



Bill 175 - Safer Ontario Act, 2017

Submission to the Standing Committee on Justice Policy

February 12, 2018

Democratically elected local officials must provide for the full range of municipal services that keep Ontarians safe and healthy. That includes, but is not limited to, the financial needs of police services across the province and the OPP's municipal mandate.

Ontarians pay the highest policing costs in the country. Most of those dollars come from municipal property taxpayers. Ontarians also pay the highest property taxes in the country. In 2015-16, per capita spending in Ontario was \$362 while the provincial average across the country was \$328. If spending in Ontario matched the average of all provinces, Ontarians would be \$469 million richer. Those dollars could provide many of the local services that keep people safe and healthy.

Much of what has driven the cost of policing in Ontario is the legislation that governs policing. As a result, legislation that enables improvements to the efficiency and effectiveness of policing has been a key goal of municipal elected officials for many years. There are some changes in Bill 175 will advance the agenda to modernize policing, particularly with respect to oversight. But there are equally some elements of the Bill which will drive municipal costs and police budgets even higher.

The comments in this submission are focused on Schedule 1. The Association of Municipalities of Ontario (AMO) supports the measures included in Schedules 2-4 which focus on oversight agencies and processes. These measures will enhance public confidence in policing and oversight.

AMO also supports the themes within the submission of the Ontario Association of Police Service Boards (OAPSB). More specifically, Police Service Boards should be assured access to professional advice when at the bargaining table negotiating collective agreements. Boards must be empowered to delegate this authority to professionals as is the case for other employers. In addition, a Board's strategic plan must also be a required factor to be considered in an arbitrator's ruling, not just adequacy standards. If a Board's strategic plan is deemed irrelevant, Boards will not be able to govern.

What follows below are some other areas of the bill that need to be amended and are of keen interest to municipal leaders:

1. Mandating municipalities to develop Community Safety and Well-Being Plans (Part VIII, Section 187)

Proposed Municipal Changes:

1. Limit the scope of this mandate based on the size of a municipality or where an acute local public safety need exists.
2. Require participation of the Police Chief (or police service representatives).
3. Instead of legislation that punishes municipalities for non-compliance, encourage the development of such plans through outreach and financial support.

AMO supports the objectives of Community Safety and Well-Being planning on a voluntary basis. Pilot projects where such plans have been developed have demonstrated success precisely because of the voluntary participation of all partners. AMO supports the Ministry's development of a grant program or other means that supports the voluntary municipal development of Community Safety and Well-Being plans.

However, Bill 175 compels municipalities to bring various groups to the table over which municipal councils have little or no direct control. Specifically, the Bill prescribes that participants shall include

community service representatives from LHINs, health care, education, social services, child services, an elected official, and a police service board member. A notably absent participant is anyone from the police service itself. If the purpose of such a plan is to align community and policing services to achieve public safety objectives, the police service should also be present. If other groups are to be prescribed in legislation, so too should a representative from the police service. This is a key feature of existing community safety plans.

The Bill will require Councils to provide the Minister with information respecting the preparation, adoption or implementation of a plan. However, many of the representatives listed above, are provincial employees and not municipal employees. Thus, a Council's compliance with this section of the Bill (195.1), including implementation, will not be determined by a Council or its municipal employees. An errant individual or agency, wholly unrelated to the municipality, could hold a plan's implementation and a Council hostage by choosing not to participate. Legislative direction should be given to these provincial agencies to compel their participation or the scope of the mandate should be limited.

Under the Bill, a failure to implement a plan has consequences for elected officials. It means that the Minister has the power to appoint an individual with the powers of a Council. This is contrary to democratic values and the principles of responsible government.

Finally, there are practical considerations to imposing a one size fits all mandate for all 444 municipalities. Significant staff capacity limitations exist for many communities. For example, 190 municipalities have six or less full time administrative staff, 11 municipalities have only one full time administrator.

2. Civilianization (Use of Personnel, Part III, Section13)

Proposed Municipal Changes:

1. Permit the civilianization of court security and prisoner transportation functions.
2. Permit the civilianization of all specific functions listed in the Bill to include corporate entities.
3. Permit the civilianization of minor property offences, directing traffic, and crime scene security.

The ability to reduce costs is incumbent, in part, on ensuring officers are performing the critical public safety functions which require a sworn, armed officer. AMO supports the involvement of other public safety personnel to deliver public safety services. AMO's Policing Modernization Paper stated:

"A safe and secure community depends on multiple organizations and professions, not just the police. Security is built upon a broad safety and security web including private security, local health professionals, community groups, and municipal, provincial and federal government agencies. It is the effective functioning of this web which will deliver better, more efficient and effective public safety outcomes, not just police."

For examples of how the security web operates, one can look to the 2010 Vancouver Olympics or Ontario's hosting of the 2015 Pan American Games. A new model of policing will incorporate the growth and presence of private security, the growing involvement of social service and health care workers, and agencies with appropriate civilian oversight and governance. To that end, AMO

supports the public safety functions listed in Bill 175 which could be provided by non-police personnel.

However, additional functions should also be listed. They include: ground services for missing persons, some types of minor property offences like break-ins or vehicle theft (not in progress), directing traffic, and crime scene security. The government's intent on delivering civilianization should be clarified with these additions and the accompanying permissive regulations.

