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Assembly  
of Ontario



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(Hansard)**

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des débats  
(Hansard)**

JP-2

**Standing Committee on  
Justice Policy**

Comprehensive Ontario Police  
Services Act, 2019

1<sup>st</sup> Session  
42<sup>nd</sup> Parliament

Thursday 7 March 2019

**Comité permanent  
de la justice**

Loi de 2019 sur la refonte  
complète des services  
de police de l'Ontario

1<sup>re</sup> session  
42<sup>e</sup> législature

Jeudi 7 mars 2019

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Chair: Parm Gill  
Clerk: Jocelyn McCauley

Président : Parm Gill  
Greffière : Jocelyn McCauley

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON JUSTICE POLICY

## COMITÉ PERMANENT DE LA JUSTICE

Thursday 7 March 2019

Jeudi 7 mars 2019

*The committee met at 0900 in committee room 1.*

### COMPREHENSIVE ONTARIO POLICE SERVICES ACT, 2019

### LOI DE 2019 SUR LA REFONTE COMPLÈTE DES SERVICES DE POLICE DE L'ONTARIO

Consideration of the following bill:

Bill 68, An Act with respect to community safety and policing / Projet de loi 68, Loi portant sur la sécurité communautaire et les services policiers.

**The Chair (Mr. Parm Gill):** Good morning, everyone. The Standing Committee on Justice Policy will now come to order. We're here for the public hearing on Bill 68, An Act with respect to community safety and policing.

Please note that the written submissions received to date on this bill have been distributed to members of the committee. Unfortunately, we've had a cancellation of our first presenter, so we'll have to recess till about 9:20, at which time the second presenter is due to present. If that's okay, we'll recess till 9:20.

*The committee recessed from 0901 to 0920.*

**The Chair (Mr. Parm Gill):** We're at 9:20, so the committee will now reconvene.

### POLICE ASSOCIATION OF ONTARIO

**The Chair (Mr. Parm Gill):** I will call on the representatives from the Police Association of Ontario, Bruce Chapman and Michael Duffy, to please come forward and grab a seat. Thank you for taking the time to appear before our justice policy committee. Pursuant to the order of the House dated March 5, 2019, you will have up to eight minutes for your presentation, followed by 12 minutes for questioning, divided equally amongst the two recognized parties here. If you can please state your name for Hansard and begin your presentation.

**Mr. Bruce Chapman:** Thank you. Good morning, everyone. My name is Bruce Chapman. I'm president of the Police Association of Ontario. Joining me today is Michael Duffy, counsel to the PAO.

The PAO represents 47 Ontario police associations comprised of over 18,000 sworn and civilian personnel serving approximately 80% of the provincial population. In addition, the PAO works hand in hand with the Ontario Provincial Police Association and the Toronto Police Association on behalf of our 35,000 members. I would like

to thank the committee for having me here today to talk about policing in Ontario and Bill 68. We have completed our review of Bill 68 that the PAO, OPPA and TPA delivered to government upon introduction. I am not going to reference it directly today, but I encourage you to give it your full attention.

However, the purpose of my deputation today is to challenge some of the claims by other organizations that policing costs are out of control and that a combination of cuts and privatization can deliver more a efficient public service model without compromising public safety. I'm here to tell you that, based on the model of austerity measures implemented in the United Kingdom, it has done the exact opposite. It has decreased efficiency and compromised public safety.

Since the British government implemented the austerity measures in 2010, long-term research continues to indicate that the 20% police cuts through outsourcing of police and civilian duties, cutting the number of police officers and shutting down police stations, has directly impacted public safety. Since 2010, there has been a cut of 14.3% in the number of police officers in the UK. For instance, in the past year, knife-related crimes were up 8% year over year. This is on top of the 20% increase reported the year before. There has also been a 17% increase in robberies in the past year, building upon similar increases over the past few years. Since 2010, there has been a 19% increase in the number of homicides, including a dramatic increase of 33% from 2015 to 2018.

I highlight these particular statistics, as captured through the UK Office for National Statistics, because the long-term consequences of cuts and outsourcing of police services have had a negative impact on public safety. The metropolitan London police commissioner, Cressida Dick, stated recently that there is a correlation between the decline in public police officers on the streets and the increase in street crime. The city's mayor, Sadiq Khan, went further, and has indicated that the continued cuts to police services in the country are at a crisis level.

The PAO has pulled the financial income reports, the FIRs, for all the municipalities we represent—again, approximately 80% of the population in Ontario. These are the actual line item costs that municipalities must file with the Canada Revenue Agency. Policing costs have grown at a rate of 12% between 2013 and 2017. Total municipal costs have grown at an average rate of 13% between 2013 and 2017. This indicates that while municipal budgets

continue to grow, police budgets are getting less of a share of the total municipal budgets now than they were in 2013.

While some say that policing is the most expensive line item in the budgets, this is simply not correct. The FIRs clearly show that in the average budget of municipalities across the province, policing costs are fourth or fifth, regularly behind transportation, social services, environmental services and sometimes even recreational services.

In a recent survey of 2,000 Ontarians, only 6% indicated they were interested in privatizing police services, and 92% indicated that they currently feel safe or very safe in their communities. Our police do their duty and they do it well. It is our opinion that while municipal leaders claim policing costs are astronomical and out of control, this is not in line with public opinion and their level of comfort with the greater visibility of a police presence in their communities and neighbourhoods. We need to keep our police public to keep them efficient and active so that we can continue to do the number one job: to protect the safety of all Ontarians.

Operational reform is something that Ontario police need and are willing to undertake but not in a way that places an unfair burden on both their officers and civilian members and our communities.

Going to back to the UK experience: Austerity measures and privatization of police services have directly impacted how police are triaging their investigative priorities. In a freedom-of-information request to the UK government in 2018, a newspaper found that the London Met police screened out 34,000 crimes that were reported through 2018, including sexual assaults, violent crimes and arsons, a whopping 162% increase from those reported in 2017. This is not an indication that cuts and privatization have made investigations more efficient; it means that police services lacked capacity, forcing them to make difficult choices on what they can investigate.

Ontarians, by and large, feel confident in their police services. According to Forum Research, Ontario officers currently have an 82% approval rating. Private policing removes public accountability, efficacy and transparency. A move to privatized policing would be devastating to the support police have in the communities they protect.

In 2015, Public Safety Canada identified a failure to ensure effective private security oversight in Canada, resulting in the inability to ensure that private security companies are not vulnerable to organized crime, unethical and illegal behaviour. Public Safety Canada also noted that there was no demonstrable evidence of a cost savings when privatizing or outsourcing police services.

Ontario's professional police believe in transparency, public trust and appropriate oversight. This bill does not clearly protect the public's desire for a valuable and effective professional police service model. The vague language in the bill allows for a wide interpretation of how municipalities can further cut and privatize police services.

As I indicated earlier with the FIR report, investments in police services are not keeping pace with those in other municipal services, meaning that municipalities will

eventually need to start making hard choices with the resources and funding they have available.

**The Chair (Mr. Parm Gill):** One minute.

**Mr. Bruce Chapman:** I trust my fellow officers and know that, as a profession, we welcome the opportunity to build public trust and accountability in law enforcement. But changes must be reasonable to have the ability for government to keep Ontario safe while not handcuffing police when they should be handcuffing criminals.

Ultimately, Ontario's front-line police personnel welcome the opportunity for reform. There are many places where Bill 68 is an effective piece of legislation and is most welcomed. The bill implements increased training for municipal boards, but privatizing police service functions won't save taxpayers money, won't improve public safety and won't protect human rights. The move towards private services is based on a false narrative about the sustainability of policing.

**The Chair (Mr. Parm Gill):** We'll now go to the NDP. We'll start with MPP Yarde.

**Mr. Kevin Yarde:** Thank you, Bruce, for coming in. It's good to see you. I know we've met a few times in the past.

I have quite a few questions to propose today, but I'm only going to stick with one, due to the time constraints that we have here. You referenced the United Kingdom and privatization, how that has led to an increase in crime. Were you surprised to discover that, with this bill, Bill 68, privatization still exists? How would you make amendments to it?

**Mr. Bruce Chapman:** The ability to privatize has always been in the bills. It has been in the 1990 bill, it was in the Safer Ontario Act of 2017 and it's still there in the comprehensive police services act of 2019. What the police association would like to do is work with municipalities to ensure that the police remain public. The public does not have the trust of private security having their information in their hands, so we need to ensure that this bill adequately ensures that the police remain a public entity.

**Mr. Kevin Yarde:** Any particular amendments that you would propose?

**Mr. Bruce Chapman:** Section 14, sub 2 needs some clarification, either through regulation or legislation itself, to ensure that the police remain public.

**Mr. Kevin Yarde:** Thank you.

**The Chair (Mr. Parm Gill):** We'll go to MPP Singh.

**Ms. Sara Singh:** Thank you very much, Bruce, for being here today.

You raised a number of concerns around budget constraints and the door being opened up to privatization to help municipal boards manage those costs.

**0930**

Can you maybe help the committee understand why that is such a concern—the contracting out of core police services through those decisions?

**Mr. Bruce Chapman:** Outsourcing does not save money. It may in the short term, but the UK model has clearly shown that outsourcing and the cut of 20% has

actually had a—there has been no cost savings to the city of London or the UK at all. In fact, costs have risen, and solvency rates have decreased to the point that they were actually changing the coding of offences so as not to cause crises with the public by not being able to investigate them.

Part of my deputation actually talked about the increase in the number of crimes that are not even reported because there's no chance—or little chance—of solving crimes such as car thefts, robberies or even sexual assaults, which is not the way we want to go in Ontario.

**Ms. Sara Singh:** That's very helpful. Thank you for that information.

I'm just going to switch gears a little bit. I know that in our conversations there were many concerns raised around the mental health of front-line officers. Perhaps we can just hear from you a little bit about those concerns around PTSD and the lack of consideration being given. Maybe you can tie this into how, again, contracting out services may impact the quality of services delivered but also the quality of the work environment for those front-line officers.

**Mr. Bruce Chapman:** Presumptive legislation was a welcome piece of legislation that was introduced in the last couple of years for the wellness of the members of the police service, both sworn and civilian members. We welcome those changes.

The Safer Ontario Act had some grave concerns about the ability of employers to dismiss those who suffer from PTSD and physical injuries. We welcome Bill 68, which has put to rest some of those concerns that we had surrounding the mental health and the physical health of our members. That was a welcome change in Bill 68, to ensure the wellness of our members.

Police associations have been very active to ensure the wellness of their members, probably more so than employers have in the past. We've done that through collective bargaining, getting enhancements through collective bargaining to the wellness of our officers, at the expense of raises or other increases, to ensure their wellness. That's how much of a priority it is to the police association and employees.

**Ms. Sara Singh:** Great. With the wellness aspect, for us there are also some concerns around the diversity plans. I believe it's in section 28. We have some questions around the implementation of those. Have you heard any members' concerns around adopting and developing those plans and if they're concerned about the support that would be provided by the ministry in developing those diversity plans?

**The Chair (Mr. Parm Gill):** One minute.

**Mr. Bruce Chapman:** No, we haven't heard any complaints specifically around it. We also welcome diversity in our police services. We're very active as employers and employees to recruit a true reflection of the communities we serve. We've always welcomed that. We continue to welcome that to serve in our police services.

**Mr. Kevin Yarde:** You just mentioned a second ago that the ability to accommodate has been removed in Bill

68, but it does continue under Bill 68. Are you aware of that?

**Mr. Bruce Chapman:** I'm sorry?

**Mr. Kevin Yarde:** The ability to accommodate still continues under Bill 68.

**Mr. Bruce Chapman:** Yes.

**Mr. Kevin Yarde:** Okay.

**The Chair (Mr. Parm Gill):** Thank you very much. Thank you, MPP Yarde.

We will now go to the government side. We'll start with MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** I just want to start off by thanking Mr. Chapman and Mr. Duffy for coming here today. Also I want to thank you for all the work you do for your members. You keep our communities safe and you keep this province safe, and we're very happy to work with you. We've had the opportunity to work with you and take into consideration your concerns, and from the members as well.

When we really look at this bill, when we're going through it, the one thing we realized when we got into power and formed the government, when we looked at the previous Liberal government's policing legislation, specifically Bill 175, it was really based on this notion that police officers are always in the wrong, leading to this weakening of trust between the public and the police, as well. I think one of the pieces that the member opposite even touched on and that I really want to bring up with you as well is that some of those pieces of legislation that were introduced really threatened the livelihood of our disabled officers—in Bill 175.

Can you explain the importance of the changes, for the accommodation of some of those disabled officers, that we have in Bill 68?

**Mr. Bruce Chapman:** Yes, Bill 68 now reverts back to the 1990 Police Services Act about the employer having to get the medical documentation before they can either change, dismiss or fire an officer for injuries, either mental or physical, suffered on or off the job. The act actually protects the employees who gave their all while protecting our communities to be able to continue to do their job.

There are opportunities in the police service to ensure that they are an effective and viable employee. Whether it not be on the front line or in another aspect of doing their job to protect our communities, it's vital to ensure that we look after those who have looked after the public in our communities every single day.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much. I think it's very important because the police—sometimes we take for granted that the members in your association of police officers do risk their lives to keep us safe every single day. So when it comes to whether it's mental health or the well-being of our officers, that is something that's very important to us and reflected in Bill 68.

I'm just going to quickly pass it on to my colleague Ms. Park.

**The Chair (Mr. Parm Gill):** MPP Park.

**Ms. Lindsey Park:** Thank you again for joining us this morning. I wanted to speak specifically about the SIU

investigation process and some of the changes made there. Just to start off, can you just generally tell the committee what the impact is on officers when they're being investigated by the SIU?

**Mr. Bruce Chapman:** The SIU play a vital and important role in ensuring oversight, transparency and accountability of the actions of police officers in what they do. The police association welcomed that when it started in 1991, I believe, and we were the first to say that we've also welcomed changes to the SIU over a number of years. We welcomed Justice Tulloch's recommendations when he did a thorough review of oversight in the agency surrounding it.

When an officer faces an SIU investigation, they have made a decision to protect the public. The vast majority of those times, it takes a year or 18 months for them to be publicly cleared on doing their job to the best of their ability—sometimes, unfortunately, with tragic results to an individual. It's unfair for everybody, the length of time that it has taken for the SIU to complete their investigations and announce publicly. It's unfair for the officer, it's unfair for the affected member that was involved in the incident and it's unfair for the public and the media that surround that. By the changes that have been introduced, we're hopeful that we will have quicker resolutions. I know that the Ontario Provincial Police Association and the Toronto Police Association will speak specifically on oversight in their deputations later—on specifics in the SIU. But it takes a long time for an officer to be able to be cleared for doing their job.

**Ms. Lindsey Park:** That's super helpful. Thank you for sharing that.

I did want to bring to you a criticism we've heard generally in the media on the bill, which is that somehow—this is one example—by shortening timelines of investigations, we're somehow weakening police oversight with this bill. Can you speak to that? Do you agree with that?

**The Chair (Mr. Parm Gill):** You've got 30 seconds

**Mr. Bruce Chapman:** I totally disagree with that. I think it's the opposite: By ensuring the SIU have their mandate to investigate the offences that fall in that mandate, they will do it in a quicker and fairer and transparent manner and do it more efficiently. When we start broadening without increasing their staff, you're not going to be able to provide the services to ensure the public are satisfied with the results of those oversight investigations.

**The Chair (Mr. Parm Gill):** Thank you for your presentation. I want to thank both Mr. Chapman and Mr. Duffy for appearing before the committee.

#### TORONTO POLICE ASSOCIATION

**The Chair (Mr. Parm Gill):** I would now call our next presenters. From the Toronto Police Association, we've got Mike McCormack, Lawrence Gridin and George Cowley. Thank you very much. You will have eight minutes for your presentation in total, and then we will have six minutes from each recognized party to ask questions.

Please state your name for Hansard, and you may begin.

**Mr. Mike McCormack:** Good morning, everybody. My name is Mike McCormack. I'm president of the Toronto Police Association. Thank you for having us at committee this morning. This is Lawrence Gridin, who is my counsel. He will be addressing some of the issues around this bill. But again, I'd like to thank you for having us here as representatives of the largest municipal police association in Canada, the fourth largest in North America. These issues go to the heart of what we do in policing and go to the heart of keeping our communities safe. These are important issues not only for police officers and civilians who work for our police services, but for all residents of this province and this country.

I'm going to turn it over to Lawrence, and we'll talk about some of the issues that we'd like to discuss.

**Mr. Lawrence Gridin:** Good morning, members of the committee. It's an honour and a privilege to be here to speak to you all about, in particular, the subject of police discipline as it arises in Bill 68.

The thousands of members who are represented by the police associations throughout Ontario are affected every day by the Police Services Act and by what will be Bill 68, the COPS Act. They are affected every single day, and just like every Ontarian, they want to be in a workplace that's fair. They want to be treated fairly by their employer. Certainly we, in our view, see the COPS Act as a step forward with respect to fairness in the disciplinary process. It's a significant improvement over the Safer Ontario Act, so we welcome the changes that have been presented in this bill.

Member Nicholls, you promised a fairer disciplinary process, and during legislative debates you promised an elevation of the principle of due process for police officers. We see that in this bill, and that's something that is very important to our members. Our members are counting on the government to fulfill those promises with this bill. We do, however, want to propose some sensible changes, some recommendations to the committee that will enhance the bill even further so that, for example, some of the provisions are clarified and can't be misinterpreted in a way by people such that they in fact reduce fairness or take away from the due-process rights of officers.

I'll speak a little bit about the meat of the actual legislation, beginning with internal investigations under section 198 of the legislation. Obviously, when it comes to internal investigations, we would like to see—these are conduct investigations for potential misconduct in the workplace. It can be for anything like watching YouTube on the work computer or showing up late for work up to, obviously, much more serious conduct as well. We would like to see those investigations conducted fairly and efficiently.

Investigative delay, as Mr. Chapman pointed out, is obviously a big concern to our members, so we want to ensure that those investigations are concluded within a reasonable time. Investigative delay has negative effects on our officers, as Mr. Chapman alluded to. In terms of



internal investigations, officers can be held back from promotion. They can be held back from transfers. They can lose entitlements to things like paid duties. And that's to say nothing of the potential mental health effects of being under investigation—the stress, the impact on the officer and their family and the stigmatization associated with being under investigation. We would like to see those wrapped up within a reasonable time. Our view is that section 198, subsection (9), which deals with delayed investigations, can be enhanced by imposing an actual hard time limit on how long these internal investigations can go on.

**The Chair (Mr. Parm Gill):** One minute.

**Mr. Lawrence Gridin:** With respect to the disciplinary measures that are set out in sections 200 and 201: These are the provisions that allow the chief of police to impose disciplinary measures for internal conduct issues. We are concerned about the potential punitive nature of these penalties. We know from experience that chiefs do not always act in good faith towards their members. Sometimes they can act in a tyrannical manner. We want to ensure that the legislation is not abused by people who want to use it in that manner to impose particularly punitive sanctions.

Just to illustrate the enormity of these sanctions—I think a lot of the members of the public don't realize how punitive some of the penalties can actually be. For example, a chief can impose a 30-day suspension on an officer. For a sergeant in Toronto, which is a pretty mid-rank officer, a 30-day suspension actually equates to a financial loss of \$13,000. We're not talking about small penalties here. That's pretty punitive. You can imagine the impact on that officer and the officer's family from a penalty of that nature. For a constable with an order to work 20 days without pay, that's \$7,500. That's not a joke. I think a lot of the members of the public don't realize that the penalties are that big.

Given the impact of that, our proposal is simply that the chief should have a cap on the financial impact that the penalties can have without there being a hearing, so that at least an officer has an enhanced due-process right when the chief wants to impose a penalty that is that punitive. There should be some sort of explicit financial cap in the legislation.

Under section 201, an officer gets a limited amount of information before they have to decide whether to accept a penalty—a disciplinary measure—or whether to challenge it at a hearing. We say that the officer should be getting full disclosure before making that decision.

We're particularly concerned about subsection 201(9), which says that there's no stay of a disciplinary measure imposed by the chief. It takes effect immediately, without a hearing, and without proof that there has actually been any misconduct. Because there's no stay, the officer takes the entire financial loss up front. They're in a worse position when it comes to hiring a lawyer to challenge the penalty, if they wanted to do so. Effectively, it means that the person is subject to a penalty before there's even any proof that they've done anything wrong. That's something

that we would like to see changed, so that officers have due process.

With regard to termination and demotion, under section 202: Both the police and the public lost confidence in the old disciplinary system, which saw the chief of police controlling who presides over misconduct hearings. We welcome Bill 68's introduction of independent adjudication for all termination and demotion cases. It's long overdue. It was actually proposed all the way back in 2005 by Justice LeSage when he looked into policing. We cheer the fact that it's finally here. That's something that the public has been demanding, and it's something that our members have been demanding.

**The Chair (Mr. Parm Gill):** One minute.

**Mr. Lawrence Gridin:** Thank you.

We want to see disciplinary hearings that are focused, cost-effective, fair and balanced, so one of the changes that we'd like to see is the removal of the complaints director from that process. The complaints director should be an independent investigator. Having them step into the arena and act as an advocate—unfortunately, it undermines that independence. So we would like to see that removed.

With respect to expungement, under section 207: We'd like to see the opportunity for automatic expungement of disciplinary records after an officer has demonstrated that they're of good behaviour for a period of time. It shouldn't be something that's up to the chief to decide. That way, it rewards officers for remaining clear of discipline, and it creates a positive incentive for officers to improve.

Overall, our view is that Bill 68 represents a significant improvement over the Safer Ontario Act. The recommendations we're making are sensible ones to further enhance this government's promise of a more fair disciplinary system, and we welcome Bill 68. Thank you very much.

**The Chair (Mr. Parm Gill):** Thank you very much.

We will begin this round with the government members. We'll start with MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** Thank you, Mr. McCormack and Mr. Gridin, for coming here today. Once again, we really appreciate the work you do for your members and your officers, who keep this province safe. We're very thankful.

When we got into government, one of the first things, when we were speaking to front-line officers—one of the key messages, which you also touched upon in your opening, was the implication on front-line officers and the disciplinary process. So I'm very happy that you touched upon that. That's something that we really heard.

**0950**

Could you please elaborate on the previous government with Bill 175 and what the implication was with that bill, when the standard of proof under that bill was a balance of probabilities, and why reverting back in this bill to clear and convincing evidence as a standard of proof for front-line officers is so important. If you could please elaborate on that, that would be really great. Thank you.

**Mr. Lawrence Gridin:** Under the Police Services Act, for decades the standard of proof was clear and convincing evidence. The Safer Ontario Act sought to reduce that

standard to a balance of probabilities, and Bill 68 returns it to the old Police Services Act standard of clear and convincing evidence. We think that's appropriate.

