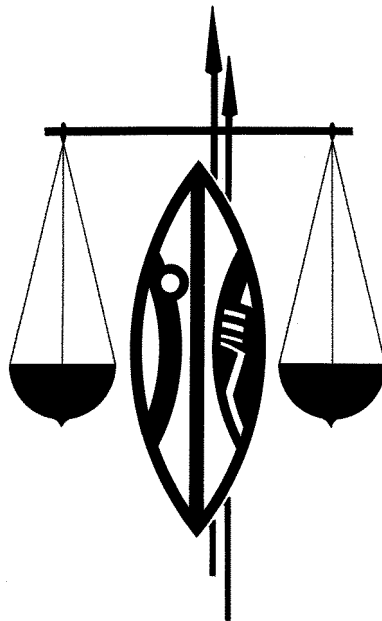


AFRICAN CANADIAN LEGAL CLINIC



2005 ANNUAL REPORT

FOR PRESENTATION AT the 2005/2006 Annual General Meeting

BOARD OF DIRECTORS

(To December 31, 2005)

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STUDENTS

Royland Moriah
Student- at- Law

Wambui Mungai
Student- at- Law

Raymond Poku
Summer Student

Gia Williams
Summer Student

This Report covers the Calendar year of 2005 (January 1st to December 31, 2005)

April 18, 2006

Dear Members,

I would like to thank all the Board members, management, members of staff, volunteers and members of the clinic for their dedication and commitment to the work and mission of the clinic in the past year.

This year the clinic has focused its energy in regaining the time that was lost over the past couple of years and has been working extremely hard to ensure that as an organization we fulfill the mandate that has been committed to us in fighting anti black racism using all the tools available to us in terms of test case litigation, public legal education and law reform. The African Canadian legal Clinic has continued to work with various community partners, members of the Clinic our funders and other stakeholders to ensure that the objectives for which we were established are met. Our projects and initiative this year have focused a great deal on the issue of hate crimes, immigration, and education and issues that impact on youth in view of the prevalent circumstances in the GTA.

The African Canadian Legal Clinic is committed to African Canadian Youth who are the future of our community and who are going through an extremely difficult time right now in terms of the violence that has been ravaging our community. In keeping with the goals of rehabilitation, integration and alternatives to incarceration, the Clinic is currently carrying out an 'African Canadian Youth Justice Program'. This program will provide racially and culturally appropriate services and referrals as community based solutions for Black youth involved in the youth criminal justice system. This is one of the several initiatives of the Clinic this year.

As a Clinic we would like to acknowledge the work of the Coalition of African Canadian Organizations in its fight for the recognition of the issues that impact us as African Canadians and their emphasis on the need for a holistic approach to address these issues. As an organization we would like to reiterate the necessity for all levels of government and the entire Canadian Community to work with the African Canadian community from a community based perspective to address the systemic socio - economic and other clear inequities that are crushing our community.

Once again as the Chair of The Board of Directors I want to thank all our funders again without which it would be impossible to accomplish our noble and community based objectives.

As we move into the New Year we seek for a much greater participation of our members in carrying out our several projects and initiatives. This can be carried out by joining committees of the clinic as well as other volunteer work at the clinic.

As we thank God for a busy but fruitful and productive year we look forward to a year full of breakthroughs on all fronts.

Eyitayo Dada
Chair, Board of Directors, ACLC

LEGAL REPORT

F-O and the Ontario Human Rights Commission and the Toronto District School Board

In August of 2005, the parties reached an agreement in this case involving a human rights complaint alleging individual and systemic discrimination against African Canadian teachers in the promotional processes of the Scarborough Board of Education, spanning the years 1993 to 1997 and the related “reprisal” human rights complaint. The hearing commenced in 2000 and was conducted over the course of approximately 155 days. The matter settled prior to the completion of the hearing. Minutes of Settlement were executed and these became the subject of an order of the Ontario Human Rights Tribunal.

The settlement in this case represents a forward-looking approach to identifying and addressing systemic barriers to the promotion of African Canadian teachers to positions of responsibility. The measures that must be taken by the Board are prefaced by 12 paragraphs of language that form part of the context of the agreement and identify the stated commitment of the school Board to employment equity. This is significant in terms of placing the mandatory measures squarely within the framework of the Board’s Employment Equity Plan and objectives which target the creation of “a workforce that, at all levels, reflects, understands and responds to a diverse population”

Pursuant to the settlement, the TDSB must: 1

- Collect data through a self-identification survey and develop an inventory of who is and is not in a position of responsibility, disaggregated by race, including African Canadians (for 2005-2006);
- Commit to the principle that subsequent measurement is necessary to gauge the impact of equity measures;
- Within four years of the 2005-2006 inventory, recommend to the Board at a public meeting, further such measurement at that time and in future;
- Present all results of surveys/measurements to a public meeting of the Board within 60 days of completion;
- Establish a selection, promotion and competition process for all positions of responsibility that includes equity performance as an indicator, that utilises behaviour based questioning including a question regarding commitment to equity and that utilises equity considerations when placing staff in acting positions of responsibility;
- Make reports of the Equity Task Force or its successor public;
- Establish and make known a component of a mentoring program for teachers interested in seeking promotion, focussed on mentorship of racial minorities.

