May 15, 2025

Email: (c/o clerk@toronto.ca)

Mayor Olivia Chow and Council
City of Toronto
100 Queen St W
Toronto, ON M5H 2N3

BY EMAIL

Dear Mayor Chow and Council:

Re: Proposed Demonstrations Bylaw Violates Charter rights and perpetuates targeted suppression of Palestinian solidarity expression in Canada

The BC Civil Liberties Association (BCCLA) is grateful for the invitation to submit feedback regarding the proposed demonstrations bylaw (the "Bylaw") that will affect the public's freedom to engage in constitutionally protected protest in Toronto, currently subject to study by the City of Toronto (the "City").[1]

BCCLA is Canada's oldest civil liberties organization and works to promote, defend, sustain, and extend civil liberties and human rights in British Columbia and Canada. To assist us with our submission, we have consulted with representatives of the Orange Hats, a group of trained Legal Observers who watch and document how the police respond to protests in the Greater Toronto Area.

BCCLA is principally concerned that the Bylaw arises in the context of frequent Palestine solidarity and anti-genocide protest activity in the City and we are aware that "bubble legislation" is being advocated for by individuals and groups that take issue with this specific expression. The BCCLA believes the City, through this effort, is contributing to the alarming and chilling pattern of state repression targeting support for Palestine under the guise of "protecting vulnerable institutions" from hate.

Second, a vastly overbroad bylaw of this nature will not withstand constitutional scrutiny as it violates protected freedoms of expression and assembly without any exceptional or transparent justification. Indeed, the City of Toronto's public consultation process, specifically the online survey (the "Survey"), does not provide adequate basis or evidence for justification of such infringements. In addition, the

[1] "Public Consultation for a Proposed Demonstrations Bylaw to Protect Vulnerable institutions" (last visited 7 May 2025), online: *City of Toronto* https://www.toronto.ca/community-people/get-involved/public-consultations/public-consultation-for-proposed-demonstration-bylaw/

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Survey omits to precisely indicate the reason(s) behind the proposed Bylaw and does not account for the impact of the police on public perception regarding demonstration encounters. As a result, we urge the City to abandon this endeavor and instead commit to rigorously protecting *everyone's* rights to freedom of expression and assembly under the *Canadian Charter of Rights and Freedoms* (the "*Charter*").

Proposed Bylaw

As stated on the website for City's public consultation,[2] Council resolved to study a bylaw:

> "…with an emphasis on protecting vulnerable institutions such as places of worship, faith-based schools and cultural institutions, that supports the City's commitment to keeping Torontonians safe from hate and protects Charter rights that address impacts of demonstrations that target people based on their identity as prohibited under the Ontario Human Rights Code."
>
> If adopted by City Council, a bylaw would apply to public areas owned by the City of Toronto near and connected to vulnerable institutions. Examples of these areas include streets and sidewalks. The bylaw would not apply to private property, property owned by other governments and it is not intended to prohibit peaceful and lawful demonstrations.

The City then refers to bylaws in Brampton, Vaughan, and Calgary. The Brampton and Vaughan bylaws attempt to broadly prohibit organizing or participating in a "nuisance demonstration" outside "vulnerable social infrastructure."

Despite claims that such bylaws will not prohibit peaceful and lawful protest, the definition of "nuisance demonstration" prohibited in these bylaws will likely have that effect because they empower enforcement officers to circumvent what is prescribed in the *Criminal Code*. The *Code* already includes offences for both intimidation and obstructing or impeding access to someone lawfully using or enjoying a property.[3] These offences once alleged trigger legal rights including due process and a standard of proof beyond a reasonable doubt. Whereas a "nuisance demonstration" is defined as "one or more people publicly protesting or expressing views on an issue in any manner – *whether intended or not* - that causes a reasonable person, on an objective standard, to be intimidated meaning that they are either concerned for their safety or security, or unable to access vulnerable social infrastructure [emphasis added]."[4] **This lower standard is highly problematic because it eliminates subjective intent, which is a critical consideration to understanding the nature of any expressive activity.**

Moreover, we have concerns about enforcement officers objectively interpreting what a "reasonable person" means in this context as freedom of expression is content neutral and necessarily protects expression that will be offensive to some people. The so-called objective "reasonable person" concept has been subject to significant academic criticism for failing to be objective and always vulnerable to subjective biases in any specific context. Given the uncertainty in the outcome of a "reasonable person"

