

**CONFIDENTIAL**

**Report to:**

**OTTAWA POLICE SERVICE BOARD COMPLAINTS COMMITTEE**

**7 May 2026**

**Submitted by: Executive Director, Ottawa Police Service Board**

**Contact Person:**

**Habib Sayah, Executive Director, Ottawa Police Service Board**

***habib.sayah@ottawa.ca***

**SUBJECT: REVIEW OF COMPLAINT INV-25-100**

**REPORT RECOMMENDATIONS:**

**That the Ottawa Police Service Board's Complaints Committee:**

- 1. Review Policy and Procedure Complaint No. INV-25-100 pursuant to section 107(7) of the *Community Safety and Policing Act, 2019*.**
- 2. Find that the Chief's procedures appear to provide a measured approach to the management of major events that is generally attentive to the constitutional framework within which public order policing operates.**
- 3. Recommend that the Board's Policy and Governance Committee, in its review of Policy CR-17 Major Events, specifically consider the following potential gaps in the framework:**
  - a. The safety, dignity, and rights of non-participants including counter-protesters and vulnerable bystanders;**
  - b. The expectations for hate-motivated conduct at demonstrations.**
- 4. Authorize the Executive Director to communicate the Committee's findings to the Inspector General, the Solicitor General, and the complainant.**
- 5. Authorize the Executive Director to publish this report (without supporting documents) on the Board's website for the purpose of informing the public of the Board's findings and the actions recommended in response to this complaint.**

**BACKGROUND**

Policy and Procedure Complaints are complaints referred to the Board by the Inspector General of Policing pursuant to subsection 107(6) of the *Community Safety and Policing*

*Act, 2019* (CSPA). Under subsection 107(1) of the CSPA, the Inspector General is responsible for receiving and addressing complaints relating to policing, including complaints concerning the policies, by-laws, rules, or procedures of a police service board and the procedures established by a chief of police. Where the Inspector General determines that such a complaint is appropriately addressed at the governance level, subsection 107(6) requires the Inspector General to refer the complaint to the relevant police service board and to inform the complainant of that decision.

Upon referral, the Board is required under subsection 107(7) of the CSPA to review the complaint as it relates to Board policies and Chief's procedures, and to report back to the Inspector General and to the Solicitor General on any steps taken. The Inspector General has generally specified a 90-day timeline for the completion of such reviews.

The Board's Policy CR-32 Policy and Procedure Complaints establishes the framework for administering these reviews. Under that policy, upon receipt of a referral the Executive Director notifies the Chief, gathers relevant Chief's Procedures and contextual information, conducts a review of applicable Board policies, and prepares a comprehensive report addressing the complaint as it relates to both Board policies and Chief's procedures. The Executive Director then submits that report to the Complaints Committee.

The Complaints Committee's role is to conduct an action-oriented review of the complaint and to identify opportunities for corrective action or improvement. In exercising its delegated authority, the Committee may request additional information, approve the Board's response to the Inspector General, endorse or modify recommendations contained in the report, and identify broader governance or policy issues for consideration by the Board or its committees. The review does not extend to findings regarding the conduct of individual members of the Ottawa Police Service.

Following the Committee's review, the Executive Director communicates the outcome to the Inspector General, the Solicitor General, and the complainant, subject to any limitations or conditions determined by the Committee.

## **DISCUSSION**

### **Summary of the complaint**

The complaint was filed by email directly with the Inspector General of Policing on November 6, 2024. The complainant, a Jewish woman who uses a wheelchair, describes her attendance at the Canadian Tribute to Human Rights monument in Ottawa on Yom Kippur, October 12, 2024, during a recurring weekly pro-Palestinian

demonstration and march that originates from that location. She arrived approximately 45 minutes before the demonstration began and remained through its duration.

The complainant raises several issues. She characterizes the weekly gatherings as illegal on the basis that they involve public incitement of hatred and that the Supreme Court of Canada has held that freedom of expression and peaceful assembly are not protected where there are threats of violence. She asks whether the City of Ottawa has granted permits for the assembly and police-escorted march, and whether the Chief of Police has instructed officers not to disperse participants as they arrive, not to enforce the incitement of hatred provisions of the Criminal Code, and not to enforce the Supreme Court's framework regarding threats of violence. She observes that most officers present were wearing hearing protection devices and asks whether officers equipped in that way are able to hear threats of violence or criminal speech. She also describes a personal interaction with an OPS officer who questioned her purpose for being there and stated that the police could not guarantee her safety, as well as conduct by several protest participants that she experienced as threatening and intimidating. She concludes by asking which officials are to be held accountable for what she characterizes as the ongoing disregard of their sworn oaths to uphold the laws of Canada.

