

# Committee Transcripts: Standing Committee on Administration of Justice - 1997-May-13 - Bill 105, Police Services Amendment Act, 1997

Bill 105, Police Services Amendment Act, 1997

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**Substitutions present / Membres remplaçants présents:**

Mr Tom Froese (St Catharines-Brock PC)

Mr John O'Toole (Durham East / -Est)

**Clerk / Greffier:** Mr Douglas Arnott

**Staff / Personnel:** Mr Andrew McNaught, research officer

J-2225

*The committee met at 1532 in room 228.*

## POLICE SERVICES AMENDMENT ACT, 1997 / LOI DE 1997 MODIFIANT LA LOI SUR LES SERVICES POLICIERS

Consideration of Bill 105, An Act to renew the partnership between the province, municipalities and the police and to enhance community safety / Projet de loi 105, Loi visant à renouveler le partenariat entre la province, les municipalités et la police et visant à accroître la sécurité de la collectivité.

**The Chair (Mr Gerry Martiniuk):** Good afternoon, ladies and gentlemen, members of the committee. This is a hearing of the standing committee on administration of justice, consideration of Bill 105, the Police Services Amendment Act, 1997. I see a quorum and we shall proceed.

The first thing, may I have a motion from someone approving a reimbursement of travelling expenses for one of our presenters in the amount of \$38.10?

**Mr Tom Froese (St Catharines-Brock):** Moved.

**The Chair:** All those in favour? Carried. He shall be reimbursed.

## ONTARIO NATIVE COUNCIL ON JUSTICE

**The Chair:** Our first presentation today is the Ontario Native Council on Justice, Carol Montagnes, executive director. Welcome. Members of the committee should have received a written presentation, and I'd ask you to proceed.

**Ms Carol Montagnes:** Good afternoon, Mr Martiniuk, members of the committee. My name is Carol Montagnes and I work as the executive director for the Ontario Native Council on Justice. We appreciate the opportunity to make a presentation today on Bill 105.

The Ontario Native Council on Justice was established in 1977 by the major native organizations in the province of Ontario. The purpose was to address criminal justice issues; the impetus was the vast overrepresentation of aboriginal people in prisons. The council is a province-wide representative body made up of two representatives each from the following organizations: the Association of Iroquois and Allied Indians; Grand Council Treaty 3; the Ontario Federation of Indian Friendship Centres; the Ontario Metis and Aboriginal Association; Ontario Native Women's Association; the Union of Ontario Indians; Independent First Nations' Alliance; and the Native Law Students Association.

The mission of the Ontario Native Council on Justice is to support the aboriginal organizations and their representatives in the development of initiatives to address justice matters for their people, and while the development of these initiatives occurs, to ensure that those aboriginal people involved in the existing justice system have their needs met in a culturally meaningful manner.

The council is unique in Canada as a representative aboriginal body with a sole focus on criminal justice issues. The council's work entails research, policy development, program development and native awareness training.

As well as the written submission that I've provided to the committee, I will also leave with the clerk of the committee a fact sheet on the Ontario Native Council on Justice which details with its history, the objectives of the council and its many publications over its 20-year history.

There are more aboriginal people living in Ontario than in any other province or territory in Canada. According to the 1991 census, the number was 243,550. Most live off-reserve in urban areas.

This presentation refers to Ontario police services, the Ontario Provincial Police and municipal police services, rather than first nations police services.

It is well known among those working in the justice area that aboriginal people are overrepresented in the prison system as offenders. What is not so well known and what is pointed out by the Royal Commission on Aboriginal Peoples in their special report on criminal justice, entitled Bridging the Cultural Divide, is that more than any other group, aboriginal people are overrepresented as victims as well. Because of this involvement, both as victims as well as offenders, the proposed amendments to the Police Services Act are of grave concern to the aboriginal community.

The first point of contact with the criminal justice system by aboriginal people is the police. For the sake of emphasis, and because the committee will be hearing from Aboriginal Legal Services of Toronto later this afternoon, as well as from the Ontario First Nations Police Commission, I would like to highlight three areas in this presentation: civilian oversight, third-party complaints and the duty to cooperate.

Of particular concern are the changes proposed in the legislation to civilian oversight of police. It is a truism that to know where you are, you have to know where you have been. Looking at the past, at the historical relationship between aboriginal people and police, it is evident why civilian oversight of the police is of concern.

At the Native Peacekeeping Symposium held by the Ontario Native Council on Justice in Thunder Bay in 1990, the aboriginal view of police and policing versus peacekeeping was apparent. It was pointed out by our keynote speaker that in his language the literal translation of "police" was "one who holds a weapon over you." The historical relationship between aboriginal people and police has not been one to inspire trust.

The aboriginal community is not alone in this regard. The Report of the Race Relations and Policing Task Force of 1989 pointed out the number of extensive briefs and presentations it had received on issues relating directly to public complaints against the police, stating, "A recurring theme in the presentations before us has been the demand for mandatory, province-wide, independent civilian review of allegations of police misconduct against members of the public."

The position paper on civilian oversight of police conduct issued by the police complaints commissioner in October 1996 outlines the studies on public complaints procedures which were produced in the 1970s and traces the development of the office of the public complaints commissioner. The paper points out that policing was considered to be one of the most critical of public services, and although internal processing of public complaints by the police may have been a fair system, it did not appear fair. In 1981, the government responded to growing concerns about the accountability of police officers by creating the office of the public complaints commissioner as a pilot project here in Metro Toronto.

In 1990, in order to respond to public demands for a uniform system of complaints processing and greater accountability on the part of police services throughout the province, part VI of the Police Services Act established a province-wide public complaints system in Ontario. The need for a police complaints body independent of police services, policing organizations and the Ministry of the Solicitor General still exists.

With regard to third-party complaints, under the existing Police Services Act a third party is entitled to file a complaint about a police officer's conduct or a police force's services or policies. Section 57 of the proposed amendments allows a complaint to be made only by a member of the public directly affected, thus eliminating a third-party complaint. The onus to make a complaint to the police and follow through with it will rest solely on the shoulders of the person directly involved. In the case of disadvantaged or marginalized people, how realistic is this expectation?

**1540**

Another area of grave concern is the special investigations unit, the SIU. The proposed amendments to the Police Services Act do not address an officer's duty to cooperate with the SIU. This is an area that, in fairness to the officers involved and to the public, must be clarified. It is recommended that the position be taken that subsection 113(9) of the Police Services Act is constitutionally valid until a court determines that it is not, and that procedures be put in place to ensure cooperation.

The following recommendations are made:

(1) That a civilian oversight agency be maintained that is, and that is seen to be, independent of police;

(2) That third parties be entitled to file a complaint about a police officer's conduct or a police department's services or policies;

(3) That a complainant accepting or wishing informal resolution of a complaint do so in a written confirmation; as well, an advocate should be available to assist throughout the resolution process;

(4) That the complaint system be accessible for all communities, that is, including appropriate educational outreach for information about procedures. It is important that interpreter services be part of this educational outreach, as well as aboriginal agencies, such as aboriginal legal clinics and friendship centres;

(5) That the duty of officers to cooperate with the special investigations unit be clarified and procedures implemented to ensure the required cooperation; and

(6) That resources be provided to the civilian oversight agency and special investigations unit to allow them to properly fulfil their function in a timely manner.

**The Chair:** Thank you. We have one minute per caucus. The government caucus is first. Are there any questions?

**Mr Bob Wood (London South):** There appear to be no questions.

**The Chair:** The opposition, Mr Ramsay.

**Mr David Ramsay (Timiskaming):** Carol, thank you very much for your presentation. I agree with the points you've made and I would be certainly looking at making amendments to this bill that would address most of your concerns. I appreciate your input.

**Mr Peter Kormos (Welland-Thorold):** The issue of subsection 113(9) has been omnipresent, notwithstanding that it wasn't addressed in the amendments. Two proposals have been made: One, that there be a use immunity. I suppose that's drawn from the fact that it would be induced statement anyways because you'd be compelled by law to make it therefore the statement made in this instance by a subject officer couldn't be introduced against that subject officer in any event. That's where the constitutional or charter protection takes effect.

The other one is that there simply be workplace penalties; in other words, you've failed to perform your duties as a police officer, even as a subject officer, by failing to comply with 113(9). Can you comment on either or both of those or another option?

**Ms Montagnes:** I think the main thrust at this time would be that there be a procedure in place and that it be very clear to both the officers and to the general public what that proper procedure is, so that in reading the newspaper accounts of the special investigations unit's investigations the general public is not left with the false impression that an officer is not cooperating for some inappropriate reason.

**The Chair:** I thank you very much for your excellent presentation here today.

## AFRICAN CANADIAN LEGAL CLINIC

**The Chair:** Our next presentation is on behalf of the African Canadian Legal Clinic, Michelle Williams, policy researcher and analyst. Good afternoon. Please proceed, Ms Williams.

**Ms Michelle Williams:** Thank you, committee members, and all those people who have come today to express their concerns regarding Bill 105. As mentioned, I'm Michelle Williams, policy researcher and analyst with the African Canadian Legal Clinic.

The African Canadian Legal Clinic has a province-wide mandate and is a not-for-profit legal clinic incorporated under the laws of the province of Ontario which was established to address anti-black racism and other forms of systemic and institutional discrimination in the justice system.

To give you an idea of the work that the ACLC has done in the past, we have been granted standing at a coroner's inquest into the shooting death of Ian Coley, an African Canadian who was fatally shot by Constable Richard Shank of the Metro Toronto Police; that same constable having been involved in the latest shooting of an African Canadian, Mr Hugh Dawson.

We have also been granted intervenor status at the Supreme Court of Canada in two cases to date, have made written and oral submissions to the federal standing committee on justice and legal affairs, and most recently have had standing before the Commission of Inquiry into the Deployment of Canadian Forces to Somalia, otherwise known as the Somalia inquiry.