¹ This is paraphrased language and not the actual wording of the settlement which is lengthy

While this settlement binds only the TDSB and not other boards of education, it does however, represent the type of systemic human rights settlement that is becoming increasingly popular in race-based cases. This settlement, because it is a public document, can be relied upon as persuasive by the Ontario Human Rights Commission and by complainants in cases involving other school boards and other employers. The settlement can be used as leverage in mediations and conciliations as an example of the types of public interest remedies that could be negotiated and in terms of the particulars. It can also be used in hearings by counsel or complainants seeking similar remedies in similar contexts. This settlement can be a useful tool in crafting solutions or in persuading adjudicators to order similar remedies against another employer. Finally, because the settlement is an order of the Tribunal, the parties can seek enforcement for non-compliance.

This case has sparked media interest in print and radio and was covered by the Toronto Star and Metro Morning as well as a call in radio show. Since the release of the settlement, the ACLC has received calls from other educators who have faced similar discrimination and we have linked these callers with appropriate contacts.

This case was also the catalyst for the Canadian Association of Black Educators to set up a committee to monitor the settlement at the TDSB level and to move forward generally with its advocacy in this area.

Safe Schools Amendments to the *Education Act*

In 2005, the ACLC continued to challenge “Safe Schools” provisions and practices on a variety of levels and forums.

Judicial Review and Human Rights Complaints

The ACLC was successful in settling an important case involving the Safe Schools Amendments to the *Education Act*. Suspensions and Expulsions of African Canadian students have risen dramatically since the so called “zero tolerance” regime was implemented. The ACLC represented an African Canadian parent and student in a case against the Dufferin-Peel Catholic District School Board at the Ontario Human Rights Commission (OHRC) and at a Judicial Review. The matter was settled and the OHRC has posted the Public Interest Remedies portion (which is extensive) of the settlement on their website.

The ACLC successfully negotiated a comprehensive settlement that provides a framework for other cases going forward. Those remedies include both substantive and procedural “fixes” to the zero tolerance regime. For example, a commitment to provide staff with anti-racism training and to a review of all Anti-Racism and Ethno-Cultural policies and regulations. Importantly, the settlement also includes a commitment to create Investigation Guidelines with an implementation date of September 2006.

Furthermore, the settlement includes a commitment to notifying both parents and students of the right to be represented by counsel and a commitment to preserve evidence in the event that a Suspension or Expulsion matter finds its way to the OHRC. Another remedy secured in this settlement is the requirement to consider a variety of mitigating factors before taking disciplinary action. This is especially important for African Canadian students as it refers directly to (among other considerations) whether racial harassment gave rise to the student's behavior.

The OHRC's endorsement of this settlement as a model for inclusion on its website speaks to the significance of the settlement in terms of safe schools matters. The settlement also received media attention given its attempt to address the high profile issue of "Safe Schools".

Direct Representation

The ACLC continued to provide direct representation to parents and children in the human rights process.

The ACLC is counsel in a safe schools complaint at the Human Rights Tribunal. Throughout 2005, the ACLC prepared for and participated in mediation proceedings.

The ACLC continued to prepare human rights complaints, submissions and assisted African Canadian parents and children affected by the safe schools provisions.

The ACLC continued to provide representation to expelled students. During 2005 the ACLC represented an African Canadian high school student on an expulsion appeal. The matter was successfully settled and the student was able to avoid expulsion and *Criminal Code* charges.

Commission Initiated Human Rights Complaint

The ACLC played an important role through its advocacy and representation of parents in human rights complaints, in the decision of the Ontario Human Rights Commission to launch a systemic complaint against the Toronto District School Board and the Ministry of Education. The complaint alleges that the application of the safe schools provisions of the *Education Act* disparately impact on racialized children and youth, including African Canadian children. The ACLC assisted the Commission in providing information about its work and the experiences of clients, and a literature review conducted by the ACLC.

R. v. Spence: Intervention at the Supreme Court of Canada

The ACLC was granted intervener status to provide written and oral argument at the Supreme Court of Canada in this appeal involving the novel issue of the scope of race-based jury

challenges for cause in an offence where both the accused and complainant were racialized. In this case, the accused was African Canadian and the complainant East Indian and the question sought to be asked and refused by the trial judge referred to both the race of the accused and the complainant. In previous cases, Courts had allowed the question to refer to a White complainant.

The ACLC submitted a factum and appeared before the Supreme Court presenting arguments on: the right to challenge for cause as an equality right; the complex and unpredictable nature, role and impact of anti-Black racism in offences where the accused is African Canadian and the victim racialized such as to raise a potential for partiality; the way in which racism extends beyond a White/Black paradigm; how bias against a racialized victim may taint the trial and affect the appearance of a fair trial; and the consequent need to allow the question to protect the African Canadian accused's right to a fair trial.

