data collection and receipting.⁵⁵ Furthermore, they said they had established a data working group with the Privacy Commissioner and Victorian Crime Statistics Agency.⁵⁶

In its 2015 report, Victoria Police detailed the commencement of a receipting proof of concept study in Dandenong, Moonee Valley, Bundoora and Mildura.⁵⁷ Unfortunately, there were a number of astonishing defects in its study. Firstly, the reasons given on the receipt for the police intervention were one of the following four things:

1. Welfare;
2. Road Safety;
3. Community Safety; and
4. Receipt Requested.

Secondly, the trial would not be collecting data on the ethnic appearance of those stopped.

Telling someone they have been stopped for ‘community safety’ reasons does not provide any information about the offence that the police are investigating or how the stopped person is understood to be connected to that offence. Consequently, these receipts are unable to reassure people they have not been racially profiled and have not been singled out by the police because of their race.

The research methodology and evaluation of the receipting trial was carried out internally by Victoria Police. Victoria Police said:

The objective of the final proposal was determined as being “to test a practical receipting method that provides a person with a tangible record of their interaction with Police or Protective Service Officers”. This approach satisfied and supported the underlying themes of the ENS report namely, transparency and accountability.⁵⁸

This objective of the receipting trial does not further the goal of racial profiling reduction or elimination.

Firstly, the communication of these generalised reasons is not capable of reducing the risk of racial profiling. Furthermore, while the receipts may be useful to individuals in making complaints where they are repeatedly stopped, there is no mechanism for Victoria Police to monitor the activities of their officers or the racially targeted nature of those activities. This means the burden of accountability lies on the stopped individual, not the police. The transparency and accountability mechanisms the scheme should have been aiming to achieve was to measure whether police were in fact following Victoria Police’s new ban on racial profiling. It is evident that the trial’s purpose, design, and evaluation were not focused on monitoring or reducing racial profiling.

Figure 1 Police Initiated Contact Receipt.⁵⁹

Police / PSO
Initiated Contact Receipt

THIS IS NOT A FINE
AND YOU ARE NOT UNDER ARREST

Reason for contact

☐ 1. Welfare ☐ 3. Community Safety

☐ 2. Road Safety ☐ 4. Receipt Requested

Date Time

Location

Reference No
R012345

Member Number Police Station

This is a receipt only and is provided for your information

⁵⁴ Victoria Police, *Equality is Not the Same Year One Report* (Victoria Police, 2014) 10.

⁵⁵ Ibid 12.

⁵⁶ Ibid 12.

⁵⁷ Victoria Police, *Equality is Not the Same Year Two Report* (2015) 9.

⁵⁸ Ibid 11.

⁵⁹ Victoria Police, *Receipting Proof of Concept—Evaluation Report* (Victoria Police, 2016) 16.

In fact, the evaluation questions for the trial were as follows:

1. Have the proof of concept models provided a practical method of receipting people who have been the subject of police initiated public contacts?
2. Has the Receipting Proof of Concept assisted police to connect more effectively with the diverse communities of Victoria?
3. Were there any consequences to public safety or perceptions of public safety during the Receipting Proof of Concept?⁶⁰

The third question was added because of concerns that the receipting process might deter police officers from stopping people on the street, which it was said, may impact on public safety.⁶¹ This makes it evident that the receipting trial was an ineffective and confusing stakeholder engagement strategy not a racial profiling prevention strategy.

Unsurprisingly, the 2016 police evaluation of the trial recommended against the continuation of the receipting program. Furthermore, as deliberately planned, no data was provided on the number of stops the police carried out, or the ethnicity of those who were stopped during the trial. The report's findings were based solely on a survey of police members.

In its 2016 *Equality is Not the Same Report*, Victoria Police determined that it would not be rolling out a future receipting program.

In 2017, the Flemington & Kensington Community Legal Centre released a detailed report addressing the issues raised by the police in their evaluation report about why the police should not engage in data collection.⁶² The report, authored by six academics collectively known as the 'Stop Data Working Group,' included a summary in Table 1 that highlighted the key concerns raised by the police along with the responses from the Stop Data Working Group.

One of the odd things about the objections raised by Victoria Police is that they do already collect ethnic appearance on many of their forms. Much of this required information is already being gathered; it is simply unmonitored and not made public.

In a 2017–2018 report card into its *Equality is Not the Same* work, Victoria Police stated it would: 'Continu[e] to explore the interface of data collection/monitoring initiatives.'⁶³

However, in its 2018–2019 Annual Report Card, Victoria Police dropped all discussion of data monitoring.⁶⁴ Racial profiling monitoring has subsequently not been on Victoria Police's agenda and Victoria Police have provided no official response the Stop Data Working Group's Monitoring Racial Profiling report.



⁶⁰ Ibid 19.

⁶¹ Ibid.

⁶² Tamar Hopkins et al, *Monitoring Racial Profiling: Introducing a Scheme to Prevent Unlawful Stops and Searches by Victoria Police* A Report of the Police Stop Data Working Group (Flemington & Kensington Community Legal Centre, 2017).

⁶³ Victoria Police, *Equality is Not the Same Phase Two, Annual Report Card 2017–2018*.

⁶⁴ Victoria Police, *Equality is Not the Same Phase Two, Annual Report Card 2018–2019*.

Table 1 Key concerns raised by Victoria Police and the Stop Data Working Group responses.⁶⁵

CONCERNS	RESPONSE
Ethnicity data collection is not supported by the community.	14 key multicultural community groups and agencies in Victoria formally drove calls for ethnicity data collection by Victoria Police to monitor the existence of racial profiling. ⁶⁶
Data collection and reporting will harm community police relationships.	We have not found any examples of racial data collection harming police community relationships. To the contrary, greater transparency has been found to increase community trust, participation, engagement and reduce alienation. ⁶⁷
The community will reject police attempts to ask people to state their ethnicity.	Monitoring racial profiling involves collection of police-perceived ethnicity. There is no need for police to ask people to state their ethnicity.
Data collection will increase stereotypes about ethnic crime rates.	In contrast to the quarterly release of statistics by the Victoria Crime Statistics Agency which reports crime rates by country of birth, racial profiling data will provide information about whether any ethnic groups are being unnecessarily targeted in Victoria. Racial profiling data examines the effectiveness of police stops, not crime rates.

⁶⁵ Table taken from first 4 rows of Table 1 key concerns and responses: Ibid 9.

⁶⁶ Letter to Victoria Police, 2016 <<<http://policeaccountability.org.au/racial-profiling/whats-next-for-victoria-efforts-to-end-racial-profiling>>

⁶⁷ Tom R Tyler, Phillip Ataba Goff and Robert J MacCoun, 'The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement' (2015) 16 Psychological Science in the Public Interest 75, 11.

CONCLUSION

This brief journey through the publicly available documents produced as a consequence of the Haile-Michael Settlement reveals a number of things.

Firstly, stakeholder engagement was the biggest outcome of the settlement. The principal aim of this engagement was to allay the perception of racial profiling. However, its secondary aim was to facilitate police access to, and the criminalisation of, particular communities.

Secondly, two policies were introduced into the Victoria Police Manual that could have reduced racial profiling if they were effectively enforced. The first was the ban on racial profiling. The second was the restriction on 'targeted interactions' to when the police have reasonable grounds. However, Victoria Police has put no mechanism in place to monitor police compliance with these policies. Furthermore, in its COVID-19 report, Inner Melbourne Community Legal discovered that in almost 25 per cent of fines issued, ethnic appearance codes had not been completed.⁶⁸ This undermines their use by police in the future for racial profiling monitoring.

The Receipting Trial could have provided evidence of a change in Victoria Police's approach to racial profiling. However, given ethnic appearance data was not collected, the basis for stops were extremely vague, and there was no engagement by Victoria Police in Stop Data Working Group report to subsequently improve the trial, **it is reasonable to conclude that the absence of data monitoring by Victoria Police is quite deliberate.** In fact, monitoring is less possible now than it was 12 years ago with the restriction on submission of field contact reports to situations where the police have a 'reasonable belief that an offence has taken place.'

While it is outside the scope of this report to examine stakeholder engagement or police multicultural training, we have identified concerns with how these programs are working based on the research of Adele Ulbrick and the cross examination of the Chief Commissioner of Police at the Yoorrook Justice Commission. Furthermore, if either of these components of the *Equality is Not the Same* program were effective in reducing racial profiling, this should be evident in the next two parts of this report.

⁶⁸ Tamar Hopkins and Gordana Popovic, *Policing COVID-19 in Victoria: Exploring the Impact of Perceived Race in the Issuing of COVID-19 Fines during 2020* (Inner Melbourne Community Legal, 2023).

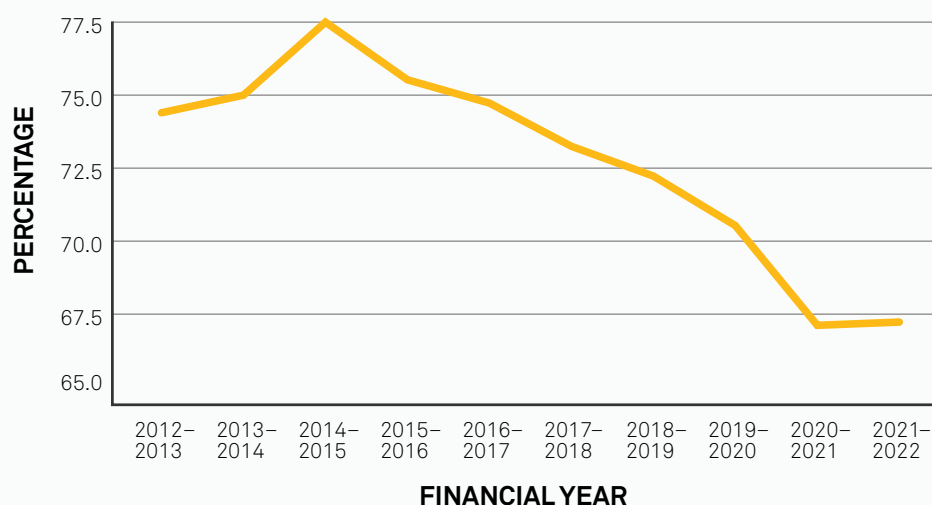
PART 2

Effectiveness of Victoria Police's response in preventing racial profiling

Due in part to Victoria Police's resistance to monitor racial profiling, there is limited data on racial profiling by police in Victoria.

However, there are a number of sources of data that shed light on Victoria Police's progress. The first set of data comes from the Productivity Commission. Every financial year the Productivity Commission asks about 8,100 Victorians for their opinion on whether they agree with the statement 'police treat people fairly and equally'.⁶⁹

Figure 2 Percentage of people who agree 'police treat people fairly and equally', by financial year.



⁶⁹ Productivity Commission (n 35) 6A.7.

PERCEPTION EVIDENCE

Figure 2 illustrates people's opinions of Victoria Police's treatment of people over the last 10 years. It shows that people's opinions of Victoria Police behaving fairly and equally increased for two years following the release of the *Equality is Not the Same* report, but have since been steadily declining. While this does not directly indicate the extent of racial profiling in Victoria, it does reveal that people's perceptions of Victoria Police's fairness have declined over the last 10 years. This indicates that Victoria Police is not meeting its own measure of interest — improving public perception.

DATA ON RACIAL PROFILING BEFORE THE HAILE-MICHAEL SETTLEMENT

Evidence from the Haile-Michael case itself provided data on existence of racial profiling. In 2012, Professor Ian Gordan and Assistant Professor Sue Finch, analysed Victoria Police field contact reports for young men aged between 14–19 from 1 January 2005 to 31 October 2008 in the Flemington and North Melbourne area.

They found that African/Middle-Eastern youth were 2.53 times more likely than their size in the population would predict, to be subject to a field contact report. At that time, field contact reports were completed whenever a person was stopped by police and did not require police to have reasonable grounds to believe that the person had committed an offence.⁷⁰ The statisticians also found that African Middle-Eastern youth were more likely to have their matter 'left pending enquiries' after an arrest than other youths. This means that African/Middle Eastern youth were more likely to be arrested, before the police had a basis to form a reasonable belief that they had committed an offence.⁷¹

Racial profiling can be observed through evidence of the unreasonable and disproportionate use of police powers against racialised minorities.⁷² Consequently the data analysed by Gordan and Finch provides evidence of racial profiling before the Haile-Michael Settlement.

DATA ON RACIAL PROFILING AFTER THE HAILE-MICHAEL SETTLEMENT

Due to the absence of a monitoring system and police data on racial profiling, Dr Tamar Hopkins conducted a survey in 2018–2019 of 981 Victorians' experience of being stopped by police as part of her PhD research.⁷³ Analysis of the data collected through that survey provides evidence of racial profiling.⁷⁴ Figure 3 shows that racialised people were more likely to experience high discretion stops than white people. High discretion stops are stops where no specific reason exists prior to the stop. Conversely, white people were more likely to experience low discretion stops than racialised people, that is stops where the reason for the stop is clearly apparent.

For the analysis, a low discretion stop included stops for serious traffic offences that impact safety including speeding or going through a red light and where batches of cars were pulled over simultaneously for drug testing leaving no room for the police to single out individuals. High discretion stops were stops where the police provided no justification for the stop such as a 'random intercept' or a 'random preliminary breath test'. Medium discretion stops were those where the infraction was minor, such as failure to indicate when changing lane or a broken tail-light.

Figure 3 shows that police are more likely to intercept racialised people in highly discretionary situations where no offence is observed than white people. This data was then subject to a regression analysis to test whether the associations seen Figure 3 were 'significant'. This form of hypothesis testing allows us to test whether the differences seen above are sufficient to set aside an assumption that the police treat everyone equally.