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[2] *Ibid*.
[3] Respectively, sections 423(1) and 410(1)(c) and (d).
[4] Vaughan, see "What is a nuisance demonstration?" (last visited 14 May 2025), online: Protecting Vulnerable Social Infrastructure By-law | City of Vaughan

analysis, it is generally insufficient to inform someone how to avoid future liability.[5] The definition of "nuisance demonstration" is flawed because it fails to appreciate the critical distinction between being offended or uncomfortable – which may cause subjective perception of unsafety – and a legitimate threat or hate, which should form the basis for state intervention. As a result, these bylaws give enforcement officers the power to police the content of expression in violation of the constitutionally required level of justification to infringe freedom of expression.

Finally, just because a demonstration occurs outside of or passing by a "vulnerable institution" such as a place of worship, does not make it a nuisance or mean it is an attempt to target a specific group of people *because* of their identity. There may be a plethora of reasons why individuals choose to assemble near a "vulnerable institution" to convey a specific message. The actual context, content, and conduct at a specific protest are essential for a legal analysis of whether any offences have occurred. While the City refers to the Ontario Human Rights Code (OHRC), there must also be a direct correlation between the protest activity and the targeting of *individuals* as institutions themselves are not protected by the OHRC. Hate speech is a criminal matter under the *Criminal Code*, and the OHRC does not cover hate speech itself.[6] Individuals accessing services who experience discrimination *based on and because of their identity* is the foundation upon which the OHRC is applicable.

BCCLA submits that restricting constitutionally protected rights is not the way to fight against hatred and intolerance in Canada. We acknowledge that there has been a significant rise in reported hate crimes targeting Jewish and Muslim populations.[7] Community safety is important to everyone. That said, the City has failed to present any evidence that there is a correlation specifically between recent protest activity and incidents of hate or intimidation targeting "vulnerable institutions". As discussed below, such evidence and transparency are constitutionally required to justify such a law.

Addressing the Elephant in the Room: Context of Deliberate Suppression of Palestine Solidarity

Although the City does not mention what specific protest activities have spurred this consultation, it does not seem coincidental that this effort arises in the context of sustained demonstrations addressing the violation of Palestinian human rights. We are aware that since October 2023, Toronto has been at the epicenter of almost weekly rallies and marches in support of Palestine. There have also been protests targeting entities that support Israel and its military via financial means or otherwise, for example, Indigo and the HESEG Foundation[8] and in response to land sales that violate international law.

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[5] See for example: Anna Wong, *The Story of the Mysterious Reasonable Person: Identity Reveal in R v Le*, The Advocates' Quarterly, Volume 50, Issue 4 (April 2020), accessed online: The Story of the Mysterious Reasonable Person Identity Reveal in R v Le

[6] See: Ontario Human Rights Commission, "Taking action to build awareness and challenge hate in Ontario", online: https://www3.ohrc.on.ca/en/taking-action-build-awareness-and-challenge-hate-ontario#1.%20What%20is%20hate%20speech.

[7] Statistics Canada, "police-reported hate crime in Canada, 2023" (25 March 2025), online: The Daily — Police-reported hate crime in Canada, 2023

[8] Rochelle Raveendran, "Pro-Palestinian advocates protest at Indigo stores in Toronto" (26 September 2024), online: *CBC* Pro-Palestinian advocates protest at Indigo stores in Toronto | CBC News

We have also observed a coordinated effort to use the law to stifle freedom of expression, namely criticism of the state of Israel, its political ideology, and its conduct in Gaza and the West Bank.[9] We are concerned that the proposed Bylaw is yet another example of these troubling attempts to suppress expression on these critical issues. The unfortunate reality is that "vulnerable institutions" such as places of worship are not immune from engaging in behaviour that may spark legitimate political protest. For example, there was protest that occurred outside of a Thornhill synagogue that was hosting the "Great Israeli Real Estate Event" promoting land for sale in the occupied West Bank contrary to international law.[10]