The ACLC was the only intervener in the appeal and its participation had a large impact on the Supreme Court's decision. The Court in its decision referred to and dealt with the ACLC's submissions extensively. The Court ultimately determined that judicial notice could not be taken of juror sympathy with the victim of the same racial background and that the trial judge had not erred in disallowing the question. However, the Court left the door open to defence counsel leading evidence on this issue.

The Court's decision and the ACLC's contribution received media attention in the general press (Globe and Mail) and legal newspapers (Lawyers Weekly and Law Times).

Werbeski and Tranchmontange: Supreme Court of Canada Intervention

The ACLC was granted intervener status in this appeal at the Supreme Court on the issue of the jurisdiction of administrative tribunals to consider and apply Human Rights law. This case from the Court of Appeal of Ontario involved the novel issues of the jurisdiction of an administrative tribunal (here the Social Benefits Tribunal) to rely on the paramountcy provision of the *Human Rights Code* to refuse to apply legislation that violates the *Code*; and whether such jurisdiction can be ousted by considerations such as the existence of a human rights commission and tribunal. The Court of Appeal had ruled that the tribunal had the jurisdiction to consider and apply the *Code* and therefore the paramountcy provision, but that the human rights commission process was a more appropriate one.

The ACLC in its factum and appearance before the Supreme Court in December 2005, presented arguments on the impact of the decision on the rights of low income, racialized people and the need pursuant to the *Charter*, equality rights and human rights law to find that the tribunal had concurrent jurisdiction to apply the *Code*, that jurisdiction cannot be and was not ousted, and that the choice of forum lies with the applicant and must prevail. The decision of the Court is pending.

This case was significant in that it will have a far-reaching impact on the clients of the Clinic system as a whole, including low income African Canadians. The case also presented legal clinics and human rights commissions with the opportunity to collaborate in the interest of access to justice.

S. and the OHRC v. M.: Human Rights Appeal

The ACLC represented an African Canadian man at an appeal at the Ontario Superior Court (Divisional Court) in December 2004, who had filed a human rights complaint against his employer for racial harassment and dismissal from his job. The decision was released in February 2005 and was precedent setting with respect to the manner and standard of proof of racial discrimination in a poisoned work environment and the assessment of damages in human rights cases.

While employed at an automotive lube shop, the Appellant was subjected to constant and persistent racial taunts and slave names. Despite finding a poisoned work environment, the Human Rights Tribunal of Ontario found no racial discrimination in the Appellant's dismissal from his job.

The Divisional Court however, reversed the Tribunal's decision, and ruled that the Appellant had been racially discriminated against. The Court found that a claim of racial discrimination does not require proof of racial motivation. Rather, race need only be a factor. The Appellant was awarded over \$35,000 for lost wages and the willful and reckless conduct of the managers of the franchise. The Court set out the appropriate framework for evaluating claims of discriminatory dismissal within poisoned work environments and in assessing damages in human rights cases. The Court clearly stated that the quantifying of damages in the human rights context differed from civil wrongful dismissal cases. The ACLC's representation of our client at the appeal was crucial in assisting him to continue and ultimately succeed in the lengthy pursuit of his complaint through the legal system.

The decision received extensive media coverage in the general press (Globe and Mail), on television (CTV and CBC News), the community press and was the subject of legal commentary.

The case is significant in that the decision of the Tribunal had already begun to negatively influence the human rights analysis process. The ruling of the Divisional Court undid the damage done and re-emphasized the appropriate legal tests.

Human Rights Complaints

Racial Profiling

In 2005, the ACLC continued to challenge the practice of racial profiling of African Canadians by pursuing human rights complaints.

The ACLC prepared human rights complaints and assisted clients at various stages of the human rights process including at mediation and the investigation process and provided written submissions where required, on complaints of racial profiling against Canada Border Services Agency (involving a strip search of an African Canadian woman who was on social assistance), private banks, the Toronto Transit Commission (racial profiling of youth in the subway), and the police.

The ACLC also fulfilled its province-wide mandate in this regard by representing several clients from Ottawa on racial profiling matters.

In 2005 the ACLC took on a high profile case of a young man who was racially profiled, illegally stopped and eventually assaulted by police officers in Ottawa. The ACLC assisted the complainant in filing both a human rights complaint, alleging discrimination on the basis of race, colour, age and ethnic origin, and a police complaint. Due to the extensive press coverage, the ACLC organized a press conference to provide information about the incident and its impact on the complainant and his family. Currently, both the human rights complaint and police complaint are being investigated. The ACLC prepared for and attended mediation for the human rights complaint in late 2005 and although there has been no resolution, both sides have agreed to continue discussions. This case is particularly important because of the numerous concerns raised by racialized individuals in the community regarding their treatment by the local police.

The ACLC continued to assist several Ottawa clients with a human rights complaint stemming from an incident at a restaurant of racial profiling and discrimination by police. The ACLC's assistance in the investigative phase supported the Commission's decision to refer the matter to a hearing at the Tribunal.

The ACLC also offered summary advice and referrals in this area.