This is evidence that police in Victoria are more likely to stop racialised drivers for no reason, and that they are even more likely to stop drivers they perceive to be Aboriginal, African, Middle-Eastern/Muslim and Pasifika for no reason, compared to white people. This is evidence of racial profiling.

70 Tamar Hopkins, 'Litigating Racial Profiling: Examining the Evidence for Institutional Racial Profiling by Police against African-Australians in Flemington, Victoria' (2021) 26(2) *Australian Journal for Human Rights* 209, 11.

71 Ibid 10.

72 Charles R Epp, Steven Maynard-Moody and Donald Haider-Markel, *Pulled Over: How Police Stops Define Race and Citizenship* (University of Chicago Press, 2014) 5.

73 94% of the vehicle stops and 72 % of the pedestrian stops described by participants occurred after the August 2015 change in policy.

74 Tamar Hopkins and Gordana Popovic [2024], 'Do Australian Police Engage in Racial Profiling?', *Current Issues in Criminal Justice*, 22 May 2024.

Figure 3 Stop reasons by racialisation in Victoria.⁷⁵

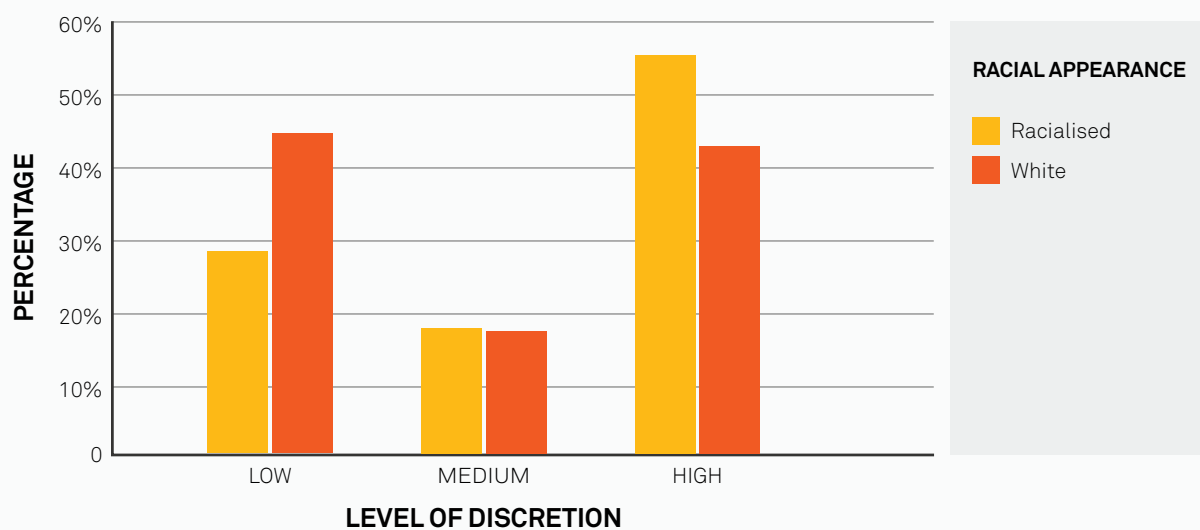
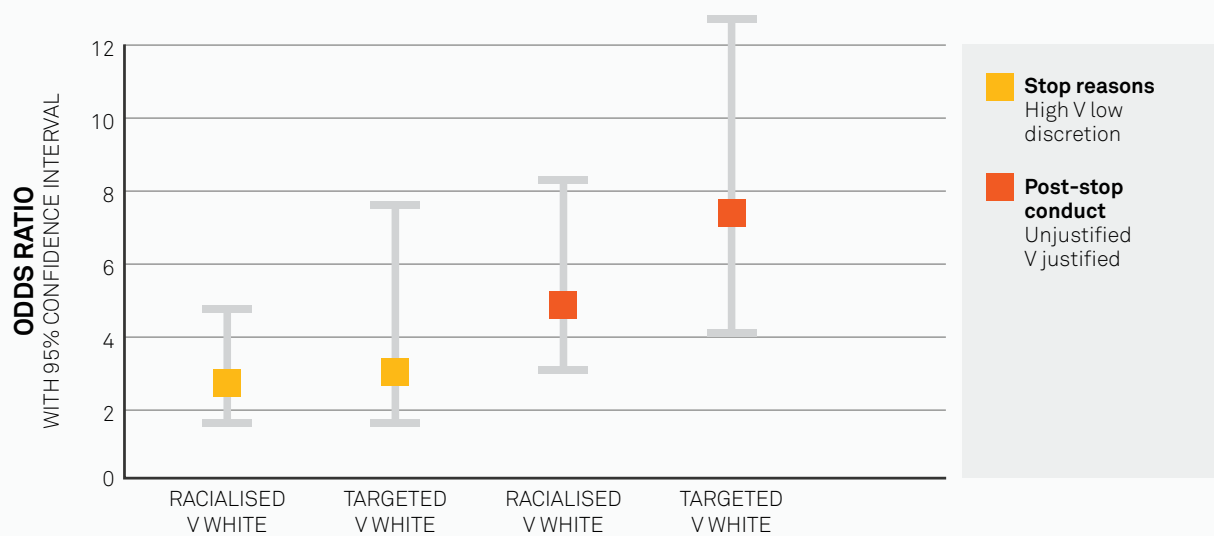


Figure 4 Vehicle Stop Odd Ratio Comparisons.



⁷⁵ From Ibid. Figure 2.

The results also showed strong evidence that once a police officer stops a racialised driver, they are more likely to engage in conduct that is not justified. For example, they are more likely to search the vehicle without cause or ask the person to justify why they are driving in a particular area. The odds of a police officer doing this to a racialised driver is 4.9 times higher than the odds of a police officer doing this to a white person (OR 4.95 [2.90, 8.44], $p < 0.001$), controlling for age, gender, LGBTIQ and disability. The odds were even greater for drivers the police perceived to be African, Aboriginal, Middle-Eastern/Muslim and Pasifika people: 7.4 times higher than the odds for a white person (OR 7.40 [3.95, 13.88] $p < 0.001$), controlling for age, gender, LGBTIQ and disability.⁷⁶ In the following diagram, people perceived by police to be African, Aboriginal, Middle-Eastern/Muslim and Pasifika are called ‘targeted’. The data described above is set out graphically in Figure 4. In Figure 4 you can see the odds ratio produced by the regression analysis represented by a square with its confidence interval either side. You can see that the confidence intervals are all above one. This means that there is good evidence that the police are not treating people equally.

When police in Victoria stopped pedestrians, they were more likely to stop a person they perceived to be African, Aboriginal, Middle-Eastern/Muslim and Pasifika before they identified an offence (OR 2.85 [1.25, 6.48], $p < 0.04$) than people they perceived to be white and were more likely to issue them with unjustified demands (OR 3.25 [1.40, 7.55], $p < 0.03$).⁷⁷

DRIVING WHILE BLACK

The research also found that police were more likely to engage in a range of behaviours towards people perceived to be African, Aboriginal, Middle-Eastern/Muslim and Pasifika during vehicle intercepts.

In the following tables, results with stronger evidence ($p < 0.05$) have two stars next to them (**) while results with weaker evidence ($p < 0.1$) have one star (*).

Referring to Table 2, it is evident that police have over four times the odds of looking into a vehicle before stopping it if it is person who appears to be African, Aboriginal, Middle-Eastern/Muslim or Pasifika. Police have over twice the odds of asking these groups why they are driving in an area, to get out of the car and to search their vehicle. The police have over 10 times the odds of asking these drivers’ passengers to step out of the vehicle, and four times the odds to ask these passengers their name than a white person’s passenger.

These results provide evidence that police are more likely to engage in the following behaviours towards African, Aboriginal, Middle-Eastern/Muslim and Pasifika people in Victoria compared with white people: pulling up to look at them before initiating a stop.

This data contained more limited evidence that they are more likely to call for back-up before a getting out of a vehicle following a stop of these racial appearance groups than white people. The study also provides evidence that police are also more likely to stop their car to investigate whether it is stolen, stop them for a random intercept or a minor traffic offences. Furthermore, when they stop African, Aboriginal, Middle-Eastern/Muslim and Pasifika people in Victoria compared with white people, police are more likely to ask passengers to exit a car, ask drivers why they are in a particular area, ask for passenger details, ask the driver to exit the car. There was more limited evidence that police were more likely to engage in registration checks and vehicle searches.

⁷⁶ Ibid.

⁷⁷ Ibid.

Table 2 Vehicle stop odds ratios⁸⁶ or particular police behaviours and stop reasons for racialised⁷⁸ people.⁷⁹

PRE-STOP CONDUCT	ODDS RATIO	95% CONFIDENCE INTERVAL	P-VALUE
Call for back-up	9.041*	0.735–111.245	0.086
Pulled up to look into the vehicle before stopping it	4.149**	1.189–14.476	0.026
STOP REASON	ODDS RATIO	95% CONFIDENCE INTERVAL	P-VALUE
To check if my car was stolen	3.698**	1.337–10.223	0.012
Routine intercept	3.248**	1.788–5.900	<0.001
Minor traffic offence	2.537**	1.085–5.933	0.031
POST-STOP CONDUCT	ODDS RATIO	95% CONFIDENCE INTERVAL	P-VALUE
1. Passengers asked to get out of car	13.085**	3.084–55.522	<0.001
2. Passenger names requested	4.163**	1.807–9.591	0.001
3. Asked why driving in area	2.426**	1.280–4.597	0.007
4. Asked to get of the car	2.383**	1.119–5.072	0.024
5. Vehicle search	2.223*	0.991–4.986	0.053
6. Licence/registration check	1.948*	0.970–3.912	0.061

** Results with stronger evidence ($p < 0.05$)

* Results with weaker evidence ($p < 0.1$)

⁷⁸ Racialised person defined in this data set as those who appear African/Aboriginal/Middle Eastern or Pasifika.

⁷⁹ Drawn from Tables 7.1, 7.2 and 7.3 Tamar Hopkins, *Understanding Racial Profiling in Australia* (PhD, UNSW, 2022). For a complete set of data refer to those tables. Statisticians raise concerns about ‘cherry picking’ the significant results when reporting report writing data. This report is not a full report of the data or the statistical methods used to obtain the data. Please refer to the PhD chapters for the full details.

WALKING WHILE BLACK

The study found that Victoria Police were also more likely to engage in a range of behaviours towards African, Aboriginal, Middle-Eastern/Muslim and Pasifika people compared with white people when they encountered them as pedestrians or cyclists.

From these tables, we can see that there is evidence that police are more likely to stop pedestrians/cyclists they perceive to be African, Aboriginal, Pasifika and Middle Eastern/Muslim for looking suspicious and to ask them if they have seen someone, compared to white people. While the evidence is weaker, there is some evidence ($p < 0.1$) that police are more likely to stop people they perceive to be African, Aboriginal, Pasifika and Middle Eastern/Muslim because they looked away from the police.

After the police stop a person they perceive to be African, Aboriginal, Pasifika and Middle Eastern/Muslim, the police are more likely to examine their mobile phones and subject them to inappropriate racialised comments. The data shows that police have 11 times the odds of making an inappropriate racialised comment to these groups than to a white person. There is more limited evidence ($p < 0.1$) that police are more likely to threaten this group with force compared with white people and subject them to a full search.⁸⁰ While the data in these tables does not necessarily provide evidence of unjustified policing, they raise serious concerns. Furthermore, they provide evidence of difference in policing based on race.

Why is it that passengers in cars driven by people perceived to be Aboriginal/Pasifika/African/Middle Eastern/Muslim are questioned more than passengers in cars driven by white people? Why are drivers and passengers from these racial groups forced to leave their vehicle and face the humiliating gaze of public while white people are not? Meares describes that the 'hidden agenda' of the criminal legal system is to teach people about

their identity as citizens.⁸¹ These examples reveal the particular racial groups that Victoria Police members consciously or otherwise, routinely select to send clear messages about their identity and value to society. This data does not reveal whether Victoria Police members are consciously intentional about who they select for this kind of treatment. However, what this data reveals is the unequal impact of Victoria Police's operational practices on particular racial groups even controlling for age, gender, disability and LGBTIQ status. This is evidence of systemic racism.

In addition to this data, evidence from a study conducted by Inner Melbourne Community Legal into the issuing of COVID-19 fines during 2020 showed that police were four times more likely to issue fines to people they perceive to be African/Middle Eastern than their proportion in the population would predict and were 2.5 times more likely to issue fines to First Nations people than their proportion in the population would predict. Furthermore, the data showed that African/Middle-Eastern people were 5.4% (CI 3.5–7.4%) more likely than white people to be issued with a fine that involved questioning them first to decide if they had committed an offence.⁸²

The data also showed that particular police taskforces issued COVID-19 fines towards people the police perceived to be African/Middle Eastern and Aboriginal people at grossly disproportionate rates compared to white people. For example, 50% (16/34) of the Melbourne Embona Taskforce's COVID-19 fines were issued to people they perceived to be African/Middle Eastern people, while 28% (30/108) of the fines issued by Mildura Uniform where issued to Aboriginal people,⁸³ despite Aboriginal people representing 4.6% of the Mildura population.⁸⁴ Transit police or protective service branches also showed gross disproportionate rates of issuing COVID-19 fines, the Transit South 4 PSO branch issued 38.9% (183 fines out of 471 issued) to African/Middle Eastern people.⁸⁵

⁸⁰ Ibid Chapter 7.

⁸¹ Tracey Meares, 'Policing and Procedural Justice: Shaping Citizens' Identities to Increase Democratic Participation' (2017) 111 *Northwestern University Law Review* 1525 ('Policing and Procedural Justice').

⁸² Tamar Hopkins and Gordana Popovic (n 69).

⁸³ Ibid.

⁸⁴ Letter to the Yoorrook Commission, by Inner Melbourne Community Legal, 4 August 2023.

⁸⁵ Ibid.

