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Wednesday 14 September 2005

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(Hansard)**

Mercredi 14 septembre 2005

**Standing committee on
justice policy**

Private Security and
Investigative Services Act, 2005

**Comité permanent
de la justice**

Loi de 2005 sur les services privés
de sécurité et d'enquête

Chair: Shafiq Qadri
Clerk: Katch Koch

Président : Shafiq Qadri
Greffier : Katch Koch

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

COMITÉ PERMANENT DE LA JUSTICE

Wednesday 14 September 2005

Mercredi 14 septembre 2005

The committee met at 0901 in room 228.

SUBCOMMITTEE REPORTS

The Chair (Mr. Shafiq Qadri): Ladies and gentlemen, I'd like to call the meeting of the standing committee on justice policy to order. As you will know, we are here to begin public hearings on Bill 159, An Act to revise the Private Investigators and Security Guards Act and to make a consequential amendment to the Licence Appeal Tribunal Act, 1999.

I'd invite, with your permission, Ms. Sandals to move adoption of the subcommittee reports.

Mrs. Liz Sandals (Guelph-Wellington): Your subcommittee met on Wednesday, July 6, first of all, and recommends the following with respect to Bill 159, An Act to revise the Private Investigators and Security Guards Act and to make a consequential amendment to the Licence Appeal Tribunal Act, 1999:

(1) That the committee meet for the purpose of holding public hearings in Toronto on Wednesday, September 14, 2005, in Ottawa on Thursday, September 15, 2005, in Sault Ste. Marie on Wednesday, September 21, 2005, and in London on Thursday, September 22, 2005. The order of locations may change depending on travel logistics.

(2) That the clerk of the committee, as directed by the Chair, advertise information regarding the hearings in all English and French daily and weekly newspapers in Ontario for one day during the week of August 22, 2005, and for one day during the week of September 5, 2005.

(3) That the advertisement in the English-language newspapers be placed in both English and French formats.

(4) That the clerk of the committee, as directed by the Chair, also post information regarding the hearings on the Ontario parliamentary channel and on the Internet as soon as possible.

(5) That the deadline for receipt of requests to appear be Thursday, September 8, 2005, at 5 p.m.

(6) That the clerk of the committee, in consultation with the Chair, be authorized to schedule at their discretion all interested presenters with input from the subcommittee members as required.

(7) That the subcommittee members receive an interim list of presenters requesting to appear before the committee in mid-August and at the end of August and the full list as of the deadline on September 8, 2005.

(8) That the length of presentations for all witnesses be 15 minutes. At the discretion of the clerk, in consultation with the Chair, the length of time for presentations may vary depending on time available and requests to appear.

(9) That the ministry be invited to provide a technical briefing to the committee at the beginning of public hearings in Toronto for a maximum of one half-hour, including time for questions and answers from committee members.

(10) That the deadline for written submissions be Friday, September 23, 2005, at 5 p.m.

(11) That the research officer provide a background paper on the distinction between private police and security guards in other jurisdictions by Monday, August 29, 2005, and provide a summary of witness presentations before the commencement of clause-by-clause.

(12) That the administrative deadline for submitting amendments be Wednesday, September 28, 2005, at 5 p.m.

(13) That clause-by-clause consideration of the bill be scheduled for Monday, October 3, 2005.

(14) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements to facilitate the committee's proceedings.

Also, your subcommittee on committee business met on Friday, September 9, 2005, and recommends the following with respect to Bill 159, An Act to revise the Private Investigators and Security Guards Act and to make a consequential amendment to the Licence Appeal Tribunal Act, 1999. You will be grateful that there are not 14 recommendations in this one:

(1) That the committee cancel the public hearings tentatively scheduled for Ottawa and Sault Ste. Marie due to the limited number of requests.

(2) That the clerk of the committee inquire about the possibility of accommodating the Ottawa and Sault Ste. Marie presenters by conference call in London on September 22, 2005.

(3) That, if required, the Chair be authorized, on a case-by-case basis, to reimburse any expenses incurred by the Ottawa and Sault Ste. Marie presenters who choose to travel to London.

(4) That the clerk of the committee, in consultation with the Chair, be authorized, prior to the adoption of the

report of the subcommittee, to commence making any preliminary arrangements to facilitate the committee's proceedings.

Those are the two reports, Mr. Chair.

The Chair: Thank you, Ms. Sandals. We'll now proceed to the vote for the adoption. I will require two votes, for both of these particular subcommittee reports. All those in—

Mr. Kevin Daniel Flynn (Oakville): Good morning.

The Chair: Do I have a point of order?

Mr. Tim Peterson (Mississauga South): He said, "Good morning."

The Chair: I see. Thank you. A hearty good morning to you, Mr. Flynn, as well.

I would now like to move to the vote for the adoption of the subcommittee report, the first part. All those opposed? None. All those in favour? Report adopted.

For part two of the subcommittee report, all those opposed? All those in favour? The second part is also adopted.

PRIVATE SECURITY AND
INVESTIGATIVE SERVICES ACT, 2005
LOI DE 2005 SUR LES SERVICES PRIVÉS
DE SECURITE ET D'ENQUETE

Consideration of Bill 159, An Act to revise the Private Investigators and Security Guards Act and to make a consequential amendment to the Licence Appeal Tribunal Act, 1999 / Projet de loi 159, Loi révisant la Loi sur les enquêteurs privés et les gardiens et apportant une modification corrélative à la Loi de 1999 sur le Tribunal d'appel en matière de permis.

MINISTRY OF COMMUNITY SAFETY
AND CORRECTIONAL SERVICES

The Chair: We will now move expeditiously to the technical briefing offered by ministry staff from the Ministry of Community Safety and Correctional Services, led by Mr. Herberman and your other colleagues. I would invite you to please present yourselves and, if you might, introduce yourselves to Hansard for the purposes of recording. Please begin. We have you until approximately 9:30, about 25 minutes.

Mr. Peter Kormos (Niagara Centre): On a point of order, Mr. Chair: Why don't all the staff come and sit at the table? I'll move over to make room.

The Chair: Thank you, Mr. Kormos. Should they wish to avail themselves of your continued generosity, I'm sure they will.

Please begin.

Mr. Jon Herberman: Good morning. My name is Jon Herberman. I'm the registrar and director of the private investigators and security guards branch at the Ministry of Community Safety and Correctional Services.

Mr. Dudley Cordell: My name is Dudley Cordell. I'm with the legal services branch at the Ministry of Community Safety and Correctional Services.

Mr. Herberman: I'd like to very briefly give you some context for the bill that's before you today and then discuss the key proposed changes in the new act.

Provincial legislation governing private investigators and security guards has not changed since it was introduced in 1966. The number of licensed guards and PIs in 1966-67 was about 4,000. Today we have 31,000 licensed individuals in the province.

The act itself lacks any defined criteria regarding training or competence for these individuals. Our licensing process at the moment consists of a criminal records check. We have individuals who are licensed to protect people and/or property without any assessment as to whether or not they have the required skills or qualifications.

In addition to the 31,000 licensed individuals, we estimate that there are at least another 20,000 security practitioners who are not licensed, who are currently exempt from our act.

There have been several recent events, provincially and nationally, that have highlighted the need for change. In the spring of last year, there was a coroner's inquest into the death of an individual named Patrick Shand, who tragically died while being apprehended during a shoplifting incident. The coroner's jury made 22 recommendations, almost all of which are addressed fully in the proposed changes to the act.

We have had two private members' bills over the last two years also recommending changes to the act.

In December 2003, the Ontario Human Rights Commission issued a report on racial profiling. Although that report was directed largely at the policing sector, they did have a recommendation in there for private security as well.

For the last two and a half years, the Law Commission of Canada has engaged in dialogue across the country basically on defining the roles and examining the blurring of the roles between public police and private security.

I would say as well that British Columbia, Alberta, Manitoba, Quebec and Nova Scotia, all of those jurisdictions, are at various stages of changing their legislation and are all proposing changes that are very similar to what is being proposed here in Ontario.

0910

In June 2003, the ministry released a discussion paper. We sent that discussion paper to over 600 stakeholders, outlining at a high level the suggested reforms and requesting written feedback on those changes. We received a very healthy response to that, and the written responses we received helped to inform the changes that the Honourable Monte Kwinter put forward upon first reading in December 2004.

In February and March of this year, we again went into consultations with all of our affected stakeholders. That included associations from the private security

industry; the private investigation industry and their associations; police associations; retail, hotel and motel associations; the banking and other industry associations; the hospital sector; the college and university sector; the insurance sector; unions—just about anybody who might be affected by this.

In May, the act received second reading and we established, also in May, an advisory committee composed of key stakeholder groups to provide expert advice and guidance to the ministry in the development of the new regulations under the proposed act.

The key reforms—I'll speak about each of these in a bit more detail in a moment—are mandatory licensing for everybody, licence portability, a new licence appeals process, a new licence public complaints process, and the setting of standards through regulations for training and testing, for code of conduct, for uniforms, equipment and vehicles, and minimum comprehensive liability insurance rates. We will also be increasing the fines and enforcement measures.

First, mandatory licensing and licence portability: Under the existing act, as I mentioned earlier, we have an estimated 20,000 individuals who are exempt from being licensed. These include largely the Corps of Commissioners and all in-house security. That means that if you work for a particular company or organization, whether it's at Canada's Wonderland, the Bay, IBM, and you're employed by them as a security practitioner or a PI, you are exempt from the current licensing regime. We want to change that and have everybody who is employed in those areas, anybody who's involved in the protection of people and/or property, to be properly trained to minimum standards, and licensed.

We want to also introduce the idea of licence portability. At the moment, an individual cannot apply for a licence on his or her own behalf; they can only do it through a licensed agency. This effectively means that they can only work for one company. So even if they're getting only 15 or 20 hours of work a week, they can't go and work somewhere else to make a decent living. It also means that if they want to terminate from company A and go to work for company B, they have to go through a termination process, re-submit an application through a new company and pay the licensing fee again. So licence portability will do away with all of that.

We are also going to register, not license, the in-house companies. So the registration will be a very straightforward process. We wanted to keep it as straightforward and easy as possible. There will be a nominal fee for those companies, simply for us to recover the cost of the registration. The difference between registration and licensing a company is that the people who provide third-party services who hire their guards out to others are licensed by us and will continue to be licensed by us. When an agency requests a licence or puts in an application for a licence, we go through a very comprehensive background check. We have an investigative unit that is comprised of seconded OPP officers. We do full criminal background checks. We do full financial background

checks. We visit the place of business. We review business plans for the licensed agencies. We will do none of those things for registered companies. The registered companies' primary business is not the provision of security; they are manufacturers, retailers, whatever it is they're doing. They have, in addition to their primary business, their own in-house security.

We are going to change the licence appeals process. At the moment, if an individual doesn't like the outcome of a hearing that either myself or the deputy registrar do into their licence, they can appeal that to the deputy minister. We are changing that so that if there is an appeal, it will go to the Licence Appeal Tribunal, which is part of the Ministry of Government Services. The Licence Appeal Tribunal is an independent, quasi-judicial administrative tribunal which receives appeals, conducts hearings, resolves disputes, and renders decisions concerning compensation claims and licensing activities. They currently do this under 22 other provincial statutes. The tribunal will be able to either uphold the registrar's decision, vary it, grant or restore a licence, or impose additional conditions on that licence. If the individual is still not satisfied after a hearing before LAT, they have recourse to judicial review.

We are also going to be instituting a formal public complaints process for the first time. This was one of the key recommendations of the Shand inquest as well. All public complaints will come to the registrar. There can only be two types of complaints: a complaint against a code of conduct—we'll talk about that in a moment—or a complaint alleging a violation of the Private Security and Investigative Services Act. If it's a complaint regarding a code of conduct, then if the registrar doesn't deal with it, it will be assigned to a facilitator, and the facilitator will make recommendations, which can become conditions on the individual's licence. Those recommendations could be for things like anger management training, racial sensitivity training, things of that nature. If the complaint is related to a violation or a contravention of the act, I will assign that to our investigative unit.

We are going to have six main areas for regulation development. These are training and testing, code of conduct, uniform, equipment and vehicle standards, and minimum insurance requirements.

Training and testing: At the moment, there is no legislated training for security practitioners or PIs in the province. It's a huge gap. So part of what we're doing with the advisory committee that I mentioned earlier is developing regulations under these six areas. On the training side, we are looking at a program that's currently offered by the Canadian General Standards Board. It's a 40-hour course, well received and well respected across the country. There's no need for us to start from zero on this. So we will use the CGSB course as a point of departure and, in consultation with the advisory committee, come up with our own training program.

We have a range of individuals who currently offer training, but, as I said, there are no standards. The training ranges from really first-rate to quite terrible, no

more than a rip-off for individuals who think they are going to get training and end up paying money and not being able to get a job afterwards. Once we have a draft standard for the training, we will be going out to talk to other groups who deliver training—in particular, colleges of applied arts and technology, career colleges and private companies—to review the draft with them.

Perhaps there's no need to get into the specifics on the others, but I did want to mention the training.

We are also going to be increasing our fines and enforcement. We will have new fines for individuals of up to \$25,000 and up to a year in jail, and for licensed entities, fines of up to \$250,000 and up to a year in jail as well. The fines in the existing act were up to \$50,000 and up to a year in jail, but I would remind the committee that those numbers haven't changed in 40 years.

We are also going to have a new class of inspectors who will have the authority to conduct inspections, collect and copy records, and enter business premises without a warrant. However, if in the course of their inspection they find something that they think relates to criminal wrongdoing, they will immediately leave and hand over their findings to an investigator, and an investigation will ensue.

That ends the formal presentation. We're happy to take any questions that you might have.

The Chair: Thank you, Mr. Herberman. We would now like to open the floor to the committee. We'll start with you, Mr. Kormos.

0920

Mr. Kormos: Perhaps I could just put a collection of issues forward and these folks can respond either at the end of everybody else's comments or not.

I applaud the consideration, the whole issue of response to the Shand coroner's inquest and the need for new standards. However, these are my concerns:

First, there are two types, in my view—and we're going to hear from folks and they may well elaborate on this—of private security work out there.

There is the proactive what I call quasi-policing or private policing, like in Shand, where people are expected to make arrests, where they do physical contact with suspects, with people and personnel. Clearly, in that regard, you want a very high standard to be met.

The other whole area, though, is the proverbial night watchman, night watchperson, who never interacts with the public, who simply monitors a panel and is told, "Don't try to arrest anybody. Don't get involved. Call the police." Do we want that night watchman, night watchperson—and let's understand who these people are. In many cases they are people who are going to find difficulty working in other areas of the workforce. The security industry has accommodated these people in a very unique way, in a very valuable way.

So I'm concerned about the fact that there are two approaches to security and the bill only embraces one and makes everybody adhere to the same standard. That's number one, because clearly the person must be licensed, subject to what we hear. The way I read the bill, a

university kid working in the summer doing night watch duty on a construction site, being told, "Only call the police"—he or she is not going to be allowed to do that. The fellow down where I come from who has lost his job because it's deindustrialized or who has a worker's comp injury, who can do light duty like watching a panel, is not going to be able to do that. The fellow in my apartment building here in Toronto is again not going to be able to do that unless he meets these standards. And quite frankly, security guards are going to expect to be paid a hell of a lot more than they're being paid now if they are being required to attend community college programs and meet these standards as well.

I'm concerned about section 10, the criminal record issue. I appreciate that you consider—you only have an interest in prescribed criminal convictions. There's no reference, and perhaps there's been case law at the administrative level, around character, because the fact is that a person could have a lengthy history of police contact with, let's say, child molestation, yet never have been convicted. Lord love a duck. I think we have as strong an interest in making sure that person doesn't work in a security arena as anybody else, yet the statute is very, very clear, in my view. You have outlined what the requirements are: You don't have a criminal record; you meet the education requirements. Bingo, you get a licence.

The other absurdity that I mentioned early on, during first reading, I think, was section 34, the duty to identify oneself. Maybe that's just a matter of tweaking, but it struck me as bizarre. When we were kids, we used to tease the bears in department stores, right? You know, we'd figure somebody out to be a floorwalker and we'd tease the bears. The statute appears to say that if a person is doing that kind of security duty, a floorwalker in a store, plainclothes, and you go up to them and say, "Are you a security guard?" they are obligated to identify themselves and show you the bloody licence. That seems to me to be just an overly rigid application of that requirement and one that deserves tweaking.

My broader concern is that what this bill does, let's understand, is it facilitates privatized policing and enhances it. It will legitimize private policing. The PAO—I've talked to them—doesn't appear to have a concern about that, Garfield. I think they should. I certainly do, because I believe in public policing, but this facilitates private policing.

The other consideration that's first and foremost for me is that it's going to ding a whole lot of municipalities and a whole lot of smaller employers who need security but not the proactive security that's going to bust people for trespassing or for shoplifting.

Thank you, Chair.

The Chair: Thank you, Mr. Kormos. With respect, in order to make sure that all parties have time to be heard, I'm now going to move to the Liberal side.

Mr. Bob Delaney (Mississauga West): Thank you very much.

I have one question, with a brief preamble. Young people in Mississauga have complained to me that private security companies, under the guise of training for employment within the security industry, advertise openings and attract young people who are charged a very hefty fee for what is described as training. The companies frequently rent a facility at, for example, U of T or some other well-known educational institution, and after the completion of this so-called course, few attendees, if any, are offered employment.

Can you please describe, especially in light of the type of abuse I've just mentioned, how standardized training will ensure that Ontarians are protected in a uniform manner, and by what means such standardized training might be delivered.

The Chair: Please go ahead. You have the floor, Mr. Herberman, as you wish.

Mr. Herberman: OK. To respond to Mr. Kormos's comments, the first one is your concerns about the two different levels of security work: the night watchman and those who are involved perhaps in loss prevention, or who are doing work that involves much more interaction with the public, potentially physical interaction with the public.

We are proposing to have a classification system for licences, so that those who are doing the night watchman type of work would have basically what we'll call a class 1 licence. Those who are going to be involved in much more interaction with the public, and potentially physical interaction with the public in terms of shoplifting or disorderly conduct, would have perhaps a class 2 licence. A class 2 licence would be based on both additional training and experience. So we are aware of the issue and we're proposing to address it in that manner.

On the criminal records issue, we are going to define through regulation a list of criminal offences where, if you've ever been convicted of them, don't bother applying for a licence.

On the issue you were raising about someone who is a person of interest to a local police service or various police services but they've never had a conviction, there's also a section in the act that talks about some of the registrar's powers, and one of those talks about whether or not the registrar believes it is in the public interest to issue a licence, regardless of whether there is a conviction. For an individual like the one you've just described, that individual would not slip through the net.

You also raised a concern about the duty to identify yourself, particularly for floorwalkers, for loss prevention individuals. The act says that if you're holding yourself out to be a security practitioner or a private investigator, and if asked, you have to produce your licence. A loss prevention officer is not holding himself or herself out as such and would not be required to produce a licence. They're not in uniform. They are acting under cover in that store, so they wouldn't have to produce a licence.

You used another term; you raised a concern about private security in effect becoming private policing and the changes to the act legitimizing that. In short, I just

want to assure you that we have public police and we have private security, and if anything, I see this act further delineating and defining the boundaries and the lines around those two things. So it was never our intention in any way to step over that boundary and take on even the lower level or allow a private security team to take on the lowest levels of policing activities. On the contrary: We were very clear that that is not going to happen.

Mr. Delaney, you were talking about problems in your riding with training, with companies offering training at sometimes very inflated prices with the promise for the potential of a job afterwards. This is an ongoing problem. However, at the moment it's a problem that we have no jurisdiction over. We do not under the existing act have any legislation, regulations or sanctions for training. So if anybody has a problem currently, who has paid money for training with the promise of a job and they don't receive a job, or they paid an inflated price for the training and the training hasn't been adequate, there's nothing under the Private Investigators and Security Guards Act that we can currently do about that. Under the proposed act, we will take on the responsibility for training and testing, and if people make fraudulent claims, then under the new act we will be able to investigate and charge them.

The Chair: Thank you, Mr. Herberman, and thank you to the deputation from the ministry. I would first of all just inform the committee that Mr. Dunlop graciously yielded his question time so that we might hear you more fully.

0930

ASSOCIATION OF PROFESSIONAL SECURITY AGENCIES

The Chair: I would now like to invite our next presenter, Mr. Joe Maher from G4S Security Services. Mr. Maher, if you might, please formally introduce yourself. If you might also just speak clearly into the microphone. There's a lot of background noise in this room.

Mr. Kormos: Chair, prior to that, perhaps Mr. Fenson could obtain the background material on the proposed regulation regarding the two classifications and the respective standards for those classifications.

The Chair: Thank you. Legislative research duly notes your request.

Mr. Maher, just to remind you, you have approximately 15 minutes. Any time that you leave remaining afterward will be shared equally amongst the various parties. Please begin.

Mr. Joe Maher: Thank you. Good morning. My name is Joe Maher. I'm the vice-president of G4S Security Services (Canada) Ltd., formerly Group 4 Falck (Canada) Ltd., and one of the founding members of APSA. I am here this morning speaking on behalf of the Association of Professional Security Agencies, known as APSA.

A little background on myself: I spent 12 years in policing with the Toronto police services. I held the rank of sergeant in that role. I spent time at CO Bick training school. I've currently been in the private security industry for 19 years and I have some 2,300 uniformed security officers in my current division. I'm an active member of APSA.

An overview of APSA: There are currently 20 member companies of APSA, with two more to be added in January of this coming year. We believe that the 20 member companies represent about 70% of the security working in Ontario. This is a representation, as Mr. Herberman mentioned, of 31,000 security officers in the province of Ontario. I will say that in my notes it says 20,000, but I'm with Mr. Herberman on 31,000 this morning.

Principally, the job of a security officer is to detect, deter and report. The people of Canada no longer are willing to take the risk of being victims of criminal acts. Thus, private security has grown dramatically over the years, with the consumer willing to pay the cost. In today's world, police services can no longer cope with the volume of incidents, and the complexity of the police services has grown, while municipal, provincial and federal government budgets are being constrained.

The growth of the security industry over the years has been driven by society choosing deterrence and prevention and immediate response to criminal acts, violation of rules, and identifying safety concerns. The role has also evolved into responding to fires and medical emergencies and arresting people found committing criminal acts. Security guards are becoming the front-line responders to serious incidents; i.e., major fires at automotive plants, shootings at community colleges, sexual assaults at shopping centres, violence in hospital emergency wards, domestic disputes in high-rise apartments and condominiums, theft from private property, safety services at theme parks, terrorist threats, lost children in shopping centres etc. Routinely, security guards are facing many of the same incidents encountered every day by police officers; however, they are limited to using only the powers granted under a citizens' rights.

To enhance and recognize the need for greater competence in the total security industry, to add professionalism and to build public confidence, we need to start by defining the composition of the security guard industry. As mentioned earlier, the industry is made up of security agencies such as Group 4S and a host of others that are attached to my report; the commissionaires; Corp II, a division of the commissionaires; and the in-house organization. It is estimated that the security agencies, our agencies, employ only about 50% to 60% of those that act as security guards in Canada.

The major issues facing the industry include the trust factor: The general public must have confidence that the people in uniform identifying themselves as security guards are of a high standard, are trustworthy and have a degree of competency.

As mentioned earlier, they must be free from criminal convictions. The opportunity for those with ill intent, with serious criminal convictions—i.e. pedophiles—and for terrorists to infiltrate the ranks of security firms is real. Given the fact that the commissionaires and the in-house operations are not regulated in Ontario—licensed with a criminal background check—there is some risk that the expected standards will not be met. Interestingly, the commissionaires, a valuable association member of APSA, has now agreed to become fully regulated and licensed.

The huge vulnerability which exists is in-house operators, where background checks are not mandatory, nor is training, as evidenced by the Patrick Shand inquest.

Mandatory training: The level of competency in the industry ranges from rock-bottom low to extremely high. It is presently driven by consumer economics and individual needs. There is no basic level of competency required in the industry. Individual companies vary in their personalized training standards, with some offering extensive training, while others offer virtually none.