The Supreme Court of Canada, in *Queen and McNeil*, recognized that police are in a special position, more so than other workers, just because of the nature of the work that they do, the number of complaints that they receive, and the incentive that is there to make false complaints against police—for example, in order to benefit an accused person's criminal case. There are lots of incentives to attack the police.

There needs to be due process when it comes to adjudication of these kinds of complaints, and the clear and convincing evidence standard, I think, is appropriate. Why would you want to see an officer convicted of misconduct where the evidence is less than clear and less than convincing? That seems pretty reasonable to me.

So we welcome that change, certainly.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much. I'm going to pass it over to my colleague Mr. Baber.

**The Chair (Mr. Parm Gill):** MPP Baber.

**Mr. Roman Baber:** Thank you, Mr. McCormack, and thank you, Counsel, for your remarks.

In fact, before I follow up on the same line of questioning that my friend commenced, I want to tell you that I represent the west side of North York. My electoral district of York Centre is split between 31 Division and 32 Division—some of the busiest, most notable catchments in the country. So, I can't tell you enough how grateful I am to your members for keeping my community safe.

**Mr. Mike McCormack:** Thank you.

**Mr. Roman Baber:** Along that line, I want to follow up on something that MPP Sarkaria said and ask you a further question.

It's undeniable that all Canadians are entitled to due process, and there's no question that officers are also entitled to due process. What is important in the standard—the key difference in the standard that the Liberal preceding legislation proposed was essentially a basic civil standard of a balance of probabilities, something that you would have to prove for, let's say, a non-payment of monies.

Contrary to that, when we deal with regulation of the policing professions, and we subject them to disciplinary hearings, we're not dealing with a separate, trivial subject matter. We're dealing with a matter where it's the officer himself who is the subject matter. Clearly, in my view, that would invite a greater standard of scrutiny in order to put that officer's livelihood, that officer's well-being and the well-being of his or her family in jeopardy.

I think you've answered my friend's questions. But is it fair to say that the force at large in the Toronto Police Force would be supportive of our reverting back to a standard that is slightly higher than the civil standard, to ensure that due process?

**Mr. Lawrence Gridin:** Without a doubt. It's not proof beyond a reasonable doubt, which is the standard in the criminal context. It's a lower standard than that, but it's also a higher standard than simply a balance of probabilities.

We're talking, as you said, about the livelihood of an officer. We're talking about the reputation of that officer. There's an enormous amount of stigma that is associated with misconduct allegations and findings, so it's reasonable to require a mid-level burden of proof between the civil and criminal standards.

As I said, there's no reason that an officer should have their reputation tarnished, should have a significant financial penalty, based on evidence that is less than clear and less than convincing.

**Mr. Roman Baber:** Thank you.

**The Chair (Mr. Parm Gill):** MPP Park. You've got one minute—just a reminder.

**Ms. Lindsey Park:** Thank you. Just to go back to the SIU investigation process—I'm sure you overheard the previous witness and our discussions around it—can you just describe to me what happens to an officer, or one of your members, who is under investigation? Are they suspended? Are they on desk duty? Can you just describe for the committee what happens?

**Mr. Mike McCormack:** Again, it depends on the nature of the investigation and the nature of how the SIU is investigating it.

Generally, when the SIU is investigating, the officers are under investigation. As Bruce was saying earlier, being under that investigation has generally taken, at times, a year. We had officers who were several years under investigation by the SIU not cleared. It prohibits their ability to advance. It prohibits their ability to transfer within the unit. So it is a huge stress among our officers, and anybody who thinks that an officer takes this lightly—

**The Chair (Mr. Parm Gill):** Thank you, Mr. McCormack. Sorry. That's the time we had.

**Mr. Mike McCormack:** No problem.

**The Chair (Mr. Parm Gill):** We will have to move on to the NDP, the official opposition. We'll start with MPP Yarde.

**Mr. Kevin Yarde:** Thank you, Mr. McCormack, for coming in today. I have one quick question right off the bat here. I'm just wondering: Prior to the legislation being tabled by the government, were you consulted by them?

**Mr. Mike McCormack:** Yes, we were.

**Mr. Kevin Yarde:** Can you explain a little bit how that—

**Mr. Mike McCormack:** We've been involved, prior to the legislation—this legislation or prior—

**Mr. Kevin Yarde:** Bill 68.

**Mr. Mike McCormack:** We have been involved with the Liberal government on FPAC, the Future of Policing Advisory Committee, for a number of years. We were consulted around the original bill, and that continued. We had a meeting to discuss with this government about some of the changes they were thinking of or contemplating around this.

**Mr. Kevin Yarde:** Okay. You heard our questions a bit earlier for the police association. The same question for you: Were you surprised to discover that there's still a possibility in Bill 68 for privatization to occur, and if so, what amendments would you put forth?

**Mr. Lawrence Gridin:** Well, obviously, my focus is on the disciplinary aspect, but with respect to the privatization portion, I would describe it as a significant improvement over what was there in the Safer Ontario Act. What we're seeking is a little bit of clarity on some particular provisions around section 14 to limit people misinterpreting the section or people abusing the section to potentially outsource policing functions or non-core policing functions to non-members. That's our real concern.

**Mr. Mike McCormack:** Again, when we're looking at this, we believe that public policing is a public duty for all governments. We, as taxpayers, expect public policing, and public policing should be driven by the good of society in safe communities, not for profit. When we enter for-profit entities into that, it dilutes the value and the quality of public policing.

**Mr. Kevin Yarde:** Okay. I'll pass the next question over to my colleague Laura Mae.

**The Chair (Mr. Parm Gill):** Perfect. We'll move to MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you so much for speaking with the committee. I have a question around the SIU. I notice that in subsection 23(3) where we're talking about the makeup of municipal boards, there's a lot of thought that's been put into the makeup of that board; for instance, who can be appointed, the exceptions to that appointment etc. I'm just wondering if you could speak a little bit about the benefits that there might be to outline a similar kind of complement of civilians versus officers or retired officers on the SIU. That's one of the concerns that has been raised with us.

**Mr. Mike McCormack:** I'll let Lawrence again get into some detail around this, but our position is that we want to have qualified investigators. If you're saying that the balance needs to be based on whether it's civilians or police or whatever, wouldn't you want to have the best possible investigators? When we start putting what I would say is a quota or something in there to say that we're balancing it out, just by the nature that you're a civilian or a police officer, our goal is to have the best investigators possible so that these investigations are done thoroughly, objectively, transparently and with an accountability piece there.

Our position is that we would want to see—to say that, statistically, you want to balance it out between civilians and police officers or whatever, I think the goal for everybody should be to have the best qualified investigators, and to do that in a way that the public is satisfied.

Again, when we talk about reputational damage, when we talk about the impacts to not only the association and our members but the institutional impacts of having a delayed investigation, of not having the information out, what people are looking for, and what we're hearing from the public as well, is that they want to have an accountable, transparent investigation by qualified people.

**The Chair (Mr. Parm Gill):** Thank you very much. Unfortunately, that's all the time we have. I want to thank our witnesses for appearing before the committee and providing us with some very valuable information.

The committee will now recess. We will reconvene at 2 p.m.

*The committee recessed from 1000 to 1400.*

#### SOUTH ASIAN LEGAL CLINIC OF ONTARIO

**The Chair (Mr. Parm Gill):** Good afternoon, everyone. The justice policy committee now will reconvene. We're obviously here, as earlier in the morning, for hearings on Bill 68, An Act with respect to community safety and policing.

I will now call our next witness to come forward: Sukhpreet Sangha, who is a lawyer from the South Asian Legal Clinic of Ontario. Thank you, Ms. Sangha. Pursuant to the order of the House dated March 5, 2019, you will have up to eight minutes for your presentation, followed by 12 minutes for questioning, divided equally among the recognized parties. Please state your name for Hansard, and you may begin your presentation now.

**Ms. Sukhpreet Sangha:** Thank you. It's Sukhpreet Sangha, and yes, I'm a lawyer with the South Asian Legal Clinic of Ontario.

Briefly, the South Asian Legal Clinic of Ontario, or SALCO, is a not-for-profit legal clinic established to enhance access to justice for low-income South Asians in the greater Toronto area. SALCO provides direct legal services within South Asian communities in various areas of poverty law and also addresses systemic issues for racialized and other disadvantaged communities.

Our submission is a joint submission. I'll briefly name the other organizations that have signed onto it. They are Colour of Poverty—Colour of Change; the Chinese and Southeast Asian Legal Clinic, from whom you'll hear at 5 o'clock; the Black Legal Action Centre; the Ontario Council of Agencies Serving Immigrants; the Council of Agencies Serving South Asians; Punjabi Community Health Services; and the Urban Alliance on Race Relations.

Of course, we welcome the opportunity to make this submission to the Standing Committee on Justice Policy, but we also want to recognize that because of the short timelines, there are many other communities that were not able to be present at this hearing today or submit written submissions. We know from our previous participation regarding bills such as Bill 175 that there is often more lead time to foster greater participation. That said, of course, we are grateful to be here.

I'll start with a bit of background on systemic racism in policing and the criminal justice system. Studies commissioned by governmental bodies and agencies have confirmed that members of racialized communities are overrepresented in the criminal justice system due to racial profiling and other forms of systemic racism. As a result, many members of racialized communities experience a profound lack of faith in policing and criminal justice, looking to oversight bodies to correct problematic behaviour and enact systemic change. Since members of

racialized communities are often over-policed and over-represented in the criminal justice system, they also face greater risk of police misconduct and so particularly require the existence of a robust, independent police oversight system

Regarding LECA's planned lack of independence: Bill 68 proposes that the Office of the Independent Police Review Director be replaced with a new agency called the Law Enforcement Complaints Agency, or LECA. LECA would handle public complaints against police and have the discretion to direct them to either a police force or an agency investigator. Applying this discretion, it could direct a complaint against a police officer back to the very police force that employs that same officer.

The planned scope of LECA's referral discretion represents a stark departure from the last provincial government's proposal in Bill 175: that their new version of the OIPRD, to have been named the Ontario Policing Complaints Agency, be fully independent within a five-year period, and thereby stop referring complaints out entirely. Enhancing the independence of police oversight was a key tenet in Justice Tulloch's Report of the Independent Police Oversight Review, and we are disheartened to see that it has not been embraced in Bill 68. Racialized communities cannot be expected to place faith in an oversight structure that continues to allow for police officers to investigate complaints made against their colleagues.

Moving on to unduly limiting the scope of SIU notification: As currently drafted, Bill 68 would limit the scope of SIU involvement by no longer mandating SIU notification in any case involving a civilian death in the presence of police. Instead, SIU notification would only be required for incidents where the use of force, arrest, or police vehicle pursuit result in the death or serious injury of a civilian, as well as when an officer discharges their firearm or when allegations of sexual assault are made against an officer. In other incidents involving police where a death occurs, a designated authority such as a police chief would have the power to determine whether or not the SIU should be notified.

This proposed limitation on SIU notification unduly limits its potential jurisdiction. It again leaves oversight in police hands when it ought to be handled independently. The SIU should continue to be mandatorily notified in any instance of civilian death involving police. It can then make its own determination as to whether or not investigation is merited, based upon the details of the particular situation.

Where there is uncertainty, the legislation should tend towards being over-inclusive and thereby leave it to the SIU to determine, ultimately, whether or not an incident falls within its mandate. In order for that framework to operate properly, the SIU must be notified of all incidents that potentially fall within its mandate. This structure would accord with Justice Tulloch's recommendations and enhance the independence of our police oversight system, providing a much-needed boost in public confidence.

The failure to increase fines for officers refusing to co-operate with the SIU: While Bill 68 maintains a duty for officers to co-operate with the special investigations unit, the fines for failure to do so are decreased from those proposed in Bill 175. The legislation proposes a fine of not more than \$5,000 for a first offence, which limit is increased to \$10,000 for a second or subsequent offence. Under the previous government's bill, officers could have been fined up to \$50,000 for a subsequent offence of failing to co-operate with an SIU investigation.

The lower monetary penalty is disappointing, as it fails to address the known reality, as confirmed in numerous police oversight reviews, of officers refusing to co-operate with SIU investigations, thereby significantly hampering their effectiveness. The penalty for failing to carry out statutorily mandated duties cannot simply be a cost of doing business. It must be a meaningful punishment, with a fine that carries real consequences and thus signifies the importance of officer co-operation with the SIU.

Further, Bill 68 contains overly permissive language regarding the duty to comply with directions or requests from the SIU director or an investigator, qualifying the directions or requests as having to be "reasonable" and the compliance as not "impracticable." Similarly, witness officials are only required to answer investigators' "reasonable" questions. This vague and ambiguous language will cause disagreements regarding what is reasonable or impracticable and discourage full co-operation with the SIU, causing delays in investigations and even litigation.

Chiefs' limited authority to suspend officers without pay: Members of the public and police associations have both routinely decried the common practice of suspending officers with pay while they are under investigation for misconduct. This procedure undermines public confidence in the police oversight process as it signals that complaints are not even taken seriously enough to result in unpaid suspensions. Instead, officers are often paid generous salaries while severe allegations of their misconduct are investigated.

Unfortunately, Bill 68 does not seek to significantly alter this problematic status quo. Under the legislation proposed, a chief of police may only suspend an officer under investigation for misconduct without pay for a period not exceeding 30 days or 240 hours.

It is unclear to us why this rigid limitation persists, despite widespread condemnation and resulting loss of faith in the police oversight system as a whole. This lack of a protocol to suspend officers under investigation without pay for longer than one month again signals a lack of intention to give complaints of police misconduct the weight that they demand.

Finally, our recommendations based on the aforementioned points:

First, we submit that Bill 68 should be amended to include a sunset provision that would mandate LECA's full independence within five years of enactment, removing its discretion to refer complaints back to police forces.

Second, we further submit that Bill 68 should require mandatory notification of the SIU in any case of civilian death in the presence of police.

Third, we further submit that Bill 68 should increase the maximum fine for officers' failure to co-operate with an SIU investigation to \$50,000.

Fourth, we further submit that Bill 68 should broaden chiefs of police's authority to suspend officers without pay pending investigation into allegations of misconduct, beyond the proposed maximum of 30 days or 240 hours.

Finally, we urge the government to continue consulting with racialized communities as it moves forward on enhancing our police oversight system, to ensure suitable implementation of the proposed changes.

To conclude, we note that Bill 68 has adopted several of Justice Tulloch's recommendations, including mandatory training regarding human rights, systemic racism, diversity, and Indigenous rights; the imposition of 120-day time limits on SIU investigations; and the requirement for the SIU director to release public reports in investigations where no charges are laid.

**The Chair (Mr. Parm Gill):** One minute.

**Ms. Sukhpreet Sangha:** We are heartened to see the inclusion of these provisions and strongly encourage the government to work towards full implementation of the recommendations made by Justice Tulloch.

Thank you. Somehow I've concluded early.

**The Chair (Mr. Parm Gill):** Awesome. Thank you very much. We will begin this round of questioning with the NDP, the official opposition. We'll start with MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you so much for your submissions.

I want to draw on the last recommendation that you had. I'm wondering what amendments you feel would be needed to help to build trust between marginalized communities that have been over-policed etc., and in particular if there's anything in the training that would need to be developed, which is also included in this legislation, that you feel we should think through.

**Ms. Sukhpreet Sangha:** In terms of the training, the language in the legislation is not very specific, as noted in our recommendation. It does talk about systemic racism and diversity and human rights, particularly Indigenous rights and traditions. However, we would prefer if it was very explicit about the training needing to be anti-racist and anti-oppressive, and the need for that training to be created in deep consultation with the affected communities, particularly Indigenous communities, Black communities, but also other racialized communities.

So we would look for meaningful consultation that really deeply involves us and members of those other communities in developing that training within a defined anti-racist, anti-oppressive framework.

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**Ms. Laura Mae Lindo:** Beautiful. Thank you.

**Mr. Kevin Yarde:** Ms. Sangha, thank you for coming in—

**The Chair (Mr. Parm Gill):** If I may, I just want to remind all members that if you wish to ask questions, please raise your hand so that the Chair has an opportunity

to recognize and then Broadcasting also can turn on your microphone.

We'll go to MPP Yarde next.

**Mr. Kevin Yarde:** Thank you, Chair.

Thank you, Ms. Sangha, for coming in today. I just want to talk to you about one area that you did mention, the OIPRD, otherwise known as the public complaints agency. Why would you say that they should be fully independent? What do you think is the importance of that agency being fully independent?

**Ms. Sukhpreet Sangha:** I think full independence is important for a variety of reasons but most primarily for the public to have full confidence in the oversight system. Without full independence for the body that investigates public complaints, the system becomes a bit suspect. Justice Tulloch's report is very clear that he heard from many people across his broad consultations that if their complaints were not being investigated independently, they didn't have faith in that investigation.

It's like any other employment situation. If I complain about the conduct of my boss to an outside authority and then that outside authority refers my complaint back to my boss or even to another supervisor within my office, how much faith can I really have in that investigation process? I think it's very analogous to any other employment situation, and so it's of crucial importance for that agency to become independent. That is actually our most substantial criticism of the bill, as proposed.

**Mr. Kevin Yarde:** Thank you very much.

**The Chair (Mr. Parm Gill):** We'll go to MPP Singh next.

**Ms. Sara Singh:** Thank you very much, Ms. Sangha, for being here today and representing so many different voices. I think it's very important, what you've shared here with us.

I'm going to just follow up on Mr. Yarde's questions around the importance of having the OIPRD, now LECA, remain independent. Are there any specific amendments that you would recommend that would allow this oversight body to be strengthened and perhaps allow that community perspective to be included, perhaps, in their board composition, as one example? If you may have some others, that would be very helpful.

**Ms. Sukhpreet Sangha:** I think, in terms of board composition and also the composition of the investigative staff, there ought to be a recommendation regarding diversity of those staff, in terms of staff—especially investigators—who are not former police officers, and also racial diversity, in terms of the backgrounds of those staff. That would be very helpful in terms of promoting public faith.

In terms of independence, I think our first recommendation is the most important one, again, which is a sunset provision that would require that independence within a prescribed period of time, which we recommend to be five years but of course could be a different period of time.

**Ms. Sara Singh:** Thank you.

**The Chair (Mr. Parm Gill):** We'll go to MPP Andrew next.

**Ms. Jill Andrew:** Thank you, Ms. Sangha, for coming in. I wanted to get your opinion on whether it's a concern or not that the minister is the one who decides on the equity training for officers. I want to know your thoughts on who you'd best think would be most fit to decide on what equity and human rights training officers receive.

**Ms. Sukhpreet Sangha:** I think that that decision should be made in consultation with members of the affected racialized communities, especially, who have been subject to the greatest abuses by police in recent years.

Obviously, the process needs to involve the minister, but the process needs to involve more than the minister. That involvement needs to be lengthy; it cannot be rushed. It needs to have meaningful consultation from a broad scope of non-profit organizations, such as those listed on our submission but also many others—Indigenous communities, in particular. Those consultations need to involve a broad scope of youth and adults and people who have had interaction with these oversight bodies and police interaction. They would have a lived experience of what they're looking for in the process and what sorts of equity considerations they didn't find to have been considered in their own experiences with the oversight bodies and with police, to make that training especially meaningful.

Of course, the ultimate discretion, we would expect, would lie with the minister in terms of determining the training. But we would have much more confidence in the training if it was created as a result of that kind of consultative process.

**Ms. Jill Andrew:** Just to follow up—

**The Chair (Mr. Parm Gill):** Thank you, MPP Andrew. That's all of the time we have. We're at six minutes. We'll now move to the government side. I understand it's MPP Sarkaria who's going to go first.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much, Ms. Sangha, for coming here today. I appreciate you delegating here today.

I noticed, through listening to your initial comments, that we spoke to the SIU and its mandate. One of the incidents that I'll bring to your attention, or that I would like to ask you about is this: As an officer arrives on a scene and an individual commits suicide, should the SIU be triggered?

**Ms. Sukhpreet Sangha:** Yes, it should, and then it should be up to the SIU to decide how to proceed next, in terms of whether or not an investigation is merited or not. The SIU does have provisions to close a case by way of a memo, so it's not like this requirement would create some sort of onerous investigation or accuse an officer of improper conduct. It simply allows for some independent review of what has transpired. In many cases, those types of cases are closed quite quickly by the SIU by way of a memo from the director.

**Mr. Prabmeet Singh Sarkaria:** Okay. So even as an officer arrives on-scene and the individual has committed suicide, it should trigger an SIU investigation?

**Ms. Sukhpreet Sangha:** Yes, because that would represent the scope of independent oversight that we are

looking for. Again, we don't find that recommendation or that requirement to be deeply onerous.

**Mr. Prabmeet Singh Sarkaria:** When we're speaking to the independence of the agency, it's not within the ministry. Is that correct? From the bill that has been presented, the LECA is not under the ministry?

**Ms. Sukhpreet Sangha:** Right, and that's great. We support the fact that it would be independent in that way, yes.

**Mr. Prabmeet Singh Sarkaria:** Thank you. I'll pass it on to Mr. Baber.

**The Chair (Mr. Parm Gill):** We'll recognize MPP Baber next.

**Mr. Roman Baber:** Thank you, Ms. Sangha. Just to follow up on MPP Sarkaria, the fact that LECA is an independent agency in fact assures the independence of the investigation. Am I not correct?

**Ms. Sukhpreet Sangha:** I wouldn't agree with that statement, no, because LECA could have—LECA would, in fact, the way this legislation is proposed, have the discretion to refer an investigation back to a police force. That could be the police force of the subject officer, or it could be a different police force. But that necessarily limits its independence. It makes that choice, and it is an independent agency, yes, but when it refers the investigation back to a police force, it loses that level of remove and that independence.

**Mr. Roman Baber:** However, you have omitted from your remarks, or from your response to me, to state that a complainant would have a right to review, from the local chief of police or from the local investigating force, to refer the complaint back to LECA. Specifically, within 30 days of getting notice—and this is provided in section 167, subsections (3) and (4)—subsequent to a determination by a local police force, and subsequent to the receipt of notice of the determination, the complainant is then free to refer the matter for review back to LECA, and such review shall take place within 30 days.

In fact, when I look at the powers of review, the powers of review here are very, very onerous by the complaints director, and very, very extensive. They may confirm the determination. They may refer it back to a new investigation. They may refer it to another chief of police. They can cause the matter to be determined by another investigator.

So, it seems to me that while you may suggest that a chief of police may not have independence, you do acknowledge that LECA would be independent, and we can clearly see that there is recourse for any complainant to go back to LECA and get a fair determination.

**Ms. Sukhpreet Sangha:** Sure, that recourse is available. But, of course, if I look under subsection (5)(a) of that, the complaints director may also confirm the determination, so it may result in no difference.

I appreciate that there is some oversight—

**Mr. Roman Baber:** I understand that you may not like the ultimate outcome, but I'm speaking with respect to the process—that the process provided in the legislation is a fair process that would allow for an independent determination and an independent review of such determination. Thank you.

