

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

**Official Report
of Debates
(Hansard)**

JP-4

**Journal
des débats
(Hansard)**

JP-4

**Standing Committee on
Justice Policy**

Comprehensive Ontario Police
Services Act, 2019

1st Session
42nd Parliament

Thursday 21 March 2019

**Comité permanent
de la justice**

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

1^{re} session
42^e législature

Jeudi 21 mars 2019

Chair: Parm Gill
Clerk: Jocelyn McCauley

Président : Parm Gill
Greffière : Jocelyn McCauley

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

ISSN 1710-9442

CONTENTS

Thursday 21 March 2019

Comprehensive Ontario Police Services Act, 2019, Bill 68, Ms. Jones / Loi de 2019 sur
la refonte complète des services de police de l'Ontario, projet de loi 68, Mme JonesJP-91

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Thursday 21 March 2019

Jeudi 21 mars 2019

The committee met at 0900 in room 151.

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 justice policy committee will now come to order. Pursuant to an order of the House dated March 5, 2019, we will now continue clause-by-clause consideration of Bill 68, An Act with respect to community safety and policing.

Eric Chamney, legislative counsel, is here again to assist us with our work this morning.

Copies of the numbered amendments we received on Tuesday, March 12, 2019, are on your desk. The amendments have been numbered in the order in which they appear in the bill.

On Tuesday, March 19, we left off at schedule 5, section 6, of the bill, and that's where we're going to continue. We're making good progress and I'm hoping that we will continue to make good progress this morning as well.

As I mentioned, we left off at schedule 5, section 6, and we're going to deal with NDP motion 137 next, section 6 of schedule 5 of the bill. We'll go to MPP Yarde first.

Mr. Kevin Yarde: I move that section 6 of schedule 5 to the bill be amended by adding the following subsection: "Limit on certain persons

"(1.1) The proportion of persons who were any of the following persons and that are appointed as investigators shall not exceed 50 per cent:

"1. Police officers.

"2. Special constables employed by the Niagara Parks Commission.

"3. Peace officers in the Legislative Protective Service."

The Chair (Mr. Parm Gill): Thank you, MPP Yarde. Can I please ask you just to reread that line starting from (1.1) again, just that one line please.

Mr. Kevin Yarde: "Limit on certain persons

"(1.1) The proportion of persons who were any of the following persons and that are appointed as investigators shall not exceed 50 per cent:"

The Chair (Mr. Parm Gill): Thank you very much. Any debate on the motion? MPP Yarde.

Mr. Kevin Yarde: With this motion that we're putting forward here—and we've been talking about it since last week—is a Justice Tulloch long-held call: over-policing communities. There is concern once again with police accountability and civilian oversight. For instance, the SIU mandate, when it's invoked—which would be obviously when there is an incident involving death, serious injury or firearms being discharged. This is a ratio that many civilians and former police can become inspectors—in this case, 50% former police officers and former SIU. This is something that we think is needed in the amendment.

The Chair (Mr. Parm Gill): Further discussion on this motion? MPP Lindo.

Ms. Laura Mae Lindo: I also just wanted to add to my colleague's comments. Again, I see this legislation as an opportunity to rebuild trust between communities that have been historically over-policed and police services that want to rebuild that trust as well. I think that it goes both ways. In order to do that, having opportunities to ensure that we have the people at the table during this oversight process is hugely important. It's something that marginalized communities have long called for, and I do believe that it's important for us to make sure that we include within the legislation opportunities to ensure that we don't replicate or perpetuate the same problems that have led to a lack of trust.

Again, as was already mentioned, this is totally in line with Justice Tulloch's recommendations and something that I think we have to take very seriously.

The Chair (Mr. Parm Gill): MPP Singh.

Ms. Sara Singh: Mr. Chair, good morning. Just echoing the same sort of sentiments—I know I sat in on many of those hearings with Justice Tulloch in my community of Peel, in particular. These types of concerns came up time and time again.

This amendment, again, helps us strengthen that relationship, allows people into these positions to represent communities. We have presented an amendment around training. I know that during the hearings we heard a number of times that folks wanted to ensure that the people who were on these boards were trained effectively and could be good investigators. We feel that that was an amendment that would have strengthened this amendment as well.