Racial Discrimination

The ACLC assisted clients in the mediation of his complaint involving allegations of religious and racial discrimination in the workplace, a corrections employee in filing a human rights complaint (workplace hiring discrimination), and in filing a complaint involving the ongoing bullying of an African Canadian child at school and the failure of the school to treat him as a victim.

Police Complaints

The ACLC represented and assisted many African Canadians in the police complaints process.

Disciplinary Hearing

The ACLC represented a teenaged girl who had been strip searched by the police, at a police

disciplinary hearing. The case involved extensive preparatory work and legal and social science research. The complaint was ultimately withdrawn by the complainant in favour of the human rights complaints process.

Individual Representation

2005 saw a marked increase in the number of prospective police complaints at the ACLC. The ACLC's assistance to African Canadians included initiating racial profiling police complaints, liaising with police investigators, attending at investigatory interviews, drafting terms of settlement, assisting with written submissions to OCCPS, and filing an appeal at OCCPS. The latter case was successful and resulted in a referral by OCCPS to a disciplinary hearing.

Racial Discrimination and Harassment by Correctional Services

In 2005, the ACLC successfully settled a human rights complaint alleging discrimination in the delivery of services on the basis of race, colour and national or ethnic origin against Correctional Services Canada. The case was particularly significant because the ACLC initially became involved in the matter as a result of the extensive work done by local community organizations to deliver services to inmates and their families. The ACLC was able to assist the complainant and her family. The Minutes of Settlement signed in late 2005 resulted in significant personal remedies for the complainant and public interest remedies that will provide additional protection to inmates and families that visit the facility which was the subject of the complaint.

Ipperwash Inquiry

The ACLC continued to participate in Part II of the Ipperwash Inquiry as a party with standing with respect to the disparate impact of police use of force on racialized communities, by conducting a research project on racism and police use of force. This has involved working with the project lead, legal and social science research, consultation with agencies including the SIU on data collection, and holding a community-based focus group.

Foreign Accreditation of Undocumented Somali-born Teachers

The ACLC continued to represent qualified but undocumented Somali teachers on their applications for certification, dealing with the impact on of the foreign accreditation policies and practices of the Ontario College of Teachers (OCT). The ACLC liaised with the OCT, assisted with submissions and supporting affidavits, and conducted legal and social science research. A successful resolution was achieved for a client who became qualified to teach in Ontario.

Racial Discrimination in Insurance Practices and Policies

The ACLC continued to assist an African Canadian family in a Georgian Bay community on racially discriminatory insurance practices and policies arising from the death of the family patriarch. The ACLC provided representation, conducted legal research and initiated and supported the investigation.

General

The intake function of the ACLC was tremendously busy with calls covering a wide range of issues including racial profiling, safe schools, workplace harassment and discrimination, correctional law issues and systemic workplace issues.

COMMUNITY DEVELOPMENT REPORT

Anti-terrorism National Consultation

In early 2005, the ACLC organized and hosted a National Consultation on the impact of Canadian anti-terrorism legislation, the *Anti-terrorism Act* and the Security Certificate provisions of the *Immigration and Refugee Protection Act*, specifically their impact on racialized and immigrant communities and on *Charter* equality rights. The Consultation was well attended by a broad spectrum of participants that ranged from legal experts, academics, practitioners to community representatives. The ACLC compiled and prepared extensive and detailed documentation for the Consultation such as case summaries, legislation charts, backgrounders, and articles and materials.

The Consultation was significant in that it focussed specifically on the communities which have been affected by the legislation and assessed the infringement of *Charter* and human rights from their perspectives. Among the topics discussed were national community perspectives on racial profiling and the criminalization of communities and immigrants, the *Charter* and international law, the development of a race-based and equality rights-based analysis, and legal and community strategies.

The use of security certificates through the immigration process has been a critical and pressing issue in Canada. The Consultation played a major and important role in bringing together the diverse constituents involved in anti-terrorism issues and in consolidating a community and legal network for future litigation and community building activities. This consultation was by way of preparation for cases at the Supreme Court of Canada relating to these issues which will be heard in 2006.

Coalition of African Canadian Organizations (CACO)

In 2005 the African Canadian community experienced an unprecedented wave of gun violence and gun-related deaths. The primary victims of this violence were young African Canadian men. More importantly, most of the shootings occurred in poor communities in Toronto. In an attempt to highlight the root causes of this problem (poverty, high drop-out rates, severe unemployment, etc.) the ACLC, along with other African Canadian community organizations such as the JCA, the BBPA and the BADC were instrumental in helping to form the Coalition of African Canadian Organizations (CACO) to develop a community-based response to the problem.

The Coalition met on a weekly basis to develop an Action Plan and an outreach strategy to engage the community, all three levels of government and relevant service-providers, NGO's and institutions. A key objective of the Coalition's strategy was a High-Level Summit with the leaders of the federal, provincial and municipal governments. CACO was successful in

obtaining meetings with Prime Minister Paul Martin, Premier Dalton McGuinty and Mayor David Miller and a commitment from all three leaders to participate in a solutions oriented High Level Summit with leaders and organizations in the African Canadian community. This agreement was an important milestone not only for the community but in efforts to address the growing problem and root causes of guns and gangs among African Canadian youth.