There needs to be a legislated minimum level of training. The application of training standards must apply to the entire composition of the security industry; otherwise, buyers of security services driven by pure buy-cheap motives would lean to creating their own in-house program simply to save dollars, thus exposing the public to incompetent security personnel. If a minimum training standard applies only to the agency part of the industry, an unfair competitive playing field would be created, creating a sufficient disadvantage for the agencies.

Uniform appearances: It is important to establish trust and confidence, that the security guard uniform meets a standard different from the police, strong and visible enough to meet the public's expectation and professionalism. T-shirts with the word "security" embroidered on them are not acceptable to our standards. Routinely, this is what you would see at special-events occasions by in-house operators. Small children and teenagers look for visible representation of trust and competency, and rely on security to help them at times of need.

Vehicle appearances: The markings on security vehicles must be clearly distinguishable from the police. The use of exterior lights is required for safety purposes while patrolling properties during night hours; however, the words "security vehicle" must be clearly visible.

Portability of licences: The licences issued to security guards must be portable to accommodate the freedom of security guards to move to different employers as opportunities for gainful employment arise. This eases the burden of administrative paperwork within the government and agencies, improving the overall efficiency and reducing costs for both parties.

Issuance of licences: The time has come to address the serious need for electronic processing of security guard licences. The present, archaic way of transporting masses of paperwork is cumbersome, slow and inefficient. The initial cost investment by the government would lend

itself to repayment through the cost efficiencies and would move some security applicants into meaningful employment sooner.

Insurance coverage: The present requirement for insurance that must be carried by an agency is \$1 million. This outdated requirement was established in 1960. Serious agency applicants and providers should carry a minimum of \$10 million for protection of their clients and their workforce.

Self-regulation: In the interest of public safety and because of the lack of financial resources within the industry, we believe that the current regulatory body, the registrar through the Ministry of Community Safety and Correctional Services, should maintain its current responsibilities.

Accountability: The actions of security agencies are accountable to the client, the registrar, the employment standards commission, the Human Rights Commission, trade unions, the Workplace Safety and Insurance Board, civil litigation and shareholders of public companies and insurance companies.

It is not uncommon for security companies to lose contracts because of performance-related issues with their client companies, causing serious loss of revenue and loss of employment for security guards.

Because of the high scrutiny placed on security firms, the accountability is extraordinarily high. However, the industry members are receptive to a further, formalized approach through the ministry to build public confidence.

National standards: Serious consideration should be given to having the provincial regulatory bodies work toward national standards in licensing, uniforming and training. On this issue, the industry association should be an active participant in creating the national model.

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Just in summarizing, we shouldn't forget the tragedy of 9/11/2001. While the television cameras captured the heroic actions of firefighters and police officers, it was the World Trade Center security guards who were in the building and who were the first responders. While the media did not capture their work in assisting tenants, police and fire departments, their work was important and heroic; thus, the need for a competence level to be defined and established.

Could the same tragic event happen to a major city in Ontario? We hope not. However, just recently we witnessed the bombings in London and natural disasters as a result of tsunamis and hurricanes where security personnel played the vital, critical role of saving lives. Enhanced standards are no longer just a wish list but must become mandatory standards. The public is relying on the wisdom of the government to move this initiative quickly and positively to conclusion. Thank you.

The Chair: Thank you, Mr. Maher. We have a little time for efficient questions. We'll start with Mr. Dunlop, from the PC side.

Mr. Garfield Dunlop (Simcoe North): Thank you very much for being here this morning, Mr. Maher.

Generally, you support this bill; that's what I'm hearing from you today.

Mr. Joe Maher: That's correct.

Mr. Dunlop: You just outlined a number of the reasons why: because of the key changes to the bill.

Mr. Joe Maher: That's correct.

Mr. Dunlop: Is there any place where you'd like to see the bill improved, or is there anything that you see a different need for?

Mr. Joe Maher: One of the things I'd want to make sure of is the standard of the trainer for the training programs. How are they going to be certified? It can be just as watered down as it is today if we don't have some strong standards for that training person who's ultimately going to be in front of the recruits, giving that training standard.

Mr. Dunlop: Thank you very much.

Mr. Kormos: We're going to be hearing from community colleges. You can count on them arguing to be the sole trainer. You make reference to in-house training in ensuring it's a sufficiently high standard. Are you suggesting there should be alternatives to licensed trainers—to wit, community colleges or private schools—such that there could be in-house training?

Mr. Joe Maher: That's what I'm suggesting, because the ministry is suggesting a 40-hour training program. I don't know if we need to go to the community colleges for that when we have private industry that could do it.

Mr. Kormos: A 40-week—

Mr. Joe Maher: I think it was 40 hours.

Mr. Kormos: No. The community colleges are going to be talking about 40 weeks.

Mr. Joe Maher: Oh, yes; it could be months. Yes.

Mr. Kormos: Is 40 hours adequate?

Mr. Joe Maher: I believe so, yes. I believe that there should be refresher training annually too. As I say, my background was policing, but I wouldn't be able to say I knew the entire Criminal Code after so many years—so a refresher at some point.

Mr. Kormos: What's the basic training at police college? Do you know?

Mr. Joe Maher: It's 16 weeks.

Interjection.

Mr. Joe Maher: Sorry, someone's saying something behind me. I may be wrong.

Interjection.

Mr. Joe Maher: Sixty days? That may be at Aylmer, and then you have to go to the—

Mr. Kormos: Twelve weeks, yes. Twelve five-day weeks.

Mr. Joe Maher: Yes.

The Chair: We'll move to the government side, should there be any questions.

Seeing none, I would like to thank you, Mr. Maher, for your testimony, your deputation today.

CENTRE FOR SECURITY TRAINING
AND MANAGEMENT INC.

The Chair: I would now invite our next presenter, Mr. Norm Gardner, former councillor, I believe, who is representing the Centre for Security Training and Management.

Welcome, Mr. Gardner. Once again, to remind you, you have 15 minutes in which to present. Any remaining time will be shared equally among the parties. Please begin.

Mr. Norm Gardner: I'd like to thank you very much for inviting us here today to hear our comments. I'm certainly supportive of what I heard from Mr. Herberman. Actually, I think I can address in my little speech here some questions that have been asked by some of the members.

A little background on the organization that I represent: It was created in 1998, offering skill-training programs and job placement for those wishing a career path in the security and loss prevention industries, to those who have problems finding employment, lack self-confidence, lack education, have physical disabilities, are young and have never had a job before, or are native persons, single parents or newcomers to Canada.

The Centre for Security Training and Management has designed a four-week program with over 35 subjects in conjunction with the Canadian General Standards Board, and it has successfully trained over 2,000 persons and placed them in the job force as security guards with several security providers, because we do job placement as part of our undertaking.

Over 95% of all participants admitted into training were granted certificates and found immediate employment in the security industry. Course candidates receive training in both life skills and professional security and protective services. It is the whole-person training approach and development that provides the centre with its competitive advantage in the employment marketplace. It has allowed us to break into and succeed in one of the most highly competitive industries. Our training has proved to be more job-specific and more in tune with the requirements of the security industry than that provided by community colleges.

In the past we have successfully worked with clients of government agencies in training and job placement. As I indicated, our success rate is a 95% placement within the security and protective services industries. We have found the youth program to be a very valuable tool in helping youth reach and strive for goals which some may never have known. It has been our experience that many youths from all walks of life have been given a chance to accomplish steady work in the security field. The security guard program has had a definite impact on finding and keeping employment for persons who are economically disadvantaged. We create positive role models and opportunities for all people registered in our security programs.

A security officer, sometimes called a security guard, is an individual with special training in one or more areas, hired for reward to detect, deter and report. After all, we wear a uniform with badges or patches and sometimes carry handcuffs. Their duties may include workplace safety: adhering to the various safety regulations, emergency situations, command structure; access control to property; alarm/control panels; environmental conditions.

There are those who are in the retail environment. They work on loss control with shoplifters and attempt shrink prevention/detection of property, and sometimes this may include arrest and handcuffing techniques; parking lot monitoring/accident response; parking enforcement and issuing provincial offences notices.

In the area of corporate security, they deal with industrial espionage prevention and detection, access control, and employee theft prevention and detection.

First aid: All our students get first aid training by competent, certified emergency medical services personnel.

Security guards are also trained, as I said, in access control. This is a common function provided at client sites. They may inspect employee badges or ID to ensure that the people coming into the facility are actually supposed to be there. They log visitors in and keep track of the goings-on around the facility. They may also inspect employee belongings and containers as people leave as a theft deterrent/detection function. They may also patrol the facility parking areas as a deterrent/detection function against vandalism and theft. Your presence is, hopefully, to prevent things from happening as much as it is to observe and report if something does happen.

Security guards have to be good at noting details. They need to be able to note differences in conditions between rounds. They need to be able to notice if objects are present, absent or moved between their rounds. If there isn't supposed to be anyone in the area, then such an event would be a good clue that something or someone is afoot. They also need to notice changes in odours in a building. This could be a sign of a fire or a chemical spill, which will warrant even more scrutiny. It can also be a way to tell the officer if they are in possible danger.

The above-mentioned are current expectations of security officers across the province. The duties and training needs of officers have changed drastically since 1966, when the Private Investigators and Security Guards Act of Ontario was first introduced. I think Mr. Kormos addressed that when he talked about some people who do watchman duties compared to more professional security type of responsibilities.

Since the terrorist attacks of 9/11 in New York and the most recent in London, Spain and other parts of the world, and the natural disasters around the world, security officers have played a vital role in providing protection of property and persons.

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On the need to revise and amend the Private Investigators and Security Guards Act of Ontario with Bill 159: We want to talk about accountability. All security personnel, including in-house operations, should be accountable under Bill 159 to the province of Ontario. Presently, as Mr. Herberman has indicated, in-house operations are not accountable to the province because they are not licensed. Currently, in-house and contract security officers work side by side with different sets of standards, causing disadvantages. Hopefully, this will standardize uniforms, training, background checks and regulations governing all security personnel.

On the subject of uniforms: Standards for uniforms must be implemented to ensure security officers are highly visible and not mistaken for police officers. The use of T-shirts and polo shirts should be prohibited, as anyone can obtain these.

On mandatory training: All security personnel should be trained to the Canadian General Standards Board standard which was created by the federal government of Canada. This standard has been created for Canada and is a requirement to work on federal properties; that is, airports, government buildings, federal government buildings etc. This standard should be adopted by the province of Ontario as a training model. I was very pleased to hear Mr. Herberman's comments on that.

The minimum requirement is 40 hours of training for this course. This amount of time is manageable for both employers and students. The following should include handcuffing, first aid, CPR and use of force, including the legal requirements to perform their duties.

Training should be provided by third-party, arm's-length agencies not affiliated with the security providers to avoid officers being placed in the field before training has been completed. I say that because sometimes a contract may be obtained which would require the immediate need for several people, and often you might get a situation where people who are not properly trained are rushed out of a class and thrown into a situation where they really needed to be trained in order to deal with the type of event that they are being asked to work at.

Before an individual can begin a practice or be licensed as a security officer, they must be trained through a recognized Canadian General Standards Board training provider. All training must meet the new standards of the province of Ontario. All security officers should be required to requalify on a yearly basis with an eight-hour program.

The Canadian General Standards Board's examination test should be offered throughout the province by third-party providers. Currently, some licensed agencies charge \$200 a day for a two-day training program, and students are never employed with these agencies. There is no job placement attached to them. There was an article by CBC in late July revealing one such agency that was training hundreds of persons and promising employment which never took place.

On the issue of portability of licences: That issue would be basically overcome by ensuring that people do get training through recognized Canadian General Standards Board training. That would overcome the issue that you brought up, Mr. Delaney.

The licence issued to the security guard must be portable to accommodate the freedom of security guards to move to different employers. However, conditions should apply: Termination notices must be provided to the province, and police checks must be completed each time the guard is hired.

The current act prohibits security guards from carrying wallet badges. Ontario's new standards should include a warrant card issued by the province, as well as a badge or ID issued by the employer that the security guard represents. Security personnel engaged in in-house loss prevention are currently issued a corporate badge or ID. This helps identify their authority as a representative of their employer.

All applicants should be issued a temporary licence to prevent delays in employment once they've completed their training, because sometimes there is a six-week delay from the time you apply for your licence to the time you get it. So you're not working, even though you've completed the course and there's a job available for you.

Presently, security guard companies can apply for and receive training to carry a PR-24 baton with a side handle. Currently, in-house security guards can carry collapsible batons on their uniform belts. All security officers should be issued standard devices to protect themselves, such as collapsible batons, where they may be used as a defensive option. Under the Occupational Health and Safety Act and Bill C-45, employees must be provided with the necessary equipment and training to ensure a safe work environment. Bill C-45 allows for companies that do not supply adequate equipment to safeguard their employees to be criminally charged.

In relation to a couple of these pieces of equipment that one type of guard may carry and another may not, the Tonfa stick, or PR-24, is currently approved for the security industry for guards who have had the appropriate training. These batons are very visible, they're two feet long, they appear intimidating, they're cumbersome to wear—loose on the belt—they have poor retention capabilities and there is a tendency to fall out of the holder when responding quickly to emergency situations.

Collapsible batons, which in-house security are allowed to carry, are very compact, they are less visible, they are not intimidating, they are easier to wear, they secure on the belt and extend to their full length with a flick of the wrist.

Several of our clients reported that their security guards have been attacked and injured while carrying out their duties, particularly in high-crime residential areas, where they had no equipment with which to defend themselves. We do recommend that body armour be provided when engaged in certain types of security work.

In conclusion, our corporation strongly recommends that changes are needed to regulate the industry and training across the province of Ontario. Many of these changes will ensure the safety of security guards and the public they protect.

The Chair: Thank you, Mr. Gardner. We have just two minutes left, and we'll begin with Mr. Dunlop.

Mr. Dunlop: I have no questions.

The Chair: Seeing no questions from the PC side, we'll move to Mr. Kormos.

Mr. Kormos: I appreciate the submission. Again, perhaps we could get some information from legislative research on the Canadian General Standards Board standard, at least a synopsis.

The issues you raise again point out my concern about the fact that not all security personnel—heck, remember the Gasworks on Yonge Street, the rock club?

Mr. Gardner: Right.

Mr. Kormos: Those bouncers were big, and when you got tired of the band, you watched the bouncers turf people. Clearly, that type of security work—and they didn't need batons—is far different from the industrial security work you're talking about: We have to be familiar with workplace health and safety and so on. I'm concerned about the fact that one standard of training may not be suitable for the variety of security work that is being performed out there.

I know we're going to hear from other parts of the entertainment industry. There's going to be an interesting submission from the Adult Entertainment Association of Canada. What do you say about the variety of work that's being done?

The Chair: You just have a minute left, Mr. Gardner.

Mr. Gardner: Sure. Our training is for people who are professionally engaged in making a living in the security industry. Most of their training, as I said, is to detect and deter, to prevent incidents from happening. So we concentrate on making them very professional in how they go about doing their duties. If someone needs help, it's not, "What are you doing here?" it's, "May I help you?" In other words, we're trying to create professional people in the industry.

The kinds of people you're talking about are not basically professional people who make a living on a day-to-day basis in the security industry. They're bouncers. Obviously, from some of the types of incidents that have taken place in some of the clubs, perhaps they need a little more professionalism there rather than just hiring people by the pound.

We realize that there's a difference in terms of the types of security that are available throughout the province.

The Chair: We'll allow one quick question from the government side.

Mrs. Sandals: You mentioned some issues around equipment, the types of batons that are used, that sort of thing. I presume that in the proposed act the regulation-making authority would allow us to work out the details of the equipment that is allowed.

Mr. Gardner: Yes. We'd like to see a little more uniformity here. If one type of security personnel is allowed to carry a certain piece of equipment that is not offensive, then we think the other side should be as well. In other words, the employers in the industry do not want to walk around and impersonate police officers. They realize that they've got a job to protect. There's a liability situation here by the owners of properties to protect the property and people on those properties, but they want to do it in the least offensive manner possible. Just like in policing, you try to build some friendships in the community in which you are working, and this is one of the ways that we think would be helpful in enabling them to do so.

The Chair: Thank you, Mr. Gardner, for your deputation, and thank you, committee, for your questions.

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POLICE ASSOCIATION OF ONTARIO

The Chair: I would now invite our next presenter, Mr. Bruce Miller, chief administrative officer of the Police Association of Ontario, to come forward. As you know from your many previous deputations, any time remaining will be shared equally amongst the parties. Please begin.

Mr. Bruce Miller: Thank you. My name is Bruce Miller. I'm the chief administrative officer for the Police Association of Ontario. I was also a front-line officer with the London Police Service for over 20 years prior to taking on my current responsibilities.

The Police Association of Ontario, or PAO, is a professional organization representing 30,000 police and civilian members from every municipal police association and the Ontario Provincial Police. We've included further information on our organization in our brief.

We appreciate the opportunity to address the standing committee today and would like to thank the members for their continuing efforts for safe communities. We'd also like to take the opportunity to thank MPPs Dave Levac, Mario Sergio and Garfield Dunlop, who introduced private members' bills to try to address these issues surrounding private security. Their work in this area is greatly appreciated.

We're here today to speak in favour of Bill 159. Our organization has voiced serious concerns over the lack of regulation of the private security industry. The PAO pointed to the rapid growth of what is in actuality an unregulated industry. The private security industry has experienced dramatic uncontrolled growth in the past 35 years, from 4,600 licensed private investigators and security guards in Ontario in 1967 to over 29,000 in 2003. These figures are misleading in the sense that over half the security guards in the province are currently not required to be licensed. The situation is further aggravated by the fact that governing legislation has remained virtually unchanged since it was enacted in 1966.

The PAO believes that there is a role for private security in Ontario, subject to the implementation of a

system of rigorous standards and oversight. To ensure community safety, the public must have confidence that the role of police and the role of private security are clearly defined. Members of the public need assurance that the corporate interests and profit motives of private security firms do not compromise the goal of serving the public interest.

The PAO set out its position for change in a November 2003 brief in response to consultation on this issue. That document is copied in your package for your information. The PAO's position has consistently been the following:

The PAO supports provincial legislation that sets standards for the recruitment and licensing of all individuals involved in the private security industry in Ontario. The PAO supports provincial legislation that sets standards for training all individuals involved in the private security industry. This is a matter of safety for members of the community and for private security personnel.

The PAO supports provincial legislation that would prohibit private security personnel from wearing uniforms or driving vehicles similar to those used by police personnel. Some private security firms have been known to consciously select uniforms and vehicles that imply greater authority than is the case.

The PAO supports the creation of a provincially run and legislated oversight body to be responsible for private security. Members of the public should be assured that there is a system of accountability that promotes the transparent and effective implementation of private security functions.

Finally, the PAO supports legislated provincial adequacy standards for private security.

We'd also like to note that our recommendations are supported by the recommendations of the coroner's jury in the 2004 inquest into the death of Mr. Patrick Shand. We've copied those recommendations for you in our brief.

We believe that the proposed legislation lays out a framework for accomplishing these recommendations. There is no doubt that adequate, enforceable regulations are key to effective legislation. The Ministry of Community Safety and Correctional Services has created the private security and investigative services advisory committee to assist in the development of regulations and to also provide advice and input on other matters. I represent the PAO on that committee and can advise you that we are moving forward on these issues.

I should add that a number of these issues are certainly a topic of great discussion. The PAO supports the use of graduated training for the industry. We support the introduction of a code of conduct for private security. We're very concerned by the use of weapons and the use of force by private security.

Finally, another issue that has come up is the question of licensing so-called bouncers in the restaurant, hotel and hospitality industry. Certainly we understand some of the concerns that have been raised by that industry, that this licensing may be too far-reaching, but the PAO

strongly believes that those involved primarily in security in licensed establishments must be licensed and have adequate training.

The decisions made in regard to these recommendations are going to be crucial to community safety interests.

The Police Association of Ontario strongly supports the need for government to ensure that members of the private security industry are adequately trained, licensed and accountable. We also believe that the public has the right to be able to easily distinguish between police personnel and private security, and the use of look-alike vehicles and uniforms by some private security firms should be prohibited. We believe that Bill 159 can accomplish these goals and help ensure community safety and we would urge the speedy passage of legislation.

Once again, I'd like to thank you for the opportunity to be here today and certainly would be pleased to answer any questions the committee may have.

The Chair: Thank you, Mr. Miller. We have eight minutes remaining. We'll begin with Mr. Dunlop.

Mr. Dunlop: Thank you, Bruce, for once again coming to help us out with this legislation.

You made a point about enforcing the regulations, and I know that you sit on a subcommittee of this bill. Can you tell me, in your opinion, how it can most easily be enforced and what it will take to enforce the regulations. Let's say we have the speedy passage of the bill, like we're expecting, and we get the regulations in effect and proclaim the bill and all of those sorts of things. How do you see it being enforced?

Mr. Miller: Certainly through a code of conduct for both employers and employees in the industry. There can be sanctions ranging up to taking away somebody's licence or through fines.

Mr. Dunlop: When we talk about the classification system—and I'll be very brief, Mr. Chair. As we look ahead and we see, let's say, what we would call a "bouncer" today, how could you see that being enforced? The same way? Just by the code of conduct for the owners?

Mr. Miller: By the fact that these individuals are going to have to be licensed, and if their licence were removed—I think it's going to become a liability issue too, that insurance companies are going to be concerned that establishments are properly staffed. There are enforcement provisions to the Liquor Licence Act as well, in terms of pulling someone's liquor licence.

Mr. Dunlop: OK. That's fine.

The Chair: Mr. Kormos, three minutes.

Mr. Kormos: In fact, a point well made. It's interesting that the insurance industry appears not to have considered, or at least not offered to participate in the hearing. As well, I don't see any submissions—the security staff that I see carrying weapons are Brinks-type money delivery people. They carry side arms.

I'm going to focus on the use of weapons.

Mr. Miller: And they're not covered by the legislation.

Mr. Kormos: That's right. I want to focus on the use of weapons by security, because Mr. Gardner raised—I didn't know about the regulation or the standard permitting the batons, and then this flick one, the extension one. I'm not about to tell the security officer to go into a dark place and get the daylight kicked out of him by a gang or what have you. What's your position in terms of the use of weapons, the capacity to carry weapons—because a baton is a weapon—and under what circumstances etc?

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Mr. Miller: I guess there are a couple of issues. First of all, private security serves a different interest than policing. They serve corporate interests, while policing attempts to serve the public good. But police officers undergo a great deal of training: lengthy training beforehand, ongoing training every year in regard to the use of force and weapons. Also, just to equip somebody with a collapsible baton or pepper spray or something of that nature causes us great concern, because violence can often escalate.

Most security practitioners realize that their role is limited in terms of the use of force and that there are a lot of dangers out there. Certainly, police have the full continuum available to them. They're able to escalate the use of force based on circumstances that they have to be accountable for. But just to give to somebody one weapon may pose more problems than it solves and, we believe, put security personnel at risk as well.

Mr. Kormos: What's your position?

Mr. Miller: We don't believe that security personnel should have weapons. There is not a need for them.

The Chair: Thank you, Mr. Kormos. We move to the government side.

Mr. Delaney: Two quick questions I'd like your opinion on: First, who should decide on the training standards, and second, how should Ontario ensure that whatever training standards we decide on are applied uniformly?

Mr. Miller: Sorry, I missed the first question.

Mr. Delaney: Who should decide on the training standards?

Mr. Miller: We believe that the province has a role in that area, because it is in the interest of community safety. Currently, at the committee level, through the ministry committee, we are developing training standards that would be mandated by the province. It is a minimum adequate standard, and certainly many security companies will give additional training, but we believe that the province should be the governing force in that area to preserve community safety.

Mr. Delaney: Should it be the only entity that should decide the training standards for security guards in your opinion?

Mr. Miller: Certainly there are always local issues, and I don't think you can create a training standard for everything. Security companies will have to deal with local issues such as airports or different things of that nature that may require specialized training. But much the same as in policing, the base training should be

mandated by the province, and we're working toward that right now.

