



The Regional Municipality of York Police Services Board

To Make a Difference in Our Community

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April 29, 2016

The Honourable Yasir Naqvi
Minister of Community Safety and Correctional Services
25 Grosvenor Street, 18th Floor
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Dear Minister Naqvi:

Re: Strategy for a Safer Ontario

On behalf of the York Regional Police Services Board, please accept our Board's submission on the proposed legislative amendments to the *Police Services Act* and related regulations. We are very pleased to be part of the consultative process and would like to thank you once again for hosting a consultative session in York Region. I would like to take the opportunity to address areas that have been long-standing issues of advocacy and concern for our Board and many other boards in Ontario.

At the outset, we would like to emphasize the importance of financially sustainable policing services to our citizens. As you are aware, 90% of municipal police funding is derived from the tax levy and it is well known that the citizens of Ontario pay the highest policing costs in the country (about 20% higher). We urge the province to evaluate costs associated with any pending changes to the Act. It will be very difficult to ensure that our communities receive the highest quality policing services if we continue to burden the municipal tax base. In light of this, our Board's proposal will include recommendations which we feel will enhance community safety, improve the public's trust in the police, build bridges with our communities, strengthen civilian governance and bring policing in Ontario into the 21st century, in a manner that is sustainable and makes financial sense to the property taxpayer.

We will use the province's consultation framework to convey our proposals:

1) Community-Safety and Well-Being

Community safety is a shared responsibility and a collaborative multi-sector approach is essential to ensure that both existing and emerging community safety needs are met with a suitable response and a long-term solution. A successful Strategy for a Safer Ontario includes the collaboration of all levels of government, social service sectors, community stakeholders and strong representation from our diverse communities.

Regional and municipal governments should take an active role in this collaborative effort with ongoing cooperation across provincial ministries to ensure appropriate funding is available and that provincial policies and guidelines are in place to facilitate the community safety initiatives.

Joint community mobilization initiatives such as the 'Hub Model' or the Rapid Response Table - a York Region initiative where participants like police, healthcare and social services identify situations that place individuals at risk, have proven to be very successful in enhancing community safety through a coordinated and proactive approach. These collaborations help find the right solution for individuals at risk.

The Board also recommends that the mandate of each service provider involved in community safety initiatives be reviewed to ensure that the responsibility is shared among service providers and is not defaulted to police.

2) Serving Vulnerable People

Police officers need to have the appropriate training and resources when handling a situation involving a person(s) with a mental health crisis. Police response should be appropriate and empathetic. Police training should include de-escalation, decreased use of force, decreased stigma, crisis intervention, and sensitivity training as it relates to mental health.

Steps should be taken to reduce police intervention in 9-1-1 calls when a more specialized non-police response is needed. Appropriate mental health resources, however, need to be available and accessible. Therefore, we urge the province to enhance mental health supports in York Region and to develop protocols for responding to addiction and mental health crisis calls along with funding to support a mobile crisis intervention team that would include police, paramedics and social service agencies

3) Modernization of Police Duties

One of the most important components to the Ministry's Strategy for Safer Ontario is the review of core and non-core police services which is critical to the reform efforts. Police officers are increasingly performing non-core duties and functions such as responding to animal welfare complaints and that alternate service delivery will free up officers and enable them to perform their core functions with greater effectiveness.

Similar to other stakeholders like AMO (Association of Municipalities of Ontario), our Board contends that there are numerous functions which should be transferred to civilians, special constables, community safety officers (as deployed in Winnipeg, Sudbury and Vancouver) and private security. Those functions include but are not

limited to court security and prisoner transportation. Prisons are staffed with non-police personnel and similarly non-sworn personnel should be aligned with the role of prisoner management and court security. Other duties which can be performed by non-sworn personnel are data entry, accident reporting, cybercrime investigations, domestic violence prevention, quality assurance and audit, burglary investigations, victim services, management and senior management functions, forensics and some paid duty functions. The special constable should also be able to perform traffic management duties. Our Board contends that the new legislation should expand and clarify the duties of non-sworn personnel for the purpose of enabling an alternate and more efficient response to both public safety matters and to create a more efficient service from an administrative and professional perspective.