While preparing this brief today, I pondered what I could say to the committee to adequately express the frustration and fear that is experienced by victims of police abuse. I'm not sure what it will take for the public or this committee to understand, but all legislation should be promulgated in the context of the social reality in which we are operating and living.

This legislation is now being proposed in the context of the worst killing spree of African Canadians and other racial minorities by police in recent years. Since January of last year 10 people have been shot by police, six of whom were killed and most of whom were African Canadians. This list does not include in-custody deaths like the horrific death of Kenneth Allen. Most recently a police officer was found guilty in connection with the shooting death of Dudley George, which took place in September 1995. In fact, Metro police are proportionately more likely to shoot suspects than their colleagues in Chicago, Dallas, Houston, New York and the LAPD. These people had their lives violently taken away and have left behind grieving fathers, mothers, partners, children and friends, yet officers have refused to cooperate fully with the special investigations unit. It is in this context that the government is now proposing a bill which will essentially claw back accountability of the police.

I'm here to speak on behalf of the African Canadian community and to speak to Bill 105.

I thought, in addition, about bringing in the dozens of young people I personally have met with who

have been beaten by police, sometimes with a telephone book over their heads so there won't be marks, who've been stopped by the police because they "fit the description," who have been strip-searched by police -- I'm talking about young kids -- and had evidence planted upon them, which we've seen in the news. But most of these kids are too afraid to file a complaint under the current system, or they feel that such action will be futile. They're afraid of retaliation by the police because they've seen it happen to friends and other family members.

I'd like to move now to the bill itself, because I hope I've provided some of the context and emphasized the importance of police accountability. It's necessary; it's crucial for democracy. We're not asking for anything special; we're asking for accountability of police like all other people in the province if there has been any wrongdoing in any way on the job.

The proposed legislation does not hold police accountable. It proposes a police complaints system that is inaccessible, unfair, partial and will not ensure accountability. It's convoluted and will frustrate those who try to pursue a complaint. Indeed, the proposed complaints system is riddled with one barrier and roadblock after another.

If you'll permit me, I'd just like to briefly go through what a complainant may experience under this new system, which I think might be helpful to show the barriers.

## **1550**

In the first instance, assuming that I have been in some way a victim of police misconduct or abuse and I'm not too afraid to lodge a complaint, I need to figure out how and where to make the complaint. I'm not likely to complain to the force whose members were abusive to me, which is one mode that's suggested in the legislation, although I might. If I do file a complaint at the police detachment, the police do not have to advise the new commission that the complaint has been filed. There's no form that will help guide complainants and ensure that they record all the important information, and there's no advocacy or similar organization to assist complainants at all. In contrast, the police have strong unions and access to legal representation.

Bill 105 provides that all complaints by members of the public are referred to the chief of police. The chief then has the choice of at least four different ways of getting rid of the complaint: They can decline to deal with it if they say, "I'm not directly affected"; they can decline to deal with the complaint if the chief deems it to be frivolous or vexatious; they can characterize the complaint -- I'm referring to the chief -- as one dealing with policies or services of the police force and therefore not misconduct on the part of the particular officer.

In his statement to the Legislature on January 14, the Solicitor General highlighted a 30-day initial response time in which the chief will get back to the complainant. However, this 30-day response time does nothing to streamline the process. It merely provides the chief with 30 days to decide whether or not he will invoke one of these new barriers to prevent a complaint of police misconduct from proceeding further. I submit that doesn't streamline anything.

You might say the complainant can appeal the chief's invocation of one of the above barriers, but how can that appeal be successful? Information is power, and anyone who has ever tried to obtain information regarding police policies knows this to be true. There's no requirement that the chief give extensive reasons for his decision. How can a complainant, without any advocacy assistance or legal representation, successfully contest a chief's determination?

Even if the chief decides to actually accept a complaint and then investigate, he can determine that the complaint is unsubstantiated and therefore requires no further action. He can also determine, even if there was misconduct, that that misconduct was not of a serious nature and therefore the matter may be resolved informally. This informal resolution can occur even without the consent of the

complainant in certain situations.

If the chief decides that the police officer may indeed have engaged in misconduct, a hearing must be held, as it is the right of every police officer against whom such a finding is made. Note that there is no automatic hearing if the complaint itself is dismissed.

The hearing then brings in a whole new set of barriers. The prosecutor at the hearing may be a police officer. Once again, the complainant will have to hire his or her own lawyer, although the police association or union will presumably provide one for the police. Keep in mind that it's usually the most disadvantaged and disenfranchised members of society who are the victims of this abuse in the first place.

Finally, if a complainant actually gets to a hearing, the new subsection 73(2) provides that an "officer shall not be found guilty of misconduct if there is no connection between the conduct and either the occupational requirements for a police officer or the reputation of the police force." Of course these two terms are not defined in the bill. I'm not sure exactly what they mean, but I assume it will have a lot of case law that will show how these police officers did not have a connection to the two terms I've just described.

That is a somewhat convoluted way of explaining to you what a complainant might face. I can't imagine what complainants who have not had the time to become versed in this bill are going to experience when they merely want to get redress for misconduct on the part of the police.

Finally, I have to say a word about the duty to cooperate which was raised by the previous speaker. The duty to cooperate is essential to police accountability. There is nothing more chilling on a citizen's willingness to even come forward about police misconduct than seeing police kill someone and then not be held accountable or not even have to explain what happened in that instance.

The position of the African Canadian Legal Clinic is that section 113 of the Police Services Act requires police to cooperate fully with the SIU. The act does not distinguish between witness and subject officers. The chief of police has the power and obligation to order officers to cooperate pursuant to section 41 of the Police Services Act. Cooperation by police is a job requirement and it is essential to democracy. If a police officer refuses to cooperate, he or she should be dismissed from the force.

The ACLC also takes the position that there is no constitutional right of police officers not to cooperate with the SIU. I should point out that has never been proven in a court of law. A lot of times we assert charter rights and they need to be tested in a court. The average person cannot just assert a charter right in the face of being investigated or charged with a potential offence by police.

Finally, if the police are going to accept the extreme power given to them by the public, then the police must be accountable to the public for the exercise of that power. This is not a choice; it is a job requirement. The citizens of Ontario have a right to police accountability and the police officers and the Legislature have an obligation to be accountable to us.

If you do what in our submission is right, you will not pass this legislation as it currently exists. Instead, you will initiate a process that involves meaningful participation by the community to improve the system of accountability, and you will read closely and seriously consider the suggestions made by the Coalition of Community Members Concerned about Policing. I'd like to end by saying that there are specific recommendations in addition to that report in my submissions that I will give to you.

You, like the police, are accountable to the people of Ontario. We're here to tell you that this legislation severely erodes the accountability of police and is a dangerous blow to democracy in this province. Please reconsider it.



Subject to any questions that you have, those are my submissions.

**Mr Ramsay:** Thank you very much for your submission. I agree with the points you've made this afternoon and I hope, after all the submissions we've heard in this committee, that the government will have heard some of this message. We've heard a very similar message from all sides of this argument, that this bill is deficient, that it doesn't protect victims' rights and in some cases it doesn't protect the police either in having a clear, visible and transparent process. I think it's got to be transparent, and you make that point very well. I hope the government will acknowledge some of the amendments that will come forward from the opposition.

**Mr Kormos:** You spoke very early about the fear of retaliation by persons who might make complaints against police officers about those police officers' conduct. Can you elaborate on that a little bit? Is it mere fear or is there experience that justifies the fear, at least in the mind of the person feeling the fear?

**Ms Williams:** Clearly in the experience that we've had with people in the community, the fear is justified. If it was safe for people to come forward and make complaints, they would make them. However, what they experience in addition to the misconduct is sometimes severe abuse. It's very difficult in some ways to even talk about what some of these kids have been through. They have seen or have experienced cases in which, where they do make a complaint, suddenly family members are stopped by the police when driving; suddenly another family member or friend fits the description for another crime and ends up in lockup for the weekend and then is released by police. It's those sorts of things that happen.

The police are very powerful. All citizens appreciate that. You can imagine the fear people have if they think they have no recourse for police misconduct. All that we're asking is that a system be put in place that is truly accountable.

**Mr Jim Flaherty (Durham Centre):** Thank you, Ms Williams, for your presentation. I certainly agree with you with respect to the principle of accountability. I think all reasonable people would.

I have some familiarity with the African community in Toronto. In my legal career I acted as counsel for the association of Ghanaians in Toronto and for the Canadian-African Newcomer Aid Centre of Toronto. Indeed, I was appointed honorary consul general for Ghana in Toronto, which I can't serve as now because I am a member of the Legislature.

**1600**

With respect to accountability and complaints resolution, we have a tendency in this province in the administrative area to create a lot of legal complexities and the delays that go with that. I suggest to you with respect that there may be a place that is worthy of your consideration, as a lawyer and as someone who serves the public, for alternate dispute resolution in the form of informal resolution in an appropriate complaints process. Do you agree?

**Ms Williams:** Without getting into a wholesale discussion about ADR, certainly one of the main principles is that the two or more sides that come to the table have some degree of equitable power. It is very difficult to imagine how a police officer with the full sanction and state apparatus behind him or her can come to the table and the complainant come to the table with the same amount of perceived power. I'm not sure how you would mediate or informally resolve a situation like that.

That being said, there may be cases -- and again I would caution to say that the complainant must be fully informed and must appreciate that there are other options, ie, that there's no way they can be coerced into informal resolution of a complaint -- in which it is a minor complaint and the person merely wants an apology of some sort and that satisfies them. So long as they realize there are other

options available to them, in that instance informal resolution may be appropriate -- although I say that with an extreme degree of caution, I must say, because we've seen a lot of times that safeguards that we think might work aren't actually effective at all.

