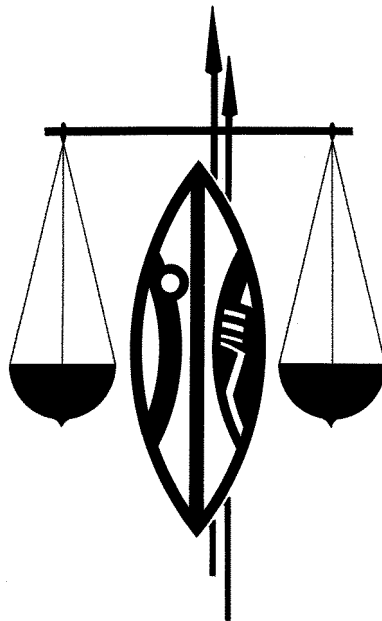


AFRICAN CANADIAN LEGAL CLINIC



**2005
ANNUAL REPORT**

BOARD OF DIRECTORS

Mrs. Eyitayo Dada(Toronto)
Chair

Rawle Elliot (Toronto)
Vice Chair

Kingsley Gilliam (Toronto)

Emmanuel Ojo (Brampton)
Treasurer

Nekesha Holdipp (Toronto)

Hazel Campayne (Toronto)
Secretary

Dr. John Lyanga (Windsor)

Emmanuel Martin (Kitchener)

Oscar Braithwaite (Toronto)

Adeyinka Oyenubi (Toronto)

STAFF

Margaret Parsons
Executive Director

Sheena Scott
Director of Legal Services

Una Valladares
Acting Office Manager

Marie Chen
Staff Lawyer

Bernadette Duggan
Secretary Receptionist

Katie Scott
Student-at-Law

ADVICE COUNSEL

Colin Browne

STUDENTS

Nicolette Ashby
Leslie Dougan

Miles Miller
Patrick Mooney

January 27, 2005

Dear Member:

The Board of Directors of the African Canadian Legal Clinic (ACLC) extends heartfelt thanks to all who have supported our work over the past year.

The African Canadian Legal Clinic (ACLC) is dedicated to addressing anti-Black racism in Canada and we continue to make headways in addressing systemic racism. The ACLC is committed to furthering the principals of employment equity. This is highlighted in our ongoing case involving high school teachers and the promotional process.

The ACLC continues to work in the field of social development by providing a forum for the community to raise and discuss social justice issues. A significant part of our work this year has been dedicated to helping quite a number of families who encounter problems with the Safe Schools provision of the *Education Act*. Our staff continue to respond to calls from across Ontario to deal with this serious issue.

I would like to thank all Board members, staff, volunteers, members of the Clinic and members of the wider community, for their commitment and dedication to the work and mission of our unique organization. In a time when social services are under attack, the work of the ACLC becomes even more relevant and essential as we help those who continue to be marginalized in our community.

As we acknowledge the support of our members over the last year and look forward to your advice and continued support as we move forward with the work of the ACLC.

Yours truly,

Mrs. Eyitayo Dada
Chair, Board of Directors

LEGAL REPORT

Challenge Safe Schools Provisions and Practices

The African Canadian Legal Clinic will continue to make challenges to the Safe Schools provisions in the *Education Act* and Board Zero Tolerance practices and policies a priority on a variety of levels. In 2004 the ACLC has fulfilled this objective with judicial reviews and a direct challenge to the Safe Schools provisions. In addition, the ACLC has furthered this objective through the filing of human rights complaints on behalf of parents and students alleging racial discrimination under the *Human Rights Code*.

The three judicial reviews raise procedural, substantive and constitutional issues arising from expulsion hearings before school boards, such as, the failure to take into account the disadvantage of African Canadian pupils and the best interest of the child; the failure to comply with the statutory obligation to take into account mitigating factors; the lack of due process including the right to call and to cross-examine witnesses and the right to a hearing *de novo*; and, constitutional issues under sections 7 and 15 of the *Charter*. These are issues that are of critical importance for the way in which expulsion and suspension decisions are made for not just African Canadian students, but for all students. The ACLC is co-counselling with the Resident Barrister of the Clinic Resource Office. In 2004 work on all three judicial reviews included the preparation of extensive factums, the filing of amended Notices of Judicial Review to include the seeking of remedies under section 24 of the *Charter* and the filing of Notices of Constitutional Question. As well, Notices of Examination were served which resulted in the examinations of witnesses employed by the Respondent Board. The judicial reviews were not argued in 2004 and we hope that these judicial reviews will be heard together in 2005.

With respect to the direct challenge to the *Education Act*, the ACLC liaised with private bar counsel, community agencies, Black educators and students to prepare the challenge and to attempt to locate a representative plaintiff. The ACLC has worked with private bar counsel in preparing a legal framework for the challenge and continued to conduct legal and social science research. An expert witness previously identified unfortunately passed away in 2004 and efforts were made to replace him. The ACLC is at present continuing in its efforts to find a representative plaintiff.