Mrs. Sandals: If I could just go back to the questions that Mr. Dunlop was asking around accountability and enforcement of the licensing regime, are you satisfied, then, that the regime of investigation and inspection that was set up, which is quite new, under the act will serve to strengthen the accountability around this whole licensing scheme?

Mr. Miller: I am. Certainly, the regulations that accompany it are going to be key, because really, that's where the teeth are: in the legislation.

Mrs. Sandals: Thank you.

The Chair: Thanks you, Mr. Miller, from the Police Association of Ontario, for your presence and deputation.

ONTARIO RESTAURANT HOTEL AND MOTEL ASSOCIATION

The Chair: I now invite our next presenter, Mr. Terry Mundell, president and CEO of the Ontario Restaurant Hotel and Motel Association and company.

Mr. Mundell, I invite you to please begin your presentation, reminding you that any time remaining will be distributed equally for questions afterward. Please begin.

Mr. Terry Mundell: Men and ladies of the committee, it's a pleasure for me to be here today. My name is Terry Mundell. I'm the president and CEO of the Ontario Restaurant Hotel and Motel Association, and with me is my colleague, manager of government relations Michelle Saunders.

It's my pleasure to have the opportunity to speak to you this morning regarding Bill 159, the Private Security and Investigative Services Act. The Ontario Restaurant Hotel and Motel Association is a non-profit industry association that represents both the food service and accommodation industries in Ontario, with over 4,100 members province-wide representing 11,000 establishments. The ORHMA is the largest provincial hospitality association in Canada. Ontario's hospitality industry is comprised of more than 3,000 accommodation properties and 22,000 food service establishments, employing well over 400,000 people.

Let me begin by stating that the hospitality industry is committed to ensuring the safety and protection of their customers, staff and the public and, accordingly, the ORHMA supports the intent of the legislation. The ORHMA is very pleased to have a seat on the private security and investigative services advisory committee as the sole representative of the hospitality industry. Participation on the advisory committee allows the ORHMA and our members to consider and respond to draft regulations and to ensure that the concerns and realities of the hospitality industry are reflected in the regulations. However, having said that, the ORHMA does have serious reservations with the legislation, which, if left unamended, may have serious implications for both the food service and accommodation sectors.

The legislation requires all security guards to undergo training and testing in order to become licensed security practitioners. The ORHMA, while supporting these guiding principles, has serious concerns with the definition of the term “security guard” and the use of the term “bouncer,” which is undefined in the legislation.

Let me first discuss the impact this legislation will have on the food service industry. Under the Liquor Licence Act, operators are responsible for ensuring that no minors are served alcohol. For this reason, some bars and licensed establishments have door staff located at the front entrance of the property to verify identification to ensure that all patrons are of the age of majority. The legislation makes no distinction between door staff checking identification and door staff specifically responsible for the safety and security of patrons and staff.

Furthermore, the legislation defines a security guard as one “who performs work, for remuneration, that consists primarily of protecting persons or property.” It is not uncommon practice for a staff person to perform security duties for only a portion of a night or perhaps only on Friday and Saturday evenings, while performing other duties throughout the remainder of their shift or of the week. Are these individuals to be licensed too? The use of the word “primary” then comes into question.

There is also a concern that licensed establishments in rural and northern Ontario, which typically do not have security guard personnel but who may periodically employ someone to act as a security practitioner on a special occasion, may experience difficulty in accessing a licensed security guard due to their location. Bill 159 requires such operators to use the services of a licensed security guard from a licensed security company, and surely access is a concern for us.

Hoteliers, however, will be potentially impacted in a number of different ways. Some large hotels currently employ the services of security guards through third-party security companies. These security companies, under the new act, would be required to be licensed and to ensure that all security staff are also licensed practitioners. The government must ensure that the onus for ensuring the good standing of these security practitioners lies solely with the licensed security company they are directly employed by. Similarly, it is a common practice for large groups, such as a school group, staying at a hotel to employ the services of a security company. Hoteliers question who would be liable for ensuring that the company hired is in good standing: the group organizer or the hotel?

Further, hoteliers have raised a significant concern with the definition of “security” that we believe goes beyond the intent of the legislation. It is a common practice within the accommodation industry for managers to do regular rounds of each department within the facility to act on behalf of a manager not currently on shift. Acting managers on duty would deal with issues such as human resources issues, disgruntled guests or emergency situations, and part of their duties would include security rounds, although this is not a primary

duty. The ORHMA questions if it is indeed the intention of the government that all hotel managers and assistant managers actually become licensed security guards. Common sense would suggest not, but again, the definition is vague and clarification is warranted.

As mentioned, the hospitality industry is committed to providing a safe environment for patrons, staff and the public. I would point out to the committee that 60% of the hospitality industry is independently owned and operated, with pre-tax profit margins ranging from 3.7% to 4.3%. I would encourage the committee to be mindful of the economic reality of the hospitality industry when considering the cost burden this legislation may impose. Training standards and testing standards must be developed with the mindset that they may not be cost-prohibitive.

In order to ensure support from the hospitality industry, the ORHMA recommends that this committee amend the definition of “security guard.” Such an amendment should more clearly define who is, and therefore who is not, impacted by this legislation. The ORHMA would also further recommend that this committee define the term “bouncer.”

As a final note, let me state clearly that the safety of our patrons, staff and the public is paramount within the hospitality industry. It’s just good business.

Thanks for your time, Mr. Chairman.

The Chair: Thank you very much, Mr. Mundell. You’ve left a lot of generous time for questions, and we will begin with the PC side.

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Mr. Dunlop: Terry, it’s good to see you here again.

Michelle, are you doing a separate one?

Ms. Michelle Saunders: I will be presenting for the GTHA as well.

Mr. Dunlop: OK. Thank you very much.

You’re looking for the committee to re-examine the definition of a security guard, just outright on that?

Mr. Mundell: Yes. The real question or concern that we have is that the definition, as it sits now, may be all-encompassing and leaves too much room for interpretation. Again, under the Alcohol and Gaming Commission of Ontario, if you were to look at the amount of fines or suspensions that were levied by the AGCO, two of the most prominent issues are underage drinking and overcrowding. So a lot of the licensed establishments have people at the door who are checking identification to make sure that those coming into their establishments aren’t minors. They’re also doing a head count to make sure that they’re not overcrowding the facility. Again, that’s under the Fire Marshals Act.

The question is, for those particular people, are they included under this legislation? We think there’s a possibility that they may be and we don’t think that’s appropriate.

Mr. Dunlop: Can I get more time?

The Chair: Please.

Mr. Dunlop: Good. I agree that you want community safety, and the safety of your patrons and your employees

is a priority here. But what type of a demand is there from your members for this type of legislation? Is it very important? How would it rank as far as a priority to your membership?

Mr. Mundell: I think in terms of safety and security in any business, particularly in our business—we are in the hospitality business, not the hostility business, so it's important that we provide a good, enjoyable experience for those who are in Ontario or who come to Canada or come and enjoy our great tourism industry that we have. Safety and security is obviously paramount; it really is a significant issue for us.

Having said that, to suggest that we pined for this legislation, I would tell you that's not the case. But it really is important, again, to get a clear definition on who will be involved in this type of legislation; whether a hotel manager needs to become a registered or licensed security personnel. Those are real, significant questions that we need to get clarity on.

The Chair: Thank you, Mr. Dunlop. We move to Mr. Kormos; three minutes, please.

Mr. Kormos: I share your concerns. For instance, somebody hired to be a house-sitter—because their primary role is to just be there, to prevent break and enters, to turn lights on and off, to make sure the furnace doesn't go off in the wintertime—could well be required to be licensed under this legislation. I don't think that's what anybody has in mind. That's the extreme example. I'm building a new house and I hire a kid because they just delivered the two-by-fours, and I want to make sure nobody comes—down where I come from we have a lot of pickup trucks—and pilfers my little, private, one-of, residential construction site. I can't hire a neighbour kid to sit there in a lawn chair all night to protect my property, I believe, unless he or she is licensed. So it causes concern.

Bouncer: Again, if it isn't defined, then the courts or adjudicators will have to use a dictionary definition, and I put to you that dictionary definitions will be in many cases overly broad or overly narrow.

The issue arises, from my view, not around the passive security personnel; the concern arises from the active security personnel. It doesn't arise from the Canadian Corps of Commissionaires sitting in the front of provincial court at city hall, directing people to courtroom A, B, C or D, or the fellow sitting in the shopping plaza, telling people where Zellers is.

What about training? We've heard a proposal that we need standards. Mr. Gardner has referred us to the federal standard. We heard about 40 hours as a standard. We heard that police officers' initial training is 12 weeks at the Aylmer police college. The community colleges are going to be here, talking about 12 months, I suspect; I'm not sure. What's the standard for training, in your view?

Mr. Mundell: I think the issue for us comes around twofold. There is one issue about what is the level of training required, and secondarily, what is the cost component to it, because obviously there is an affordability issue in terms of training. There's also an access issue. In

rural and remote parts of northern Ontario, which may be required to have trained personnel, access to that could be quite difficult. We know that in our industry it is a struggle in specific parts of Ontario to get training in other fields, whether it's issues through public health that we need to train for or whether it's other issues around the Alcohol and Gaming Commission. It is difficult to access personnel without an eight-hour trip in a lot of parts of northern Ontario. Clearly, we believe the training should be outcome-based. We think it should be delivered by a variety of models, including public and private sector. The government should set the standards. We're involved in the committee to work toward getting those standards set, but again, access and affordability are two major issues for us.

The Chair: Thank you, Mr. Mundell. Mr. Kormos, you do have a little more time if you'd like to use it.

Mr. Kormos: Let's see what these folks come up with. There may be a little bit of time; I'm just trying to be fair. I'm going to share.

The Chair: I appreciate your efforts toward equity. I move to the government side. Mr. Delaney is interested in the first question.

Mr. Delaney: Thank you very much.

I have a question for you. I'd like to extrapolate a little bit from some of the remarks that you've made. Are you suggesting that pursuant to Bill 159 there should be multiple categories for security guards? If so, does that suggest different standards for each category and perhaps different licence classes?

Mr. Mundell: I would suggest that that's a possibility, and that is something we need to work through the committee process to try and get to. Again, when you go back to training, there could very well be multiple levels of training, there could be multiple access points for the training, and there could be multiple price points as well. It is something that we want to explore further. Our association is interested in talking about that. I don't think we're far enough advanced in the process to understand what those levels are, again understanding that affordability and access are important issues.

Mr. Delaney: Just one other question. Again, I'm looking for your opinion on this. To what degree do you think it's fair to require an employer to pay training expenses, and to what degree do you think an individual should take responsibility for training expenses in such an occupation as providing security services?

Mr. Mundell: That's an interesting question. Our industry is fairly diverse, and in fact about 63% of it is independently owned and operated. With profit margins running between 3.7% and 4.3%, there's not a lot of room to move. The bottom line is that somebody has to pay for it. At the end of the day, the consumer will end up paying for it. This will drive costs; that's the reality of the beast. We work in a variety of environments, from mom-and-pop shops to union environments, and I think it will be left up to all of those operators individually which is the best way to make that determination.

The Chair: Ms. Sandals.

Mrs. Sandals: First of all, let me assure you that it is not the intent of the legislation that all hotel managers become security guards. Quite clearly, it is not the primary business of a hotel manager to be a security guard. There is no requirement that that person be a licensed guard.

You've raised the issue of the definition of a bouncer, and that perhaps that needs to be clarified in regulation. Have you made any specific proposals as to how that should be clarified?

Mr. Mundell: What we have done is brought to this committee's attention, and to the other committee's attention, the issues we have.

Specifically, we are required under the Alcohol and Gaming Commission to make sure that those coming into our facilities aren't minors, so you've got somebody at the door checking ID. Under the fire act, you've also got people doing a head count, making sure we're not overcrowded. They are, by the way, and again I reiterate, probably the first two—one and two—charges that the Alcohol and Gaming Commission levies against the hospitality industry in Ontario.

What you don't want to have happen is that operators decide they'll no longer put that person at the front door because all of a sudden they've got to license them as security personnel. In fact, you'll find many operations that will have that person at the front door and security personnel inside, so there's a hybrid situation there. We're looking to get clear definition to have exclusions for those groups. We need to work through that process to get them. It's the same with the hotel manager. Clarity is extremely important for us. When you look at the Alcohol and Gaming Commission's legislation, there are over 1,000 pages of interpretive guidelines. It's a significant burden on small, independent operators, as with any operator in Ontario, to understand the rules of the game. Clarity is paramount in this stuff.

1030

Mrs. Sandals: You would be able, then, to provide the committee that's actually working with the regulation and definition with some input—

Mr. Mundell: Yes.

Mrs. Sandals: —into suggestions for clarifying the “bouncer” definition? It seems to me that that's where that needs to occur, at the committee level.

You raised another issue around a concern about liability when you hire a third party security company. I'm wondering how that would work right now. If you're hiring a third party security company right now, while the licensing requirements aren't satisfactory or we wouldn't be here trying to amend this, you would have the same situation where you've got a company in which the employees are required to be licensed. I'm wondering how you currently manage that liability situation.

Mr. Mundell: Again, I think—

The Chair: Just for the committee, I'm going to have to render that question rhetorical only, and thank you, Mr. Mundell, for your testimony.

GREATER TORONTO
HOTEL ASSOCIATION

The Chair: I would now invite Ms. Saunders of the Greater Toronto Hotel Association to begin her presentation.

Ms. Michelle Saunders: Thank you, Mr. Chair. I'm here today on behalf of the Greater Toronto Hotel Association. Mr. Rod Seiling unfortunately couldn't be here today and extends his welcome to you all. He has asked me to bring forward his comments.

The Greater Toronto Hotel Association, or GTHA, represents over 150 accommodation businesses which operate over 35,000 rooms and employ approximately 25,000 people, some of whose primary responsibility is the safety and security of our guests and their property, as well as the property of their employer. Our members have an enviable record as it relates to the safety and security of guests, staff and their property.

The GTHA is supportive of the principles that Bill 159 represents. We agree with and support the objectives of having competent individuals who have demonstrated a level of professionalism via proposed training and testing standards. Hotel security staff, we suggest, will already meet and surpass this level of competency. Our collective success requires us to meet and/or exceed what we understand will be the established standards.

We do believe the proposed act needs some clarification so that it achieves what we understand the intent of the act to be. We do not believe the government intends to saddle the industry with an unnecessary layer of bureaucracy and red tape.

The first issue this morning is the definition of “security guard.” The definition of a security guard needs to be clarified. The legislation defines a security guard as one “who performs work, for remuneration, that consists primarily of protecting persons or property.” This definition could, via an overzealous interpretation, result in any individual who performs a security function on an occasional basis being required to obtain a security guard licence.

For example, a hotel's night duty manager's primary function is to manage the ongoing operation of the hotel. That person is the de facto general manager. Occasionally, a call may come in that is security related. For instance, a guest may call down to the front desk complaining about noise in an adjoining room. In all likelihood, it would be the responsibility of the duty manager to resolve the situation, as the hotel does not staff the security function at night, for obvious reasons. A warning is usually sufficient. The matter would be turned over to security or police should the situation warrant it.

We do not believe it is the intent of the legislation to capture incidental security issues and related matters. We suggest that the legislation reflect that intent.

We are also concerned with the issue of liability as it relates to the employment of security guards via an arm's-length security company. It should not be the responsibility of the entity hiring the contractor that the

personnel supplied are licensed and insured. We suggest that a declaration by the security company suffice, as it relates to its personnel, that they meet all requirements under the legislation.

Thirdly, we have a concern as it relates to the development of the regulations. Training and testing should not be cost-prohibitive, in that we do not want it to deter good candidates from joining our industry. Further, we suggest it preferable to have industry-specific standards, and would be willing to assist in their development.

Thank you again for the opportunity to appear. Safety and security is an important and vital component to our business, and we look forward to working with the government on the implementation of Bill 159.

The Chair: Thank you, Ms. Saunders. We have about 12 minutes to distribute, and we'll begin with Mr. Dunlop.

Mr. Dunlop: Thank you very much, Michelle. I can tell you that it's not the intent of our caucus, and I don't think it's the intent of the government caucus, to make this so bureaucratic that in every organization, whether it's a small bed and breakfast, for example—I'm sort of going in the direction that Peter might be going as well—or a small inn where there's someone on the counter, that person would be considered the security guard and might have to have licensing and there would be a whole level of bureaucracy created around that. That is not the intent in this bill—my feeling anyhow—and I hope we're not going in that direction, not even remotely. In fact, I found it even surprising to see these two organizations on the agenda. I didn't even think of those types of things.

I just want to emphasize that to you, that that is not the concern from this caucus. I'll be looking forward to the comments of the government side on how they feel about some of the concerns, because I think this definition of "security guard"—and both of you folks have brought this up. I think we do have to maybe make some amendments or clarification on that, if that's what the general public and some of the stakeholders are referring to.

I'm just making more of a comment here, but if you want to add something to that, I'd be more than happy.

Ms. Saunders: I would like to respond. Thank you for your comments. We appreciate the clarification and we certainly understand that it's not the government's intent to require hotel managers to become licensed security guards, but we feel that the definition as it currently stands is vague and could be interpreted to include them. We would respectfully request of the committee that under section 2(7) of the legislation an exemption for hotel managers might be added.

The Chair: Mr. Kormos.

Mr. Kormos: You're right, except that 2(7) then could become an incredibly lengthy list. If the problem is one that's inherent in the definition, you don't address it by creating—because there's going to be a list of exclusions. I'm sure the government doesn't contemplate house-sitters as having to be licensed. Unfortunately, the legislation requires them to be licensed—end of story.

But that means we have to address that, and I hope it is addressed before this committee is finished.

I want to reinforce the fact that there just seems to be such a wide range of security being provided out there in so many different respects. The bouncer is so very different in terms of his or her needs regarding training from the industrial security person who's going to have to deal with the prospect of industrial toxic things and from the person who's doing general security in the hotel, the house security. That means there's going to have to be a wide range of training.

We're going to hear from community colleges, and I want to see what they have to say about that. What does your industry say about the fact that you impose standards like this—the security industry historically has been a low-wage industry. It's not a criticism; it's a reality. People approach it as (1) an alternative job, or (2) increasingly young people coming out of the community college programs as a prelude to getting into mainstream public policing. They have a desire; they have an interest in this. But this is going to have an inevitable impact on the wage expectations of security workers. You can't expect them to work for recently even single-digit hourly wages when they've had to participate in and complete, hopefully and presumably, some pretty rigorous training.

I heard what your colleague up there had to say about the profit margin. I don't dispute that. What do you have to say about the inevitable pressure to provide higher wages when you've got better-trained people who are being more highly regulated? What should the industry be able to expect? What should a mainstream security officer expect to earn after meeting the standards that you anticipate by this legislation—\$18 to \$20 an hour?

Ms. Saunders: I don't know the salary range, but I would like to just start off and clarify that in the accommodation industry it is common that security guards and security personnel already do receive training. The accommodation industry is very proud of that, and they do already have industry-specific standards.

I would expect that it's the role of the government and the private securities investigative services advisory committee to establish regulations that would set a benchmark, but there likely will be absolutely industry-specific standards that need to be developed on top of that because there is such a difference in the security that's delivered. Between the bouncers and the airport security, as an example, there is certainly a difference. Certainly this will have an economic impact on the industry, and they're aware of that.

Mr. Kormos: What about grandparenting? What about a member of the Canadian Corps of Commissioners who has been performing security work without objection for eight years now and is going to lose his or her job if he or she doesn't, and is highly unlikely to, want to go back to school? What do you say about grandparenting? There's a whole lot of good people out there doing security work in any number of arenas and at any number of levels, right? What about them and their jobs?

Ms. Saunders: I sit on the advisory committee and the commissionaires do as well. We have actually not necessarily approached that topic yet. I think that issue is something that we will tiptoe into the waters on.

1040

Mr. Kormos: How are you going to approach it? What are you going to say about it?

Ms. Saunders: We've been told by the registrar of the securities branch that there will be a phasing in, that it's not expected that anything would be implemented until 2007. So there certainly would be a phasing-in period to allow people who are currently employed to go through the new training programs, to receive their licenses, so that by the time everything comes into effect by 2007, they do have their licence with them and are able to meet all of the regulations.

Mr. Kormos: Chair, do you know the grief that was caused in our court system when the Ministry of the Attorney General dumped all those veterans and senior citizens who were doing benign courtroom security, directing people? They all got turfed—boom—like that. Remember that, Garfield? Out the door, mandatory retirement on the part of the government.

The Chair: Thank you, Mr. Kormos. I now move to the government side.

Mrs. Sandals: I take it from your comments, then, that you're reasonably supportive of the phasing-in schedule that's been laid out.

Ms. Saunders: We are. Our emphasis really has been to make sure that our members have access to the training, and that the training is affordable for everybody.

Mrs. Sandals: Just a curiosity question, because you're GTA, so you're dealing with some pretty major hotels: For your hotels, what percentage of the security services they supply would be through third-party security companies who are currently licensed, and what would be in-house, which is currently exempt? What's the split there? Do you have any idea?

Ms. Saunders: I don't have a percentage for you, but I can tell you that with the larger chains, the vast majority would be third-party contracted.

Mrs. Sandals: So it actually has tended to be the practice for your larger members, at least, to be using people who are licensed, as opposed to in-house people who may be untrained.

Ms. Saunders: Yes.

The Chair: There is still quite a bit of time left, if any other government members would like to pose a question.

Seeing none, I'd like to thank you, Ms. Saunders and Mr. Mundell, from the GTHA as well as the Ontario Restaurant Hotel and Motel Association.

DAVID STERBACK

The Chair: I would now invite our next presenter, Mr. David Sterback, who comes to us in his capacity as a private individual.

Mr. Sterback, if you would present yourself. Please have a seat, Mr. Sterback. You have approximately 15 minutes in which to address us. Please begin.

Mr. David Sterback: My name is David Sterback. To tell you a little bit more about myself, I'm an outreach worker for the Ontario Provincial Police, a volunteer.

Paul Martin, the Prime Minister, knows about this problem. He basically said, "Paul Hellyer found a minnow and thought it was a shark." I've been a victim of security guards, most notably at Ryerson University, and banned from campus. I have my student alumni card. I believe I have legal authority to go to Ryerson as long as I obey the rules. Paul Martin told me that I can; he'll allow me.

I have this notice prohibiting entry—"prohibited activity." Trying to find out what the reason was is a problem.

They're trying to say that I was fornicating with college women. Well, I was a virgin at the time they were telling me this, and I certainly haven't been involved with any women at all, so it just hurts.

I did write a letter to the government, the Attorney General's office, on problems with security guards. The letter writer insisted that I was the one who was arrested. The police were called; I was the one that was arrested and charged. They weren't going to deal with it any further.

We have stuff like, the OPP have told me, hate legislation being violated, the Statutory Powers Procedure Act; there was no hearing. This came from my friends at the OPP.

I'd just like to go through—I think it's section 19 in the bill. The 90-day limit on complaints is too short. I think six months, as per the police complaints act, should be the standard. On the item "frivolous, vexatious or not made in good faith," there's a statement like that in the Police Services Act, and it's being used as a crutch by the complaints bureaus. Sergeant Don said we'll take that crutch away from them, referring to the police. It is footnote 140 in the LeSage report. It has come under fire.

It's just a lot of hand-wringing and gnashing of teeth, trying to get security guards to follow the law as written. We do have protections. There's even an International United Nations covenant on civil and political rights. It only has accession in Canada; it hasn't been ratified, but it does have power.

I'd like to entertain any questions—just a better complaints system.

The Chair: Thank you, Mr. Sterback, for your presentation. We have a lot of time left for questions, and we'll begin with you, Mr. Kormos.

Mr. Kormos: I don't have a whole lot. Thank you very much for coming. We appreciate hearing these sorts of things. Ms. Sandals is the powerful person on the committee. I'm just an opposition member, but she's the one you want to deal with—

Interjection.

