

BY-LAW 8-2025
Critical Points Policy
ST. THOMAS POLICE SERVICE



PASSED AT THE CITY OF ST. THOMAS
THIS 23rd day of April, 2025

AND ENACTED AT THE CITY OF ST. THOMAS
THIS 23rd day of April, 2025

A handwritten signature in black ink, appearing to be 'H. H.', is positioned above a horizontal line.

Chair, Police Services Board

ST. THOMAS POLICE SERVICES BOARD

BY-LAW #8

Summary:

The concept of “critical points” was originally proposed by The Honourable John W. Morden in his 2012 report of the Independent Civilian Review into Matters Relating to the G20 Summit, and has since been a subject of a number of recommendations to the Board and to other entities, most recently the Public Order Emergency Commission’s 2023 report by Justice Paul Rouleau.

Throughout these reports, a “critical point” is described as a significant operational matter of which the Board should be apprised, and for which the Board should be given the opportunity to ask questions and set objectives and priorities, to ensure adequate oversight and to ensure a clear and consistent approach.

Background:

Morden Report

In June 2012, The Honourable John W. Morden issued his report of the Independent Civilian Review into Matters Relating to the G20 Summit (the Morden Report). One of the topics examined in the Morden Report revolved around the role of the Board in providing civilian oversight to the Toronto Police Service during certain significant events.

The Morden Report recommended that the Board establish a policy to define “critical points” and identify criteria that will be applied in determining when a “critical point” has arisen. The Morden Report suggested that the Board may consider using the following definition of a “critical point”:

- a policing operation, event, or organizationally-significant issue for which advance planning and approval at the Toronto Police Service’s command level is required. (Morden Report, p. 8)

In addition, the Morden Report recommended that where a “critical point” arises:

- The Board should be provided with relevant operational and other information in order to understand the details of the major event/operation/issue. The Board should then work with the Chief of Police to identify the mission, objectives and priorities for the particular event/operation/issue, the achievement of which will result in the provision of adequate and effective policing in Toronto.” Justice Morden further noted that “once the mission,

objectives and priorities have been defined, the Toronto Police Service must maintain the autonomy to develop and execute the appropriate operational plans. (Morden Report, p. 9)

This Policy establishes criteria for a “designated special event” including:

- that the event is beyond the scope of day-to-day operations for the Service and has the potential to substantially disrupt public peace, order or security;
- that the event is sponsored or hosted by the federal or provincial government, or another external entity; that the event features extraordinary operational requirements; and
- that the event requires extraordinary funding and reimbursement agreements with external agencies.

However, the definition of a “designated special event” excludes unplanned events or operations that may, nevertheless, fit Justice Morden’s definition of a “critical point.”

Missing and Missed Report

In April 2021, The Honourable Gloria J. Epstein issued the report of the Independent Civilian Review into Missing Person Investigations, titled “*Missing and Missed*” (“*Missing and Missed*”). In her report, Justice Epstein returns to the Morden Report’s concept of “critical points,” noting that “the Board never created such a policy. It should have.” (*Missing and Missed*, p. 53). In her recommendations, Justice Epstein reiterated the need for a policy on “critical points,” and established that, at a minimum, the criteria applied should include:

- (a) a policing operation, event, or organizationally significant issue requiring command level approval (i.e., by the chief of police or deputy chief of police) or command level advance planning,
- (b) operations that may have a material impact on the Police Service’s relationship with, and servicing of, marginalized and vulnerable communities, including those communities in which significant numbers of community members mistrust the police. These include racialized, Indigenous, L.G.B.T.Q.2S+, homeless or underhoused, and others identified in this Report, as well as the intersection of these communities. Included here are operational decisions that may have a material impact on future relationships with these communities;
- (c) operations that may impact, in a material way, on the Service’s reputation or its effectiveness;
- (d) operational matters, even ones involving an individual case, if they raise questions of public policy;
- (e) internal audits or analogous documents that identify systemic issues within the Service; and
- (f) complaints against individual officers and the Service and findings about discrimination by other tribunals that raise systemic issues. (*Missing and*

Missed, p. 723–724).