### **Steps taken in response to the complaint**

Upon receipt of the Inspector General's referral letter dated August 15, 2025, a review of this complaint was commenced, focused strictly on Board policies and procedures established by the Chief of Police. This review does not examine the facts of the incident beyond the information provided by the Inspector General, nor does it assess the conduct of any OPS member. The review is confined to assessing whether any clarification or updates to policies or procedures are warranted.

To inform this review, the Board office requested the assistance of the OPS Professional Standards Unit (PSU). The following materials were provided by the PSU:

- Chief's Procedure 15.01 Event Management, effective January 23, 2017, marked under review due to the CSPA;
- Chief's Procedure 15.03 Active Attacker Incident Response Framework;
- Chief's Procedure 15.04 Tactical;
- Chief's Procedure 15.05 Major Events and Event Planning, effective January 23, 2017, marked under review due to the CSPA;
- Chief's Procedure 15.06 Public Order, effective January 23, 2017, marked under review due to the CSPA;

- Chief's Procedure 15.07 Preliminary Perimeter Control and Containment;
- Chief's Procedure 15.08 Immediate Rapid Deployment Procedure; and
- The OPS Event Risk Assessment Guide (February 2025).

These materials were reviewed alongside the complaint documentation attached to the Inspector General's referral and the relevant provisions of the Canadian Charter of Rights and Freedoms and the Criminal Code of Canada.

The review also covered Board Policy CR-17 Major Events and the relevant provisions of Ontario Regulation 392/23 Adequate and Effective Policing (General).

### **Review of the complaint as it pertains to board policies or procedures**

The complaint raises six substantive issues that fall within or adjacent to the Board's review mandate under subsection 107(7) of the CSPA. Each is addressed in turn.

#### The characterization of the gatherings as illegal and the question of Chief's operational instructions

The complainant asks directly whether the Chief of Police instructed officers not to disperse the gathering, not to enforce the prohibition on incitement of hatred, and not to enforce legal restrictions on threats of violence. This framing reflects an incomplete understanding of how public order policing decisions are made within the Ottawa Police Service.

The Chief of Police does not issue real-time instructions to officers deployed at individual public order events. OPS Procedures 15.01 and 15.05 establish a structured command framework under which authority for operational decisions at a public order event is vested in an Incident Commander, supported by Event and Forward Commanders, who are responsible for assessing conditions on the ground and directing the response accordingly. In advance of a known recurring event such as the weekly demonstrations at the Canadian Tribute to Human Rights, OPS develops an operational plan informed by prior event intelligence, risk assessments, and coordination with relevant units including the Police Liaison Team. That plan establishes the deployment posture, response levels, and escalation thresholds applicable to the event. It is within this framework, rather than through direct instruction from the Chief, that decisions about dispersal, enforcement action, and resource deployment are to be made, according to the relevant Chief's procedures. The procedures framework does not contemplate a role for the Chief in directing individual enforcement decisions in the field. Rather, the Chief's role is to set the procedural framework within which commanders exercise authority, in accordance with policies of the Board and the CSPA and its regulations.

The question as to whether the Chief might have given instructions is irrelevant to this review which is more concerned with whether the policy and procedural framework within which operational decisions were made on October 12, 2024 was appropriate.

The absence of dispersal action or criminal enforcement at a specific event is consistent with, and not contradicted by, this procedures framework. The framework requires a measured response calibrated to the assessed risk level. It does not require enforcement action regardless of the circumstances.

The framework's calibrated approach also reflects the constitutional obligations that govern public order policing under section 2(c) of the Canadian Charter of Rights and Freedoms. A recurring public demonstration of this nature, a gathering of persons assembled to communicate a political viewpoint on matters of public concern, falls within the scope of that guarantee. As Professor Jamie Cameron observed in a paper commissioned by the Public Order Emergency Commission, freedom of peaceful assembly extends to gatherings that are disruptive or produce unlawful individual conduct. An assembly does not lose its constitutional protection simply because it offends others, generates disorder, or provokes a hostile reaction in the community.

Dispersal authority under section 63 of the Criminal Code requires that the assembly, as a collective entity, threaten or engage in violence. Disruption or provocation alone does not meet that threshold.