**The Chair (Mr. Parm Gill):** Are we going to go back to MPP Sarkaria?

**Mr. Prabmeet Singh Sarkaria:** Yes. I think our last question would just be your thoughts on the proposed changes to the Coroners Act.

**Ms. Sukhpreet Sangha:** I don't have any thoughts on the proposed changes, but thank you for asking.

**Mr. Prabmeet Singh Sarkaria:** Okay. That concludes our questions.

**The Chair (Mr. Parm Gill):** Thank you very much. I want to thank our witness.

#### ONTARIO PROVINCIAL POLICE ASSOCIATION

**The Chair (Mr. Parm Gill):** We will now move on to our next witness: the Ontario Provincial Police Association. We've got Rob Jamieson and James Girvin. If you want to come up and have a seat, please.

Thank you very much. Thank you for appearing before the committee. You will have up to eight minutes to make a presentation, combined, and then we will move to 12 minutes of Q&A split equally amongst both the official opposition and the governing members. Please begin by stating your name for Hansard.

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**Mr. Rob Jamieson:** Sure. My name is Rob Jamieson. I'm the president of the OPP Association. I'm joined today by James Girvin, counsel for the OPP Association.

The OPP Association works on behalf of all civilian and non-commissioned uniform members of the Ontario Provincial Police. There are over 6,200 uniformed and approximately 3,600 civilian members who belong to the association. Our members work hard every day to keep our communities safe, healthy and prosperous. Professional, well-trained and committed, our members provide effective, and cost-effective, policing services to 324 Ontario communities—from Essex to Thessalon to Thunder Bay, across nearly a million square kilometres of land and 100,000 square kilometres of waterways—our members are proud to serve.

While our members are looking out for our communities, the association is looking out for them. As their sole bargaining agent, we represent members' interests in negotiations with the employer, the Ontario government; however, an equally important task is the promotion of healthy and safe work environments. We advocate for better tools and equipment, improved health and safety standards, and better supports for members suffering from operational stress injuries, among other things. These improvements help to keep our members and our communities productive and safe.

As part of that mandate, I appear before you today to provide comments on Bill 68. The OPPA, the Police Association of Ontario and the Toronto Police Association are all supportive of building stronger and safer communities in Ontario as well as creating effective and meaningful civilian oversight of police. Those laudable goals,

however, must not come at the expense of public safety or officers' rights as workers in the province of Ontario.

The previous government attempted to enact legislation in the form of the Safer Ontario Act, 2018, that vilified police officers in Ontario and attacked their rights as workers. I'm very appreciative of the work that this government has done to put a halt to such a divisive piece of legislation with the introduction of Bill 68. I am confident that Bill 68, with relatively few minor changes, will restore a proper balance to policing in Ontario and will instill public and police confidence.

Like my colleagues Bruce Chapman of the PAO and Mike McCormack of the TPA, the OPP Association recognizes and supports the need and importance of a robust police oversight system, which is an integral component of maintaining the trust and confidence of the people of Ontario in their police services and police officers.

Let me focus on the SIU. The SIU was formed in August 1990 and has conducted criminal investigations into circumstances involving police and civilians that have resulted in serious injury, death or allegations of sexual assault. It is vital to consider that the impetus for the SIU's existence is to maintain public confidence in police services and police officers and not that police were involved in criminal conduct. Indeed, the vast majority of SIU investigations do not result in any criminal charges because police officers, day in and day out, conduct themselves professionally and conscientiously to protect the lives of Ontarians and to make our communities safer. Police officers carry out their duties notwithstanding they regularly face unpredictable, tense, volatile and often life-threatening situations. Again, the vast majority of those situations are successfully resolved without incident, but these incidents seldom receive any media attention.

Considering the important role of the SIU, they must conduct their investigations in a timely, transparent, fair and accountable manner that balances transparency with the needs of their investigation. With respect to the provisions of Bill 68 governing the SIU, specifically schedule 5, the Special Investigations Unit Act, 2019, this government has already made significant changes regarding the timing of reports from the SIU director. As well as the SIU's mandate vis-à-vis incidents where officers provide life-saving measures, such as the administration of naloxone, I applaud and thank the government for those changes.

We have provided a fulsome list of our concerns to the government already, so today I wish to concentrate on just a few particular areas of concern. The people of Ontario can find comfort in the fact that the previous government was unable to provide any examples where officers failed to co-operate with the SIU. If there is a circumstance where an officer has not fulfilled their statutory obligations to co-operate in the course of an SIU investigation, he or she can be the subject of discipline, such as insubordination, neglect of duty or discreditable conduct.

Under the already existing penalties in the PSA, the Police Services Act, for non-co-operation with the SIU—

which, by the way, will continue under Bill 68—officers who do not co-operate with a lawful SIU request can be charged with insubordination and/or neglect of duty. That power has been around for years, yet there has been no need to charge and prosecute.

Secondly, I wish to discuss the issue of subject officers' notes. Under the current PSA, the SIU is not entitled to receive a copy of the subject officers' notes. This is entirely appropriate, because subject officers are suspects in a criminal investigation and have the right to remain silent. Unfortunately, the PSA does not define what the word "notes" means.

The previous government's Ontario Special Investigations Unit Act, 2018, tried to erode subject officers' rights by proclaiming that "notes" mean only those that the officer writes in his or her memo book. The reality of policing, however, is that officers write not only in their notebooks but also write occurrence reports, arrest reports, duty reports, logs, K-9 training records etc. We take the position that the SIU should not be entitled to receive anything authored by the subject officer.

Bill 68 has kept alive this concept from the previous government. The relevant subsections must be amended or deleted to ensure that all compelled written statements are withheld from the SIU.

Another concept from the previous legislation has also survived under section 24 of the SIU act regarding subject officers' notes. While the current PSA has an absolute prohibition against the SIU obtaining a subject officer's notes, the former government sought to restrict the definition of "notes" further by relating the timing of the creation of the notes to when the SIU invoked its mandate. The artificial construct is confusing, to say the least, and will be vulnerable to abuse. We would ask the government to revert to the status quo and prohibit the SIU from attaining subject officers' notes no matter when they were made.

Finally, I would suggest an addition to Bill 68 which has not yet, to my knowledge, been considered by either the previous government or this government. As we have said on many previous occasions, police associations welcome oversight of policing. We believe it's an essential part of policing, and we will continue to do so for years to come.

Having said that, we are also aware that on occasions in the past, citizens have overtly and maliciously made false accusations against police officers which have triggered criminal investigations against those officers. Being the subject of a criminal investigation is extremely stressful and can negatively impact a member's career, their mental health and their home life.

**The Chair (Mr. Parm Gill):** One minute.

**Mr. Rob Jamieson:** While it is helpful to eventually be cleared of those allegations, often the damage has been done. To date, however, rarely has a complainant been held responsible for a patently false complaint. Police services have been obstructed in their investigations of the criminal offence of public mischief because the SIU refuses to co-operate with such investigations. While

officers must be held to account for their actions, so must citizens who flagrantly violate the law. The SIU should be required to assist police services that conduct such investigations.

In closing, I would just like to thank this committee here today on behalf of the people that I represent. I'm subject to any questions that you may have. Thank you very much, merci beaucoup and chi-miigwetch.

**The Chair (Mr. Parm Gill):** Thank you very much. Thank you for your presentation. We will begin this round with questioning from the government members. We'll start with MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** First of all, I just want to thank you, Mr. Jamieson, for being here today, and thank you for all the work that you do for your members and the work that your members do to keep this province safe. I just want to start it with that. We heard the concerns of our first responders, our officers. Bill 175, as you said so well, really vilified our police officers, and that's what we undertook to change.

One of the examples that you had mentioned was our change to the policy on naloxone, which was something that was very well received by many of the members, many front-line officers. Just to add to that: Within this legislation, we have proposed changes to the Mandatory Blood Testing Act, as well, which would expedite the process to obtain blood samples and to enforce rules to protect our first responders.

I was wondering if you could comment on that and how you think that will benefit your members and first responders at large.

**Mr. Rob Jamieson:** Yes, it certainly is the wider first-responder community, as well, for sure. Specifically with naloxone, though, I could tell you that whether an investigation lasts a day or lasts a week—but in many cases, we're seeing some of these investigations from the SIU lasting several months, up to a year and a half. These are incredibly stressful times, because you're being looked at through the criminal lens. It's not just the officer; it's their colleagues, their spouses, and their children.

When this government came in and stood the SIU act down, I can tell you that the morale from the people that I represent, because they knew there was going to be a pause, and when the naloxone was changed—and then you look at the issues around the Mandatory Blood Testing Act as well. I can tell you, having been involved in circumstances as a platoon sergeant and having had some of the officers under my command affected in this manner, and you're at the hospital and you're trying to get a blood sample, under the previous legislation, there was no teeth in there, and there was no ability to find out from the person who potentially has infected one of the officers.

**1430**

So we really welcome this. This goes a long way, especially when we look at the mental health of first responders. The ability to find out whether or not in fact you have been infected with a contagious disease is absolutely paramount. When you look at how that spills over into their spouses, their families, and the stress that



first responders go through, specifically law enforcement in these cases, all I can say is thank you on behalf of our members.

**Mr. Prabmeet Singh Sarkaria:** Thank you for all that you do. I'm just going to pass it on to my colleague Mr. Babikian.

**The Chair (Mr. Parm Gill):** Yes, we'll go to MPP Babikian.

**Mr. Aris Babikian:** Thank you, Mr. Jamieson, for coming and sharing your valuable and first-hand information with us on how to improve this act. My question is, what happens to the officer who is under an SIU investigation? What is the ramification, the effect of that investigation on him for the next 12 months, year and a half? What is the psychological and other effect on him?

**Mr. Rob Jamieson:** Well, I can tell you, for anybody that has been paying attention to some of the issues we've been having in the OPP with regards to suicides of police officers and the mental health and well-being, I can't—I'll share. I speak sometimes from personal experience, because that's what I can do. I'm a former internal affairs investigator for professional standards in the OPP. Okay? I've seen first-hand. I've held officers accountable through criminal investigations, and I've seen first-hand myself the stress that puts on our people. Now I'm on the other side in some regards with regard to being the president of the OPP Association.

That stress, when you look at it—and you're now in a position to try to bring that perspective into those changes—is absolutely debilitating to the people when they come under those criminal lenses. This goes on for months and months and months, and I'll tell you, the health and well-being of our people—I am extremely concerned. This is one of the biggest issues that we have raised for quite some time, specifically around delay. I'm so happy to see that there is a commitment to bringing that down to four months, something more reasonable than letting people dangle out there for a year and a half, not knowing when or if anything is going to happen. I can tell you, the damage is insurmountable. It is just unbelievable. As I stated earlier, we have a mental health crisis in law enforcement, specifically in the OPP and the first responder community.

This is welcome news, and it has reverberated across the province, specifically the fact that this government is going to deal with the delay issues. I will say that I sat around this very table last time and had sat on the Future of Policing Advisory Committee along with other stakeholders, and we've been attempting to address this issue in particular for many years now. So we say, once again, thank you for hearing our concerns. The families of the law enforcement people that I represent thank you.

**The Chair (Mr. Parm Gill):** We've got about 40 seconds. MPP Park?

**Ms. Lindsey Park:** Thank you, Chair. Just a quick follow-up on that: What are your thoughts on the changes to the SIU notification process, and specifically as it relates to investigation timelines, given that you've explained the weight an investigation has on an officer?

**Mr. Rob Jamieson:** I'll defer to counsel.

**Mr. James Girvin:** The timelines are of critical importance. They maintain confidence, both in the public and in the police officers. Particularly the example that was given by your colleague in relation to suicides—the trained professionals, the superiors within the organization, have the opportunity to assess the situation on a first-hand basis and—

**The Chair (Mr. Parm Gill):** Thank you very much. Unfortunately, that's all the time we had. We will have to move on to the official opposition. We'll go to MPP Yarde.

**Mr. Kevin Yarde:** Thank you, Chair. Thank you, Mr. Jamieson, for coming in, and Mr. Girvin.

I want to talk about PTSD. I'll get my colleague to speak about that in just a second. But first of all, I want to talk about Bill 175 and Bill 68, how they're pretty much the same when it comes to privatization. What are your concerns with privatization, the fact that private delivery is still a danger in this bill?

**Mr. Rob Jamieson:** Well, I somewhat disagree with the way that that was proposed, and I'll tell you why. I was in the House, actually, when this bill was voted on. I sat up in the gallery. We were expecting the NDP to go one way with this legislation, because of how strongly you purport to say you're against privatization. We were very concerned with Bill 175, and we had stated that at that time to all parties. When you use the words “crime prevention” in there specifically, that is very fast and wide, and it allows anything to come in. So we were very much against the privatization aspect.

I don't see and I have not seen the flags on this, and maybe you can draw my attention to it or someone else can. But certainly the arguments around privatization were much stronger in the last go-round, and I have not experienced that this time. I have had those conversations with your leaders, in particular, about this. We had a private conversation. It was somewhat shocking to us that the NDP voted in favour of this because of the components around the concerns we had specifically around privatization.

**Mr. Kevin Yarde:** What amendments would you put forward, then, to ensure that privatization didn't occur?

**Mr. Rob Jamieson:** Well, I think there was some language around there that has changed. I'd have to defer to counsel to exactly pull it out. It's certainly something we can sit down—but through this process, the focus on privatization, I was part of the Future of Policing Advisory Committee, which had multiple stakeholders on there, at that time, for a couple of years, under Kathleen Wynne, and there were all these different discussions that were occurring about, “Well, we can replace this with this,” and “We can replace canine with this,” and “We can get the interception of private communications with”—and Taras Natyshak talked about that very thing in the House and how concerned the NDP were about stuff like that. Quite frankly, we were concerned about those issues, as well. I haven't seen that same rigour and specificity in Bill 68 that would lead me to have the same concerns as we had before.

**Mr. Kevin Yarde:** Well, it is in there.

I'll pass it to my colleague Laura.

**The Chair (Mr. Parm Gill):** We'll now move to MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you so much for your submissions.

I'm particularly interested in having you explore a little bit more the mental health crisis that we know our front-line officers are experiencing. I'm wondering if you feel that, within this legislation, there's enough support for things like PTSD etc. I do know that if we don't support our front-line officers, then that can also end up being problematic in marginalized communities.

**Mr. Rob Jamieson:** We certainly need our officers and civilians of law enforcement to be healthy. We have a problem and we have to call it out. For a long period of time, we didn't talk about these things.

In order for part of the solution to occur, we need to have respect for each other. I was taught at a young age—and I've said this before—never to take away someone's dignity.

I think some of the conversations—even when I sat through the street checks with Mr. Justice Michael Tulloch, who is a good man—it was interesting, sitting in that forum, a couple of months ago, amongst community stakeholders and other police stakeholders. It was almost like the beginning of next steps on conversations and trust. I got the sense that there was a really good feeling in that room.

I think that's where it begins. I think it really does begin with respect.

The people that I represent are incredible people. They're professionals. But we have a problem. Part of the problem is stigma. Part of the problem is that we have silos going on within the OPP, within law enforcement, within the first responder community, and within society as a whole.

I'll be very candid. This government coming in, standing the SIU act down, listening to our concerns—having been a former internal affairs investigator and seeing that first-hand, the effects of these investigations—I think the respect to law enforcement. At the same time, we accept the fact that we need to be accountable as well. I think there's a balance there.

**Ms. Laura Mae Lindo:** Do you believe there's enough in the legislation to provide the support for PTSD and mental health that's required?

**Mr. Rob Jamieson:** I can tell you, there's much more in there than there was in Bill 175.

**Ms. Laura Mae Lindo:** The reason I ask is because it's important for us to provide the support, so I just want to know if we can do better.

**Mr. Rob Jamieson:** I liked your comment about healthy officers, healthy communities, if I were to paraphrase what you were saying. I think that's absolutely critical—mind, body and spirit. We're all in this together. Everybody wants safe communities.

Is there enough in there? I think there are some amazing first steps. I think some of the language about respect for

police has been very welcome in the province. We have been feeling demonized for many years now. In fact, that's part of the problem. We want to work with communities. We want to work with racialized communities. We want to work with Indigenous people and communities. Many of us, myself included, have worked in Indigenous communities.

1440

**The Chair (Mr. Parm Gill):** Thank you very much. I want to thank MPP Lindo and I want to thank our witnesses for appearing before our committee. Really appreciate your time.

MR. OMAR HA-REDEYE

**The Chair (Mr. Parm Gill):** We'll now move to the next presenter. Our next presenter is Omar Ha-Redeye. Please make your way.

Thank you, Mr. Ha-Redeye. Thank you for appearing before the committee. I just want to remind you: You have up to eight minutes for your presentation, and then we'll have 12 minutes of questions and answers: six minutes on the government side, six minutes from the official opposition. Please begin by stating your name for Hansard; then you can begin your presentation.

**Mr. Omar Ha-Redeye:** My name is Omar Ha-Redeye.

The crux of my submissions is that the purpose of the bodies that are governed by this legislation are not intended to create a balance. I think that would be a mis-characterization. These bodies in particular are intended to create transparency, public confidence and trust. And it's because of the lack of public confidence and trust, in particular in the past few years, that there's a revisiting of the legislation and of the bodies. Specifically, my submissions are going to focus on transparency of the agencies that are involved and transparency specifically for the purposes of bolstering the public confidence.

I'll take a step back and say that when we're talking about the public, not all members of the public are necessarily the same. So when we talk about public confidence, there might be a public confidence for the population at large, but when we talk about—and I'm going to use the words that are used in the Tulloch report—Indigenous, Black and racialized communities, the confidence of those populations specifically is what I would call—and I think it's alluded to in the Tulloch report—in crisis.

If we look at the institutions and the bodies that are set out in this legislation and what Bill 68 is intended to address, it's actually quite clear. In the written submission, you can find in paragraph 7 that the recognition at the highest levels of our judicial system that racialized members of Canadian society experience our legal system differently is fully acknowledged. This should not be a dispute. So when we're looking at what the public confidence is, we need to understand that lens.

My submissions, although I am a lawyer, also come as a racialized individual in society and in particular a racialized member in Toronto, who grew up in Toronto for my entire life, with extensive—thousands of—interactions

with law enforcement, which unfortunately were not necessarily always positive. The benefits of being a lawyer today obviously change the nature of those interactions, but for the vast majority of the population—the racialized, the Indigenous and the Black populations of Toronto—those experiences still continue to be plagued by conflict and by significant concerns about police accountability.

If we look at the creation of the SIU itself—and you can find this in our background, from paragraph 9—starting with the death of two Black men, Lester Donaldson and Michael Lawson, back in 1998, and the protests and the activism and the concerns that were expressed, this is actually what led to the SIU: the concerns of racialized Black people in Toronto specifically. Although this legislation is province-wide, it is very, very important to recognize that there is a particular lens that needs to be examined, recognized and acknowledged for—and I'll use, again, the language of the Tulloch report—the Indigenous, Black and racialized communities in Toronto.

My submissions are primarily twofold. Again, they're focused on transparency. The first one is on the independence of the police complaints agency. I apologize; I wasn't here for the entirety of today's submissions, but I did catch some of the comments from the members, and I'll try to address that.

The issue of independence is paramount, and it is highlighted quite extensively in the Tulloch report. It comes from the sense that, for these communities, for these specific members of the public, who feel already estranged from society, from the justice system and from law enforcement, there is a concern that they're not going to complain to any agency that is not entirely independent. What I mean by that is, if there is any mechanism that allows for a complaint to then go back to a police agency, and requires individuals from these communities—who feel, again, already estranged from law enforcement—to approach that police agency, the likelihood of them doing so is in fact quite slim.

It is for that reason that there is a sentiment that was expressed in the Tulloch report that the system appears to be rigged. There is a sentiment that was expressed in the Tulloch report that you cannot complain about the police to the police.

I do want to emphasize that my submissions, despite highlighting the plight and the perspectives of the Indigenous, Black and racialized communities all across Ontario but particularly in Toronto, should not be construed as an undue attack or an anti-police sentiment. In fact, it's quite the opposite. As an officer of the court, as a lawyer who is working within the justice system, it is of particular concern that certain segments of our population have the sentiment and the appearance of law enforcement, and the legal system as a whole, that they do.

The remedy, if you will, the way that we actually try to cure this particular problem, is through increasing the transparency. That is the reason why the Tulloch report focuses primarily on measures related to transparency, because members of those communities can then review all of those incidents that are of question, or questionable, and build greater confidence.

I'll put this differently: Public information as it relates to the events of interactions with law enforcement need not necessarily be construed or understood as an attempt to overly scrutinize or denigrate the efforts of law enforcement. In fact, it could potentially be quite the opposite. It's an opportunity for members of the public and, in particular, members of the public who feel estranged from the justice system, to glean a better understanding as to how law enforcement operates and, in particular, what the rationale is in terms of public safety concerns.

It's very clear that the Indigenous, Black and racialized communities in Toronto also want to feel safe. They are also members of our public. But they need to feel safe with the full confidence of the police officers who are working in their communities and, hopefully, working in conjunction with them.

It is in particular because of the need of law enforcement to work in conjunction with the communities they are policing that we need to address this issue of transparency and bring the two parties—certain members of the public as well as certain members of law enforcement—together so that they can collaborate.

**The Chair (Mr. Parm Gill):** One minute.

**Mr. Omar Ha-Redeye:** I'll move very briefly to the second aspect of transparency, which starts in paragraph 32 of my submissions. This relates to the Osler definitions of what a serious injury would be.

In our submission, we would suggest that it is not particularly onerous to have every incident that results in a serious injury, or in a death, to result in a notification to the SIU. That is not a particularly onerous request. It is one which, again, would bolster the confidence of the public, and in particular the members of the public who do feel as if they are unduly targeted and are feeling estranged from our justice system.

Subject to questions, those are my submissions.

**The Chair (Mr. Parm Gill):** Thank you for your presentation. This round, we will begin with the members of the official opposition. We'll go to MPP Yarde.

**Mr. Kevin Yarde:** Thank you, Omar, for coming in today. We really appreciate you being here with us. I know, there were many individuals who would have liked to have come, but due to the constraints, the time frame, only one day to go through this bill—I know that with Bill 175, there were several days allowed to cover it.

You did mention Tulloch several times in your opening remarks. In terms of Tulloch's recommendations, in your view, what do you think this government should be doing to bring public complaints more in line with the Tulloch recommendations?

**Mr. Omar Ha-Redeye:** In my submissions, I focus on the two particular aspects of the independence of the police complaints agency. Under the previous iteration of this bill, which is rather similar—I understand that there are some distinctions that other members in the police forces are focusing on. But, in particular, there was a five-year review that was implemented in Bill 175. In the Tulloch report, it states explicitly that the five-year review was intended so that there was a data collection process

that would occur over those five years, and at the end of those five years, this would be a completely independent agency.

The failure, in my estimation, of Bill 68 is that it doesn't include this five-year review, and doesn't appear to have any intention of making this an entirely independent agency. That was, in many ways, the crux of the Tulloch report.