Mr. Kormos: Nobody answers my calls here. She's the one you want to deal with to get redress on this

matter. She's the parliamentary assistant to the minister. I would recommend, seriously, that you make sure her office redresses your matter.

The Chair: Thank you, Mr. Kormos, for serving the public interest. I'd now like to move to the government side, if there are any questions.

Mrs. Sandals: Thank you very much, sir. I wonder if you've had a chance to look at the outline of the legislation, because in fact your concern about having a public complaints process—one of the things this piece of legislation does is create a public complaints process where people can call and lodge a complaint. As a result of that, there could be an investigation. If the investigation is borne out to show that the complaint is valid, there could be sanctions or conditions put on security firms and companies. So some of the issues you've raised around needing a public complaint mechanism are in fact being addressed in the legislation. I just wanted to make you aware of that.

Mr. Sterback: The 90-day rule is critical, I think. It's just that going through my experience with the police complaints system and my complaints falling on deaf ears and cold insensitivity—they simply won't believe that the incidents happened. I even took the unusual step of suing a security guard at the Delta Chelsea, and Prime Minister Chrétien said that my lawyer should have talked me out of it because it caused a conflagration. He obviously wasn't for the little guy. I'm feeling swamped. As I said before, it's gnashing of teeth. It's not the legislation as written; it's trying to get conformity.

Mrs. Sandals: Thank you very much for your input, sir.

The Chair: Thank you, Mr. Sterback. We did receive your written deputation, and should you have anything more to submit, please refer your material to the committee.

COMMERCIAL SECURITY ASSOCIATION INC.

The Chair: I now invite our next presenter, Mr. Marcel St. Jean from Holt Renfrew. I remind you that you have 15 minutes in which to present. Any time remaining will be distributed equally amongst the various parties. Please begin.

Mr. Marcel St. Jean: Good morning, members. My name is Marcel St. Jean. I'm the national director of loss prevention for Holt Renfrew. Today I'm representing the Commercial Security Association of Canada, of which I'm the chairman. I'm just passing out my quick presentation here.

I'd like to give you an update, a little about what the Commercial Security Association is. The Commercial Security Association was incorporated in 1966. It is an organization of professionals at the management level of private, in-house security, being financial institutions, oil, transportation, retail, telecommunications, health care, hotels, entertainment and education, to name a few. Examples would be General Motors, Bell, IBM, the Bay,

Air Canada Centre and the University of Toronto. The association consists of approximately 400 members representing 100 private companies or corporations. The association does not allow anyone to be a member if they are a vendor, supplier or anyone licensed under the present Private Investigators and Security Guards Act.

1050

The Commercial Security Association is presenting the following recommendations and concerns we have that will affect all in-house security practitioners by the introduction of Bill 159. As a result of reviewing this particular bill over the last couple of years and having the registrar of the present act come out to our association on two occasions in the past, what we've identified in these meetings is that the single biggest factor is the clarity of how this is going to affect in-house security practitioners who are not included in this particular act as it stands today.

The questions asked are, "How is this going to affect me?" and, "Am I going to be licensed?" Presently the bill, under "Interpretation and Application," part I, subsection 2(4), states, "A security guard is a person who performs work, for remuneration, that consists primarily of protecting persons or property." The Commercial Security Association believes that in-house security practitioners should have a separate classification to make them distinct from third-party security services. On the following page is a recommendation. Our recommendation for the interpretation and application of this for in-house security practitioners is: "An in-house security practitioner is a person who performs work, for remuneration, that consists primarily of protecting persons or property for a private company or corporation." Examples of this type of work to protect persons and property are any employee who primarily enforces the Criminal Code of Canada for fraud, theft, assault etc. or provincial offences such as petty trespass to public property or to protect the public, its staff and its property.

The next section we are concerned about is under "Mandatory Requirements:" "The person has successfully completed all prescribed training and testing." If it is agreed upon that only those enforcing the Criminal Code of Canada and provincial offences for in-house security be licensed, then the Commercial Security Association members request that the only mandatory training required for in-house security practitioners would be citizens' powers of arrest, use of force, search and seizure and basic first aid and CPR. All other training should be voluntary and left to each private company or corporation, as there are very different requirements between companies, such as report writing, crime prevention, emergency situations, bomb threats etc. Again, all the private companies and corporations that I represent probably far exceed the basic minimums that will be required in the training that will be asked of us.

For training and testing, our association requests that the registrar's office certify our existing training programs that will allow the private industry to train and test

itself. In discussions with the registrar, he is in basic agreement that that will take place.

Bill 159 discusses facilitators, investigators and inspectors. Our association is requesting more clarification on their roles and who they will be.

Investigations, 21(b), “initiate an investigation ... if no complaint has been made.” Our recommendation is that the association believes that a warrant would be required to exercise this option.

“Investigations, search warrant ... Although a warrant issued under section 22 would otherwise be required, an investigator may exercise any of the powers described in subsection 22(2) without a warrant if the conditions for obtaining the warrant exist but by reason of exigent circumstances it would be impracticable to obtain the warrant.” Clarity is needed as to what constitutes exigent circumstances and, if there is a difference of opinion as to the scope of the circumstance, who then decides?

Last, concerning part V, “Complaints and Investigations,” our association requests that if a complaint is received by the registrar’s office, a copy of the complaint be forwarded within five business days to the said company or corporation so that we can rectify the situation through customer service.

Thank you very much.

The Chair: Thank you, Mr. St. Jean. We now move to the PC side. We have approximately three minutes per party.

Mr. Dunlop: Thank you very much, Mr. St. Jean. I appreciate your coming. I missed the first little bit of it, but basically what you’ve done here is outline the amendments that you would like to see made to the bill.

Mr. St. Jean: That’s correct.

Mr. Dunlop: I look forward to hearing the government’s comments on those particular amendments. I don’t really have a question other than if you want to elaborate on part V a little more. “Our association requests that if a complaint is received,” that one; it’s on page 11.

Mr. St. Jean: What I understand under the act is that a person will have approximately 30 days to report in writing to the registrar the specific complaint, possibly a violation of the code of business conduct, against one of the licensed individuals. So as a private company or corporation, we’re requesting that we would like to know what that complaint is within five days so that we could possibly resolve that issue through customer service, rather than waiting until the investigation or the facilitator is assigned to look at that individual complaint.

Mr. Kormos: I’m just shocked to think that Holt Renfrew-type customers are boosting Versace off the third floor and ditching the swag in the trunk of the BMW before the security guard catches up with them. It’s just remarkable.

I thank you for bringing up section 23, warrantless searches—although it excludes dwelling houses; let’s be very careful, everybody on the committee—for importing search powers that police don’t have for very, very serious criminal offences, short of, I think, occasionally

firearms offences, where they have some powers of warrantless search. That’s a very important consideration, section 23. I’m encouraging my colleagues to vote against section 23 and remove it entirely from the bill.

Your comments are interesting because, of course, your place, Holt Renfrew, is a place to which the public is invited; right? The public is in and out of there, and part of the purpose of the legislation—and I think everybody endorses the broader purpose of it, responding to the coroner’s inquest and so on—is to protect the public from inadequate or inappropriate behaviour on the part of security personnel.

Mr. St. Jean: Right.

Mr. Kormos: I appreciate your argument about in-house security personnel, except in the case of a retail store, it’s not totally in-house because I, as a member of the public, could be subject to inadequate conduct, inappropriate conduct by that security personnel. So Holt Renfrew or another retailer is a little different from a bona fide, 100% private place to which the public is not given access; right? So how do you respond to that distinction that even I’m prepared to make? Normally I’d perhaps be on your side on that one, but I’m prepared to make that distinction: The public could be subject to inadequate or inappropriate—is that fairly put?—behaviour on the part of a security person. How do you respond?

Mr. St. Jean: This is where we are asking that it only be those persons whose specific responsibility it is to respond and administer the Criminal Code or provincial offences to protect the public, its staff or its property.

Mr. Kormos: So the public versus in-house staff, for instance. Are you saying those security personnel who deal with internal security would not be subject?

Mr. St. Jean: Would not be subject to licensing?

Mr. Kormos: Yes.

Mr. St. Jean: No.

Mr. Kormos: Who wouldn’t be subject to licensing, in your proposal?

Mr. St. Jean: It possibly could be in-house, if they enforce the Criminal Code. That’s my definition. They have to enforce the Criminal Code either on the public or the staff of a location or their private property; then they would have to be responsible to be licensed.

Mr. Kormos: The next time I see some Rosedale matron acting suspiciously in Holt Renfrew, I’m going to do my duty and report her promptly. Count on it.

Mr. St. Jean: Thank you.

The Chair: Thank you again, Mr. Kormos, for serving the public good.

Mr. Kormos: Shoplifting costs everybody.

1100

The Chair: I’d now move to the government side. Ms. Sandals.

Mrs. Sandals: You raised an issue, and I was trying to find it in your slides—OK, finally, it’s in the last one here.

Mr. St. Jean: Which page is that?

Mrs. Sandals: I'm looking at page 11. Some of these issues—and I guess this happens to be my background. In cases where there has been an allegation of inappropriate sexual conduct—child abuse, for example—it's actually specifically forbidden that that complaint be related to the person against whom the complaint is lodged in order to carry out an appropriate investigation. Hopefully, that isn't what is going to happen in retail security, but you can imagine that within the whole security sector there would be issues where the complaint might involve a criminal offence. I'm wondering how this request you're making that the subject of the complaint has to be notified that they're potentially being investigated for something that could eventually be turned over to the police as a criminal offence—that we would put in law that you have to be notified. That would seem to me to conflict with good police investigation practice. Until the investigator from the registrar's office determines what they're dealing with and whether or not this needs to be turned over to police, it would seem to me that there is a conflict between the public interest that a potential criminal offence be properly investigated and your private interest as a retailer, which is—I understand that you want to deal with complaints in a timely fashion. I'm wondering how you resolve that conflict.

Mr. St. Jean: Again, I'm not specifically sitting here for the retail environment; I'm sitting here for the Commercial Security Association, not for Holt Renfrew, although we are a member of this association. I'm talking in regard to the commercial and residential aspect of in-house security. For example, if a guard has a complaint of sexual harassment or something like that laid against him, we believe we need to know that very quickly so we can react to that, rather than waiting for an investigation to take place. We don't know how long that's going to take, but they would still be in our employ, our not knowing that a registered complaint that serious has taken place. How are we to react and then continue to protect our staff and the public?

Mrs. Sandals: But my recollection of the legislation, without going back and looking at it—we'll need to check this—is that the legislation is permissive, that is, that the registrar could get back to the employer about the subject of the complaint. It would seem to me that it's probably in the public interest to have some discretion, which is what the "may" provides, to do the thing most appropriate in terms of public safety, as opposed to an automatic requirement that might interfere with public safety. Obviously, your interest and my interest in terms of public safety would both be served by dealing with a serious incident expeditiously and appropriately, but it's just that it's hard, as we sit here drafting, to imagine exactly what's in the best interests of public safety in every circumstance.

Mr. St. Jean: Right. Again, we trust that the registrar hopefully will then analyze an action appropriately, the complaint, and highlight the seriousness of it. We're recommending five days. I don't know if it's five, three, or if it's two weeks, but we would like to have something

where we know we would be informed somehow in an appropriate manner within a reasonable time.

Mrs. Sandals: Thank you.

The Chair: Thank you, Mr. St. Jean, for your deputation and your presence.

STRATEGIC TRAINING CONCEPTS

The Chair: I now invite our next presenter, Brady Parker, senior instructor of Strategic Training Concepts. I'd invite you, Mr. Parker, to please come forward. I remind you as well that you have 15 minutes in which to make your presentation. Any time remaining will be divided equally. Please begin.

Mr. Brady Parker: Thank you for your time. My name is Brady Parker. I represent an organization called Strategic Training Concepts, which in essence is an organization that trains the private sector in, essentially, behaviour management systems. You could read "use of force" into that. I'm going to keep my remarks fairly brief, fairly to the point and specific to the area of use of force. A written submission is on its way; it's being drafted by my chief instructor.

In particular on the area of use of force, it is something that is being addressed in the legislation. I don't feel, however, that it's being addressed enough in terms of practicalities. Your right to arrest is certainly found in section 494 of the Canadian Criminal Code. Provincially speaking, it's found under the Trespass to Property Act. In terms of your ability to arrest, you will tell someone, "You are under arrest." If they choose at that point to ignore what you've said, you are now basically in a physical altercation. One thing that the majority of training organizations out there are doing is spending time on the theoretical, which I agree with 100%. I would also like to see within the new legislation a specific amount of hours attached to the actual physical training to be able to apply that law.

Certain areas of the private sector, as we are well aware, are patrolling malls, ports and airports. They're very proactive. I'd also like to speak to the equipment that these individuals carry. There's a mall here in the greater Toronto area that, the last time I looked at the information, receives somewhere like four million people a month going through that mall. Just to put that in perspective for you, I'm from New Zealand. We have four million people in my country. We have a police force of approximately 10,000 to deal with those issues. In this area in Toronto, this mall with approximately four million people walking through, there are approximately 52 guards who deal on a daily basis with the same things that police officers deal with, and from what I've seen, they do a very good job.

There is a difference between in-house security staff and contract security staff. Generally speaking, in-house security staff are at a higher standard because there are better hiring practices. With a lot of the contract security companies, it's merely, "It's a warm body. Let's hire

them. Let's get them out there." They have a large turnover rate.

Why this is relevant in terms of use of force is simply because if you have a high turnover rate, you're going to spend minimum time training these individuals. My organization proposes 40 hours of actual physical training in the equipment carried. I would like to point out that the equipment carried is there for a purpose. It's in direct response to what the client dictates. The client would be the subject or the person under arrest. In other words, if they need to be handcuffed, that's what they're there for. I believe that batons, or intermediate weapons, as they're classified, should be allowed to be carried by security practitioners with an additional 16 hours of training on top of that. The 40 hours of training prescribed would be physical control tactics, since most security officers do not carry firearms and do not carry pepper spray because it is prohibited under the act. The only thing they can rely on at that point to physically arrest somebody is their physical control skills. This is where we see most of the injuries occur to people who are being arrested and, quite frankly, back to the security officer as well. I would like to see more physical training.

As to who should do the training, there are several organizations out there that will actually qualify instructors, and they will then need to reassert or retrain or re-qualify, in some cases every six months; that is, in batons and control defensive tactics and so on down the line. These control defensive tactics are merely the physical application of force to an individual. The Criminal Code allows for that to take place under sections 25 and 27, as long as it is reasonable and necessary. So the definition needs to be in training as to what is reasonable, what is necessary. Again, it is the client who dictates the response. It's important to understand that these people would not necessarily be arrested—I certainly would hope they would not be arrested—unless they had committed an act that warranted that arrest.

What I would like to see in the new legislation are definitions of hours of training, including first aid and CPR, defensive tactics training and, if necessary, baton training, with upgrades every year. This would, of course, be for this level 1 proactive guard. Thank you.

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The Chair: Thank you very much, Mr. Parker. We now move to the PC side. We have three or four minutes per party.

Mr. Dunlop: Thanks very much, Brady, for coming today and bringing your comments. I understand you do have a written presentation coming as well.

Mr. Parker: Yes. It's fairly substantial.

Mr. Dunlop: I just wanted to ask you for a quick comment on who should do the training. In some cases we've got community colleges making presentations here. Do you think that is the ideal role of a community college, that they should provide and implement all the training that the candidates will need?

Mr. Parker: Not necessarily. For generic training, possibly. For example, the malls have a slightly different mandate on how they do things as opposed to, say, the port authorities, which contract private security. In port authorities, they're driving vehicles, actively patrolling, literally going down dark alleyways. They're dealing with prostitutes and drug dealers. They're dealing with those types of elements. Clearly that is more involved with specialized training than would be, say, a routine patrol, if there is such a thing, within a mall or within the building here. I think specialized areas could not be done by these community colleges.

Mr. Dunlop: You made some comments near the end of your presentation about adding more into the legislation. I think that's where the regulations come in. I don't know if you can always clarify everything you need to know under the legislation exactly the way you want it, so the regulations, which will be drafted as well, would include a lot of that. I don't know if you need to comment on that, but that's the intent of the regulations.

Mr. Parker: An arrest is an arrest in the eyes of the law. Once it goes before the judge, it's either good or it's not. In terms of a lawful arrest, there are set amounts of training periods down at OPC. In terms of physical control tactics, there's a certain amount of time. We don't need to reinvent the wheel on this. It's already there; we just need to transport what is done into the private sector.

Mr. Dunlop: OK. Thanks, Brady.

Mr. Kormos: Thank you, Mr. Parker. Your comments cut to the chase, if you will, of the whole issue here, of what's really being regulated. It's not the rotund, greying security guard in the plaza who's generated concern in the public or in the coroner's inquest; it is the proactive security guard who plays a more police-type role in terms of exercising perceived or real powers of arrest and detention that generated this discussion. You understand what I'm saying, huh?

Mr. Parker: Yes.

Mr. Kormos: Some of us have referred to them as the "wannabes." I've seen these people. They talk like TV cops. They don't talk like real cops; they talk like what they see on TV. They can be downright bloody dangerous. I know that in our culture we've accepted private security personnel arresting people for shoplifting—taking them into custody and waiting for the police to come. In what other areas are you advocating utilizing arrest powers and cuffing people?

Mr. Parker: First of all, the arrest should always be the last thing that takes place. It is never a first option. I'd just like to state for the record that I am not for private security taking over policing functions. I would like to see a clear separation. It goes back to the training and the credibility of the training.

Mr. Kormos: What type of things are you contemplating private security arresting and cuffing people for? We're prepared to live with shoplifting.

Mr. Parker: Theft, assault, drugs—

Mr. Kormos: Drugs?

Mr. Parker: Yes.

Mr. Kormos: Why wouldn't you call the police?

Mr. Parker: In some cases, the police are called, certainly. That is always a first option. I would like to say, just to go back to—

Mr. Kormos: Drug trafficking.

Mr. Parker: Correct.

Mr. Kormos: Somebody's buying some pot at the Eaton Centre. I'm sure it hasn't happened in years. That's what you're talking about, right?

Mr. Parker: Yes.

Mr. Kormos: You'd advocate private security arresting somebody for trafficking drugs?

Mr. Parker: What I would advocate is that if they're going to do it—and they are doing it now—that they be trained to do it.

Mr. Kormos: I can't disagree with that. I'm just concerned, because it seems to me that there are certain things we should be calling the police for.

Mr. Parker: Agreed.

Mr. Kormos: And if I'm going to be busted, I want to be busted by a trained, regulated cop who has high levels of accountability and whose ass is in a sling—it really is—and who's really in deep trouble if he or she strays this much outside the line. You'd rather be arrested by a Bruce Miller than somebody from Bomar Security, wouldn't you?

Mr. Parker: Certainly, if I had to be arrested.

Mr. Kormos: All right. I just wanted to make sure you and I were—if you had your druthers, you'd rather be arrested by somebody from a municipal police force or the OPP or even the RCMP.

Mr. Parker: A professional, yes, somebody who would not use excessive force, somebody who would give, depending on the degree, the respect that every human deserves.

Mr. Kormos: We heard Norm Gardner here today. He talked about the batons, these flick-extension batons. I don't think the police association is in agreement with that. What types of weapons are you advocating security officers being able to use or carry?

Mr. Parker: Intermediate weapons would be the batons classified. There is the straight stick, which the registrar allows, and there is the PR-24, the L-shaped baton, allowed. The L-shaped baton has some fairly substantial issues attached to it, as Mr. Gardner outlined. That's well documented. It's becoming harder to defend within the legal system because of the amount of training required and the updated training required to maintain minimal proficiency with that device. I would like to see in the market that it would be a straight stick or a collapsible baton. A baton is a baton. It doesn't matter if it can be collapsed or—

The Chair: Thank you, Mr. Parker, and thank you as well, Mr. Kormos. I know there are a number of people who would be wishing you to fulfill all your ambitions.

I now move to the government side. Mrs. Sandals.

Mrs. Sandals: You're advocating a very high level of training in use of physical force, training in use of weapons, if we classify a baton as a weapon. I'm won-

dering how many security officers, security guards, out there right now are currently trained in that way.

Mr. Parker: I cannot speak for all the agencies. I'm certainly aware that we have trained a number of agencies to use these devices, and that is controlled by the registrar at this point. They do have to provide the background of the training instructor, the use-of-force training program involved, the baton training program involved. There is a certification involved, and they must carry an identification card listing the type of baton, even to the degree where they need to inform the local police service of jurisdiction that certain individuals will be carrying that device.

Mrs. Sandals: My understanding is that there are literally tens of thousands; if you take the licensed and unlicensed in-house, we may be looking at 60,000 people out there who are doing security guard work. What I'm trying to get a handle on is, are you advocating that we have 60,000 people out there trained in the use of force and the use of weapons?

Mr. Parker: No. I'm looking at the number one sort of tiered guard system, which would be this high level of guard who basically actively patrols, say, port authorities and so on down the line. There is a provision within the act currently that security officers can carry firearms. Some of them are doing it. I am certainly not advocating that we issue firearms to 60,000 people, or 60,000 batons, or 60,000 sets of handcuffs. What I'm looking at here is, these people are already doing it. The genie's out of the bottle, so let's set a standard of training and hold these individuals and these organizations accountable.

Mrs. Sandals: But what I'm trying to get at—you've described this as, "The genie's out of the bottle." How big is the genie? What sector of the security market would you advocate should have that high level of training around use of physical force and use of weapons?

Mr. Parker: I would suggest anybody who has a significant interaction with the public on a daily basis, whose general function is to interact with the public on a daily basis. This would include your malls; this would include your ports; this would include your railway stations. Those types of groups would have this top level of training.

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Mrs. Sandals: What about the retail sector? Well, you said malls, so all the retail sector? By the time we go through the retail sector and public transit and port authorities and those sorts of things where there is public interaction, it seems to me like a significant share of the market that you're contemplating should have this high-level physical force and weapons training.

Mr. Parker: Currently, as it stands, the organization can choose to issue handcuffs to its employees, with no standard of training. That's within the guidelines as it stands now. Again, I'm not suggesting that the individual who sits and watches a monitor will need that training, but certainly if arrest is part of their mandate, if they are arresting somebody, then they do need to have those physical skills in order to carry that forth safely.

Mrs. Sandals: Which maybe goes back to Mr. Kormos's question around what the expectations are in terms of arrest.

Thank you, Mr. Chair.

The Chair: Thank you, Mrs. Sandals, and thank you as well, Mr. Parker, for your presentation and presence.

I believe Mr. Kormos has a request to legislative research.

Mr. Kormos: Perhaps, Mr. Fenson, we could get an idea of—I'm not concerned about the rare private individual who is issued a licence for a handgun. But in the professional arena of security, be it Brink's, who aren't covered, or others, how many private licences are there for handguns, and what is the status of other weapons here? Are there regulations around these batons that Mr. Gardner spoke of? If we could get a little bit of a briefing on that, I'd appreciate it.

The Chair: Thank you, Mr. Kormos. Your request has been noted by legislative research.

RETAIL COUNCIL OF CANADA

The Chair: I invite our next presenters, from the Retail Council of Canada: Ms. Ashley McClinton as well as Mr. Gerry Davenport. As you will know, any time remaining will be shared equally among the various parties. I would invite you to please begin.

Ms. Ashley McClinton: Thank you, Mr. Chairman. My name is Ashley McClinton. I am the director of government relations for the Retail Council of Canada here in Ontario. I am accompanied by Gerry Davenport. He is the project manager on resources protection for RCC. On behalf of Gerry and myself and our members operating across the province, I'd like to thank you for the opportunity to speak and appear before you today. We'll try to move through our presentation quite quickly so that we do have some time for questions at the end.