As part of its long term goal of challenging the Safe Schools provisions of the *Education Act*, the ACLC adopted a further tactic of filing on behalf of parents and students, human rights complaints on the basis that the provisions of the *Act* constituted discrimination on the grounds of race, colour and nationality. The ACLC took the opportunity to capitalise on the momentum from the Ontario Human Rights Commission Report "Paying the Price" on racial profiling within the educational sphere. The complaints involved the preparation of Complaints and Responses, preparation for and attendance at mediations, provision of information to Commission

investigations, and correspondence. The ACLC achieved success on behalf of its clients in two cases - one complaint was settled in favour of the parent and student and another has been referred for hearing at the Board of Inquiry (Human Rights). Other complaints are ongoing.

The ACLC has also continued on a case by case basis to represent parents and students with respect to expulsion and suspension matters, which have met with various degrees of success. In 2004, the ACLC was involved in an expulsion hearing before a school board and an appeal hearing at the Child and Family Services Review Board. The ACLC was able to negotiate a settlement in the expulsion matter which involved remediation and return into the school system for the child. The ACLC also met with parents, students and officials to remedy individual and group concerns and to implement policy changes at the school and Board levels.

Human Rights Complaint on Under-representation of Black teachers

The ACLC will continue with a challenge at the Human Rights Board of Inquiry with respect to discriminatory promotional practices for Black teachers. In 2004, the ACLC continued in its representation of the complainant teacher in this extensive and complex case involving individual and systemic discrimination. This included preparation and approximately 40 days of attendance at the Board of Inquiry in 2004. This represented a significant commitment of time and resources for the ACLC. To date, there have been about 155 days of hearings and the ACLC has been counsel for about 135 of these days. The ACLC in the 2004 hearings vigorously and effectively cross-examined the Respondents' numerous witnesses on anti-racist policy, procedure and promotional practices, and the history of the respondent school board in this regard. The Respondent Board has not completed its case to date. At the end of 2004, all parties participated in mediation, with no outcome to date.

Human Rights Complaints on Law School Tuition

In 2004, the ACLC continued in its efforts to influence a freeze or reduction of law school tuition in order to ensure equitable access to higher professions for African Canadians by continuing to represent two complainants at the Ontario Human Rights Commission. Submissions with respect to section 34 of the Human Rights Code were prepared and submitted. The Commission began conducting its investigation into the complaints. The ACLC assisted the clients in the investigation process in providing the investigator with appropriate contacts and materials. The ACLC conducted research, gathered and provided social science evidence, and located prospective experts.

Appeal of Racial Harassment Case at Divisional Court

This appeal was heard by the Ontario Superior Court (Divisional Court) over two days in December 2004. Books of authorities and oral argument were prepared. The ACLC represented the appellant / complainant, an African Canadian man. The ACLC in oral argument addressed

the important issues in this appeal, particularly, the nexus between racial harassment in a poisoned workplace and the termination of employment of a racialized worker, the manner of proof of racial discrimination, the duty of a tribunal member to provide adequate reasons for its decision, and the law relating to wilful and reckless racist behaviour. These issues have a far-reaching impact on the ability of a racialized employee to establish a claim of racial discrimination. The Court reserved and has not yet released its judgement.

Challenge the Provincial Government's High Stakes Grade 10 Literacy Test

The ACLC was co-counsel in a challenge to the discriminatory effects of the grade 10 high stakes literacy test on African Canadian students. The ACLC located an African Canadian expert in Education who prepared a paper on the discriminatory effects of standardised testing towards racialized minorities, and in particular, African Canadian students.

An interim injunction was brought before the Superior Court of Justice in April 2004. In preparation for the injunction the ACLC drafted and filed motion materials, a factum and a Notice of Constitutional Question. In addition, the ACLC prepared client and expert affidavits. The application for an interim injunction was unsuccessful. However, the court found that there was a triable issue and determined that an early trial would be appropriate.

Despite the interim injunction not being granted and the government not removing the high stakes component of the test or eradicating the test in its entirety, the case has resulted in certain favourable developments, such as the introduction of a literacy course which may be taken after an unsuccessful attempt at the test, and the implementation of an option for school boards to establish an Adjudication Panel that will give selected students an opportunity to meet the literacy requirement in another way.

The ACLC also took action with respect to the policy of the Education and Quality Accountability Office and the Ontario Provincial Government to withhold a student's actual grade 10 Literacy Test, by pursuing an appeal on behalf of a student, who had requested but was refused a copy of her test, to the Privacy Commissioner of Ontario

This case has gathered support from numerous educational and professional organisations within Ontario. Since the challenge was brought, the case has received a great deal of attention in the media.

Falkiner

The ACLC's objective in this case was to seek intervenor's status before the Supreme Court of Canada on the "spouse in the house" rule. The ACLC fulfilled many of the activities outlined. The ACLC identified and liaised with a prospective coalition partner, pleadings were drafted, namely a Notice of Motion, a supporting affidavit and factum. In anticipation of being granted standing, research into the issues of the racialization of poverty, particularly for African Canadians, the intersection between race, poverty and gender and the interpretation of

"analogous ground" under section 15 of the *Charter* was conducted. We were not however able to file the intervention application until the Appellant's factum was filed. Ultimately, the Appellant withdrew its appeal rendering the application moot. The research conducted will however be useful for the future work of the ACLC.