Table 3 Pedestrian/cyclist stop odds ratio⁸⁶ behaviours towards racialised⁸⁷ people.⁸⁸

STOP REASON	ODDS RATIO	95% CONFIDENCE INTERVAL	P-VALUE
Because I looked away from them	3.461*	0.907–13.199	0.069
To ask me if I'd seen someone/ something	3.431**	1.157–10.169	0.026
Because they thought I looked suspicious	2.793**	1.337–5.834	0.006
POST STOP CONDUCT	ODDS RATIO	95% CONFIDENCE INTERVAL	P-VALUE
1. Inappropriate racialised comments	11.202**	2.198–57.097	0.004
2. Mobile phone searched/examined	7.204**	1.647–31.507	0.009
3. Full search	6.276*	0.899–43.810	0.0640
4. Force threatened	2.213*	0.870–5.631	0.095

** Results with stronger evidence ($p < 0.05$)

* Results with weaker evidence ($p < 0.1$)

⁸⁶ "The key measure of interest in this analysis is the ratio of the odds of experiencing one type of police conduct over another for racialised respondents compared with white respondents. An odds ratio is a measure of relative outcome. It: (i) Calculates the odds of one group ([targeted] racialised people) having a particular outcome compared to another outcome; and (ii) Calculates the odds of the comparison group (white people) having a particular outcome compared to another outcome; and (iii) Compares the result of (i) and (ii) by dividing one by the other. If the odds were the same for both groups, then the odds ratio would have the value 1. Odds higher than 1 indicate the group faces higher odds of experiencing the outcome than the comparison group. Odds below 1 indicate the group faces lower odds." (Quoted from: Hopkins, T., & Popovic, G. (2024). *Do Australian police engage in racial profiling? A method for identifying racial profiling in the absence of police data*. Current Issues in Criminal Justice, 37(1), 19–40. <https://doi.org/10.1080/10345329.2024.2326709>)

⁸⁷ Racialised person defined in this data set as those who appear African/Aboriginal/Middle Eastern or Pasifika.

⁸⁸ Table 3 is drawn from Table 7.4 and 7.5 in Ibid.

EVIDENCE OF RACIAL PROFILING FROM POLICE DATA

In 2024, the Racial Profiling Data Monitoring Project released data obtained from four years of police search without warrant records obtained under the Freedom of Information Act 1982 (2018, 2019, 2022, 2023). When the police search a vehicle and not a person at the same time, they do not record the person's racial appearance. Consequently the data the Project analyses, excludes vehicle only searches. About 17% of all the remaining records were missing racial appearance. The project only examined records where the data included the police perception of the searched person's ethnic appearance. The Project analysed the police data using two different methods. Firstly, it looked at police 'hit rates' for different racial appearance groups over the four years of data. In order to examine 'reasonable grounds' searches, the hit rate analysis removed searches conducted where there was a Firearms Protection Order in place as these searches do not require the police to have reasonable grounds.⁸⁹ The second analysis method used by the Project looked at the rate of searches for each racial group in 2022 and 2023 compared with their size in the Victoria population, as estimated from the Australian 2021 Census.⁹⁰

From its 'hit rate' analysis, the Project found that during 2018, 2019, 2022 and 2023 Victoria Police were consistently less likely to find a reported item when they searched a person they perceived to be African, Middle Eastern/Mediterranean, Indian and Asian compared with people they perceived to be white. The Project concluded that the police were likely to be searching these groups with less reasonable grounds than when they search white people.

Figure 5 shows the hit rate (find rate) for seven separate groups whose racial appearance is perceived by police to be African, Indian subcontinental, Asian, Middle-Eastern/Mediterranean, Aboriginal/Torres Strait Islander, Pacific Islander or Caucasian over four years' worth of data.

Using a 'census benchmarking' analysis the Project found that in 2023 Aboriginal people were eleven times more likely to be searched by Victoria Police than white people, people perceived to be African were six times more likely to be searched than

white people, people perceived as Middle-Eastern/Mediterranean were 1.2 times⁹¹ more likely to be searched than white people, and people perceived to be Pacific Islander were four times more likely to be searched than white people. These findings were largely consistent with figures from 2022.

Figure 6 shows the rates of searches of different racial appearance groups compared to their estimated size in the Victoria population and then compared to the search rate compared to the estimated proportion in the population of white people. Because racial appearance is not captured by the Australian census, the findings are based on population estimates drawn from people's descriptions of their ancestry. The findings are therefore described by the Project as 'preliminary' estimates because of the errors involved in this estimation.

While both people perceived by the police to be Asian and from the Indian Subcontinent are less likely to be searched than white people (based on population estimates), these groups are both less likely to be found in possession of a contraband item when searched by the police compared to white people. This indicates that, at this point in time, while across Victoria overall, they are more likely to be searched unnecessarily than white people, they are not, as a whole, subject to over-policing.

Because the hit rates of all groups are roughly equal to or less than the hit rates for white people, the disproportionate search rates of Middle-Eastern/Mediterranean, African, Pacific Islander and Aboriginal people indicates that Victoria police are likely to be unfairly targeting these groups for investigative attention. Excessive searching (over-sampling) is one of the mechanisms by which police attention leads to the overrepresentation of these communities in the criminal legal system.

These different data sets provide evidence that police in Victoria treat particular racialised groups differently to white people. Many of these data points provide strong evidence of patterns of racial profiling clearly evident in Victoria despite the settlement of the Haile-Michael case and the subsequent work Victoria Police undertook through the *Equality is Not the Same* program.

89 <https://www.racialprofilingresearch.org/hit-rate-analysis>

90 <https://www.racialprofilingresearch.org/census-benchmarking>

91 Using a different and potentially more accurate assumption, police are 5 times more likely to search Middle-Eastern/Mediterranean appearing people than white people. See: <https://www.racialprofilingresearch.org/census-benchmarking-assumption-2> accessed 11 February 2025.

Figure 5 Hit Rate Analysis of different racial appearance grounds by Victoria Police over four years of data. (This figure is obtained from Figure 3 of the Racial Profiling Data Monitoring Project: racialprofilingresearch.org).

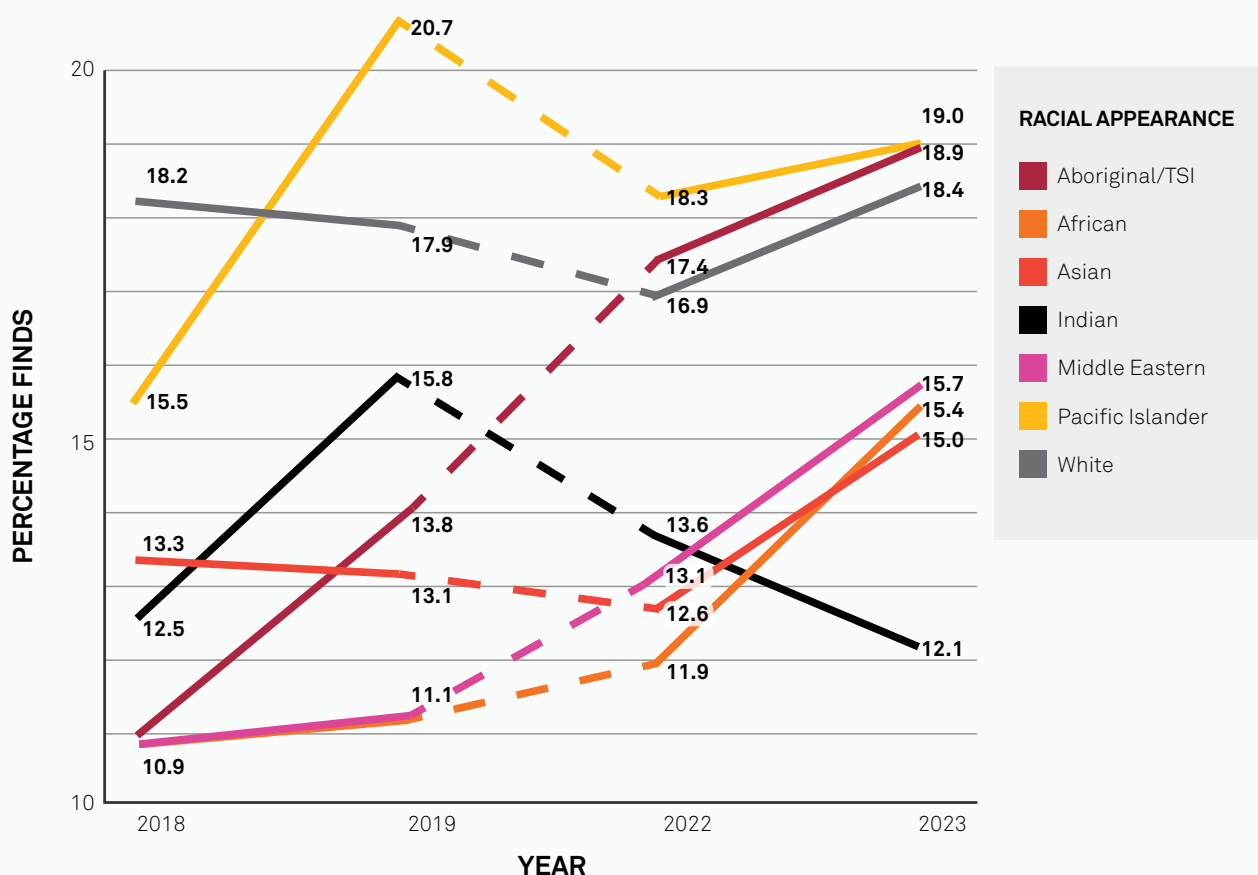
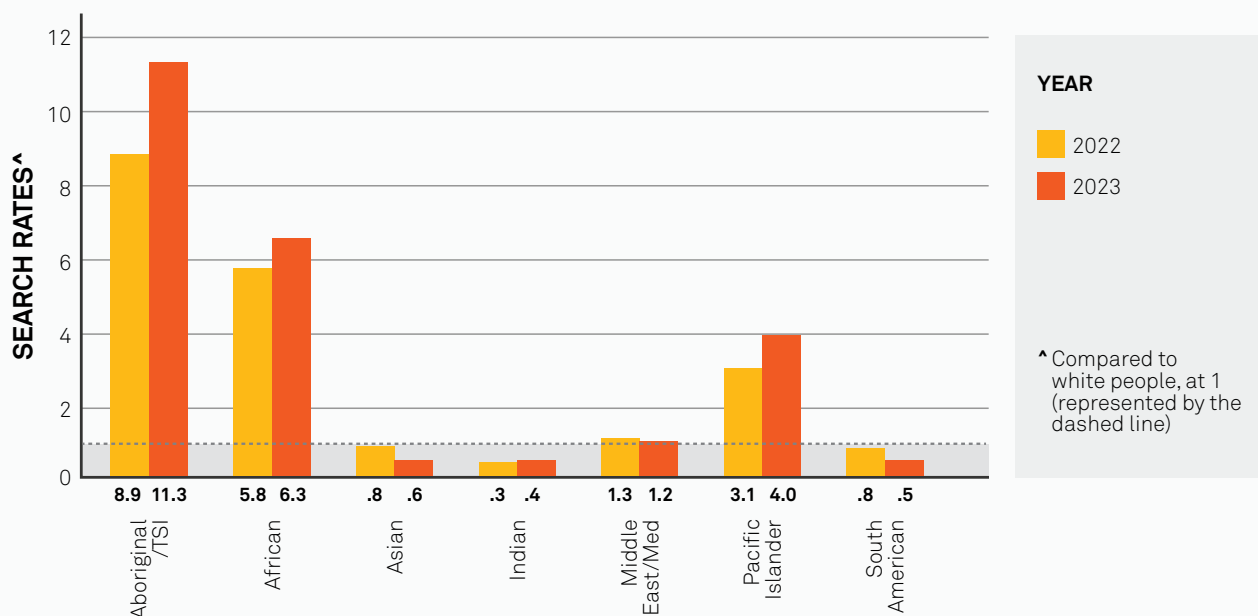


Figure 6 Disproportionality rates of searches by Victoria Police compared to white people.



OTHER EVIDENCE OF RACIALLY DIFFERENTIAL TREATMENT

Research from Leanne Weber on young people from South Sudanese and Pasifika backgrounds in Dandenong, Melbourne, found evidence that Victoria Police had been using predictive tools classifying people as ‘Youth Network Offenders’ or ‘Core Youth Network Offenders’ in the area. Weber notes that use of these predictive tools were likely to amplify racial bias in the policing of young people.⁹² She found that the policing of these communities had considerable impact on people’s experiences of belonging and inclusion.

Research by Bennier et al provided evidence that African youths in Melbourne experienced an intensification of racial profiling in 2016 following the Moomba Riots. They reported the abuse of power, intensive surveillance and restrictions on liberty of people of African background at this time.⁹³

Adelle Ulbrick’s research describes how Operation Wayward, established by police in March 2017 in the North-West Division of metropolitan Melbourne, was focussed on offenders who were identified as Africans aged 14 to 19 years old.⁹⁴ She notes that this proactive operation involved heavy surveillance including enhanced bail and parole checks and home visits. The scheme has some similarities to the unlawful, discredited and now disbanded Suspect Targeting Management Plan that was operating in NSW and was disproportionately focussed on Aboriginal people.⁹⁵ It is worth noting that Operation Wayward was established after Victoria Police’s ban on racial profiling. In 2018, an episode of *Four Corners* revealed that police were highly responsive to reports of African people engaged in alleged crime

and how police would prioritise these reports to other reports of crime by non-African people. Furthermore, the *Four Corners* program provided evidence of police directing two African youths in a library to leave for no reason.⁹⁶

While no findings were made that the police had engaged in racial profiling by the Coroners in both the inquests of Tanya Day and Veronica Nelson, the families of these First Nations women made allegations that they were treated differently by the police than white people would have been.⁹⁷ Furthermore, Tanya Day’s family led evidence at the inquest into her death that Aboriginal women were more likely to be charged for public drunkenness than other people. Aboriginal women represented nine per cent of women charged for public drunkenness, while representing only 0.9 per cent of the female population in Victoria. Furthermore, when they were charged, Aboriginal women were more likely to be incarcerated for public drunkenness than other women.⁹⁸

In 2022, the Fitzroy Legal Service published a report *Gendered Injustice* where they highlighted research showing that Aboriginal women tend to get ‘misidentified’ as the perpetrators of family violence by police.⁹⁹ The report quotes a lawyer saying that her Aboriginal clients: ‘figure out that they’ve been put down as the respondent and are heartbroken but still won’t make a statement because they don’t want to engage with the police.’¹⁰⁰ Furthermore, in 2021, Victoria’s Family Violence Reform Implementation Monitor noted that Aboriginal and Migrant women face greater risk of being misidentified as the perpetrators of family violence.¹⁰¹

92 Leanne Weber, *You’re Going to Be in the System Forever: Policing, Risk and Belonging in Greater Dandenong* (Monash University, April 2020) 4.

