

September 2, 2025

Office of the Police Complaint Commissioner
501-947 Fort Street
PO Box Stn Prov Govt
Victoria, BC V8W 9T8

Via email: info@opcc.bc.ca

**RE: Request for Review of Vancouver Police Board Decision
OPCC File #2024-26602 - Vancouver Police Board File #2024-022**

Dear Commissioner Prabhu Rajan:

I am writing on behalf of West Coast LEAF in support of the request for review made by the British Columbia Civil Liberties Association and Pivot Legal Society (the “Complainants”) on August 7, 2025, of the Vancouver Police Board’s (the “Board”) decision in Service and Policy Complaint OPCC File #2024-26602 - Vancouver Police Board File #2024-022 (the “Complaint”).

The Complainants seek a review on several grounds. They submit that the external investigator appointed by the Board lacked independence and the appropriate expertise to address the Complaint. They raise concerns with the investigation process, including that the investigator did not engage with the Complainants and affected persons and communities. They express concern that a flawed investigation resulted in a biased final investigation report. The Complainants ask your office to review the Board’s decision closing the Complaint and to recommend that the Complaint be investigated by an external investigator with expertise in police surveillance, free expression, and anti-Palestinian racism.

Background of the Complaint

The Complaint was submitted in September 2024 and raised serious concerns about the Vancouver Police Department’s (“VPD”) surveillance and policing of largely racialized and historically marginalized communities engaged in *Charter*-protected protest in support of Palestinian human rights. The Complaint raised concerns about the use of drones and smartphone cameras to record protesters and about how excessive surveillance may impact affected communities, including by intimidating or silencing them.

The Complainants requested that the Board appoint an investigator external to the VPD to review the Complaint. On October 31, 2024, the Board appointed Mr. Robert D. Rolls, a former VPD Deputy Chief Constable, as the external investigator. The Complainants raised several concerns with the Mr. Rolls’ appointment, including regarding his independence due to his connection to the VPD and policing background, and his lack of expertise with the subject matter of the Complaint.

On July 9, 2025, the Board closed the Complaint after adopting the analysis and findings made in Mr. Rolls’ final report dated May 5, 2025. Mr. Rolls’ report concluded that the VPD had not violated

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its regulations, procedures, or other guidelines, and had not utilized different criteria in responding to Palestine-related protests compared to other protests.

West Coast LEAF's Submissions

West Coast LEAF is a BC-based public interest legal organization founded in 1985 that uses legal strategies to address systemic gender-based discrimination, including where gender intersects with other forms of marginalization such as Indigeneity, race, religion, and national or ethnic origin. West Coast LEAF has expertise in access to justice for marginalized people and communities.

We raise three key concerns with respect to the investigation and the Board's decisions. We share the Complainants' concern that the Board's decision to appoint Mr. Rolls as the external investigator was inappropriate because he lacked expertise in the human rights and systemic discrimination concerns at issue in the Complaint, as well as the expertise needed to create safety and facilitate access to justice for marginalized people and communities. In addition, the decision to appoint Mr. Rolls resulted in an investigation that lacked procedural fairness, cultural safety, and inclusivity. The final investigation report also failed to fully and fairly investigate adverse impact discrimination, systemic discrimination, and intersectional discrimination.

1. The external investigator lacked the appropriate expertise

On October 31, 2024, West Coast LEAF and the South Asian Legal Clinic of BC ("SALCBC") jointly addressed the Board's meeting on this Complaint to demand the Board appoint an external investigator with appropriate expertise. In our submissions to the Board, we emphasized the importance of the investigator having a strong background in human rights and analyzing intersectional forms of discrimination, particularly anti-Palestinian racism, anti-Arab racism, and Islamophobia. We also requested that the external investigator have expertise in culturally safe practices and be skilled in navigating and overcoming the barriers that many marginalized people and communities experience in accessing justice and accountability mechanisms.

The Board discussed the limits of Mr. Rolls' experience with anti-Palestinian racism and human rights at the October 31st Board meeting. Board Member Allan E. Black, K.C. described Mr. Rolls' background and experience, particularly his extensive work in policing. In response, then-Board Vice Chair, Comfort Sakoma-Fadugba, asked if Mr. Rolls had experience with "anti-Palestinian racism and human rights" in order to satisfy the concerns raised by the Complainants, West Coast LEAF, and SALCBC.¹ Member Black responded that he "did not speak specifically ask [Mr. Rolls] with respect to his expertise with Palestinian human rights" but was satisfied that Mr. Rolls "was familiar with what was necessary to investigate this Complaint" or "could achieve the expertise that could advise him on that."² Mayor Ken Sim commented that he presumed Mr. Rolls "could

¹ Vancouver Police Board, Video of Board Meeting held on October 31, 2024, at 1:37. Accessed online: <<https://vimeo.com/showcase/11109208?video=1025245661>> [October 31 Board Meeting].