**1450**

I think it's difficult for this government to say that Bill 68 is in response to the Tulloch report when it is in fact ignoring the single most central aspect of the Tulloch report, which is greater transparency and greater independence.

**Mr. Kevin Yarde:** Thank you very much, Omar. I'll pass it on to my colleague Ms. Andrew.

**The Chair (Mr. Parm Gill):** We'll go to MPP Andrew.

**Ms. Jill Andrew:** Thank you very much, Omar, for your continued work.

I just had a question in response to the Tulloch report and the recommendations. Is it a concern of yours that the banning of carding is not explicitly addressed in Bill 68?

**Mr. Omar Ha-Redeye:** Thank you, member, for the question. I think, as I have alluded to, there has been what I would describe as a tumultuous relationship between law enforcement and the racialized/Indigenous populations in Toronto. It has been something which has increased the tensions and reduced the co-operation between the two.

One of the most central and contentious aspects of that was carding. I believe that there is unanimous or near-unanimous consensus, at least from the members of those communities, that those practices only aggravated the relationships and, therefore, resulted in worse policing.

I think we have to be careful about looking at strictly quantitative outcomes for policing. We also have to look at the sentiment and the public confidence, and not just law enforcement but the justice institutions.

If you have individuals—usually young, racialized men—who feel as if they're constantly being harassed by the police, what that also means is that they are going to feel less enfranchised in our society and, in fact, then resort more to anti-social or perhaps criminal behaviour, so it's counterproductive to our goals.

So, yes, I am very concerned that those particular measures are not explicitly referenced in this bill.

**Ms. Jill Andrew:** Thank you very much, Omar.

**The Chair (Mr. Parm Gill):** We'll go to MPP Singh next.

**Ms. Sara Singh:** Thank you very much, Omar, for being here and for sharing your perspective with us today.

I just wanted you to perhaps elaborate for the committee a little bit more on this thought of increased scrutiny, of police oversight, and how there is perhaps some way that we can also build further trust within the community. Can you just elaborate on that thought and rationale?

**Mr. Omar Ha-Redeye:** Certainly. I referenced very briefly in paragraph 2 an academic article that talks about the centrality of transparency in a democracy and, in particular, in a democracy that envisions, perhaps, a smaller

government and an increased emphasis or responsibility of the public in ensuring that government and its agencies are held accountable. That requires information and it requires transparency.

So if members of the public are looking at every single incident that results in a serious injury and a death, and they say, "Really, after looking at all this information, we can conclude that, by and large, the law enforcement are not engaged in anything improper; they're actually being very forthcoming; they're doing everything by the book," without question, in my opinion, that bolsters the public confidence, in particular in members of the public who have concerns about law enforcement.

**Ms. Sara Singh:** Thank you for sharing that. I think MPP Yarde has a follow-up question.

**The Chair (Mr. Parm Gill):** Yes, we'll move back to MPP Yarde next.

**Mr. Kevin Yarde:** Omar, I have a personal question for you: Have you ever been carded?

**Mr. Prabmeet Singh Sarkaria:** Point of order, Mr. Chair: I don't know how that's relevant to this committee.

**Mr. Kevin Yarde:** He was speaking to carding.

**The Chair (Mr. Parm Gill):** The question is in order. Please continue.

**Mr. Omar Ha-Redeye:** I can say that, especially as a young racialized man growing up in Toronto—I was born in the GTHA—I have had countless experiences with the police. Even today, when I go back to Scarborough, where my parents are and my in-laws are, when I'm not wearing a suit and I'm wearing jeans and a hoodie, and maybe even a do-rag—because it happens—I am treated very differently by law enforcement and, in fact, members of society at large than I am when I'm wearing a suit.

To directly answer your question, I don't have certainty, because I have not done the access-to-information request to see what actually is there on me. Since becoming a lawyer, typically, police officers will acknowledge the fact that I play an important role in the legal system, and I recognize the privilege that I have as a result.

That being said, many of my colleagues continue to experience what I would describe as adverse or undue experiences on behalf of law enforcement which they attribute to the fact that they are racialized.

**The Chair (Mr. Parm Gill):** Thank you very much. Unfortunately, that's all the time we have.

We're now going to move to the members of the government. We'll start with MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much for being here today. We really appreciate it, and your submissions as well.

I just want to touch upon one thing and get your thoughts on it, which is included within the bill, and that's with respect to when regulations are going to be prescribed through Bill 68. There will be public consultation, so I just wanted to get your opinion on what you think about that piece of the bill.

**Mr. Omar Ha-Redeye:** In terms of regulations, the one particular regulation that I'll point out is paragraph 34 of our submissions. This is for what we call the section 11 investigations.

**Mr. Prabmeet Singh Sarkaria:** In particular—I'll make it a bit more concise—just the process of posting any regulation for public consultation. So in that context, any regulations that are being put forward will be through public regulation in this bill.

**Mr. Omar Ha-Redeye:** Certainly. I will try to describe that perhaps more broadly than where I was going in my submissions. I will acknowledge the context perhaps where that question may be coming from, which is the single day that we have for information in that respect. The additional opportunity of members of the public to weigh in on this in terms of how we can specifically carve out regulations that address the issues that concern our community would, in fact, be beneficial. I think that is the question that is being asked. Obviously, regulations are changed and modified much more easily than legislation, and that is in fact the intended purpose of regulations, which is to allow them to adapt given the changing circumstances of our society.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much. Mr. Chair, no further questions.

**The Chair (Mr. Parm Gill):** Thank you very much. That concludes. I want to thank our witness for appearing before the committee and for your time. We appreciate it.

#### ONTARIO ASSOCIATION OF CHIEFS OF POLICE

**The Chair (Mr. Parm Gill):** We'll now move to the next presenter, which will be the Ontario Association of Chiefs of Police. We have Chief Kimberley Greenwood, president, and Jeff McGuire, executive director.

**Ms. Sara Singh:** Chair, just as they're setting up: Could we schedule a short recess between the next two presentations?

**The Chair (Mr. Parm Gill):** They're basically 20-minute slots. They're slotted all the way to—

**Ms. Sara Singh:** That's okay. I just thought I'd ask.

**The Chair (Mr. Parm Gill):** Yes, I appreciate it.

I want to thank our witnesses for appearing before the committee. I just wanted to remind you: You have up to eight minutes for your presentation and after that, we'll move to questions and answers: six minutes from the government members and six minutes from the official opposition.

**Mr. Roman Baber:** Actually, if I may, Mr. Chair, for the benefit of my friend, since we finished a little early with the previous witness, perhaps the Chair would entertain a three- to four-minute break, which is typically in order when you're back to back.

**The Chair (Mr. Parm Gill):** The only way we can do this is if we have unanimous consent from the committee members. If there's unanimous consent, we—

**Ms. Sara Singh:** It's not urgent. I just thought everybody might like a break. Thank you, though.

**Mr. Roman Baber:** You're welcome.

**The Chair (Mr. Parm Gill):** Perfect. We'll move forward with the presentation. Like I said, you have up to eight minutes and six minutes each for questions and

answers after that. Please begin by stating your names for Hansard.

**Ms. Kimberley Greenwood:** Thank you very much, Chair Gill. My name is Kimberley Greenwood. I'm the chief of police for the Barrie Police Service. I am currently the president of the Ontario Association of Chiefs of Police. With me today is Jeff McGuire. He is our executive director. Thank you for providing us this opportunity to address the committee on this very important bill.

The OACP is the voice of Ontario police leaders, representing more than 1,200 members at the level of federal, provincial, municipal and First Nations police services, as well as associate members who support our police leaders and officers.

Modernization legislation that guides members of all of our police services plays an important part in ensuring that we serve the changing public safety needs of Ontario. We are pleased that over the last several years substantial work and consultation has taken place between government decision-makers, police, community stakeholders and the public about effective and modern policing legislation in Ontario and what it should look like.

Last year, we welcomed the introduction of Bill 175, the Safer Ontario Act, as a step forward in ensuring our service members have the support and tools to deliver on the public safety and well-being needs of all of our diverse communities.

The current government's review of Bill 175 and its subsequent introduction of Bill 68, the Comprehensive Ontario Police Services Act, 2018, was also welcomed by us as a positive opportunity to ensure that we, as police leaders, have legislation that helps us (1) deliver on policing services; (2) meet public safety expectations; and (3) maximize public investments in law enforcement.

#### 1500

Our OACP Police Legal Advisors Committee is composed of legal experts from across the policing community in the province. They have thoroughly reviewed Bill 68 and assisted the OACP in providing comprehensive commentary and recommendations which we believe address issues in the proposed bill.

Since our time is limited, I have taken the liberty of ensuring that members of the committee have a copy of the full document, which addresses issues in Bill 68 in a substantial way.

I would like to highlight some principal issues we have asked members of the committee and all legislators to consider and to focus on two areas: public trust and confidence and police operational issues.

Without public trust and confidence, our police officers and civilian members cannot succeed in their duties. That's why we generally support changes to the police oversight in Bill 68 that are aimed at keeping police accountable while respecting our officers' rights.

We have also highlighted a number of issues for consideration, including discipline issues, which include recommendations on such matters as the cost of adjudicating hearings, and the termination of employment or demotion.

We have also touched on the issue of suspension without pay, which continues to not be adequately addressed. For example, in section 210, “Suspension without pay,” the provisions, as written, remain too limited and will not address acts of serious alleged misconduct that are not criminal in nature. These paid suspensions, when dismissal is all but certain, cost taxpayers of Ontario millions of dollars as discipline proceedings drag on. In the past, such hearings have gone on for years and even decades.

We would also make recommendations related to the definition of “serious offence” and the inclusion of “conditional sentences” in the list of terms of imprisonment that should result in suspension without pay. In our view, more work is needed in this area to address the concerns of the people of Ontario.

Regarding operational matters: We have made recommendations related to police service boards, including mandatory board member training, which we support; police service board duties; board policies; delegation of board powers; and other matters relating to our ability as police leaders to effectively work with our boards.

The OACP also proposes several amendments to parts of the bill which address accommodations of disability needs. They are extensive, and I urge the committee to carefully consider the recommendations of our legal experts.

To provide committee members with context, you should know that at any given time Ontario police services could have anywhere between 14% to 20% of our membership being accommodated—double the rate you will find in the private sector.

I had the opportunity to speak with Chief Saunders: The Toronto Police Service alone has up to 600 of its members off on accommodation on any given day.

I wish to state very clearly that our police officers and our civilian members are our most important and valued asset. Their well-being must always be a priority for police leaders.

OACP members balance the needs of our members with our own duties to operate our service in an effective and efficient manner. We must never forget that principle, but as police leaders, we have an obligation to the citizens whose tax dollars fund our services to do all that we can to make sure our police officers are accommodated in ways that maximize their ability to positively contribute to the mandate of our respective organizations.

We also want to respect the dedication of the vast majority of our officers and civilian personnel who come to work every day and give their all for the communities that we all serve.

In conclusion, on behalf of the OACP, thank you very much for this opportunity. I know you share our goals of making Ontario a safe place to live and work and of supporting our members as they serve the people of Ontario.

**The Chair (Mr. Parm Gill):** Thank you very much. This round will begin with members of the government. We’ll go to MPP Park first.

**Ms. Lindsey Park:** Thank you for joining us this afternoon. I couldn’t agree with you more when you say—if I get the quote a bit wrong, forgive me—that the well-being of our police officers must always be a priority.

I’m parliamentary assistant to the Attorney General, and so the SIU part of this bill is under our administration. One question I had is: What impact, from your experience, does it have on your police service when an officer is under SIU investigation?

**Ms. Kimberley Greenwood:** We do support the changes in the SIU portion of the legislation. We have members who have been impacted greatly by the delay the investigation takes. We have officers and services that fully co-operate with the SIU but we see significant delays in the outcome of the investigation and the letter to indicate that the matter is concluded. We appreciate the change of 120 days. I think that will assist in the well-being of our members, that they know what the expectations are, they engage with the requirements, they comply with that, and they will be aware in a much shorter period of time. Not only does it impact the officers, but it impacts their families and the full reputation of the service, which impacts every single officer.

**Ms. Lindsey Park:** Thank you.

**The Chair (Mr. Parm Gill):** We’ll go to MPP Sarkaria next.

**Mr. Prabmeet Singh Sarkaria:** Thank you for being here, Chief Greenwood and Mr. McGuire. We really appreciate you taking your time out and being with us here today. Thank you once again for all that you do. We really do appreciate it.

I’m very happy to hear that, when it comes to the SIU, you’re supportive of what we have proposed in the sense of the shorter timelines. We all know the stress. We’ve heard from many delegations the stress and what these officers go through and the fact that they are out there fighting for us, keeping our streets safe, our province safe, and that’s the least that we can do for them.

One of the other important aspects that I wanted to touch upon was the community safety and well-being planning that’s an important part of keeping our communities safe. As police chiefs, would you be able to elaborate on why you think your role in this planning process when cities or municipalities are doing this shouldn’t be overlooked?

**Ms. Kimberley Greenwood:** We’re very pleased with the recommendations and the changes to ensure that chiefs of police are part of the community safety plans. Originally, it just highlighted individual organizations within our communities that would sit on it, along with a member of the police services board. The community safety and well-being of our respective communities is everybody’s responsibility, but the act is very clear that the duties of the chief, the duties of police officers and the duties of boards very specifically focus on community safety. So it’s crucial that the chiefs be sitting at the table with our respective municipalities to ensure that our skills, knowledge and abilities are utilized in the community safety plans.

**Mr. Prabmeet Singh Sarkaria:** Thank you, Chief.

**The Chair (Mr. Parm Gill):** Back to MPP Park.

**Ms. Lindsey Park:** This is kind of a broad question but I'm just interested in your thoughts on this. We hear a lot about the importance of public trust for our police services. It's critical; there's no question. It was a key finding of Justice Tulloch's report. How do you think some of the proposed changes in this bill—I won't be too specific; I'll let you go where you want to go with it—will increase public trust?

**Ms. Kimberley Greenwood:** I think when we look at the act, if we look at specific areas that address discipline within our respective agencies that is the responsibility of the chief, the inspector general and the arbitration commission that are all part of managing discipline, it speaks to the fairness and consistency within the legislation and the discipline process. There is an element of independence to ensure that all the processes are met. It's clear and transparent.

1510

I think areas within the act that cover things such as unsatisfactory work performance demonstrate to the community that we are holding our members to a high standard to ensure that when an individual in their community is calling for assistance, they know that they're going to get a trained individual who is performing at the standard that is required of them.

I think when we look at the section with regard to suspension without pay—I have spoken about this briefly, but these are the concerns that are raised within our respective communities—

**The Chair (Mr. Parm Gill):** Thank you, Chief. Sorry, unfortunately, that's all the time we had.

We'll now move to the official opposition. We'll go to MPP Lindo next.

**Ms. Laura Mae Lindo:** Thank you so much for your submissions. I want to speak a little bit about the board training and some of the recommendations that you had around that—section 35, subsections (2) to (5). Because I know that that kind of training is training that a lot of racialized, Indigenous and Black communities have asked for, my question is around the kinds of issues that you think would make it difficult to provide that training, what kinds of barriers you might see to being able to implement that, since that is a big element of building that trust.

**Ms. Kimberley Greenwood:** The public's trust is not just important from the service perspective, but from the board perspective. Having legislative or codified requirements that speak to the makeup of the board, I think that goes to public trust and confidence, too.

The training that is specific for the boards is also specific to our recruits and our special constables and members of our service. I believe that we need to consistently have training for all those involved, not just specifically to the board members. I think with any type of training that we're delivering now, we seek input from the communities and all aspects of the communities—so looking at the diversity, looking at systemic racism. We need input from the community in order that we are

providing training that meets the needs of our diverse communities.

**Ms. Laura Mae Lindo:** Just as a quick follow-up: Would it be fair, then, to say that you would be amenable to including the need for assessments, just to make sure that the training that is being done is effective, that it's actually addressing the kinds of needs or issues that we believe? Because right now, to my knowledge, there's nothing about how to assess the effectiveness of the training that's being required, but it's mandated.

**Ms. Kimberley Greenwood:** I think that, when we look at any type of training that we're delivering now, there has to be course training standards to it so there's consistency. But another element of importance is the evaluation piece. Do we have the return on investment for the training to ensure that it is meeting the needs and it is localized to our specific communities, but that it is broad enough that there is consistency across the province, so that no matter where you are a police officer or where you are a board member, you are receiving this training and it is enhancing your ability to respond to the needs of the community?

**Ms. Laura Mae Lindo:** Thank you so much.

**The Chair (Mr. Parm Gill):** We'll move to MPP Singh next.

**Ms. Sara Singh:** Thank you very much for being here today and for presenting some very valuable perspectives. I'm just going to follow up on some of the questions that my colleague was asking. I'm very curious around section 33 and appointments and considerations for board members. I note that in the current legislation that's being put forward, there are some requirements around the composition of those boards and meeting diversity quotas, essentially, and meeting those needs.

Are there challenges within your own experiences that you will face with respect to meeting what is now mandated for that composition of the board?

**Ms. Kimberley Greenwood:** When we look at some of these details—it is noted in the package that has been provided to you, but the selection of the board members is impacted by the council within that respective community. We have to be cognizant that the councils are reflective of their communities, therefore the selection and identification of those members is reflective of the communities that we serve. There are provincial appointments also, so we would be looking for criteria from and within both the council and the province of what the requirement is for a board member.

**Ms. Sara Singh:** Okay, thank you. I think MPP Yarde has a follow-up question.

**Mr. Kevin Yarde:** My question has to do with privatization. I've asked other members here a similar question. Bill 175 and Bill 68 still leave open the possibility of privatization, so I'm just wondering: What are your concerns around that? And how do you think we can correct that so that we don't have that occurring, that we don't get the privatization?

**Ms. Kimberley Greenwood:** One of the areas that is very important for chiefs of police is that we have the flexibility to deliver a service of excellence to our

community, and many of our services are utilizing a human resource strategy that focuses on civilianization.

When we look at the act, we see that the privatization cannot include activities around law enforcement, emergency response, maintaining public health, and those that require the power of a police officer. So I think some of the areas have been addressed in the legislation. But there still needs to be some flexibility for the chiefs to ensure that they're utilizing the public funds that are being made available to them through their budgeting and that they have specific processes in place that address the needs of the community.

**The Chair (Mr. Parm Gill):** Thank you very much. That's all the time we have. I want to thank you for taking the time and appearing before the committee.

**Ms. Kimberley Greenwood:** Thank you very much.

#### MR. GURDEEP SINGH JAGPAL

**The Chair (Mr. Parm Gill):** We will now move to our next presenter: Gurdeep Singh Jagpal. Thank you very much, Mr. Jagpal. Thank you for appearing before the committee. I just want to remind you that you have up to eight minutes to make your presentation, at which point in time we'll move to questions and answers: six minutes from the government members and six minutes from the official opposition. Please state your name for Hansard before you start your presentation. You may begin.

**Mr. Gurdeep Singh Jagpal:** My name is Gurdeep. Before I begin, I just want to say thank you for giving me this opportunity to share my voice and my perspective and my expertise on this topic.

My name is Gurdeep Singh Jagpal. I'm a recent graduate from Carleton University, completing my master's in legal studies. My expertise, my area of focus, was racism and police relations. My thesis focus is carding and how it has impacted Ontario Sikh males.

The reason why I did this project was because carding has been a really big issue in our community; it has been a big issue throughout all of Ontario. I, personally, have been randomly pulled over once, in the sense that we were randomly pulled over—the cops pulled us over and accused us both of drinking and driving, though me and my friend do not drink and drive. On top of that, we were forced out of our vehicles, and our vehicles were searched and we were searched.

As you may all have known, Jagmeet Singh is a very big advocate against carding, and his story is widely circulated within the community. So it is well known within the community that individuals do face random pull-overs, that they do face random searches. However, there has been no study around this topic. I conducted this thesis project to contribute literature towards a brown male's perspective of facing a random police stop.

The useful thing about this is, because I'm an insider, more individuals will be trusting, so they'll be able to reveal stories, as opposed to someone who may not be part of the community. That's why I focused specifically on the Sikh community: because I could speak the language and

I can also be more relatable from the experiences that I faced.

#### 1520

It was a qualitative study just to get an understanding of the in-depth perspective of those who have been pulled over—to understand their stories, to understand their concerns, to understand their perspective of the practice and what they think needs to be done about it.

In this project, there are a lot of surprising facts. One thing that isn't surprising is that racism is still, very often in Ontario, a big factor to many different Indo-Canadian communities—such as outright racism, where people had beer bottles thrown at them, or people were called terrorists. There's institutional racism—such as retaining jobs. There's also racism from authority figures, which includes teachers as well as police officers.

One particular example that was very concerning was of an individual who—a white party started a fight with them; however, the police officers charged the brown party. There was video footage to prove that the white party should have been charged, but the officers never consulted.

During a random pull-over—one of the biggest concerns is that there's always a justification given to being pulled over. However, sometimes those justifications don't even exist. A very common story I've heard is, "Your tail light is broken. Your rear brake light is not working"—however, their lights were all perfectly fine. When they come home, they check and they realize that it was an excuse used to pull them over.

An even more surprising fact was—I was very shocked to find this. I knew there were instances where officers would pull over an individual to get information about them, but I never suspected to find a prevalence of random searches. Within the community, almost 50% of the participants had either been forced out of their cars and had their vehicles searched or they had themselves been searched. A few instances were really depressing, in the sense that there was violence involved. One particular example: An individual was 13 years old, and when coming back home, an officer asked him for an ID. When he refused, the officer grabbed him and smashed him against the hood of a police car. That individual was traumatized by his experience.

There are many impacts on individuals when police relations aren't right, such as psychological impacts: being scared, being worried, being worried about the way people will look at them and how the community will perceive them. Future impacts: There have been accusations that sometimes information going into the system has been used against jobs—if someone wants to apply for a job. Most importantly, impacts on police relations: Trust does go down. There have been a few instances where some individuals do not want to rely on police officers anymore because they don't feel like police officers are trustworthy anymore.

In conclusion, the recommendations of the participants: They would like to see more accountability measures. They would like to see more restrictions on random searches. They would like to see more restrictions on



being randomly pulled over. They would also like to have more accountability, such as a civilian board, more oversight mechanisms, because they do feel that they're not being protected.

As you may know, Robert Peel, one of the founders of policing, said that the public are the police and the police are the public. Without trust in the police force, police officers will have a more difficult time being able to do their job and more individuals will be aggressive against them.

Thank you for your time. I really appreciate it.

**The Chair (Mr. Parm Gill):** Thank you for your presentation.

We'll now start the first round of questioning with the official opposition. MPP Yarde.

**Mr. Kevin Yarde:** Thank you, Gurdeep, for coming in and telling us a little bit about your story. I can only imagine what it has been like, being carded—as a matter of fact, I've been carded. I know it's difficult to relate that story. In my community of Brampton, it is a big topic and a major concern.