Biases in the Police Complaints Process

The objective of demonstrating the inherent inefficiencies and biases of the current police complaints process through an individual complaint was fulfilled by the ACLC through two cases. The ACLC filed two complaints on behalf of African Canadians who have suffered police abuse and racial profiling - one involved an illegal strip search of a female teenager and the other a police stop and search. Complaints were drafted and filed. The ACLC was present during the investigation process for each case. As expected, there were issues relating to the procedural fairness of the investigation process. In both cases, the police investigation unit found no basis for the holding of a disciplinary hearing under the *Police Services Act*. Both decisions were appealed to the Ontario Civil Commission on Police Services (OCCPS) on natural justice and substantive grounds. The ACLC provided written submissions in each appeal. Both appeals were successful. In the strip search complaint OCCPS found possible serious misconduct and remitted the complaint back for a disciplinary hearing. The disciplinary hearing will be held in 2005. In the stop and search complaint OCCPS ordered that the complaint be further investigated by another police force. The investigation process will be ongoing in 2005.

The Principles of R. v. Golden in a Youth Court Matter

The ACLC sought a stay of criminal charges against a young African Canadian woman who had been charged with assault and strip searched at the police station. The basis of the challenge was that, among other reasons, the *R. v. Golden* principles had not been applied by the police in authorizing the strip search. In addition, the challenge was brought under several sections of the *Charter*. The ultimate objective and goal was to remind the police service that the principles of *R. v. Golden* are to be complied with.

In preparation for the trial the ACLC interviewed numerous witnesses, attended court frequently to request disclosure of documents and evidence, prepared and filed the stay application, drafted and filed a Notice of Constitutional Question, prepared witnesses and client for cross examination, and prepared and conducted oral arguments on the Notice of Constitutional Question. The stay application was never decided upon as the matter was successfully settled within the first days of the trial.

The ACLC was very successful on this challenge. Not only were the charges against the young person dropped, but also the Crown conceded that there may be significant legal issues with how the strip search was performed. This matter was completed with a very positive outcome for both the client and the ACLC.

Systemic Factors in Sentencing Appeal

This objective to argue for the consideration of alternatives to incarceration as a result of anti-Black racism in the sentencing of African Canadian offenders at the Court of Appeal was fulfilled in its entirety. The ACLC conducted focus groups with persons who had come into contact with the criminal justice system with respect to the issues and factors to be considered in sentencing. Books of Authorities and oral argument were prepared for the Court of Appeal. Consultations continued with academics, legal experts, counsel and the ACLC's sub-committee.

The ACLC's factum and oral argument set out the context of over criminalization and over-incarceration of African Canadians. The ACLC argued that systemic factors such as systemic racism and sexism against African Canadians must apply in the sentencing of individuals under the *Criminal Code* in order to secure Charter equality guarantees in the sentencing of African Canadian offenders. The ACLC also argued that it was a constitutional imperative that a sentencing judge take into account the systemic and background circumstances related to the offence and the offender.

While the Court of Appeal allowed the Crown's appeal, it left open the possibility of the raising and relevance of systemic factors in the sentencing of African Canadian offenders.

Intakes/Summary Advice/Advocacy

In 2004, the ACLC received and dealt with intake calls on an extremely high volume basis. A total of 1,028 intakes were received: Advice 367, Brief Services 195 and Referrals 466. This represented a 68% increase from 2003 (609 intakes). This increase can be attributed to the Clinic's continued high profile in the community with respect to issues of policing, racial profiling, Safe Schools and immigration.

The main areas, as were in 2003, related to policing, education, employment, human rights, and immigration matters. Calls relating to criminal, family and housing issues were also received. Calls were fielded not only from across Ontario but also other provinces and internationally.

The policing calls involved a wide range of issues such as racial profiling, police brutality, police complaints and inadequate investigation into hate crimes against African Canadians. Calls involving racial discrimination (human rights) were also significant and covered an extensive area, including border searches, strip searches, religious discrimination, harassment in and termination from employment, ineffective Union representation and racial profiling by state and private agents. The ACLC also fielded numerous education-related calls involving suspensions and expulsions of African Canadian students, and from Somali trained teachers on accreditation by the Ontario College of Teachers. With respect to immigration the ACLC received many calls relating to detentions and deportations of long term residents.

The high volume of calls in these areas represent an acute need on the part of the community, a need exacerbated by the lack of available advocates and financial resources. The ACLC met this urgent need and provided advice, brief services and advocacy services to individuals. The ACLC assisted individuals in drafting letters, complaint forms and submissions. The ACLC also liased

with the relevant agencies and attended at meetings advocating for complainants.

COMMUNITY DEVELOPMENT

Liase with Governments

The ACLC participated in several meetings in 2004 with senior government officials at all levels of government. The ACLC liaised and worked with respective Ministry staff to arrange and organize these consultations and meetings. When appropriate, meetings were held with appropriate sectors and members of the community in preparation for and prior to each consultation. Research was also conducted by ACLC staff prior to each meeting and all relevant documents and data were gathered and presented to the respective Minister or senior government official.

