

**SUBMISSION – MR. EMIL KOLB, CHAIR**

**REGIONAL MUNICIPALITY OF PEEL  
POLICE SERVICES BOARD**

**STANDING COMMITTEE ON  
JUSTICE POLICY  
BILL 103**

**JANUARY 31, 2007**

Good afternoon.

My name is Emil Kolb. I'm joined by our Chief, Michael Metcalf, who I will introduce more formally in a moment.

I'm Chair of the Regional Municipality of Peel Police Services Board and have been, with the support of my colleagues, for the past 12 years. I believe it makes me the longest serving Chair of a Police Services Board in Ontario. I have been a member of the Board since 1991. I am also Chairman of the Region of Peel, a position I have held since 1991.

During my tenure on the Board, I have also served as Chair of the so-called Big 12 for a number of years, which represented the Boards of the 12 largest municipal police services in Ontario. I am currently entering my third year as a director of the Canadian Association of Police Boards.

I give you that personal background not to demonstrate my longevity, but rather to say the perspective I bring, on behalf of my Board, is very much influenced by the changes and developments I have seen over that time. I was around when the first Public Complaints Commission went from being a pilot project with the Toronto Police Service to being installed province-wide. I was there when it was dismantled and its responsibilities given to the Ontario Civilian Commission on Police Services (OCCOPS). I remember the controversy around the introduction of the Special Investigations Unit (S.I.U.); a controversy caused in large part because it was introduced without a clear mandate in terms of its operational interaction with police services; it was severely under funded – a point I will return to later; and because it lacked the level of professionalism that we expect of our investigators.

I'm pleased to say that at least from the perspective of our Board and police service all these issues have long been resolved as it relates to the S.I.U. We are supportive of it – as we intend to be supportive of the Independent Police Review Director. However, for the

new system to work, it must avoid the errors we saw in the creation of the S.I.U. and, my key point, it must understand, support and respect the most important relationship in the municipal police structure and that's the relationship between a Board and its Chief.

That leads me to introducing the individual who has joined me here today, the Chief of Police for the Peel Regional Police, Mike Metcalf. Chief Metcalf is a life member of the Peel Regional Police, with 37 years of experience, and he assumed his position as Chief just over a year ago. I will be asking Chief Metcalf to speak in a few minutes and to put a very practical context on the points I will be making.

I know that Bill 103 results from a long period of consultation. I suspect from the point-of-view of the legislators it represents a delicate balancing of interests, and significant change in the Bill is unlikely. So I will focus – in a positive way – on some key points that I would respectfully ask be considered in amendments and in the development of regulations. I will also be making two additional recommendations after our Chief speaks. In doing so, I must however say that our Board is generally supportive of the positions being advanced from the Ontario Association of Police Services Boards and also share many of the observations and concerns previously expressed by the Ontario Association of Chiefs of Police.

First, let me say our Board believes in effective civilian oversight. To be effective, it must be efficient, including the issue of resources; it must be targeted to achieve societal and organizational results; and it must place authority and accountability with those in the position to achieve the first two goals.

The legislation is deficient on the latter point as set out below.

### **Limitation of Board's Authority to Set Policy on Public Complaints**

I spoke earlier about the importance of the relationship between the Board and its Chief. It speaks to the very heart of Board governance, regardless of the sector. Boards must be

able to hold their chiefs accountable and to work with them to establish clear policies that make sense for their jurisdiction. Section 56(1) (b) of the Bill limits the authority of police boards to establish guidelines for dealing with public complaints. Instead, the guidelines must be consistent with any guideline established by the Independent Police Review Director or by regulation. A Board's authority to establish policies for the police service should not be fettered.

### **IPRD Ability to Direct Chief's Complaints**

One of the cornerstones of policing in Canada is the ability of a chief of police to manage and administer the day-to-day operations of a police service without interference from the police services board or another entity. The Board controls the budget; it sets policies for the chief to follow. And then it allows the chief to do his/her work unfettered.

A chief of police must have full authority over the internal complaints or disciplinary process. Section 78 of the Bill unduly restricts the Chief's authority by providing the Commission with the right to direct the Chief as to the manner in which he deals with a purely internal matter. This type of interference opens up the internal disciplinary process without any legislative triggers. This is a significant restriction on a chief of police and without precedent. It also forces a chief to potentially reallocate resources without consideration for other pressing matters that may be under way.