Bill 175, just like Bill 68, does not address carding at all. It's more or less status quo. Nothing is changing; nothing has changed. Carding still has not been banned in the province of Ontario.

That being said—and you pretty much mentioned it—what is your concern with carding and what are some of the amendments that you would propose in this bill in order to rectify this problem?

**Mr. Gurdeep Singh Jagpal:** The problem with carding, in itself, is that the new bill that's being introduced only tackles it if it's on the street. It doesn't tackle the fact that there are individuals who are driving.

The reality is, random pull-overs when a person is driving are a lot more common than people may think. The reality is, when you live in suburban communities, most individuals are driving. So when they are randomly stopped, it usually is when it comes to driving.

There need to be more regulations towards an individual being pulled over when they're driving, because that has the same amount of impact as for someone who is walking.

**Mr. Kevin Yarde:** Okay. I'm going to pass it over to my colleague Laura Mae.

**The Chair (Mr. Parm Gill):** Thank you very much. We'll now move to MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you so much for your submissions. In Justice Tulloch's report—I'm going to focus a bit on the training that we could be using to ensure that we rebuild the trust between police services and marginalized communities, especially in light of your comments on carding and the impact.

In Justice Tulloch's report, one of the recommendations is that training is developed in collaboration with communities that have been impacted by the tension in this relationship. Given your experience and your research, would you be able to speak a little bit to why that collaboration is important in the development of that training?

**Mr. Gurdeep Singh Jagpal:** Yes. The reality is, when it comes to the participants who were part of this project,

they don't feel like enough has been done to tackle systemic racism. They don't feel like enough has been done to tackle the practice.

Many individuals within the community don't even know that there was a new regulation put out. They have no knowledge that there are actually regulations against it.

When you're in a situation where you are randomly pulled over, when you are a marginalized person or you are person who is a youth, you are intimidated. So, sometimes you even forget the rights you have. In that situation, those individuals forget how to act and they get scared and they get worried. In the end, they lose trust because they are so worried and they had to go through that experience. They don't feel like they're being protected anymore.

**Ms. Laura Mae Lindo:** Sorry to interject. Would it be fair to say that racialized, marginalized, Black communities, Indigenous communities want to help to rebuild that trust, that they want to have a system that they trust?

**Mr. Gurdeep Singh Jagpal:** Yes, they do. Some of the participants in this project, for example, asked that they would be more consulted; that the police officers would actually come and be part of their community and talk to the individuals, understand the issues they're going through, over forcefully pulling them over. They want to have more of a personal relationship instead of this practice. Because carding isn't building relations; it's deteriorating relationships. That's the issue with this practice. They want to see more done by it. They want more consultation. They want to be part of the process.

As you know, for policing to be successful, there have to be community relations. When there's more trust within the community, when there's better evaluation of officers, then it will be easier to work together to help to solve the issues that we're trying to face in the community.

**Ms. Laura Mae Lindo:** Thank you so much.

**Mr. Gurdeep Singh Jagpal:** Thank you.

**The Chair (Mr. Parm Gill):** We'll go back to MPP Yarde.

**Mr. Kevin Yarde:** I just want to ask you one question about the data which is kept by the police. What effect does that have on individuals who have been carded, in terms of employment or any other aspects of their life?

**Mr. Gurdeep Singh Jagpal:** With the data that has been kept, there are reports that individuals have lost opportunities to future jobs. They may have got accepted for a job, but when they go for a job clearance or a security clearance, it shows that this individual—"Hmm, he doesn't have any criminal record, but for some reason, he has been pulled over many times." That actually does impact. There have been cases that it has been brought up.

This Knia Singh—you may know him—applied to do a ride-along program, and he was denied a ride-along program on the basis of who he was hanging out with. He was helping marginalized individuals, and because he was carded with those individuals, he was denied this opportunity for his law school program.

Further research is required on this matter, and there needs to be more done towards understanding the implications of this practice.

But there are reports that it has impacted, based on the data that have been kept.

**Mr. Kevin Yarde:** Thank you, Gurdeep.

**The Chair (Mr. Parm Gill):** You've got 30 seconds.

**Mr. Kevin Yarde:** Thirty seconds? Do you want to go? No? Are you finished?

**Ms. Laura Mae Lindo:** I'm done. I'm good.

**Mr. Kevin Yarde:** We're finished. Thank you.

**The Chair (Mr. Parm Gill):** Thank you very much. We'll now move to the government side. We'll go to MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much, Mr. Singh, for coming here today and deliberating and presenting your research paper—or thesis, sorry. We really do appreciate that. I think a lot of what you have touched on is great.

1530

I think one of the key points that you were alluding to was restoring that trust between the police and the community. I know that through this bill, one of the important things that we've learned is that diversity training for police officers and members of the police board, whether it's on human rights training, systemic racism, Indigenous culture—I think that's a key component, and you're very right: It's building that trust between the police and the public.

It was also great to hear, when we had the deliberations previously, that the members who were delegating—the police believe in creating that trust and they don't have an issue with a robust police oversight program. That's promising to hear, that there is a lot of room for us to work together in the communities, to really work together on this, because the individuals who were delegating presented to us that they didn't have an issue with that.

I think one of the other issues that we sometimes see for members is that usually they don't know who to complain to or where to complain. One of the things this piece of legislation does is that it's going to have one window for public complaints. So if anybody does have a complaint, it's going to go through one window, thereby relieving individuals of that “Where do I go? Do I go to this agency, do I go to that agency, do I go here?”—going to that agency and not knowing.

Do you think it's a good thing to have that one centralized agency to make it easier for those who do need to file a complaint?

**Mr. Gurdeep Singh Jagpal:** Just to go to your point, I think it's good to have a separate agency that is independent from the police agency, and I would like to see more civilian oversight in it. Right now, the board has more retired police officers on it than there are civilians. It's concerning because some of the individuals are mistrusting of police officers just because of the experiences they have faced. They don't feel trusting to actually come out to these boards. If there's an officer there, they're thinking they might be wasting time. Some of these people don't complain.

Actually, a lot of these people, a lot of the participants, almost all of them, are even wary telling their parents, let

alone a police officer, because they're worried they're going to be judged. They're worried that their reputation is going to go down. So if an individual is too scared to even go to their own parents and tell them that they got pulled over, how do you expect them to go to an oversight board that has more police officers on it than it does civilians?

I would recommend to have more of a diverse board and also have individuals on the board who have faced these experiences that youths have so they can feel comfortable coming in.

You made a point earlier about getting individuals—helping them to come in. I would make one recommendation that I think is very overlooked. A lot of minority communities don't often know about what's available. For example, say if you're a newcomer—we usually use certain types of news media outlets, ethnic media outlets. I would highly recommend you also advertise more on those certain types of networks just so individuals know that, yes, you can come out to share your experiences and you can come out to complain if you do face racism. Some of these individuals have faced really, really devastating experiences.

I have one interesting story. One individual in Thunder Bay told me this: On two separate occasions police officers came up to him and told him, “We don't like Indians in our community. We don't like you Indians having businesses.” Now, if there are already these biases against these individuals, who are just trying to reside in a building and contribute to their community, then when they interact with police officers, there are going to be issues.

So, yes, we would like a more separate oversight, but more civilian-based oversight.

**Mr. Prabmeet Singh Sarkaria:** Thank you. I appreciate your answer and your experiences.

**Mr. Gurdeep Singh Jagpal:** Thank you.

**Mr. Prabmeet Singh Sarkaria:** But I do think this piece of legislation—when we talk about the independence, it really does go towards that. We discussed that in earlier deliberations as well, but I'd be more than willing to elaborate on it. I think the independence is a key part, and that's why this legislation really looked to do that. We're very happy to hear that, as well, that it's good to have a process where there's one central location for public complaints.

Mr. Chair, that's all I have for the government side.

**The Chair (Mr. Parm Gill):** Thank you very much. You're almost at six minutes anyway, so I appreciate it.

I want to thank Mr. Jagpal for appearing before the committee. We really appreciate your time.

**Mr. Gurdeep Singh Jagpal:** Thank you for having me. I really appreciate you making the time to hear.

#### CANADIAN CIVIL LIBERTIES ASSOCIATION

**The Chair (Mr. Parm Gill):** We'll now move to the next presenter. That will be the Canadian Civil Liberties Association's Michael Bryant.

Thank you for appearing before our committee. Just a quick reminder: You will have up to eight minutes for your presentation, followed by 12 minutes of questions and answers: six minutes from the government party and six minutes from the official opposition. If you can please state your name for the Hansard, and you may begin your presentation now.

**Mr. Michael Bryant:** I'm Michael Bryant. I'm the executive director and general counsel of the Canadian Civil Liberties Association.

When I told my kids I was going to the justice committee today, they got very excited, and I said, "Not that justice committee. Nobody's going to be live-tweeting this." But this is where the work gets done, and I know this is where the work gets done.

The Canadian Civil Liberties Association has been around since 1964. It's a national non-partisan civil liberties organization with a focus on freedoms for all and civil liberties for all. As you'll hear, that includes civil liberties for police officers, too. The Canadian Civil Liberties Association has been involved in policing and police bills since it first started. It was a police bill that got the organization started, and one where new powers were provided to police officers.

This bill is not that. This bill is much less about the new or old powers being exercised by police. In a nutshell, it covers the process that police officers find themselves in, and I think it's fair to say that the law seeks to accommodate police association amendment requests. It does not necessarily increase accountability overall. The argument could be made, and our concern would be, that it decreases accountability in the name of police concerns around due process as it affects them as officers.

The changes to the disciplinary standard of proof, the narrowing of SIU notification requirements, the repeal of the tribunal, the reduction of civilian oversight: All of that moves the pendulum of the law of Ontario away from transparency and accountability, again in the name of accommodating the due-process civil liberties of police officers themselves.

On one hand, it is difficult to argue against that. On the other hand, it is these disciplinary and accountability and investigatory measures that are put into place in order to ensure that these people, who have more power in many ways than anybody else in Canada—they have powers to restrict our liberty, they have powers to lay a charge and cause a detention lawfully, they have the power to carry and use lethal weapons, and they have the legal authority and capacity in certain circumstances to use force. With that enormous power must come accountability and responsibility, and that's why these protections were in place. That's for the public, for the people. Nevertheless, the presumption of innocence applies not only to the accused, but to the accusers when they find themselves in the process itself.

I will say, however, on this point, one thing about the irony of this. We hear about what it's like for the police officer to be accused of a serious wrongdoing. The person may be suspended or not. The person may be facing what

feels like an interminable period where they are being accused. However, they, of all people, should understand, as they are the ones who are laying, in Ontario, 500,000 charges every year.

**1540**

The concern over due process for police, while it is one we take seriously at the Canadian Civil Liberties Association—I just hope that this justice committee and this government show equal concern for the due process, civil liberties and presumption of innocence of the people who the police are charging themselves.

Not included in this group are court security constables. In almost all courthouses in the province, with a couple of exceptions, the court security officers are not police officers; they are special constables. They are civilians, for all intents and purposes, appointed by their local police. They are transporting "prisoners," as they're called, even though they are presumed innocent. The number of charges that arise as a result of altercations between court security, on the one hand, and individuals who are in the criminal justice system, on the other hand, is an area rife for reform and investigation, whether it be by the official opposition or the government.

Until I run out of time and questions start being asked, I would say, about the disciplinary standard of proof and the change from what applies to lawyers and doctors and nurses and every other profession of a balance of probabilities to instead this higher standard of proof, the clear and convincing: The rationale for changing this has not been explained to me, in any event. Perhaps it was explained to you as to why it would be that police officers would, in essence, enjoy a lower standard of culpability and a higher standard of proof in order to exonerate themselves, and why it is that emergency room doctors, who are also involved in quick decisions, would be facing a lower standard. Obviously, what that does is create less accountability and less transparency.

It also means that some aspects of the justice system, including, for example, the seizure of assets that may be the proceeds of a crime, through the Ministry of the Attorney General's office that does that—the standard in order to seize that is less than the standard needed to establish liability under the disciplinary hearing.

Secondly, the change the Civil Liberties Association is concerned about—

**The Chair (Mr. Parm Gill):** Just under a minute, Mr. Bryant.

**Mr. Michael Bryant:** Sure—is the decrease in civilian oversight and the ability now, under this new bill, if passed, that would allow for an officer's chief of police to be involved in circumstances where, in the past, the investigation would be undertaken by civilian authorities. This is not about the incompetence of the chief of police; they're fully competent. It's about confidence and independence. Most people are going to feel that they get greater independence if it's civilian oversight than if it's the police who are policing the police.

I'll stop there because I think my time is up.

**The Chair (Mr. Parm Gill):** Thank you very much—just five seconds. I appreciate it.

We're going to move to this round of questioning, starting with the members of the government. We'll go to MPP Sarkaria first.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much, Mr. Bryant, for being here today. I've just got a quick question to get your thoughts, if you have any, on the First Nations policing provisions in Bill 68—if you are okay with them?

**Mr. Michael Bryant:** On matters of Indigenous administration of justice, or administration of justice as it affects Indigenous police, my first answer would be to defer to Indigenous police authorities and not put myself in a place where I'm speaking on their behalf.

I know that the tripartite nature of the authority involved is often a source of great frustration for the First Nation policing leaders and for the First Nations themselves. In the event that this government can avoid the jurisdictional aversion to take responsibility and do what they can to work with First Nations policing, we think that the system overall would be better served.

**Mr. Prabmeet Singh Sarkaria:** Thank you. The last question I'll ask from my end is on the transparency provisions within Bill 68 with respect to posting regulations for public consultations, if you can give any comments on that part of the piece of legislation.

**Mr. Michael Bryant:** The posting of regulations for public consultations—on the one hand, who can argue against the requirement for public consultations when there are changes? On the other hand, if this is any example of what consultation looks like—there are meaningful consultations with significant submissions and a lot of thought being put into them, and then there are, “You've got two days to meet here and you'd better show up, and you've got five minutes to speak.” I appreciate the opportunity to speak for five minutes, with short notice. I think that realistically, though, it will depend on how it's used. If the regulations are used in a way to meaningfully get input, then all the better.

However, on community relations, the effort to formalize it by way of either consultations or, generally, community relations between the policing community and the broader community at large, I would submit that what is done here in this Legislature, and what is done at the municipal level as well—actually, you are not in a position to have the kind of impact that the individual police officers and all of us, as residents of this province, can have. By that, I mean that in appointing a liaison person who, in theory, takes a phone call from, say, a homeless drop-in community or a racialized community, you end up, yes, formally having in place a structure, but it is not meaningful. In the last six years, my experience in working with people who live on and near the streets is that the challenge with community relations is more, actually, on what each of us can do every day in the way that we interact with police officers and the way that we treat them and see them, on the one hand, and also the way in which they treat and see, each and every one of them—I mean every single one of them—the people who are on the streets, and their willingness to be a member of their

community or not. That's going to have a greater impact than anything that you could do, or anything the CCLA could do, frankly, formally, in terms of legislation and regulation.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much, Mr. Bryant.

Mr. Chair, that concludes the questions for the government side.

**The Chair (Mr. Parm Gill):** Thank you, MPP Sarkaria.

We'll now move to the official opposition. We'll start with MPP Yarde.

**Mr. Kevin Yarde:** Thank you, Mr. Bryant, for coming in today. I agree with you when you say that this sort of consultation is on short notice, and one day is very difficult to put forth our ideas, but we'll do the best we can.

I just want to go back to schedule 7. You spoke, I think, in the beginning about mandatory blood testing and the amendment for that. The changes here in Bill 68 to be permitted would allow the police the taking of samples. In light of this, why would you say that these changes are problematic?

**Mr. Michael Bryant:** Thank you for raising it. I know that HALCO, the HIV/AIDS community legal aid clinic, has written submissions on their positions, which we at CCLA support.

My greatest concern is that the community that was potentially adversely affected by this and the community that would be stigmatized by these changes and the community that might be hurt just by the announcement of these changes—that community should have been consulted with first. They should not have been learning about these amendments, as it turns out, through a press conference and through the media. There was a rush to see what the actual impact was in terms of the changes to the law.

**1550**

It would appear at the outset that again, consistent with the rest of the bill, it did seem to be about making the process more amenable to police officers who may find themselves involved in it. However, it does raise issues about ignorance and stigma around the transmission of HIV/AIDS and around the capacity for other people to be at risk of exposure. The actual changes that were brought about could have quite easily been met by the affected communities with greater openness had the government taken what would have been a short period of time to reach out to those communities—I'm not saying necessarily to CCLA, but certainly the affected communities. It did give rise to concerns that what this was doing was opening up circumstances in which people would be required to provide a blood test in circumstances where absolutely there's no reason whatsoever for them to have to provide such a blood test.

On that front of whether or not it goes too far, I'll just defer to HALCO.

**The Chair (Mr. Parm Gill):** Yes, please go ahead, MPP Yarde.

**Mr. Kevin Yarde:** You may have already alluded to my next question here, but how would you say that this is

dramatically different than the existing law, which was passed in 2006? Of course, at that time, you were the Attorney General.

**Mr. Michael Bryant:** I think the largest difference is that, over the past 15 years, in communities across Canada, in provinces across Canada, the pendulum has been swinging in the direction of greater transparency, greater accountability, with a view to addressing community relations, the social science and the many public reports of racism and abuse of power—and, I should add lastly, of de-escalation when it comes to use of force. This bill heads in the other direction.

It would have aided the government's public explanation if it had been preceded with, for example: How many times has an officer found themselves subject to an SIU investigation involving suicide? I don't know. Is there a rash of them? Are there hundreds of such cases, or are there three? I just don't know how many there are. How many instances, really, are there which required the changes to blood testing? That we would base this on evidence and not upon allegations and concerns would have been preferable.

So it's in a different direction than policing law had been heading, but it's democracy and the government made a decision to head in that direction.

**Mr. Kevin Yarde:** Thank you. Did you have anything?

**Ms. Laura Mae Lindo:** Just a quick question.

**The Chair (Mr. Parm Gill):** You have 30 seconds.

**Ms. Laura Mae Lindo:** Okay. You had spoken earlier about the fact that officers are in positions of power and they can restrict our liberties. I'm wondering what amendments you would propose in the next five seconds that would make sure that there's enough due process for the people that are in these encounters.

**Mr. Michael Bryant:** Well, I think it's achieved in a few ways. One of them is to be found in the training, and it will be important for us to find it in the details. Part of it is consistent with the submissions you heard from the associations earlier today that, in fact, addressing the well-being of police officers inevitably is actually going to assist the circumstances, for example, of de-escalation, and that that ought to be taken seriously. We certainly agree with that approach and—

**The Chair (Mr. Parm Gill):** Thank you, Mr. Bryant. Sorry we have to cut you off, but we are operating under very—

**Mr. Michael Bryant:** The amendments are in the mail. How's that?

**The Chair (Mr. Parm Gill):** Okay. Thank you for appearing before the committee. We really appreciate your time.

**Mr. Michael Bryant:** Thank you very much.

#### ONTARIO ASSOCIATION OF POLICE SERVICES BOARDS

**The Chair (Mr. Parm Gill):** We'll now call on the next presenters, from Ontario Association of Police Services Boards: Fred Kaustinen and Ryan Teschner, please.

Mr. Kaustinen, let me just say that I'm very pleased and it makes me very happy to see that we have a representative from our region, Halton region. We've got MPP Crawford here, as well. I'm sure he's just as happy to see you here as a witness before the committee.

I just want to remind you guys that you will have up to eight minutes to make your presentation, followed by 12 minutes of questions and answers—six minutes from the government members, six minutes from the opposition. Please start by stating your names for Hansard, then you may begin your presentation.

**Mr. Fred Kaustinen:** My name is Fred Kaustinen.

**Mr. Ryan Teschner:** My name is Ryan Teschner.

**Mr. Fred Kaustinen:** Good afternoon. Let us begin by applauding the government's efforts to bring about modernized public safety legislation that seeks to balance the needs of the people and the needs of the police.

Safety is a fundamental right. Every day, the citizens of Ontario rely on the front-line men and women who serve in our police services and who indeed do an amazing job. We believe that communities need to feel confident in their police and know that they are getting value for their taxes. This is where police boards fit in. Police boards are the mechanism for ensuring that our police have the direction, support, funding, respect and accountability they need to keep Ontario communities, and themselves, safe and thriving.

Our comments today will focus on schedule 1, which replaces the 1990 police act of 30 years ago. Much has changed over those 30 years. Crime has become more complex, communities are more diverse, costs are escalating, and technological advances have changed everything we do. Arguably, the need for effective police governance has never been greater.

Police boards stand as the important bridge between the police and the community the police serve. As Justice Morden wrote in his review of the G20 summit, "The responsibility of police boards is considerable. Through their policy-making and resource allocation powers, police boards shape the way in which policing is done. Therefore, effective fulfillment of the governance role that police boards play ensures that decisions made and actions taken by police are reflective of the community's values."

Importantly, Bill 68 reinforces and, in some ways, modernizes the important role of police boards. This is a good thing. As communities evolve, police boards must continue to have the training, tools and powers to fulfill their vital governance function.

While there are many aspects to Bill 68 that will enable boards to meet the increasing demands that communities place on their police, there are certain aspects that would benefit from some minor changes. In our view, these changes will better align the government's overall intent regarding Bill 68 and minimize any misinterpretations or other impediments to good governance of police.

I'll turn it over to my colleague.

**Mr. Ryan Teschner:** We've provided this committee with a chart summarizing our recommendations, so

hopefully you can review that in due course, but let us highlight a few particular recommendations.

With respect to section 37: The current duty of a police services board to consult with the chief of police and determine priorities and objectives for the service has been removed. While this requirement to consult on priorities and objectives appears in relation to how boards develop their strategic plan, it's our view that this important duty, as previously articulated under the current legislation, is essential to robust police governance. Strategic plans will be developed at a moment in time. However, a board should have an ongoing duty to consult with its chief and identify priorities and objectives that reflect the ever-changing needs and interests of the municipality the board serves. Therefore, we would recommend adding that back into the board's duties under the bill.

Also, in section 37, there is an inconsistency that is carried forward from the current Police Services Act. While boards, right now, are responsible for appointing and setting the working conditions of deputy chiefs and certain command officers, the current act and this bill do not permit boards to conduct performance evaluations of deputy chiefs—only the chief of police. This creates a scenario where a board enters into an employment agreement with somebody but is not permitted to play any role in the ongoing evaluation of their performance. So we would recommend inserting that in the bill.

Sections 38, 40 and 69 include some limits on a board. Sections 38 and 69 limit the universe of policies a board can create, and section 40 limits the type of direction a board can give to a chief.

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Some limits in these areas are vital. For example, as Bill 68 currently states, a board should never be permitted to issue a policy or direction to the chief that would contravene the law of the province or of Canada. Similarly, no policy or direction should lead to a police officer doing something that would be inconsistent with their duties under the legislation.