Given the significant changes that occurred at the three levels of government in late 2003 and in 2004, this particular area of the Clinic's community development work was both active and engaging. The following is a sampling of the consultations and meetings the ACLC organized in 2004:

(a) The ACLC held an extensive meeting with the newly elected mayor of the city of Toronto to discuss existing crisis and issues that affect the African Canadian community. Among other issues, the ACLC's delegation focused on the high rate of poverty and unemployment among African Canadians in Toronto and the GTA, racial profiling, community economic development, marginalization and exclusion in education and the criminal justice system being experienced by Black youth. Delegates urged Mayor Miller to take immediate action and pro-active steps to address issues raised.

(b) ACLC representatives met with the provincial Attorney General, Michael Bryant, to discuss justice related issues and concerns for the African Canadian community in Ontario. Some of the issues identified as a priority for Black Ontarians were the disproportionate number of African Canadians involved in the criminal justice system, establishing an independent police complaints system in Ontario and development of legislation to address the issue of racial profiling.

(c) In June 2004, the ACLC collaborated with the Black Inmates and Friends Assembly to host a consultation with African Canadian agencies and the Deputy Minister in the Ministry of Community Safety and Correctional Services. The main focus of this meeting was to discuss the conditions and treatment of Black Inmates at provincially operated facilities. The move to privatize correctional facilities had resulted in significant deterioration of the conditions and services to inmates. Participants stressed the need to increase funding, access, and involvement of African Canadian Agencies such as BIFA and NAIFA that work directly in the correctional facilities to ensure that the needs of African Canadian inmates are being met and to facilitate the successful re-integration of African Canadian inmates into society. Of equally significant importance, is the issue of hate crimes and the fact that statistics from the Toronto Police Service indicate that African Canadians are the primary victims of violent hate crimes in Toronto. Community members stressed the importance of the ministry acknowledging this problem, and taking the necessary steps to effectively respond to the serious issue.

(d) The staff of the ACLC liaised with staff from the office of the Honorable Jean Augustine, the federal Minister of Multiculturalism, to arrange for her attendance and keynote address at the community town hall meeting on the issue of racial profiling. This event was well attended by over 200 participants. This town hall meeting created a forum for the African Canadian community to express their concerns on racial profiling and other issues. Moreover, it provided an opportunity to hear first hand the initiatives and strategies being developed within the federal government to address the concerns of African Canadians on this critical issue.

(e) Separate meetings were organized by the ACLC with the Assistant Deputy Minister for Youth Justice in the Ministry for Children and Youth and the Child Advocate for Ontario. Of critical importance is the closing of the Toronto Youth Assessment Centre (TYAC) and the impact on African Canadian young offenders and their families. Another key issue raised at the meetings with these senior government officials was the implementation of the principles of the *Youth Criminal Justice Act* and specific measures for African Canadians under this new legislation. The ACLC's representatives expressed their disapproval with the establishment of a Super Jail facility for youth and how such a facility can and will affect African Canadian youth.

(f) The ACLC along with other legal clinics participated in a consultation organized by the Employment Standard Branch of the Ministry of Labour. At this consultation, it became evidently clear that the Ministry of Labour had failed to include the African Canadian community as part of its outreach initiative. Subsequent to this consultation, the ACLC engaged in an on-going dialogue and meetings with this Ministry for increased and improved outreach to the Black community across Ontario.

(g) A meeting was held with lawyers from the ACLC, the chief Commissioner and senior management of the Ontario Human Rights Commission to discuss concerns with the implementation at the Commission of a new self-drafting process for complaints. Lawyers from the ACLC stressed the importance of human rights to African Canadians and other marginalized communities and the need to ensure that the Commission remains accessible to all communities and stakeholders. Concern was also raised with regard to the impact of this process on race-based cases and what measures should be put in place to ensure that these complaints will be understood and responded to in an appropriate and informed manner. Among other recommendations, the ACLC emphasized the need to meet with key stakeholders such as legal clinics and community based agencies to hear and discuss their concerns with the new process. The ACLC also recommended a new mechanism to monitor this new system for accessibility, efficient and effective service, and any significant or major changes in the quality or quantity of complaints.

The consultation and meetings held with key Ministers and officials at all three levels of government is important to the community development work of the ACLC. Each consultation was productive and significant interest was shown and action taken on some of the recommendations made by the ACLC. The ACLC will continue to liase with governments as part of its community development objectives for 2005.

United Nations Working Group on African Descendants

The ACLC participated in the fourth session of the UN Working Group of Experts on People of African Descent. The ACLC held discussions with community based experts to gather the relevant and necessary documents required to effectively respond to the topics of discussion as listed in the Working Group's agenda of employment, health and housing.

The ACLC researched each theme from an African Canadian perspective and gathered the relevant reports, statistics and materials required to respond to each theme. ACLC representatives drafted and presented deputations on each theme and developed recommendations for the consideration of the Working Group of Experts. 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 themes of employment, housing, and health.