**The Chair:** Ms Williams, thank you very much for your presentation.

## ASSOCIATION OF MUNICIPALITIES OF ONTARIO

**The Chair:** Our next presentation will be the Association of Municipalities of Ontario, Mr Terry Mundell, president. Good afternoon, Mr Mundell. Members have received a written presentation from AMO. I'd ask you to proceed, sir.

**Mr Terry Mundell:** Members of the committee, I'd like to thank you very much for the opportunity on behalf of the Association of Municipalities of Ontario to appear before you today to present issues related to Bill 105, the Police Services Amendment Act.

I would like to begin my comments by saying that AMO is generally supportive of the direction the government has taken in Bill 105. One of the most important components of this legislation is the recognition of accountable elected municipal governments as the key trustees of Ontario's police services system. Improving governance and accountability for police services in Ontario is also a fundamental component of the financing reform that is embodied in this legislation.

Bill 105 is an important move forward for Ontario. The new framework for police services provides an excellent example of a critical public service system where provincial interests and province-wide standards are reflected in local decision-making and local management responsibility. Local control over costs completes the picture of a service system that meets the needs of the people who rely on those services, the women and men who deliver them and the governments that account for them.

For municipal governments, Bill 105 is a part of a much larger legislative reform agenda that includes all the Who Does What proposals and a new, permissive Municipal Act. The pace, magnitude and scope of change is enormous and very challenging.

Municipalities have managed reductions in annual provincial support of over \$1 billion over the past five years. The Who Does What reforms that we are currently planning for will remove another \$667 million from municipal budgets in 1998. New policing costs for 576 municipalities are part of that equation, and there is no doubt that this change will have a substantial impact on affected rural and northern communities.

Other communities already contribute approximately \$1.5 billion annually for police services in Ontario. That's 23 cents on every dollar of property taxes currently going into municipal services. It's a very considerable and important part of our responsibility as governments.

Police services are not just a fiscal issue for municipalities. People in Ontario want the best quality of police services they can afford and they want police services that reflect the needs and priorities of their communities. As elected governments, we recognize that. After all, we are fully accountable for public safety in our communities. As employers, we also recognize the needs and the vital contribution of the women and men who serve our communities in police services.

In June of last year, AMO had the opportunity to work together for the first time with all the major stakeholders in the police services community, when the Solicitor General hosted the 1996 police summit. The summit provided a very important opportunity for stakeholders to come together to share ideas and information about needed reforms to the legislation governing policing in our communities. I think it's fair to say that we all learned a great deal from the police summit. We learned about the challenges that all of us face as we work together to provide effective and affordable police services

in Ontario. Bill 105 is an important outcome of that process.

While AMO is generally supportive of Bill 105, I would like to convey to the committee a number of comments and recommendations.

Municipalities have been advocating for improvements to the governance of policing in Ontario for decades. The move by the province to abandon the outdated model of governance whereby municipalities had to pay the bills but had no control over the costs will substantially improve accountability for police services in Ontario.

Bill 105 proposes significant changes to the composition of police service boards and to their relationship with municipal councils. It's a very appropriate step forward. Municipalities can be trusted to ensure that the excellent standards of police services that Ontario taxpayers demand can be sustained within balanced municipal budgets. Municipal councils are fully committed and fully responsible for ensuring that our communities are safe for the people, families and businesses we are elected to represent. Bill 105 provides a clear and better framework for governance and accountability of police services in our communities.

While Bill 105 is quite explicit with respect to the size and composition of police service boards -- based on the size of the municipality -- provision for the training needs and costs associated with the new police service boards structure is not clear. Additional clarification is also needed with respect to regulations governing the selection and appointment of board members. For now, the process for filling vacancies is unclear.

As I said earlier, linking police financing reform with governance reform is critical. It is true that 576 municipalities currently receiving OPP services without direct cost do not welcome the redistribution of over \$180 million of OPP costs. The financial impacts will be very substantial. However, improvements to governance will go a long way in ensuring that municipalities are equipped to manage new policing responsibilities in a way that is effective, efficient and truly accountable to their taxpayers.

However, many of the options available to municipalities for how to pay for policing are based on OPP costing formulae and their attendant assumptions. Affected municipalities need this information urgently, in order to understand the financial impacts and to make decisions about how they are going to pay for the quality policing their taxpayers require. As accountable funders of police services, municipalities need the full details about how OPP costs will be recovered.

AMO is also very concerned about the proposed amendment to section 7 that will restrict a board from contracting with a neighbouring board for police services. For many communities, that will leave only one option, and that is to contract with the OPP for services. While the OPP will no doubt be the choice of many communities, this restriction is neither necessary nor appropriate.

As you know, restructuring and amalgamation is under way in many parts of Ontario. Over the next few years, restructuring will continue as communities evolve to meet changing responsibilities. It is fundamentally important that our legislative framework, including legislation governing police services, is sufficiently flexible to facilitate change in our communities.

AMO's concerns about policing are not limited to the costs of policing. Municipalities are also very concerned about the value and the quality of police services. Accordingly, AMO supports the need for consistent, province-wide standards, complemented by local standards.

There is no such thing as a one-size-fits-all approach to defining adequate policing standards. Province-wide standards must be developed in full consultation with the municipal sector and other affected stakeholders. Where province-wide standards are appropriate, there must be flexibility to

adequately reflect and address local circumstances and needs.

**1610**

AMO is pleased that the standards will be set out in the regulations, and not the legislation. This decision maximizes flexibility and allows for standards to evolve as the priorities and circumstances of Ontario's communities evolve. We will work with the province and police service personnel to ensure that the standards developed meet existing and future needs.

Where new provincial standards lead to higher policing costs, it is incumbent upon the government to ensure that municipalities have access to additional revenue to meet new standards without raising property taxes.

For years, AMO has been pressing for harmonization of municipal labour legislation. Under Bill 84, the Fire Protection and Prevention Act, firefighters will be subject to arbitration requirements set out in the Labour Relations Act. These amendments are welcomed by AMO, as they will assist municipalities in controlling costs while protecting critical services.

Unfortunately, these same amendments are absent from Bill 105. Bill 105 provides additional municipal control of policing costs in one way, through the control of police budgets. At the same time, that control may be undermined by unreasonable arbitration awards exceeding those that are freely negotiated. Further amendments to the Police Services Act are needed in order to fully harmonize all municipal labour legislation.

Finally, I would like to reiterate comments made to the committee earlier by my colleagues from the Ontario Association of Police Services Boards. Transportation of prisoners and security in the courts are not policing responsibilities. Bill 105 fails to respond to the views of municipalities and local boards that duties that do not require the power of arrest should, in the interests of efficiency and cost-effectiveness, be assigned to other government agencies.

Bill 105 is a step in the right direction for better, more effective, efficient and accountable police services in Ontario. The legislation demonstrates the government's confidence in local management of critical services. It also recognizes that full local accountability for services in our communities is a critical component of good government in Ontario. Municipal governments want better government at less cost and there is much that the province can do to help us make it happen.

In closing, I would like to address concerns that have been expressed in some quarters about changes to the Police Services Act. As I have said, policing is much more than a fiscal issue for municipalities. The people of Ontario value quality police services in their communities. They will settle for nothing less. Municipal governments understand that, because we listen very carefully to the people who elect us.

I want to assure the committee that municipalities can be trusted to ensure that the excellent standards of police services that Ontario taxpayers demand can and will be maintained in communities in every part of the province.

**The Chair:** We'll start off with Mr Kormos.

**Mr Kormos:** No, thank you.

**The Chair:** Are there any questions from the government members? If not, Mr Ramsay.

**Mr Ramsay:** Thank you, Mr Mundell, for your presentation. I wanted to ask you, under financing, what reasons you have received from the government why Bill 105 would forbid one town from contracting

with another town's police force. What's the rationale that you've been told?

**Mr Mundell:** I don't honestly know what the rationale is, but I can tell you from a municipal perspective what we need is maximum flexibility to make choices for our communities that represent the types and levels of services that we can both provide and are affordable. With that specific amendment to section 7, it completely eliminates some of those choices. We believe the amendment needs to not be in that particular piece of legislation.

**Mr Ramsay:** Can you foresee any difficulty in that contracting from one town to another?

**Mr Mundell:** I can tell you I have had discussions with some of my municipal colleagues across Ontario who have already raised the particular concern with me. There is the belief that in communities there may be the willingness, the want, the efficiencies and the ability to provide policing services by communities side by each. It makes good business sense. It also makes good sense in terms of protection. I think that's what our communities and the municipal sector are looking for, and that's what our ratepayers expect.

**Mr Ramsay:** Chair, could I ask the parliamentary assistant what the government rationale for that is, why that's forbidden in the legislation?

**Mr Bob Wood:** I'm going to reserve comment until we actually hear all the submissions. We'll have to answer that when we get to the clause-by-clause.

**The Chair:** Mr Mundell, thank you very much for your presentation.

ONTARIO PUBLIC INTEREST RESEARCH GROUP, YORK UNIVERSITY

**The Chair:** The next presentation will be the Ontario Public Interest Research Group, York University, represented by Macdonald Scott, Leslie Norville and Winston Williams. I should advise the members of the committee that we are presently making copies of the presentation and you will receive same during or soon after the presentation. Please proceed.

**Ms Leslie Norville:** Good afternoon. OPIRG York, also known as the Ontario Public Interest Research Group at York University, is a student-run organization that does popular education and advocacy work around social justice and environmental issues. An issue we are working actively to resist is racism and how it manifests itself in different ways within our society. This means addressing systemic racism as well as racial discrimination.

We have come here today to voice our concerns regarding Bill 105. Bill 105 proposes three major changes to the current Police Services Act: (1) financing, (2) governance, and (3) civilian oversight. In the time allotted to us we will try and touch on these three areas. The changes the Harris government is trying to implement will severely reduce the fairness, accountability, accessibility and thoroughness that are achieved by police services boards.