If giving this authority to the Director is an unintended consequence – and I can only assume this is the case – then I respectfully submit it must be remedied either through amendment or through the regulations.

### **Review of Systemic Issues – s. 57**

Section 57 of the Bill authorizes the Independent Police Review Director to examine and review issues of a systemic nature that are the subject of complaints made by members of the public, and to make recommendations. The recommendations do not appear to be mandatory; however, the scope of the review of these systemic issues is unclear. It is not clear whether the section is intended to deal with Provincial issues alone or whether the

authority would extend to the review of municipal police services. If the review authority applies to municipal police services, this would significantly impact the role of the Chief and the Board.

My final comments and observations relate to the issue of cost; cost that may come either from ambiguity or uncertainty in the legislation, or a failure to acknowledge the upfront and start-up financing required to create an entire new entity with the scope and mandate the legislation gives the IPRD. I make these comments having witnessed first hand the initial struggles of the SIU, which was given broad authority and limited funds to see it through.

### **Start-Up and Sustainable Funding**

It is our respectful submission that the government must recognize that this new body will struggle to fulfill its mandate; it will struggle to achieve validity; and it will struggle to meet all our expectations unless it is properly funded. It would be inappropriate for me to suggest a budget; however, I know from experience that it will cost more than you think, especially when start-up costs are factored in.

And my last comment on cost; this legislation cannot become, or be perceived, as a download on municipal police services. There are a number of circumstances where the Director has the ability to have an investigation undertaken by another police service, with the cost to be borne by the police service whose officer is being investigated. If this happens too often, or without caution and appropriate restraint, perhaps because the IPRD

is inadequately funded for its mandate, it will at the very least hamper the ability of municipal police services to fulfill their responsibilities.

**Initial Classification of Public Complaints – s. 60(5)**

By virtue of section 58 and 59 of the Bill, all public complaints are to be made directly to the Independent Police Review Director. The initial review and classification of complaints has been removed from the individual police services.

The police service has no input into the assessment of whether a member of the public is “directly affected” by the conduct of a police officer. There should be an opportunity for the service to submit its position. A broad definition will, in our view, create unnecessary confusion and take away from legitimate situations.

**Authority over public complaints – s. 61(5)**

Section 61(5) of the Bill provides the IPRD with the authority to have public complaints dealt with by way of three different streams:

- Referral to the police service to which the complaint relates to shall be dealt with under section 66;
- Referral to an external police agency to be dealt with under section 67; (the costs of any investigation incurred by an external police service shall be borne by the service to which the complaint relates (s. 61(10)); or
- Retained by the Independent Police Review Director to be dealt with under section 68.

From our review, this is one of the most problematic provisions. There are no prescribed criteria for the selection of the streams. This will undoubtedly have a significant impact on the deployment of police resources, as a police service can only provide its budgetary estimates on the basis of past statistics or clear criteria. It is important for all of us that this provision be clarified prior to proclamation.

(Comments from Chief M. Metcalf)

**CONCLUSION**

I want to thank the members of the Committee for providing us with the opportunity to make our views known on this important piece of legislation.

As I stated before, the Peel Police Services Board has been a proponent, and indeed a recognized leader, in promoting the effective civilian governance of municipal police services. We will work to make this legislation work. We seek your assistance in making it a better Bill.

In that same vein, I would make these final observations and recommendations. With all the best intentions, it is doubtful that we will get everything 100 per cent right. And this issue is too important to have us all work with a flawed system.

**RECOMMENDATION ONE**

That there be an automatic review of the workings of the IPRD by the Ontario Legislature five years after proclamation.

The second recommendation has to do with what is not in Bill 103 and the *Police Services Act* itself.

Many groups during the consultation asked for changes to the *Police Services Act*, including Section 47, which speaks to the issue of accommodation and the right for a Chief of Police to suspend an officer without pay. There has been no movement on either in Bill 103.

Policing in Ontario is big business. The combined budget for the Peel Regional Police and the Toronto Police Service is just about \$1 billion per annum.

If it is big business, it is also a complex business, even more so since 9/11. Despite this the *Police Services Act* is over 16 years old and has not had a substantive makeover for over ten years.

**RECOMMENDATION TWO**

That the provincial government initiate a comprehensive review of the *Police Services Act*, with the intent of creating a modern framework for policing in Ontario.

Once again, on behalf of the Peel Police Services Board and our Chief, we thank you for your attention and consideration of our comments and suggestions.