93 Kathryn Benier et al, ‘Don’t Drag Me into This’: Growing up South Sudanese in Victoria after the 2016 Moomba Riot (Centre for Multicultural Youth, 2018) 26, 27.

94 Ulbrick (n 19) 39.

95 Vicki Sentas and Camilla Pandolfini, *Policing Young People in NSW: A Study of the Suspect Targeting Management Plan* (Youth Justice Coalition NSW, 2017); Tamsin Rose, “‘Highly Intrusive’: NSW Police Dump Proactive Policing of Children after Watchdog Warns It Could Be Unlawful”, *The Guardian* (online, 30 October 2023) <<https://www.theguardian.com/australia-news/2023/oct/30/nsw-police-dump-suspect-targeting-management-plan-children-proactive-policing-lecc-potentially-unlawful>> (“‘Highly Intrusive’”).

96 ‘Crime and Panic’ (Directed by ABC *Four Corners*, ABC, 2018) <<https://www.abc.net.au/4corners/crime-and-panic/10467544>>.

97 Finding into the Death of Tanya Day (n 36); Finding into the Death with Inquest of Veronica Nelson (Coroners Court, 1 February 2023).

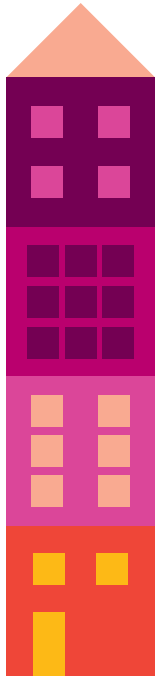
98 Ruling on Application Regarding Scope of the Inquest Tanya Day (Coroners Court of Victoria, Melbourne, 25 June 2019) 30.

99 Emma Russell, Hui Zhou and Gabriela Franich, *Gendered Injustice: The Policing and Criminalisation of Victim-Survivors of Domestic and Family Violence* (Fitzroy Legal Service, 2022) 28.

100 Ibid 29.

101 Family Violence Reform Implementation Monitor, 2021, Monitoring Victoria’s family violence reforms. Accurate identification of the predominant aggressor 11, 19.

At the Yoorrook Justice Commission in 2023, Victoria Police's Chief Commissioner of Police stated that 'we've changed our search policies because we were made aware that Aboriginal youth were searched more frequently.'¹⁰² It would be instructive to know what the police have done to reduce racial bias in police searches against Aboriginal youth, and how they are monitoring the effectiveness of this change.



CONCLUSION

Following an examination of these quantitative and qualitative data sources we conclude that, 12 years after the settlement of the Haile-Michael case, racial profiling continues to be a practice of Victoria Police.

Racial profiling is not a perception problem.

These data sources reveal that police treat people differently depending on their racial background. Furthermore, data from the 2018/2019 survey provide evidence that this racialised difference in treatment cannot be traced back to the stopped person's criminal behaviour and demonstrates that differences in treatment is not dependent on the person's age, gender, disability or LGBTIQ status.¹⁰³ This data provides evidence that it is **race**, not crime, that is resulting in increased investigative activity and harassment by the police.

It is worth noting that 94 per cent of police vehicle stops examined in the survey occurred after the 2015 racial profiling ban was introduced by police, while 72 per cent of police pedestrian stops occurred after the 2015 ban. We conclude that the *Equality is Not the Same* program, and the millions of dollars that have likely been spent on its strategies have been ineffective at preventing racial profiling by police in Victoria.

Because these data points are not longitudinal, we cannot say if racial profiling is better or worse since the *Equality is Not the Same* program. It is clear however, that racial profiling remains a very significant problem in our community and that Victoria Police are failing to address it.

As the Productivity Commission data reveals, along with evidence of continuing racial profiling, and despite the work of the Priority Communities Division on stakeholder engagement, the perception that police in Victoria behave fairly and equally is steadily declining.

It is time that Victoria Police and the Victorian Government examine some genuine solutions to racial profiling and not the ineffective strategies pursued in the *Equality is Not the Same* program.

In this next section we will turn to examine the solutions to racial profiling suggested by those who are impacted by racial profiling and the people who work alongside them.

¹⁰² Yoorrook Justice Commission (n 33) 503.

¹⁰³ The results in the PhD study were controlled for age, gender, disability and LGBTIQ status.

Q: Do you think anything has changed 10 years on. Are police better or worse or is it the same?

A: It's still the same.

— COMMUNITY WORKER

PART 3

Experiences of youth and community workers in 2023

In 2015, Maki Issa and Daniel Haile-Michael wrote a report to explore whether experiences of racial profiling had changed two years after the settlement of their racial profiling case. They found that nothing had changed. Now, over 12 years on from settlement of the case, we make a similar observation.

As part 1 and 2 of this report establishes, many of the policies and actions that Victoria Police undertook have been inadequate to address the operational practice of racial profiling. In this next part we look at the current impact of racial profiling, and the demands made by impacted communities to have racial profiling eradicated.

During the course of our investigation, we heard from numerous people from racialised communities who lived, worked or frequented

the inner-city public housing areas, about their experiences with police and their opinions on the way forward.

In September and October 2023, Ilo Diaz interviewed nine of these people and asked them a series of questions about their experience of policing, and their opinions on strategies to counter racial profiling. Seven of his interviewees were from the African diaspora, one was of Asian background and one was white. All live, work, frequent or study in inner Melbourne. They were all social/community/youth workers, student leaders, or community organisers. They were chosen because of their positions in their community, their firsthand experience with policing, their relationships to many other young racialised people, and their insights into how policing creates harm to individuals as well as the broader community. Their unique positions as both workers and community members, gave depth to their responses, especially in the recommendations section.

We asked them two general sets of questions. Firstly, had they experienced any racial profiling in the past few years and secondly, what they thought would create a meaningful change to end racial profiling by police.

BACKGROUND

The communities of North Melbourne, Flemington and Carlton have a rich history in resisting excessive policing and engaging in anti-racism work. This report draws on this rich culture of resistance to racialised policing and listens to the voices and experiences of community organisers, workers, and community members. This report deliberately centres these voices. It is these voices that the general community and policy makers need to hear to understand the harms caused by racialised policing and what is needed to end it. This work extends from work of the Haile-Michael case, the community organising that happened at that time, as well as the 'More things change, the more they stay the same' report written by Daniel Haile-Michael and Maki Issa in 2015.

Starting from 2005, Daniel and Maki and many other young people in the Flemington and North Melbourne area started speaking up about their experiences of being stopped searched and physically assaulted by police. They were both supported by local youth workers. They also started making complaints about the police through their local community legal centre, the Flemington and Kensington Community Legal Centre. Their advocacy did not stop here. They started youth groups, made community theatre, ran radio programs through 3CR to draw attention to the racial profiling they were experiencing.

They also commenced Australia's first group racial profiling claim.

One person still remembered what that time did for the community, and what those young men meant to him.

"[It meant] the opportunity of having a voice from the community and to learn what's going on, what's happening and I think, to me, it's trying to have those kind of role models. I think Maki and Daniel [were] our [role] models to tell our voices."

— COMMUNITY WORKER

Most of the experiences people shared with us described racial profiling and selective policing practices. We have divided these experiences into two distinct categories, but with the understanding that over-policing and under-policing are the two faces of the same coin. The underlying theme that all people described was that police fundamentally see their communities as suspicious and untrustworthy. They are suspicious when occupying public space, when hanging out in groups, when in cars and even as victims of crime. Being seen as innately suspicious allows police to justify

criminalising and targeting these communities and to disbelieve, discredit or devalue them when they are victims. This is particularly the case when they are victims of the police. These underlying beliefs drive both over and under-policing practices.

OVER-POLICING

"It makes me feel like [I] don't belong here.

Even though I was born here." — COMMUNITY WORKER

Targeted street stops

Being unjustifiably targeted for police attention is a typical experience described to us by community members. These unwarranted police stops cause significant levels of distress as is apparent in the following descriptions:

"Yeah, absolutely. I think they do some profiling. The main groups, I feel like [they] pick on people from non-white background. Predominantly people from African backgrounds."

— STUDENT LEADER

"I have been like just walking on the street, stopped by police and asked [...] what I'm up to. Like where I'm going [...] I was just on my way to my friend's house But I didn't know why they were questioning me, [...] And then they were just like, oh you're good to go or whatever. But I just don't know why [...] they were asking me questions when I was just walking on the street."

— YOUTH WORKER

"Well, [the] first time ever got stopped? I was just around here and [...] it was my] first time driving my dad's old car [...] and I] got stopped randomly. I didn't know what I was doing [wrong] so [...] then [the random stops] just kept going, going, going, going I was getting fines. So I was getting random fines for no reason. [...] and then I realized, OK, [and] one of my family members [was] like this [is] racial profiling." — COMMUNITY WORKER

One person spoke about the difference in the way police approached them when they walk in a busy street, compared to a mostly empty street. On busy streets, police did not approach him for random conversations, while on near empty streets, he was questioned by police and felt unsafe.

"[Walking] by yourself and you walking in a dark alley [...] You're definitely gonna get stopped, you know? So there's two different stories."

— COMMUNITY WORKER

Intentional misidentification

A common theme in the street stop descriptions was the ongoing ‘misidentification’ of young black men. They said that police often cite the physical similarity or similar name for a person of interest as the reason for a police stop.

“That’s what the issue is [...] at the moment [...] having somebody that looks like you [or has] the same [...] name.” — COMMUNITY WORKER

“The other thing we see in terms of racial profiling on the public housing estates is these stops and searches, [police] they have a name [they use to stop people]. It’s [redacted name] that they use and multiple young people who are stopped, [...] when they question, oh, why am I stopped? There’s this same name [police use ...]

“So they say ohh we’re looking for this person and they’re like, OK you match the description [...] what’s the description? Oh they’re tall and they’re black.” — YOUTH WORKER

This ‘misidentification’ of people from racialised communities was such a common occurrence that many of those interviewed believed it was an intentional strategy by police to justify random stops of young black men.

Targeting geographical areas

From our conversations, it became apparent that many people had experienced being targeted because of where they were living and frequenting. The public housing estates were identified as a spot where many racialised people experienced being targeted by police. People felt that the more racialised the community, the more police attention it attracts. These current experiences echo those of the young people in the Haile-Michael claim where Operation Molto¹⁰⁴ directed police to specifically target African males at the public housing estates.

“Does that mean that everyone that lives in a public housing tower deserves to be searched because they live a certain place? They could be a cyber security professional, they could be anyone. Yeah. And they’re subject to some inhumane, sometimes borderline oppressive and sometimes traumatic situations where you’re

surrounded by six officers and they’re asking you to take your socks off because they’re looking for a knife and you’re just a student. [Or] you’re just a young kid, just trying to get to [...] Uni and they’re stopping you on your way to class. How is that going to affect your class? [...] that’s gonna have an adverse effect on your studies and push you more towards crime than it will towards aiding you towards becoming a more proactive member of your community.” — COMMUNITY WORKER

Several other people mentioned the police’s use of ‘high crime area’ as a justification to do a stop and search. Seeing public housing homes as a ‘high crime area’ feeds into the police’s view that racialised communities and the areas they live in are inherently criminal.

“...And then the second one [reason young African people are told they have been stopped] is that ohh you live in a [...] high crime area.” — YOUTH WORKER

These experiences indicate that being in an area with a high incidence of crime (in conjunction with other things such as race and youth) remains a key driver of police contact with the public despite the existence of Victoria Police Manual Policy instructions to the contrary.¹⁰⁵

Monitoring and surveillance

Research in Victoria indicates that young racialised people are being monitored based on biased, racial assumptions, often driven by risk algorithms.¹⁰⁶ The experiences people reported to us described the widespread data collection strategies used by police towards young people from racialised communities regardless of their involvement in crime.

“The police [are] becoming [more] sneaky, I guess the way they go about [...] profiling young people, they [...] take a photo of them ... from afar like one young person told me one time. The police just flashed a light at them. It’s almost like they took a [...] photo of them from afar, and they don’t know why. I guess they just go back to the photo later on [and say] Yep, we know this person. Yep.” — YOUTH WORKER

¹⁰⁴ Hopkins, ‘Litigating Racial Profiling: Examining the Evidence for Institutional Racial Profiling by Police against African-Australians in Flemington, Victoria’ (n 71).

¹⁰⁵ Victoria Police, ‘Reporting Contacts and Intelligence’ (n 53).

¹⁰⁶ Ulbrick (n 19); Weber (n 87).

Many people reported being monitored just because of who they were associated with. If a person's siblings, friends or relatives were caught up in the justice system this was enough evidence to begin monitoring them for any 'suspicious' activity.