² October 31 Board Meeting, at 1:37:44.

potentially extend a request for additional support” if his review needed to address “some of that aspect that Comfort [Sakoma-Fadugba] had raised.”³

These comments suggest the Board believed Mr. Rolls could address the gaps in his knowledge with respect to anti-Palestinian racism and human rights by relying on outside expertise. Mr. Rolls’ final report includes a legal review by Ms. Kirsten Hume Scrimshaw, an employment and labour lawyer. Ms. Scrimshaw, in her legal review, did not disclose any expertise with anti-Palestinian racism, or connected concerns such as anti-Arab racism or Islamophobia.⁴ Moreover, it appears Mr. Rolls did not consult with experts familiar with inclusion and accessibility, cultural safety, or trauma informed practices, which are key considerations in human rights-related investigations.

2. Lack of fairness, inclusivity, and cultural safety in the investigation process

In their request for review, the Complainants explain that they raised concerns about procedural safeguards in the investigation process with the Board. The Complainants sought information from the Board about Mr. Rolls’ terms of reference and mandate letter, how any evidence provided to Mr. Rolls would be stored and handled, and what, if any, anti-retaliation measures would be in place to ensure community members would not face repercussions for sharing their evidence. The Complainants say the Board was not responsive to their inquiries, and as such they did not feel comfortable sharing additional information gathered from affected community members.⁵

Mr. Rolls’ final report includes context that indicates the Complainant’s concerns about safety of information and anti-retaliation had a reasonable basis. Mr. Rolls acknowledged that people who have participated in Vancouver-based pro-Palestine protests come from “all ‘walks of life’, demographics, cultural backgrounds and socioeconomic status,” and that some have experienced “a life of discrimination and oppression outside of Canada.”⁶ Mr. Rolls acknowledged that, in this context, “the lack of ‘police trust’ is understandable.”⁷

Despite this acknowledgment, Mr. Rolls did not take any proactive steps to address these barriers to participation. It does not appear any steps were taken to facilitate the inclusion or safety of the

³ October 31 Board Meeting, at 1:38:20.

⁴ Islamophobia Research Hub (2025). “Documenting the ‘Palestine Exception’: An Overview of Trends in Islamophobia, Anti-Palestinian, and Anti-Arab Racism in Canada in the Aftermath of October 7, 2023.” Islamophobia Research Hub, Toronto: York University. Accessed online: <<https://www.yorku.ca/laps/research/islamophobia/wp-content/uploads/sites/874/2025/08/Documenting-the-Palestine-Exception-Islamophobia-Research-Hub-August-2025.pdf>>; Dania Majid, Arab Canadian Lawyers Association, “Anti-Palestinian Racism: Naming, Framing and Manifestations” (April 25, 2022). Accessed online: <<https://static1.squarespace.com/static/61db30d12e169a5c45950345/t/627dcf83fa17ad41ff217964/1652412292220/Anti-Palestinian+Racism--Naming%2C+Framing+and+Manifestations.pdf>>

⁵ British Columbia Civil Liberties Association and Pivot Legal Society, “Letter to Office of the Police Complaint Commissioner, Re: Request for Review of Vancouver Police Board Decision OPCC File # 2024-26602” (August 7, 2025) [Request for Review], at p. 4.

⁶ Vancouver Police Board, “Service or Police Complaint Review Committee Meeting Package” (19 June 2025), at p. 50. Accessed online: <https://vancouverpoliceboard.ca/police/policeboard/agenda/2025/0619/2025-06-17_COMBINED-S-or-P-Board-Meeting-Package-of-June-19-2025.x91615.pdf> [June 19 Package].

⁷ *Ibid.*

affected people and communities in order to safeguard their procedural rights to be heard and to meaningfully participate in the process. It appears Mr. Rolls proceeded to investigate the Complaint without information or input from the affected people and communities.

Fairness demands a process that is responsive to the legitimate fears people may have about participating, particularly where people may belong to groups that disproportionately bear the harms of surveillance, over-policing, and discriminatory law enforcement.⁸ The Board's decision to uncritically accept Mr. Rolls' report despite knowing Mr. Rolls had taken no measures to create safety and trust for marginalized people and communities to speak openly about their concerns demonstrates a significant failure with respect to its obligation to ensure that the investigation was conducted in a procedurally fair manner.