However, as currently worded, there are limitations in these sections that we believe go a little bit too far, and the unintended consequences of this would be to cut boards off from entire subject matters.

As currently worded, these sections use the terminology of “specific investigations” and “the conduct of specific operations.” Again, the unintended consequences of this wording could prevent boards from engaging in core aspects of their governance and oversight roles. Two examples illustrate this. Carding practices could be immune from policy review if it fits within the definition of “specific investigations” or “the conduct of specific operations.” Similarly, for missing persons investigations generally, a board may wish to have a general policy that applies to this type of investigation. The current wording of these sections may prohibit this.

Although a board should have no intention of creating a policy or direction that applies to a specific, ongoing matter—that is, a missing person investigation involving person X—the current wording of these provisions may

well prohibit these broader and important policies and directions from being developed and issued.

Therefore, we recommend changing the wording in both subsection 38(5) and subsection 40(4) to read “a specific investigation” and “the conduct of a specific operation.”

Also in relation to section 40, we have two additional recommendations.

Subsection 40(8) gives the chief of police a complete veto over a board's request for information. There is a significant and important difference between a board requesting information so that it can assess an issue and determine the best course of action—sometimes done in a closed meeting—versus the board issuing an improper direction. As the G20 report taught us, there is really no area in respect of which a board should not be able to access information from a chief of police.

The public confidence in independent governance and oversight requires an information exchange on all topics. Of course, this does not mean a board can issue a direction to a chief that relates to a particular investigation or incident. This would be entirely improper. As this provision currently reads, the chief would have the authority to simply shut down the information flow to his or her governing board. If a board cannot even ask for information on certain subjects, these subjects become entirely immune from civilian review.

Therefore, we would recommend removing this provision, or, if there is a strong desire to maintain it, then to include some mechanism to efficiently adjudicate any dispute that could arise between a board and a chief regarding it.

**The Chair (Mr. Parm Gill):** One minute.

**Mr. Ryan Teschner:** One suggestion would be to refer these disputes to the Ontario Police Arbitration and Adjudication Commission in the bill already.

Also, quickly, in subsection 40(9), there is no exception to publishing board directives to the chief where those were issued in a closed or confidential meeting. Obviously, this provision must include this explicit provision.

The last set of recommendations has to do with the functioning of the board itself, about the diversity of its membership and reflecting the community. We would recommend that one way to strengthen section 33 is to ensure the appointing person or body consults with the actual board that it is appointing to, as to what qualities or skills the board is in need of.

**Mr. Fred Kaustinen:** Thank you very much.

**The Chair (Mr. Parm Gill):** Thank you for your presentation. In this round, we're going to start with the official opposition. We'll go to MPP Yarde.

**Mr. Kevin Yarde:** Thank you, Mr. Kaustinen and Mr. Teschner, for your response today.

I just want to start, first of all, on training. We'll talk a little bit about that, first of all. With regard to the training and this model here, the new obligations that we have here, were you consulted by the government prior to the tabling of Bill 68?

**Mr. Fred Kaustinen:** Yes, and the previous government. We surveyed our members in 2016 about where they

thought governance needed to be strengthened. Over 95% responded that boards need better training. We've been lobbying for that. We see that it's fairly robust in the legislation now. Of course, the regulations need to flesh that out, and we're eagerly looking forward to it.

Myself, I actually trained at the new Thunder Bay police board just two weeks ago, under contract to the Attorney General.

**Mr. Kevin Yarde:** Did you receive a briefing as to your new obligations to the bill?

**Mr. Fred Kaustinen:** Regarding the new bill?

**Mr. Kevin Yarde:** Correct.

**Mr. Fred Kaustinen:** There is no training yet on the new bill.

**Mr. Kevin Yarde:** No, did you receive a briefing on your new obligations with this bill?

**Mr. Fred Kaustinen:** I got a summary from the minister's staff, yes.

**Mr. Kevin Yarde:** Okay. So, let's get into the training aspect I mentioned I was going to talk about.

**Mr. Fred Kaustinen:** Sure.

**Mr. Kevin Yarde:** The setting of standards: What sorts of standards do you think should be there in the bill?

**Mr. Fred Kaustinen:** Generally, there are several aspects of standards. I believe that the place for standards is largely in regulation. There should be some standards regarding police interactions. There should be some standards regarding the outcomes of public safety efforts. Currently, we measure police activity more than we do outcomes.

I also believe there should be some standards for police governance, which our membership also was in favour of in our 2016 survey.

**Mr. Kevin Yarde:** Okay. How will you establish that new board members and new service members are in compliance with regard to training?

**Mr. Ryan Teschner:** I think the inspector general, and the provisions with respect to that individual and their office, provide for quite a bit of scrutiny with respect to how the board is functioning and operating, whether training requirements have been satisfied, and even provide for inspection with respect to board members, including their conduct.

Right now, that sits with the OCPC, to some extent. At least with respect to board conduct, there are no explicit provisions with respect to inspecting on-board training right now. I think this legislation does bring that to the fore.

**Mr. Kevin Yarde:** Thank you.

**The Chair (Mr. Parm Gill):** Thank you. We'll go to MPP Singh now.

**Ms. Sara Singh:** Thank you so much for that. I just wanted to follow up and find out if you've been hearing from any of your members around the challenges of implementing some of these new provisions around training, around diversity planning. Are there concerns that are coming forward with respect to how those plans will be implemented and how the membership will be supported in implementing those plans?

**Mr. Fred Kaustinen:** Our membership generally is very much in favour of the community safety and well-being plans, and very much in favour of diversity and inclusiveness training. We offer guest speakers on those subjects at our annual meetings, which about a third to a half of our members attend. They're in favour of standards; they're in favour of training.

The issue about training that comes up is, it needs to be two things. One, it needs to be accessible from anywhere, at least the base level training.

**Ms. Sara Singh:** Absolutely.

**Mr. Fred Kaustinen:** That's a challenge, because we have about 650 board members across the province. Holding it on Bay Street, for instance, is just not practical.

There's also a regular turnover of board members, so it needs to be accessible quickly, on a time basis, as well.

Have I answered your question?

**Ms. Sara Singh:** Absolutely. I think if you want to continue on some of those challenges that the membership is facing in terms of how they're going to actually put this into implementation, that would be very helpful for the committee.

**Mr. Fred Kaustinen:** Those are the main things. The answer should be something Web-based. But it needs to focus not just on what the job is; they can read that. It's how to effectively govern police. That's the challenge.

**Ms. Sara Singh:** Absolutely. That's fair. Even with having something that's Web-based—which is a great suggestion, because for members out in the north or members on-reserve, it would be very difficult to come here to Toronto for training.

But I'm also curious with respect to some of the mandates around the composition of the board, and meeting those diversity quotas. Have you heard from memberships—again, across the province—around the difficulty in the actual implementation of that?

**Mr. Fred Kaustinen:** Boards do not appoint their own members. However, we can see, across our membership, that it is not very diverse. There is becoming a better gender balance. In terms of other types of diversity, it's moving in the right direction but there's a long way to go. That's an enduring challenge; everybody recognizes that.

1610

**The Chair (Mr. Parm Gill):** Thank you very much. That's all the time we had.

We're going to move to the government side now. We'll go to Ms. Dunlop.

**Ms. Jill Dunlop:** Thank you, Mr. Kaustinen and Mr. Teschner, for your presentation today.

We've heard, from the opposition side, questions regarding the diversity training. Can you explain to us why it's important for every member of a police service board to receive this training?

**Mr. Fred Kaustinen:** First of all, the vast majority of the board members do not come with any background in public safety. The second aspect is, with police board responsibilities, there are a number of various routes tailored much more than a general board of directors in the

public sector or anywhere else. Those are things that need to be highlighted.

Ryan?

**Mr. Ryan Teschner:** Boards are meant to reflect the interests of the community that they serve, and at least understand those interests when they're bringing their minds to bear on any particular decision. Clearly, we know from history, including current days, that the issues that people grapple with when it comes to policing and community safety are in no way unlinked with issues with respect to diversity, challenges with respect to racism in communities, or the breaking down of other stereotypes. For the decision-makers or the governors to be effective in their role, they have to have a true understanding of what's going on in their own community. We believe that training will enable exactly that understanding.

**Ms. Jill Dunlop:** It's good to hear that the boards are receptive to this new training.

**Mr. Ryan Teschner:** And they would like some help with the cost.

**The Chair (Mr. Parm Gill):** We'll now move to MPP Crawford.

**Mr. Stephen Crawford:** Thank you, gentlemen, for coming here today to present and for the good work that you do.

Community safety and well-being—planning is an important part of keeping our community safe, obviously, and I'm just wondering if you can explain why the chiefs should not be overlooked in the planning process.

**Mr. Fred Kaustinen:** Many of the cases that go to situation tables are actually referred through police. The police are one of the tools for community safety, obviously, and the chief's input in the strategic plan is essential.

**Mr. Ryan Teschner:** A strategic plan, if it's going to work, is going to have operational impacts, and no one knows those operational impacts better than a chief of the community that they serve. So while a board or other groups may have a perspective with respect to policy issues or broader-picture issues or priorities, you need somebody at the table who will be able to explain whether something is doable and what is required in order to do it well.

**Mr. Prabmeet Singh Sarkaria:** That concludes the government side's questions.

**The Chair (Mr. Parm Gill):** Thank you to our witnesses for taking the time and appearing before the committee. We really appreciate your time.

#### ASSOCIATION OF MUNICIPALITIES OF ONTARIO

**The Chair (Mr. Parm Gill):** We will now move to our next presenters, with the Association of Municipalities of Ontario: Matthew Wilson and Gary McNamara.

Thank you for appearing before the committee. Just a quick reminder: You will have up to eight minutes to make your presentation, and after that we will go to questions and answers: six minutes for the government side, six

minutes for the official opposition. Please state your name for Hansard, and you may begin your presentation now.

**Mr. Gary McNamara:** Thank you, Mr. Chair. My name is Gary McNamara. I am a member of the board of directors of the Association of Municipalities of Ontario. I'm also the mayor of the town of Tecumseh and the warden of Essex county.

Ontarians pay the highest per capita policing costs in the country, and most of those dollars come from municipal property taxpayers. Ontarians also pay the highest property taxes in the country. Legislation drives the costs of service, including policing, and in reviewing Bill 68 I wish I could tell property taxpayers that more was being done to stabilize or reduce these costs.

The heads of councils and councillors of communities across the province must provide for the full range of municipal services that keep Ontarians safe and healthy. That includes policing as well as many other important services.

In our brief time, I will highlight a few key areas:

(1) Community safety and well-being plans: We are pleased that the bill now compels police services to participate in the development of such plans. This is more in keeping with the spirit of successful community safety planning. Nonetheless, we remain concerned that this unfunded mandate may be setting up small communities to fail. For example, 190 municipalities have six or less full-time administrative staff. Eleven municipalities have only one full-time administrator. The concern here is capacity.

(2) Court security: The provision of adequate and effective policing now excludes provision for court security. Our hope is that this reflects the potential to pursue a greater degree of service delivery options, including civilianization.

(3) OPP detachment boards: This bill would eliminate nearly 100 police service boards in rural and northern regions. This puts much more distance between the police, its civilian boards and the local communities.

For this change to be successful, every municipal council must be offered a seat at the table on OPP boards. In addition, provincial appointments to any police service board must be done in a timely fashion. There is nothing in this bill that speaks to improving provincial performance in this regard. Unfilled provincial appointments make good governance that much more difficult to achieve.

(4) Board training: AMO supports mandatory training for board members. We note that the government has taken it a step further: that board members must "successfully complete" their training before they can exercise their duties. Who will determine success, and how will training be delivered across the province to ensure the boards can function without delay?

If there is a significance to adding the words "successfully complete," we think that it should also apply to the training requirements of police officers as well. At present, section 82(h) only requires a police officer to "complete" training. Our desire is for both board members and police officers to be successfully trained.



(5) Charging for board inspections: AMO supports the establishment of the inspector general role, but we are disappointed to see the bill provide for the charging of board inspections to police service boards, regardless of whether or where fault is found. These costs could be crippling for a board that has done nothing wrong. At the very least, conditions should be established under which boards would not be charged for inspections.

I point this out to illustrate the need for this office to help boards succeed, not simply find fault. It is worth remembering that these board members are community leaders and fellow citizens and, for the most part, volunteers. They perform a vital function in our democracy, just like police officers, and they deserve to succeed.

In summary, I have highlighted five key points in my short time. AMO's full submission should be in front of you, and it includes a number of other worthy recommendations. We have endeavoured to put forward ideas that lay the foundation for long-term sustainability and the delivery of high-quality public safety service into the future.

I want to take this opportunity to thank the members for their attention.

**The Chair (Mr. Parm Gill):** Thank you for your presentation. This time, we're going to go to the government members first for questions. We will go to MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** Thank you for being here today and taking time out to be with us and to deliberate, as well. Reading your submission, and seeing that there is support for further training components, and the issues that you have raised as well in the community safety plan, those are important—including the chiefs in the community safety plans as well—so thank you for those suggestions and what you have spoken to on them.

I also want to get your thoughts on the transparency provisions within Bill 68, specifically with respect to posting regulations for public consultation. Organizations like AMO play a huge role. I had the opportunity to be at the AMO conference in Ottawa and recognize the communities that you serve. So, if you could speak to some of those provisions within the bill with respect to posting regulations for public consultation.

**Mr. Matthew Wilson:** I think one of the things about the police act in general is, it's a big, complex act that has multiple layers to it. Certainly, the posting of regulations, and discussing regulations with affected parties in advance, I think, will help design regulations that better suit the provision of good policing in Ontario. So I think that's an integral part of the process, which we will look forward to further down the track.

1620

**Mr. Prabmeet Singh Sarkaria:** Thank you very much. That concludes the questions for the government side.

**The Chair (Mr. Parm Gill):** Nice and quick. Thank you very much.

We'll now go to the NDP members. We'll start with MPP Yarde.

**Mr. Kevin Yarde:** Thank you gentlemen for coming in today. I just wanted to start off talking a little bit about

privatization as it relates to municipalities. In your view, will municipalities still have the options for delivery of police services other than by police officers and police service members?

**Mr. Matthew Wilson:** Certainly we noted that court security and prisoner transportation has been excluded from the "adequate and effective police" category. Our hope is that that is reflective of a desire to allow others to deliver public safety functions.

I think one of the key criteria for police services is to be able to offer a greater degree of flexibility as to who is providing what service and when, with the ultimate objective of making sure that we have an armed, sworn officer serving those critical functions where an armed and sworn officer is needed.

But for some of those other public safety functions, like directing traffic around construction sites or providing some measure of security at basic community events, one of the things that we have found is that increasingly it is the cost of policing which is prohibiting the development of events on a community level. Given that those costs are prohibitive, it gets that much harder for some of those events to be held. We think that that's probably indicative of the fact that those costs are simply just too expensive, and that other options would better suit community safety.

One last final point is that the provision of public safety is a shared responsibility. We have found in a lot of the academic literature that has been talked about with respect to policing in recent years that it talks about the safety and security web. That's basically referencing the fact that it's not simply police officers who are responsible for public safety. A good public safety environment includes many actors fulfilling a multitude of different functions. The more we broaden that out and share that responsibility among those actors, the better public safety outcomes we will have, and we will also ensure that we're delivering public safety in a way that is affordable to taxpayers.

**Mr. Gary McNamara:** I just want to add, if I may, Mr. Chair, that AMO's police modernization paper that was released in 2015 really gives you ample examples of what my colleague has just alluded to, many examples where the whole issue of getting sustainability in terms of costing, as in my comments, is very clear in terms of other opportunities in order to protect our communities that can involve more than just a fully armed police officer.

**Mr. Kevin Yarde:** Okay. Thank you.

**The Chair (Mr. Parm Gill):** Thank you, MPP Yarde. We'll go to MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you so much and thank you for your submissions. One of the things that I'm very focused on is ways to make sure that this legislation actually works effectively to build trust between officers and the public. For Justice Tulloch, part of that was resourcing these plans. It wasn't enough to just come up with diversity plans and training plans; resourcing them is what's actually critical so that we know that they're effective etc. Can you speak a little bit about whether or not there is enough information within this legislation about who is responsible for paying for the development of the training, or delivering it, or hosting it etc.?

**Mr. Matthew Wilson:** The legislation, in vast sections, is silent on who is going to be paying for these things, and there are a variety of different layers to the new requirements that are included in the legislation. If we start at the municipal level, municipalities will be required to develop community safety and well-being plans, but that represents a new mandate and a new cost. We are most concerned about the smallest of the communities that, as we said, don't have the resources and access to the type of information that would be required to do that.

We're concerned that it's a bit of a heavy hand to adopt an approach where you're going to appoint a community safety planner to come in with the powers of the council to develop that plan, in the absence of a municipality acting on its own. So there is some concern with that.

I think you heard from the Association of Police Services Boards—and we share this concern—about the questions that surround the training of board members themselves. That is another additional cost, and again, it's the type of cost that needs centralized resources, which the provincial government could provide. Certainly there are costs associated with the development of diversity plans as well. We just want to make sure that all of that planning serves a purpose and that people are mindful of the fact that there's not an endless bucket of resources that the property taxpayer provides to fund all of these services, and that some additional support is necessary, particularly for those smaller communities.

**The Chair (Mr. Parm Gill):** Thank you, MPP Lindo. We've actually hit the time.

Thank you for appearing before the committee. We really appreciate your presentation today.

**Mr. Matthew Wilson:** Thank you for the opportunity.

**Mr. Gary McNamara:** Thank you.

LIEUTENANT-COLONEL  
ANGELO CARAVAGGIO  
MR. PHIL DEBRUYNE  
MR. PETER LENNOX

**The Chair (Mr. Parm Gill):** Next, we will be hearing from presenters Angelo Caravaggio, Phil DeBruyne and Peter Lennox. This presentation will be made through teleconference, so we're going to allow maybe a few seconds for our technical team to get everything up and running. Are we good to go? Perfect. Thank you very much.

I just want to make sure—can our witnesses hear us? Can we do a mike check?

**Lieutenant-Colonel Angelo Caravaggio:** We can hear you. Thank you.

**The Chair (Mr. Parm Gill):** Okay; perfect. Thank you very much. I just want to quickly let you know that you will have up to eight minutes combined to make your presentation, and then we will have 12 minutes of questions and-answers: six minutes from the government members and six minutes from the official opposition.

Please state your names for Hansard before you begin. You may begin your presentation now.

**Lieutenant-Colonel Angelo Caravaggio:** Thank you, Mr. Chair and members of the committee. My name is Angelo Caravaggio, and I'll be making the opening statement for our group. I hope that the volume is okay and you can all hear me.

**The Chair (Mr. Parm Gill):** It's good.

**Lieutenant-Colonel Angelo Caravaggio:** First of all, we thank you for this opportunity to speak to you, even if it is somewhat unorthodox. We were made aware of the opportunity to speak to your committee on Monday, and unfortunately our members are scattered across the country and in the United States.

Joining me on the phone are Phil DeBruyne, who is currently in British Columbia, and Peter Lennox, who is currently in Ajax. Murray Rodd, our fourth member, is currently in the United States and won't be joining us today.

We, the authors of this submission, represent approximately 150 years of combined experience dealing with issues relating to policing, leadership, training, education, police discipline and professional accountability. We four are all involved in efforts to support policing in Ontario. Together, we are working with an Ontario university on the creation of a graduate certificate in police leadership and, in that context, are engaged in the issues of professional development, leadership, police governance and civilian oversight.

We believe that the new policing legislation in Bill 68 holds much promise for the citizens of Ontario and those who oversee and deliver police services. It helps to put Ontario on the right track to becoming the safe, healthy community envisioned by community safety and well-being plans of the Police Services Act, which came into effect only seven weeks ago. However, we believe that the establishment of a professional oversight body for policing in Ontario, the college of policing, is vital if we hope to realize the expectations of the many stakeholders and partners who have brought the legislation to this point.

Justice Michael Tulloch has reported to the government and the people of Ontario twice in the past two years. Both reports were comprehensive and exhaustive reviews of stakeholder interests in the provision of bias-free, professional and effective policing. Both reports included the recommendation for a college of policing, which we and many of our colleagues heartily support.

Justice Tulloch stated that a college of policing would complement the civilian oversight system by developing a culture of professionalization through a more regulated body that specializes in enhancing police standards and service. He also said that the college of policing should be responsible for the effective oversight of the professional standards of the police profession, police service boards and police services in Ontario.

**1630**

So why do we support the establishment of a college of policing, rather than the inspector general? The college of policing would create and encourage more appropriate enforced standards, but in a much more collegial, constructive and co-operative way, acting as mentors, advisers

and consultants to police services and their boards. We see this as being more positive than the inspector general, which would provide audit and inspection oversight, rather than a broad spectrum of support service, as well as ensuring adherence to standards and regulations.

The college of policing would enhance the effectiveness of policing in Ontario through partnerships with police services rather than being imposed on them, and would reflect the spirit of the government's desire to demonstrate respect for the police. The college of policing would be a resource to all Ontario police services, police service boards, police chiefs and police associations, as well as to citizen groups and individual Ontarians. It would be an institute where they could reach out for professional advice and guidance and expertise, derived from evidence-based practice and research. This capability does not currently exist in Ontario to the degree that a college of policing could provide.

The college of policing would help advance the fact that policing is a profession governed by a professional body which would enhance the credibility of the police in the eyes of the public and of the police themselves. The college would enhance the professional capabilities and competency of the police by ensuring that the training and education of police professionals through the Ontario police college and other police training entities are equitable, and by ensuring consistency and quality among them. It would create linkages and partnerships between police colleges and the academic community, as progressive services like Durham and Toronto are already doing.

A college of police would ensure that we have a professional code of ethics to guide and judge the behaviour of all police officers and police service board members in Ontario to one standard. With a college of policing, the province would have a formal professional development framework where those progressing through the senior ranks of a police service would be provided with the skills, knowledge, ability and mentoring to become effective leaders of our police services, rather than having to rely on their own initiative and, in many cases, their own resources. This professional development system does not currently exist in Ontario.

We want to be clear and state that the college of policing would not replace—I repeat, not—the special investigations unit, the law enforcement complaint agency or the Ontario Police Arbitration and Adjudication Commission, and from a reporting standpoint, we believe that the head of the college should report to the deputy minister of community safety and corrections services.

We agree entirely with Tulloch: The college of policing is the missing link in the oversight framework and represents the best opportunity we have to achieve the desired intentions, impact and outcomes set out in the declaration of principles, as laid out in Bill 68.

These are exciting times for police, and Bill 68 is taking us in the right direction. A college of policing, with a mandate to support and enhance as well as to inspect and audit, will help to ensure that policing is recognized as the profession that it is and that it is able to take its place in

the web of human services by which Ontario will remain a safe, orderly and healthy society.

Thank you very much for your time. That ends our opening statement.