"Big one I think I've dealt with a lot is siblings, so if you have had older siblings who have been involved with the justice system, you're immediately flagged. And especially in local areas like here. If your sibling is, for lack of better word, notorious, [then] you are definitely known by police and police [...] make themselves known that [...] they know who you are." — YOUTH WORKER

Police also survey young people's engagement with youth services and try to obtain information about them from youth workers and social workers.

"Previously I used to get a lot of calls [...] from police] asking about specific young people and [...] Yeah, fishing for information [...] Sometimes it's masked and they're like, oh, you know, if they are engaging [in your service] then we'll back off.

"... They use that [police involvement in youth programs] as a way to surveillance young people and gather information about young people too." — YOUTH WORKER

The Victorian Government spends millions of dollars on 'crime prevention' work that seeks to build alliances between police and community agencies (Youth Crime Prevention Grants Fund Evaluation, 2022)¹⁰⁷. The voices we have spoken to however indicate there is a real risk that this work can be used to build predictive profiles on individuals for law enforcement purposes rather than divert people out of the criminal justice system. There are critical consequences of the widespread phenomena of youth work agencies providing information to police who are collecting data for criminalisation purposes. It means that young people seeking youth work assistance are entered police databases where their information will become available for use by police using predictive and pro-active policing strategies. Furthermore, confidential details such as homelessness, mental health, and drug use will be used to resist bail applications and further

enmesh the child into child protection and criminal legal systems.¹⁰⁸ Victoria's youth justice and child protection systems are routinely condemned by the Children and Young People's Commission as being sites of further harm.¹⁰⁹

Schools are another place police have embedded themselves into. This has transformed what may have otherwise been a safe space for some young people into spaces where they feel unsafe and start to disengage.

"...[Young people involved with child protection or the justice system] who are then cornered at school, which has caused them to stop attending and to drop out of school because [...] if [police] can't find them anywhere else, they're coming to school in uniform in front of all the other students." — YOUTH WORKER

"Five or six [young people] are involved in an incident and then the first one was [...] in class. Police came into the class, grabbed him in front of his classmates, pulled him out, put him in cuffs and took him away. And then the other four never went back to school because they were so scared. And all five of them dropped out of school at 16 and they [...] linked that to being so terrified of embarrassment of that happening to them at school. They just never went back to school."

— YOUTH WORKER

The lack of resources at some schools creates opportunities for Victoria Police to use their resources to run programs and services where surveillance and criminalisation can continue.

"...Black students came back to us and said that they had this program [Blue Light] at school where they brought the divvy van and did, like, fake arrests and threw kids into the divvy van."

— YOUTH WORKER

"And there was evidence as well that they were building up cases because at the time [on school camps students would attend with police] the police were asking around nicknames and stuff like that. So it was very clear that it was data collection." — YOUTH WORKER

¹⁰⁷ See also <https://www.police.vic.gov.au/embedded-youth-outreach-project>

¹⁰⁸ This is one of the author's experience from doing bail applications while working as a lawyer in Flemington in the 2000s.

¹⁰⁹ Commission for Children and Young People, *Our Youth, Our Way: Inquiry into the Over-representation of Aboriginal Children and Young People in the Victorian Youth Justice System* (Commission for Children and Young People, 2021); Felicity Stewart and Denis Byles, 'Crossover Kids': *Vulnerable Children in the Youth Justice System Report 2: Children at the Intersection of Child Protection and Youth Justice System Across Victoria*; Yoorrook Justice Commission (n 7).

Police take this a step further and go to great lengths to integrate themselves into the lives of young people completing restorative justice programs. They build up trust with the young person and then use the information they obtain to entrench them into the justice system.

“Even in things if they’re restorative justice programs that a lot of young people go through when they go on diversion. [...] There’s always a police member present who’s generally part of the proactive policing unit or the YRO [Youth Resource Officer] of that area. And they use that opportunity prior to the actual meeting itself to go to the young person’s house a lot, which they’re permitted to do under this restorative program. Get very familiar with the family, get very familiar with the little siblings. [...] in those meetings they make themselves very present, very known, and try and carry on engagement in the young person’s life, almost as a youth worker. Yeah. And not making that very clear that even though they’re [not] in uniform in these meetings, they’re still a police officer.” — YOUTH WORKER

“They’ve like built trust and then it gets to a point where if a young person does offend, rather than that relationship being one that police officer advocates for the young person, knowing their circumstances and what might have led to the offending, it actually flips into [...] helping this young person get identified or be charged with certain things...” — YOUTH WORKER

“And I think one of the ways they’re able to build trust with young people is getting [the young person] out of really small situations [...] they seem like a calm support in contrast to these police officers who are being really violent, who are seeking a lot of information, who are telling them that they gonna be charged with this, that and the other. So then the saviour police officer comes through and [...] just builds the relationship. So you’ll hear from some young people, there’s specific police officers that [...] they say, has helped me, but then, other young people will talk about how that police officer has really screwed them over.” — YOUTH WORKER

Police are also embedded into the lives of ‘ideal’ young people.

Q: “And what’s a model young person called?”

Person 1: “Digestible black person.”

Person 2: “It’s like the young people who are staying out of the justice system. [...] It’s just that they’ve been blessed, to be honest, [...] and

they’ve been convinced [by police] it’s because of their good behaviour that they haven’t been caught in the system.”

Person 1: “It’s a lot of generally talented [young people] when it comes to sport and talented when it comes to school, and so [police] kind of use that, [...] to kind of separate them from a lot of other young people.”

Person 2: “And tell them to stay away from other young people as well. There’s division that’s caused between young people who are involved with the justice system and those “model young people.” — YOUTH WORKERS

These anecdotes demonstrate how police actively criminalise racialised young people and work to create divisions between young people, and against systems in place that try to prevent reoffending. Officers build and use trust with the young people in order to access information about them, their families and siblings. While helping them avoid smaller charges, their contact ultimately criminalises and entrenches these young people into the system rather than diverts them out.

“The way that [the] relationship is framed to young people and families to gain their trust is not [true ...] when the situation escalates it turns really quickly into them working against the young person [and] the family rather than advocating for them or supporting them, yeah.” — YOUTH WORKER

Car stops

‘Driving while black’ stops are a common occurrence for the people interviewed. The power of police to conduct a ‘random intercept’ or a ‘preliminary breath test’ was seen as giving police a cover to stop whoever they wanted without reason.

“Because these days we drive, it’s hard sometimes to say you’re being racially profiled because you’re not walking in public or being in public or something, you know, [if you are] driving police pull you over for nothing [...] just, you know, random police check.” — YOUTH WORKER

The data described in this report shows that these ‘random’ police checks are disproportionately targeted at racialised communities. While the police may not admit they stopped a person because they were black, survey data shows that African, Middle-Eastern, Pasifika and First Nations communities are far more likely to be ‘randomly’ targeted than white people.

Use of public spaces

It is not just in the streets where racial profiling occurs, it can also be in shopping centres or other public spaces where people feel targeted. Young people's use of public spaces is continually being contested by policing, impacting on their ability to participate in society unhindered. One common experience is being followed by security in shopping spaces or being dispersed from public spaces.

"I'll go shopping and [the] security team follow me. [...] I remember one time I was leaving Myers and I had two guys following me. And they're like, hey, we got him. And I'm thinking, what the hell is this? A movie? [...] I thought it was like a video game. So I turned around. I looked at him, I said, who do you got? And he goes. Hey, mate, listen, empty out your bag. [...] I told him. What for, mate? [He says] We have suspicion of you trying to steal something from the shops, I'm like, do you have proof and he goes, Nah, mate. I'm like bro, don't you guys have cameras in your establishment? Why don't you go check it? He goes nah mate, I'm gonna call the police right now." — YOUTH WORKER

"Again, for a lot of men, especially friends, from [...] the same background as me and like my siblings, when I think about if you're in a group and you're approached by the police [...] at the train station you quite [...] often [...] told to disperse from certain places. You're followed around a lot as well. So shopping centre is another thing.

"You finally see security and then like a few moments later, you'd see police. Yeah, and you would just be able to know that, this is exactly what they're here for. There's nothing else that they're there for." — STUDENT LEADER

Another experience of how over policing and racial profiling impacts people's ability to participate in public spaces and engage in political action was the police presence and use of force at protests.

"You see these things and that's why you tell yourself, OK, you have to go into the middle [of the protest] so you don't get caught [by the otherside] because you can't rely on the police to come and intervene. If someone was [to] attack you.

"...So yeah, I absolutely think that a lot of these things would have not happened to white people and it's the reason why I protest. You'd see white allies, you know, volunteering to be witnesses or, you know, volunteering to help people out because they recognise that they are not going to experience the same incidents as you.

"[I'm] always trying to, like walk in big groups, so I don't get picked on or yeah or my other friends don't get picked on and it's been quite unsafe because I do see that approach [by police, where] people that like look like me and I feel like I have to keep myself composed [when speaking to police]." — STUDENT LEADER

Police attention is not just focussed on location. Racialised people attract greater attention if they congregate in groups. These types of policing infringe on people's freedom of movement, freedom of association, and freedom of political communication as well as entrenching racial inequality, all of which are protected rights under the Victorian *Charter of Human Rights and Responsibilities Act 2006* (Vic):

"[Police] see any young ethnic background boys that [are] hang[ing] in [groups of] more than three to four [...] they are considered as a gang and that's where profiling comes through, you know, and I've seen that. Yeah, and heard a lot, a lot more stories of that kind." — YOUTH WORKER

Importantly, one participant described what these racist assumptions do to people who are targeted and over policed in their communities. He described how profiling and targeting by police creates a narrative that these young people must be part of a gang. He described how this idea permeates through the community and become a self-fulfilling prophecy.

"If you call someone stupid enough, eventually they buy into that narrative that they are stupid, you know, [...] they may end up just doing a self-fulfilling prophecy of calling themselves that they think I'm a gang and I'm don't feel like [I'm in a gang] but then maybe you know, I'll show you what, being in a gang means."

— COMMUNITY WORKER

"I think one thing that I noticed with a lot of the older young people that I work with, it's like as a worker and someone that cares about them is the most frustrating infuriating thing is. It's [...] that] constant harassment, but not only sets them up for failure, it does make them fail because they lose all faith in recovering in the system, like the amount of times I've seen young people go on bail and the next day police ping something on them, and then they go back into lock up, that kind of pattern." — YOUTH WORKER

"It's like it's incessant and it's exhausting. And so [the young people] keep turning back to crime because that assumption is so strong. [...] the police do not give them a single opportunity to

ever recover. And then that's what a lot of the older young people want is the acknowledgement that they've fucked up potentially in the past, but they want to be taken seriously when they're saying give us a chance [...] I think that's the one thing I've seen personally, police, time and time again, refuse to give any breathing space for people who might have quite the record." — YOUTH WORKER

"... We see young people so often after they get stopped. And the change in their [demeanour]... one of the young people was like, it's just easier to [...] be what they think I am. And the amount of conversations you're then having to try and undo that sense of [disempowerment]." — YOUTH WORKER

"And even if they're doing really well, and they just get stopped and searched for no reason like that [sets them back...] Whether or not they do well or if they've got heavy involvement, just it's still the like similar effect on their self-worth and hope for their future." — YOUTH WORKER

UNDER-POLICING

Many people described the racialised dynamic of over and under-policing. As well as unwanted attention from police, racialised people also stated that when they needed police, the police weren't there. Racial profiling involves the selective use of police discretion and this includes withholding police services to certain communities.

"[When] the police speak to us [it] is totally different to when we speak to the police. So every time we put a report in, it's like this is another [piece of] work for them, this is another, you know, thing [in their] day for them [...]. But the reporting means a lot to that person." — COMMUNITY WORKER

The sentiment that police were selective in their approach to the community was evident in some of the stories. When community members needed their assistance, police were reluctant to help.

"You lost a wallet, for example, you go to the police and say, hey like I lost my wallet, for them, it's hard work [...] or someone] called the police so many times for family violence [...] for them it's like, OK, this is just work [...] but there's no one that can actually support [the victim of crime] on an ongoing basis, or like catching up with that person and making sure that they've got the information [they need]." — COMMUNITY WORKER

"...I've worked with a lot of young women who have been involved with some quite violent men and family members and other women as well. And so when family violence gets perpetrated especially,

I've noticed in [public housing estates], they [the victim/survivor] will not be taken seriously and have been locked up in the past because they're intoxicated when they've had violence inflicted on them.

"And then that's when police will really drag their feet, especially when they're substance affected. And no matter how substance affected, those young women have been, they can always tell when they're being taken the piss out of by police. Yet the way that they jump on the males to arrest them [on the street], versus ensure [...] [the women's] safety is very, [...] apparent." — YOUTH WORKER

This example illustrates a gendered difference in racialised policing: young female victim-survivors of family violence describe experiences of unsupportive 'under-policing' while simultaneously young men on the streets are subject to over-policing, namely repeated stop, question and search. It is not just that racialised women are disbelieved, they are stereotyped as 'dangerous' and subject to excessive force, arrest and detention. Police do not see young racialised women as the 'perfect victim' and this plays into their framing as being suspicious, untrustworthy and unbelievable. Substance affected African victim-survivors are seen as both 'unbelievable' and 'dangerous and violent' and therefore, not deserving of assistance but worthy of criminalisation instead. It is worth noting that under-policing also impacts racialised men: African taxi and Uber drivers continue to describe under-policing when they are the victims of violence or theft.

"... It's like even when [the police are] really present in their homes, in their families, they're not picking up on the things they don't wanna see." — YOUTH WORKER

This chronic under-policing of certain communities creates a generational difference between the experience of the older generations, and that of the younger ones. When communities call for police assistance and are denied or given a sub-par service, they increasingly ask for more police as a solution. However, an increased police presence doesn't mean the callers get the assistance they are after. It often means more patrols where they target young people in public space, stopping them for questioning. Police remain unresponsive to the needs of the initial caller. This reveals that calling for more policing does not generate safer communities or better policing, it generates more unrelated criminalisation (and less resources for services).