Again, we urge our members across to consider this amendment and support us in this.

The Chair (Mr. Parm Gill): MPP Yarde.

Mr. Kevin Yarde: I also want to add that more investigators are needed. If we have the 50-50 the way that we're calling for, we'll ensure that a broad range of backgrounds will be complemented, and it will help with oversight in this regime.

The Chair (Mr. Parm Gill): Further discussion on the motion? MPP Lindo.

Ms. Laura Mae Lindo: I would also add that when we have this kind of an opportunity, and we have civilians who are part of this process as that other 50%, it also provides an opportunity for those civilians to go back to their communities and reiterate the fact that this is about building trust in these relationships. It's a chance for us to do things better and it's a chance for us to rely on those same community members to go back and say, "Look, no, they really do want to have a good relationship with us."

When we're sitting in these positions of power, I think we need to make sure that we use our power wisely, kind of like Spiderman—yes, I said that for the record—and I think we have to make sure that we take every opportunity that we can to address the need to rebuild trust in these over-policed communities. So I hope that my colleagues across the way will support us.

The Chair (Mr. Parm Gill): Any further debate on the motion?

Ms. Laura Mae Lindo: Sorry. I forgot to say "recorded vote." I don't know when I'm supposed to say that, so I'm just going to say it: recorded vote.

Interjection.

The Chair (Mr. Parm Gill): MPP Singh.

Ms. Sara Singh: Just to clarify, Mr. Romano: The Clerk has advised me that the UC from the other day would not apply today. So we'd need to request another unanimous consent motion, I guess, for all recorded votes today, if everyone is comfortable with that. We've only got about a page of amendments left to go.

The Chair (Mr. Parm Gill): MPP Sarkaria?

Mr. Prabmeet Singh Sarkaria: Yes. I'm okay with that, as long as we do what we did the other time with the combined—we just carry—

Ms. Sara Singh: Yes. I don't think there are any large sections that we'll be moving in the last part of our amendments, so I think we should be fine to just have recorded votes, but the Clerk can clarify.

Mr. Prabmeet Singh Sarkaria: There are quite a few, actually.

The Chair (Mr. Parm Gill): So, just to confirm, recorded votes on amendments?

Ms. Sara Singh: Yes.

Mr. Prabmeet Singh Sarkaria: Yes, perfect.

The Chair (Mr. Parm Gill): Perfect. Is there unanimous consent from committee members?

Mr. Prabmeet Singh Sarkaria: Yes.

The Chair (Mr. Parm Gill): Are members prepared to vote on this motion?

Mr. Prabmeet Singh Sarkaria: Yes.

Ayes

Lindo, Sara Singh, Yarde.

Nays

Baber, Babikian, Dunlop, Norman Miller, Romano, Sarkaria.

The Chair (Mr. Parm Gill): I declare the motion lost. Shall schedule 5, section 6 carry? Carried.

There are no proposed amendments to sections 7 to 14 of schedule 5. I therefore propose that we bundle these sections. Is there agreement to do that? Agreed. Shall schedule 5, sections 7 to 14, inclusive, carry? Carried.

Moving on to schedule 5, section 15: We're going to deal with NDP motion number 138, on subsection 15(1) of schedule 5 to the bill. MPP Lindo.

Ms. Laura Mae Lindo: I move that subsection 15(1) of schedule 5 to the bill be amended by striking out the portion before paragraph 1 and substituting the following:

"(1) The SIU director may cause an investigation to be conducted into any incident in which any of the following occurs, if the incident may have resulted from the conduct of an official:"

The Chair (Mr. Parm Gill): Any further discussion on the motion? MPP Yarde.

Mr. Kevin Yarde: By adding "if the incident may have resulted from the conduct of an official"—what's happening with this part of the bill looks like the government is purposely preventing the SIU from investigating and having investigations going forward. That's why we're requesting this change here.