Missing and Missed also references the 2007 Report of the Ipperwash Inquiry, led by Judge Sidney Linden, commenting that the Board should also consider the non-exhaustive list of operational decisions that might require policy intervention by government (*Missing and Missed*, p. 724–725).

Public Order Emergency Commission

In his February 2023 Report of the Public Inquiry into the 2022 Public Order Emergency (“Public Order Emergency Commissioner [P.O.E.C.] Report”), The Honourable Paul S. Rouleau cites both the Morden Report and *Missing and Missed*, recommending that:

All police services boards in jurisdictions that may be the subject of or adversely affected by major events including large-scale protests should create policies, consistent with the Morden and Epstein reports and their statutory-defined responsibilities, that delineate their oversight and governance roles in addressing those events. Such policies should, at a minimum:

- a. articulate what constitutes a “critical point”;
- b. articulate what kinds of activities constitute best practices, including what they can and should do to ensure adequate and effective policing in their jurisdiction — such as setting priorities, asking questions, and providing non-binding advice in relation to operational matters — and obtaining such information as may be needed for them to facilitate resourcing issues. These activities might well include post-event evaluations of lessons learned, particularly in connection with unplanned major events, and the identification of best practices in policing, going forward;
- c. differentiate, where appropriate, between planned and unplanned events insofar as this distinction may affect the nature and timing of civilian oversight when an event rises to the level of a “critical point”;
- d. articulate the scope and meaning of prohibitions against interference or direction of day-to-day operations and when directions to the chief of police should be memorialized in writing;
- e. articulate the role of boards in supporting requests for additional resources or an integrated command and control to address major events;
- f. ensure that information conveyed outside of board meetings is shared with all board members;
- g. provide for training and education of board members and senior police leadership on the contents of such policies and best practices; and
- h. where appropriate, require that the police service create complementary procedures and practices to support these policies.

Proposed Critical Points Policy

In response to recommendations 3 and 4 of *Missing and Missed*, the Board will develop an approach that will effectively and consistently address the issues raised by Justice Morden, Justice Epstein and Commissioner Rouleau in their respective reports. The proposed Critical Points Policy, attached as Appendix A, is the outcome of these efforts.

Defining Critical Points

As described above, “critical points” were defined in various ways in a variety of reports and documents, and generally through lists of possible criteria. While the proposed criteria are helpful in elucidating the concepts outlined by the different authors, they have proven difficult to operationalize in a clear and consistent manner.

As a result, the Board was faced with the challenge of identifying a definition that will not place a challenging onus on the Chief to determine, through vague criteria, whether a certain matter or situation meets the threshold of a “critical point,” while also avoiding overburdening both the Chief and the Board with a large number of “false positives” of possible critical point situations where the Board must subsequently determine that a matter or situation does not rise to that threshold.

The definition used in the proposed Policy was adapted from other Ontario Police Service Board’s Policy. Similarly, the definition of “matters of immediate strategic significance,” defines a “critical point” as:

A matter of strategic significance that is time-sensitive and which rapidly elevates the Board’s operational, financial, reputational or other enterprise risk, and, therefore, calls for the Board’s immediate attention and/or preparedness to take action.

The adoption of the language of risk provides the Chief of Police with the necessary guidance to identify all the elements identified by the aforementioned reviewers, and the ability to provide a clear rationale to decisions. For added clarity, the proposed Policy includes a non-exhaustive list of examples, drawing from the lists provided by previous reviews.

Critical Point Reporting Protocol

The proposed Policy establishes a protocol for the Chief to advise the Board of potential “critical points,” and for the Board to determine whether the potential “critical point” requires a request for additional information and/or the provision of direction to the Chief, such as setting objectives and priorities. The Board may also independently identify a planned or anticipated event as a potential “critical point,” and request the Chief to advise the Board accordingly.