3. Consolidation of OPP Police Service Boards and Role (Schedule 1, Part V)

Proposed Municipal Changes:

1. Provide assurance in law that all municipalities will be represented on OPP Boards.
2. Provide some greater assurance in law that powers of an OPP Board are as similar as possible to those of an own-force board.
3. The OPP Police Governance Advisory Council should establish a mechanism to receive and provide advice to the Minister of Community Safety and Correctional Services and the President of the Treasury Board with respect to the fiscal position of municipal governments to inform the government's bargaining position with the Ontario Provincial Police Association.

Bill 175 would reduce the number and consolidate all existing OPP community policing advisory committees (non-contract or Section 5.1) and OPP police service boards (contract or Section 10) into one board per OPP detachment. In effect, this would eliminate nearly 100 OPP boards. The composition of OPP detachment boards shall be provided for in regulations. The functions of a board shall be the same as for other police service boards and shall continue to include the selection and monitoring the performance of the detachment commander. The detachment commander shall be responsible for the development of a "local action plan" (comparable to the strategic plan for other boards) and "consult" with the detachment board in its development. Similar to other boards, budget disputes between a council and a board would be referred to arbitration.

The elimination of nearly 100 OPP boards will put much more distance between a community, its board, and the police. Policing is fundamentally local. This proposal creates a significant logistical challenge. Detachment boundaries should not be the starting point for determining board boundaries. The importance of giving all municipalities a voice in policing needs to be emphasized, especially considering the public dollars which councils seek from the public to provide policing services. To that end, any consolidation of Boards should be done in a manner that provides for the representation of all municipal councils and regulations should prescribe how differences in service levels (and costs) between communities will be managed.

In addition, an OPP Police Governance Advisory Council would be established to advise the Minister on the responsibilities of the Commissioner. This proposal touches on recommendations made by AMO's Policing Modernization Paper related to establishing such a body. The Governance Council should also include the mandate to provide the Minister of Community Safety and Correctional Services and the President of the Treasury Board with advice regarding the fiscal position of municipal governments to inform the government's bargaining position with the Ontario Provincial Police Association.

4. Police Service Boards (Part IV, own force)

Proposed Municipal Changes:

1. Either mandate diversity plans for both police service boards and police services or strike diversity plan requirement for boards.
2. Require in law that the provincial government expedite the appointment of its representatives to boards and in so doing, increase the diversity on a Police Service Board. This is consistent with the findings of shortcomings and delays noted by the Auditor General of Ontario's report on Public Appointments.
3. Diminish restrictions on former police officers servicing on a board to within one year of employment by a service.

In the context of the heavily prescribed police service board composition (municipal elected officials, provincial government appointees, and one council appointee), in effect, the applicability of a diversity plan would only apply to a council's sole community representative appointee. Therefore, this is not an effective means to broaden the diversity of boards. Elected municipal councils are entrusted with making a broad range of appointments to a long list of bodies already, including police service boards.

Expedited provincial appointments to police service boards would greatly improve governance, increase diversity, and maintain quorum. Legislation should establish minimum standards on the timeliness of provincial appointments.

The limits on former police officers serving on boards are unnecessarily restrictive and infringes on their rights as private citizens. Such limits should be eliminated after one year.

5. Establishment of a Provincial Inspector General (Part VI)

Proposed Municipal Changes:

1. Supporting boards in fulfilling their function should be a mandate of this office.
2. The Inspector General should be an independent office of the Legislative Assembly.

One of the primary roles prescribed in legislative seems to be devoted to monitoring and inspecting boards. The role should also include supporting boards in fulfilling their mandates including the development of strategic plans, determining new OPP police service boards' composition, supporting the expedited appointment of provincial appointees, and supporting mandatory board training programs.

6. Suspension without Pay (Part IX, Section 150)

Proposed Municipal Changes:

1. AMO support further amendments which ensure the ability of a Chief to maintain discipline within the police service.

It is unlikely that the suspension without pay provisions in Bill 175 will meet the public's expectations of equity and fairness. Chiefs have expressed concerns with the restrictiveness and limitations of the suspension without pay provisions, AMO urges further action in this regard.

7. Waterways Policing (Part III, Section 6)

Proposed Municipal Changes:

1. Provide greater legislative clarity to avoid overlap with waterways currently policed by the OPP.

As written Bill 175 will expand requirements for all municipalities to build waterways policing capacity. This represents an unnecessary duplication of service with potentially significant cost implications.

Conclusion

In the words of Justice Stephen T. Goudge, QC who authored a paper on the future of policing: "Police services must adapt if they are to improve the effectiveness and efficiency with which they deliver safety and security." Municipal leaders are seeking legislative change that promotes the effective and efficient delivery of public safety and policing into the future.

A multitude of services are needed to build safe and healthy communities. Local elected officials and municipal governments must oversee the financing and delivery of many services that Ontarians rely on everyday. This includes policing indirectly, among others. The contributions of the Association of Municipalities of Ontario and local elected officials are from this broader context. This is the time to look at the fundamentals upon which police services have been built, and lay the foundation for long-term sustainability and quality delivery into the future.