ACLC representatives took an interesting and critical race approach when addressing each theme. The impact of poverty and anti-Black racism and its relation to each thematic area was central to the ACLC's response.

ACLC delegates met with key members of the Working Group and key UN officials in the office of the High Commission on Human Rights and the anti-Discrimination Unit. The submissions and presentations of the ACLC were well received by the members of the Working Group and other UN officials. The ACLC will continue to monitor the meetings of the Working Group.

Racial Profiling / Best Practices

After the completion of the two reports *Crisis, Conflict and Accountability* and *In Their Own Voices*, the ACLC organized the official launch of the two reports. A press conference was held and was well attended by all forms of media. The reports and their findings received extensive coverage in both the mainstream and community media.

As a community development and public education tool, ten fact sheets were also developed to accompany the reports. These fact sheets have been used by trainees, community agencies, and legal clinics to inform and develop the community's capacity to address racial profiling. The ACLC has received positive feedback on the reports and the fact sheets from the community, government, agencies and service-providers.

The launch of the reports and fact sheets was attended by over 200 individuals from various communities and sectors. The launch was accompanied by a Town Hall meeting and moderated by the Canadian Race Relations Foundation. The Town Hall Meeting provided a forum for a constructive, yet, honest and frank dialogue on racial profiling. One of the keynote speakers at this event was Chief William Closs of the Kingston Police Services. The racial profiling data collection project piloted by Chief Closs was highlighted as a best practice in Canada to address racial profiling.

Racial Profiling: Consensus Conference

In March 2004, the ACLC in conjunction with the African Canadian Coalition Against Racism, organized an all day National Conference/Consultation to commemorate the UN Day for the Elimination of All Forms of Racial Discrimination. The theme of the Conference/Consultation was Crisis, Conflict, and Accountability. This event was attended by over 200 participants from across Canada which included academics, government officials, human rights advocates and lawyers. Planning committee members were instrumental in planning the conference program and assisting in identifying and contacting speakers, workshop presenters and facilitators. ACLC staff co-ordinated most of the logistical arrangements for the Consensus Conference.

A planning committee was established and included community members, City of Toronto staff and human rights advocates who assisted in planning and co-ordinating the Consensus Conference. Strategic sessions were held to discuss and develop a plan of action on the following issues:

- Independent auditing of police practices
- Human services program co-ordination
- Independent civilian complaints system
- Networking for community action
- Racial profiling data collection
- Educating and training the community on racial profiling
- Political and public accountability
- Local dialogue with the police

A final report was prepared documenting conference deliberations, recommendations and a plan of action. The final report has been completed and will be distributed widely to all levels of government, community members, agencies and academics in 2005. The ACLC will continue to work with the Coalition in 2005 on the issue of racial profiling.

Safe Schools

As in previous years, the issue of safe schools continued to dominate all aspects of the work of the ACLC in 2004, and community development was no exception. The ACLC compiled a resource guide of all of the safe schools/discipline/suspension and expulsion policies and procedures for every school board in Ontario. This initiative was undertaken in an effort to familiarize Clinic staff with the various approaches that may exist in the province to zero tolerance.

In 2004 the ACLC worked with over 75 African Canadian families providing advocacy and other assistance to address the suspension or expulsion of Black students from their respective schools.

In March 2004 ACLC staff organized a focus group made up of parents, agency representatives, parent groups, and educators to discuss and develop a strategy to address the ongoing impact of this problem on the Black community in Ontario. This issue was also raised at consultations and meetings the Clinic organized with the Chief Commissioner for the OHRC, Attorney General Michael Bryant, and officials from the Ministry for Children and Youth.

LAW REFORM

Golden Impact Study

The objective was to conduct an impact study on the strip search practices of the police after the Supreme Court of Canada's decision in *R. v. Golden* and to examine the change, if any, in police practices of strip searches. The ACLC worked with Tammy Landau a criminologist, in researching and designing the study. The ACLC and Ms. Landau developed a strategy to identify and liaise with community organizations that work with persons who are in contact with the law. Key stakeholders were identified and steps were taken to contact and consult with each stakeholder. As well, communities were identified for on-site interviews and a formal process of meeting with the leadership was discussed. Unfortunately, Ms. Landau declared a conflict of interest when she was appointed to the Ontario Civilian Commission on Police Services Board and had to withdraw from the study. Nevertheless, the ACLC will continue to work on the project and is currently searching for another expert to complete the study.

Canada Customs and Revenue Agency Pilot Project

The ACLC fulfilled the objective of monitoring the implementation of a pilot project by Canada Customs and Revenue Agency (now Canada Border Services Agency CBSA) to develop statistics on referrals to secondary inspection and study the impact of the criteria used by Customs on the basis of race. The ACLC made significant efforts to maintain regular contact with CBSA. However, delays were caused in the completion of the project by re-structuring changes to the CCRA in 2004. The report of the consultant retained for the design phase of the pilot project was delivered in December 2004. Continued meetings will take place in early 2005 with respect to the content and implementation of the consultant's report with CBSA officials and the Canadian Human Rights Commission.

