

**Oral submission to Standing Committee on Justice Policy regarding Bill
175, *Safer Ontario Act, 2017***

**By Paul Dubé, Ombudsman of Ontario
(Queen's Park, Thursday, February 22, 2018, 5 p.m.)**

- 1 Bonjour et bon après-midi.
- 2 Thank you for the opportunity to speak to you about Bill 175 today.
- 3 Significant reforms in policing are long overdue and this bill contains many positive elements that I support.
- 4 Public confidence in policing has deteriorated substantially in the past three decades. So my team and I are pleased to finally see this bill, which constitutes a significant step forward in enhancing accountability and reforming policing in Ontario.
- 5 There are some gaps in the legislation as proposed and I will highlight the most important from our perspective.
- 6 However, I am going to urge you to make the necessary amendments and expedite its passage into law.
- 7 The people of Ontario have been waiting decades for an effective and credible system of police oversight, only to see recommendations from coroners' juries, commissions and the Ombudsman result in only incremental changes.
- 8 To adequately address the tensions between police and the community – and to rehabilitate a relationship which must be built on trust and confidence - this bill should be just one step in a comprehensive process of reform which must address police culture, oversight and accountability, and training and recruitment.
- 9 As you know, my Office has proposed many reforms to improve public trust in police – including better training and standards, and increased accountability and transparency.
- 10 The need to reform and modernize policing was further underscored by Justice Michael Tulloch's review, and he and I have made similar and consistent recommendations, many of which are –thankfully- incorporated in the bill before you today.
- 11 Let me cite just a few:
 1. Extending my Office's jurisdiction to the Inspector-General and the Ontario

- Policing Complaints Agency, and the Ontario Policing Discipline Tribunal as well as the Ontario Special Investigations Unit are responsive and appropriate measures.
2. Ensuring that police oversight bodies are supported with a robust statutory foundation, with clear mandates is an historical development.
 3. Requiring SIU Director's reports to be disclosed will go a long way to improving public confidence, not just in the SIU, but in police themselves.
- 12** I support and commend these long-overdue reforms, which represent unprecedented advances in police oversight.
- 13** However, I must draw your attention to several gaps in the bill that my Office has identified and dealt with in my written submission.
- 14** The first two deal with civilian representation within the agencies that police the police. Public confidence requires that these agencies not be tainted by a perception of pro-police bias.
- 15** There are insufficient safeguards in the bill to ensure that complaints about the police will be investigated by civilians and not the police. The composition of these agencies needs to be addressed.
- 16** In some cases, the bill recognizes this. Unfortunately, it is not consistent.
- 17** Although it bars SIU investigators who have a policing background from investigating their former colleagues, it does not do so for the other bodies.
- 18** My submission proposes amendments to the bill that would ensure greater civilian representation on all of our police oversight bodies, and prohibit them from having ex-officers deal with cases involving their former police forces.
- 19** Most significantly, I am concerned with the wording of provisions intended to make it mandatory for police services to comply and cooperate with the OSIU. That intent is undermined entirely by the qualifier "unless it is impracticable to do so."
- 20** We have seen historically the reluctance of some police chiefs and services to comply with, and respect, the SIU's mandate.
- 21** This wording will enable and reinforce the very problem the section was intended to remedy! Imagine the blow to transparency and accountability if open meeting legislation said meetings should be public "unless it is impracticable to do so."

- 22** Fourth, we require information from the institutions we investigate. The confidentiality provisions in Bill 175 could be interpreted as justification for not complying with a request for information from my office.
- 23** This bill expressly exempts certain offices from this non-disclosure principle – such as the Human Rights Commission and the Information and Privacy Commissioner – and my Office should be exempt as well.
- 24** Finally, if policing reform is to address the crisis in confidence we are now seeing in policing, it must address the way police interact with vulnerable people, such as those who are in crisis due to mental illness or drugs.
- 25** A legislated commitment to reforming the use-of-force model and making de-escalation training mandatory is missing from Bill 175.
- 26** While the details can come later by way of regulation, I am concerned about the lack of concrete action on standards for police training since the Minister accepted my recommendations on this in 2016.
- 27** The objective of this legislation is to make Ontario safer, and a legislative commitment to a new use-of-force model, requiring officers to use de-escalation in dealing with persons in crisis, is a key missing piece in this legislation.
- 28** Mandatory training on de-escalation would save lives, improve public confidence in police and, hopefully, result in fewer troubling cases before the SIU and the other agencies covered by this bill.
- 29** The time for study and consultation is long past. It is time for concrete and substantial changes in the way police are trained, carry out their duties, and are held accountable in Ontario. Ontarians are counting on you to make this happen.
- 30** Merci. I would be happy to answer your questions.