The measured response embedded in the OPS procedures appears to be both operationally prudent and attentive to constitutional considerations.

A further dimension of this question engages the common law doctrine of constable discretion – a time-tested construct that is foundational to the relationship between policing and the rule of law in Canadian and Commonwealth legal systems. The doctrine, recognized by the Supreme Court of Canada in *R v Beaudry* [2007] 1 SCR 190, holds that a police officer is not a mere instrument of mechanical enforcement. Officers owe a duty to enforce the law, but they retain professional judgment in determining how, when, and in what manner that duty is discharged in any given set of circumstances. In *Beaudry*, the Supreme Court notes that police discretion is not “displaced by the provisions of internal police directives” and that policies cannot alter the scope of a discretion that is founded in common law. This discretion is not a licence for arbitrary or discriminatory inaction and must be exercised in good faith, on legally relevant grounds, and in a manner consistent with Charter values.

The absence of an arrest or a dispersal order at a specific event is not evidence of a failure to enforce the law. Officers assessing a dynamic crowd environment must weigh

the nature of observed conduct against the applicable legal thresholds, the potential for escalation, the availability of resources, and the safety of all persons present. Such assessments may lead an officer to legitimately abstain from enforcing legislation.

#### The question of municipal permits

The complainant asks whether the City of Ottawa issued permits for the weekly Saturday gatherings and police-escorted march, and whether the absence of any such permit should have prompted police action.

At the time of the October 12, 2024 incident, the Special Events on City Streets By-law (No. 2001-260) was in force. That by-law included demonstrations within its definition of “special events,” which in principle required organizers to obtain a permit before conducting a demonstration on a City highway. Whether the organizers of the gathering attended by the complainant had obtained such a permit is not within the knowledge of the Board, and the issuance or denial of municipal event permits is a function of the City of Ottawa that falls outside the jurisdiction of the Ottawa Police Service Board and the Chief of Police. This report makes no finding on that question.

However, the review considers it necessary to address the premise embedded in the complainant’s question – namely, that a permit violation would have required, or authorized, the Ottawa Police Service to disperse the gathering. That premise does not accurately reflect the legal framework.

The enforcement mechanism available under the Special Events on City Streets By-law is administrative: warnings and fines issued to event organizers. A permit violation under a municipal by-law does not, in itself, confer on police any authority to order or compel the dispersal of participants.

Police authority to disperse a public gathering is understood to derive from the Criminal Code of Canada, not from municipal by-laws. Dispersal authority under the Criminal Code requires that a gathering meet the threshold of an unlawful assembly under section 63 – specifically, that it causes reasonable fear of a tumultuously disturbing breach of the peace or that an actual or imminent breach of the peace otherwise engages police common law powers to preserve order. The absence of a municipal special event permit is not relevant to any of those thresholds.

The City of Ottawa has itself recognized the limited utility of its permit regime as applied to demonstrations. Its review of the Special Events by-laws, presented to Council in May 2025, recommended removing demonstrations entirely from the permit requirement and replacing it with a voluntary notification system to reflect that “demonstrations that

are peaceful are inherently recognized under the right to freedom of expression and freedom of peaceful assembly as established in the Charter of Rights and Freedoms.”

The review is satisfied that the question of municipal event permitting engages neither Board policy nor Chief’s procedure.

#### Officer communication equipment

The complainant states that most officers present were wearing hearing protection devices and asks whether officers so equipped are able to hear threats of violence or criminal speech at the gathering.

Section G of Procedure 15.06 Public Order requires the Emergency Services Unit (ESU) program to maintain personal protective equipment and Public Order Unit (POU) equipment standards, and requires ESU members to deploy only with approved personal protective equipment as specified in ESU Sectional Procedures. The Procedure establishes three escalating response levels distinguished by the type of personal protective equipment deployed at each level, with detailed equipment specifications maintained in the ESU Sectional Procedures.

The Board has been advised that the devices observed by the complainant at public order deployments of this nature are integrated communication headsets, not passive hearing blockers. These devices are designed for use in high-noise environments such as public protests. They attenuate ambient noise to a level that protects officers’ hearing while preserving their capacity to receive command communications clearly and to hear and communicate with civilians in their immediate proximity without removing the device. Officers wearing these devices retain active auditory situational awareness of their immediate environment.