Immigration and Refugee Protection Act

In 2004 the ACLC continued to monitor the impact of the *Immigration and Refugee Protection Act (IRPA)* on African Canadians. The ACLC participated in a National Consultation with other counsel and experts on the provisions relating to the bar to social assistance recipients on sponsoring family class relatives. The ACLC liaised and consulted with other legal counsel on the impact of IRPA on African Canadians generally and specifically on the DNA testing requirement by immigration officials for potential immigrants and children.

On the international level, the ACLC submitted a written brief to the UN Committee for the Elimination of Racism (CERD) on the impact of *IRPA* at its "Thematic Discussion on Non-Citizens and Racial Discrimination" which was held in Geneva, Switzerland. The ACLC's submissions focused on the impact of anti-Black racism on the African Canadian community with respect to deportation provisions, the selection criteria for skilled workers and undocumented persons.

SIU Director's Resource Committee

The ACLC continued its role as a member of the Director's Resource Committee of the Special Investigations Unit and participated in meetings with the Acting Director. At each meeting the ACLC contributed to the discussion on the effectiveness of the SIU. The ACLC will continue to provide feedback on issues of concern to the African Canadian community and the use of force by the police to ensure the continued efficiency, independence and responsiveness of the SIU to the community.

Independent Police Complaints Process

The ACLC met this objective which was to consult with the Attorney General of Ontario on the setting up of an independent police complaint body. The ACLC participated fully in the Review being conducted by former Justice Patrick LeSage. The ACLC attended consultation meetings with Mr. LeSage and addressed the perspective and concerns of the African Canadian community on the issue of police complaints. The ACLC in its submissions is requesting an independent, arms length, transparent and accountable police complaints mechanism. Detailed written submissions were prepared and provided to Mr. LeSage dealing with the historical context, ongoing community demands and a proposed model for an independent review body. The ACLC, as part of the Review process, gave an oral deputation at a public community consultation meeting, once again calling for an independent complaints process to ensure remedies for the community. The ACLC recently participated in a feedback session with Mr. LeSage.

WCAR Implementation

The ACLC's objective of monitoring and participating in initiatives after the World Conference Against Racism (WCAR) was done through the annual NGO consultation organized by the Department of Foreign and International Affairs (DFAIT). The ACLC's participation and contribution to the DFAIT consultations together with that of other NGO's was instrumental in effecting changes to the federal government's position on the implementation of the WCAR Plan of Action. The ACLC also contributed to sessions at the NGO consultations on the promotion and protection of human rights, the right to development and civil and political rights. The ACLC will continue to monitor and participate in DFAIT consultations as part of its post WCAR process.

Racial Profiling Project

The ACLC completed work on the drafting of two reports and an executive summary on racial profiling. The first report entitled *Crisis, Conflict and Accountability* researched best practices that exist in other jurisdictions in Canada and internationally to combat racial profiling. The second report entitled *In Their Own Voices* documents first hand accounts and experiences of racial profiling from members of the African Canadian community, in particular Black youths. These narratives were collected and shared through this report and proved to be a powerful and informative tool. An advisory committee was developed to provide guidance, feedback, and

advice to the researchers and authors. The Reports were completed and launched at a national conference in March commemorating International Day for the Elimination of All Forms of Racial Discrimination.

Monitor New Legislation and Policies

A significant part of the ACLC's activities in this area involved several written and oral deputations to the Toronto Police Services Board (TPSB) on policing issues, including:

- a) Oral and written deputations on the police complaints process, in which recommendations for an independent investigative and adjudicating process was proposed. The ACLC urged the TPSB to establish a transparent, accountable and effective police complaints process. The ACLC suggested that an independent civilian oversight body would meet the concerns of African Canadians and restore police accountability and public confidence.
- b) An oral deputation in support of the Ontario Chief Commissioner for Human Rights' Report on racial profiling was undertaken by ACLC staff. The ACLC reminded the TPSB of the impact of the practice of racial profiling by police on African Canadians and urged the Board to accept the report of the Commissioner.
- c) Written and oral deputations were made by the ACLC on the TPSB's review of the police search of persons policy. The TPSB was reminded that *R. v. Golden* a Supreme Court of Canada case set the precedent on police conduct on strip searches. The ACLC urged the TPSB not to divert from but to entrench the principles set in the case in its policy.
- d) As part of the Canadian Human Rights Commission's (CHRC) extensive review, the ACLC provided written submissions to the CHRC regarding the Commission's Consultation Document. The Consultation Document focused on the Commission's review of how it could improve the services it provides and innovative ways of addressing human rights complaints. The ACLC provided feedback on the Consultation Document and made recommendations on how the CHRC can effectively deal with race based and systemic complaints as part of an attempt to improve its service delivery.
- e) The ACLC was invited by the Ontario Human Rights Commission to participate in a Working Group on the development of a Race Policy. The ACLC attended Working Group meetings and consultations and participated in discussions at various workshops as part of the Commission's policy development process. At Working Group meetings and Commission consultations the ACLC's contribution reflected the African Canadian perspective on race based human rights complaints.
- f) The ACLC completed written submissions to the Parliamentary Standing Committee on Government Operations and Estimates regarding Bill C-11, the Whistle Blower

legislation. The ACLC requested an amendment to allow for and extend protection to individuals who disclose discrimination and human rights violations within government. The ACLC's position is also supported by other organizations that work in the area of human rights.