CACO also embarked on a series of community forums in the Jane and Finch, Malvern, Regent Park and St. Jamestown communities. These forums provided an opportunity for CACO to inform the community about the Action Plan and receive community comments, input and recommendations on the text and initiatives being proposed by the Coalition. These forums were well attended and provided a safe space and opportunity for members of the African Canadian community to come together and engage in an open, frank and solutions-oriented discussion. As a follow-up to the community forums, the Coalition also worked on organizing an all-candidates meeting for the federal elections in the four areas identified earlier. The ACLC worked with organizations in Regent Park to inform the community of the all-candidates meeting and assisted in formulating questions to be asked of the candidates.

Outreach to the media comprised an important part of CACO's strategy. The ACLC organized and attended a press conference, drafted news releases and prepared an op-ed piece that was published in the Toronto Star. As a result of the ACLC's work, the work, activities and position of the Coalition received extensive coverage in both the mainstream and community press at a national level. This press coverage helped to raise the profile of the Coalition and at the same time ensure that the recommendations and concerns of the African Canadian community received widespread coverage.

National Anti-Racism Coalition of Canada (NARCC)

In 2005 the ACLC continued as an active member of the National Steering Committee for NARCC. In addition to representing the ACLC and the African Canadian community at meetings of the Steering Committee, representatives of the ACLC participated in several of NARCC's key activities and objectives in 2005.

The ACLC helped in organizing a National Policy Forum which had as its main objective the development of a national strategy to ensure anti-racism is a key policy focus at all levels of government. Steering Committee members also worked on the development of an anti-racism tool kit aimed at organizations that work in the area of anti-racism, human rights and equality rights. This tool kit will assist these organizations in effectively utilizing anti-racism principles in their work.

The ACLC also assisted in the planning of NARCC's national conference, which was held in November 2005. The ACLC worked with other Steering Committee members to identify

speakers and develop workshops. The ACLC also facilitated a plenary session on anti-racism and the Labour Movement and a workshop on how to effectively utilize international human rights instruments in domestic anti-racism work. A representative of the ACLC also participated in NARCC's Day of Dialogue on Parliament Hill to meet with MP's of all three national parties to discuss key policy and legislative issues.

Indigenous Bar Association Secretariat

In keeping with its community development mandate and goal to collaborate with other communities on human rights and anti-racism issues, the ACLC was a member of the Indigenous Bar Association's (IBA) National Secretariat on Anti-Racism and Hate.

The National Secretariat also worked on the development of a strategy to advocate for the appointment of an Aboriginal person to the Supreme Court of Canada (SCC). The ACLC supported the IBA's campaign and participated at the national symposium on Aboriginal issues at the Annual Meeting of the Canadian Bar Association (CBA). The ACLC, along with other organizations and CBA members, supported the IBA's motion calling for the CBA to support an Aboriginal appointment to the SCC. The IBA was successful in getting this motion passed. The ACLC also worked with the National Secretariat to organize a roundtable on how to effectively use section 15 of the *Charter* and the *Criminal Code* to combat hate.

Hate Crimes Initiatives

In 2005, data collected by the Toronto Police Service indicated that African Canadians were victims in 3 out of 4 reported cases of hate crimes/attacks on the basis of race. Equally alarming, is the data reported by Juristat (a division of Stats Canada), on information gathered from 11 cities from across Canada. This data revealed that African Canadian were the number one victim of race-based hate crimes and the second highest hate crime victim group in Canada. Yet, despite these alarming statistics, African Canadians are rarely viewed as a victim community and the African Canadian community is not seen as a priority when public officials and law enforcement agencies discuss the issue of hate crimes.

The ACLC organized a community meeting with the Honourable Monte Kwinter the Provincial Minister for Community Safety and Correctional Services. Subsequent to this meeting, the ACLC was invited by Minister Kwinter to attend and make a statement at two press conferences where announcements on new provincial initiatives to combat hate crimes were announced. The ACLC also met with the Federal Attorney General, Irwin Cotler, his provincial counterpart Attorney General Michael Bryant and Police Chief, Bill Blair of the Toronto Police Service (TPS) to outline our concerns and work, on a strategy to improve the response from Crowns and the TPS to anti-Black hate crimes. As part of our anti-hate strategy, the ACLC also met with the Chair of the Toronto Police Services Board and made a deputation to the TPS Board in an effort to raise awareness of the extent of anti-Black hate crimes and express concerns for the lack of protection and support from the Hate Crimes Unit to the African Canadian community on the issue of anti-Black hate crimes.

In an attempt to ensure that the perspective and concerns of the African Canadian community,

with respect to hate crimes, is on the agenda of all three levels of government, the ACLC organized a series of meetings with public officials to address this insidious and growing problem.