In addition, political ideologies, including in relation to the creation/existence of a state, are legitimate subjects of political discourse. BCCLA cautions the City to avoid treating the Jewish community as a monolith and to ensure to protect the freedom of expression for all Jewish people, including those who oppose Zionism. The City should consider the perspectives of diverse Jewish people, including organizations like Independent Jewish Voices and Jews Say No to Genocide who have been outspoken about this issue and the backlash they have faced for their pro-Palestinian advocacy, including participating in, and leading demonstrations.[11]

To the extent that the Bylaw is a deliberate attempt to restrict expression about Palestine and Israel, we remind the City that freedom of expression guaranteed under s. 2(b) of the *Charter* is broad and content-neutral, meaning "that activities cannot be excluded from the scope of the guaranteed freedom on the basis of the content or meaning being conveyed."[12] In other words the content of a statement, no matter how offensive it might be to some, cannot be deprived of the protection accorded by s. 2(b). "Freedom of expression does not truly begin until it gives rise to a duty to tolerate what other people say."[13]

Moreover, content that may be unpopular, offensive or repugnant does not rise to the level of what can legally be construed as hate speech unless the expression connotes "emotion of an intense and extreme nature that is clearly associated with vilification and detestation", which, "if exercised against members of an identifiable group, implies that those individuals are to be despised , scorned, denied respect and made subject to ill treatment on the basis of group affiliation".[14] The term "identifiable group" is defined in the *Criminal Code* as meaning, "any section of the public distinguished by color, race, religion,

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[9] BCCLA "BCCLA Statement Against the Systemic Suppression of Support for Palestine", online: https://bccla.org/2025/03/bccla-statement-against-the-systemic-suppression-of-support-for-palestine/; Shiri Pasternak et al., "Canadian lawyers borrow from U.S. playbook to quash Palestine solidarity" (11 April 2025), online: *The Breach* Canadian lawyers borrow from U.S. playbook to quash Palestine solidarity ⋆ The Breach

[10] The Canadian Press "'Palestine is not for sale:' Israeli event promoting West Bank property draws critics" (7 March 2024), online: *City News* 'Palestine is not for sale:' Israeli event promoting West Bank property draws critics; Marthad Shingiro Umucyaba, "Illegal Israeli settlements land for sale in Canada" (2 March 2024), online: *The Canada Files* Illegal Israeli settlements land for sale in Canada — The Canada Files.

[11] Nur Dogan, "Jewish Anti-Zionists Fight Slander Against Their Pro-Palestinian Advocacy" (30 April 2024), online: *The Maple* https://www.readthemaple.com/jewish-anti-zionists-fight-slander-over-their-pro-palestinian-advocacy/

[12] *R. v. Butler,* 1992 CanLII 124 (SCC), [1992] 1 SCR 452 at 488 (*"Butler*")

[13] *Ward v. Quebec (Commission des droits de la personne et des droits de la jeunesse)*, 2021 SCC 43 (CanLII), [2021] 3 SCR 176, at 60

[14] *R. v. Keegstra*, [1990] 3 SCR 697, at 777

national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability." This definition does not contemplate speech that is critical of the political ideology of a foreign state, its actions, or those that support it.

In exercising its delegated authority to pass municipal bylaws, the City must act in good faith and in a manner that is consistent with the *Charter*.[15] Passing a bylaw to specifically suppress expressions of Palestinian solidarity or criticisms of Israel is simply not within the City's jurisdiction. The Bylaw could not be justified because this purpose is "discordant with the principles integral to a free and democratic society".[16]

Finally, the Bylaw can also not be justified by unclear references to human rights and equality. Civil liberties must be understood as mutually reinforcing equality and human rights. It is through the exercise of civil liberties that *all* marginalized and oppressed groups can advocate for equality, human rights, justice, and accountability; it is for this reason that systems of oppression tend to suppress the civil liberties of those groups. With respect to the Palestinian cause, attempts to use the law to suppress expression in support of Palestinian human rights should be given due regard as a manifestation of anti-Palestinian racism. [17]

Overbroad Bylaw is clearly unconstitutional

Even if the Bylaw is not intended to target Palestine solidarity protests, it remains unconstitutional because of its vaguely defined purpose and overly broad application.