When we say "governance," we are referring to how police services are governed. This means who appoints members of the police services boards and access to the appointment process. Governance should take into account the need for communities to have meaningful participation in public institutions like police services boards. Meaningful participation is necessary in order to hold the police accountable. The proposed amendments, if made, will further reduce the ability of communities, especially marginalized communities -- for example, communities of colour, aboriginal communities, women, the homeless, mental health patients and the gay and lesbian community -- to hold police accountable and to see justice served in the case of police wrongdoing.

Bill 105 proposes to expand the power of the Lieutenant Governor to make regulations regarding

police services boards. This would mean giving the Lieutenant Governor in Council the power to make and implement regulation that should go through as legislation in Parliament. This would include deterring classes of persons ineligible to serve as board members, selection and appointments of members of boards, training for board members, as well as a code of conduct for members, government records, returns, books and board accounts. These proposed changes create less accountability, the reason being that regulation is more flexible and goes through less scrutiny than legislation, because it is not passed in the Legislature and does not receive the checks from any opposition in Parliament. Consequently, there will be fewer challenges to any regulations. This takes away almost any ability for communities to have input into any regulations that will be made.

If these changes are allowed to pass this may also mean that the government will have the ability to restrict certain prescribed classes of people who are ineligible to sit on police services boards. Such discretionary power to determine who sits on the board could be abused and a board could be stacked in favour of the police.

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Recommendations. The government's ability to introduce, via regulation, restrictions on classes of people who are eligible to sit on police services boards should be removed. If such power persists, appointments should be made with meaningful input by concerned community groups. Changes to structure of police services boards take place within that broader framework of community-based policing. It is also crucial that members of police services boards be accountable to marginalized communities and have representatives from these same communities.

**Mr Macdonald Scott:** Greetings from the Ontario Public Interest Research Group. I would like to draw your attention to a few points in addition to those raised already.

The process of Bill 105: First off, I'd like to comment on the process involved in the creation of Bill 105. OPIRG has worked closely with the Community Coalition Concerned about Civilian Oversight of Police, C-COPS. In its report, *In Search of Police Accountability*, C-COPS raises concerns about the way the provincial government worked closely from the beginning with the police to draft Bill 105, while including community organizations only in the final stages.

OPIRG along with C-COPS is distressed that the legislation was drafted by January 14, 1997, prior to the government's receiving the C-COPS report and without notifying the coalition or other community groups. Meanwhile, leaked reports of a summit held in June 1996 with the police, and later post-summit meetings which included assistant Deputy Solicitor General Fred Peters, police service boards and other police associations show a much different relationship with police than with community groups.

The current situation: "Systemic discrimination in police practice remains widespread and deeply felt." That's from the report of the Commission on Systemic Racism in the Ontario Criminal Justice System, December 1995, article 337.

The current situation around policing in communities of colour and the poor is one of suspicion and intimidation. *Uniform Treatment*, released in 1994, illustrates that day-to-day intimidation and violence are a general part of policing in these communities. That's *Uniform Treatment: A Community Inquiry into Policing of Disadvantaged Peoples*, 1994.

In this climate, the struggle to obtain an accessible, accountable and civilian-controlled process for investigating police misconduct is much more difficult. Bill 105, by making complainants report complaints directly to the station where the problem originated, by making the chief directly responsible for the majority of adjudication of complaints, by making it possible to belittle a complaint with an informal process, by getting rid of third-party complaints etc, has made it likely that the

majority of complaints from people of colour and the poor will never be filed, for lack of accessibility and for lack of any likely results from this new system.

Governance: My comrade has touched on issues of governance which are often not dealt with in terms of Bill 105. I would like to add one other note: When 105 is taken in terms of other downloading by our current government, the situation becomes extremely tenuous. Local property taxpayers will be required to choose between funding social services to support the poor or funding police to control the poor. Past experience has shown that property owners will choose the latter.

Currently, in an atmosphere where drop-in centres, hospitals etc are being shut down, Metro Toronto pours 50% of its budget into policing. Despite the statistical proof that violent crime rates are dropping, a belief persists in the middle classes and property owners that more police are needed. It is extremely likely that Bill 105 will lead to a decrease in municipal social services.

My next item is the special investigations units. With regard to the special investigations unit, our group and others in the Coalition Against Racist Police Violence, CARPV, are concerned about the lack of enforcement around subsection 113(9) of the Police Services Act which requires the full and timely cooperation of police officers and the SIU. We adopt the recommendations of C-COPS in this regard, which are attached, and I'll just read through those if that's okay.

"Criminal conduct and the special investigations unit -- Duty to cooperate:

"(27) That subsection 113(9) of the Police Services Act be amended to require that any officers involved in an investigation falling within the jurisdiction of the SIU be required to turn any requested information and evidence over to the SIU forthwith, and in any event no later than 24 hours after the request.

"(28) That the government should take the position that subsection 113(9) (as it currently reads and with the amendments recommended herein) is constitutionally valid. Therefore officers who refuse to give information or provide evidence should be charged with obstructing justice (in addition to other consequences as recommended below) unless and until a court of law has determined that subsection 113(9) is unconstitutional. Criminal charges should also be laid where there is evidence to support the charge.

"(29) If it is determined that subsection 113(9) is unconstitutional a new regime should be fashioned around the obligation of the subject officer to cooperate with the SIU as a condition of employment which would provide employment consequences for the officer who refuses to provide an account of his or her actions.

"(30) Specifically, a subject officer who does not cooperate should be suspended or dismissed from the police service as a failure to meet a condition of employment.

"(31) That the Police Services Act regulations be amended to provide that the director of the SIU is authorized to charge any officer who fails to provide information or evidence in a timely fashion with a misconduct offence.

"(32) That the Police Services Act regulations be amended to provide that when the director of the SIU informs a chief of police that an officer under the chief's command has failed to give a complete statement to an SIU investigator, the chief shall suspend the officer forthwith without pay."

In conclusion, 12 years ago today in Philadelphia, the world watched horrified as the actions of a police force had reached the limits of unaccountability. In an unprecedented act, the Philadelphia police force dropped a bomb on the Afro-centric peaceful MOVE commune, killing 11 innocent MOVE children, women and men.

Since that time, investigations have blown wide open the corruption and illegality of that department and a \$1.5-million lawsuit against the department has been successfully won by MOVE survivors. This act was not because of the willful madness and meanness of a police chief. This act was not because of the racism of individual officers. This act was the result of an atmosphere in which police officers felt they could literally get away with murder. It is our view at OPIRG that Bill 105 is another step on the road to this atmosphere in Toronto, and we promise to fight every step of that road.

In closing I'd like to quote MOVE coordinator John Africa:

"...when a person sends innocent people to prison, those who think this violation stops with the victim are as much a prisoner of the tyrant as those behind the prison wall. When you endorse the system that causes your brother to complain you lose the right to complain when what is devastating your brother begins crystallizing to you. It is past time for all...people to release themselves from the deceptive strangulation of society, realize that society has failed you, for to attempt to ignore this system of deception now is to deny you the need to protest this failure later. The system has failed you yesterday, failed you today and has created the conditions for failure tomorrow."

OPIRG stands with the Community Coalition Concerned about Civilian Oversight of Police in calling for an end and for the destruction of Bill 105.

**Mr Ramsay:** Thank you very much for your presentation. You have made a lot of good points and there's one I want to comment on too, and that is the so-called, as the government would say, streamlining of the process that gets rid of third-party complaints, and I certainly want to put it on the record.

What do the government members feel that a person with a mental disability, maybe somebody who is illiterate, would be able to do the way this legislation is written? There needs to be some sort of facility in this legislation to allow for some representation of a complaint. I think you reiterate that here and that's something I'd like to see the government move on.

**Mr Kormos:** One of your footnotes is the report of the Commission on Systemic Racism in the Ontario Criminal Justice System, which is not an old report; it's a fairly recent one. It doesn't reflect the insights of 20 years ago; it reflects the insights that I believe even two years later are very, very current.

Have you formed a conclusion or an impression as to the impact of that report and the implementation of its recommendations? Have you formed any assessment as to whether there has been any meaningful implementation of the recommendations?

**Ms Norville:** To my knowledge, there hasn't been any implementation of any of the recommendations made by the report. They have just been ignored, basically, by the police and by the police services boards. Sorry, I'm very nervous -- but to my knowledge there hasn't been any implementation.

**Mr Kormos:** You're nervous? I've been nervous since June 1995. Have you reached any conclusions about -- again, I appreciate this is speculative, it's not entirely fair -- the failure to implement meaningfully the recommendations of that report? What do you see as flowing from that?

**Mr Scott:** I think that was a very radical report. It came to a lot of conclusions that people of colour and other people in this province had already come to. I think it's an indictment of this current government to show that this report has been swept under the rug. There's basically, in an atmosphere and a government of downloading of costs and of streamlining of services, just no commitment to any fulfilment of that.



**The Chair:** Our next presentation will be the Ontario First Nations Police Commission, regional Chief Gordon Peters, representing the Chiefs of Ontario. Wallace McKay, Ontario First Nations Police Commission. Ms Keeshig, researcher-analyst. Gentlemen, welcome. Whoever is making the presentation, could they identify themselves for Hansard?

**Mr Gordon Peters:** I think we're going to do this in two parts.

**The Chair:** Okay.

**Chief Peters:** We'll be within our allocated time. My name is Gordon Peters. This is Wally McKay sitting next to me, from the Ontario First Nations Police Commission, and he's going to do the first part, in relation to where the commission is at and the things we're doing, and then I'll look at some of the recommendations, and you can ask some questions at the end.

**Mr Wallace McKay:** Thank you very much, Regional Chief. The members must understand that first nations in Ontario are not creatures of the provincial government; we do not equate ourselves with the municipal governments. As you may have learned from history, we seek to establish a third order of government in Canada, and that is the goal of the first nations in Canada.