Public Meetings Across Ontario As Outreach to African Canadian Communities to identify issues of concern

The ACLC initiated and collaborated in setting up various meetings with Ontario-wide significance to help identify community interests and needs and to tap community expertise and experience across Ontario. These included a meeting with Settlement and Immigration Services Ottawa and service providers and agencies in the Ottawa region that work in immigrant and refugee communities of which African Canadians make up a significant portion of their clientele and a roundtable with the Department of Justice, the Federal Attorney General Irwin Cotler and representatives of key organizations and leaders within the African Canadian community to identify critical justice related issues such as over-representation in the criminal justice system, hate crimes, mandatory minimums, sentencing reform and youth justice. The ACLC also organized, held and facilitated a Community Roundtable with the Minister of Community Safety and Corrections, Monte Kwinter. The ACLC consulted and strategized with other community representatives. This Roundtable was well-attended by senior Ministry staff and representatives from a wide range of African Canadian community organizations. The community organizations brought to the table the perspectives of the African Canadian community on critical issues including policing, racial profiling, community safety issues, hate crimes and gun violence. The meetings with government officials resulted in a better understanding of community issues and perspectives and resulted in commitments to future engagement.

The ACLC also organized and held a half-day Community Forum with African Canadian community members and organizations in Windsor, Ontario. The ACLC made presentations and provided materials on the mandate and activities of the ACLC and of the range of services available to the community. Participants raised and discussed issues of concern to the Black community in Windsor such as immigration, racial profiling, employment, human rights, youth and education. The forum was well attended and successful in meeting the outreach objective of the Clinic.

United Nations Working Group of Experts on African Descendants

The ACLC participated in the fifth session of the UN Working Group of Experts on People of African Descent. The topics at the fifth session of the Working Group included mainstreaming the situation of People of African Descent (PAD) in plans for achieving the UN's Millennium Development Goals, empowering women of African descent and the role political parties have in integrating PAD in political life and in decision-making processes.

The ACLC researched each theme from an African Canadian perspective, and in particular the perspective of PAD living in the diaspora, and gathered the relevant reports, statistics and materials required. ACLC representatives drafted and presented deputations on each theme and developed recommendations for the consideration of the Working Group of Experts. The ACLC's submissions and presentations were well received by the members of the Working Group and other UN officials and formed a part of the recommendations that resulted from the session.

ACLC representatives also liaised and worked closely with other NGOs present to strategize on commonalities that exist among African descendant communities as they relate to the session's themes. ACLC delegates also met with key members of the Working Group and UN officials from the office of the High Commission on Human Rights and the Anti-Discrimination Unit. The ACLC will continue to monitor the meetings of the Working Group.

In September of 2005 a representative from the UN Working Group of Experts on Peoples of African Descent visited Canada and requested the ACLC to convene a meeting with the African Canadian community in order to hear and discuss issue relating to anti-Black racism in Canada. The ACLC organized a meeting, which was attended by key African Canadian organizations and academics with expertise in a number of areas. The meeting resulted in the community gaining a better understanding of the role and work of the Working Group and the UN representative gaining greater knowledge of the unique history and experience of African Canadians and the impact and manifestation of anti-Black racism in the Canadian context.

Ongoing Committee Work

The ACLC was also an active member on several ongoing committees. The ACLC continued to participate as a member of the Metro East Detention Centre Advisory Committee. The ACLC participated in meetings of the Committee and worked with the consultants hired to implement the systemic remedies contained in the Ontario Human Rights Commission's decision in the *McKinnon* case. The Committee has worked to develop an implementation strategy and advise on policies and programs that will result in systemic and institutional changes at this particular Detention Centre.

The ACLC also liaised with officials from Canadian Boarder Services Agency and the Canadian Human Rights Commission and brought together for their annual consultation, representative community groups who face profiling at the boarder to meet with senior officials from the CBSA, including its Vice-President. The representatives of community organizations and the ACLC gave presentations providing community-based perspectives of the treatment of their community by CBSA officials and on issues such as border control, immigration enforcement functions, and racial profiling. The commitment to hold these meetings on an annual basis continues.

In addition, the ACLC was appointed by the Toronto Police Services Board (TPSB) to sit as a

member of the TPSB's Committee on Saving Lives. The Committee is tasked with the responsibility of receiving the recommendations from the Saving Lives Conference Report and developing a plan to implement the relevant recommendations regarding police dealings with racialized communities and individuals with a mental illness.

In 2005, the ACLC became a member of and participated in the activities of the Women's Court of Canada (WCC). The WCC is composed of a group of women lawyers, experts and academics. Its purpose is to identify Supreme Court of Canada cases of significant importance to women's rights and to write alternative decisions. The aim of the WCC is to have these decisions serve as educational and discussion tools on the equality rights of women.

The ACLC helped form and became a member of the Canadian Citizenship Coalition that came out of proposed changes to the *Citizenship Act* that would have resulted in unequal treatment of Canadian citizens born in Canada and naturalized citizens. The Coalition made an oral deputation before the Standing Committee on Citizenship and Immigration on the proposed changes to the Citizenship Act in Ottawa. The Standing Committee's Report reflected the Coalition's position of equal citizenship laws and policies.