Protest is not to be regulated as a mere social nuisance—fundamental freedoms such as freedom of expression and freedom of assembly are crucial to our democracy. They are enshrined under ss. 2(b) and 2(c) of the *Charter*. The Supreme Court of Canada has long recognized that:

> … Freedom of expression was entrenched in our Constitution and is guaranteed in the Quebec *Charter* so as to ensure that everyone can manifest their thoughts, opinions, beliefs, indeed all expressions of the heart and mind, however unpopular, distasteful or contrary to the mainstream. Such protection is, in the words of both the Canadian and Quebec Charters, "fundamental" because in a free, pluralistic and democratic society we prize a diversity of ideas and opinions for their inherent value both to the community and to the individual. Free expression was for Cardozo J. of the United States Supreme Court "the matrix, the indispensable condition of nearly every other form of freedom"…[18] [Emphasis added.]

This broad, untailored, and untransparent Bylaw flies in the face of established constitutional jurisprudence which states that discomfort or a subjective perception of feeling unsafe alone is not enough to justify limitations on freedom of expression and assembly.[19] For those who support the

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[15] *Slaight Communications Inc. v. Davidson*, 1989 CanLII 92 (SCC), [1989] 1 S.C.R. 1038
[16] *R. v. Oakes*, 1986 CanLII 46 (SCC), [1986] 1 SCR 103, at para 69

[17] Dania Majid, "Anti-Palestinian Racism: Naming, Framing and Manifestations" (25 April 2022), p. 14, online (pdf): Arab Canadian Lawyers Association Anti-Palestinian Racism: Naming, Framing and Manifestations.
[18] *Irwin Toy Ltd v Quebec (Attorney General)*, 1989 CanLII 87 (SCC), [1989] 1 SCR 927 at 968 – 971.
[19] *Bracken v Fort Erie (Town)*, 2017 ONCA 668 (Bracken) at paras 21, 28, 31, 49-52.

suggestion that this Bylaw is necessary to protect "vulnerable institutions" from hate or targeted harassment, we submit that there are other existing legal mechanisms that can be relied on to deter or address safety concerns. In the interest of not being duplicative, we refer you also to the written submissions of the Canadian Civil Liberties Association, Toronto Metropolitan University Law Clinic, and the Coalition for Charter Rights, which provide further detail on this point. Like the stereotypes involved in the subconscious process of racial profiling, elusive perceptions of discomfort and feelings of unsafety are frequently used against the presence and expression of marginalized groups.

There is no doubt that "bubble zones" restricting protest of any kind infringe freedoms of expression and assembly.[20] As we discuss below, this was not contested by the government in either of the two court cases where government imposed "bubble zones" have been challenged.[21] For any restriction to be justified under s. 1 of the *Charter*, it must meet the legal requirements of the *Oakes* test: rational connection, minimal impairment and proportionality. This means a very high threshold of evidence and tailored proportionality. The burden lies on governments to provide this evidence if challenged, and to refrain from passing laws where this evidence does not exist. Opinions and political expression that are uncomfortable or bothersome fall well below that standard for justification.

"Bubble zones" restricting protest have a specific legal history which is not respected by either the proposed content of the Bylaw or the process used in enacting it. Prior to the mid-1990s, establishing any form of buffer zone required an individual institution, be it a logging company or an abortion clinic, to apply to the courts for an injunction. That required the seeker to provide evidence of the concrete harm suffered to satisfy the court that it justified a minimally restrictive injunction. This requirement does not disappear when we move from the realm of injunctions to legislative bubble zones.

To date, the only legislative bubble zones which have undergone review by the courts are those around clinics offering abortions.[22] After many successful injunction cases for abortion clinics in the 1990s, the government of British Columbia passed the *Access to Abortion Services Act* in 1995. This was the first government "legislative injunction" for protest buffer zones. In the *Lewis*[23] and *Spratt*[24] cases, the court found that the British Columbia legislation was constitutional only after rigorous investigation of the evidentiary basis for justifying the exceptional infringement on *Charter* rights. After years of intense and near daily anti-choice protests at clinics and homes of health care providers, the courts found the government had presented:

- Strong evidence of physical violence and interference in attendance by protesters. This included physical assault of health care patients by protestors, frequent deliberate attempts to impede patient access to facilities and sometimes even to leave their vehicles,[25] and threats of direct violence to patients by protesters. This evidence included photos, videos, and eyewitness testimony from security guards. The *Lewis* case took place in the context of protestors also at the homes of health care providers and the shooting of a doctor.