Briefly, I'd like to give you a little bit of background on RCC for those who aren't familiar. We've been the voice of retail in Canada since 1963, and we represent an industry that touches the daily lives of almost all Canadians. Like most associations, we're not-for-profit and we're funded through our members' dues. Our over 9,000 members represent all retail formats, including mass merchants, independent retailers, specialty stores and on-line retailers. Approximately 90% of our members are small independent retailers, but we also represent all the large mass-merchandise retailers. Over 40% of our membership is based right here in Ontario.

Retail is the province's second-largest employer. We have almost three quarters of a million employees: just over 760,000, to be exact. It's actually a very little-known fact, but we're right behind manufacturing in terms of employment, so that's quite impressive. In terms of scale, we're well ahead of health care, tourism and a variety of other sectors. It's just a huge industry in terms of employment for Ontario, and Canada as well. The retail industry had almost \$129 billion in sales in Ontario

last year, and has over 85,000 storefronts. So we're truly an industry that touches the daily lives of most Ontarians.

Before turning our attention to the legislation itself, I do want to turn it over to my colleague, Gerry, who is going to speak specifically about loss prevention in the retail sector and help demonstrate why it is so unique.

Mr. Gerry Davenport: Thank you, Ashley.

I appreciate this opportunity to underscore some of the points that will be found in the loss prevention section of the submission that Ashley prepared, and I hope you'll find it helpful.

Retailers are not in the business of loss prevention. Unlike third-party providers of investigative and security services, for retailers there is no profit in making an arrest. In fact, detaining a culprit requires taking two staff off the selling floor until the arrival of the police. However, the cost of doing nothing to mitigate crime in retail is potential business failure, accompanied by the resulting loss of jobs. A retailer once explained to me that his margins were so thin that if someone stole a piece of merchandise off his shelf, he'd have to sell 20 just to cover the cost of the product that was stolen.

All crime prevention strategies in retail are based on the premise that no one is paid to get hurt.

For the past 20 years, the Retail Council of Canada has undertaken annual benchmarking of the financial losses attributed to inventory shrinkage by retailers across Canada. The mysterious disappearance of these assets is attributed to both internal and external causes: employee defalcation, customer theft, administrative errors and vendor dishonesty. Not included under the umbrella of inventory shrinkage are all crimes that are known to have occurred, such as assaults, robberies, break and enter, frauds, counterfeit currency, arsons and mischief.

Inventory shrinkage in this province represents \$1.14 billion annually, or about \$3 million per day.

Mr. Kormos: Does that include Conrad Black and Barbara Amiel?

Mr. Davenport: That's a different crime.

There are stores in your neighbourhoods that are losing \$200,000 or \$300,000 every year to theft. On average, retailers spend 0.3% of gross sales to prevent losses from exceeding 1.7%. There are lots of examples of shrinkage rates in excess of 2% or even 3%. Retailers measure success against an improved rate of inventory shrinkage and not on the numbers of arrested persons.

Our last two Canadian retail security questionnaires asked retailers to describe their losses attributed to crime as a percentage of net profits. At a meeting with officials from the Canadian Centre for Justice Statistics from Statistics Canada—and by the way, the retail council sits of the advisory board of the Canadian Centre for Justice Statistics—it was demonstrated by a large national retailer that if crime and the direct related costs of crime were completely removed from their environment, their profits would double.

In Ontario, during 2002, the direct cost of personnel and equipment to mitigate losses to crime was just under

\$200 million—that's in this province—or the equivalent of about 2,000 additional police officers on the streets. That, by the way, is about the same budget as Peel Regional Police service, just under \$200 million.

Retailers understand it simply makes good business sense to prevent crime. There is a total integration of loss prevention into the fabric of the business to protect people and property from all threats and losses. However, loss prevention strategies inevitably differ significantly across the retail sector. One size does not fit all.

Retailers agree that the protection and response to crime occurring in their businesses is increasingly becoming a business responsibility. The public police are less responsive than in the past. This is of particular concern, as retailers indicate that there has been a marked increase in organized retail crime rings, particularly in large urban areas. Experience indicates that more than 20% of the criminal activity that occurs in retail is directly attributed to organized activities.

In 2003, more than 40,000 people were arrested in retail stores in Ontario for criminal offences. It is important to note that very few WSIB claims, civil torts or criminal complaints related to these arrests were reported. Putting this into perspective, the Toronto police arrest and charge about 70,000 people each year. This is particularly noteworthy when retail investigators have observed increasing belligerence and assaultive behaviour when culprits are being arrested. First-time-caught offenders are much more compliant. People who have been through the system on previous occasions are less compliant.

Retailers have invested way too much in promoting and marketing their companies to risk an incident that would adversely affect public perception. Retailers generally agree that the current climate for investigators involves much more risk than in the past. As a result, they must manage the risk of violence in a proactive manner. Retailers acknowledge the challenge is providing the right tools for investigators to ensure a balance between financial results and the protection of people.

Thank you. I'll turn it back over to Ashley.

Ms. McClinton: I would like to begin my comments on the legislation itself by stating at the outset that RCC and our members support the proposition of having standards in the security guard industry. The retail sector is a major employer of third-party contract security and investigative personnel to augment their loss prevention strategies. We welcome the expansion of standards within that industry.

There are actually a number of areas in the legislation that we feel could benefit from elaboration, and those are all detailed in our submission. But for the brief time that we have today, we're just going to highlight a few key areas that have relevance to our membership.

Firstly, we feel that there should be a clear definition of who is impacted by the proposed changes to the act. As I'm sure you know, the proposed definition of a security guard is "a person who performs work, for remuneration, that consists primarily of protecting

persons or property." As a result of retailers' holistic approach to loss prevention touched upon by Gerry, this definition could in fact capture a great number of persons not intended by the act; for example, persons who may work in a loss prevention department, such as administrative staff, would be required to be licensed even though they have no connection with the actual duties of a loss prevention officer.

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We recommend that the proposed changes to the act only affect the personnel actually designated with responsibility for responding to criminal activity in the retail environment. That would be loss prevention officers who are solely authorized and responsible for making arrests. To achieve this, RCC recommends that another category, something along the lines of retail loss prevention personnel, be added to the definitions in the act. The responsibilities of retail loss prevention personnel don't easily fit into the current definition of either security guard or private investigator; in most cases there is a large degree of overlap. So the provision in the act that states a person may not hold themselves out to be a security guard and a private investigator at the same time presents a large concern to the retail sector.

A new category for retail loss prevention personnel would not only minimize the misinterpretation of the definition and ensure that the correct persons are being captured by the act but it would certainly recognize the unique role that loss prevention practitioners in the retail sector play.

As Gerry mentioned, for retailers it simply makes good business sense to prevent crime. While loss prevention is part of the business that retailers would prefer not to be a reality, it is. Strategies for maximizing safety and ensuring profitability are integrated into the very fabric of everything that a retailer does and into each company's mission, vision and values. Because the responses to loss prevention come in a variety of types, responsibilities and challenges across the retail sector in all shapes and sizes, RCC and its members recommend that the maximum amount of flexibility be given to allow retailers to adapt to this unique environment in which they operate.

In introducing the act, the Honourable Minister Kwinter stated that the proposed legislation would call for training standards that would have to be met prior to the applicant receiving a licence. Retailers absolutely support training and testing requirements for security personnel, but we do want to ensure that retailers have the ability to choose the delivery of the training that is most appropriate for their needs.

Retailers have already done their due diligence in relation to training for in-house retail loss prevention officers. As Gerry noted, the reputation of retailers is absolutely paramount to their business viability and success in such a competitive environment, and they would never risk anything that would affect their public perception. Significant financial resources have already been invested in training programs to ensure that loss

prevention personnel act with the utmost professionalism and expertise. It is vital that the regulations do not duplicate the considerable financial resources invested in these internal training programs already in place.

We recommend that the government set minimum training standards and allow private training programs to develop around those standards in recognition of these already existing programs. The retail industry should be enabled to develop its own applicable standards, and self-certify.

Lastly, I briefly wanted to take the opportunity to state that retailers are very pleased that security personnel operating in the retail environment have been granted an exemption from the uniform requirement in the act. As I'm sure you can appreciate, a uniform requirement for the retail sector would be absolutely counterintuitive to the goals of risk management and loss prevention that are paramount in carrying out those duties, and it would be very difficult to be discreet if wearing a uniform. A uniform requirement in the retail sector would also create an unwelcoming and possibly hostile environment for customers. I don't think any of us would appreciate security guards roaming the aisles in uniform while we are shopping with our families.

We congratulate the government for recognizing the distinctiveness of retailers through this exemption.

As noted at the outset, retailers absolutely support the proposition of having standards in the security guard industry. When we were invited by the minister to participate on the act's advisory committee to provide advice to the government in order to develop the regulations, we were very pleased to accept. Our members, in particular the resources protection network, which is a group of retailers whose mandate is to support the retail industry by education, communication and advocacy of proactive asset protection strategies, really appreciate the opportunity to work with the government as well as all other stakeholders to be sure we're making Ontario's communities safer.

Thanks very much for your time. We hope that leaves some time for questions.

The Chair: Thank you, Ms. McClinton. We have two minutes in total. Mr. Dunlop.

Mr. Dunlop: A quick question to Gerry, please. Thank you for being here. You mentioned something about the loss was \$200 million a year in Ontario?

Mr. Davenport: No. The cost of keeping the losses to \$1.4 billion is just under \$200 million.

Mr. Dunlop: How many police officers did you say that would hire?

Mr. Davenport: Two thousand, approximately.

The Chair: Mr. Kormos.

Mr. Kormos: Your comments are consistent with those made by Mr. St. Jean earlier this morning, and they're very important ones, because again, we know what we're trying to respond to with this legislation. We're trying to respond to the aggressive, front-line, private security personnel that caused the grief, for instance, during the apprehension of a shoplifter that resulted in his

death. We're not talking, in my view, about in-house systems designed to develop strategies, policy and design structures internally to control shrinkage. Right? That's a problem.

As we hear from folks, the bill becomes increasingly problematic—section 35, folks—because you made a comment about how pleased you were that loss prevention people, floorwalkers, don't have to wear uniforms. But contrary to what we were told—this is why I asked—“Every person who is acting as a security guard or holding himself or herself out as one shall ... identify himself” when asked. I put that earlier and I was told it's only when they're holding themselves out—to wit, identifying themselves—as security. Oh no, when they're acting as one, they still have to identify themselves, when asked, as a security guard.

Isn't that as bizarre as asking a floorwalker to wear a uniform? Although in some instances—as I say, the deterrent effect, the deterrent impact—you might want to put your people in uniforms and give that baton, some Tasers.

Mr. Davenport: I don't think so.

Mr. Kormos: I understand. But do you have concerns about their having to identify themselves, even when they're acting as security guards, when asked?

Ms. McClinton: We feel that clarification should be added to what “holding yourself out to be” means.

Mr. Kormos: I think that will be cleaned up by the time we finish the committee hearings.

The Chair: One remaining question from the government side. Mr. Delaney.

Mr. Delaney: I'd like to ask you a question I've asked a few other deputants, and that is: If it makes, to use Gerry's comments, good business sense to prevent crime, I'd like to ask your opinion on to what degree the Retail Council of Canada suggests that its members invest in the training of their security personnel, and secondarily, who do you feel should provide the standardized training as proposed in the bill that you said you'd support?

Ms. McClinton: I can answer that. First off, this is an issue that our members take very seriously. They're very committed to in-depth training. We have a well-developed critical incident guideline that members of our resource protection committee follow already. So in terms of who should be responsible for it, the fact of the matter is, this type of very in-depth training is already being accomplished by the retail sector, and it is done in-house by professionals. We would seek to eliminate any duplication of that with the act, and are requesting minimum standards so that the training that already takes place in-house can continue and can adapt to the special retail environment.

Mr. Delaney: But the in-house training, just to be clear, is done at the employer's expense.

Ms. McClinton: That's correct.

Mr. Davenport: And rather than use of force training, we really see prevention of violence in the workplace training, teaching the folks to disengage rather than to get embroiled in assaults.

The Chair: Thank you to the Retail Council of Canada, Ms. McClinton and Mr. Davenport, for your presentation and your presence today.

UNITED STEELWORKERS, LOCAL 5296

The Chair: I now invite our next presenter, Mr. Bonsu, president of the United Steelworkers union, Local 5296, and company.

Mr. Bonsu, just to remind you and your colleague, you have 15 minutes in which to present, and the remaining time will be distributed equally afterward for questions. Please begin.

Mr. Osei Bonsu: My name is Osei Bonsu, and I would like to first of all thank Debra Adair for making it possible for me to speak here today.

I'm the president of Local 5296 with the Steelworkers union. I represent approximately 4,000 security officers in Toronto. I myself worked as a security officer for five years before I became the president of the local. My activity as the president is to listen to the complaints of the security officers day to day. So I have heard enough complaints from these officers to say that I agree with what the government is trying to do to improve the security industry. The only concern I have is that it does not go far enough to prevent abuse of these poorly paid security officers. If I say that doesn't go far enough, I'm looking at a system that will legislate the stakeholders to avoid taking advantage of these security guards. The Steelworkers have standard information that we always maintain and that is why I am here with my staff rep, Lawrence Hay, to talk to you about those issues.

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Mr. Lawrence Hay: Thank you, Mr. Chair and committee, for the opportunity to speak to you today. As Joe stated, I'm the staff representative with the United Steelworkers and I'm responsible for servicing the security sector in Toronto. I also led the bargaining in 2004, the province-wide bargaining in the sector.

What we want to do today is put a little bit of a human face to the issue of security and the issues that they face on a day-to-day basis. We appreciate and commend the government for the positive step forward with Bill 159, but as Joe said, we have some current concerns and we believe it doesn't go far enough. We really believe strongly that it needs an employment standards component to be successful. Something has to be done to stabilize the terms and conditions of employment. We have a written submission that deals with a lot of the provisions within the bill that we're going to leave with you so that you can review it, but I want to comment on a couple of areas within the bill.

I want to talk about the impact on collective bargaining and also the training component. We represent approximately 8,000 security guards in the province of Ontario. Approximately 80% of those make less than \$10 an hour; 65% to 70% of those people make under \$9 an hour. It's relatively low pay for a high level of responsibility. Wages are all over the map between employers

and between specific sites out there. Security officers who are doing the same type of work are being paid at different rates. The industry is somewhat different than, say, manufacturing, where you have an employer-employee relationship. In the security sector, you have an employee-employer relationship and we have a client that sits in the background. The problem we face in the sector is that there's a constant bidding war that takes place between the security employers trying to gain clients out in the workplace. At the end of the day, what happens is we get involved in this race to the bottom over employment costs, and it's usually our members who pay the price for that bidding war.

Just an example of the impact that the clients actually have on our members is that Joe may have been working at a site for five years, but the client may come in one day and decide he doesn't like the way Joe smiles any more and ask the employer to remove Joe from the site. Joe could have been at that site for five years and have improved his wages to about \$10 or \$11 an hour and be moved to a site the next day at \$8 an hour. You can imagine the impact that would have on his family as Joe tries to put food on the table.

We've been successful as Steelworkers during the bargaining process over the last number of years in trying to go after specific things that our members needed. Benefits were unheard of in the security sector a number of years ago. Wages were almost consistently at minimum wage. We've managed to push those things up. There's protection language in the agreements now, but we're having problems. We don't feel that we're doing enough. It's been somewhat successful, but not enough. If you want to create a profession—and I think that's what we all want to do. We want to create a profession here that people can look to and say, "I want to be a security officer. There's a future there for me. I can put food on the table. I can retire with some dignity." We're not there yet. We're far from it.

I think that we have to create some minimum standards, so what I'm saying is, in conjunction with the bill that you've proposed, there have to be some minimum employment standards set. We would point you to the Quebec model. In the province of Quebec, they have what's called a "decree" system, which lays out minimum standards for wages and benefits in the collective bargaining process for security officers. That creates more of a level playing field.

I really wanted to comment on the inadequacies of the wages and the terms and conditions of employment out there, but we can't forget why we're here in the first place. The reason we're here is because somebody was killed.

There is a very large training component within your bill. At this point, I understand that the training says "as prescribed," and it will be prescribed by regulation, but we have concerns about that. We could sit here for the rest of the day and tell you horror stories about what our security officers are required to do. I'll give you some examples. We've had security officers required to change

diapers in nursing homes. I've had security officers who had urine thrown at them, who had feces thrown at them, who were hit with garbage cans in hospitals. We've had security guards asked to administer medication and oxygen in nursing homes. We've had our security officers pushing bodies down to the morgue. We've had our security officers requested to shut down boilers in manufacturing plants. Why are they requested to do these things? Because nine times out of 10 they are the lowest person on the totem pole. They are the person who is being paid the lowest wage. So it's a lot cheaper for an employer to have a security officer go shut down a boiler than it is for him to call in a stationary engineer to do it. But think of the impact; think of the people we're putting at risk when these things are required.

We have some grave concerns about the training and what will be required of our officers. We believe that when the training is developed, there has to be clear consultation with all the partners. That includes the unions that represent these people out there; we're not the only union.

We also have concerns about the training in regard to grandfathering what type of experience our people have out there. As you can understand, it being a low-paying wage job, some of these people have taken these jobs to supplement an income or to supplement a retirement income. We have security officers out there who are in their retirement years but need this job to maintain their level of lifestyle. We want to make sure that all their experience goes toward the retraining requirements.

I guess the million-dollar question, at the end of the day, is who pays for the training? If you go back to what I said about wages, I can hear the employers next time at the bargaining table: "Well, we have to pay for all this training now." So again, they'll be trying to drive wages further and further down, or we won't be able to seek the improvements we need. Again, if it's the aim of the government—and it's certainly the aim of the Steelworkers—to improve the lot in life of the security sector and make it a career for people, so that people can go out and say, "I want to be a security officer. This is the type of job I'd like to do. I like working with people; I like to do these types of things," then we have to create more of a level playing field.

Right now, when we go to the bargaining table, we have trouble convincing the employers to do the necessary health and safety training that's required under the Occupational Health and Safety Act, never mind additional training. So I'm hopeful that the government will be cognizant of that fact and push toward making the training requirement specific and consult with all the partners.

Just to conclude, again I'll say that it's a positive step, but we need to move it forward more. We'll work with the government to make positive change. We appreciate the fact that you're allowing this consultation. The Steelworkers, over the last number of years, have made improvements to the industry. We've raised the bar; we know that. After the last set of bargaining, we now have a

pension plan in place. But it's very minimal, and the ironic part of this whole thing is that when we go to the bargaining table, we're not fighting for dollars; we're fighting for nickels and dimes in raises. That's what 1% or 2% of a person's total wages is. It's not a dollar; it's 20 cents. When we negotiated the pension, the pension really amounts, on average, to 10 cents an hour. If anybody in this room goes around and tries to buy a pension for 10 cents an hour, you know you won't get much. We know it's a starting point; we know we have to build. But we're trying to make this a career of choice, that there's some sort of future to it.

Having said that, I thank you for your time. Hopefully, there's time for some questions.

The Chair: Thank you very much, gentlemen. We do have time for questions, and I'll begin with the government side.

Mrs. Sandals: I haven't had a chance to go through all your detailed recommendations here, so we may want to talk a bit about that. You caught my attention with the reference to security guards being asked to give meds or oxygen, which seems to me quite odd. Is that in the context of a patient who is violent or distressed?

Mr. Hay: I actually had the experience of a woman who came into my office and was very upset; she was visibly shaken. Her job was to watch a patient during the night. She had urine thrown at her out of the bedpan; she had feces thrown at her; she was hit with a garbage can and was actually badly bruised on one side, with no real training on how to handle the violence that took place. In conjunction with that, the employer didn't offer any type of consultation, any type of counselling on how to deal with that. Subsequently, she quit her job; she couldn't do it.

1150

Mrs. Sandals: One of the things we may need to think about in the training context is that if you're dealing with a situation in a hospital or a nursing home, for example, you may have a patient with Alzheimer's or something like this who is mentally confused and violent, and people in that context would need specific training in how to deal with that sort of patient. Is that the issue you're getting at?

Mr. Hay: Training to deal with violence and things, but some of the things quite frankly go too far, like administering meds. The liability issue, I would think, would be unbelievable. As a union we deal with those issues as they come up, but we don't hear about all the non-union facilities and non-union security employers that are out there. We don't hear that they're taking place. When somebody calls us and says, "I was on shift last night and I was required to change a diaper in a nursing home," we say, "Wait a minute. That's not your job. You're a security officer. You're there to secure the facility." You should be able to deal with violent situations, if that's what is required, if that's the level of training you have. The sad part about this is that at \$8 an hour, there's not a hell of a lot of training out there, and

our security officers can't afford to pay for the training themselves with that type of income.

Mrs. Sandals: You mentioned in your presentation—I don't have a page number, but you say sections 5 and 7 do not provide for a public registry of either registered or licensed employers. Could you give us an indication why you would want to see a public registry of the employers who are licensed or registered?

Mr. Hay: What happens is that we come across a lot of mom-and-pop operations out there that don't comply that we found—and Joe can comment on this as well—have officers and guards who aren't licensed whatsoever. We'll get calls that say, "We need help. We know we're non-union, but we need some help and some advice." We find out that these guards themselves aren't even registered; they're not licensed.

Mrs. Sandals: Are you looking at this from the point of view of the folks you represent who will now be individually licensed, but need to ensure that they're working for a registered or licensed employer—

Mr. Hay: If their licences are going to become portable—

Mrs. Sandals: —that may have some way of being assured that the person that's offering employment to them is legitimately registered or licensed, so they're not in danger—

Mr. Hay: The proposal is that the licence becomes portable, right?

Mrs. Sandals: Right.

Mr. Hay: With the high turnover you have in the industry and with the movement between clients and employers, yes, our people would need that type of protection.

Mrs. Sandals: Thank you. That's an interesting point I hadn't heard before.

The Chair: Thank you, Ms. Sandals. A brief time remains for a question from Mr. Delaney.

Mr. Delaney: Just one question. I'd like to continue with the theme I've been asking others. You picked up on the cost of training. Do you anticipate that in collective bargaining you might be taking some of the occupation-specific aspects of training and negotiating with lawyers—I mean with employers—

Mr. Hay: That's usually what happens.

Mr. Delaney: I misspoke myself. Let's try it again: that you might be negotiating with employers in a collective agreement in order that the job-specific aspects that require unionized help be picked up by the employer?

Mr. Hay: We would prefer that the government regulate the training, the specifics and the requirements, similar to what's done under the Occupational Health and Safety Act, and say, "This is the level of training that's required for the specific job you do," and ultimately the employer should be responsible for that.

The Chair: Thank you to our presenters, Mr. Bonsu and Mr. Hay, representing the United Steelworkers.

Seeing no further business, this committee stands recessed till precisely 1 p.m.

The committee recessed from 1155 to 1300.

The Chair: Ladies and gentlemen, I'd now like to formally reconvene the justice policy committee to resume consideration of Bill 159.

ADULT ENTERTAINMENT ASSOCIATION OF CANADA

The Chair: I invite our first presenter, Mr. Tim Lambrinos of the Adult Entertainment Association of Canada. Mr. Lambrinos, just to inform you about the House rules, you have 15 minutes in which to make your presentation, and any time remaining will be shared equally amongst the parties. Please begin.

Mr. Tim Lambrinos: I wanted to first thank you for the opportunity to speak before the provincial committee, as I wanted to let you know that we weren't able to speak at the last request that we had, during your smoking bill. I very much appreciate the opportunity today before the members of the committee.

I wanted to first fill you in on our association. You may not be completely familiar with its objectives and mandates and so on. The association is a not-for-profit organization designed to serve the needs of the adult entertainment industry in Ontario. It involves adult entertainment clubs or strip clubs. By working together with municipalities or various levels of government in association, it serves to better understand, communicate with and regulate the industry to ensure that it is properly regulated and controlled.

One of the initiatives that we have done municipally I thought you'd like to be aware of. It is called the police liaison officer. The province traditionally, and the city of Toronto, has 250 community liaison officers that it has budgeted for. The community liaison officer has a slightly different job description, to work together in partnership with business and various sectors of our society, and forms lasting relationships and better helps control through education and awareness rather than just strictly enforcement.