The amendments to Bill 105 touch on a number of issues: governance, the revenue financing aspects of it and the discipline areas. In the act, there is a special section dealing with aboriginal policing. We have the financing arrangements through the federal government, which are negotiated every five years under a tripartite agreement. The policing services and the costs are covered within that particular agreement.

We have certain concerns about the prospects of the changes in Bill 105. Although it does not directly address or state in the act regarding first nations' policing, we believe the impacts will be back-doored through those changes. We have received a number of referrals from the first nations, where they've had agreements and contracts with the OPP for specific policing services, where the district police services have approached the first nation and informed the first nation that the contract is no longer valid by virtue of the new financing arrangements in the act.

Those are the concerns we have in those areas. Basically, we have concerns in the area of financing, that first nations will be undermined and that the existing arrangements of policing and finances have been overlooked; secondly, in the area of discipline, we need to be able to be assured that through these amendments there will be no flagrant abuse of authority.

Our people have been subjected to police services over long periods of time, and there has been excessive abuse in many cases. We don't need to open up the history books on this matter, but there has to be a form of discipline in the process, how it's going to be done. I wanted just to open with those comments to bring to your attention the concerns we have, and it's recorded in the documents you have before you.

**Chief Peters:** One of the things we wanted to be able to do today is to make some recommendations that will try to deal with some of the specific issues we have with the overall policing program right now within this region.

Wally raised the issue around financing. What we would like to be able to have out of this particular process on financing is a protocol that would lay out the parameters of the financial arrangements we have. In particular, we think the federal dollars that are being transferred into the pot should be transferred directly to first nations so that first nations can themselves deal with those dollars that come to them. Of course, there would have to be an agreement, at the discretion of the first nations,

about exactly how those dollars would be identified. We're involved in tripartite and bilateral contracts with the Ontario Provincial Police. We think in the discussions on financing all those things will be put on the table and we could determine in those protocols what should go to first nations.

In the area of governance, we think right now we need to begin some discussions on protocols that would ensure first nations authority in being able to deliver in the area of police services. Again, one of the things we require is some ability to be able to sit down with government and try to figure out and clarify matters of jurisdiction in relation to policing of first nations territories.

With some of the discussions that have gone on in the last number of years and the couple of court cases that have gone ahead, there needs to be that discussion in terms of the jurisdiction of the police in relation to the authority of the community. That's something we need to do as well so that we're very clear on who has authority in what particular area and how that authority gets exercised and what role the OPP have in relation to the constables in the community as well as with the chief and council.

In the area of civilian oversight, we've always supported the need for an independent civilian oversight system that would be accountable and fair. In this case, we're going a step forward. We think civilian oversight needs to be accountable to aboriginal people; that we need to have a vehicle ourselves that in fact deals with those kinds of accountabilities to our own communities.

One of the things we've found in the past is that there have been a lot of complaints that are dismissed by the OPP, that are simply tossed out the door and they're never dealt with again. We think there has to be accountability on all the issues that are raised and all the complaints that are lodged.

We recommend that the Ontario First Nations Police Commission be given the authority to be able to receive, conduct, review, investigate and render a decision with respect to complaints made against the Ontario Provincial Police by first nations citizens. We think the Ontario Solicitor General and the federal Solicitor General should participate in the process of deciding exactly how that would work.

Why we make these kinds of recommendations is that we've tried in the best ways we can to ensure we have a working and cooperative relationship with the Ontario Provincial Police. I think the idea of that trust that needs to be established is no longer at the point where people feel they can openly and honestly say they would participate and work with the Ontario Provincial Police in matters. I'm referring to the Ipperwash incident and the shooting of Dudley George. The impact it has had on our communities to this point right now is that people are saying we need to start looking after our own business within our communities. We need to be able to have some kind of civilian oversight that supports first nations people directly and which first nations can relate to and trust and know that all of their complaints are going to be dealt with in that particular process.

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The recommendations around financing, governance and civilian oversight are in that general direction we're heading in, trying to establish our own authorities within our own territories. We believe the committee can make some of these kinds of recommendations in relation to the processes we deal with at the political level right now, because we don't have that kind of ongoing dialogue with this particular government. We think this committee can give us a kickstart in being able to get some dialogue going in these respective areas we've tabled today.

That's our presentation on these issues. They're contained in the brief that's set out here today. If you have any questions, we said that we would get Jocelyn to answer those questions. Wally and I will answer any questions you have today.

**The Chair:** We've got a little over a minute per caucus.

**Mr Ramsay:** Mr Peters, thank you very much for coming and, Wallace also, for your presentation. I'm very much a supporter of aboriginal self-government. I take seriously your request today that maybe this committee could help kickstart those sort of discussions that might lead to your taking over the responsibility of policing. I take it from your request that you feel you're ready for that today in Ontario. I know I tried to start that when I was Minister of Correctional Services at one time. If that's what you're saying, I would like to be part of that, to help facilitate those discussions. If you're saying first nations in Ontario are ready to take over policing, I think that's probably the way to go, to work incrementally on different functions of government, and maybe policing is an area that is a good start.

**Chief Peters:** We have a number of communities that are already moving ahead, that are already part of standalone agreements that do a lot of that work. We need to take it a little bit further in terms of being able to clarify the jurisdiction they have. We think we're ready to take this on. We've had the Ontario First Nations Police Commission for some time. Through successive governments we've tried to negotiate more authority and responsibility for the commission. We think this is the time that it really needs to take off.

**Mr Kormos:** Please, what consultation was there with you in the course of preparing this Bill 105 prior to first reading?

**Mr McKay:** There was no consultation with the government regarding the amendments to the act.

**Mr Kormos:** You became aware of Bill 105 only after it received first reading?

**Mr McKay:** Yes.

**Mr Kormos:** You weren't even made aware that the government was in the course of preparing amendments?

**Mr McKay:** No.

**Mr Kormos:** I should say thank you. I appreciate your responses, but it's not a situation to be very thankful for.

**Chief Peters:** One of the things, though, that I have to say is that in the urban area a lot of our people were involved in one particular area. That was the civilian oversight. I was asked to participate in that process, and I did so because our citizens are in urban areas as well. We did make a presentation to the Solicitor General, however briefly. But I need to also say that the response we got was that there was a certain deadline that was going to take place. The deadline for making a response was already past the time frame; the legislation was moving ahead. So it was not a meeting that had any substance to it.

**Mr John O'Toole (Durham East):** If I may, just a quick comment. Thank you for your presentation. I am not that familiar with all of the jurisdictional issues with first nations people, so forgive my ignorance. Just picking up on what Mr Kormos said, he was asking if you had been consulted. I'm trying to clarify in my mind; I don't know whether it was you, Mr McKay, or Mr Peters who said you come under no jurisdiction of the province. Is this right? You don't come under the provincial laws as they stand currently? You suggested your concern was that it might come in the back door, to use your words. I'm trying to clarify really, and I mean that sincerely: Are you part of any of this anyway?

**Mr McKay:** All the first nations were under the jurisdiction of the federal government previously.

**Mr O'Toole:** I know that.

**Mr McKay:** The discussions between the federal government and provincial government transferred that responsibility for policing over to the provincial government. It is only recently, through the negotiations of the policing agreement, that the first nations have begun to put their foot in the door to open those discussions. What we see happening is that although there is no specific mention about the first nations in those amendments, the impacts are going to be done through the back door.

**The Chair:** I thank you very much for your presentation here today, lady and gentlemen.

## ABORIGINAL LEGAL SERVICES OF TORONTO

**The Chair:** Our next presentation -- at 4:45 there is none. We hopefully can proceed to Aboriginal Legal Services of Toronto. We have a written brief from them. Is anyone present from the Aboriginal Legal Services of Toronto? You are Kimberly Murray, the staff lawyer, I take it?

**Ms Kim Murray:** Yes, Kim Murray. I'm with Aboriginal Legal Services of Toronto. I'm a staff lawyer there and I've been working there for over two and a half years.

Aboriginal Legal Services of Toronto has been involved with policing issues for a number of years. We are currently a member of the Community Coalition Concerned about Civilian Oversight of Police, which released the report *In Search of Police Accountability*. In addition, we were a member of CAPV, the Coalition Against Police Violence, which produced the report *Uniform Treatment: A Community Inquiry into the Policing of Disadvantaged Peoples*. The legal clinic belongs to these coalitions because we see police abuses against members of our community on a weekly basis.

Aboriginal Legal Services is a community legal aid clinic which was created to service the Metropolitan Toronto aboriginal community. The recent Royal Commission on Aboriginal Peoples reported that approximately 50% of all aboriginal people in Canada live off reserve. The royal commission further reported that the estimated number of aboriginal people migrating to the urban centres will grow by 43% in the next 25 years. It has been estimated that approximately 70,000 aboriginal people reside in the Toronto area alone. These numbers show that the urban aboriginal community is a large segment of the community that Ontario's police are required to serve and protect on a daily basis.

Aboriginal Legal Services of Toronto's mandate is to assist the urban aboriginal community to obtain control over justice-related issues. Policing is a justice-related issue which has a tremendous impact on our community. The justice committee may be aware of the fact that a number of studies have shown that aboriginal men and women are overrepresented in Canada's criminal justice system. We know that the police play a large role in the justice system, often having first contact with both the alleged offender and the victim. It is our submission that the actions of the police contribute to the overrepresentation of our community in the prison system.

RCAP's *Bridging the Cultural Divide: A Report on Aboriginal People and Criminal Justice in Canada* indicated that the aboriginal community in Canada is overpoliced as compared to non-aboriginal communities. Quoting Tim Quigley, the commission described the issue of overpolicing as follows:

"Police use race as an indicator for patrols, for arrests and detention.... For instance, police in cities tend to patrol bars and streets where aboriginal people congregate, rather than private clubs" frequented by white patrons. "To operate patrols or to allocate police on [this] basis...can become a self-fulfilling prophecy: Patrols in areas frequented by the groups that they believe are involved in crimes will undoubtedly discover some criminality...."