“So that generational divide is what’s causing the over-policing. So my parents will say... that we want more policing because that makes them safer. Yeah, however that over-policing is directly affecting their own children.” — YOUTH WORKER

“But come for a reason. If you’ve been called come to you know to tackle that reason other than just looking for [another] reason, you know, yeah.”
— YOUTH WORKER

“But that’s, that’s that generational divide that I was talking about. So the parents are asking for heightened policing at public housing towers, but then they’re not realising that their 16-year-old son that’s going down to play basketball is the one that the coppers are gonna affect not the 60-year-old mother. The cops aren’t gonna stop the 60-year-old mother they’re gonna ask mundane questions to that random 16-year-old kid that wants to just play ball.”
— COMMUNITY WORKER

The dynamics of these two faces; over-policing and under-policing, gives us a glimpse into how Victoria Police view racialised communities. They see the community as suspicious, as needing to be stopped and interrogated in public spaces. This suspicious mindset also plays out when community members report a crime, or need help from police, but don’t receive a service. Under-policing also suggests that Victoria Police view the community as not worthy of their service, or of their best work. They are suspicious of what community tell them, and of what they need help with. For the community, the police are not there when they are needed, but always there to criminalise their communities.

These under-policing dynamics can clearly be seen in the police investigation of Michael Atakelt’s death in 2011. Michael was a young Ethiopian man who had been regularly subjected to over-policing. In June 2011 he disappeared. His mother made several attempts to file a missing person’s report at the Flemington and Footscray police stations. On three occasions she was rebuffed and told to leave without the police filing a report. Michael’s body was later found by a fisherman in the Maribyrnong River. The police subsequently conducted an extremely poor investigation into the causes of Michael’s death. The failures in that investigation forced the Coroner to order the police to obtain a new investigator one year into the investigation. The true cause of Michael’s death is still unknown, with the Coroner making an ‘Open’ finding.

One of the interviewees described a situation where police interviewed under-aged people without a guardian or independent third person as required under s 464E of the *Crimes Act 1958*. Police were then surprised when members of the community no longer wanted to speak with them.

“[After the incident in the community ...] the next day there was like police reaching out to us, just saying like ohh you know, the community not willing to talk to us anymore. They’re not giving us information like they’re not [willing] to be questioned to give witness statements, etcetera, etcetera. Without the acknowledgement that they’ve actually come in and [...] did something super illegal.

“... When we spoke to a lot of the parents and young people that their main thing was like they never respond when we report crimes and now you treat our kids like this.” — YOUTH WORKER

The experiences described by our nine interviewees is evidence that over 10 years after the settlement of the Haile-Michael claim, racial profiling is a continuing reality. The interviewees described patterns of ongoing surveillance, continuing power imbalances in relationships between police and young people, intrusion into schools and community services, excessive stop, question and search and under-policing when racialised communities ask for assistance. These practices describe the continuing methods by which Victoria Police profile, target and harm communities.

The interviewee stories are consistent with the 2018–2019 survey data that demonstrates that police are more likely to engage in discretionary stop, question and searches of people they perceive to be African, Aboriginal, Middle-Eastern/Muslim and Pasifika in Victoria. They are also consistent with the COVID-19 fine data that shows that police were more likely to fine people they perceived to be African and Middle Eastern for offences that required questioning.

Although Victoria Police have ‘banned’ racial profiling since 2015 in theory, in practice, many racialised peoples and their communities are still exposed to racial profiling and its harms. In the next part of the report we ask our interviewees for their opinions on what could lead to the end of racial profiling.

The following recommendations provide a road-map directly from the people who are impacted by racial profiling to the Victorian Government and service providers about how to prevent racial profiling.

Community demands for change

Our interviewees, reflecting their communities' lived experiences, described a strong disbelief that anything — recommendations or reforms — would lead to any change in the way police interact with communities.

“Recommendations have been coming in for how many years now? And no changes you know”.

— YOUTH WORKER

There are a range of critical issues to understand when seeking police reform. The central issue is that in the absence of legislative requirement, the only reforms that are ever implemented are those the police are prepared to implement. This is a massive problem the Victorian Government has thus far failed to grapple with.

The reforms that the police actually agree to implement fall into two categories.

As we see from the *Equality is Not the Same* process, the first set of ‘reforms’ that police implemented were never designed to prevent racial profiling. For example, holding stakeholder engagement meetings to change the perception of racial profiling, and increased Youth Officers were never going to change the practice of racial profiling. Similarly, preventing police from filing unjustified ‘field contact reports’ but not preventing police from engaging in unjustified field contacts was never going to change the practice of racial profiling. Furthermore, running a receipting trial that has nothing to do with collecting data on the reasonableness of police stops or the racial appearance of who police are stopping was designed, from inception, to be a waste of time.

The problem with the second type of reform that the police agreed to introduce is that they were ‘presentational’ only, with no mechanism for monitoring or enforcement. These included the ‘ban’ on racial profiling, the limits placed on targeted interactions, and the unenforced requirement to collect racial appearance data on fines and field contact forms.

Consequently, the following community sourced recommendations need to be treated as demands to the Victorian government for legislation and enforcement through independent monitoring. They are not requests of the police.

On 8 May 2023, during his evidence before the Yoorrook Truth and Justice Commission, the former Victoria Police Chief Commissioner acknowledged and apologised for systemic racism by police. The racially profiled community we spoke to do not require an apology from Victoria Police. Almost unanimously, all participants noted that they want action, not empty words.

“I don’t think it would be useful cause, to be honest brother like, it’s one thing to say a word, it’s another to take action. Words sometime as much they are good [...] they don’t hold the weight sometimes.” — COMMUNITY WORKER

“I don’t really need an apology coz it’s not really going to be like something genuine.”

— YOUTH WORKER

“If there’s an apology, you need to tell us what actions you’re doing to make it right [...] to actually rectify it.” — YOUTH WORKER

Q: Do you think that [an apology] would help?

“Yes, but also no. Because yes, we’re definitely [need] an apology for everything [...] that should be a statement in every media [piece]. [And] No, because they’ll say no. [...] they’ll say] we can’t change, we can’t change the policy or the system.”

— COMMUNITY ORGANISER

“I know for myself, I don’t think it [will] do anything for me or for my community [...] I think an apology without change is nothing, and so if they don’t change their systems it doesn’t mean anything. If you apologise and you still employ people who have done wrong things it just means nothing and also [...] I don’t trust an apology from them [...] I just feel like it will be empty words.”

— STUDENT LEADER

Person 1: “Apologies and these types of power dynamics means that the victim has to come to the table and you’re asking actually more of the victim [to] relief that person’s guilt or accountability.”

Person 2: “I think I always view apologies as a reconciliation of a relationship. I don’t think this is a relationship that needs to be reconciled, needs to be severed.” — YOUTH WORKERS

Community demands

“Ideally [...] I think policing is not the way I think the system that like does not serve the communities. I don’t think it serves any community. I don’t think it serves [communities] from racialised backgrounds. I also don’t think [it] even really serves white people. Aside from racist white people.”

— STUDENT LEADER



When asked directly about their suggestions on how to rid racial profiling from the police force, some people commented that it was too big a problem to separate from policing.

“I don’t think there’s gonna be one thing that can be done to stop the police targeting because the way [the] system is set up is almost like a business. You need customers, you know, you send people out there to get customers. So [...] police can be trained and most people can be trained in cultural competency training and whatnot, and be knowledgeable, but if the system is set up like a business and you need customers, obviously they’re always going to keep going to get some customers by all means possible... I’m not being pessimistic, I’m optimistic, but I think it will take a bit, will take a bit of resources.” — COMMUNITY WORKER

While we asked open questions around what sort of changes were needed in policing, we also asked some pointed questions around alternatives and early intervention programs that could stop racial profiling from happening.

Three themes emerged from people’s responses that formed the core community demands:

1. **REDUCE** Reduce policing and police presence in communities;
2. **RESTRICT** Change police policies and laws to restrict the use of discretionary powers and ensure this is monitored and enforced through external oversight; and
3. **REINVEST** Empower and fund community-led responses to complex social issues.

DEMAND 1. REDUCE

Reduce policing and police presence in communities

Reducing police presence in the community will reduce criminalisation. There will be less opportunities for police to profile racial minorities. Key areas in which to reduce police presence include, public housing estates, schools, drug policy, and in attending mental health call outs.

Reducing police contact with people was a key demand from almost all the participants.

“When I’m working with young people who are, say for example, violent offenders, I’ve noticed one of the key points in stopping recidivism is working closely with youth workers and working in community corrections in CCO’s and diversions rather than direct policing, having youth workers come and speak to them or having people that work in community development or youth justice practitioners speak with young people, rather than directly be police, so I would say my answer would be I’d like to see less policing.”

— COMMUNITY WORKER

“What do we want to see in my lifetime is less policing. I don’t think for a lot of people from my community, the presence, the large presence of police makes us feel safer, so going to go to the train station and see police men every day does not make me feel safer.” — STUDENT LEADER

People were quick to push back on the idea that police presence makes communities safer.

Person 1: “It’s like safety as a framing of a word. These people aren’t safe right now if in fact police make their lives very dangerous. Yeah. [...] It’s like it’s not safe pulling an 11-year-old over at woollies [...] to search him and body search him. That’s not safety.”

Person 2: “At the end of the day [...] police don’t prevent anything from happening. It’s happened. Their response to the thing [that] happened [is] not [an] adequate response. They actually make the situation worse.”

Person 1: “I don’t think the police serve the community here [...] there’s maybe anecdotal evidence there’s maybe instances where their response was adequate, but overall no.”

Person 3: “I can’t name one person who has benefited from police [contact] or youth justice intervention. I can’t name one.” — YOUTH WORKERS

1.1 Remove police patrols from public housing estates. Where necessary, replace with community-led safety patrols and non-police response teams that can respond holistically to community concerns

We asked people what they thought of having less police in public housing estates, and places where racialised communities gather and live. There were issues between generations on whether this is desirable or not. An alternative was considered of community-led patrols.

“100% I think some of the key demands that the community might want would be less policing, more understanding cause the parents ask for more policing because they think that that’s the solution, when in reality it’s their children who are going to be targeted rather than themselves.”

— COMMUNITY WORKER

We asked people about the use and impact of police patrols in their neighbourhoods. We also asked them whether they thought community-led safety patrols were a better alternative to police patrols. Examples of community-led safety patrols include those utilised in remote Aboriginal communities and the Māori Wardens in western Melbourne.

“So we used to have a bus stop at the [local shopping centre] where a few young [...] kids used to hang out and have a speaker and [...] they often catch themselves making mistakes. And then as soon as they introduced the Maori patrol you wouldn’t find any of those young people sitting at that bus stop anymore because they knew that that would be shameful to their families [...] I’ve seen the effects of having elders be present at places where crime is prevalent and have an effect. Yeah, and I think that also helps with employment because some of these elders have degrees that don’t translate when they get here. And I think that would sort of empower them as well in the sense that they could say I work as a government official. Rather than it be just coppers stopping you and saying, hey mate, you’ve been told to move along.”

— COMMUNITY WORKER

“My favourite stories are the ones where it is the older sisters and the aunties who are the ones who make situations safe again because say for example [...] older young people drug affected and intoxicated fighting each other. [...] Who breaks

that up safely [and] that no one gets arrested, no [one] gets incarcerated, but also no one gets hurt; It's older figures in that community, particularly the aunties. Cause of respect. [...] one auntie was joking with me [...] she was like, yeah, if you paid me, I'd be a security [guard]." — YOUTH WORKER

"[...] I think people seeing people from their community, you know, showing the place is safe actually makes you feel safer, like and it makes you feel like you can rely on them. There's that personal connection." — STUDENT LEADER

"If those [...] those aunties are the one doing patrolling, kids would feel safe. They also wouldn't be doing dumb [stuff]. They would be too scared of the repercussions. But also people wouldn't be getting hurt to the point where they are now."

— YOUTH WORKER

Along with these demands, some people were quick to distinguish these 'community' patrols with police patrols.

"[...]Not patrolling in the police [sense ...] we don't wanna replicate what they already [do ...] there's opportunity for us to be like OK, let's do training for community member responses about, like how do we keep confidentiality? You're gonna see some things you shouldn't see when you're intervening. Like how do you do that? How can you notice people who are at risk and what supports can you connect them to, like that type of holistic care model that happens organically within our communities. But actually people are concerned about doing [this] because they're worried about how that plays into police incidents ..." — YOUTH WORKER

1.2 Remove police from schools and replace with non-criminalising professionals

Police in schools

When asked about the presence of police in schools, we heard that other professions are better equipped to teach and support children.

"I don't think they [police] like they should be around schools like that [...] especially if you think about the informal aspects, you already have bad experiences with police [and] putting [them] in there in the hopes of humanising their job, [...] it doesn't have that impact that like people think it would." — STUDENT LEADER

Schools have different levels of engagement with police. At one end of the spectrum, police enter schools to show off their equipment and uniforms. Sometimes they attend to run workshops. At the other end of the spectrum, police have a more frequent presence at schools as Youth Resource and Youth Specialist Officers.¹¹⁰ These officers work closely with schools, youth services and families. These interventions are lost opportunities for other professionals to intervene and make a positive impact on young people.

"[I agree] with that recommendation [...] because I remember when I was in school, maybe about year 7 or year 8, the coppers did come and run a workshop, but it wasn't one that had any value or held any weight. [...] I don't remember any of the content, I don't remember any of it being of any substance. Because I grew up in a low socioeconomic area and [in] a low performing school. They would send police down regularly to come and speak with us but it was often baseless conversations around crime." — COMMUNITY WORKER

Many of the interventions from police in schools are experienced as intimidating and create a sense of fear. Or worse, as we heard, some children were afraid to attend school. An embarrassing arrest at school could deter others from attending. Police should not be able to enter school grounds for the purpose of fulfilling a warrant.