**The Chair (Mr. Parm Gill):** Thank you for your presentation. The first round will start with the official opposition. We'll go to MPP Yarde.

**Mr. Kevin Yarde:** Thank you, sir, for your statement. Can you hear me okay?

**Lieutenant-Colonel Angelo Caravaggio:** Yes I can, thank you.

**Mr. Kevin Yarde:** Okay. The college of policing, you mentioned, is something which is a vital component. I'm just wondering, with this college, would you say that de-escalation training would be mandatory, or should be mandatory?

**Mr. Peter Lennox:** It's Peter Lennox speaking. Just to make sure that I heard you, did you say "de-escalation training"?

**Mr. Kevin Yarde:** That's correct.

**Mr. Peter Lennox:** I don't see any reason, because de-escalation and skills in de-escalation are absolutely crucial to front-line policing.

The college of policing probably wouldn't actually deliver training on specific topics like that, but as it would oversee the Ontario Police College and as it would report to Deputy Minister Di Tommaso, it would certainly be in a position to mandate that which is required training. Part of my personal experience is that 17 months ago, I was the unit commander at the Toronto Police College. I know that at that college and at the Ontario Police College, de-escalation training is considered to be absolutely crucial and given a great deal of attention. I don't see any reason that that would change under the college of policing.

**Mr. Kevin Yarde:** Okay. Do you see anywhere in Bill 68 that would require this? Is there anywhere in Bill 68 that would require de-escalation training?

**Lieutenant-Colonel Angelo Caravaggio:** Not that I'm aware.

**Mr. Kevin Yarde:** Okay.

**The Chair (Mr. Parm Gill):** Thank you, MPP Yarde. We'll move to MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you for your ideas. I'm actually wondering: In the work that you've done with universities, and I'm guessing some colleges and such, what do you think the benefits would be for long-term training initiatives versus one-off training? Within the bill right now, do you think that it engenders long-term training initiatives or one-time-and-you're-done initiatives?

**Lieutenant-Colonel Angelo Caravaggio:** This is Angelo Caravaggio responding to that.

First of all, I think that we need a clear definition of the difference between training and education. Training gives you a measured response to an input. So for example, let's say your weapon jams. These are the steps you're supposed to take, and your weapon clears. That's training.

The secondary schools, the colleges and the universities would be focused more on education: the long term; being

able to work with problems that are undefined; giving you the skill sets, the knowledge, the abilities and the frameworks to take things that are unexpected, to plan for the future, to look forward. So there are two different aspects of it.

The Ontario Police College would be the one that does the training, the police-specific training on the technical skills of being a police officer, and then the post-secondary, like the universities and the colleges, would be giving the stuff on how to budget, how to plan, how to do strategic planning, on the leadership—all of those critical issues and capabilities that they need to be effective senior leaders in the police organization.

**Ms. Laura Mae Lindo:** Thank you so much for that. As a quick follow-up, if you're thinking about training or if you're thinking about discussions about systemic racism and policing, would you think that that would fall more in the bucket that you've described of training or of education? Which would be most appropriate?

**Lieutenant-Colonel Angelo Caravaggio:** To me, those issues come in the professional ethos, in the code of ethics. They would be inculcated into the police curriculum on day one, and they would be taught continuously and reinforced in all professional-type courses, just like leadership.

**Ms. Laura Mae Lindo:** Fantastic. Thank you so much.

**The Chair (Mr. Parm Gill):** Thank you, MPP Lindo. We'll go to MPP Singh.

**Ms. Sara Singh:** Thank you. I appreciate your unorthodox presentation today. You've shared some very valuable insights with us all.

I just want to follow up a little bit on the same sort of tangent around the training for front-line officers and police services boards. Do you feel that, anywhere in the bill that we're discussing, there are aspects or elements that would allow for the measurement or determination of the outcomes of those trainings that are being mandated?

**Lieutenant-Colonel Angelo Caravaggio:** Phil, do you want to take that?

**Mr. Phil DeBruyne:** Sure. I'd be happy to.

I think it has probably been identified in some of the previous presentations, but if I can just use as an example the training and education of police services board members. I believe that when you look at Bill 68, for instance, there is a mandatory component with respect to what police services board members may have, and for the longest time—I believe it goes back as far as 1990—there were provisions within the act itself for a regulation to be passed that would mandate minimum training and education for police services board members. To the best of my knowledge, that has certainly not happened yet. We have a little bit of evidence right now that there has been some additional training, for instance, offered in Thunder Bay. The Ontario Association of Police Services Boards would be better equipped to answer that.

I can tell you, having taught in degree programs, specifically in the fourth year of a degree program, one of the topics was, in fact, police governance. That was taught at a degree level. The program that we're currently working with right now with an Ontario university—there's an

entire week on what we call governance and civilian oversight. I hope that assists you in the answer to your question.

1640

**The Chair (Mr. Parm Gill):** Thank you very much. We're now going to move to the government members. It will be MPP Babikian.

**Mr. Aris Babikian:** Good afternoon. Thank you very much for joining us. My question is if you can relate to us what your thoughts are on the transparency provisions in Bill 68 with respect to posting regulations for public consultations.

**Lieutenant-Colonel Angelo Caravaggio:** Phil, do you have the details?

**Mr. Phil DeBruyne:** Sure. If my memory serves me right, sir, the provision relates to regulations that are passed by the Lieutenant Governor in Council. We are advocates of any kind of public consultation with respect to the regulations. I believe that that provision is built in for a reason. Our key community stakeholders should be consulted as we work through the process.

The way I read the bill, there are certainly going to be a number of regulations that go with different sections. Within the bill, I'm not sure how many times the word "prescribed" appears, but "prescribed" meaning "prescribed by regulation." So the consultation process is within the legislation itself as it relates to the Lieutenant Governor in Council. I think it's an imperative part of the process.

**Mr. Aris Babikian:** Thank you.

**The Chair (Mr. Parm Gill):** We're going to go to MPP Sarkaria next.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much for that. We really appreciate it. I don't have a question, but I do want to acknowledge that we did have a conversation and really appreciated your suggestions on this. Thank you so much for joining us and delegating in front of the committee here today. I look forward to connecting again. Thank you very much. That concludes questions from the government side.

**The Chair (Mr. Parm Gill):** Thank you, MPP Sarkaria. I also want to thank our witnesses: Thank you for your time. Thank you for making a presentation before our committee. I look forward to hearing from you in the near future again.

**Lieutenant-Colonel Angelo Caravaggio:** Absolutely. Our pleasure. We appreciate the opportunity.

#### ONTARIO SENIOR OFFICERS' POLICE ASSOCIATION

**The Chair (Mr. Parm Gill):** Our next presenter is not here yet. They were supposed to appear at 5 o'clock, so we're running a little bit ahead of time. We are going to move to the Ontario Special Constable Association.

**Mr. Prabmeet Singh Sarkaria:** Senior officers.

**The Chair (Mr. Parm Gill):** Oh, okay; sorry. Our next presenter will be the Ontario Senior Officers' Police Association. We've got Rohan Thompson and—

**Mr. Peter Code:** Rohan Thompson is not available today. He had to do a fast change. But we'll introduce ourselves as soon as we sit down.

**The Chair (Mr. Parm Gill):** Perfect. That would be awesome. Before you introduce yourselves, I just want to let you know our quick rules here: You will have up to eight minutes, combined, to make your presentation, at which time we'll move to questions and answers. We'll have six minutes from the government members and six minutes from the official opposition. Before you begin your presentation, please state your name for Hansard. You may begin right now.

**Mr. Peter Code:** Yes, of course. My name is Peter Code. I'm the second vice-president with the Ontario Senior Officers' Police Association. With me is Hugh Ferguson, a past president of our association, and also a current serving director, Rob Johnson. We'd like to thank the committee on justice policy for the opportunity to present on section 220 of Bill 68.

In general terms, we support many of the proposed amendments focused on improved public safety, fairness for police service members and better police oversight. However, there has been an overwhelming concern expressed by our membership that the proposed amendments found in section 220 excluding certain job classifications from membership in an association—a freedom guaranteed by the Charter of Rights—will negatively affect their employment conditions and standing within their police organizations.

What is OSOPA? Ontario Senior Officers' Police Association is the collective voice of the majority of senior police officers in the province of Ontario. OSOPA was formed in the 1990s to be the provincial group of a number of senior officers' associations across the province to present a unified voice on matters affecting police and senior police service members.

We are here today to represent over 30 senior police officers' associations and several hundred members. We realize that these numbers are small in comparison to our junior association and the PAO. However, our membership is responsible for all of the day-to-day operations of every single municipal, regional and provincial police service in Ontario. A senior officer is described by the current Police Services Act as an officer with "the rank of inspector or higher or is employed in a supervisory or confidential capacity," but not the deputy chief or chief. The current PSA gives senior officer police associations the rights to bargain and represent their members in employment matters. Senior officer associations have been in existence for decades.

In the current legislation, the only members of a police service excluded from membership in an association are the deputy chief and the chief. The Police Services Act clearly links this exclusion to the responsibilities in the leadership of the police service and the reporting role to the police services board. The act further affirms that the working conditions and remuneration of the chief and deputy are the board's responsibility.

The proposed legislation, in section 220, would extend that exclusion from membership in an association to the

chief financial officer, the chief administrative officer, the chief human resources executive, the general counsel and any person employed in a confidential capacity in relation to labour relations. This proposed legislation does not provide a reason for the exclusion. There are then a number of concerns by our members, highlighted by how or with whom these members would negotiate their working conditions and remuneration.

As you can imagine, the proposed legislation has resulted in a number of questions and concerns expressed by our members. In the decades-long histories of the senior officers' police associations, there have never been any formal complaints or issues identified that we are aware of with respect to SOA membership that resulted in civil litigation, grievances, human rights complaints or other tribunals, other than one case in Durham region that simply sought to clarify who was a member of the association. In this case, the case confirmed that in a police organization, only the deputy chief and the chief are excluded from membership in an association. That decision was never challenged, and we as a senior officers' association have never heard any additional concerns about memberships within our associations.

There are four main points I'd like to highlight this afternoon in relation to our concerns. Concern number one is charter infringement and freedom of association. In the province of Ontario, senior officers have long been guaranteed their freedom of association, as found in the Canadian charter of rights. Membership in a senior officer organization provides supports through collective bargaining, organizing and meeting, and processes to resolve complaints and concerns. In essence, senior officers' police associations provide a voice for their members with management, chiefs and deputy chiefs regarding working conditions and employment. This right to form a senior officers' association was embedded in the Police Services Act since 1970. We believe that section 220 is an infringement of our members' fundamental rights to freedom of association as found in section 2(d) of the Canadian Charter of Rights and Freedoms.

Our second concern is that exclusion creates inequity. Historically, police organizations were hierarchical and uniformed-male-dominated. Over recent years, it has been recognized by many police services that improvements to the organization can be gained through increased civilianization. This includes a significant increase of female civilians in the senior officer ranks, including police service members, whom section 220 chooses specifically to exclude.

There is an ongoing human rights case between the OPP and its civilian senior managers, the Civilian Association of Managers and Specialists, regarding systemic discrimination which negatively impacts recognition, pay equity and the workplace culture. The move to exclude this group further exacerbates this matter. The majority of Civilian Association of Managers and Specialists members are female, and this proposed legislative change will perpetuate systemic discrimination and inequity and continue to negatively impact these members.

Our third concern is: Why exclude these members? All of our members, not just those highlighted in section 220, may experience a conflict from time to time based on their roles in the organization. This is the nature of our business and why these members are part of a senior association versus the police or regular association. Senior police officers and civilians alike may assist in collective bargaining, hiring, terminating, disciplining, sanctioning, suspending, transferring and other labour relations functions. In smaller services, one member, an officer or a civilian, may provide a number of these administrative functions within their service.

Conflicts arise in many operational and administrative areas within a police service, and that is why we have the mechanism and processes in place to ensure those conflicts are documented and dealt with transparently and ethically. Creating another level of employees will not alleviate these conflicts, but just creates another level of bureaucracy, which is contrary to this government's direction.

Again, it's worth repeating: For as long as these members have been part of an association, there has never been an issue with their participation. Furthermore, the majority of the members who will be affected by section 220 also report to a professional body such as the law society, which have very clear guidelines on professional conduct.

**1650**

Our final concern is the movement between included and excluded positions. How will the legislation affect members who move in and out of these excluded positions? These are legitimate questions that our membership is concerned about. How will this impact their seniority, their compensation, and other benefits?

In closing, the Ontario Senior Officers' Police Association is concerned that section 220 of the proposed legislation will negatively affect members of the senior officers' police associations. When our members learned of these changes from the news release, we were quite astonished. Unlike other associations and stakeholders, the Ontario Senior Officers' Police Association or any of its member senior officers' associations were never consulted on this matter that has significant impact on its members. We find this very concerning. We believe the legislation infringes on our rights of freedom of association, creates inequalities for members, and excludes members unnecessarily. We believe that the provisions found in section 220 are unfair to our membership. The section appears to address a non-existent problem and at the same time creates numerous problems for those affected by these changes.

Thank you very much for your time and for the ability to present to you.

**The Chair (Mr. Parm Gill):** Thank you for your presentation. We're going to start this round by going to the members of the government. We'll go to MPP Sarkaria first.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much for being here today. We appreciate you coming to the committee with the delegation.

I'm going to just jump to a quick question to get your input on Bill 68, which requires diversity training for police officers and members of the police board. Do you think provisions like these are important in restoring trust between the police and the public? That's the training around human rights, systemic racism, diversity and Indigenous culture.

**Mr. Hugh Ferguson:** Absolutely. We totally support that type of training for all members of the police service and, for that matter, anyone employed by the police service—front line, civilian members of the board. In the diverse communities that we serve, we have to provide our membership with that training so that they can deliver equal treatment without prejudice to the communities that we serve.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much. That concludes the questions for the government side.

**The Chair (Mr. Parm Gill):** We'll now go to the official opposition. We'll start with MPP Yarde.

**Mr. Kevin Yarde:** Thank you, gentlemen, for coming in today. We appreciate it. I know we haven't had much time here to discuss this bill. It's fairly quick, as you mentioned in your testimony.

It appears that with Bill 68, the senior ranks will still be subject to possible inspector general investigations for professional misconduct. In light of this, were you consulted prior to the tabling of Bill 68? I know you said you heard about it in the news.

**Mr. Peter Code:** So the answer is no.

**Mr. Kevin Yarde:** Okay. So the time between the government pausing the SOA, which was the previous one, and the introduction of the bill—can you go into further detail about the differences, if any, between the previous bill and the current Bill 68 and the impacts to your members?

**Mr. Hugh Ferguson:** I suppose the main difference is what we were here to discuss. In the previous bill, it was going to remain the same membership and the associations would be as is. I had the good fortune on Sundays of sitting through the Future of Policing Advisory Committee, which led up to the formation, or the creation, I suppose, of the previous bill. So I'm fully aware of what's in it and all of the issues that deal with community safety and improving the services that we deliver and police oversight. We're fully in support of all of that. But as far as whether or not we were consulted between the two—no.

**Mr. Kevin Yarde:** Thank you.

**The Chair (Mr. Parm Gill):** We'll now go to MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you so much for your submissions.

That was a very interesting discussion about the ability to participate in associations etc. So I'm wondering if you can give us a little bit more information on potentially what you may have heard might be the reason that this has been incorporated into this, and then consequently the benefit of being able to participate in associations.

**Mr. Rob Johnson:** We don't know. We weren't consulted. Honestly, we don't know. This has hit us—

we're surprised by it. This is why we're here to make a deputation: for you to reconsider. As Hugh said, in the previous bill from the previous government, it was unchanged.

**Ms. Laura Mae Lindo:** Could you speak just a little bit about the benefits, then, of the previous bill, the benefits of being allowed to participate in these kinds of associations, just so that we can understand the gravity of the change?

**Mr. Rob Johnson:** Sorry, maybe I'm misunderstanding the question. You're asking, what are the benefits of the previous bill over this one?

**Ms. Laura Mae Lindo:** No. What are the benefits of being able to participate in these associations that now you would be excluded from, or now this group would be excluded from?

**Mr. Rob Johnson:** It's collective bargaining. There's also a sense of security provided to members who belong to the associations, if there is a dispute for misconduct or any sort of labour dispute that can be resolved through proper representation, to make sure that there's fairness in the process.

Also, it's a matter of having the support of advocates behind you that individuals who have to negotiate contracts on their own will not have.

Frankly, in the public sector, it's something like this, where you have the potential of having, as we talked about, inequities or disparities between different wages. Folks who are hired under this provision, after three years and a change of chief and/or board, won't have that sense of security.

**Ms. Laura Mae Lindo:** Thank you so much for that.

**Mr. Hugh Ferguson:** If I could add one more point to that: One of the other very important points is—I can't speak for all, but the majority of the organizations have aligned their civilian pay grades so that their upper senior managers are paid equally against what the equivalent uniform rank would be, so that they're almost interchangeable, other than that one works an eight-hour day and one works a seven, right? Like, it's depending.

If that was taken away, the potential is huge for that inequality to start creeping its way back in, where a male superintendent doing the job would make a certain amount—and, as Peter mentioned, the majority of these positions are being civilianized, and a great majority of them are being filled by female members. We just don't want to see that happen.

**Ms. Laura Mae Lindo:** Beautiful. Thank you so much for that.

**Mr. Hugh Ferguson:** Thank you.

**The Chair (Mr. Parm Gill):** Thank you, MPP Lindo. MPP Yarde?

**Mr. Kevin Yarde:** A final question, gentlemen: In light of everything we've heard, what amendments would you suggest?

**Mr. Peter Code:** What we would suggest is that section 220—the people who are excluded from being able to be a member of an organization—remain the same as it was in the previous bill but also in the previous Police Services

Act, which basically is specific to a deputy chief and a chief, allowing all other members to remain a member of the senior officer organization or association from that service.

The new exclusions—there has been nothing that we have seen that would cause a reason to have these new exclusions to begin with—create a certain hardship that I think we've tried to express.

There are just so many different things that actually would occur. One that is of very interesting note is, in police organizations, senior officers do not retain and keep the same position as time goes by. It's quite possible and, I would suggest, probable that officers are transferred into different positions. By these exclusions, one day you could be a member of an organization or an association. The next day, you are transferred and you lose all of the protections that you had with that association, and you are no longer able to rely on an organization or association which you may have paid dues to for the last 10 years.

**The Chair (Mr. Parm Gill):** Thank you very much. That's all the time we have. I want to thank our witnesses for appearing before the committee, and thank you for your time. Your input is very, very much appreciated.

**Mr. Peter Code:** Certainly. Thank you.

**Mr. Rob Johnson:** Thank you very much.

#### CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

**The Chair (Mr. Parm Gill):** Our next presenter is going to be, from the Chinese and Southeast Asian Legal Clinic, Jin Chien.

**Ms. Jin Chien:** Good afternoon.

**The Chair (Mr. Parm Gill):** Good afternoon. Thank you very much. Thank you for taking the time. I just wanted to let you know quickly that you will have up to eight minutes to make your presentation, at which time we will have 12 minutes of questions and answers: six minutes from the government side and six minutes from the official opposition. If you can begin your presentation by please stating your name for Hansard first. Thank you,

**Ms. Jin Chien:** Thank you. My name is Jin Chien. I'm staff lawyer with the Chinese and Southeast Asian Legal Clinic. I apologize; I have a bit of a rasp today, so bear with me. I might have to pause.

**1700**

Just by way of background, my clinic, which is CSALC for short, is a non-profit, community-based organization that provides free legal services to low-income, non-English-speaking members of the Chinese and Southeast Asian communities here in Ontario.

First, I'd like to thank the standing committee for granting us the opportunity to speak today and to comment on this bill. We also rely on the written submissions before you, which I understand have been previously provided earlier this afternoon as part of the Colour of Poverty—Colour of Change network, of which our clinic is a member. With my time, I will comment on specific sections of Bill 68, highlight the need for an independent and robust

police oversight system through the use of a few case studies, and propose recommendations.

Again, I'd like to note at the outset that, as others have indicated, Bill 68 does adopt several of Justice Tulloch's recommendations, which is commendable, and which, in our view, constitute positive changes to the police oversight system. These include mandatory training for all police officers in crisis intervention and de-escalation techniques, as well as human rights and systemic racism, among others. Another is the mandatory publication of SIU reports where no charges are laid, which serves to improve transparency and public confidence in the police accountability regime.

Moving on to case studies, I'd first like to talk about the case of Edmond Yu, which some of you may recall, from 1997. Mr. Yu was a Chinese Canadian man who was diagnosed with paranoid schizophrenia. At that time, while experiencing mental distress, he was fatally shot by a member of the Toronto Police Service.

CSALC represented the Chinese Canadian National Council, which participated in the subsequent coroner's inquest. At that inquest, the jury recommended, among others, that the Police Services Act be amended to provide crisis resolution training for officers. Specifically, in light of officer testimony, the jury recommended that such training include the "fear and apprehension experienced by officers as a result of stereotyping or lack of knowledge, whether about mental illness, race or other factors."

The second case study is one of many cases that we've seen at the clinic involving domestic violence. The police were called due to allegations by the female complainant. In these cases, the female complainants, because of linguistic barriers, often are unable to communicate with the officers, as a result of which the officers do rely on the alleged perpetrator's version of events and often decline to lay charges. In some cases, in fact, charges are laid against the complainant instead.

In one such case, the client's husband kicked the client out of her home in the middle of the night. After calling 911, two OPP officers attended the scene and brought her back into the home to retrieve her belongings, where they engaged in discussion with the husband, who at the time was a member of the York Regional Police. An interpreter, notably, was not provided during the interactions between the complainant and the officers. Further, one of the officers concluded in his report, without basis, that the marriage was fraudulent and entered into for the purposes of immigration. Subsequently, the client was investigated by immigration officials, who found no evidence of marriage fraud.

As highlighted by these cases and demonstrated by numerous reports, which are noted in our written submissions, police conduct disproportionately impacts the most vulnerable and marginalized in our society, including, notably, members of racialized communities. Accordingly, it is crucial that Ontario's oversight system be robust, transparent and independent, as enshrined in legislation. This will serve to guarantee the security and safety of all people, safeguard charter rights, demonstrate

respect for victims and show sensitivity to the multiracial character of Ontario society—all principles currently enshrined in the Police Services Act.

Moving on to recommendations for change to Bill 68: As noted in Justice Tulloch's 2017 report, modern policing is founded on public trust. For the public to have confidence that police will be held accountable when their conduct falls below professional standards expected of them, investigation and resolution of these complaints often require the involvement of outside investigative bodies. At present, OIPRD retains only a small proportion of complaints received from the public, leaving a majority to be investigated internally by a police service. Thus, we recommend that the oversight agency be fully independent within a five-year period such that all complaints are investigated by agency investigators and not referred to police.