"Consider, for instance, the provincial offence of being intoxicated in a public place. The police rarely arrest whites for being intoxicated in public. No wonder there is resentment on the part of aboriginal people arrested simply for being intoxicated. This situation very often results in an aboriginal person

being charged with obstruction, resisting arrest or assaulting a peace officer. An almost inevitable consequence is incarceration.... Yet the whole sequence of events is, at least to some extent, a product of policing criteria that includes race as a factor and selective enforcement of the law."

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Aboriginal Legal Services of Toronto supports the creation of an impartial civilian oversight system. We believe that for a civilian oversight system to be effective, it must be accountable, accessible, fair and responsive to the aboriginal community.

Both coalition reports that ALST was involved with addressed the issue of police accountability. Both reports recommended the elimination of the police investigating the police. Bill 105 completely ignores the community's recommendations in this regard. The bill not only fails to enhance police accountability; it effectively eliminates any accountability that presently exists. The result is that Ontario's aboriginal community has no confidence in the province's policing system.

ALST believes that Bill 105 erodes the accountability, accessibility, fairness and responsiveness of Ontario's civilian oversight system in the following four ways:

- (1) It removes the requirement of the police having to notify the civilian oversight body of complaints received.
- (2) It no longer allows third parties to file a complaint.
- (3) It makes the chief of police the judge and jury of the entire police complaint process.
- (4) It fails to address the problems that exist with the SIU.

I would like to take this opportunity to touch upon each of these four points.

Under the present system, a community member may file their complaint at the police station or with the police complaints commissioner. If a complaint is filed with the police directly, the station where the complaint was received must notify the OPCC of the complaint. This notification requirement has been eliminated by Bill 105. Pursuant to the bill, the civilian oversight commission will be kept in the dark about any complaints filed at the police station. This secrecy can hardly be seen as promoting accountability.

It is ALST's position that true accountability can only be achieved when full disclosure regarding each and every complaint received from the public is provided to the civilian oversight body. Without this, the systemic discrimination that exists in the policing structure cannot and will not be addressed.

A second concern we have is that third parties are no longer entitled to file a complaint. Section 57 of the proposed amendments states that a complaint may be made by a member of the public only if the complainant was directly affected. Pursuant to the existing Police Services Act, a third party such as a relative, a witness or a concerned citizen is entitled to file a complaint.

This elimination of the third-party complainant will have a disproportionate and negative impact on the aboriginal community in Ontario. Most victims of police abuse that I meet choose not to file a complaint for two main reasons. First, they see no point in complaining, as they are rarely believed. Secondly, they fear for their safety.

The numbers show that it is the disadvantaged and marginalized members of the community who are more likely than not to be the victims of police abuse. These victims often have no knowledge of how to file a complaint. Often the person has been the target of police abuse on so many occasions that

they have accepted the mistreatment as part of their daily routine. Whatever the reason for the individual not complaining, the police should not be permitted to hide behind this shield that Bill 105 is creating. Third-party complaints must be accepted. Being accountable means being accountable to the entire community, and that includes the disadvantaged and marginalized people of Ontario.

An additional concern that ALST has with the elimination of the third-party complaint is that agencies such as ours will no longer be able to question police policies and procedures. For example, if we were to hear 10 different accounts from 10 different women that they had been strip-searched in a booking room with five male police officers watching, we would complain. However, pursuant to Bill 105, nothing would be done unless we could convince one of our clients to file a complaint personally within the short 30-day limitation period. If none of the women agree to file a formal complaint, nothing will be done with respect to the department's strip-search policy, or lack of policy.

Bill 105 also removes the civilian oversight's power to make recommendations with respect to police policies and procedures. This amendment clearly does nothing to enhance police accountability. It merely provides police wrongdoing with immunity.

A third issue we have with the bill is that it hands over enormous powers to the chief of police, powers which only the civilian oversight body should have jurisdiction over. Bill 105 provides the chief of police with the power to determine whether a complaint relates to police policies or services, or whether it relates to the conduct of a police officer. If the chief decides that the complaint relates to police policies or services, he can choose to take no action or take any action that he or she deems appropriate.

The chief is not required to notify the complainant that a decision was made to take no action. This is a clear breach of the complainant's common-law right to procedural fairness. How can a complainant appeal the chief's decision to take no action if the complainant is not even notified of the decision and no reasons for the decision are provided? This section of Bill 105 is just begging for a judicial review.

If the complainant is notified of the chief's decision to label a complaint as a complaint against police policies or services, the complainant may appeal this decision to the police services board. No appeal is available to the civilian oversight body. The effect of this amendment is that the civilian oversight body will have no input with respect to police services or policies. The police will create and implement policies as they deem appropriate, with no consultation with the communities they are supposed to be accountable to.

A second power which Bill 105 grants to the chief of police is that all investigations of misconduct will be conducted by the chief. During the investigation, the chief is no longer required to provide monthly reports to the civilian oversight body. In addition, the civilian oversight body's power to initiate an investigation on its own motion has been eliminated. This is not a fair process because there is no check in place to ensure the investigation of the chief is thorough and impartial.

The third power which the chief has been granted which we are concerned with is the chief's power to impose mediation on the parties. There is no obligation to give reasons for the decision to impose mediation. No consent is needed by the complainant. This process is not responsive to the complainant's concerns.

Mediation only works when both parties are agreeable to the process and when no power imbalance exists between the parties. With a police complaint, the offending officer will almost always have the power. They will be represented by their union-appointed lawyer and they will be before a mediator who is also a member of the police community. ALST supports the notion of an informal, speedy resolution; however, the process must be voluntary and not imposed by the chief of police.

The fourth power that I would like to comment on is the chief's sole discretion to hold a hearing. There

is no provision in the bill for the civilian oversight body to order or hold a hearing at first instance. Pursuant to this amendment, the chief of police is acting as both the investigator and adjudicator of police complaints. This creates an inherent bias within the system in favour of the police.

I would like to say a few words on the bill's failure to address the existing SIU problems. The special investigations unit was created in 1990 to investigate the circumstances of serious injuries and deaths that may have resulted from criminal offences committed by police officers. The following are a few examples of aboriginal deaths and injuries which the SIU has investigated over the years: Michael Fox died in a holding cell in Kenora; Orvel Wesley was shot and killed in Cat Lake; Dudley George was shot and killed at Ipperwash; Bernard George was beaten at Ipperwash; Nicholas Cottrel was shot and injured at Ipperwash; Joseph Pahpasay died in his holding cell in Kenora; Elvis and Morris Keewatin both drowned at Grassy Narrows while in police custody.

All of these investigations have left the aboriginal community dissatisfied with the SIU. Even with the recent conviction of Kenneth Deane for killing Dudley George at Ipperwash there is a sense that justice has not been done. So much more information is out there that will lead to the truth. The community wants to know who dispatched the OPP to Ipperwash that day and what instructions were given to the officers. Aboriginal Legal Services of Toronto supports the call for a public inquiry into Ipperwash. It is apparent that the SIU does not have the resources or power to get to the truth.

It is recommended that the SIU's mandate and power be clarified and enhanced in the Police Services Act. It is also recommended by Aboriginal Legal Services of Toronto that the duty to cooperate, as contained in subsection 113(9) of the Police Services Act, be amended to clarify the constitutional validity of the requirement that officers cooperate with SIU investigations. If an officer refuses to cooperate, they should be charged with obstructing justice. At the very least, they should have to face employment discipline.

In closing, Aboriginal Legal Services of Toronto supports and endorses all of the recommendations contained in the coalition report, entitled In Search of Police Accountability, and urges the justice committee to fight for its implementation in Ontario. Bill 105 must be disposed of and a new set of amendments must be brought forward which create a civilian oversight system which is accountable, accessible, fair and responsive to Ontario's communities, which includes Ontario's aboriginal communities.

**The Chair:** We've used the allotted time. I thank you very much for your presentation.

**1700**

JAMES JEFFS

**The Chair:** We're getting a little ahead; however, I'll just call them out. The next presenter scheduled for 5:15 is Mr Ted Footman. Is he present? If not, we'll proceed to Dr James Jeffs. Is he present?

**Dr James Jeffs:** Yes.

**The Chair:** Welcome, Dr Jeffs. We'll take you a little out of order. Is that okay?

**Dr Jeffs:** That's fine with me.

**The Chair:** Please proceed then.

**Dr Jeffs:** First, I'd like to thank the committee for taking time to hear my presentation regarding Bill 105. The area that I have a particular concern with is the extra power that will be given to police to handle complaints. For the past three and half years I've been dealing with the existing police

complaints system, and just in the investigation process and the reporting I've found a lot of bias towards police officers. To demonstrate this I'll just briefly describe the circumstances that led up to our complaint and then how it was handled.

On August 4, 1993, my son was killed in an automobile accident. When the police notified us of his death there was a lack of compassion and a lack of professionalism. He asked our 19-year-old son to drive 20 miles to notify his older brother of the death. When my wife arrived home, and the police were still at the house, I told her what had happened and she collapsed on the steps.

The only thing the police said was, "Try to notify next of kin as soon as possible so we can get out a press release." They phoned me back at midnight to see if we had notified next of kin so they could do their press release.

Within a week after we'd buried our son we went to the police department to express our concerns that there seemed to be a problem in the notification process. The police officers there seemed to agree and they told us what had happened at the actual accident scene.

A short period thereafter I saw the police report of the accident. The report was unrelated to what the police had told us, it was unrelated to what the other person involved in the accident had put in his statement, and it was unrelated to what the witness said, which I could not understand.

This had a number of effects. One thing, I guess it had an effect because they were placing the blame on my son for this accident and I had a need to stand up for his rights. Also, he had a daughter, so any legal action that we may take part in against the other driver would be jeopardized by this report, which was inaccurate.