The review also notes that not all officers deployed at events of this nature are equipped with integrated communication headsets. Officers from units such as the Neighbourhood Resource Teams and the Police Liaison Unit are typically deployed without these devices and maintain direct situational awareness. Multiple real-time awareness channels are simultaneously available to the operational command structure, including continuous video monitoring accessible at the operations command centre.

The written framework governing officer equipment at public order events appears to be adequate and the devices described by the complainant appear to be consistent with that framework.

#### The safety of community members who are not participants in an assembly

The complainant describes an interaction with a uniformed officer who questioned her purpose for being at the location, asked whether her presence there would accomplish her goal, and stated that the police could not guarantee her safety. The complainant appears to have experienced this interaction as a Jewish woman with a disability, attending a public memorial alone on Yom Kippur, as one in which the officer treated her presence as a concern rather than extending protection to her. According to the complainant, the officer subsequently clarified that his concern was about the proximity of her wheelchair to the edge of the walkway.

This report does not make any finding about the conduct of the officer. That assessment is outside the scope of this review. The purpose of this section is to identify the standards against which an interaction of this kind should be measured for the purpose of evaluating the adequacy of existing OPS procedures and Board policy.

Three legal and policy standards may apply to an interaction of this kind:

- The duty of care;
- Equitable service delivery; and
- The line between informing a person engaged in expressive activity of risk and conditioning her presence on the police's capacity to protect her.

#### *The duty of care*

The duty of care that police owe to vulnerable persons includes warning of foreseeable risk. That duty supports an officer informing a person, in good faith, of a hazard. An officer who recognizes the particular vulnerability of an attendee and communicates a genuine risk to her would be acting consistently with this duty.

#### *Equitable service delivery*

The proposition that policing services must be delivered without discrimination based on protected grounds is well established in Ontario. The *Accessibility for Ontarians with Disabilities Act, 2005* further requires that service be delivered in a manner that does not exclude or burden persons with disabilities. A practice of differentially advising wheelchair users to leave demonstrations could be perceived as a failure of accommodation.

#### *Risk communication*

The communication of risk does not, in itself, infringe on rights or freedoms. The manner of communication, however, matters. Depending on framing, the same information may be received as advice in support of an informed decision, as an invitation to leave, or as

a denial of service. The distinction matters because the Chief's procedures aim to ensure the safety and security of all members of the public.

Risk communication that leaves a person in a position to make her own informed decision would seem consistent with that standard. A framing that presents, even implicitly, a deficit in the Service's capacity to protect as a reason for the rights-holder to leave, rather than as a reason for the Service to expand its protective posture, is not. This is all the more so if the warning is delivered selectively to one attendee who is particularly vulnerable.

Framing, in these situations, is critical. "I want you to be aware that this gathering carries a risk of escalation. I want to make sure you have the information you need to feel as safe as possible. I can let you know where we are positioned, how to reach us if you need anything, and what your options are if you decide at any point that you would like to leave" is informational and consistent with the duty of care. A statement that conditions a rights-holder's presence on the Service's capacity to protect them ("we cannot guarantee your safety here") places the burden on the rights-holder.

It must also be acknowledged that the interaction described may reflect an operational assessment that was accurate. Officers at public order events are expected to maintain continuous situational awareness, which includes assessing the protection challenge presented by particular individuals in particular circumstances. The crowd's proximity, the Service's deployment posture on the day, and the resource demands of managing the assembly may have made it genuinely difficult to ensure the complainant's physical safety in the event of escalation. An officer who recognized her vulnerability and acted on that recognition would be acting appropriately.

The policy question is not whether such an assessment is appropriate, but whether procedures and training give officers adequate direction on how to act on such assessments without placing the burden of protection on the person at risk.

The interaction described by the complainant directs the Board's attention to a specific question: whether the Chief's procedures, and the Board's own policy, provide adequate direction with respect to the safety of persons who are present at or near a public order event but are not participants in the assembly.

The event management procedures provided to the Board address the policing of the assembly. Procedure 15.05 articulates event planning objectives that include ensuring the safety and security of the public and emergency services personnel, identifying and assessing threat and risk, providing security commensurate to the threat level, and enforcing laws where warranted while respecting democratic freedoms. Procedure

15.06 frames the public order mandate around the protection of community members and lawful protesters.

However, the procedures do not contain specific direction to officers in relation to persons who are present in the vicinity of a public order event but are not participants in it, including counter-protesters, bystanders, and community members who may face particular exposure by reason of their identity or vulnerability. The five-category risk classification framework in Procedure 15.06 is organized entirely around the assessed behaviour and risk level of the assembly. It does not distinguish the safety obligations owed to non-participants from those owed to the crowd being managed. Board Policy CR-17 Major Events similarly does not address this dimension explicitly.