One of the initiatives that we've undertaken in Peel is specifically this. We've been appointed a senior officer, Inspector Steve Asanin, in the region of Peel, who works in communicating with the industry, so rather than lengthy court delays, which are expensive for the government and so on, it helps to resolve issues and avoid lawsuits.

The reason we are here today—I've distributed a copy of a letter to the members of the committee—is that we have concerns with private security investigative services; in fact, the definitions of what the target providers are. In Bill 159, the word "bouncer" is used. In fact, it says "acting as a bouncer," in terms of a security guard acting as a bouncer. The adult entertainment industry is of the view that it's a municipal function determined under the Municipal Act, where businesses, trades or occupations—and in this case it's a trade or occupation—can be regulated and licensed under the municipalities. You should be aware that there are virtually no

municipalities in Ontario that have chosen to license doormen; I call them “doormen” and not “bouncers.” In my presentation to you, the word “bouncer” is an informal term. It should not be used in a legal context and in fact is not defined in your legislation.

Bill 159 talks about a security guard’s definition. “A security guard is a person who performs work, for remuneration, that consists primarily of protecting persons or property.” An example is “acting as a bouncer.”

Well, that’s a very interesting definition, because we’re contending that a doorman does not primarily protect persons or property. In my experience down at the Canadian National Exhibition, we had numerous gate attendants—they were called “gate guards”—anywhere from 14 to 16 years old perform that function. Under these guidelines, they would fall into that definition; the teenagers who are escorting the animals that are around Wonderland and so on would fall into it. So there’s some difficulty with how that is to be interpreted. In terms of property, I’m not certain whether that actually indicates animals. If you’re the owner of a racehorse, is that your property? Are the stables? So there are some loose definitions there.

But specifically how it pertains to these clubs, there are managers who supervise their doormen. The managers at times lead by example, and they may fill in from time to time, performing the duties that a doorman may—and waitresses. Often the managers are women, the kitchen managers etc. Are they to be considered security guards as well? We don’t think so.

The problem is that, as defined, there needs to be some enhanced definition in terms of the word “bouncer” so that you’re not unfairly capturing non-targeted and unintended employees.

I state in my letter, “Specific definitions in the bill referring to the duties of door staff are unclear and vague and as worded may be interpreted to capture non-targeted and unintended employees in various and numerous sectors of commercial industry.”

The other point I wanted to make is that the adult entertainment industry is in favour, in general, of some of the regulations and what you’re trying to accomplish—nightclubs, shootings etc. However, in the adult entertainment industry, the police will confirm that the incidents of violence are few. In fact, incidents of over-indulgence of alcohol are even fewer. It’s because of those statistics that I’ve been able to gather through the police departments that we’ve been able to get a 40% reduction in the clubs’ liability insurance for the adult entertainment industry, and by separating from nightclubs. So there’s a real distinction, and I wanted you all to be aware that there is a real difference.

In the third paragraph, “The term ‘bouncer’ is categorized in the bill, but it is inappropriately and inadequately defined. Its informal use should not be utilized in a legal context.” I don’t know whether you’re referring to escorts who are escorting boxers into the ring. Are they considered to fall under this? Are they protecting persons

or property? Will they need to be licensed? Are they bouncers?

We’re saying that the doormen who work at adult entertainment clubs are not bouncers, not even close. Their list of duties involves more hosting and working as busboys, glorified busboys. Excuse the informal categorization, but I’ve given a list of some of their job description. It is monitoring, checking and verifying age requirements of patrons and entertainers; identifying any intoxication by patrons; hosting and directing patrons to open seating; lugging cases of beer from storage; moving furniture at closing to allow cleanup and vacuuming; and assisting in the pickup of empties. Again, those duties do not primarily consist of protecting persons or property. So we are of the opinion, and therefore feel, that the doormen at adult entertainment clubs are exempt from the definitions in Bill 159. They’re not included in the list of exemptions, such as peace officers; nor are the amusement parks and construction sites and other forms of businesses that actually have some in-house security, if you will, but their job descriptions are expanded upon.

I have only a few more things, Mr. Chairman.

I wanted to let you all be aware that for the doormen who work in the adult entertainment industry, it’s not a career position in most cases. They’re doing it to supplement their income, as an extra job, because of the part-time nature and the hours of operation etc. They want to ensure their confidentiality and privacy. This is important for their mainstream job. They may be moonlighting, or however you want to put it. But this is something that is of a serious nature. They only receive training through the LLBO in terms of public safety, and it is sufficient training in identifying things for the public.

1310

The last point I wanted to mention was the criminal record check. We’ve been able to work together with the city of Toronto with what’s called “business licensing thresholds.” They actually define what the thresholds should be. In this case, the bill talks about a clean record, and I’m not certain whether “clean” means zero convictions; it could mean a number of things. It’s vague and ambiguous. However, we would suggest that some licensing thresholds be put in place, such as the criteria that would match these on schedule A.

Again, we’d like to offer the fact that we’re here to work together with the province. If a form of registration needs to be put in place, we already have that system in place for the entertainers by ensuring that they’re all of adult age requirement and so on. We’re capable of working together. We’d like to pursue a self-regulatory style of approach for the industry. By working together and partnering with the various levels of government, we can form lasting partnerships and save unnecessary municipal costs. There is a registration system that would probably adequately conform to that.

That’s my summation, Mr. Chairman. The last point I’d like to make is that we are sending a letter to Mr. Gerretsen, you should be aware, of municipal affairs to request a separation for massage parlours. Under the

Municipal Act of the Eves government, there was a combination of adult entertainment clubs with massage parlours, and we feel that there's a distinctive difference. We do not want to have the entertainers clumped with massage parlours in the same category. We have had the municipalities able to write up separate schedules, but the problem is that the current Municipal Act determines massage parlours as entertainment, which they are not. They may be adult businesses, but they're not a form of entertainment, or shouldn't be. I just wanted to let you be aware that we are sending correspondence to Mr. Gerretsen.

The Chair: Thank you, Mr. Lambrinos. We have a brisk one minute per party. I would just invite you, should you want the committee members to have a look at the board presentation that you've brought, I will direct the clerk to pass it around, should you wish.

Mr. Lambrinos: Yes.

The Chair: Mr. Dunlop?

Mr. Dunlop: I have no questions.

The Chair: Mr. Kormos?

Mr. Kormos: I'm inclined to agree with you, in many respects, with respect to bouncers. One of the most shocking things is that it's an Americanism. At least we could have used the proper British word: a "chucker-out." The problem is, when the statute doesn't define the word and when there's no legal interpretation, the courts will refer to the dictionary. Here's OED: "bouncer: one engaged to eject undesirable or unruly persons from a saloon, ballroom etc."; a chucker-out, in the British form.

I think there's a problem here. You talk about the primary activity. For most bouncers I know or have known, their primary activity isn't bouncing. Sure, they're called upon, if somebody is starting a fight, to pick them up by the scruff of the neck and escort them gently to the front door, but that's not their primary activity. There are very few places that I know of that have a bouncer who is a 100% bouncer, or 90%. It's incidental. The fact that he's got biceps the size of tree trunks is totally irrelevant. So I think the government has got a problem here.

The other problem we've got—and you've raised an interesting point. Liquor establishments are acting in compliance with the LLBO in terms of regulating the consumption and the age. It seems to me we should be very cautious about regulating a role that is at least indirectly called for by statute under the Liquor Licence Board without some direct involvement of, quite frankly, the Liquor Licence Board of Ontario and the prospect that it should be them that regulate the people who perform this role. I think those are some of the points you were trying to make.

Mr. Lambrinos: Yes. If I can expand on that, the LLBO already licenses the establishments, as well as the cities, so they are working in a licensed premise, and there are bylaws that conform to that.

Mr. Kormos: We should be talking to the LLBO. I don't think we should be acting unilaterally with respect to booze joints.

The Chair: Thank you, Mr. Kormos. We'll now move to the government side. First question, and possibly the only remaining question, Mr. Delaney.

Mr. Delaney: Thank you. I notice you didn't dispute Mr. Kormos's characterization of "chucker-out." Do doormen's duties ever include enforcing order or expelling unruly patrons?

Mr. Lambrinos: Rarely, in adult entertainment clubs, and it has to do with the distractions, the price of the beer and the facilities. The police will confirm those statistics—there are few acts of violence.

Mr. Delaney: In the very brief time remaining to me, then, what common security-related skills exist between doormen and private security guards?

Mr. Lambrinos: The common security area is that some do both, but the reality is that the majority of them working as doormen are not full-fledged security guards. They're supplementing their income. The security skills that would be common to both—I can't generalize, because I'm thinking of some doormen who are smaller, they're more a host in some of the clubs, and they work just as well. There's not a real need for a major security issue at adult entertainment establishments.

The Chair: Thank you, Mr. Delaney, and thank you to you, Mr. Lambrinos, for your presentation.

CANADIAN SOCIETY FOR INDUSTRIAL SECURITY INC.

The Chair: I would now invite our next presenter, Mr. Brian Robertson of the Canadian Society for Industrial Security, if you might present yourself in 15 minutes. The remaining time will be distributed evenly afterward. Please begin.

Mr. Brian Robertson: Thank you, Mr. Chair. I'm here with the Canadian Society for Industrial Security. I'm the regulatory affairs adviser to the society. I'm a Vancouver-based security trainer and consultant and, up until not long ago, was the manager of the private security program at the police academy at the Justice Institute in BC. In that capacity, I was responsible for the administration of the mandatory training program for licensed security personnel in British Columbia.

CSIS has been in existence in Canada for just over 50 years. We are a broad-based industry advocacy organization. A lot of our efforts, particularly in the last 10 years, are focused on standards in the industry. We have over the last 10 years developed a fairly comprehensive system of professional certification and in the last few years have been delighted to have had the opportunity to work closely with several of the community colleges in Ontario in order to have our first two basic levels of professional security certification incorporated into some of the training programs that they do.

We have a brief submission to make with respect to Bill 159. The Canadian Society for Industrial Security is broadly supportive both of the Ontario government's decision to undertake private security regulatory reform and of the content and direction of Bill 159. If we have

any general criticism of the new Private Security and Investigative Services Act, 2005, apart from believing, as we all do, that it was too long in coming, it would be that the act is perhaps a bit too timorous in its approach. The province could have, and arguably ought to have, gone even further than it has. We have six particular recommendations for your consideration:

Recommendation 1: that many of the key provisions of the reform package which are to be rolled out as regulations and policies ought rather to be enshrined in the act itself. There are several measures that the government has suggested it's going to take by way of regulation and/or the operation of policy, rather than by way of including them in the act. Some of these have already begun to take. However, CSIS feels that it is so important that these measures be taken—and taken soon—that we recommend that the government consider enshrining them as provisions within the act itself. They are: (1) the creation and ongoing maintenance of an industry advisory committee to provide counsel to the registrar; (2) the implementation of an industry code of conduct; (3) mandatory training and/or testing for all licensees; (4) mandatory physical use of force-skills training for licensees whose duties are understood to include the use of force; (5) mandatory periodic retesting and recertification; and (6) mandatory use-of-force incident reporting.

The business of law-making always involves working out the fine balance between the certainty of legislative enactments and the flexibility of regulations. But the fact that we do enshrine some provisions in statute amounts to a tacit admission on our part that some provisions are so important that we don't want to leave them to the perhaps shifting priorities of various governments and ministries that may come and go. All of the provisions that we've just set out are provisions that we feel bear such a weight of importance.

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Recommendation 2: that the definition of "security guard" be amended to include any employee whose duties are understood to include the forcible apprehension or ejection of individuals who are found either trespassing on and/or committing a criminal offence on an employer's premises.

Patrick Shand died because two ordinary store clerks didn't know what they were doing when they were forcibly restraining him. If Bill 159 doesn't address this fact, it will fail to adequately respond to the circumstances of Patrick Shand's death. Following the Shand inquest, the coroner's jury recommended mandatory training in arrest and control tactics for store clerks who were expected to make arrests. CSIS supports this recommendation.

The security guard training envisioned under the current draft of Bill 159 won't save the next Patrick Shand if the people arresting him are store clerks. And to those who would say, "We can't give that kind of training to every store clerk in the province," we would answer that you don't have to. All an employer has to do to get his

staff exempted from this kind of training requirement is to tell that staff clearly and unequivocally not to arrest anyone. We'd like to respectfully submit that language of the sort that we've employed in this recommendation, which references individuals whose duties are understood to include forcibly restraining or forcibly ejecting people, may be a useful tool in resolving some of the issues that have come up already this day, in previous presentations around who needs to be regulated under the act and who doesn't.

Recommendation 3: that a provision be added to the act which ensures that the registrar will have enough investigators in the field to effectively enforce the provisions of the act by setting a maximum permissible ratio of investigators to licensees, as well as setting out a minimum number of investigators that must be employed by the government at any time. This recommendation also echoes the recommendations of the Shand jury. It's axiomatic that having a regulatory scheme which cannot be enforced is no better than having no regulatory scheme at all. An industry of 50,000 licensees and a 25%- to 40%-a-year turnover rate can't be effectively regulated by a handful of field investigators. But of all the things you need to do to implement regulatory reform, securing funds for extra ministry staffing is always the hardest. Convince us—the industry and the public—that you are serious about changing things. Commit to having enough investigators on the job by making it the law that there will be enough investigators on the job.

Recommendation 4: that it not be an offence under the act, punishable by a \$25,000 fine and/or a prison term of up to one year, for anyone licensed under the act to use the word "officer" when referring to a person who performs work for remuneration that consists primarily of protecting persons or property. The terms "security guard" and "security officer" are as widely used and as interchangeable in the ordinary parlance of people, both inside and outside of the security industry, as the words "automobile" and "car." CSIS supports neither the idea that you can get people to stop using the term "security guard" by licensing security guards as security officers nor the idea that you can get people to stop using the term "security officer" by making it the law that you have to call security officers "security guards."

Furthermore, the government may grow to regret a statutory injunction against the term "security officer" if it follows through on its promise to introduce tiered licensing and is casting about for sensible names to assign to security personnel at each of the different tiers.

Recommendation 5: that the committee urge the minister and his staff to harness the momentum of the last year and a half and use it to ensure that the process of regulatory reform is followed through to the necessary conclusion that will only occur once regulations are in place and fully implemented.

The task before the standing committee on justice policy is to prepare Bill 159 for third reading rather than to determine what will be contained in the regulations

under Bill 159. However, CSIS would like to make the following recommendations with regard to what will come out in the regulations for the record:

(1) As much as possible, everything that you do in Ontario—whom you regulate, what licence categories you use, what terms you use to refer to the individuals working in different occupational categories, what occupational competencies you require them to have, how you're going to measure whether or not they possess those occupational competencies, all of these things—needs to be done in a manner which is as much in harmony with the other provinces as possible. CSIS feels very strongly that we need to have national training standards and, since it's a constitutionally difficult thing for the federal government to do that, we encourage provincial governments to work very closely together in order to arrive at de facto national standards, or at least at harmonization.

(2) We must move as quickly as possible to tiered licensing.

(3) We must resist the temptation to back down from our commitment to deliver adequate use-of-force skills training to every single one of the thousands and thousands of security personnel in Ontario who are required to use force in the course of their duties, even though setting up the means of delivering that training is going to be an enormously difficult and expensive undertaking.

(4) And we must ensure from the outset that whatever mechanism we set up for training and testing is robust enough to allow us to be satisfied that licensed security personnel continue to possess the occupational competencies necessary to do their jobs. There must be periodic retesting and recertification.

Finally, recommendation 6: that the Legislature turn its mind to what additional strides forward should be made the next time private security legislation in Ontario is revisited, and let us hope that it's not in 35 years. The reforms encompassed by Bill 159 are enormous, more than enough to keep everyone busy for a long time, but there are some areas of regulatory reform the province has elected not to delve into at this time.

For the record, CSIS would like to encourage the province to keep these ideas in mind for the next time it turns its attention to private security and regulatory reform. In particular, the province should consider more thoroughly the public interest objectives to be attained by applying the provincial regulatory scheme to other sectors of the private security industry, such as security consultants, armoured car guards, alarm companies, CCTV companies and locksmiths.

Secondly, the province of Ontario should watch with interest the bold experiment the province of Quebec is undertaking with the creation of le Bureau de la sécurité privée, an industry-based provincial licensing board, and consider more thoroughly the desirability of permitting the private security industry a more formal role in its own regulation than that which can be achieved through mere participation in an advisory committee.

We thank the members of the committee for allowing us the privilege of participating in this enormous, and enormously important, undertaking. We respectfully tender our comments and recommendations in the hope that they may serve you in your deliberations. Thank you for listening to us.

The Chair: Thank you, Mr. Robertson. We have 90 seconds per party for questions.

Mr. Dunlop: Thank you very much, Mr. Robertson. You covered a lot of area in your presentation. I was interested in your comments on the Shand inquiry and the lack of dealing—I mean, there were 22 recommendations in the Shand inquiry, and it's my opinion that this bill deals with most of those in regulation as opposed to dealing directly with them. Is that how you feel the bill deals with them?

Mr. Robertson: I'm fairly conversant with the Shand recommendations and I think the plans for regulations and policy cover off just about all of them. But the two I articulated, one addressing the issue of a store clerk who isn't a security guard, isn't a loss prevention officer, but who has been given to understand by his employer that he's supposed to tackle shoplifters—the current plan doesn't address that, and it was store clerks who were sitting on Patrick Shand in that parking lot. The second that I wanted to emphasize is that the Shand jury said that you've got to have enough people out in the field; you've got to have the forces in the field to enforce this. The number of investigators that the registrar has available now isn't enough. It wouldn't be enough if it was doubled or tripled, given that we're going to double the size of the regulated industry.

The Chair: Mr. Kormos.

Mr. Kormos: I'm concerned; yes, the utilization of the words "security officer" is what helps blur the difference between police and private security guards. This is getting way, way off field, in my respectful view. I suppose your acronym of CSIS would be just some—I'm sure it was an accident.

Mr. Robertson: We were there first.

Mr. Kormos: Look, why are we interested in security staff for Microsoft or IBM, for any other number of companies that are what I would call white-collar security personnel, who I believe would be caught up in the scope of the definition here of security guard because they work for remuneration protecting property or persons? We had some folks here, Mr. St. Jean and the Retail Council of Canada, who talked about the security internal in their operations. We're concerned about the parapolicing out there. It is Shand and similar incidents that give rise to this bill, the bill of Dunlop and Levac amongst others; the wannabe security guards running around like freaking—black-helmeted, the black sunglasses with the jackboots. That's what we're concerned about, and the blurring of the distinction between public police and private security guards. So, for the life of me, I don't know—we're getting this information and it's valuable. But I think we're getting on to incredibly dangerous turf when we're talking about this macro, broad, pan-security regulation

when the problem is in those parapolice. That's all I'm going to say.

1330

The Chair: I now move to the government side. Mr. Delaney.

Mr. Delaney: With regard to the standard training for security guards, who should deliver that training? Should it be community colleges, employers, trade unions?

Mr. Robertson: After 10 years of working with the mandatory program in BC, I'm strongly of the opinion that the best way to get a defensible standard that you want is to have the province, the registrar or the ministry focus on having really good, defensible measurement and testing of whether people have the knowledge and the competencies.

Before that, though, in terms of how it's delivered—as much flexibility as possible: private training schools, guard companies themselves, community colleges. You've got 50,000 people. In the first two years, you're going to have to train about 80,000, and after that, about 20,000 a year. You're going to need every trainer you can lay your hands on.

But the key, the way to maintain it as a provincial standard, is for the province to keep a tight hold on the testing, measurement and certification at the tail end of the training.

The Chair: Thank you to you, Mr. Robertson, representing the Canadian Society for Industrial Security.

ONTARIO PROVINCIAL POLICE ASSOCIATION

The Chair: I would now invite our next presenter, Mr. Walter Tomasik of the Ontario Provincial Police Association.

I remind you, Mr. Tomasik, you have 15 minutes in which to present, and as you've just seen demonstrated, the remaining time will be divided equally amongst the parties. Please begin.

Mr. Walter Tomasik: Thank you, Mr. Chairman. I do have sufficient copies of my presentation for the committee.

The Ontario Provincial Police Association thanks the government for providing it with the opportunity to address the committee on this very important issue. As you know, my name is Walter Tomasik. I'm the chief administrative officer for the Ontario Provincial Police Association, and I have also been a police officer for over 30 years.

The Ontario Provincial Police Association is the representative bargaining agent for over 5,400 uniform and 2,400 civilian members of the Ontario Provincial Police. Members of the OPP provide policing services to those areas of the province that do not have municipal police forces. In addition, the members of the Ontario Provincial Police provide investigative services to assist municipal forces, on the direction of the Minister of Public Safety. Our association is committed to promoting the interests of front-line officers, and upholding and

improving the professionalism within policing that the public expects and demands of police personnel.

The proposed legislation, An Act to revise the Private Investigators and Security Guards Act and to make a consequential amendment to the Licence Appeal Tribunal Act, 1999, is a needed tool for providing accountability and oversight of the private investigators and security guard industry throughout the province of Ontario. The new legislation, through the regulations, provides for the establishment of a code of conduct and a public complaints system, development of training requirements and establishing standards for uniforms, equipment, and vehicles utilized in the industry.

The OPPA supports Bill 159, and encourages the minister to establish as soon as possible the regulations identified in part VIII of Bill 159. As previously indicated, the association is supportive of legislation that speaks to providing accountability and oversight of the private investigators and security guard industry throughout the province of Ontario. This industry has experienced dramatic growth during three decades without proper regulation. The roles of police and private security must be clearly defined. In doing so, public safety and security in Ontario will be greatly enhanced, along with the industry, providing accountability to the public.

The Ontario Provincial Police Association supports legislation setting recruitment and licensing standards for all employees and employers in the private security industry in Ontario. Community safety in Ontario demands that all individuals in the industry undergo thorough background checks and be subject to provincial licensing.

The association believes that a code of conduct is an essential component of the proposed legislation. The code of conduct should include minimum ethics standards and regulatory provisions which are accountable and enforceable, similar to those found in the Police Services Act. An excellent reference for the committee may be the report prepared by the honourable Mr. Justice Wallace T. Oppal in 1994, entitled *Closing the Gap*, in which Mr. Justice Oppal outlines recommendations which regulate competence and accountability for both non-police employers and employees.

The association supports an independent oversight body to deal with complaints by members of the public. A member of the public must be able to make a formal complaint to the registrar regarding a contravention of the act or regulations, or a breach of the requirements of the code of conduct.

Mandatory training requirements is another area which the Ontario Provincial Police Association believes should be addressed through regulation. Mandatory training, including use-of-force training, is a must component of any training program. We also believe this should be included with instruction on the legislative powers of private security. The training should have a component of public liability awareness on the industry, with information on Criminal Code authority pertaining to civilian powers of arrest and other acts, such as the Coroners Act and the Highway Traffic Act. All training should be

commensurate and accredited with the type of function performed, and tied in with the licensing system.

It is the position of the association that police and private security uniforms should be completely distinct from each other. Security uniforms must not contain any shoulder patches or insignia resembling police uniforms. We do not believe it is in the interest of community and public safety to arm or equip private security with any type of weapons or use-of-force articles such as handcuffs and batons. The use of canine by security agencies should not be allowed unless there are strict regulations regarding use of canine and certified, accredited training for all canine handlers. Vehicles utilized by the industry should not resemble police vehicles in any form. The use of roof bars on private security vehicles should be prohibited unless used in specific locations, such as airports or construction sites. This would ensure members of the public are not confused as to whether the vehicle represents police or the private security industry.

The association thanks the members of the standing committee for providing us the opportunity to appear before it and thanks the committee for their continued efforts in providing public safety for the people of Ontario.

Not unlike our counterparts at the PAO, the association would also like to thank and acknowledge MPPs Dave Levac, Mario Sergio and Garfield Dunlop, who introduced the private member's bill in an effort to address the issues peripheral to private security.