3. Failure to analyze key human rights issues

Mr. Rolls' report reaches conclusions with respect to "adverse treatment," specifically with respect to whether pro-Palestine protesters are "being treated differently and targeted excessively relative to other demonstrators."⁹ However, Mr. Rolls' report fails to consider "adverse impact discrimination," which was also a specific form of discrimination at issue in this Complaint.

Adverse impact discrimination occurs when a seemingly neutral law or policy has a disproportionate impact on members of groups protected on the basis of enumerated or analogous grounds.¹⁰ Assessing this form of discrimination requires attention to the full context of the claimant group's situation, to the actual impact of the law or policy on that situation, and to the persistent systemic disadvantages the group experiences.¹¹ However, Mr. Rolls' report failed to assess "adverse impacts" of the VPD's surveillance methods on people and communities, and whether the equal application of VPD policies may nevertheless have resulted in a discriminatory outcome. The Complainants had specifically raised concerns about several impacts, including intimidation, silencing, and impacts on the exercise of *Charter*-protected rights. Mr. Rolls did not gather evidence about these impacts or weigh these impacts in his analysis.

Mr. Rolls' report also failed to consider intersectional discrimination, which requires a fact-driven analysis that assesses the distinct impacts of discrimination arising from intersecting and compounding protected grounds.¹² Intersectionality was particularly relevant to this Complaint as those affected by the surveillance of pro-Palestinian protests includes people with diverse identities including based on gender, race, and national and ethnic origin, among other identities. Moreover, racialized and historically marginalized groups and communities have distinct experiences of over-policing, over-surveillance, and criminalization due to systemic discrimination

⁸ Office of the Human Rights Commissioner of British Columbia, "Equity is safer: Human rights considerations for policing reform in British Columbia" (November 2021), at p. 64. Accessed online: <<https://bchumanrights.ca/wp-content/uploads/BCOHR Nov2021 SCORPA Equity-is-safer.pdf>> [BCOHR Equity is safer].

⁹ June 19 Package, at p. 50.

¹⁰ *Fraser v Canada*, 2020 SCC 28 (see: headnote).

¹¹ *Ibid.*

¹² *Radek v Henderson Development (Canada) Ltd and Securiguard Services Ltd (No. 3)*, at para. 464.

in policing. These concerns related to systemic racism in policing are well-documented in the BC Office of the Human Rights Commissioner's report, "Equity is Safer," among other reports.¹³

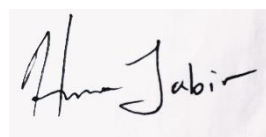
As outlined above, Mr. Rolls' investigation process was underinclusive and failed to gather relevant evidence on the *impacts* of the VPD's policies and practices on affected persons and communities based on intersecting grounds. Ms. Scrimshaw's legal analysis related to systemic discrimination is, as a consequence, of limited value, because it is "based on a review of the evidence and information obtained by [Mr.] Rolls in his investigation and as summarized in his report."¹⁴ Ms. Scrimshaw's findings are founded upon an investigation record that was incomplete.

Conclusion

Meaningful police accountability demands an independent and impartial process that is responsive to the lived experiences of marginalized people and communities who are impacted by well-documented systemic biases embedded in policing.¹⁵ We join the Complainants in urging you to use your authority under s. 173 of the *Police Act* to review the Board's decision accepting the investigation report and closing the Complaint. We further urge you to recommend that the Complaint be reviewed by an external investigator with knowledge of the experiences of racialized and historically marginalized communities, as well as expertise in cultural safety, trauma informed practice, and complex systemic discrimination.

As BC's Police Complaint Commissioner, you have an opportunity to ensure that the systems of police accountability are responsive and inclusive of people and communities who continue to experience exclusion in legal processes. We urge you to ensure that serious complaints such as this one are investigated fairly, fully, and in a manner that respects the right of affected people and communities to be heard, meaningfully included, and granted safety in the accountability process. We appreciate your prompt attention to this matter and would welcome the opportunity to discuss our concerns with you.

Sincerely,



Humera Jabir (she/her/hers)
Staff Lawyer, West Coast LEAF

cc: Hon. Nina Krieger, Minister of Public Safety and Solicitor General
Hon. Niki Sharma, K.C., Attorney General and Deputy Premier
Jennifer Blatherwick, Parliamentary Secretary for Gender Equity
Amna Shah, Parliamentary Secretary for Anti-Racism Initiatives

¹³ BCOHRC Equity is safer, *supra* note 8.

¹⁴ June 19 Package, at p. 84.

¹⁵ BCOHRC Equity is safer, *supra* note 8.

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