Civilianization within our police service and across other jurisdictions has been proven to work by providing specialized skill sets to enhance public safety and has also translated into real cost-savings for certain administrative positions. However, some challenges to this process exist in terms of legislative and regulatory requirements. New legislation should provide for more flexibility for the employer including the ability to hire temporary or part-time officers.

4) Technology and Community Safety

Our Board supports the expanded use of enforcement technology including photo radar and red light cameras. Municipalities should have the ability to determine when and how to use traffic safety technology as part of their traffic enforcement programs. In addition, the expanded use of traffic enforcement technology must be supported by advances in the automation of court processes to prevent backlog within the system. POA court processes are mandated by the Province but they have not kept pace with advances in other technology. Our Board recommends that the Province undertake extensive review of use of body-worn cameras in relation to increased costs to police services, impacts on FOI requests, and privacy implications for police and members of the public.

5) Education and Training

Police officers have greater legislative demands and expectations placed on them along with the increased complexity of the role, therefore, a post-secondary education should be mandatory. Academic training related to the policing role should be provided at the community college or at the university level and the cost should be borne by the student. Our Board also supports requiring the successful completion of an accredited program *before* being hired by a police service similar to the requirement of nurses, teachers and engineers.

Our Board recommends requirement of additional professional education prior to being classified as a first class constable and the requirement that all ranks of

policing undertake professional education commensurate with the degree of responsibility in their rank.

The Board also supports AMO's proposal with respect to better coordination of college diploma programs with police college training which could see efficiencies, improve training consistencies and raise the qualification of graduates.

6) Governance and Accountability

Given the significant role that police services boards play in ensuring police accountability and public confidence in the police, our Board recommends that the quality of police governance and oversight in Ontario needs to be strengthened and more vigorously supported by the Province. Board members should be selected against a set of competencies which would provide consistency and capacity for boards to fulfill their legislated responsibilities. And further that the Ministry should provide standardized, mandated professional development and learning opportunities for all new Board members and ongoing training and development for Board members. This will ensure that boards have the requisite skills, capabilities and confidence to perform their duties. We also contend that all prospective police board members must be subject to a background check.

The selection and appointment process for Board members must also incorporate steps to ensure boards are more transparent and inclusive. Diversity brings strength and perspective to organizations and allows us to tap into and benefit from broader experiences and networks. Diversity will also help boards by strengthening their relationships with the community and by increasing their accountability to the public.

The Board agrees with the Big 12 Board Chairs' position that further clarity of the Board's role particularly as it relates to providing direction on operational matters should be provided for in the new legislation and that the Ministry consider recent reviews (Morden), OCPC decisions and judicial decisions in providing the clarification. In order to fulfill their oversight role, boards must have the ability to be informed about police operations and to ask appropriate questions. The legislation should not impede a board's ability to do so. Boards must have sufficient understanding of police operations in order to provide clear and effective strategic direction.

Our Board recommends that the Business Planning process is the responsibility of police services boards, and boards should have the resources to lead the process in collaboration with their police services and other stakeholders. The Business Plan sets the strategic direction for the police service and as such boards should be leading the process.

The Board supports that any model of police governance and oversight must include elected officials who are accountable to their community for the delivery of those services.

Other relevant recommendations for the consideration taken from the Emergency Services Steering Committee (ESSC) submission:

Suspension without Pay

For many years, Police Boards and Police Chiefs have strongly advocated for suspension without pay. Ontario is the only province in Canada in which police chiefs do not have discretion to suspend police officers without pay when the officer is charged with an offence or even convicted of an offence if the conviction is under appeal. Currently, the legislation only allows for suspension without pay after an officer has been sentenced to a term of imprisonment. This has led to situations where officers have spent years on the payroll while suspended for alleged criminal activity costing taxpayers millions of dollars and has undermined the Chief's ability to maintain discipline within the police service. Public trust is increasingly eroded when this issue is highlighted in the media. Our Board supports the numerous calls for a change to this provision under Part V in the *Police Services Act*.