Our association looks forward to your findings and conclusions with respect to the suggested amendments to Bill 159. Thank you.

The Chair: Thank you, Mr. Tomasik. We have 10 minutes to distribute evenly. Mr. Dunlop.

Mr. Dunlop: Thank you very much, Wally, for coming today and for your comments. I think your comments basically follow the path and intent of the legislation, what we expect it to do, and that is getting rid of wannabe police officers with their uniforms and cars, that sort of thing.

I don't know if you heard a lot of the discussion this morning, but it seems there are enough loopholes in the bill or there's enough confusion around the bill that now we're getting into a lot of different stakeholder groups—bouncers, the previous gentleman with industrial security—so we're finding that the bill is moving in that direction and sort of away from the original intent that we all expected under this bill.

I was just wondering if you had any comments on the regulations that should be put in place that would put it back in what we consider to be the police/security guard issue as opposed to seeing it expand way beyond that.

Mr. Tomasik: I think the regulation should address specifically what industries you're looking at. If you're looking at the private security industry per se as property managers and what have you, then that regulation should be entrenched in that. I think our position has always been and will continue to be that the people of Ontario have a right to know who is a police officer and who is

not a police officer. There's a significant amount of confusion. When you look at some of the ads and you look at the uniforms and the structure of their equipment, it's very difficult to differentiate between who has lawful police powers and who has not.

Getting back to your question, I think the regulation should say that we're looking at a specific industry. I'm not familiar with bouncers or anything like that, but these are individuals who are given specifically designed tasks to look after property, patrol grounds and what have you, and perhaps there should be a little more definition imposed as to what you're actually looking at.

1340

Mr. Kormos: Thank you, sir. I appreciate your comments and your contribution. You don't believe that any private security staff person should have weapons. That means batons?

Mr. Tomasik: No.

Mr. Kormos: Handcuffs?

Mr. Tomasik: No.

Mr. Kormos: Why dogs?

Mr. Tomasik: I'm sorry, sir?

Mr. Kormos: Why dogs? You say dogs, under the right circumstances. Usually it's rich people with their gated neighbourhoods—it's more a marketing device by these security companies: "We have canine patrols." But why big, mean German shepherds, yet no batons?

Mr. Tomasik: I think in my comments here I indicated that canines, under the strictest of rules—I know OPP canine handlers go for a significant amount of training, weeks and weeks and weeks. What we're averse to is the fact that somebody brings their pet in and treats it as a police dog or as a K-9 dog and travels with it on patrol with no training.

Mr. Kormos: The OPP use canines for what?

Mr. Tomasik: They use canines for arrest, for drug searches, search and rescue.

Mr. Kormos: So what possible use would a private security force have for German shepherds?

Mr. Tomasik: I have no idea, sir. I couldn't answer that.

Mr. Kormos: That's my problem. I have no idea either.

Mr. Dunlop: Can't be a pit bull; that's for sure.

Mr. Kormos: I appreciate it, because I agree with you: A private citizen, which is what a security guard is, shouldn't have weapons. If they shouldn't have handcuffs and batons, why should they have dogs? We just went through a whole exercise about dangerous dogs here at Queen's Park, didn't we?

Mr. Dunlop: Oh, yeah. Bad dogs.

Mr. Tomasik: My only comment, Mr. Kormos, in all fairness, is that if they are to have dogs, then they have to be regulated and have to be under strict training.

Mr. Kormos: We heard that private security are doing drug busts in places like malls and so on in Toronto. That shocked the daylight out of me, because it seems to me that's the sort of thing I'd be wanting police officers to do, for a whole pile of reasons.

Mr. Tomasik: I would think there are a whole number of issues that surround that, and I would think their powers of arrest are maybe in question, the fact that they're searching maybe not under the lawful authority of a warrant. There are a variety of issues.

Mr. Kormos: What's your view, though? Should this committee, in the course of discussing this bill, perhaps consider or contemplate limits on what private citizens working as security guards can do?

Mr. Tomasik: I believe you should. I don't believe that any of their functions should overlap a policing function. Those are clearly two distinct venues. The police have a responsibility to the people in the province of Ontario, and they carry out that function on a daily basis in a commendable way. The private security industry has a place of its own. It has a place to look after property needs and those of the property managers. It doesn't have a policing function.

Mr. Kormos: Thank you, sir.

The Chair: We'll move to the government side.

Mrs. Sandals: We've heard a lot today about the issue of bouncers, for example, and whether that should be well defined, and do we distinguish between people who are primarily checking IDs and people who maybe are identified more as I think Mr. Kormos's traditional definition of "bouncer" from the OED? I'm interested, as somebody who doesn't particularly have a vested interest in where we land, what your view would be of security in bars, at what point we need to click in with identifying these folks as trained security officers and at what point it's more the bartender who's perusing, or the wait staff.

Mr. Tomasik: Thank you, Ms. Sandals. I believe that a lot of the responsibility in the bars lies with the owners and the managers of the bars, and that they are ultimately accountable for what occurs within their facilities. How they prevent that, by having somebody at the door checking ID, that's fine. I'm strongly of the belief, and I've been a police officer over 30 years and been to many bar altercations, that should an altercation occur, you summon the police. You don't take matters into your own hands. That lends itself to all kinds of openings for litigation, for whatever purpose. In many cases, some of these people, as Mr. Kormos indicated earlier, are hired because of their stature and not necessarily because of what they know. They may not know their powers of arrest; they may not know what they can or cannot do. I believe that if there's any type of altercation in any type of licensed facility, then police should be summoned.

Mrs. Sandals: Can I infer that if somebody is hired with some direction toward removing patrons and that sort of thing, you would at least want to make sure they have security guard status and the appropriate training that will go with the new act?

I'm not suggesting we get into altercations, but I'm trying to—

Mr. Tomasik: As I indicated earlier, I believe the facilities have a certain obligation. If it means the removal of a patron because they've had too much to drink, then their obligation is to stop serving that individ-

ual, call the police and have them come. There are charges for public intoxication that the police can exercise, whereas the private security people cannot. I think the accountability lies with the owners. The police have an accountability for public safety in the province of Ontario, and if there's an altercation, then police should be summoned.

The Chair: Thank you, Mrs. Sandals, and thank you as well, Mr. Tomasik, from the Ontario Provincial Police Association, for your deputation.

JAMES CARON

The Chair: I would now invite our next presenter, Mr. James Caron, who comes to us in his capacity as a private individual. Mr. Caron, you have 15 minutes in which to make your presentation. The remaining time may be divided among the parties. Please begin.

Mr. James Caron: Good day. My name is James Caron. My talk today is in English, aussi français. Non?

Le Président: Votre chambre c'est le gouvernement de l'Ontario.

Mr. Caron: I'm a lifelong citizen of this great province of Ontario. I was born and raised in Toronto and educated throughout Ontario. I presently live and work in Peel. Mr. Delaney represents me.

To begin, I would like to thank this committee for allowing me to speak.

Your work here will affect how I earn a living. To be sure, I work as a security guard for hire by a private contract security company. I'm not here for my employer; I'm here for myself, an ordinary citizen.

Basically, my duty mainstays are: Keep people safe, safeguard property, and be an information source. The bulk of my time at work could easily be described as being a watchman, because I use a closed-circuit television system to watch, besides periodic foot-patrols around an establishment.

In terms of my training, I'm a graduate of Sheridan College's police studies, Humber College's private security practitioner and supervisory course, and Mohawk College's electronic security. Also, I've had CPR and first aid. My training in use of force was a weekend course at Sheridan College from a Peel Regional Police instructor.

I understand the changes you are suggesting, and I agree with most. But I will say that your change requiring use of force seems like a knee-jerk reaction stemming from an unfortunate incident. Statistically, it doesn't seem to be valid to force an industry as well as many employees working in security to get mandatory training, overnight, for use of force. Indeed, I wonder if I will have to foot the bill on this element of keeping people safe out of the \$9 an hour I earn. It seems like another levy I have to pay, like my yearly licence permit fee, my transportation, my training and my uniform.

Everyone seems concerned about the public. But I ask, "What about me?" To most people, I'm a fixture on the premise. Few people know my name. Their regard for me

is slight and their respect for me is minor. If I die on the job, there is no automatic coroner's inquest required, unlike workers in the construction or mining sectors.

My basic tools are my senses, my brain and my notebook with a pen. I have no weapons. My powers of arrest are the same as any other citizen in Canada, but more is expected from me, and that's why a code of conduct is alluded to in these legislative changes pending. Presently, I'm supposed to keep things in line without a mishap. Much like surveillance cameras, I'm supposed to stop crime, but that's a myth. Offenders will take me in stride as an element to overcome, especially if they think I am alone and there is something they want.

1350

You people are going to recommend changes to the law governing me and my peers. It would be nice if there was something tangible for us security people. Your changes to the licensing tribunal seem OK, but please make our licences portable so that we can move among companies readily. Now, I lose my licence if I move on. I have to wait until my new employer gets my information through the system. Any delay—I don't work; I don't get paid.

I wonder why criminals get more rights than me. They have the presumption of innocence guaranteed under the charter. Under this provincial legislation, the registrar "may" inform me on any accusation about my licence. Why not "must," "should" inform me? Where is my right to know? Is there not a right of the accused?

Moreover, there should be better policing on unlicensed people who do investigations such as secret shoppers. They can make reports on members of the public much like a private investigator. Look on the Internet; there are several entities selling services in Canada—Ontario—which infringe on security-type work.

To be sure, I aim to be a private investigator when an opportunity arises with my employer. It's nice that there is a level of licence which allows a qualified individual to be both a security guard and a private investigator. This helps employers in terms of their workload and allows people like me to meet our career expectations.

Presently, the checking of backgrounds is incomplete. People from outside Canada have an advantage simply because background checks can't go back outside where they have lived. To me, this is a major security hole, especially now since terrorism is an attack on our way of life.

Imagine, for example, if an Al-Qaeda sleeper operative worked as a security guard at a downtown complex. She/he meets all the mandatory requirements to be employed at a site. They are earning their \$13 an hour remuneration working in security until they are ready to do their thing. What are the ramifications? Interesting.

Presently, the registrar does a good job with the diminishing resources allotted. Being an insignificant speck on the ocean they monitor, I wonder aloud if more finances and bodies would help? And, for example, I wonder why my rights as a licensee are so scarce.

Even with the checks, there are problems using public information from the United States. I've left you a copy there. Basically, you can have a background check and you come up with false positives.

The author of a review reported that the Bureau of Justice Statistics analyzed 93,274 background checks from Florida. Out of that group, name checks turned up 11.7% false negatives and 5.5% false positives. I wonder what rate of negatives-positives exists in the Ontario system.

Additionally, the security industry has a phenomenon which affects the restaurant and tourism industry. Basically, it's high turnover of workers due to low pay. Nowhere in the proposal are rates of pay mentioned. If they need to get the right people for the right job, why is the pay so poor?

Yes, the marketplace sets the rates, but the level of responsibility for the job would suggest a minimum provincial rate. Currently, pay varies from security company to security company with the geography creating influxes such as a higher rate for the GTA.

It seems that a guard can get \$12 to \$15 an hour working in a hot zone like Toronto. Meanwhile, working elsewhere, the scale of pay starts at "to be negotiated." Does this mean that a security guard working in Kitchener is worth less or does little in comparison to a peer in downtown Toronto?

Historically, other industries had this problem, like the security business today. In January 1914, Henry Ford offered \$5 a day—a princely sum—to assembly workers in Highland Park, Michigan, USA. This was more than twice the prevailing wage of \$2.34 a day. This economic blunder—if not crime, according to the Wall Street Journal—was bad. But Ford's motivation was neither socialistic nor Utopian. Ever since Ford's assembly line had lurched into motion in 1913, he simply could not keep workers. Turnovers of 370% require hiring 50,000 people a year just to maintain a workforce of 14,000.

I believe the statistics appear to be similar in the security business of Ontario. I see many people come and go. Every day there seems to be a new face. Why? I guess safety and security has an unfair price. Now, everywhere, it seems like bargain-basement discount prices pay. But, pray tell me, what is the cost if an incident occurred? Will you risk your lives for \$9 an hour?

Employment services and schools are feeding off this continual job demand for a fee. Private schools can turn out professional security guards in weeks. Provincial secondary institutions and in-house company training takes months, if not years. Perhaps these private trainers should be policed by the registrar rather than the people at the Ministry of Education.

In conclusion, I would like to see several things concerning the act to revise the Private Security and Investigative Services Act: portability for licences; mandatory coroner's inquest status for a security guard's demise on the job; extensive background checks on applicants, not companies; minimum province-wide pay structure based

on Canadian education and experience and/or the CGSB qualification; the registrar to monitor private schools providing security/investigation education; and the right to know on complaints.

Anyhow, thanks for allowing me the right to express my concern about my job. I hope this perspective from the grassroots, a security guard's view, helps you to make things better for all of us.

Le Président: Merci, monsieur Caron.

Il reste encore cinq minutes pour poser vos questions. Nous commençons avec M. Kormos.

Mr. Kormos: Thank you kindly, Chair.

Thank you very much for coming today, because in fact we have been interested in what you and others like you are experiencing out there.

What's your rate of pay?

Mr. Caron: Nine dollars.

Mr. Kormos: What's your annual licensing fee?

Mr. Caron: Thirty-eight, I believe.

Mr. Kormos: You pay \$38. What does the company charge for your service? Do you know?

Mr. Caron: No, I don't know.

Mr. Kormos: They don't tell you?

Mr. Caron: No.

Mr. Kormos: What type of security jobs have you had?

Mr. Caron: Everything from watching a hole in the wall—working at Microsoft, by the way—

Mr. Kormos: OK. That's where you watched the hole in the wall?

Mr. Caron: No, that wasn't a hole in the wall—and I disagree with what you said about a need for physical security there.

Mr. Kormos: What did I say about a need for physical—

Mr. Caron: You indicated it's a different type of security.

Mr. Kormos: Yes. I've talked about the computer security.

Mr. Caron: I have news for you. You drive a truck through the wall, you get all the computers you want.

Mr. Kormos: Really? Where? But I'm an Apple guy, OK?

Go ahead; tell us the other places you've worked.

Mr. Caron: A variety of things—never a bouncer. I'm not big enough. Basically malls. I don't like the malls.

Mr. Kormos: How do you distinguish yourself and the type of security work you do from the guys—you heard the OPPA-type guys: driving around in the cars, the canine patrol units, the black glasses, the black uniforms. Do you see different types of security work being worked by different types of companies?

Mr. Caron: Yes, but I have to say I have a supervisor who drives around in a car.

Mr. Kormos: Black glasses and—

Mr. Caron: No, no. He's not paralegal.

Mr. Kormos: You know what I mean: the guys who—

Mr. Caron: But you do have to discern that you have to have some distinction, whether it's a suit or whatever. That's your business. My problem is, I have to pay for that uniform.

Mr. Kormos: How much?

Mr. Caron: It depends on what you guys prescribe.

Mr. Kormos: No, no. What do you pay for it? Do you pay for a uniform now?

Mr. Caron: The shirts are \$35; ties are \$15. Pants, you get them if you meet the requirements; coats. It builds up. That's what I'm saying. Now, not all companies are like that. Some provide it; some don't. But what you're suggesting in many ways will affect that, and it comes out of my hourly rate of pay.

Mr. Kormos: Do you have handcuffs?

Mr. Caron: Oh, no. I don't want them, either.

Mr. Kormos: Bless you. Thank you very much, Mr. Caron.

The Chair: To the government side. Ms. Sandals.

Mrs. Sandals: Thank you, sir. You mentioned a number of courses that you took, and I wonder if you could briefly tell us how long those courses lasted and what sorts of things you covered in them.

Mr. Caron: OK. There has been an evolution in terms of training for security guards. I started with police studies at Sheridan. It took me roughly four years, doing it in between shifts and work, to get it. That was what they now call the police foundation, with some changes.

From Humber I took a security practitioner course, which basically was offered on weekends—two days—I believe for four or five weekends; I can't remember what it was.

1400

Mrs. Sandals: So that would be about 10 days total.

Mr. Caron: Right. Elements of surveillance, elements of—everything did touch on the law, by the way: the Criminal Code of Canada, private property, a variety of elements. So the legislative base was there; also, the skill sets.

The electronics security course from Mohawk is basically what's out there today—CCTVs, DVMs and so forth—and keeping abreast. I am not an electrician or a technician, but I use this stuff, so I have to use the tools right. I shouldn't be screwing it up so my boss has to pay for it. So that's the reason for that. I do have friends who have taken courses elsewhere, at the private companies and so forth.

I'm very much aware of the Canadian government standards board changes. They used to have two levels; they've floated into one. But that's only a template. That's allowing companies to set up their own training, which I agree with. It gives some structure. The problem is, we have a lot of people—I've worked with people—who have come on and they say, "I've got 16 hours' training." Wow.

Mrs. Sandals: So you've had much more extensive training than a lot of the folks, then, whom you would have been working with on the job.

Mr. Caron: I wouldn't want to comment yes or no, simply because I don't really know. I just know in terms of myself, I see—and I want to do this job, and that's what I've been doing. The problem is, all of a sudden everybody notices that. I would ask you, do you know the guards outside this door? Any of you?

Mr. Kormos: Do we know these guys here?

Mr. Caron: Yes.

Mr. Kormos: I'm always borrowing money from them.

Mr. Caron: I believe that.

We're trained, but everything floats down to the bottom denominator, and I'm it. I'm what you get.

The Chair: Thank you, monsieur Caron, for your presentation, and thank you for coming.

POLICING AND SECURITY MANAGEMENT SERVICES INC.

The Chair: I now invite our next presenter, Mr. Ted Carroll of the Policing and Security Management Services Inc., to please come forward. I invite you to begin your presentation. As you know, you'll have 15 minutes, the remaining time to be divided amongst the various parties. Please begin.

Mr. Ted Carroll: Thank you, Mr. Chair. It's a pleasure to be here today. I've been assured by Mr. Delaney that you have read the information that I sent forward yesterday, so I don't intend to read what's already written. There are additional copies on the table if there are other people that didn't receive a copy of my submission.

I come to you today with a background both in public policing and private security. I served for over 30 years as a police officer at the operational, administrative and senior management level, then went on to a position as a university security director, subsequently setting up my own company, specializing in professional standards and best practices for private policing and security organizations.

Generally, we operate in a number of sectors, including health care, universities, art galleries, airports and port authorities with respect to security at those locations. One of the things I don't do is provide security guard services, investigative services or training programs. We simply provide advisory services.

I'm just going to touch briefly on a few of the key points. There are a number of macroglobal issues occurring that are driving change within the security industry, and you've heard about some of them today. Listed on page 3 of my report are a number of them. I just want to touch on the Law Commission of Canada as one case in point. There is a report that should be out some time in November addressing the overlapping roles of public police and private agencies and, I'm told, will be making about 15 recommendations with respect to professionalization of the security industry.

The issue of legal liability, due diligence: You've heard about, to a degree: Bill C-45. The Occupational Health and Safety Act puts an onus on organizations to

protect workers and to protect the people that are affected by the jobs that workers do.

I want to move on to professional standards and am interested in the discussion about the title of "security guard" versus "security officer." My position on that is that it is time to change and move forward. In this day and age, we have a number of people who have the term "officer" in their title, including information officers, employment officers, privacy officers etc. I don't think that calling a security practitioner an officer is going to automatically cause a person to think they're a police officer. In fact, I'm told by regulators that they very rarely ever receive a complaint from the members of the public that a security officer or a security practitioner has been confused with a police officer.

There are some points on background screening, with respect to things like CPIC checks. There are different levels. Checks are available for people working in vulnerable sectors, for example, that police services in Ontario will undertake. They involve checks for persons working with children, the elderly, the disabled etc. In my view, security officers should go through those checks. Contract security can at any time be assigned to work in those kinds of environments and many in-house security officers already do.

I've listed a number of components that I think should be included in training for security officers, and I'm suggesting two tiers: a basic eyes-and-ears security guard level, if you will, and a higher-level professional security officer capable of intervening in higher-level situations.

A number of situations occur in various industries—health care, universities etc.—where security officers have to take some action before the police get there. I'll give you one example. The Ontario Nurses' Association, in a study done a couple of years ago, found that 59% of all nurses are assaulted during the course of their career. That included my own wife; it happened to her twice, once being held by her throat up against the wall by a patient who was high on a combination of medications and street drugs brought in by visitors. If those security guards had a strict eyes-and-ears non-intervention policy, she might not be here today. So there are situations where it's not practical to expect that the police will be there momentarily, and security are in a position where they do have to intervene to the best of their ability to some degree.

That takes us to the issue of use of force, and you've heard a number of references to use of force today. It's interesting that some people suggest that everyone should receive use-of-force training, but not be equipped with things like handcuffs or batons. The use-of-force model was originally set up for police services to articulate why they would use force. As you know, police officers have all the options available to them, including firearms, pepper spray, batons and handcuffs. Security officers being trained on that same model in some cases have a radio and a flashlight. There needs to be some definition of what level of use-of-force training should be available

to security officers at different tiers, based on their response expectation.

I'm going to close now just by saying that I think it is commendable that the government is moving forward with this legislation. I think it's high time that we professionalize the industry. If we're going to attract candidates to community colleges to follow law and security programs, we need to professionalize the industry, including getting rid of the name "guard," in my view. I think it's time that security takes its place among the community safety and security providers, including other stakeholders such as fire, emergency measures people and police.

I'd be glad to answer any questions and, if you have any further to today because time is limited, to touch base with you again at some point in the future, if that would be helpful.

The Chair: Thank you, Mr. Carroll. Nine minutes in total. Mr. Dunlop.

Mr. Dunlop: Thank you very much, Mr. Carroll. You bring some views on this conflicting with some of the other presenters', so I at least compliment you on your concerns: the use of force and the kinds of weapons, sprays, batons or guns or whatever it may be. In my opinion, that's going to be one of the key areas of how we either amend this bill or develop the regulations around it. But I was surprised to hear you say that. What you're saying, then, is that as far as you're concerned, all security officers should be allowed to be trained and to carry arms?

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Mr. Carroll: No, that's not what I'm saying. I think there should be two levels. There should be a basic eyes-and-ears level where they don't have that kind of equipment but they are trained on officer presence—how they look, how they stand, what they do when they show up, verbal de-escalation techniques—and they're trained in some soft, empty-hand defensive tactic techniques so that they can safely disengage if they are involved in a situation where their safety is in jeopardy.

The other part of it is the higher level—and it exists now in a number of the sectors I've already mentioned—where security officers have to physically intervene. The use of a baton by a security officer serves a different purpose than it does for a police officer. Security officers, if they have to disengage, if they're in a violent situation or there's a fear for their safety, really have nothing to create distance between them and the individual who is threatening them. A baton, if they're properly trained on it, can be used for that purpose. Handcuffs are necessary if part of the job function is to apprehend, arrest and detain people before police get there. You have a much higher liability on your hands if you try to restrain someone with several officers without any mechanical restraint devices.

So I suggest two tiers. The first one is your night watchman; the second one is your interactive, intervention-capable professional security officer.

Mr. Dunlop: I guess all I'm saying is that that's a contradiction to what we've heard from, for example, the Ontario Provincial Police Association just a couple of presenters before you. They did not believe there was a role for any type of equipment or assistive devices like a baton etc. So that's the challenge I think we're going to have in this committee and in the House in trying to develop this act, because it is an act that we haven't touched for close to 40 years and we need to make sure that we get it right when we do it. I do appreciate your comments, though.

Mr. Carroll: Just one comment, if I might; I don't know if it's mentioned in my paper. The Ministry of Labour in Ontario, in a number of cases based on complaints, has gone into environments and written orders that the use-of-force response options model for police be applied to the functions of security officers, and that's caused organizations to make that kind of judgment call: Where do we want our security personnel positioned on the model and where do they need to disengage? If they don't have handcuffs or they don't have intermediate weapons available, then they should be eyes-and-ears. It should be a non-intervention model where they disengage as soon as the person becomes active-resistant. The definition of "active-resistant" on that model is not high: simply standing up, shouting, going into a fighting stance, throwing a chair around. That would mean all security officers would disengage at that point, call police and direct police to the location.