"I think using police to teach kids about crime just scares them [...] it puts more fear into them that they're going to be like punished by the police, you know, which they might if they commit this type of crime. But why not actually get someone who's trying to work with kids? [...] That's their whole profession." — STUDENT LEADER

1.3 Remove police from youth services and diversion programs

Police in youth services spaces

Another key area of demand was to significantly reduce police presence in youth services and in lives of young people's families. Reducing police contact and increasing contact with support services was a clear message that came through the conversations. From the stories from people provided above this demand includes the removal of police from a range of services including those assisting with bail and restorative justice.

¹¹⁰ <https://www.police.vic.gov.au/youth>

1.4 Take police out of mental health call outs

In 2021, the Royal Commission into Victoria's Mental Health System called for the end of police-led mental health crisis responses.¹¹¹ Shortly after this, on 2 March 2021 the Police Association's Wayne Gatt agreed that police were not the best people to respond to a mental health crisis.¹¹² Racialised people already fear for their safety when being questioned by police.¹¹³ During a mental health crisis, people's safety fears skyrocket. This makes the police particularly inappropriate responders in cases involving racialised people. Many of our interviewees questioned the role of police doing mental health call outs. Someone called the presence of police at some mental health call outs as 'bizarre', questioning why they were present at all.

"I don't know why [...] why police need to be there."
— STUDENT LEADER

"When they [police] get called out and some[one] is having episode, they end up getting charged of assaulting the police. But they don't even know [...] they don't have the capacity to understand what's going on at the time. So [police] make things even worse. And now this person ends up being a little bit better later on, but [the person] has a pending charges that they assaulted the police because they were not themselves at the time. So no, definitely not [police]. No. That's too risky." — COMMUNITY LEADER

In speaking about the pitfalls of police attending mental health call outs, one person reflected the trauma it causes, and the need for an alternative body to do this work.

"It was so dangerous. It was a young South Sudanese man who has an incredibly awful history with police. He was incarcerated for about 10 months off no charge. He's incredibly traumatised by police and authority. He needed a mental health call out and this worker was put in a position where she was almost forced [...] to call the police to do it. And there was no alternative [...] body to do it. And it was a very traumatic experience. It did not end well." — YOUTH WORKER

"... He was in a drug induced psychosis. He was pulled over by police and now he has some charges that [...] may affect his trajectory in his life. [...] If he was able to communicate to police, hey, I'm having some problems right now and they were able to call some medical professionals, then he would not be in this situation that he's currently in." — COMMUNITY WORKER

"[In our culture, mental health is not taboo, we understand it differently ...] something is happening with them, they [people experiencing a mental health crisis] probably need to be supported or more, so sometime we can even relate that maybe the need is spiritual healing, you know, and that's why we think it's not that its taboo, we know there's some spiritual things going on here we need to be supportive, you know?" — COMMUNITY WORKER

1.5 Decriminalise drugs and create non-stigmatising safe injecting spaces in diverse spaces

In Victoria, one of the most common reasons recorded by police as their basis for engaging in a search is their powers under the *Drugs, Poisons and Controlled Substances Act 1981 (DPCS Act)*. In 2022, three quarters of all searches without warrant in Victoria were purportedly conducted under the *DPCS Act*.¹¹⁴ While drug use is spread across the community, because racialised people are subject to greater police scrutiny than other groups, they are more likely to face penalties. The decriminalisation of drug use would remove a key justification police use to intervene in the lives of many Victorians, including racialised ones. Non-criminalising harm reduction strategies (like cohealth's public drunkenness support teams¹¹⁵) are critical to assist people use safely. A number of our interviewees discussed the issue of drug decriminalisation and providing more safe injecting rooms. In all cases, people had positive opinions about decriminalising drugs, pointing to the key role it would play in diverting people from the criminal justice system for minor possession charges.

111 State of Victoria, Royal Commission into Victoria's Mental Health System, *Final Report, Summary and Recommendations* (Parliamentary Paper No. 202, 2021).

112 <https://x.com/SimoLove/status/1366554618944126983>

113 Haile-Michael (n 1).

114 Data obtained under FOI in 2023 (Tamar Hopkins).

115 Haile-Michael (n 1).

“Because a lot of young people are going to jail because of, you know, few grams here and there and [...] a lot of young people, to be honest, they don’t choose to use. There’s a lot of things that come with that trauma, you name it. [...] and you’re penalising this person, you’re putting them in jail just because they’re using or something.”

— COMMUNITY WORKER

“I think like yeah criminalisation of drugs like [...] it means like more people go to jail [...] someone gets caught with like a really small amount of something and [...] then end up going to jail and come out addicted to something even worse.”

— STUDENT LEADER

“I think decriminalising drugs is a massive one [...] because Australia is pretty good with cannabis cautions. But [...] for example possession charges for like small [...] scale possession charges and things of that nature [...] would have a great effect because those charges stop you from getting a working with children’s check, they stop you from being able to work with children [...] it’s something that affects a lot of people who might catch themselves being a completely different person at 28 than [...] 18 and it [could] stay with them for the rest of their life.” — COMMUNITY WORKER

And on the issue of safe injecting rooms:

“Can I just say love [the] safe injecting rooms, [but] can it not be on the estates? [...] there’s already, people who are using drugs in the building. It makes sense that it’s OK for them to go out but not bring more people who are using drugs in. Because [...] every community knows their drug users. [...] They’ve built relationships, but just random people are coming because they need safe injecting rooms. It’s not it.”

— YOUTH WORKER

“Safe injecting rooms help [...] I’ve worked in one of them before and I can actually see [...] the positive impact of it because no longer do people go around and [...] leave needles anywhere. But they do come there just in case they haven’t used for a while and they may be at risk of overdosing, at least there’s nurse there that can help them.”

— COMMUNITY WORKER

DEMAND 2. RESTRICT

Policy and legal changes to restrict discretionary policing practices and monitor and enforce those changes

The theme of ‘change the system’ came through many of the interviews we conducted. Some people characterised racial profiling as part and parcel of policing. Systems need to change, if policing is to stop criminalising racialised communities.

“Like racial profiling? But then I think it’s something that’s within the culture, like within the police culture. So how do you even begin to tackle that is like a difficult question because I think it’s embedded within policing to racially profile others, as well as other things.” — STUDENT LEADER

Independent police oversight

We asked interviewees whether an independent police oversight body, such as a Police Ombudsman, would help address racial profiling. Interviewees described a lack of trust and safety in the current system and articulated the need for independent oversight to police the police. Despite the *Equality is Not the Same* reforms, racial profiling continues to be an issue. Police are not able to address complaints about racism themselves.

“I think like it’s a big culture within police, not just here, but everywhere, it’s like they protect their own. And so people don’t feel like [...] I wouldn’t feel like they would do anything about that. They’re more likely to protect the police officer that has racially profiled me.” — STUDENT LEADER

“If we establish an independent investigative body, it would be really nice because [for example if] we are colleagues, [and you do] some dodgy stuff, I might do dodgy stuff [but] we [are] both colleagues. How am I gonna go further with the investigation? But if someone is coming from another area to investigate us, we might [think twice], you know?” — COMMUNITY WORKER

One youth worker explained that a lack of police accountability negatively impacted the world view of the young people targeted. They went on to discuss how an independent body could help change that.

"I think there needs to be some form of tangible complaint and accountability process [...] when you work with young people [...] a huge part of our role with them is teaching accountability or reinforcing accountability. How [...] is it fair for us to teach them that when the force [...] has no accountability [...] So even if there's a reference point and a beginning point of accountability, I think that's something." — YOUTH WORKER

2.1 Create an independent Police Ombudsman that can effectively investigate and hold to account any racial profiling and other forms of misconduct by Victoria Police

As well as an independent police complaint system, the people we spoke to identified that restricting police discretionary powers was also important in racial profiling prevention.

Reducing police powers

One of the themes that was raised often was the power of the police to stop people on the street without having a reasonable suspicion.

"Well, I was going to say, you know, can the police just randomly approach you and ask you those questions? But someone walking down the street, unless you see that person harming themselves, harming others and causing a scene you not supposed to approach them [...] but then the question I want to ask is are they allowed to just approach anybody?" — YOUTH WORKER

"Yeah what's the point of a random stop?" — YOUTH WORKER

"When you get a [police] call [you in the street], you get it again exactly the same thing. So when you get racial profiling you can get it again [...] in a random timing or random place, you're still going to get it." — COMMUNITY WORKER

Victoria Police were put on notice through the submissions they received in 2013 that targeting individuals displaying 'suspicious behaviours' or the residents of 'high crime areas' encourages racial profiling. They used this knowledge to introduce their 'targeted intervention policy'. Furthermore, case law imposes some clear limits on police investigative behaviours. However, these policy and case law restrictions have not led to changed police practice. Therefore, it is critical that legislation is enacted restricting police interventions to situations where they observe an offence taking place. Furthermore, these

restrictions will need to be monitored and enforced through an independent complaints body.

The police idea of what is 'reasonable suspicion' is out of step with case law and community expectations. Police will decide individuals are 'suspicious' where there is no objective evidence for them to base that suspicion on. Indeed, the police treat being black as suspicious:

"I'm always suspicious cause like I'm a black man. Yeah. Everywhere I go, anything I do, the way I dress, the way I look at people. I'm suspicious I didn't even have to [say] my name. They just look at me. Hey, buddy. What's your name? And [...] I try to look for my ID. Yeah, they'll just be like, oh, so what have you been up to? Hey, You, the boys, You, you know, they start asking random questions like." — YOUTH WORKER

Random stop searches can breach rights to privacy, freedom of movement and association, and freedom from arbitrary detention under the *Charter of Human Rights and Responsibilities Act 2006*. In 2015, Victoria Police introduced a 'targeted interactions policy' aimed at ensuring police stops were not in breach of human rights. However, based on our interviews and the data from the police stop survey in 2018/2019, this policy is not working. This policy must be legislated, monitored and enforced.

2.2 Legislatively ban random vehicle, street and public place stops and monitor all police stops to ensure they are justified on objectively reasonable grounds

Police training and recruitment

Some interviewees called for more cultural awareness training for police. While we have not examined police cultural awareness training in this report, the ongoing existence of racial profiling in the community indicates that current training is ineffective. Our interviewees were clear that police still do not understand them or their communities.

"I'd say more meetings with communities, so police meeting with community, directly understanding the effects of their lives, understanding some of their stories, their journeys, some of the hardships that they went through to get here. Understanding the single parent households just more heightened understanding." — COMMUNITY WORKER

While stakeholder engagement was one of the key outcomes of the *Equality is Not the Same* process, it was clear in the conversations we held, that many affected communities do not feel that their voices are heard.

Victoria Police currently engage with groups and communities that do not provide much critical feedback. If any effective engagement is to take place, this must be with impacted people who are supported to be able to challenge police on their practices and a police force that is receptive to critical feedback. Experienced sworn police officers must be required to receive and respond to this feedback, not unsworn bureaucrats. It is the police who need to change, not the communities they police.

Finally, engagement must not be a process of criminalisation and intelligence gathering. There are international examples of how this might be achieved.¹¹⁶

2.3 Ensure stakeholder engagement with critical voices but not for the purpose of criminalisation

One of our interviewees thought that one solution to racial profiling was to hire more culturally diverse police officers, although others were wary of this. Another interviewee described how racial profiling is embedded into the system of policing and is a learnt behaviour that all new police are required to adopt.

“I’ve often noticed that a lot of the people who are the perpetrators of the racial profiling often come from migrant backgrounds themselves. So I think it is a learned behaviour [...] So I think maybe once they join the force they’re told watch out for such and such and watch out for African people because they’re violent [...] It’s a learned behaviour that I think is taught to sort of divide and conquer.” — COMMUNITY WORKER

Another person described how joining the police force was a process of ‘colonisation’ for racialised officers. They were forced to change to become like the other police rather than being agents for change themselves.

“The backbone of the system is still there. I mean, you’re gonna get colonised. I’m sure a lot of police officers probably go in there with good intention to serve the community, but they get colonised [... by] the culture [...] just consume[s] them to some extent, you know [...] it would be hard to change a system like that as individuals.”

— COMMUNITY WORKER

The influence of colonisation was also mentioned in *The More Things Change, the More They Stay the Same* report.¹¹⁷ Australian culture, through the history we are taught at school and through media coverage, tends to portray First Nations and other racialised people as culturally inferior, less equal, more dangerous and more likely to be criminal. These stereotypes are embedded strongly into policing practices and are absorbed by all new recruits regardless of their racial backgrounds.¹¹⁸

Indeed, studies have shown the pressure racialised police are under to ‘out-white’ the white police in order to ‘fit in’ and be accepted.¹¹⁹ Racial profiling is ‘rationalised’ by police as being common sense and the way things are done. New recruits adopt this rationalisation regardless of their racial background in order to fit in. For these reasons we do not make recommendation for more diverse police officers without structural change.

Police discipline

A reoccurring theme in the interviews was the need for complaints about racial profiling to be put on police officer’s employment records.

They also demanded they be provided with a version of the event, and an explanation for the stop, search or arrest that police make whilst profiling someone.

“And [police] just left someone with trauma now, you know what I mean. They’re gonna live with that now for the rest of their life, [and the police] get to leave Scot-free without even [an] explanation. At least explain why he did it. Then, after that, whoever needs to judge from there can judge, you know what I mean?” — YOUTH WORKER

¹¹⁶ Shiner and Thornbury (n 46).

¹¹⁷ Daniel Haile-Michael and Maki Issa, *The More Things Change, The More They Stay The Same* (Flemington and Kensington Community Legal Centre, 2015).