Clearly, Mr. Chair, it is detrimental to the public good, and the aim of public oversight of the police is tantamount in this mandate itself. The mandate overall of the SIU set forth for investigating a serious injury, death, sexual assault and discharge of a weapon never conceived of incidents of criminal conduct. That's why we're putting this in here. By doing that, it may capture that. That's the importance of putting this in this amendment.

The Chair (Mr. Parm Gill): Further debate on the motion? Seeing none, are members prepared to vote? Okay. We're going to deal with NDP motion 138.

Ayes

Lindo, Sara Singh, Yarde.

Nays

Baber, Babikian, Dunlop, Norman Miller, Romano, Sarkaria.

The Chair (Mr. Parm Gill): I declare the motion lost. Moving on to government motion number 139, on section 15 of schedule 5 to the bill: MPP Romano.

Mr. Ross Romano: I move that section 15 of schedule 5 to the bill be amended by adding the following subsection:

“Exception

“(6.1) Subsection (5) does not apply with respect to an incident to which only paragraph 3 of subsection (1) applies.”

0910

The Chair (Mr. Parm Gill): Thank you. Further debate on the motion? Seeing none, are the members prepared to vote? All those in favour of government motion number 139, please raise your hands.

Ayes

Baber, Babikian, Dunlop, Norman Miller, Romano, Sarkaria.

The Chair (Mr. Parm Gill): I declare it carried.

Shall schedule 5, section 15, as amended, carry? Carried.

Moving on to schedule 5, section 16, we’re going to deal with NDP motion number 140, subsections 16(1) and (2) of schedule 5 to the bill. MPP Singh.

Ms. Sara Singh: I move that subsections 16(1) and (2) of schedule 5 to the bill be struck out and the following substituted:

“Notification of incident

“(1) A designated authority shall immediately notify the SIU director of an incident referred to in subsection 15(1) involving an official in relation to whom the authority is designated except in the prescribed circumstances.”

The Chair (Mr. Parm Gill): Thank you. Further discussion on the motion? MPP Yarde.

Mr. Kevin Yarde: The reason why we are putting this amendment forward is, basically, in situations where police provide immediate medical care, for example—which again, the government is already revoking in certain regulations. That’s why we’re putting this part in in the amendment.

The Chair (Mr. Parm Gill): Thank you very much. Further discussion? Seeing none, are the members prepared to vote? All those in favour of NDP motion number 140, please raise your hands.

Ayes

Lindo, Sara Singh, Yarde.

Nays

Baber, Babikian, Dunlop, Norman Miller, Romano, Sarkaria.

The Chair (Mr. Parm Gill): I declare the motion lost. Shall schedule 5, section 16, carry? Carried.

There are no proposed amendments to sections 17 to 20 of schedule 5. I therefore propose that we bundle these

sections. Is there agreement to do that? Thank you. Shall schedule 5, sections 17 to 20 inclusive, carry? Carried.

Moving on to schedule 5, section 21, we’re going to deal with government motion number 141, subsection 21(5) of schedule 5 to the bill. MPP Romano.

Mr. Ross Romano: I move that subsection 21(5) of schedule 5 to the bill be struck out.

The Chair (Mr. Parm Gill): Further discussion? MPP Singh.

Ms. Sara Singh: Just asking government members for some clarification on this.

Mr. Ross Romano: It’s going to be providing greater certainty.

Ms. Sara Singh: Is that all that you can—I mean, perhaps there’s ministry staff that can help clarify for us?

Mr. Ross Romano: No, I’m content. It provides greater certainty and it would maintain the status quo.

Ms. Sara Singh: I would like to have some more clarity on this amendment. Perhaps if you can direct ministry staff—

The Chair (Mr. Parm Gill): Just to maintain order, can you please raise your hand to be recognized before we move on, so we get everything officially, MPP Singh?

Ms. Sara Singh: Sorry. Yes. I appreciate the response, MPP Romano, but if there are ministry staff here that you can direct to provide further clarity on this amendment, I would really appreciate that. I’m sure others in the committee would appreciate that as well.

The Chair (Mr. Parm Gill): Can we request the ministry counsel to come up?

Can you please state your name for the record?