The proposed Policy highlights two crucial duties of the Board in receiving these reports from the Chief:

- **Maintaining strict confidentiality:** Given the operational and often very sensitive nature of the matters that will fall under the definition of a “critical point,” Board Members must ensure that the information provided by the Chief is not shared with anyone outside the Board and Board Office staff. The Policy also requires the Board, subject to operational considerations and the advice of the Chief, to publicly disclose the nature of the operational matter related to the “critical point,” and any directions given to the Chief with regards to it.
- **Ensuring the Chief’s Autonomy:** The Board role with regards to “critical points,” as established in the Morden Report is to ask questions, set objectives and provide non-binding advice to the Chief. However, once given the opportunity to do so, the Board must ensure that the Chief maintains autonomy to finalize and execute operational plans. The Board’s oversight of the Service can come to the fore should the Board determine that the objectives set are not being achieved, in which case the Board will inform the Chief of this determination. At all times, however, the appropriate actions necessary to achieve the mission and objectives will be determined and executed by the Chief.

Training

In line with recommendations 6 and 7 of *Missing and Missed*, the proposed Policy requires that both Board Members and senior Service Members are trained to recognize and understand the definition of a “critical point,” and to understand their respective duties with regards to “critical points.”

Conclusion:

Therefore, the St. Thomas Police Services Board approves the proposed Critical Points Policy, attached as Appendix A.

Appendix A

CRITICAL POINTS POLICY

LEGISLATION	Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1, ss. 37(1)(a) and (f), and 38(1)(a) and (b).
-------------	---

GUIDING PRINCIPLES

Information sharing between the St. Thomas Police Service (Service) and the St. Thomas Police Services Board (Board) is foundational to the Board's effective execution of its oversight responsibilities. In particular, information sharing is crucial during times of elevated organizational risk, such as when facing large-scale events or major unanticipated criminal investigations.

This Policy defines such **Critical Points** and sets out a process to guide the Chief of Police and the Board in identifying them, and ensuring the flow of relevant information from the Service to the Board, so that the Board can most effectively carry out its oversight and governance role, including setting priorities, asking questions, and providing non-binding advice in relation to operational matters.

The Board acknowledges there are limits to the direction that the Board may give to the Chief of Police, and the importance of respecting those limits. The Board is prohibited by law from directing the Chief of Police with respect to specific investigations, or the conduct of specific operations. Therefore, while the Board may set objectives and priorities for the policing of a Critical Point, the Chief of Police has the authority to determine the methods by which the objective, priority, or outcome will be achieved.

This Policy will not prevent or restrict the Service from exercising its policing powers and authorities, in emergent circumstances, to protect community safety.

PURPOSE OF POLICY

The purpose of this Policy is to:

- Define the term Critical Point and provide clear and consistent assessment criteria for use in identifying Critical Points as they arise
- Describe the type of information the Board requires from the Chief in order to assess potential Critical Points;
- Describe the information sharing process between the Board and the Service when a Critical Point has been identified/confirmed;
- Strengthen oversight of the Service, consistent with the Board's legislative responsibilities;
- Ensure accountability of the Service to the Board; and
- Ensure that the Chief of Police can discharge their duties according to law.

POLICY OF THE BOARD

It is the Policy of the Board that:

Definitions

1. Critical Point: A matter of strategic significance that is time-sensitive and which rapidly elevates the Board's operational, financial, reputational or other enterprise risk, and, therefore, calls for the Board's immediate attention and/or preparedness to take action.

For example:

- a) Large scale operations, investigations or events for which advance planning and approval by the Service's Command is required;
- b) Events or operations that are likely to have a material impact on the Service's relationship with, and service to, marginalized and vulnerable communities;
- c) Events or operations that raise significant questions of public policy; or
- d) Credible external or internal complaints, including complaints regarding workplace discrimination or harassment, against individual officers and the Service, and findings by other tribunals related to discrimination, where such complaints or findings raise significant systemic issues.

