

A./Background:

As stated on the TPS Board website: *Ontario Regulation 392/23: Adequate and Effective Policing (General) made under the Community Safety and Policing Act, 2019 (Act), requires, among other things, that police service boards establish a policy on police action in respect of protests, demonstrations and occupations.*

Given that a policy is being developed by the TPS Board, then Freedom of Association, Freedom of Peaceful Assembly, and Freedom of Expression must be at the forefront of any such policy, as they are all enshrined in the Canadian Charter of Rights and Freedoms. No policy on “public order” should infringe on or curtail any of these Charter Rights.

The protests that have occupied the TPS and, clearly are on the minds of the TPS Board, occurred on both public and private property. Those protests that specifically occurred on university property in 2024, have a process by which they should be managed. These institutions are accustomed to the act of protest; in fact, universities have policies in place that guide peaceful association, expression and demonstration. I would argue that Freedom of Expression, Freedom of Peaceful Assembly & Freedom of Association are of utmost importance and, as such, TPS should only become involved in demonstrations on university grounds in extremely limited circumstances.

B./Any Public Order Policy should include:

-Any Public Order Policy adopted by TPS Board must respect and protect Charter Rights and Freedoms.

-Any policy adopted by TPS Board must consult Indigenous peoples and associations, who experience policing in entirely different ways to non-Indigenous residents. Therefore, direct consultation with Indigenous organizations is imperative, before any policy is adopted.

-TPS should not use any “public order” policy to discriminate against individuals who are unhoused, living in public or private areas, and/or those who are experiencing homelessness. Direct consultation should occur with organizations who serve those who are unhoused and who experience homelessness; this will ensure that folks who are unhoused, itself a societal failure to find affordable housing for the City’s most vulnerable residents, cannot be deemed an “occupation” of any sort.

-TPS has at their disposal: the Criminal Code, Provincial laws, municipal by-laws, and Common Law to guide them. TPS should adhere to and be guided by those laws, as stated, rather than an *ad hoc* policy that is created by the TPS Board, a Board that has barely consulted with the millions of residents in the City of Toronto who will be impacted by this policy.

-If such a policy is really necessary, then in preparation, TPS could use as a document created by the Chiefs of Police called: *Police National Framework for Police Preparedness for Demonstrations and Assemblies.*

https://www.cacp.ca/_Library/_documents/202002062047221602854342_cacpnationalframeworkforpolicepreparednessfordemonstrationsandassemblies.pdf

This document seems to be prepared in careful consultation with Indigenous and non-Indigenous policing groups across Canada. It is detailed and goes through all key steps of pre/during/ post- demonstrations. It is clear that Police, on a national level, have thought about the issue of demonstrations and have specific guidelines and best practices that reference constitutional laws and protections. TPS should consult this document, which include the experience and expertise of other law enforcement agencies, before any public order policy be adopted.

-Protests on private property are common. Private institutions employ private security, and that security is responsible for liaising with the protestors and negotiating with them. If that does not prove effective, these private institutions can secure an Injunction from a Judge, and if granted, obtain a Court Order outlining what the protestors can and cannot do. Or, the private institution may obtain an Injunction to end the protest.

-Police should not be the primary means by which protests on private property are managed or dispersed, unless the protest organizers have negotiated for TPS to be involved.

-Demonstrations on university property must be managed extremely carefully, as universities are both public and private institutions. TPS should only become involved in protests on university grounds in extremely limited circumstances because institutions of higher education are a necessary space to debate controversial, difficult issues. Such debate is an essential part of democratic principles.

-Any policy that is adopted should acknowledge that organized occupations or demonstrations at Queen's Park and Metro Hall should have special protections, as these are spaces where City of Toronto residents can/should be able to freely and peacefully express their Charter rights.

-TPS officers have incredible discretion on how to use their powers of arrest, search and seizure, and how they interact with the public - including at public demonstrations on public or private property. They have various teams: Public Order Teams, Negotiation Teams, and Liaison Teams. TPS needs to utilize these Teams appropriately and with the focus being on liaison and negotiation. The goal should be to come to a resolution that respects the dignity of the protestors.

-Any policy created by the TPS Board should be reviewed by a legal team of civil rights specialists, who practice in the City of Toronto and understand the incredible diversity of political beliefs in this city. It also is important because after the 2010 G20 Protests, a class action lawsuit was filed against TPS for wrongfully detaining and arresting 1100 protestors. That lawsuit was settled for CDN \$16.5million in 2020. The TPS Board appealed the decision to the Supreme Court but that appeal was not heard and the lower court decision was upheld. As of yet, no review of the over-policing at the G20 protest has occurred.

-Any policy created by the TPS Board should be reviewed by the Mayor and city councillors and put to a vote at City Council, Metro Hall, before being adopted.

-This policy, and the TPS force itself, should not be used as a political or repressive tool, used by any one group, who are made uncomfortable about a worldwide, national, municipal, or community issue. Again, peaceful demonstration is the hallmark of a democracy and needs to be protected.