Ms. Sunny Kwon: My name is Sunny Kwon. I’m counsel with the Ministry of the Attorney General.

Ms. Sara Singh: Thank you very much, Ms. Kwon.

The Chair (Mr. Parm Gill): MPP Singh, you may ask the question.

Ms. Sara Singh: Ms. Kwon, can you please provide us further clarity on this amendment? I understand that it’s to provide further clarity, but can you explain in detail what that means and why this section is being struck out?

Ms. Sunny Kwon: Yes. Section 21 is about incident notes in general, so it requires officials to complete incident notes on an incident. Subsection 21(5) is meant to clarify what are not incident notes. Subsection (1) talks about what are incident notes and subsection (5) is a greater-certainty provision, and it clarifies what aren’t incident notes. The proposal is to take out subsection 21(5), because it’s a greater-certainty provision.

Ms. Sara Singh: So this provision just clarifies what those incident notes are, what should be retained and how long they can be retained for?

Ms. Sunny Kwon: What they are not.

Ms. Sara Singh: What they are not.

Ms. Sunny Kwon: Yes.

Ms. Sara Singh: Okay. Perfect. Thank you so much.

The Chair (Mr. Parm Gill): Thank you, counsel, for the clarification.

Any further discussion on this motion? Seeing none, are the members prepared to vote?

Ayes

Baber, Babikian, Dunlop, Lindo, Park, Romano, Sarkaria, Sara Singh, Yarde.

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

Shall schedule 5, section 21, as amended, carry? Carried.

Moving on to schedule 5, section 22: Any discussion on this section? Seeing none, are the members prepared to vote? Shall schedule 5, section 22, carry? Carried.

Schedule 5, section 23, is the next item. Any discussion on this section? Seeing none, are the members prepared to vote? Shall schedule 5, section 23, carry? Carried.

Next is schedule 5, section 24. We're going to deal with government motion number 142, section 24(1) of schedule 5 to the bill. MPP Romano, please.

Mr. Ross Romano: I move that subsection 24(1) of schedule 5 to the bill be struck out and the following substituted:

"Notes of subject official

"Incident notes

"(1) No person shall give to an investigator the original or a copy of any incident notes of a subject official respecting the incident."

The Chair (Mr. Parm Gill): Thank you very much. MPP Singh?

Ms. Sara Singh: Again, some clarity on this amendment would be helpful, please.

The Chair (Mr. Parm Gill): MPP Sarkaria.

Mr. Prabmeet Singh Sarkaria: Yes. This would just carry over the existing protection for subject officials' incident notes, and therefore maintains the status quo.

Ms. Sara Singh: Okay. Thank you.

The Chair (Mr. Parm Gill): Any further discussion on the motion? Seeing none, are the members prepared to vote?

Ayes

Baber, Babikian, Dunlop, Park, Romano, Sarkaria.

The Chair (Mr. Parm Gill): All those opposed to government motion number 142, please raise your hands. I declare the motion carried.

Moving on to government motion number 143, subsection 24(3) of schedule 5 to the bill: MPP Baber.

Mr. Roman Baber: I move that subsection 24(3) of schedule 5 to the bill be struck out.

The Chair (Mr. Parm Gill): Further discussion on the motion? MPP Yarde.

Mr. Kevin Yarde: Could we have some further clarity on this one?

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

Mr. Roman Baber: The section is not necessary as the section only deals with incident notes of a subject official.

The Chair (Mr. Parm Gill): Further discussion? Seeing none, are the members prepared to vote?

Ayes

Baber, Babikian, Dunlop, Park, Romano, Sarkaria.

The Chair (Mr. Parm Gill): All those opposed to government motion number 143, please raise your hands. I declare the motion carried.

Shall schedule 5, section 24, as amended, carry? Carried.

There are no proposed amendments to sections 25 to 30 of schedule 5. I therefore propose that we bundle these sections together. Do we have an agreement to do that? Great. Shall schedule 5, sections 25 to 30, inclusive, carry? Carried.

Moving on to schedule 5, section 31: We're going to deal with NDP motion 144, subsection 31(1) of schedule 5 to the bill. MPP Yarde.