I sent a letter to the superintendent of the department and he replied, saying that the report did not accurately describe the incident, and yet he sent the same report to the coroner and the crown attorney to see if any charges should be laid.

Some time later I discovered there was an independent witness at the scene. The independent witness came forward. He said he saw the vehicles as they approached this intersection, offered to make a statement and, basically, the officers wouldn't accept it.

After this happened, so many things didn't seem right that I wrote a letter to the Solicitor General and he directed me to send the letter to the complaints commissioner. When I did that, I found that because a period of time had elapsed -- over six months -- they would not accept my complaint. I had to do a series of things to explain why I hadn't made the complain at that point in time and eventually they did accept the complaint.

The investigation actually started one year after the accident. It took two years to investigate and to respond to my complaint. It was actually three years from the time I initially made a verbal complaint.

When I did receive the complaint, certain things were obvious. One was the lack of objectivity. Just to give you an example, when the investigating officer took statements from the various officers and the witnesses, the superintendent indicated that an accident reconstruction engineer who I had hired agreed with the police findings. I sent that letter to this accident reconstruction engineer and I have a copy of his response here. He said there is no way he ever implicitly or explicitly agreed with anything the police said, yet that's what went in the report.

When I finally got the chief's report I expected some sort of acknowledgement that there had been errors made and there would be something done to try to correct them, but nothing was further from the truth. In his report he said that the officers were compassionate and professional when they dealt with us at the time of our son's death, which seemed rather odd because this superintendent who I



spoke to at the time was so dismayed with the notification that he appointed a committee to come up with a protocol for officers to use in the future when it came to notifying people of someone's death. I know that occurred because I was on the committee.

He said the report was fact-based, which is totally opposite to what the superintendent who read the report said. When the chief did his overview, he accepted a speed estimate of my son's car 2 kilometres up the road from where the accident occurred, and that was while my son was passing another car. He ignored the speed estimate of a witness near the scene. He ignored the speed estimate of this expert in accident reconstruction. He never replied to the question of why this witness was never interviewed. He never really explained why this division commander would send a report which he knew was inaccurate to a coroner and to the crown attorney. Perhaps the saddest thing of all, after a two-year investigation and a 17-page report, there was no recommendation for any positive change.

The officer who made the original report had attributed false statements to the other driver who was in the accident and to a witness, yet he still feels he did the right thing. He's still out making reports and, I assume, doing the same thing.

I think the problem we see here is that police are handling complaints about themselves. In this particular situation there was a sergeant investigating a complaint about a superintendent, and an inspector. Then you have the chief of police responding to a complaint about fellow officers, in this case, once again, a superintendent and an inspector whom he works with every day, whom he maybe goes to dinner with, plays golf with. It's just an unrealistic situation.

I think it's not so much a problem with the officers themselves; it's a problem with the system. Humans, by nature, are social beings. I think we tend to group together in support groups, whether it be unions or professional groups or church groups. We seem to need those support groups. To expect an individual from a support group to actually investigate and complain about another individual just doesn't work. I think it's unfair to the individual because that individual, being a police officer, can be ostracized from his group. It's unfair to the public because it's impossible to get an unbiased opinion.

I think what we have to do is sit back and look at the purpose of the complaints system. If the purpose is to rapidly process complaints at low cost, I just think that's wrong. If the purpose is to focus on problem areas so that those problem areas can be fixed, then perhaps that's what we should be doing.

I mentioned cost, and cost is a factor in anything. In a recent article by the deputy chief in the St Catharines Standard, he indicated that the number of complaints against the Niagara regional police in 1992 was 165 and it dropped to 107 in 1996, a 35% drop. Surely, the way to deal with cost is to increase the level of competency of police officers, and that's exactly what the deputy chief said had happened. They had extra training programs and police officers were performing better. There were fewer complaints.

## **1710**

There's another cost as well. There is a human cost to families like ourselves who are trying to deal with the death of a son or daughter, and at the same time, must deal with a police system or a complaints system that just doesn't work. The current system is designed to frustrate and discourage all but the most tenacious complainants. It doesn't matter what you do; you always seem to run into roadblocks.

I would suggest that you please consider this human cost in your deliberations about Bill 105. Giving police chiefs more power to handle complaints makes an unjust system even worse. The appointment

of an independent body to handle all complaints would remove bias and promote positive change in policing. Isn't that what we really all want? Thank you for your attention.

**Mr O'Toole:** Thank you, Dr Jeffs, for the tragic story you've told. I know there has to be more responsiveness from anyone in public office, public duty. You're a dentist?

**Dr Jeffs:** Yes, that's correct.

**Mr O'Toole:** You're a professional, and professions today are self-regulating bodies, right?

**Dr Jeffs:** That's correct.

**Mr O'Toole:** Our police are trying to be self-regulating. Do you think there's a conflict there? In dentistry or in police, any professional group, might there be some sort of bias?

**Dr Jeffs:** Probably true. Dentistry is a self-regulating body, but 50% of the regulating body are non-professional people appointed by government.

**Mr O'Toole:** So you're suggesting that the commission should be composed similar to any other self-regulating group, is that it?

**Dr Jeffs:** I guess my concern really was with the chief of police handling all complaints on his own. As I understand, that's where Bill 105 is going. I feel he has too much power now.

**Mr Ramsay:** I think the difference, Mr O'Toole, is we don't give dentists the power to shoot people, as we do police. That's why they're not self-regulating.

Dr Jeffs, I really appreciate your coming forward and giving your personal story. Most of us probably have a kind of benign acceptance of how government works and maybe how policing and authority work, until we run into a situation such as yours or others where we start to see how terribly the system can fail and how all of us, being human beings, are not perfect. Because of that, we have to design the very best systems in place to put checks on the system.

I think what you're saying today is right on, that the situation you had to live through and are still living through, we haven't provided the best system yet in order to make sure there is strong civilian oversight of our police services. I hope that your presentation today maybe has moved some of the government members to consider some amendments that will be forthcoming that I think will improve this bill and rectify many of the problems you've brought forward today. Thank you.

**Mr Kormos:** Thank you kindly, sir, for taking the time to come up. Obviously you're on common ground with a large number of presenters when you call out for the need for an independent, arm's-length review, or investigative and adjudicative role in settlement of police complaints.

At the end of the day, you waited three years, or you survived three years of process. Am I correct in assuming that even after three years, nothing was resolved?

**Dr Jeffs:** The complaint is still being looked into.

**Mr Kormos:** I'm sorry. Okay, so it's still outstanding.

**Dr Jeffs:** That's right.

**Mr Kormos:** Have you raised issues? Have you asked what is going on? This is incredible.

**Dr Jeffs:** The complaints commission actually took charge of it October 1996. An official met with me

in February, I think it was, and he said it would be six to eight weeks before something would be done, but it's still going on.

**Mr Kormos:** Yes, it's been six to eight weeks.

**Dr Jeffs:** Yes, I know. I've been very patient to this point. There's nothing else I can do, other than wait.

**Mr Kormos:** M Chair, Mr Wood is the PA and I know he's not going to get involved in the role of the oversight process, but I'm wondering if his office might make inquiries as to the status of this so that Dr Jeffs can be assured of as prompt a response as possible.

**Dr Jeffs:** I would appreciate that.

**Mr Bob Wood:** Perhaps you might get from my executive assistant our card and you can communicate with us directly and we'll see what we can find out for you.

**Dr Jeffs:** All right.

**Mr Bob Wood:** He's right behind you, to your left.

**The Chair:** Thank you, Mr Kormos and Dr Jeffs. The committee appreciates your taking the time to assist us here today with a very practical illustration of how the system is not working.

**Dr Jeffs:** Thank you for your time.

**The Chair:** Mr Ted Footman? No.

POLICE ASSOCIATION OF ONTARIO

**The Chair:** We'll proceed to the Police Association of Ontario. Welcome, gentlemen. Is there a written presentation?

**Mr John Moor:** Yes, sir.

**The Chair:** You can start and then we can get them passed out.

**Mr Moor:** Thank you, Mr Chairman. Good afternoon. My name is John Moor. I am the president of the Police Association of Ontario. I am also the administrator of the Windsor Police Association and I am a sergeant on the Windsor Police Service.

With me today on my left is John Miller. John is the chairman of the Police Association of Ontario. He's also a sergeant in the Ontario Provincial Police and he's the executive officer of the Ontario Provincial Police Association. On my far left is Bruce Miller. Bruce is a director on the PAO. He's also a director on the London Police Association and a constable with the London Police Service. On my right is Bill Baxter. Bill is a director on the Police Association of Ontario. Bill is also a sergeant with the Atikokan Township Police Force and he's the president of the Atikokan Township Police Association.

During the course of your hearings with respect to Bill 105, the Police Association of Ontario and our member associations have appeared before you to suggest changes to Bill 105. In addition, the Police Association of Ontario held a lobby day, our first annual, on April 30 of this year.

Police personnel from across Ontario met with their local MPPs at Queen's Park to discuss face to face their concerns with respect to Bill 105. We met with over 55 members of the Legislative Assembly on that day. In addition, several of our colleagues and members have met with their local

MPPs in their local constituency offices.

The Police Association of Ontario has also met on several occasions with Solicitor General Robert Runciman and members of his staff. We have found the meetings to be very productive and very informative and the minister has expressed an interest in addressing our concerns.

In all these activities our goal has been a modest one, and that is to seek improvements to Bill 105 to ensure that police officers and civilian members of police forces can continue to do their jobs with courage and confidence. We want to know that our efforts are supported. That's all we're really asking for here today. Bill 105 introduces some significant and necessary changes to the way police services will be delivered in Ontario. Every community in Ontario will be required to pay for their police services and we believe this makes sense. Previous governments had also expressed the intention to correct this imbalance. We're glad to see that this will finally occur.