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[20] We would also say they engage association and liberty interests under the *Charter*.
[21] *R v Lewis*, 139 DLR (4th) 480, 1996 CanLII 3559 (BC SC) ("Lewis"); *R v Spratt*, 2008 BCCA 340 ("*Spratt*").
[22] *Ibid*. See also *Ontario (Attorney-General) v Dieleman*, 117 DLR (4th) 449, 1994 CanLII 7509 (ON SC) ("*Dieleman*").
[23] *Supra* note 4.
[24] *Supra* note 4.
[25] See *Spratt* at para 56.

- Evidence of numerous instances of clinic locks being glued and wired shut, use of hardware and use of locks and chains, all of which made entry to the clinic difficult. The court found there was an intention by protestors to close the clinics making them physically inaccessible to patients.[26]

- Evidence of the psychological harms to patients of the protest tactic called "sidewalk counselling",[27] where protesters attempting to influence patients by altering the emotional state and autonomy of the patient. In one injunction case, the court considered evidence regarding the impact of such stressful experiences on pain tolerance and the actual safety of the medical procedure.[28]

- Evidence of harms to the privacy of patients (mostly women) accessing a stigmatized health care service. Protesters were often observed taking down license plates numbers.[29]

- Evidence of systemic harm, namely that the protests were having their desired impact of reducing the number of health care providers willing to provide reproductive health care services. In other words, this was violating the ability of women to have equal access to health care in the province.[30]

In these cases, the court weighed the violations of freedom of expression against the counter importance of liberty and autonomy over the body to access health care, namely abortion, as protected under s. 7 of the *Charter*.

While BCCLA supports the above as basis for the existence of abortion clinic bubble zones, we have continued to also advocate for transparency and justification in the enactment of new bubble zone legislation. In the whole of BC, there are only three clinics subject to the *Access to Abortion Act*. With the exception of Quebec,[31] other provinces who passed legislation following the *Lewis* and *Spratt* decisions also only have at most a handful of subject clinics in the entire province.[32]

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[26] See *Lewis*, for example para 22.
[27] See *Lewis* at for example, paras 107-108.
[28] See *Dieleman* at para 648.
[29] *Spratt* 56.
[30] *Lewis* at para 84.
[31] Quebec has more abortion clinics than any other province or territory in Canada. The *Loi sur les services de santé et les services sociaux*, RLRQ c S-4.2, applies automatically to any clinic, so the exact number of bubble zone sites is difficult to ascertain. However, the scope of the bubble zone is narrower as it only applying to protests which attempt to dissuade or condemn the choice to obtain an abortion, not all protest: s. 16.1.
[32] Two sites are designated under regulation to Newfoundland and Labrador's *Access to Abortion Services Act*, SNL 2016, c A-1.02: *Access to Abortion Services Regulations*, NLR 79/16; Eight sites are designated under regulation to Ontario's *Safe Access to Abortion Services Act, 2017*, S.O. 2017, c. 19, Sched. 1: Ontario Regulation 6/18, General; Two sites are designated under Alberta's *Protecting Choice for Women Accessing Health Care Act*, SA 2018, c P-26.83: *Protecting Choice for Women Accessing Health Care Regulation*, Alta Reg 111/2018. No sites have either applied or been designated under Nova Scotia or Manitoba's legislation: see *Protecting Access to Reproductive Health Care Act*, SNS 2020, c 5, and *The Safe Access to Abortion Services Act*, SM 2024, c 5.

All other more recent government attempts of "legislating injunctions" to establishing protest bubble zones have not been tested or upheld by the courts.[33] The City's proposed Bylaw violates the evidentiary standard and exceptional spirit of these decisions. Far from helping to justify the City's actions, the fact that multiple municipalities are engaged in similar unconstitutional behaviour only underscores our concerns.