With respect to the scope of SIU notification, Bill 68 changes the obligation to notify SIU in any case where there's a civilian death in the presence of police. Instead, mandatory notification is only required in limited circumstances—and in the interests of time, I'm not going to list those. In other cases, a designated authority such as the police chief will have discretion to determine whether or not SIU should be notified. This proposed amendment, in our view, is problematic for the reasons outlined earlier; namely, that a significant component of the oversight process will be left to police discretion, thus undermining institutional independence and public confidence.

As such, CSALC recommends that the status quo of mandatory SIU notification in any case involving a civilian death where police are present be maintained.

With respect to fines for officers refusing to co-operate with the SIU, Bill 68 proposes minor fines of \$5,000 and \$10,000, respectively, if convicted of failure to comply with SIU investigators. These low monetary penalties fail to address the fact that—and this is confirmed in numerous police review reports—there is continuing police resistance against the duty to co-operate with the SIU. Officers not infrequently fail to fulfill their statutory duty to co-operate with the SIU.

This issue was recently addressed by the Supreme Court of British Columbia, in the Independent Investigations Office versus VPD. In BC, as here, the witness officers are obliged by law to fully co-operate with the civilian oversight agency. There, the court held that, "An obligation to co-operate fully with the IIO must be an essential element of the functioning of a police oversight agency.... If co-operation ... is discretionary, the goal of the IIO is diminished or extinguished. There will be no arm's-length investigation of an incident if it is at the discretion of the witness officers."

**The Chair (Mr. Parm Gill):** You have one minute.

**Ms. Jin Chien:** Thank you.

In light of this persuasive judicial guidance, we recommend that all witness officers be compelled to co-operate with the SIU, not only nominally but in practice, as a matter of mandamus. In the alternative, the fines should be increased to reflect the seriousness of non-compliance and to avoid diminishing the goal of the SIU.



Finally, Bill 68 fails to address long-held concerns by the public and also police leaders here in Ontario that both chiefs and commissioners should be given broad discretion to impose suspension without pay while police are under investigation and when disciplinary proceedings are advancing. The short period of 30 days or 240 hours does little to restore public confidence in this regard. To the contrary, the ability of police officers to collect, at times, generous salaries while under prolonged investigation for severe misconduct signals to the public that such allegations are not taken seriously and accountability continues to be evaded.

We recommend that the rigid and arbitrary limitations be removed to allow police leaders discretion to impose suitable measures on a case-by-case basis.

**The Chair (Mr. Parm Gill):** Thank you very much. That's about the time that we had.

We're going to go to the official opposition for the first round of questioning. MPP Lindo.

**Ms. Laura Mae Lindo:** Thank you very much for your submission.

I wanted to go directly to recommendation number 5 and the idea that the government should continue to consult with racialized communities as it moves forward on enhancing police oversight systems to ensure suitable implementation of the proposed changes. I know that the focus right there is on the oversight system. I'm curious to know whether or not you think continued consultation with racialized communities for that section should happen before this bill passes—so that should be an amendment that we should consider as a committee—or if you also believe it should be expanded to be further consultation for the bill itself.

**Ms. Jin Chien:** I think on every side, stakeholders and speakers have noted the short timeline in which to give comment, both in writing and here in person. I agree that especially for organizations with limited resources, it's quite difficult in a short period of less than a week to come up with reasoned and well-consulted conclusions.

Certainly, timing is an issue. We speak as members of the clinic with experience representing our clients. We have not had the opportunity to canvass widely because of time constraints, so we can't say that we represent every view of racialized communities. And there are many other groups that have made comments—again, under time constraints. But I do know that the desire for more time and wider consultation is something that has been expressed among our partners.

1710

**The Chair (Mr. Parm Gill):** We'll go to MPP Singh next.

**Ms. Sara Singh:** Thank you so much for your presentation today. I just want to follow up on recommendation number 2. Perhaps you can elaborate for the committee why you feel it is important that there is a mandatory notification present and how this may perhaps, in fact, increase transparency and accountability for the public.

**Ms. Jin Chien:** Well, in any case where there is civilian oversight, each part of the investigation is important.

Notification is key, of course. It starts off the investigation, if any, and both at the notification process and in the investigation process, Bill 68 contemplates a great deal of police discretion. This is certainly not to say that police are automatically going to abuse that power, but where there is discretion, there is uncertainty and there is the potential for abuse.

The current system has been in place—and we do understand that there have been concerns from officers, for example, with responding to fentanyl overdoses and the administration of naloxone and other situations where death is, of course, not a result of or contributed to by police conduct. I see that the relevant Ontario regulations do address that in recent months. There are situations, of course, that can be dealt with by way of regulation, as they have here for medical purposes. As well, in our view, the response of SIU to attend the scene—I think it could very quickly be disposed of, as to whether or not the situation warrants investigation. So the status quo, in our view, should be maintained—again, not only because of the discretion, but also that discretion leads to a lack of confidence from the public.

**Ms. Sara Singh:** Thank you.

**The Chair (Mr. Parm Gill):** Next, MPP Yarde. You have about two and a half minutes.

**Mr. Kevin Yarde:** You mentioned linguistic barriers in terms of confrontation between the police and the public. What sort of recommendations would you put forth to ensure that everything runs smoothly and something like this doesn't happen?

**Ms. Jin Chien:** We do recommend, where possible, to have a representative police force. In some situations we do know that there are officers in that particular police force who do speak the language, which is great, but that needs to represent the greater population at large. That's one sort of broad, 30,000-foot approach. As well, and this is certainly something that is not covered specifically in our submissions, it would be helpful to have interpretation services such as what we have in courthouses and other government agencies, and, as well, if it's not possible, then perhaps at a later date, with the interpretation available, follow up with interviews of complainants.

What we see oftentimes is a one-sided conclusion in the police reports, which of course is unfair in terms of treatment of victims.

**Mr. Kevin Yarde:** Okay. I also want to touch on the training. You mentioned that there is a need for crisis training for officers, because sometimes there is a fear with the officer in terms of a racialized community or racialized individual. How do we get around that in terms of training so that the fear is not there, the stereotyping is not there?

**Ms. Jin Chien:** That certainly is a good question, but that question is definitely outside the scope of my expertise. I can say that in other jurisdictions, for example, there have been experts who have studied the situation, have given training, and who are specifically retained by police forces both on a regular update, annual basis and also for the training of new officers. So that is mandated in new officer training. Here I see it's proposed, and again it's

commendable that it is a provision that is being proposed, that crisis intervention and de-escalation training is mandatory. I think that is a very positive step.

**Mr. Kevin Yarde:** Thank you.

**The Chair (Mr. Parm Gill):** MPP Singh; you've got 30 seconds.

**Ms. Sara Singh:** Just very quickly, if maybe you can elaborate on the same sort of training element around diversity plans. Are there suggestions that you would make to strengthen the legislation to ensure we are meeting some of the mandated aspects of it?

**Ms. Jin Chien:** Certainly. Again, we tend to see representation as being very important, whether at the rank-and-file or senior leadership. That would permit having experts on racial sensitivity and diversity speak with officers on a regular basis; that would also be helpful. Certainly, as a part of the recommendations of Bill 68, I imagine the government will implement policies and regulations to carry out those wishes. So I again commend that particular provision, and we hope that it's carried out in implementation.

**The Chair (Mr. Parm Gill):** Thank you very much; we appreciate it. We actually went over a few seconds.

We'll now move to the government members. MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** Thank you very much, Ms. Chien, for being here today and deliberating. There are just a couple of points I'd like to bring up.

We touched upon the SIU mandate, a certain scenario, and I would just like to get your opinion on it. When an officer is arriving on a scene and an individual, unfortunately, commits suicide, is that something that you suspect, or you don't think, the SIU should be triggered on?

**Ms. Jin Chien:** I think that the reason why we have investigations at all is to determine causes of death. It's not often quite clear from the minute police and others attend. So out of an abundance of caution and to err, again, on the side of transparency, in light of eroding public confidence in policing in this province, I do think that SIU should be involved.

Again, as I noted earlier, it could be fairly quickly disposed of, where it's quite clear that it was either a suicide or a medically induced reason for the death.

**Mr. Prabmeet Singh Sarkaria:** Thank you. Now I'll shift gears a bit. I thank you, because in your opening statement, you did make some comments about how this government proposed this bill, and it was commendable that we had taken some of the considerations of Justice Tulloch as well.

I think one of the important things today is, we've heard from police associations, various members, various representations, and one of the key aspects is making sure that we restore trust between the police and the public, and this piece of legislation is definitely taking us there.

One of the points that you've mentioned was in respect of diversity training. Maybe you could elaborate on why you think what is proposed in this piece of legislation—the diversity training for police officers and members of

the board with respect to human rights, systemic racism, Indigenous culture—is so important to be included for the first time in the legislation.

**Ms. Jin Chien:** There's a lot to unpack there. With respect to human rights, of course, I think any public servant, regardless of position, needs to be aware of charter values and rights. Hopefully, that's already in part of the training without this new amendment.

With respect to diversity—for example, sensitivity to Indigenous rights and anti-racism—we do see that there is racial profiling in the context of overcharging.

We also see—and it's borne out by the evidence of reports from various agencies, including government agencies—overcharging under investigation from the side of the victims.

Officers are human beings, like everybody else. There are inherent biases, whether by learning or other ways.

For example, in the case of Mr. Yu, we heard during the inquest that there were certain stereotypes attributed to, for example, people of Chinese descent, and that they were, in certain ways, submissive or passive, and because he was acting in a way that was contrary to that, there was fear that he was overly violent. I'm sure that examples are multitude in terms of the Black community.

So, it's certainly not to say that there is any inherent racism of all police officers. That's a ridiculous comment. But there is learning that could be done from everybody, and it would help to better allow police officers to serve the public, not just in terms of racial diversity but also, as we noted, with respect to those experiencing mental distress.

**Mr. Prabmeet Singh Sarkaria:** Thank you. And maybe your thoughts on the transparency provisions within Bill 68 with respect to posting regulations for public consultation, which is included in this piece of legislation: Could you speak to that?

**Ms. Jin Chien:** Very broadly, insofar as sometimes—as the old colloquialism says, the devil is in the details. We do see some great overarching comments and principles. But a statute, as a primary piece of legislation, can only do so much, so we do rely a lot on policies and on guidelines and on regulations.

I do think, especially when it comes to impacted communities, and organizations representing those communities, it is important to give time for fair comment, and also time for broad consensus and consultation.

**Mr. Prabmeet Singh Sarkaria:** Yes, and that's what this piece of regulation is—any regulations enacted would be up for public consultation in that regard.

Thank you very much for being here and delegating.

**Ms. Jin Chien:** Thank you.

**Mr. Prabmeet Singh Sarkaria:** Mr. Chair, that concludes the questions for the government side. Thank you.

**The Chair (Mr. Parm Gill):** Thank you, MPP Sarkaria. I want to thank our witness for appearing. I appreciate the input to the committee.

**Ms. Jin Chien:** Thank you very much.

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ONTARIO SPECIAL CONSTABLE  
ASSOCIATION

**The Chair (Mr. Parm Gill):** Our next presenters are going to be from the Ontario Special Constable Association. We've got David Moskowitz, Sarah Kennedy and Benny Wan. Thank you for appearing before the committee. Just to let you know the rules quickly, you've got up to eight minutes combined for your presentation, at which time we'll move to questions and answers: six minutes from the members of the government and six minutes from the members of the opposition. Please, before you start, make sure you state your name for Hansard. Thank you.

**Ms. Sarah Kennedy:** My name is Sarah Kennedy.

**Mr. David Moskowitz:** My name is David Moskowitz.

**Mr. Benny Wan:** My name is Benny Wan.

**Ms. Sarah Kennedy:** Firstly, we would like to thank this committee and the Minister of Community Safety and Correctional Services for hearing our recommendations on Bill 68.

We are the Ontario Special Constable Association. My colleagues and I stand as the association's executive, but we are also fully employed special constables. David and Ben work here in Toronto and I work in Ottawa.

Our members are special constables throughout Ontario, and we represent special constables not represented by the police associations. Membership is voluntary as we are not a labour group. Our goal is to lobby on behalf of the interests of special constables in Ontario.

We are here today to ask for two reconsiderations in Bill 68. I will speak first, and then my colleague David Moskowitz will conclude.

Special constables are employed in every one of your ridings. With the exception of Sault Ste. Marie, which has only police special constables, each of your ridings have communities served by transit, housing or university special constables. Some of your ridings employ multiple special constable agencies, including housing, transit and universities. Many of your constituents come into contact with and benefit from the services special constables provide every day. It would benefit everybody involved if the communities knew what a special constable is, which is a peace officer.

A major transportation company in Toronto currently moves 1.7 million people per day and has over 16,000 calls for service per year. The largest housing agency in Canada has over 60,000 household units and over 100,000 calls for service per year. An Ottawa transit company moves 340,000 people per day—which is impressive considering the city is not yet one million people—and they have over 14,000 calls for service. A university in Ottawa has 30,000 students and 18,000 calls for service per year. One of the major universities in Toronto has 88,000 students and 14,000 calls for service per year.

Given the volume of interactions between our communities and special constables, it is prudent to ensure that a clear definition of a special constable is added to Bill 68.

Currently, the definition section says that “‘special constable’ means a person appointed as a special constable under section 92; (‘agent spécial’).” Essentially, the bill is saying that a special constable is a special constable.

It is important that the people of Ontario have a better understanding of what a special constable is. Of course, we don't mean this existentially; the confusion as to whether or not a special constable is a security guard or a person with police powers serves to cause a divide and mistrust in the relationship between special constables and the communities they're working in, and it can lead to the escalation of these interactions. It is the lived experience of many of your constituents, as well as the three of us before you today and many of our colleagues. Much of our job daily is explaining to the public that we are peace officers and do, in fact, have the authority to be engaged in what we are doing.

I have been employed as a special constable for nine and a half years—I am aged to say that. While I have observed a lot of change in our community, one constant has remained: I am still explaining to the public what a special constable is and that we are peace officers.

Our request is to have a clear definition in section 2 of Bill 68 that defines a special constable as a peace officer, as defined by the Criminal Code. You can refer to that definition in appendix 1 of our submission. Also, our certificates of appointment clearly state that we are peace officers, as well as that we are sworn in with the powers of a police officer, which is in appendix 2 of our submission.

When the issue is so easily corrected by adding the correct and appropriate definition to a piece of legislation that is already being rewritten, why not? Removing the ambiguity will allow for a more trusted and peaceful relationship between a special constable and the communities they serve in each of your ridings.

**Mr. David Moskowitz:** The second section of our recommendations—and thank you for listening to the first part—that we would like to refer to is a multitude of sections. It refers to the oversight of special constables in Ontario—schedule 1; schedule 8, part X; schedule 5 of the Special Investigations Unit Act; and various other sections that talk about oversight.

The Ontario Special Constable Association holds the position that all law enforcement officers must be subject to reasonable standards of transparency and accountability. This form of transparency and accountability has been established in Ontario in the form of the special investigations unit and the Law Enforcement Complaints Agency. Adding special constables and special constable employers to these two oversight bodies will increase accountability, transparency and public trust.

Special constables in Ontario are subject to various interactions with the public while using police powers, thus subjecting constables to various complaints and allegations from the public. Placing the onus of the investigation on the employer or the respective police service that gives them their authorities—rather than unbiased civilian oversight. This can be viewed as a violation of public confidence, as seen in recommendations recently

from the city of Toronto ombudsman's office as it did an investigation into the Toronto Transit Commission's transit enforcement special constables. That's in our appendix; the report as well.

Further, there has been a recent judgment from a justice of the Ontario Superior Court, Justice T. Minnema. He states: "'Transparency' is straightforward, and in" his "view can form part of a legal principle. It is the government's obligation to share information with its citizens. Our legal system in all aspects strives to be transparent, and in almost all adjudicative steps in the legal process there is some ability to review state action. Not only agencies who are enforcing laws but governments generally must operate in such a way that it is easy for others to see what actions are performed. This is echoed by rules and legislation, for example requiring open hearings in most situations and permitting free access to nearly all public information. Similarly, 'accountability' can be seen as a legal principle within the context of state action, and within the legal system. Not only law enforcement agencies and institutions, but civil servants and politicians, and indeed the government itself, must be accountable to the public and to legislative bodies."

**The Chair (Mr. Parm Gill):** You've got one minute.

**Mr. David Moskowitz:** "Within the legal system decisions must be supported by reasons that are subject to public discourse.... These two concepts are therefore related, and in" his "view can form ... the same legal principle in the sense" of accountability and transparency.

We submit that failing to include special constables as officials under the SIU Act and the LECA is an error that can bring the administration of justice into disrepute. Civilian oversight is critical to protect the relationship between all peace officers and the communities they serve. Thank you.

**The Chair (Mr. Parm Gill):** Thank you for your presentation. We'll go to members of the government. We'll start with MPP Sarkaria.

**Mr. Prabmeet Singh Sarkaria:** I want to thank all of you for being here, and delegating as well, and for taking the time to present us with your brief—very well put together. So thank you for that.

I just want to touch upon a provision that's included in this piece of legislation with regard to diversity training, which makes it mandatory for human rights training, training on systemic racism and Indigenous culture. A really important part of policing and trust is making sure that there is that trust between, whether it's a special constable or a police officer, and the public. I was wondering if you could give your thoughts on that and how you think that training, whether it's on systemic racism, human rights or Indigenous culture, can impact and create that trust between a special constable and the public.

**Mr. David Moskowitz:** All of our special constables in Ontario work in various industries, and they work with the public in various levels. In the universities with our newly educated future leaders—various diversity backgrounds and various religious backgrounds as well—they need that type of training. It's very important in their standards of what they go through during learning.

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Our transit agency officers work with 1.8 million people a day who they see go through their transit agencies. Our housing people work with low-income families that are of various diversities. The training that they're going to receive is very important as it relates to diversity human rights. Some of the training that our officers receive across Ontario isn't standardized. That was one section that we really like that was put into the legislation, about standardizing the training for special constables.

**Mr. Prabmeet Singh Sarkaria:** I'm very happy to hear that. Thank you for being here. That concludes the questions from the government side. Thank you once again for being here.

**Mr. David Moskowitz:** Thank you.

**The Chair (Mr. Parm Gill):** We'll now go to the official opposition. We'll start with MPP Yarde.

**Mr. Kevin Yarde:** Thank you very much for coming in today. I really appreciate everything you do. I believe the type of work you do is just like a police officer: You're right there in the face of criminals and violent offenders, either at community housing or on subways. You do a great service.

My question to you is: Prior to the tabling of this bill, were you consulted?

**Mr. David Moskowitz:** Yes, we were.

**Mr. Kevin Yarde:** You were. In what capacity?

**Mr. David Moskowitz:** We worked with the ministry of corrections and community safety to make recommendations for the bill.

**Mr. Kevin Yarde:** Okay. No more questions.

**The Chair (Mr. Parm Gill):** MPP Singh.

**Ms. Sara Singh:** Thank you for your presentation. I just want to make sure that I heard you clearly. When you were referencing the SIU, you mentioned that special constables were not included and that by their being included we would actually be enhancing accountability and transparency. Can you just elaborate a little bit more about why it may be important to include outside civilians and special constables on the SIU board?

**Mr. David Moskowitz:** Sure. As of now, Bill 68 has a section there in relation to employers doing the investigation and a police services board that provides the authorities to special constables' employers so that their officers can have the powers of a police officer. It's important that the investigations that could entertain after an allegation against one of those officers for using police authorities are done so that it's transparent and that the public is very much aware that the employer that employs the officer is not doing the investigation behind closed doors, the investigation by the overseeing police services board is not done behind closed doors, and that the public is very much aware of what is happening in regard to the complaints that our officers are out there acting as police officers.

**Ms. Sara Singh:** Perfect. Are there any specific suggestions or amendments to the legislation that would help to meet that goal?

**Mr. David Moskowitz:** We would suggest that we be added in a line of schedule 1, part VI; part VIII, section 142; part X, Public Complaints, section 152; Special Investigations Unit Act, schedule 5; and any other act that refers to specific oversight and duties of the special investigations unit, and to partake with LECA.

**Ms. Sara Singh:** Thank you.

**Ms. Laura Mae Lindo:** Sorry—

**The Chair (Mr. Parm Gill):** MPP Lindo.

**Ms. Laura Mae Lindo:** I forgot to do it right.

**The Chair (Mr. Parm Gill):** No worries.

**Ms. Laura Mae Lindo:** Hello. Thank you, Chair.

I have a question around de-escalation. I notice that a special constable has to go through de-escalation training. That's in here—section 92, believe. Is that the same for a police officer? Is that requirement there for both or just for special constables?

**Mr. David Moskowitz:** I don't know the exact schedule for the police officers' recommendations. Part of our responsibility is to represent our special constables. We've concentrated our efforts on that specific section.

I would suggest that de-escalation training in our field, acting as a police officer, would be very important. It's something that our officers across Ontario put into effect without even having this regulation there and they are trained on those.

**Ms. Laura Mae Lindo:** Thank you. Just a quick follow-up. I know that in a lot of areas special constables work very closely with the police services, and so I totally understand the confusion around what the big differences are. Can you just reiterate for me once more how it is that you would want to be named?

**Ms. Sarah Kennedy:** Sure. We want it included in the definition section of schedule 1 that special constables are peace officers as defined by the Criminal Code. This helps remove a lot of the ambiguity that currently exists.

For example, when a special constable, in the lawful execution of their duties, is interacting with a member of the public, engaging in an investigation, the compulsion to identify yourself to that officer is required by law. But the public is often confused; they don't understand that. That inherent misunderstanding, because they don't know what a special constable is, can lead to an escalation that was completely avoidable if they understood that we are peace officers. So if it's so easy to correct by simply writing it in the law, why not do that?

**Ms. Laura Mae Lindo:** That, on its own, would be de-escalation.

**Ms. Sarah Kennedy:** Absolutely.

**Ms. Laura Mae Lindo:** Okay. Thank you.

**The Chair (Mr. Parm Gill):** Thank you very much. I want to thank our witnesses for taking the time and appearing before our committee. Thank you. Your input is extremely valuable. Have a wonderful afternoon.

**Ms. Sarah Kennedy:** Thank you very much.

**Mr. David Moskowitz:** Thank you very much.

**The Chair (Mr. Parm Gill):** Members of the committee, I want to thank everyone for their co-operation. We're a very efficient committee so far. We're going to finish almost 20 minutes ahead of time.

I also want to remind all committee members that, pursuant to the order of the House dated March 5, 2019, the deadline for written submissions is 6 p.m. today, and the deadline for filing amendments to the bill with the Clerk of the Committee is noon on Tuesday, March 12, 2019. Please note that amendments must be filed in a hard copy.

The committee is adjourned until 9 a.m. on Tuesday, March 19, 2019, when we will meet for clause-by-clause consideration of Bill 68 in committee room 151.

Thank you. The committee is now adjourned.

*The committee adjourned at 1736.*





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