As in previous years, the ACLC continued as a member on the Resource Committee to the Director of the Special Investigations Unit (SIU). This year the Resource Committee focused on expanding the committee to include representation from communities outside of the GTA and other religious and racialized communities. The Committee also assisted in developing a community outreach strategy to increase the visibility of the SIU in other regions and among vulnerable sectors in the province.

International Collaboration

In 2005 the ACLC continued its collaboration with other diasporic and African descendant communities in the Americas. To this end, representatives of the ACLC participated in several hemispheric initiatives. Representatives of the ACLC received a scholarship to attend the Preparatory Meeting for Santiago Plus 5. This was a regional meeting to discuss the status of the Santiago and Durban Declarations and Program of Action. The ACLC was one of four Canadian NGO's to receive a scholarship. The ACLC's participation ensured that issues concerning and the perspective of the African Canadian community was present at this important regional meeting.

The ACLC also participated in the 4th Summit of African Descendant Parliamentarians in the Americas. This Summit was important to the development of a regional dialogue and strategy for peoples of African descent in the Americas. This gathering also provided an opportunity for African descendants to prepare and strategize for the Forum of the Americas and to review the draft declaration to ensure that issues concerning African descendants were reflected in the document.

World Conference Against Racism (“WCAR”) Implementation

In this regard, the ACLC participated in and contributed to the DFAIT-NGO consultations. The ACLC made presentations at NGO sessions from an anti-Black racism perspective on Canada's proposed Plan of Action pursuant to WCAR, the impact of anti-terrorism measures, the need for Canada to support WCAR mechanisms such as the Working Group of Experts on People of African Descent and the Anti-Discrimination Unit, and the signing of the optional protocol by Canada to the *International Convention for the Elimination of Racial Discrimination*.

LAW REFORM AND ADVOCACY REPORT

Racial Profiling Consensus Conference Final Report

The Final Report of the Racial Profiling Consensus Conference was completed and released by the ACLC in 2005. The Consensus Conference was a major event in the activities on the controversial racial profiling issue in 2004 and was attended by a large number of African Canadian community representatives (as reported on in last year's funding application). The ACLC reviewed and finalized the Report, which contained the African Canadian community's united position and response to the issue of racial profiling and its recommendations to address the problem. The Report detailed the community's views and provided concrete and vital recommendations, calling for leadership by all levels of government and resources for community capacity building.

The ACLC liased with community members, organizations and the media in coordinating the release of the Report. A highly successful press conference was organized and held by the ACLC to launch the Report and it received extensive media coverage, in the press, television and radio press. The Report was distributed widely to the community and relevant government agencies and officials and represents a critical document in the efforts to combat racial profiling. In total, over five hundred copies of the Report have been distributed.

Shadow Report to the 85th Session of the United Nations Human Rights Committee

In October of 2005 the ACLC submitted a Shadow Report to the 85th Session of the United Nations Human Rights Committee entitled "African Canadians: Canada's Obligation to Protect Their Civil and Political Rights". The Report represented a significant law reform activity at the international level and was written in response to Canada's 5th Periodic Report on the fulfillment of its obligations under the *International Covenant on Civil and Political Rights* (the *Covenant*). The ACLC used its status as an NGO with ECOSOC consultative status at the UN Human Rights Committee to focus the international community's attention on the Canadian government's obligation to protect the civil and political rights of people of African descent living in Canada. The ACLC's report raised several key issues. In particular, the ACLC provided an overview of the reality of anti-Black racism in Canada and highlighted the Canadian government's failure to address the concerns raised by the Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance regarding the employment, habitat, health and education of African Canadians. The ACLC's report also discussed the government's inaction in addressing the prevalence of anti-Black hate crimes and discussed the impact of racial profiling on the African Canadian community both in education and in the criminal justice sphere. The report concluded by providing specific recommendations aimed at ensuring compliance with the Canadian government's obligations under the *Covenant*.

While in attendance at the 85th Session of the Committee the ACLC was involved in a number of activities while observing the discussions and questioning of Canada regarding its periodic report. The ACLC strategized with other Canadian NGO's, met with Committee members, made oral depositions before the Committee and drafted recommendations to be presented to the Committee. The ACLC participated in a private meeting with the members of the Committee responsible for drafting the concluding observations and also assisted in drafting a final statement released by Canadian NGO's regarding the concluding observations.

Charter 20th Anniversary

Along with other organizations representing equality seeking groups, the ACLC was a member of the *Charter 20th Anniversary National Committee*. The ACLC participated in committee meetings to develop a national strategy to celebrate the 20th anniversary of section 15 of the *Charter* and organize a national symposium to analyze the achievements and setbacks for different equality seeking communities. The National Committee continues to work on the planning and organizing of the national symposium.

In addition to working on the National Committee, the ACLC's Executive Director in collaboration with the National Anti-Racism Council of Canada (NARCC) worked on the development of a National Consultation to address the status of equality rights under section 15 from the perspective of various racialized groups. This event was held in November 2005 and was attended by over 200 participants from across Canada.