The general public safety mandate in the procedures applies to all persons in public spaces, and officers' common law duties to preserve the peace extend to all community members. However, explicitly ensuring that this dimension is taken into consideration within the written governance framework would strengthen the direction available to officers planning and managing public order events, particularly recurring events where the presence of counter-protesters or community members with particular vulnerability is foreseeable.

It is therefore recommended that Board Policy CR-17 Major Events be reviewed to expressly state that the Board's expectation of safe and equitable service delivery at public order events extends to all community members in the vicinity of a public assembly, including persons who are present at but not participating in the gathering.

#### Conduct of protest participants

The complainant describes a number of interactions with protest participants that she found threatening or intimidating, including comments about her appearance, a statement by a crowd member that she was "asking for a bullet in the head," attempts to block a sign she held with flags, and filming by individuals she found threatening.

The distressing nature of these interactions as described should be acknowledged. However, this report cannot make any finding regarding the police response to the specific utterances and conduct described by the complainant. The information provided by the complainant does not indicate whether she brought any of these interactions to the attention of officers on the scene, nor does it provide sufficient detail about the circumstances – including the proximity of officers, ambient noise conditions, and the configuration of the crowd at the relevant moments – to permit an assessment of whether officers present in the vicinity, in those circumstances, ought to have heard or

observed the utterances in question. Both of these are material facts, and the review is not in a position to draw conclusions in their absence.

### Broader governance context

This complaint arises in the context of a recurring public demonstration and raises concerns that extend beyond the specific enforcement decisions made on October 12, 2024. In particular, the complainant's account of her interactions as a bystander and counter-protester, and her questions about the identification and enforcement of hate-motivated conduct at public order events, engage issues that are worth closer examination within a broader governance framework.

Work is currently underway at the Board level to review and strengthen its Major Events policy framework, including the development of a human rights-based approach to protests. The scope of that work has been informed in part by recommendations from the Ottawa People's Commission, in response to which the Board has committed to taking a broad view of human rights in the context of protests – one that encompasses not only the rights of demonstration participants but also the safety, dignity, and well-being of bystanders and community members who are not taking part in demonstrations but are affected by them by reason of their proximity or presence in public spaces.

The concerns raised in this complaint – specifically, the adequacy of protections for non-participants at public order events and the operational framework for identifying and responding to potentially hate-motivated conduct in that environment – fall within that commitment. The Complaints Committee may recommend to the Policy and Governance Committee that the Major Events policy review and its associated community consultations specifically consider expectations with respect to bystander and counter-protester safety, and the framework within which hate and bias enforcement decisions are made at demonstrations.

### **CONSULTATION**

N/A

### **FINANCIAL IMPLICATIONS**

N/A

### **SUPPORTING DOCUMENTATION**

Document 1: Inspector General Referral Letter to Chair Fakirani, INV-25-100

Document 2: Complaint letter to the Inspector General

Document 3: Board Policy CR-17 Major Events

Document 4: Chief's Procedure 15.01, Event Management

Document 5: Chief's Procedure 15.03, Active Attacker Incident Response Framework

Document 6: Chief's Procedure 15.04, Tactical

Document 7: Chief's Procedure 15.05, Major Events and Event Planning

Document 8: Chief's Procedure 15.06, Public Order

Document 9: Chief's Procedure 15.07, Preliminary Perimeter Control and Containment

Document 10: Chief's Procedure 15.08, Immediate Rapid Deployment Procedure

Document 11: OPS Event Risk Assessment Guide

## **CONCLUSION**

The distress the complainant's experience caused and her decision to seek accountability through the formal complaints process should be acknowledged.

The Chief's Procedures appear, on the information before the Committee, to provide a measured and risk-calibrated approach to the management of public assemblies that is attentive to the constitutional framework within which public order policing operates. Board Policy CR-17 does not address the safety and rights of community members who are present in the vicinity of an assembly but are not participants in it, and does not articulate expectations regarding the identification and response to hate-motivated conduct at demonstrations. Both are foreseeable features of the public order environment in which the policy was intended to govern, and their absence from the policy represents a gap that the Board's current review of CR-17 should address. That work falls within the Board's broader commitment to a human rights-based approach to the management of protests, and the concerns surfaced by this complaint should inform its scope.