¹¹⁸ Paul Butler, *Chokehold [Policing Black Men]* (The New Press, New York, 2017); Veronica Gorrie, *Black and Blue: A Memoir of Racism and Resilience* (Scribe, 2021).

¹¹⁹ Sherene Razack, *Outwhiting the White Guys: Men of Colour and Peacekeeping Violence* (2002) 71 UMKC Law 331.

People also wanted racial profiling to have consequences for police. It should not just be fobbed off as business as usual. Officers who engage in racial profiling need to be subject to some kind of disciplinary process and questions asked about their complaint history and whether they are fit to remain a police officer.

Person 2: "... If you commit a crime [...] right now, you'll get prosecuted or you'll get charged for that. It's not like [the Judge will say] 'oh, you know what, it's all good, walk it off'. You get charged for it! They should have the same consequences as [us]."

Person 1: "And racial discrimination is illegal under the law." — YOUTH WORKERS

2.4 Tighten police discipline processes and procedures to centre victims of police harm, and to ensure police are held accountable for the trauma they cause

DEMAND 3. REINVEST

Empower and fund community-led services for community issues

Interviewees uniformly spoke of the need to prioritise resources to community services before police. We heard clearly from people that many of the services and supports people need to avoid a police response, already exist. However, they are not funded or resourced adequately, and are not community led. We heard that the use of police to solve complex social issues is harming young people and their families by criminalising rather than supporting these communities.

"What we need to look at is like an investment in other services, things like mental health support. Like, you know, if we look at things [...] there's a lot of other services that we can look at and invest in to eliminate and reduce [...] crime.

"Other things that people go to jail for that can definitely be remedied through, yeah, other like other services that already exist." — STUDENT LEADER

We heard that police take advantage of the lack of funding of some services to take on roles that others should be doing.

"But also I think police take advantage of the lack of resources in schools [...] they have the children [...] do a camp with police." — YOUTH WORKER

Communities are calling on the Victorian Government to fund these services adequately, and to return to communities the roles currently occupied by as a quasi-youth and social service workers. Consistently, we heard that police need to leave these spaces and allow existing services to do their jobs.

3.1 Stop resourcing police to do work that other services should or could provide

Community-led and culturally appropriate

While many pointed to separating policing from youth, community and social services, many also raised the need for services to be culturally appropriate and led by local communities.

“Each and every community in society knows how to deal with their own societal issues, cultural issues. It’s [...] you know, kind of like alien when you’ve been put in a different system to function in that when it doesn’t cater for you.”

— COMMUNITY WORKER

One person spoke about the need to stop using a one-size-fits-all approach to services.

“I’ll answer that in a in a varied way. So, if you look at a key, every key has teeth to open the door. No keys are the same. So if you look at every community using terms like CALDs, culturally and linguistically diverse, the issues that the Greek community might face are completely different to the issues that the South Sudanese community might face [...] getting rid of terms like CALD would be a massive one.” — COMMUNITY WORKER

Mental health services need to be culturally sensitive to provide meaningful support to the individual. One person put it succinctly:

“This mental health aspect of things, which all stem from not having connections, are the things we didn’t [...] think] were big because [in our culture] we are all almost every day connected [...] But when we come in [to] this individualistic society, of course everyone is on their own and they feel unsafe. Of course, mental health will hit hard, you know?” — COMMUNITY WORKER

3.2 Invest in community led and culturally appropriate services, not police

Community empowerment

Some interviewees suggested that more community legal education should be conducted to teach communities about police powers and their rights when speaking with police. They explained that this would empower the community to understand their rights and would support them in defending their entitlement to socialise in public areas and push back against unfair policing practices.

“[Racial profiling] looks like police stopping young people to ask them questions that they have no right to. Taking advantage of the fact that young people don’t know their rights. And regardless of whether or not they do know their rights that they use intimidation to get the answers that they want.” — YOUTH WORKER

Others were keen on more workshops and supports for young people on life skills, and how to deal with adversity with resilience.

“...For example resilience workshops for young people, [...] where policing might be part of the topic but not the main topic. And crime might be part of the topic, but not the main topic, just resilience. Especially because when you come from like a low income area [...] you’re gonna experience certain hiccups, and it’s not about how you [...] react, it’s about how you get back up and keep going. So I think that’s something that needs to be instilled in the young people rather than it be just policing and crime and policing and crime and policing and crime.” — COMMUNITY WORKER

3.3 Increase the availability of community-based police powers training for young people and increase the availability of different types of culturally appropriate resilience training for young people that empowers them and their communities.



Conclusion

This report provides evidence of ongoing practices of racial profiling in Victoria despite the 12 years of work by Victoria Police through the *Equality is Not the Same* process.

This evidence comes from data from surveys, data from police, and data from the Productivity Commission. It also comes from various pieces of research over the past 12 years and now the accounts of nine individuals who live, work or frequent the public housing estates in inner Melbourne, and work with racialised communities.

It is time for the Victorian Government to accept that the police cannot be left to deal with the problem of racial profiling. Their discretionary powers need to be limited and they need effective oversight and monitoring. And importantly, there needs to be a new, non-criminalising approach to managing complex social issues facing diverse communities that does not involve police.

Our communities through this report are making a number of clear demands to the Victorian Government and social and community services. These demands fall into three categories that form the core community demands:

1. **Reduce:** Reduce policing and police presence in communities;
2. **Restrict:** Change police policies and laws to restrict the use of discretionary powers and ensure this is monitored and enforced through external oversight; and
3. **Reinvest:** Empower and fund community-led responses to complex social issues.

REDUCE

- 1.1 Remove police patrols from public housing estates. Where necessary, replace with community-led safety patrols and non-police response teams that can respond holistically to community concerns.
- 1.2 Remove police from schools and replace with non-criminalising professionals.
- 1.3 Remove police from youth services.
- 1.4 Take police out of mental health call outs.
- 1.5 Decriminalise drugs and create non-stigmatising safe injecting spaces in diverse spaces.

RESTRICT

- 2.1 Create an independent Police Ombudsman that can effectively investigate and hold to account any racial profiling and other forms of misconduct by Victoria Police.
- 2.2 Legislatively ban random vehicle, street and public place stops and monitor all police stops to ensure that their actions are justified on objectively reasonable grounds.
- 2.3 Ensure stakeholder engagement with critical voices but not for the purpose of criminalisation.
- 2.4 Tighten police discipline processes and procedures to centre victims of police harm, and to ensure police are held accountable for the trauma they cause.

REINVEST

- 3.1 Stop resourcing police to do work that other services should or could provide.
- 3.2 Invest in community led and culturally appropriate services, not police.
- 3.3 Increase the availability of community-based police powers training for young people and increase the availability of different types of culturally appropriate resilience training for young people that empowers them and their communities.

Community stories

OMAR

One day in 2022, a group of prominent professionals from African backgrounds ran a workshop for young, up and coming professionals to network and learn the ropes.

[The] majority of people there came from public housing and it was aimed to sort of give them some peer support and some guidance on resume workshops on how to get into the industry and how to aid the community better. Some of them were actually wanting to be police officers [...]. Some of them were aspiring lifeguards.

Once the event was over, some of the speakers and organisers went to an inner city restaurant for dinner.

We [had ran the] networking event and we were just chatting outside of the venue that we went out for dinner [...] And we're outside, it's probably about six professionals. Some of them have been given multiculturalism awards by the government.

Others from the group work in youth justice, others in various NGOs, all of them professional and committed about supporting their communities.

The group were chatting outside, before leaving the venue, in between their cars.

[... And police approached] we were asked why we were loitering. And then we were asked to move on. And we said we're just chatting [...] we're just catching up, it's been a long time and he said mate, you've been given an order, and then he came out of his car and then before we knew it, three other cars came and they moved us on and we asked them why, and they just said, oh, there's, they gave us some bogus reason. When it was quite clear that there was, it was based on our race.

Omar* said that the police took no account of their purpose or their intentions.

They just saw a colour in front of them and they presumed that we were loitering and doing something bad.

Omar eloquently speaks to the dynamics of dealing with racial profiling in our society, and the pitfalls of pushing back on it.

We didn't follow up because we know how long and strenuous that process could be. So we just do what we normally do as African people and we decided to nod our heads and represent our community in the best way possible and just move along when in reality what we should have done was speak up for ourselves. [...] The thing is in, especially when you're living as an African person in Australia, [...] anything that you do represents your entire people. So we have to always make sure, even sometimes when the other person is completely in the wrong, that you remain calm otherwise you'll be profiled as someone who's angry or violent, or, as Peter Dutton put it, before, Melbourne is not a safe place to live anymore, because of this African violence.

* All names and locations have been changed to protect the identity of the people involved in this story.



YUSUF

YUSUF*: We just came out of football. It was late at night, we were just in the car, we were just about to leave, there was three of us. Already a few of the boys left, we were just planning on something to go eat. We [wanted] to [go to] this kebab joint just down the street from us.

As we were talking, the police come [...] There's three of our cars, [...] they asked for IDs and they realised, three cars, we're not going to search all three cars.

The guy walks around, you know, starts sticking his head around smelling, he goes I smell something around your car. And I'm like bro, I'll be honest with you, there's nothing in my car [...] I just came here, you know, I've just come to eat, the boys played football, I'm just coming to eat, I'm about to go you know.

And then he goes [away, and] a lady [police officer] comes and she goes, hey listen [...] my colleague just said there's suspicion of drugs in your car, [...] Is this your car? Is it alright to search your car?

I told her is that a question?

And she goes yep, you have the right to deny.

I told her I'd like [to] deny.

And then she searched it [anyway] and didn't find nothing, and I'm like why did you waste my time?

Even coming out of the car, coz [...] once they search the car they search you as well. So me coming out of the car, you know, I was just like trying to tell them what's in my pocket. [...] I put my hands in already. I think I had a tax file form and I think a pen or two.

I said listen, officers, I have my tax file form if you guys want this. He said like, nah nah it's all good we don't do your tax. They make a joke out of the situation, you know what I mean?

And me standing there I'm thinking, this is just a waste of my time. A waste of everything, but certain people in that situation could have felt resentment [...] And they could have escalated and [end up with] them getting handcuffed [for] just reacting.

And that [...] horrible [...] stigma of black men always reacting [...] But I'm like, we have the right. I'm getting [asked], 'Are you out for an arrest? Do you have a warrant out? Have you been to jail? Have you ever been to court?'

They ask me every time I get pulled over!

The way they even search the car is disrespectful. They just start throwing shit, moving, [...] They don't put it back the way it is.

That's one thing also, if I could add in, if they're gonna do quote un-quote search, brother put it back the way you found it.

So who gets reimbursed for that? No one! You just have to take it on the chin, just like it's all good. You know what I mean? [...] they need to be accountable.

* All names and locations have been changed to protect the identity of the people involved in this story.



HASSAN

Hassan* got pulled over by a police officer while heading to a hike with his friends.

He was in the car with his three friends heading to Kinglake. His friend was driving, and they were all looking forward to enjoying the sunny day.

On their way there, a police car pulled up next to them and followed the car for a few minutes. Hassan saw the police car and took note that the officers were peering into the vehicle on multiple occasions. Hassan thought they were going to be stopped by police. Sure enough, the police car then slowed down and came in behind them. Moments later they were pulled over.

The officer asked the driver for his licence and a breath test. The driver provided his licence and was clear with the breath test. Hassan then heard the officer tell the driver that the reason for the stop was because his car was registered in Werribee, and he was driving in the Eltham area.

Hassan and his friends couldn't help but laugh. Hassan thought that was a ridiculous reason to stop somebody's car.

The officer then asked the passengers for their names and addresses. All passengers refused.

The officer kept trying to obtain their IDs and said that it was suspicious they had refused. Police have no power to compel passengers to give their IDs. As this went on, the officer got progressively more annoyed.

The officer then brought up searching the car for weapons and drugs. The driver, a father of three and who works in the transport infrastructure industry, felt that being asked about drugs and weapons crossed a line. One thing was to be stopped for a car check, it was something else to be asked about drugs and weapons. Hassan found it very offensive.

Hassan got annoyed, having been patiently waiting for the random stop to be over in a very public space, this question of drugs felt like a racial stereotype. He took out his phone and started recording.

The officer then asked to search the car. The driver pushed back on the search and asserted his right to not consent to the search. After a bit of back and forth, the officer was convinced to not search the car.

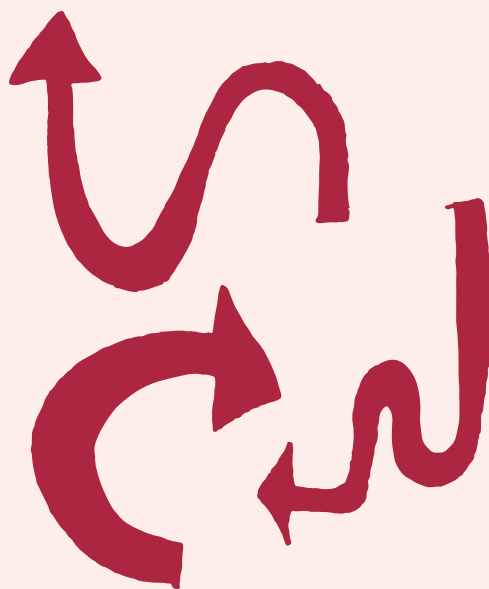
They were then free to go to their hike.

Hassan and his friends are black. They often get together on weekends and do social activities. They were pulled over in a busy shopping centre with many passers-by witnessing a lengthy exchange with a police vehicle and two officers. It was an embarrassing experience for Hassan and his friends.

The reason for the stop, and the length of the questioning left Hassan and his friends rattled, wondering if this was the same treatment white people went through when going on a hike.

While they were upset, they were all ultimately relieved. Hassan just wanted to make his way to a hike on a beautiful Saturday afternoon.

*All names and locations have been changed to protect the identity of the people involved in this story.





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