For clarity, the above examples are not exhaustive.

Reporting on Critical Points

2. The Chief of Police will inform the Chair or their designate of any situation in which the Chief of Police believes a Critical Point has emerged or is likely to emerge and provide the Chair, in writing, with further information regarding the Critical Point, including, as appropriate:
 - i. The general nature of the Critical Point;
 - ii. The elevated risk(s) posed by the Critical Point;
 - iii. Relevant operational and other information necessary for the Board to understand the details of the Critical Point, including an outline of the operational plan, and continuity of service plans;
 - iv. Any plans to involve other organizations, including, in the case of other law enforcement agencies, recommendations to the Board to make requests of other boards or the Ontario Provincial Police Commissioner;
 - v. An estimate of the financial impact;
 - vi. Relevant legislation and other legal requirements that may apply including the need for additional authorities; and
 - vii. Any ongoing considerations, including resources needed, or policy impacts.

3. The Chair will share the information provided by the Chief of Police with Board Members, all of which will be held in the strictest of confidence.
4. The Chair, in consultation with the Board Members, and in accordance with the Board's Procedural Bylaw, will determine whether there is a need to obtain additional information and/or provide direction to the Chief in accordance with the Board's policies, duties and responsibilities, including setting objectives and priorities, and if so, whether to call a Special Meeting of the Board, or to include the Critical Point as an item on the Agenda of the Board's next regularly scheduled meeting.
5. The Chief will continue to update the Board, through the Chair, on any significant developments, including once the Chief of Police determines that the Critical Point has concluded. In consultation with the Board Members, the Chair may call a Special Meeting of the Board at any time or include an item on the Agenda of a regularly scheduled Board Meeting, to discuss the Critical Point.

Identification of Critical Points by the Board

6. When the Chair believes, or is advised by a Board Member(s) that they believe, that a planned or anticipated event, or an unplanned or unanticipated major investigation may constitute a Critical Point, the Chair shall request the Chief of Police to consider whether, in their view, the event may meet the definition of Critical Point, and either report to the Board in accordance with this Policy, or, alternatively, provide to the Chair reasons that the event in question does not meet the definition of a Critical Point.

Chief's Autonomy

7. Once the Board has been given the opportunity to set objectives, ask questions, and provide non-binding advice in relation to operational matters, where applicable the Chief will maintain the autonomy to finalize and execute the plans.
8. If, during the duration of a Critical Point, the Board concludes that, in its view, the objectives are not being achieved, the Board will inform the Chief of Police of its conclusion. However, the Chief of Police will remain autonomous in determining the appropriate execution of the plans in order to achieve the mission, objectives and priorities.

Training

9. The Chief will provide training to ensure that all Command and Service Members from the rank of Inspector and above are trained to recognize the circumstances that may lead to a Critical Point, and to inform the Chief of Police and Command when a

potential Critical Point is identified; and

10. The Board will ensure that all new Board Members receive training to understand the definition of a Critical Point, and effectively understand their responsibilities with regards to the consideration of Critical Points.

Public Reporting

11. Subject to operational considerations and the advice of the Chief of Police, the Board will publicly disclose, where it is possible to do so without risking the effectiveness of the operation or any other operations, the safety of Service Members or members of the public, or any other operational considerations raised by the Chief:
 - a) The nature of the operational matter related to a Critical Point; and
 - b) Any directions given to the Chief of Police related to a Critical Point.

EFFECTIVE DATE

This by-law shall come into force and take effect on the 23rd day of April 2025.

READ A FIRST AND SECOND TIME this 23rd day of April 2025.

READ A THIRD TIME AND PASSED this 23rd day of April 2025.



Dan Reith
Chair, Police Services Board



Tiffany Terpstra
Secretary, Police Services Board