Interest Arbitration

The interest arbitration system in Ontario's emergency services, including police, needs to be reformed to ensure that it is balanced, transparent and accountable, expeditious and accurately reflects what the parties would have negotiated had they been able to freely negotiate an agreement. Employers have long called for reform of the interest arbitration system because it no longer meets any of these criteria. Arbitrated salary awards in the emergency services have consistently exceeded the rate of inflation, cost of living and wage increases negotiated with other unionized staff in the same municipality. Ontario's interest arbitration system no longer reflects what free collective bargaining would otherwise have produced as an outcome; even when employers in the emergency services "freely" negotiate settlements they are constrained by the outcomes that would be awarded if they referred the agreement to arbitration. Labour cost increases in policing cannot continue without jeopardizing other components of the police service as well as other essential services and infrastructure needs of the municipality.

Our Board supports the position of the ESSC:

"The interest arbitration provisions of the Act must be amended to:

- *Improve accountability and transparency of arbitration awards by requiring arbitrators to consider a municipality's capacity to pay based on a comparison of the freely negotiated bargaining settlements in the same municipality, including those of bargaining units with the right to strike. The criteria for comparison of wage settlements should not be limited to only police in other municipalities.*

- *Establish clear, measurable criteria that include the evaluation of the economic health of the municipality, to be considered on the basis of the labour market characteristics, property tax and socio-economic factors.*
- *Enable either party to request written reasons for an arbitrator's award, and ensure such reasons demonstrate that the arbitrator gave due and proper consideration to the criteria."*

Bargaining Committee

The Ontario *Police Services Act* is the only statute in Canada to dictate the composition of the bargaining committee. This provision restricts the ability of the employer to determine how to resource its bargaining committee. There is no rationale for this provision and it should be deleted to give both parties the right to determine the composition of their own bargaining committees. Police services boards should have the same right as the associations and employers in other sectors to draw up expertise and resources they deem appropriate.

Exclusions from the Bargaining Unit

Our Board recommends that Part VII – section 118 of the *Act* be amended to create additional exclusions from the bargaining unit for those personnel both sworn and civilians who are engaged in labour relations, and those in supervisory or management positions. Currently all personnel with the exception of the Chief and Deputy are included in the bargaining unit(s). Management staff, including those responsible for human resources and labour relations, as well as civilian and sworn management should be excluded from the bargaining unit in a manner similar to that provided for in the Ontario *Labour Relations Act*.

Probation

Our Board recommends an extension to the length of the probationary period of constables and require that an officer serve the full probationary period while on active duty.

The *Act* currently provides for a 12 month period of probation with no provision to extend the probation in the event of interruptions in training, such as a leave of absence. Officers should be required to serve the full probationary period on active duty to enable the employer to fully assess the officer's skill and competence.

Consideration should also be given to extending the probationary period until an officer has reached First-Class.

The Ministry's consultation guide suggests that the Ontario Basic Constable Training program should be enhanced. If this results in a longer period of training, the probation period should be extended accordingly.

Disciplinary Proceedings

Sworn policers are not currently subject to discipline in a manner similar to civilian employees. The statutory regime for discipline of sworn officers significantly restricts the employer's ability to impose appropriate discipline in response to misconduct. This creates inequity within the police service as between sworn and civilian employees, and affords sworn officers with essentially "jobs for life," a privilege not afforded to any other employees in Ontario. The rights of sworn officers to due process can be sufficiently protected without a disciplinary regime that fails to hold them to an equitable level of accountability for their conduct. Our Board recommends that Part V of the *Act* be reviewed and amended to restore an appropriate balance of management and employee rights.

Advancement through Ranks

Currently a sworn officer progresses through the ranks from Fourth-Class to First-Class in five years. This is not consistent with career progress in professions which require additional training and education to advance. The overall period of advancement should be increased from five to eight years, and additional educational requirements should be met to obtain First-Class.

Conclusion

Ontario municipalities are responsible for 90% of policing costs yet they have little say over how police services are delivered. The recommendations contained in this submission address long-standing issues which impede the ability of police employers to modernize their workforce, determine the service delivery model, improve accountability and contain increases in labour costs.

The Strategy for a Safer Ontario allows for a significant opportunity to develop legislation that provides for effective, sustainable and community-based policing. A model which our board has advocated for and supported for many years. We appreciate this opportunity for meaningful consultation and look forward to a more progressive mandate for policing in Ontario which will serve as a model for other jurisdictions in Canada and abroad.

Yours sincerely,



Frank Scarpitti
Chair
Mayor, City of Markham

Copy to:

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Hon. Steven Del Duca, MPP
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Chris Ballard, MPP
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