g) The ACLC was involved in the Law Society of Upper Canada's extensive consultations regarding the regulating of paralegals. The ACLC's submissions reflected the perspective of African Canadians on this issue and presented a balanced approach on issues of paralegals access to justice. The ACLC's submissions identified the need, dependency and vulnerability of African Canadian's as a marginalized community with respect to paralegal services. The ACLC's recommendations supported, among other things, the regulation of paralegals by the Law Society of Upper Canada and the need for extensive training and accountability by this group of legal service providers.

h) The ACLC presented at the Toronto District School Board's Task Force (TDSBTF) meeting on the impact of the "safe schools" legislation and the Board's policy on African Canadians. At the Board meeting, the TDSBTF presented a Report of its community consultation findings and the ACLC appeared before the Board in support of these recommendations.

PUBLIC LEGAL EDUCATION

Canada Customs and Revenue Agency (CCRA) Meeting

In 2004, the ACLC organized a consultation between the Canada Customs (now Canada Border Services Agency) and racialized community groups on the racial impact of Canada Customs. The ACLC brought together representative community groups such as the African Canadian Social Development Council, Canadian Arab Federation, Canadian Race Relations Foundation, Chinese Canadian National Council, Dejinta Beesha, and the Jamaican Canadian Association to meet with officials from the CBSA. These groups represented Muslims, Arabs, Chinese, Somalis, Jamaicans, African Canadians and immigrants and refugees. Also in attendance was the Canadian Human Rights Commission. The representatives provided community-based perspectives of the treatment of their community by Canada Customs officials. The commitment to hold these meetings on an annual basis continues.

Hate and Racism Conference

The ACLC was actively involved in an advisory committee to the Indigenous Bar Association which planned an international conference entitled "Hate and Racism: Seeking Solutions". The advisory committee was responsible for the development of conference workshops and plenaries and identified panelists for all sessions.

The ACLC worked very closely with representatives from organizations such as Native Women Association of Quebec, Chinese Canadian National Congress, B'nai Brith League for Human Rights, Canadian Arab Federation, and the National anti-Racism Council of Canada to name a few. This initiative provided an opportunity for the ACLC to work closely with and under the leadership of the Indigenous community. A National Secretariat Against Hate and Racism was created to actively encourage collaboration and to work with the Aboriginal community on anti-racism initiatives. The ACLC will work on building the Secretariat as a community development initiative in 2005 in an effort to continue the constructive dialogue and community awareness strategies developed at the conference.

This initiative provided an opportunity for various racialized, faith based, Indigenous and equality rights groups to work together, dialogue, raise awareness and develop our respective communities ability to respond to racism and hate. Some of the themes addressed in this conference were:

- Exploring the causes of Hate and Racism
- Legal/Legislative Framework for Redressing Historical Wrongs
- Racism, Treaty Rights and Land Claims Issues
- Gendered Racism and the Impact on Indigenous Women
- Communities Confronting Hate - Practical Strategies
- Confronting Hate and Racism in the Local Context

Through this initiative, communities were given an opportunity to hear from prominent government and international officials such as the Honourable Jean Augustine, UN special envoy Stephen Lewis, Six Nations Grand Chief Roberta Jamieson and National Chief Phil Fontaine.

Conference on Race and the Charter

The ACLC participated in a National Consultation on Equality Litigation and the *Charter* which was hosted by the Minority Advocacy and Rights Council. ACLC staff participated in a workshop on how to effectively litigate section 15 *Charter* cases. This workshop provided an opportunity to highlight the importance of community development as part of an overall community development and litigation plan. Concrete examples were given to participants of successful community development campaigns to the ACLC and other legal clinics.

The ACLC has begun the process of drafting and finalizing its proposal and will be establishing an advisory committee to assist in planning this conference. As one of the few organizations litigating race and *Charter* issues, the ACLC is a member of the National Steering Committee organizing events to celebrate the 20th anniversary of section 15 of the *Charter*.

Workshops Responsive to Community Requests

Throughout 2004, the ACLC conducted or participated in numerous public education workshops on topical issues as requested by the community and other agencies including.