Consultation on Review of the *Ontario Human Rights Code*

The ACLC conducted a community consultation and began its research into and drafting of a brief in response to potential changes to the human rights process in Ontario. The consultation was attended by community experts and leaders, human rights claimants and advocates. The brief addresses the status quo and what features of the existing model facilitate or act as a barrier to access to justice for African Canadian complainants. The brief discusses potential models, such as the direct access model and makes a series of recommendations based on our consultation and our experience.

Monitor New Legislation and Policies

Throughout 2005 the ACLC monitored legislative developments at the Federal, Provincial and Municipal levels of government through the following means: electronic media; review of national and local media outlets on television and radio; and print media including, digests, newspapers; and community organization newsletters. Networking will continue with the legal profession, social workers, government staff and community members.

2005 was an extremely busy year that saw the ACLC address numerous legislative and policy

changes at all levels of government. A few of the key areas of concern included the review of the *Anti-terrorism Act*, the review of the Safe Schools provisions of the *Education Act*, the review of the Ontario Human Rights Commission system and meetings with federal, provincial and municipal government departments aimed at addressing the need for targeted programs and policies for African Canadian youth and their families.

All of these areas were of vital importance to the African Canadian community. For example, while the Anti-terrorism provisions have resulted in the racial profiling and harassment of people of Arab or Middle Eastern background, studies indicate they have also resulted in the increased surveillance of people of African descent. Similarly, the Safe Schools provisions of the *Education Act* continue to result in the disproportionate suspension and expulsion of African Canadian students.

The ACLC continued to monitor various reviews of the Safe Schools provisions of the *Education Act*, both through the Toronto District School Board and the Ministry of Education and continued to advocate for repeal of the *Act* due to its disproportionate impact on African Canadian students.

The review of the Ontario Human Rights Commission system is also critical to the work done by the ACLC as it remains the primary protection African Canadians have against anti-Black discrimination. The ACLC continued to monitor and provide input in the review of the Ontario Human Rights Commission system. The ACLC consulted with community members and researched various models with the goal of providing a written report, from an African Canadian perspective, to the Ministry of the Attorney General.

With respect to the *Anti-terrorism Act*, the ACLC provided a written brief and oral submissions to the Special Senate Committee on the *Anti-terrorism Act*. The ACLC and requested repeal of *Act*. At the provincial and municipal level the ACLC continued to be involved in the monitoring of several key legislative and policy initiatives.

The ACLC also met with the representatives from the Ministry of Community, Family and Children's Services to discuss a youth criminal justice initiative being proposed by the ACLC and the need for programs specifically geared to African Canadian youth and families. The need for the City of Toronto to implement targeted programs for African Canadian youth and families was also discussed during a meeting with the Mayor and the Deputy City Manager for the City of Toronto.

The ACLC was also active in monitoring, consultation and law reform activities regarding the following:

- Private Members Bill To End Racial Profiling
- Kingston Police Racial Profiling Data Collection and Report

The ACLC continued to be involved in the monitoring of many other legislative and policy initiatives at all levels of government.

PUBLIC LEGAL EDUCATION REPORT

Workshops

The ACLC conducted numerous public legal education workshops in 2005. These focussed on safe schools issues for community groups in Windsor and Toronto including workshops for the Windsor community, “SPINLAW” and “It Takes A Village”. The ACLC also presented to educators at the Ontario Institute For Studies in Education regarding alternatives to suspensions and expulsions and the safe schools process. Racial Profiling was another major focus in terms of speaking engagements. The ACLC addressed issues of racial profiling for the Canadian Race Relations Foundation’s Days of Dialogue, Plenary, for a school board, for several schools and for community organizations. The ACLC also responded to specific community requests for public legal education from a variety of local and several national organizations. These workshops addressed critical race analysis, international human rights law in the domestic context, litigation strategies, hate crimes, reparations, immigration and the disparate impact of deportation, police/community relations, youth criminal justice, gender/race and equality issues, policing, correctional law and human rights. The level of public legal education and community and stakeholder engagement in 2005 was exceptionally high and kept the ACLC particularly active.

Workshop on the *Youth Criminal Justice Act*

ACLC staff attended the Ministry of the Attorney General’s *Youth Criminal Justice Act (YCJA)* Roundtable Conference for Crown Attorneys, Judges, Defence Counsel and other advocates. The ACLC also made a presentation to youth at a forum organized by the National Association of Jamaicans and Friends and Supportive Organizations. The ACLC’s focus was on the objectives and impact of the *YCJA*. The main purpose of the discussion was to provide the youth present with some information on what their rights are if detained, questioned or arrested by a police officer. All the youth present were given educational materials on knowing their rights.

VOLUNTEERS

The African Canadian Legal Clinic would like to thank the many volunteers who generously gave of their time.

Nkiru Agbakwa
Professor Sharryn Aiken
Sandra Carnegie Douglas
Ron Franklin
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Prof. David Tanovich
Prof. Esmeralda Thornhill
Prof. Michelle Williams

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Department of Justice
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Legal Aid Ontario