This will, however, be a catalyst for considerable change and activity within the province. Many communities are examining their policing options and considering alternative models for police service delivery, such as county policing, contracting police services through the OPP at the municipal or county level, or amalgamation of existing municipal police services. All we're asking for is that members of these police services be guaranteed comparable employment in the new policing structure. From a service delivery standpoint this is necessary to ensure that the level of policing in your communities is maintained without interruption. We've addressed some of the difficulties in this regard in the past.

**1720**

Certainly one of the areas is addressed to some degree with Bill 105. That's in regard to probationary periods for police officers. The imbalance has been recognized in Bill 105 in that municipal police officers, RCMP police officers and Ontario Provincial Police officers who are going to another municipal police service do not have to do or commit to a second probationary period. That was a consensus at the summit meetings, held in June 1996, of all the stakeholder groups. We went further at that summit. We agreed to the best of my recollection that this should also include municipal members and other police officer members going to the Ontario Provincial Police. That's not addressed in Bill 105. We've raised those concerns. We've heard continually that it's not a problem, that the probationary period has never caused any difficulty for members.

In fact, that's not the case as we're sitting here. In the OPP absorption of Fort Frances, where 16 police officers were taken on to the OPP less than a year ago, we're faced today with an officer of that Fort Frances police department who had eight years' experience with that municipal force and is now facing the loss of their job as a police officer with the OPP. The excuse or the vehicle that's being used to do that is that they're still on probation for a further 12 months. Even though that member has been a serving police officer in good standing for eight years, they're now going to face the prospect of losing their job solely based as a probationary employee.

We ask that the committee consider further amendments to Bill 105 to ensure that this doesn't happen, that our members don't face this type of humiliation and that the Public Service Act also be amended to negate any type of second probationary period for police officers going on the OPP.

Bill 105 also gives municipalities greater control of their local police services, both in control of the police budget and of the majority of appointments to police service boards. This is something AMO has been pursuing for many years. We have consistently expressed our concern with such a change, but we've accepted that this will now in fact occur and that now we must focus on making this change work.

As a balance to municipal control, Bill 105 requires that all municipalities must provide an adequate

and effective level of police service in their communities. We support such a move. The scope of this provision will, however, be defined in the regulations, and we have been advised that prescribed standards are being developed to guide police services in this regard. The quality of these standards, and the degree to which the province and the commission are prepared to ensure local compliance, will determine the level and quality of police service that will be delivered in our communities in the years to come. We have confirmed our willingness to participate in the development of these standards with the ministry. We have also recommended changes to the commission's powers under the act to give them more teeth to deal with deficient police services.

Bill 105 provides for the elimination of the office of the public complaints commissioner and the board of inquiry. We support this change. Police oversight in Ontario has cost Ontario taxpayers \$8 million a year. The budgets for these two agencies alone are almost \$4 million, \$3.8 million to be exact. This is disproportionate to the need. We have provided you with statistics in the past which demonstrate unequivocally that police services do not require the current level of police oversight. We submit that the moneys which can be saved by streamlining these functions should be reinvested in improving front-line policing through better training and better equipment.

The police complaints and discipline systems will be significantly changed by Bill 105. We will focus the balance of our presentation this afternoon on this area as it will be this part of the bill which causes us the greatest concern.

For starters, who can make a complaint and how a complaint can be made need to be addressed. The chief of police should not have the dual status of investigator-prosecutor and the complainant also. This allows for an abuse of the process. In addition, there should be a six-month time limit for making a complaint in most cases. In those rare, exceptional circumstances where a delay may be warranted, the commission should have the authority to allow a complaint that is more than six months old to proceed.

Bill 105 provides the complainant with notice at all stages of the complaints process. Unfortunately this same level of information is not provided to the officer who is the subject of the complaint. This must be corrected also to provide notice to the officer at all stages in the complaints process.

Bill 105 removes the category of bad-faith complaints. These are often complaints made in the attempt by the person charged to barter with police forces for leniency on the original charges. In some cases the complainants are initiating public complaints, civil litigation and criminal charges against an officer as part of a strategy to avoid conviction. A chief of police should have the option to take no further action on a complaint that has been made in bad faith.

Bill 105 removes the requirement for the officer and complainant to be provided with interim reports during an investigation and eliminates final reports at the conclusion of the investigation. This is worrisome for both the officer and the complainant. Interim reports provide information on the progress of the investigation, which eliminates any perception that nothing is being done. Final reports provide both parties with a copy of the case file before the chief adjudicates the matter. This permits both the officer and the complainant with the opportunity to suggest omissions or corrections and provide any additional information they feel the investigators would need before the chief makes a decision.

One other aspect this would also provide for is that it encourages the parties to consider an informal resolution of the complaint when they are confronted with the results of the investigation. The reports are a valuable tool in the administration of the complaints system and should not be abandoned as they have been in Bill 105.

Bill 105 will require a police force to consult with crown attorneys every time an officer may be the subject of an allegation involving a criminal offence. This seems rather onerous for the police and for

the crown attorney's office, as this will require the crown to be consulted every time an officer is involved in a minor traffic accident. These types of investigations are numerous and are conducted by qualified supervisors who must report their findings to their superior. The need does not exist to consult with the crown attorney in these types of cases.

Bill 105 also provides for the use of informal resolutions to deal with non-serious complaints. We support the use of informal resolutions as a cost-effective and productive method of resolving complaints. A number of procedural issues must be addressed, however, in order for this to succeed.

First the parties to an informal resolution must have the ability to make statements "without prejudice" in the attempt to resolve the matter informally. The act must provide full protection for these statements when made in the attempt to resolve it informally. An example may be an apology from an officer who maintains that they did not do anything wrong but they are prepared to apologize for the distress that's been experienced by the complainant in order to resolve the complaint. An officer will not extend such an apology if the apology may be used against the officer in a trial at a later date. No record of such a resolution should be used against an officer. Only where misconduct has been established should the record of the complaint be retained in an officer's file.

The discipline process established by Bill 105 for non-serious matters also requires reform. We are concerned that the grievance arbitration model set out in section 63 will be wrought with delay, costly to the police service and the officers and far less effective than the system that's currently in place.

Police officers hold an important office in their communities and should not be subject to undue influence or the threat of discipline for discharging their lawful duties. With the introduction of increased control of police services by municipalities, it is paramount that police officers retain their office holder status and be immune from discipline or reprisals without a proper hearing and appeals process. Police officers must be free from local political interference.

We propose that the discipline system set out under section 59 of the current act be retained for minor complaints. The maximum penalty needs to be reduced and applied as time off as opposed to forfeiture of pay. This is consistent with the established practice. A reprimand should also be available as an alternative to the imposition of a penalty.

## **1730**

We have proposed a number of changes dealing with the hearings process and appeals. Many of these are consistent with the above submissions, so I will not repeat them. We are concerned, however, that retired police officers may be used as hearings officers to decide allegations against police officers. This will basically allow a chief of police to hire one of their colleagues to carry out the chief's wishes and eliminate any chance that the officer will have a fair hearing. We have made suggestions to the ministry on improving the hearings process, including the use of qualified senior officers from another police service.

Bill 105 eliminates an officer's right of automatic appeal to the commission following a hearing. The complainant, however, can request that an appeal be heard if the charge against the officer is dismissed. The Police Association of Ontario insists on retaining the appeal process for police officers as a means of ensuring fairness in the discipline process. Although there are few instances where appeals occur, the potential for appeal serves as a check and balance on the hearings process. Removing the right of appeal will be detrimental, we suggest, to the discipline process.

Bill 105, as you heard, also introduces a new basket clause for police discipline under "unsatisfactory work performance." We view this with considerable disdain in the absence of any consultation prior to its introduction and in view of its impact on front-line police personnel. The Police Services Act already contains provisions within the code of offences which allow officers to be disciplined for

neglecting or failing to carry out their lawful duties.

By distinguishing this new section in the Police Services Act, police authorities are given sweeping powers to set unreasonable standards of performance and to discipline officers who fail to produce the intended results. We view this as nothing more than a quota clause designed to give municipalities the tools to increase local revenues through the Provincial Offences Act, ticket revenues and increased enforcement.

Already we have seen police administrators proposing to purchase additional radar sets to increase municipal income. Under this model, municipalities can set their own standards and their own targets and discipline officers who don't generate the necessary tickets. Section 75, we suggest, must be scrapped.

In closing, in recent months we have been meeting with government officials and members of the Legislative Assembly to constructively suggest improvements to Bill 105. We hope our efforts have assisted you in your deliberations and we would be pleased to address any questions or concerns. We are committed to working with the government in achieving the goal of improved policing in this province and trust that our submissions will be of value in achieving this objective. Thank you.

**The Chair:** We've run over our time. However, if there are any very short questions, they could be entertained.

**Mr Ramsay:** Thank you very much for your presentation. At this stage now, if the person to appear before us doesn't show up, you're the last presentation before our clause-by-clause, and at this time we don't know what the reaction of the government is going to be all the presentations it has heard. If the government doesn't take out section 75 in regard to unsatisfactory work performance, would it be acceptable to you if there were some sort of amendment that at least spelled out that unsatisfactory performance did not mean adhering to a type of revenue-generating quota, if we somehow got that spelled out and alleviated that fear for you?

**Mr Moor:** I don't think there could be an amendment introduced that would accomplish all that, to define what "unsatisfactory work performance" is. Since we view that there are already sections in the code of conduct, our main concern is that once you break this section away and set it apart, it gives it much more import within the act. I don't think it would be possible or even feasible to put a harness on it, to just say it wouldn't involve ticket generation. There are many other things it could be used for in order to discipline officers and we feel it's totally inappropriate.

**The Chair:** Are there any questions by Mr Kormos or the government? If not, gentlemen, I thank you very much for your presentation here today.

Last, there was a Mr Ted Footman. Is he present in the committee room? He is not. If there are no further matters, I will then adjourn the committee hearing to clause-by-clause scheduled for May 26, 1997, at 3:30 pm.

*The committee adjourned at 1736.*