Mr. Kevin Yarde: I move that subsection 31(1) of schedule 5 to the bill be amended by striking out the portion before paragraph 1 and substituting the following:

"(1) The following persons shall comply with a direction or request received from the SIU director or an investigator in relation to an investigation under this part, immediately or as otherwise specified under this part, unless it is unlawful or impracticable to do so:"

The Chair (Mr. Parm Gill): Any debate on the motion? MPP Yarde.

Mr. Kevin Yarde: The change for this section here: All we're basically doing is removing the word "reasonable" from "reasonable direction." We feel that "reasonable" is pretty much an overly broad term, and it can be subject to interpretation and challenge. So that's why we are making this change here. That's the main reason for this amendment.

0920

The Chair (Mr. Parm Gill): Thank you, MPP Yarde. Further discussion on the motion? Seeing none, are the members prepared to vote?

Ayes

Lindo, Sara Singh, Yarde.

Nays

Baber, Babikian, Dunlop, Park, Romano, Sarkaria.

The Chair (Mr. Parm Gill): I declare the motion lost. Shall schedule 5, section 31 carry? Carried.

Moving on to schedule 5, section 32, dealing with government motion number 145, subsection 32(2) of schedule 5 to the bill: MPP Romano.

Mr. Ross Romano: I move that subsection 32(2) of schedule 5 to the bill be struck out.

The Chair (Mr. Parm Gill): Thank you very much. Further discussion on the motion? MPP Yarde.

Mr. Kevin Yarde: Can we get further clarity on this motion?

Mr. Ross Romano: The SIU's mandate should be focused on criminal conduct. For that reason, we're seeking to remove the subsection.

The Chair (Mr. Parm Gill): MPP Sarkaria, did you have your hand up?

Interjection.

Mr. Kevin Yarde: Sorry; I didn't hear what he said.

The Chair (Mr. Parm Gill): MPP Romano, would you be able to repeat that?

Mr. Ross Romano: The SIU's mandate should be focused on criminal conduct. That is the reason we're seeking to remove that subsection.

The Chair (Mr. Parm Gill): MPP Sarkaria?

Mr. Prabmeet Singh Sarkaria: I would just specify that we're trying to make sure that the SIU's mandate is used for the purposes that would make it—

Interjection.

Mr. Prabmeet Singh Sarkaria: I'll give you an example. In certain circumstances, the SIU mandate is invoked when, say, an officer is arriving on a scene and an individual happens to, unfortunately, commit suicide. That would trigger an SIU investigation. This is all about making sure that the SIU's mandate is for criminal purposes.

The Chair (Mr. Parm Gill): Thank you. Further discussion? MPP Singh.

Ms. Sara Singh: Thank you very much for the clarification. I think we can all agree that we don't want officers to be subject to unnecessary investigations, especially in instances where they perhaps are responding to someone in crisis. However, I think it is important to understand that oftentimes there is alleged behaviour that can take place and that the current language does not allow that to be investigated, and so our amendment seeks to just provide more space for those investigations to be considered with the SIU. That's what our amendment seeks to do.

We hope that you can understand that it isn't to, again, say that there is criminal intent being caused when a police officer goes into a space where a person is in crisis. We understand that that's a very special circumstance. However, there are many, many cases where there is alleged criminal activity that takes place with interactions with an officer. That's why we have included this language to expand the scope.

The Chair (Mr. Parm Gill): Thank you, MPP Singh. Further discussion on the motion? MPP Yarde.

Mr. Kevin Yarde: I just wanted to add to my colleague that this could mean that a host of criminal matters that may relate to the SIU investigation could fall silent, and public interests would not be pursued.

The Chair (Mr. Parm Gill): Thank you. Further discussion? Seeing none, are the members prepared to vote?

Ayes

Baber, Babikian, Dunlop, Park, Romano, Sarkaria.

Nays

Lindo, Sara Singh, Yarde.

The Chair (Mr. Parm Gill): Carried.

Shall schedule 5, section 32, as amended carry? Carried.