The Chair: We'll move to the government side. Mr. Delaney.

Mr. Delaney: Ted, welcome to Queen's Park. It's good to see you here. I want to compliment you as well on your fine, well-organized, informative and concise deputation. It's nice to have two consecutive deputations from the riding I'm privileged to represent.

I'd like to ask your opinion on a few points I've discussed with other deputants. I'll just go down the list. You can address as many of them as you can. How should training standards be set and who should set them? Who should conduct training? Should it be community colleges, in your opinion? Should it be employers, should it be unions, and what are your thoughts on that? Also, to what degree should security guards be expected to educate themselves and in what areas should employers expect to bear the cost and responsibility of training their security guards?

Mr. Carroll: Thanks, Bob. First of all, there are a number of models out there already. There are a number of provinces that have mandatory training. British Columbia, as you heard, is one of them. There's also the Canadian General Standards Board in Ottawa that sets the standard for federal procurement contracts for security. I think those are good models to base training on here in Ontario but they need to be built upon. I read somewhere that you were talking about an Ontario-based model and there are things in Ontario that are specific to Ontario that need to be worked in there. For example, the trespass legislation is different in every province. There

are only five provinces where security officers have authority to arrest under trespass legislation. So those things need to be customized.

Community colleges are well placed, I think, to deliver some of the training. There are some good private training companies out there as well and there are some large organizations that may want to get themselves approved, such as universities, where they'll train their own people. I think those are the ways that training can be provided.

I would encourage all security officers to continue their education. That's something that we encourage people to do in any sector. We always did, particularly in public policing, but there needs to be a distinction between the two-year law and security program, which is separate now from the police foundations, and practical training to do the job. If you compare it to police, many of them take the two-year police foundations course; they then go to the Aylmer, Ontario, police college for a number of months. By the time they graduate, as my son just did recently, they've spent nine months of training, including three months of field training. If you compare that to the Canadian General Standards Board training, we're just talking about two weeks of training for security officers.

I think that's a place to start and to build from. I would encourage security officers to follow the law and security program, but that shouldn't be accepted as the basic training.

The Chair: Are there any further questions from the government side?

Seeing none, Mr. Kormos, there are still two minutes remaining.

Mr. Kormos: No, thank you.

The Chair: Thank you, Mr. Carroll, for your deputation on behalf of Policing and Security Management Services.

GEORGIAN COLLEGE

The Chair: I would now invite our next presenters to come forward, Mr. David Dubois and Mr. Peter Maher of Georgian College.

Again to remind you, gentlemen, that you have 15 minutes in which to make your presentation, the time to be divided equally among the parties following. Please begin.

Mr. David Dubois: We've brought copies for the panel.

Peter and I come to you from the justice and public safety institute at Georgian College. We have been asked to represent the justice and public safety coordinators' group from the college system in Ontario to discuss with you the likelihood in the positioning of the colleges offering the law and security administration and police foundations program to focus on the training aspect of the current bill. I'd just like to read to you some of this information.

The community college system in the province of Ontario applauds the introduction of Bill 159 because we believe it will enhance the skill level, credibility and professionalism of the private security industry.

We believe we can play a vital role—that is, the college system—in implementing Bill 159 in terms of the development and delivery of training standards and provincial testing sites.

Colleges currently offer law and security administration and police foundations programs throughout the province that have curriculum exceeding the basic training standards identified in the legislation.

Colleges are in the business of education, training and development, and therefore have the experience to develop core standards for the industry in a timely and responsive manner.

Colleges have the ability to provide Bill 159 training standards in alternative delivery formats, allowing greater access by private security personnel. This may include computer-based delivery, compressed delivery, train-the-trainer models and blended delivery models.

By delivering the training standards through the colleges, recognition and credit can be given, resulting in bridging opportunities for personnel into full diploma programs like law and security and police foundations, as well as clear career laddering opportunities. A number of colleges have articulation agreements with universities to move on to BA programs in law and justice or criminology and so on.

Colleges can provide testing services for certification and recertification because of province-wide locations and experience in providing this service with universities and sister colleges and so on.

Colleges have numerous connections to the private security field from a province-wide perspective because of long-term collaborations between the industry and LASA and PFP programs. A number of our students have field placements within this area, graduate employment—literally thousands of graduates in the province have come from law and security programs and police foundations programs—membership on college advisory committees, college memberships in organizations and associations like the Canadian Society for Industrial Security, guest lecturing and faculty positions.

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Bill 159, when implemented, will have consequences that will need to be addressed. A concern that has been raised among the coordinators of our justice programs is that if the bill is enacted as is, student volunteers for our programs—and all of us have a number of volunteer hours expected—may be prohibited from volunteering at civic functions or volunteering on campus for escorts and those kinds of things. It may impact their ability to do that.

We also recognize that the total hours of the training standards at this point are in the area of 50 to 70 hours. From a college perspective, that seems to be light in terms of the content. We would suggest that, even in

terms of use of force, 50 to 70 hours might be the range for that particular standard.

Timelines to implement this are ambitious; however, Bill 159 is visionary legislation impacting the future of private security in the province of Ontario. It will most certainly enhance the professionalism and accountability of the field. The community college system in the province is positioned perfectly to continue to collaborate with industry stakeholders to develop a comprehensive curriculum training package that can exceed standards, be delivered uniquely and provide educational bridges for private security personnel.

Again, we would like to thank you for the opportunity to speak. We'd be happy to answer questions at this time.

The Chair: Thank you very much. We have about 10 minutes remaining. We'll start with the PC side.

Mr. Dunlop: Thank you very much, Dave. I'm going to brag about the folks from my riding. Dave Dubois is a dean—he didn't brag about this—of the Orillia campus. I wish he would have bragged a lot more about the great things that Georgian is doing in all of their sites, particularly Barrie, Orillia and Midland.

Dave, I know you've put a lot of emphasis on Georgian in the Orillia and Barrie campuses. What you're saying is, as we stand now, when this bill is proclaimed and passed and we actually need the training standards and programs put into place, a college like Georgian would be able to put programs in place to handle all the training?

Mr. Dubois: Yes, Garfield. I think we would see the opportunity—again, working with stakeholders, people who are in the business, and certainly direction from the bill—to put together a curriculum package that wouldn't, obviously, be as extensive as a law and security administration program. But we would see the opportunity here, as I was mentioning, and I believe our sister colleges that offer law and security and police foundations programs, to package together the course training standards and have those recognized and accredited within the college that could then be used as credit toward full two-year diplomas. So the person could begin an educational career path that would allow them to get this certification; then they could apply that certification in a block transfer toward diplomas in law and security and police foundations.

We're in the business of developing curriculum. With the provincial standards for law and security programs—all colleges offering their curriculum in the same way, and the same with police foundations—we could actually pull a number of those standards into what we perceive to be the needs of this particular bill. Again, that has to happen with the collaboration of the various stakeholder groups.

Mr. Dunlop: Thank you.

The Chair: Mr. Kormos?

Mr. Kormos: Thank you, gentlemen.

Mr. Dunlop, if the bill passes; we're only in the process of committee. We haven't heard any debate in committee or on third reading.

Mr. Dunlop: I assume it will pass.

Mr. Kormos: Be careful.

Gentlemen, one of the concerns—and it was certainly cited by the Police Association of Ontario this morning and the Ontario Provincial Police Association this afternoon—from the public policing perspective is the need to draw clear distinctions between security personnel and police officers; to wit, public police officers.

I'm inclined toward that position, because the whole difficulty here, what gives rise to this, was not just the coroner's inquest, but problems around very active para-policing by private firms that hold themselves out as police officers, that present themselves as such, that use police tactics, even the lingo. Many years ago I used to practise court work, and these guys would get on the witness stand, as I've mentioned earlier, and they wouldn't sound like real cops; they would sound like TV cops when they were giving evidence out of their notebooks.

How does it help when the community colleges say, "We will have a security guard program, but it will be so blended with the police program," because you're going to tell me if it isn't, "that you'll be able to apply the credits"? That to me is part of the problem: The people who are in security who—dare I say it?—think they're cops.

The other consideration, of course, was that the police association and OPPA would like to see no weapons or even handcuffs, never mind batons, being used by security guards. Respond to that, please.

Mr. Peter Maher: Mr. Kormos, I've been waiting patiently to respond to that, and it gives me great pleasure to respond to it, because I'm not going to assume speaking for the PAO or the OPPA, having been a past retired member and an executive officer in a police association, having spent 10 years in this division, where your Legislature sits, and another 21 years in the city of Barrie, having been an undercover officer and a doorman in the hotels in Barrie, having run operations responses in the city of Barrie and watching manpower diminish greatly. All those questions you asked—to get to your first point, which I found interesting, about when security guards speak like policemen, there's nothing that makes policemen look more foolish than trying to speak like lawyers, similarly.

Mr. Kormos: The good cops I know don't even try.

Mr. Peter Maher: That's right.

Mr. Kormos: None of the good cops sound like cops on TV.

Mr. Peter Maher: Perhaps. I think what we have to look at is where our students are going. As you've noticed, with the abolition of grade 13, the entry threshold is a lot younger into the community colleges. It's been more than evident in the last two years, such that when they finish their schooling, be it in the police foundations program or law and securities program, they say, "Where am I going to get a job? Where am I going to go?" They go into security. So the more we do to regulate security, make it a worthy occupation, the more we're enhancing opportunities for young people to be-

come employed, to start moving forward. The hiring aspect going into the policing area is five years, on average, from graduation. Police departments cannot absorb the number of graduates. They need to start somewhere, and quite often, in between years, they start in security.

What we're trying to do is disassociate, at least in our college, and make LASA, our law and security, a free-standing program focusing on deliberate security roles, one being corrections and the other being the multi-faceted private security. If we train our people appropriately, certainly the face of security officers is going to change. You won't have the jackboots; you won't have the wannabes. You will have professional security people, which is what organizations like CSIS are trying to promote, which is why we maintain a membership in it, which is how we are able to communicate so rapidly and so freely.

The Chair: We'll now move it to the government side.

Mrs. Sandals: I wonder if I could explore one of the notes that we got here. You're proposing that student volunteers—for example, campus escorts—will be negatively impacted by the legislation. I wonder if you could explain that.

Mr. Peter Maher: When I sat down at the table with Mr. Herberman's office at the very beginning, last February, we were told that licensing would encompass people in charge of property and people, or property and money—property and people primarily. Our students go out and do security details in a volunteer role. They look after people. Across the table from me was the University of Toronto police. They run an escort service for people who are leaving the campus in the late hours and request accompaniment to their vehicles, which is not an unreasonable request given this area and the time of night. That would be prohibited. Are you saying or is the legislation intending that people and students like this should be licensed as well, or should they be exempt given certain situations? That was one concern we have.

If we go for the licensing, is that going to stymie my first-year students? I'm the coordinator for the LASA program, and they're all my kids, basically; you sort of adopt them as you go along. We don't want to see their advancement stymied. We don't want to see their opportunity to become civic contributors stymied. That's the concern referenced there.

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Mrs. Sandals: I come from a university town, so I'm familiar with how campus safe walks operate, but I'm confused by what you're saying versus what the bill says. The bill talks about a person who performs work for remuneration that consists primarily of protecting persons or property. If you're talking about volunteers and the bill is talking about remuneration, (a) I'm having trouble reconciling that, and (b) do you actually advertise these students as providing security services, or do you simply advertise that there's safety in numbers, so, "Come and walk with a buddy"? I would be concerned if

you were holding out these volunteers as security providers.

Mr. Peter Maher: Remuneration is a question. Sometimes remuneration is offered. A point in fact right now is our Georgian College car show. It's one of the biggest shows of the year. The degree program people are doing the security there. The program is remunerated at I think \$10 an hour. It's a way of enhancing their income on their own college grounds and performing a role that's valuable. So that would be prohibited there, should the remuneration aspect come into question.

Mrs. Sandals: But I'm interested in the safe walk.

Mr. Peter Maher: The safe walk is strictly a volunteer thing. There's no payback in that at all.

Mrs. Sandals: OK. As I say, I'm assuming in fact you don't really advertise it as a security service; you advertise it as a safety-in-numbers thing.

Mr. Peter Maher: That's correct. In our community where we're located now, in Orillia, we don't have to advertise. Word of mouth has always been the best advertiser, and still is.

The Chair: Thank you, Ms. Sandals, and Mr. Maher and Mr. Dubois from Georgian College for your presence and your deputation.

CANADIAN BANKERS ASSOCIATION

The Chair: I would now invite our next presenters forward, from the Canadian Bankers Association: Mr. Warren Law, senior vice-president and general counsel, and Mr. Gordon Kennedy, also of the Bank of Montreal Financial Group. Gentlemen, as you'll know, you have 15 minutes in which to present, and any time remaining will be divided evenly between the parties. I invite you gentlemen to please begin.

Mr. Gordon Kennedy: Thank you, Mr. Chairman. I have a short prepared text, and then we can have any discussion after that.

Mr. Chairman and members of the committee, on behalf of the Canadian Bankers Association, I thank you for inviting us to share with you the banking industry's views on the proposed Private Security and Investigative Services Act, Bill 159. As the Chairman said, my name is Gordon Kennedy. I'm vice-president and chief of security for the Bank of Montreal Financial Group. We hope you all have paid up your mortgage loans and interest and such. I don't have any members here. Like you, I'm looking for members; I don't see my MPP here, but I do see some Bank of Montreal customers. With me today from the Canadian Bankers Association is Warren Law, senior vice-president and general counsel and director of security.

May I begin by saying that Canada's banks generally support what Bill 159 is aiming to achieve. We believe that there is certainly a need for professional standards of expertise for both security guards and the hired private investigators who interact with the public. However, we believe that bank employees who perform investigative services for their respective banking groups should not

come within the purview of the proposed legislation. They certainly are not security guards and they have roles that are very different from for-hire private investigators. We are asking, therefore, that bank investigators be added to those exempted in subsection 2(7) of the bill.

Why should this be? The most important reason is because bank investigators have little or no contact with the public. They analyze financial information relating to fraudulent activity and other forms of criminal activity that are directed at banks. They look at patterns and activity in the use of financial accounts and they compile information and reports about criminal or suspicious activity. Bank investigators do not conduct surveillance on individuals, they do not typically interview members of the public and they do not conduct searches outside their respective banking groups, so there is no public protection issue here at all. Our investigators are unlike for-hire private investigators.

There are other reasons for believing that bank investigators should not be included in Bill 159. For example, they are already highly trained and meet or exceed the professional standards in the bill. Also, investigators play a key role in the business of banking itself, especially ensuring the bank's stability, safety and soundness, and by helping to manage risk. So if there is to be an oversight of what bank investigators do, we believe this should come from the federal government, because the federal government has exclusive jurisdiction over banks and banking.

As for the experience, in my shop alone, my investigators have a minimum of 10 years' law enforcement experience before they can be hired. Before coming here today, I looked at my staff here in Ontario, and all of them exceed 20 years' experience on either the Toronto police force, the OPP or the RCMP.

So in closing, I underscore the unique role played by bank investigators. We are not talking here about security guards that are sometimes seen in bank branches and offices. These guards are typically hired from firms that would fall within the purview of Bill 159. Bank investigators do not interact with the public, as I said, and there is therefore no public protection issue. I note that the federal privacy legislation gave our bank investigators exempt status. We believe we should also be exempted from Bill 159.

Thank you, and I now welcome any questions you might have.

The Chair: Thank you, gentlemen, for your very succinct presentation. We will begin with Mr. Kormos. You have about six minutes.

Mr. Kormos: Thank you kindly, because that has been something that has been cropping up during the course of today, interestingly.

The definition in the act: "security guard" means "person who performs work, for remuneration, that consists primarily of protecting ... property." So any level of security within the banking system, within a computer operation like Microsoft, within your credit card divisions—I don't know, but I presume there are whole

institutions, whole bureaucracies, dealing with security that in no way come close in terms of the needs, the need to regulate the person who is out there wearing a uniform, who comes into contact with the public, wherein there has to be some standard around adequacy of performance, familiarity with the law and so on.

Mr. Kennedy: Exactly.

Mr. Kormos: Mrs. Sandals, I am also interested in their observation; it is very similar to the Liquor Licence Board role in setting standards, in my view, for policing within licensed establishments.

I find it interesting that they raise the issue of federal jurisdiction, which is a given, in terms of the bureaucracy of the bank and the capacity, interestingly, of the province to regulate not the front-line security, the guy or gal at the front door or delivering the cash, but the internal security.

I think these are problematic, quite frankly, for the bill. Again, our concern, as I understood—if I'm wrong, say so—was the para-policing out there. I'm not happy about it, because I wish there were adequate public policing; I think everybody does. But I'm prepared to accept the current reality. It's the problem with the person out there in uniform performing the public street police function, not these guys and their security systems, not Microsoft and its security system. I'm not talking about the guy at the gate, I'm talking about the internal security that deals with hackers and things like that.

Do we really want to regulate those security personnel? If we don't, we'd better address the definition, because the definition is pretty, pretty clear. Again, I appreciate your saying that you want to be added to the list of exemptions. But if we had a list of exemptions that's three pages long, the problem is with the definition, not with the lack of exemptions.

So I'm agreeing with you, I think your input is incredibly important, and I'm hoping that bureaucratic staff who are here from the ministry, as well as government members, will reflect on the need to address your scenario and within the retail industry. Again, there's security—the people out there, the floorwalkers—but there's also a whole bureaucracy of security at the upper level that deals with shrinkage from within, as well as customer theft and so on, that are not the people we want to regulate, it seems to me. They're not the problem. Why are we purporting to solve a problem that doesn't exist? Thank you.

The Chair: Gentlemen, you have a number of minutes to respond to Mr. Kormos, should you wish.

Mr. Kennedy: Just one thing in your note. Just take First Canadian Place down here, the tallest building in Canada. We have our own bank security guards. In that combination, I have in-house guards whom we have trained a long way, mostly hired from colleges, and they end up being the supervisors of shifts for contracted guards. So the contracted guards work with the in-house guards protecting our assets and whatnot in the bank: offices, computers, money, things of that nature. But when we have an incident, we call First Canadian Place's

building security, O&Y, which has a security force, which then calls the police. There's a whole food chain in there of security professionals doing the same job, but it's the protocols. At the end of the day, bank security are eyes and ears and all we do is call the police. The investigators are doing the things that Mr. Kormos has alluded to, and they're protecting all the inner workings of the bank and your accounts, supposedly, and when it comes to search warrants and surveillance and all that, we call the police.

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The Chair: Any further questions, Mr. Kormos?

Mr. Kormos: Thank you kindly.

The Chair: Thank you, then, and we'll move to the government side.

Mr. Flynn: I've got a very similar question. I just want to understand the concern a little better. What you're saying is that the employees you're referring to, who you think are caught up under this proposed legislation, in a typical day would be internally investigating fraud, perhaps theft in the organization. During a typical day, they would have no interaction or very little interaction with the public.

Mr. Kennedy: That's correct.

Mr. Flynn: If they were to discover something amiss or something suspicious, the call would not be to the individual, the call would be to the police more than likely?

Mr. Kennedy: That's correct.

Mr. Flynn: You're saying that type of role is very different from what we've been talking about this morning for the most part, which is security guards, security officers, who do deal with the public on a regular basis, maybe even in a physical way from time to time, and you're saying that role is very different. Are you assuming you've been caught up in this legislation or are you sure you've been caught up in the legislation?

Mr. Warren Law: The problem is that the legislation in effect right now does have an exemption for in-house investigators and security guards, as you may know. That has been removed for some reason, and therefore we're sort of in a limbo, because I think we had always relied upon that exemption. It's gone now. Therefore what does that mean? Does that mean the government wants to regulate the business of banking? I would suggest to you that if this legislation were to go through, the business of banking would be subject to provincial government legislation and I would submit that you would be on very, very thin ice from a constitutional standpoint.

Mr. Flynn: So at this point, you'd be seeking a clarification as to whether that was the intent: to include your employees?

Mr. Law: I think the clarification should come through an exemption specified in the legislation.

Mrs. Sandals: I'm trying to get some clarification on the role of these folks you are wanting to exempt. Clearly, they would not be security guards. The issue is, are they private investigators and should they be registered as private investigators? Intuitively, it seems to me

that the work they are doing would involve investigating things that have to do with property offences and that there would be investigation into things, as you say, like fraud that could potentially lead to a criminal investigation and crossover work with the police. So intuitively that seems to me, in my normal use of the word "investigation," that they are doing investigation work. So I'm not clear exactly on why there would be an exemption.

Mr. Law: They're investigators in the sense that they provide analytical work. They compile information; they look at trends; they look at patterns within accounts. You've got to remember that the investigators are dealing with the types of suspicious criminal activity that are very specific to banking: debit card fraud, credit card fraud, mortgage fraud—things that are very, very specific to a financial institution. That provides the link between what they do and the business of banking. Investigators in a bank provide a very, very important function with respect to banks trying to manage risk, and that, I would submit to you, is also a link that makes it very clear that what you're doing here is really regulating the business of banking.

Mrs. Sandals: How would that differ, however, from any other large business which has some internal capacity to investigate and track financial transactions?

Mr. Law: The very significant difference is that under the Constitution Act, 1867, banks and the business of banking are subject to the exclusive regulation of the federal government.

Mrs. Sandals: What you're claiming is that on constitutional grounds, these folks need to be exempt; it isn't on functional grounds.

Mr. Law: We really don't have to go down that road, because I think on functional grounds there's a very clear difference between what bank investigators do and what investigators would do in any other large corporation, because there's no interaction with the public in this case.

Mr. Kennedy: I can tell you that 50% of my investigators' workday is spent on internal theft, investigating shortages of cash, money missing, complaints from customers that their accounts are missing some money. So it's all internal to a bank, and when we get to the stage where we have a suspect, we call the police.

Mrs. Sandals: I guess that's where I'm getting hung up, because clearly the investigation is into criminal activity, eventually.

Mr. Kennedy: Exactly. The other part is, the police officers out there will be working on suspects or a group or an organized crime group. They'll come across some information that they're stealing credit cards or debit cards. They'll come to us and ask us to help, saying, "Look, we've got all these numbers here. Can you analyze these, tell us where these were stolen from, how long they've been missing and how much money's involved?" We provide that information to them on a task force basis. We testify in court with the police when we do these internal investigations.

The Chair: Seeing no further questions, I'd like to thank you, gentlemen, Mr. Law and Mr. Kennedy, from the Canadian Bankers Association and to invite now our final presenter for the day, Mr. Sean MacCormack of the Marriott Toronto, downtown Eaton Centre.

Are you here, Mr. MacCormack? Going once—

Mr. Kormos: What time is it?

The Chair: It's 2:45.

Mr. Kormos: Perhaps a five-minute recess?

The Chair: All right. We'll recess for five minutes in anticipation of Mr. MacCormack.

The committee recessed from 1447 to 1452.

The Chair: Ladies and gentlemen, I would like to call the meeting back to order. Is there any further business of the committee, seeing that our final presenter, Mr. MacCormack, has not made himself available?

Mr. Kormos: To Mr. Fenson, once again. I'm wondering if he would perhaps give us just an example, an illustration, of what sort of bureaucratic security struc-

tures corporations have in their Bay Street towers or operating out of head offices. Just pick three or four companies, I suppose, to give us a sense of the number of staff and who's employed in the context of what we've talked about with respect to banks, among other things, including the retail sector, with respect to that internal security. Just to give us, again, a brief overview of what's out there, where people have real jobs.

The Chair: Thank you, Mr. Kormos. Leg. research has noted your request.

Is there any further committee business? Seeing none, I will now adjourn the committee till Thursday, September 22, 10 a.m., at the Four Points Sheraton, London, Ontario.

One final housekeeping note: The clerk of the committee, Mr. Koch, would like everyone's office to communicate with him regarding your personal travel plans for that meeting. Committee adjourned.

The committee adjourned at 1456.

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