Contrary to the statements in the Survey, the Bylaw plainly prohibits legal, *Charter*-protected rights and freedoms. The City's study materials, such as the Survey and Bylaw preamble, do not provide a solid and transparent evidentiary basis to justify imposing broad, municipally regulated injunctions on what could amount to hundreds of institutions in the City. As above, subjective feelings of discomfort or unsafety are not enough. **The Bylaw contains no evidence of specific harms *coming directly from the protests or protesters themselves* towards attendees of "vulnerable institutions".**

The Bylaw vaguely proposes to "protect vulnerable institutions" from protests. The list of potential institutions is long, with the Survey including:

- places of worship
- faith-based schools and cultural institutions
- child-care centres
- City Hall or civic centres
- cultural centres
- faith-based schools
- museums and arts centres
- Non-faith-based schools
- Post-secondary schools (college or university)
- Public libraries
- Recreation facilities (e.g. pool, community centre)

There are many important and legitimate reasons why people may wish to exercise their fundamental freedoms of expression and assembly at any of these institutions. From City Hall to civic centres, libraries, and schools—these civil institutions are exactly the types of places where exercise of freedom of expression and public dialogue ensures the health of our democracy and the accountability of our institutions.

Religious institutions and their leaders enjoy and participate in freedom of expression, including political expression and participation in our political democracy. Conversely, religious institutions are also valid subjects of free of expression, notably including by members of their own religions. Freedom of religion does not entitle an institution or members of that religion to state protection against the political expression of others, so long as that expression does not meet the criminal standards of hate speech.

Today, religious institutions often serve a multipurpose role as "community centre", often renting spaces to community groups and hosting events that go well beyond practices of religious worship and sometimes into the domain of political expression. The Bylaw contains no tailoring as to the temporality

[33] Challenges to bubble zone bylaws not related to abortions in several cities in Canada are currently before the courts.

of restrictions, for example, limited to times of worship at a religious institution, or when children may be playing outside in the context of a child-care centre. **The Bylaw is far from a proposal where restrictions are tailored appropriately to each type of institution, the evidence of relevant harms, and the weight and importance of expression at that institution to democracy.**

When assessed cumulatively, the impact of the Bylaw presents an astounding scope of restriction on civil liberties in the City. Visual mapping demonstrates that large swaths of the City, including most of the downtown's sidewalks and roads, would become unavailable to protest—subject to exorbitant fines.[34] And unlike in the case of a handful of identifiable clinics subject to legislative abortion bubble zones in a province, the widespread and overlapping City-proposed bubble zones would create a situation where the geographic limitations make protest in many areas impractical or even impossible. **This results in a significant restriction of *everyone's* protest rights.**

Respectfully, adopting a blanket protest ban based on vague information or the idea that public spaces in and around "vulnerable institutions" should be inherently off limits is not acceptable in a democratic society. The Bylaw is a disturbing attempt to curtail fundamental democratic rights. Our democracy falters when everyone is wrapped up in "bubble wrap" and prohibited from hearing each other. For the reasons above, the Bylaw is extremely vulnerable to litigation and in our view would not survive judicial scrutiny.

Online Survey Does Not Account for Police Presence and its Impact on Public Perception

It is clear after reviewing the questions, the Survey is directed towards individuals who encounter demonstrations (not also those who participate in them) and its leading questions are meant to elicit an emotional response. Participants are asked how they feel when encountering a demonstration and to rate their feelings/experience, which is an inappropriate way to frame a discussion around *Charter*-protected rights. What's more troubling is that most of the listed responses are negative (e.g., "I am inconvenienced", "I am scared", "I am uncomfortable", "I am concerned about my safety", "I have not been able to access places/services" versus "I am appreciative", "I am engaged" or "I am supportive"). This suggests to us that the questions are meant to encourage the desired response and persuade participants to support the Bylaw as *the* solution.

With respect to questions about safety, the Survey fails to account for how the presence of the Toronto Police Service (TPS) may affect participant responses. For example, there is no way to know if the Survey participants who indicate that they feel uncomfortable or unsafe when they encounter a demonstration feel that way because they perceive a heavy police presence to mean potential danger even though the demonstration is peaceful.

Shortly after October 7, 2023, TPS established Project Resolute led by its Hate Crimes Unit, to combat rising antisemitism. However, its operations on the ground in relation to policing protest activity in

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[34] Patrick Cain, *MAP: How a 'bubble zone' protest bylaw could cover most of central Toronto*, TorontoToday (Dec 30, 2024): https://www.torontotoday.ca/local/city-hall/map-how-bubble-zone-protest-bylaw-could-cover-toronto-10007606.

support of Palestine have raised serious questions about the anti-Palestinian bias of TPS.[35] Project Resolute has been criticized for undermining *Charter*-protected rights of protest and expression by misapplying the "hate crime" provisions of the *Criminal Code* in an attempt to strategically incapacitate the Palestinian solidarity movement. This effort has been reinforced by slanted media reporting[36], which in turn has an impact on public perception; another factor the City's Survey does not consider.