There are no proposed amendments to sections 33 to 36 of schedule 5. I therefore propose that we bundle these sections together. Do we have an agreement to do that?

Interjection: Agreed.

The Chair (Mr. Parm Gill): Thank you. Shall schedule 5, sections 33 to 36, inclusive, carry? Carried.

Moving on to schedule 5, section 37. We're going to deal with government motion number 146, section 37 of schedule 5 to the bill: MPP Romano.

Mr. Ross Romano: I move that section 37 of schedule 5 to the bill be struck out and the following substituted:

"Transition

"37. An investigation commenced but not concluded under part VII of the Police Services Act before the day that part was repealed shall continue to be dealt with in accordance with that act and the regulations made under it, as the act and the regulations read immediately before the act's repeal."

The Chair (Mr. Parm Gill): Thank you. Further discussion on the motion? Seeing none, are the members prepared to vote?

Ayes

Baber, Babikian, Dunlop, Park, Romano, Sarkaria.

The Chair (Mr. Parm Gill):

All those opposed to government motion 146, please raise your hands.

Carried.

Shall schedule 5, section 37, as amended, carry? Carried.

There are no proposed amendments to sections 38 to 45 of schedule 5. I therefore propose that we bundle these sections. Do we have an agreement? Agreed. Shall schedule 5, sections 38 to 45, inclusive, carry? Carried.

Shall schedule 5, as amended, carry? Carried.

Moving on to schedule 6: There are no proposed amendments to sections 1 to 13 of schedule 6. I therefore propose that we bundle these sections. Do we have an agreement from the committee? Agreed. Shall schedule 6, sections 1 to 13, inclusive, carry? Carried.

Shall schedule 6 carry? Carried.

Moving on to schedule 7: There are no proposed amendments to sections 1 to 5 of schedule 7. I therefore propose that we bundle these sections. Do we have an agreement? Agreed. Shall schedule 7, sections 1 to 5, inclusive, carry? Carried.

Moving on to schedule 7, section 6: We're going to deal with government motion number 147, on section 6 of schedule 7 to the bill. MPP Romano.

Mr. Ross Romano: I move that section 6 of schedule 7 to the bill be amended by striking out “counsel” in subsection 6(6) of the Mandatory Blood Testing Act, 2006 and substituting “counsel or agent”.

The Chair (Mr. Parm Gill): Can you kindly repeat that again, please?

Mr. Ross Romano: I move that section 6 of schedule 7 to the bill be amended by striking out “counsel” in subsection 6(1) of the Mandatory Blood Testing Act, 2006 and substituting “counsel or agent”.

The Chair (Mr. Parm Gill): Thank you. Any discussion on this motion? Seeing none, are the members prepared to vote?

Ayes

Baber, Babikian, Dunlop, Park, Romano, Sarkaria.

The Chair (Mr. Parm Gill): All those opposed to government motion number 147, please raise your hands. I declare the motion carried.

Moving on to motion number 148 by the government, on section 6 of schedule 7 to the bill: MPP Romano, please.

Mr. Ross Romano: This is a duplicate to 147 and will therefore be withdrawn, please.

The Chair (Mr. Parm Gill): Motion withdrawn.

Shall schedule 7, section 6, as amended, carry? Carried.

There are no proposed amendments to sections 7 to 12 of schedule 7. I therefore propose that we bundle these sections. Do we have an agreement from the committee members? Agreed. Shall schedule 7, sections 7 to 12, inclusive, carry? Carried.

Shall schedule 7, as amended, carry? Carried.

We’re now going to deal with the first three sections, which we had postponed when we first started this clause-by-clause. I just want to draw everybody’s attention.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the title of the bill carry? Carried.

Shall Bill 68, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

I want to thank all the committee members for your cooperation. The committee is adjourned until 9 a.m. on Thursday, March 28, 2019, when we will meet to consider the notice of motion filed by MPP Nathalie Des Rosiers pursuant to standing order 126. Thank you very much. I appreciate your time.

The committee adjourned at 0930.

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Also taking part / Autres participants et participantes

Ms. Sunny Kwon, counsel, justice policy branch, Ministry of the Attorney General

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