- a) Presentation to the Black Law Students Association of Canada on race-based litigation focusing on the importance of such litigation, achieving successful policy change using race based litigation, the application of Human Rights legislation and the *Charter*, the barriers to litigating race cases, and the role of lawyers, judges and law students in this regard.
- b) Presentation to the African Canadian Disability Community Association on race and disability with particular focus on the impact of racism on African Canadians with disabilities, the intersection of race and physical and mental disability. The ACLC participated in facilitating a discussion group on the application of section 15 of the *Charter* to challenge discriminatory practices as they relate to race and disability and the racial profiling of disabled African Canadians.
- c) Presentation at a Safe Schools workshop on “Building Bridges II: Challenges and Approaches to Supporting Inner-city Youth to Succeed” at a conference held at the Nelson Mandela Elementary School. The ACLC focused on the “Safe Schools” policy in the context of the *Education Act* and the adverse impact of the “Safe Schools” policy on African Canadian students in elementary and high school and their families. The ACLC outlined for parents whose children had been suspended and expelled the appeal or review process; the relationship between the Safe Schools policy and the streaming of African Canadian students into the applied

program; and the impact of the high stakes Grade 10 Literacy Test on African Canadian students.

d) Presentation at the "It Takes A Village" Conference on "Small Steps Giant Leaps the Education of African Canadian Children". The ACLC focused on the "Safe Schools" policy and its adverse impact on African Canadians students and their families. The ACLC discussed the process parents must follow in response to the suspension or expulsion of their children.

e) Presentation at the Canadian Association of Civilian Oversight on Law Enforcement (CACOLE) conference on "Many Voices: Community and Civilian Oversight". The ACLC's presentation focused on the ineffectiveness of a self-investigating police complaints process and the need for an effective oversight body that is transparent, independent and accountable. The ACLC spoke to the expectations of the African Canadian community of an independent civilian oversight body that would meet the needs of the community.

f) Participated at the National African-Canadian Umbrella Organizing Committee workshop that focused on the creating of a national umbrella organization of African Canadian organizations and agencies. ACLC representatives assisted in drafting a policy that would govern the organization.

g) Participation at the Kenyan Association of Ontario workshop on the role and importance of the ACLC in the African Canadian community as ACLC representatives discussed the work and role of the ACLC and facilitated group discussions on policy initiatives.

h) Presentation at a seminar organized by Dixon Hall on an individual's rights upon detention. The seminar was well attended by Somali youth. The ACLC discussed the impact of police harassment on the community, the realities of dealing with the Toronto Police Service and alerted the community to the legislation governing police contacts including the *Youth Criminal Justice Act*, the *Trespass to Property Act*, the *Charter*, the *Criminal Code* and the *Controlled Drugs and Substances Act*. The ACLC also informed the group on their rights upon stop and search by the police and the right to silence.

i) The ACLC participated in a second seminar organized by Dixon Hall on crime prevention for Somali youth. The ACLC provided information on the legislation relating to charges commonly brought in the community and crime and violence in Canadian culture. The ACLC's presentation also focused on conflict resolution, sentencing and rehabilitation principles for youth in the criminal justice system.

j) Participation on a panel at a Federal Prosecutors training seminar on Racism and the Law which was attended by many Federal Crown Prosecutors. The ACLC presented on the issues of racism in the criminal justice system, racial profiling, policing and the role of the prosecutor, particularly with regard to prosecutorial discretion in sentencing, judicial interim release and jury selection.

k) Presentation at a workshop "Towards a Culture of Peace" organized for the Vaughn Secondary School Human Rights Festival on racial profiling. The ACLC's presentation touched

on the meaning of racial profiling, its root causes, and how this phenomenon is manifested in society. The presentation also included a discussion of the impact of racial profiling, the experience of African Canadians and how racial profiling interrelates in the education and the criminal justice system.

l) Presentation at the Toronto Youth Services Centre, an organization which works with young people who are currently before the criminal courts, or who are reintegrating into society after their involvement in the criminal justice system. The discussion focused on identifying and overcoming the barriers that prevent the re-enrolment and successful integration of students who are involved with the criminal justice system into the education system. The ACLC's presentation also included a discussion of the *Education Act* and "Safe School" Policies as they relate to student advocates' attempts to negotiate the re-enrolment of students.

Workshop for Hate and Racism Conference

As part of the advisory committee the ACLC was responsible for planning and organizing three workshops at this event which was held in March 2004. This task involved identifying possible workshop themes and possible presenters. In addition, two representatives from the ACLC spoke at the conference.

The three workshops the ACLC helped to organize were:

- Confronting Hate and Racism in the Local Context (Plenary)
- Issues Associated with Racial Profiling (Workshop)
- Using International Arenas (Workshop)

All these sessions were well received and contributed enormously to a well attended and extremely successful conference. The recommendations and discussions generated at each session were incorporated into the final conference report prepared by the Indigenous Bar Association.

African Canadians are one of the primary communities directly affected by hate and racism. As a result the issue of hate and African Canadians will be a major theme of the public legal education work of the ACLC in 2005.

Anti-terrorism Consultation

In 2004, the ACLC established and conducted a Working Group to plan a national consultation for February 2005 on the impact of Canada's anti-Terrorism and security measures on racialized communities. This coalition has also held several meetings to collaborate on a case development plan to challenge a recent decision from the Federal Court of Appeal at the Supreme Court of Canada.

The ACLC is currently in the process of identifying a venue for the national consultation. The Working Group will be recommending experts, academics and community members to participate in the National consultation. In addition to the two-day consultation, two discussion papers will form the basis of the consultation. These discussion papers will focus on a section 15 *Charter* analysis of the Anti-terrorism Legislation and Security Measures, identify relevant social science materials and critique the impact of the legislation on racialized groups and civil liberties. The ACLC will continue to work on this initiative in 2005.