After consulting with the Orange Hats, we understand that protests in support of Palestine are usually met with an excessive police presence. This includes TPS patrol officers on foot, bicycle and horseback, members of special tactical teams such as the Public Safety Response Team (PSRT) and the Explosive Disposal Unit, armored vehicles, and drone and facial recognition surveillance systems. Orange Hats have observed what they believe to be TPS officers deliberately skewing public perception of protests through security theatre, overcharging, and media manipulation.

In addition to this excessive police presence, the past year and a half has been marked by unprecedented levels of police brutality. According to reports by protest participants gathered by the Orange Hats, there have been over thirty concussions, multiple nasal fractures, bruised orbital bones, and a broken rib; too many soft tissue injuries to track; wrenched and dislocated shoulders, fractured foot bones, sprained ankles, and one very deliberately inflicted meniscal tear that was caught on film. In one notable action, many of the above injuries were imposed on students for holding a *sit-in*. In this instance, students were also pepper-sprayed.

There has been no actual need for hundreds of militarized police to block roads, and to effectively function as overpriced human bollards. There is no reason whatsoever for the repeated presence of Public Order Unit officers carrying ARWEN 37s. Neither is there a need to bring Explosive Disposal Units to sites of protest where there is no hint of explosives being present. These tactics are employed to create or bolster a narrative in the minds of bystanders that what they are seeing is in some way imminently dangerous. Likewise, putting the Hate Crimes Unit in charge of all protests in solidarity with Palestine allows TPS to tack the words "the Hate Crimes Unit is investigating" to the end of the news release for any arrests, regardless of the actual context.

It is not simply Palestinian protests that will be affected by the proposed Bylaw. Other racialized and marginalized communities are already met with over policing and police violence, but these issues, too, are escalating. For instance, at a recent Sudanese solidarity march, the Orange Hats observed multiple incidents of police brutality.

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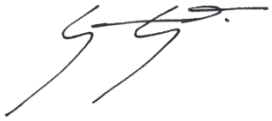
[35] Martin Lukacs "Inside the shocking police operation targeting pro-Palestine activists in Toronto" (17 June 2024), online: *The Breach* https://breachmedia.ca/inside-the-shocking-police-operations-targeting-pro-palestine-activists-in-toronto/; John Clarke, "Freedom under threat as police label Palestine solidarity hate crime" (3 July 2024), online: *Counterfire* https://www.counterfire.org/article/freedom-under-threat-as-police-label-palestine-solidarity-hate-crime/

[36] "Concerns Regarding Torstar's Article on Pro-Palestine Protests" (4 April 2025), online: CJPME https://www.cjpmemap.ca/2025_04_04_In_toronto_star ; T.Y. Kui "The campaign to smear pro-Palestine protests" (4 June 2024), online: *Briarpatch* https://briarpatchmagazine.com/articles/view/the-campaign-to-smear-pro-palestine-protests; Owen Schalk "Israeli historian accuses Canadian media of enabling Gaza war crimes" (14 December 2024), online: *Canadian Dimension* https://canadiandimension.com/articles/view/israeli-historian-accuses-canadian-media-of-enabling-gaza-war-crimes

To conclude, BCCLA submits that the City should abandon its plan to unnecessarily restrict *Charter*-protected protest activity through the proposed Bylaw. Instead, the City must ensure the right to freedom of expression and assembly is safeguarded for all. Additionally, the police have a duty to facilitate peaceful protest and ensure that people have the space and freedom to assemble and express their views publicly. This duty involves serving the public **as a whole**. External pressure from those who dislike or are offended by the content of the expression does not justify any abrogation of this duty. Therefore, we also submit that the City call for a review of how TPS resources are deployed to ensure public safety in a proportionate, reasonable and unbiased manner.

Thank you for your careful consideration in your role as public servants.

Sincerely,



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