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**Standing Committee on
Justice Policy**

Bail reform

1st Session
43rd Parliament
Tuesday 31 January 2023

**Comité permanent
de la justice**

Réforme de la mise
en liberté sous caution

1^{re} session
43^e législature
Mardi 31 janvier 2023

Chair: Lorne Coe
Clerk: Thushitha Kobikrishna

Président : Lorne Coe
Greffière : Thushitha Kobikrishna

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON JUSTICE POLICY

Tuesday 31 January 2023

COMITÉ PERMANENT DE LA JUSTICE

Mardi 31 janvier 2023

The committee met at 0901 in committee room 2.

BAIL REFORM

The Chair (Mr. Lorne Coe): Good morning, everyone. Thank you for being here. I call this meeting of the Standing Committee on Justice Policy to order. We're meeting today to begin public hearings on the study on the reform of Canada's bail system as it relates to the provincial administration of justice and public safety with regard to persons accused of violent offences or offences associated with firearms or other weapons.

As a reminder, the deadline for written submissions is 7 p.m. on Tuesday, January 31, 2023.

Are there any questions before we begin? MPP Jones.

Mr. Trevor Jones: Good morning, everyone. Before we begin, given the sensitivity of the subject matter of today's hearings, would the Chair please discuss standing order 25(g), matters sub judice, and the reasons for members and witnesses to avoid discussing cases that are currently before the courts?

The Chair (Mr. Lorne Coe): Thank you, MPP Jones. Madam Clerk, to the question, please.

The Clerk of the Committee (Ms. Thushitha Kobikrishna): Standing order 25(g) "refers to any matter that is the subject of a proceeding,

"(i) that is pending in a court or before a judge for judicial determination; or

"(ii) that is before any quasi-judicial body constituted by the House or by or under the authority of an act of the Legislature,

"where it is shown to the satisfaction of the Speaker that further reference would create a real and substantial danger of prejudice to the proceeding."

The sub judice convention is a voluntary restriction by the assembly to not discuss matters that are before a judicial or quasi-judicial body to prevent prejudice that a discussion of a case in a public influential body such as the Legislature and its committees—it is also set out in standing order 25(g).

The sub judice convention asks for every member to exercise self-regulation and refrain from making comments in debate or questions that would create a real and substantial danger of prejudice to judicial or quasi-judicial proceedings.

Therefore, I would ask that all members be mindful of the sub judice convention and its purpose and avoid

making comments that might have the effect of being prejudicial to a proceeding before a judicial or quasi-judicial proceeding.

The Chair (Mr. Lorne Coe): Thank you, Madam Clerk.

Did all committee members hear that? Understood? I'm going to continue.

We will begin our public hearings with our expert witnesses who were invited to present by the committee. Each expert witness shall have 20 minutes to make an opening statement, followed by 40 minutes for questions and answers, divided into two rounds of 7.5 minutes for the government members, two rounds of 7.5 minutes for the official opposition members, and two rounds of five minutes for the independent member of the committee.

ONTARIO PROVINCIAL POLICE

The Chair (Mr. Lorne Coe): I will now call on the commissioner of the Ontario Provincial Police to make his presentation.

Welcome, sir. For the record, for Hansard, please state your name and your position.

Mr. Thomas Carrique: Good morning, Mr. Chair. I'm Thomas Carrique, commissioner of the Ontario Provincial Police.

The Chair (Mr. Lorne Coe): Welcome again, sir. You have 20 minutes for your presentation. I'll remind you when you have one minute left in your presentation. As you just heard, that will be followed by questions and answers—starting with the government, then the official opposition, then the independent—which I will moderate. Please begin.

Mr. Thomas Carrique: Good morning, committee members. I would like to begin by thanking many of you here today for your support and thoughtful condolences over the murder of OPP Provincial Constable Greg Pierzchala. I would also like to take this opportunity to thank you for the opportunity to be here this morning and to speak about the concerns that I have raised and that I will continue to raise over the preventable circumstances related to Provincial Constable Pierzchala's death.

Two individuals have been charged with first-degree murder, and we have lost an exemplary young police officer. This did not need to happen. One of the individuals charged—namely, Randall McKenzie—is a repeat violent offender convicted of violent, weapons-related offences.

Despite showing a concerning pattern of non-compliance with previous weapons- and firearms-related prohibitions and other court-imposed conditions, he was released on bail while awaiting trial for additional violent, weapons-related charges. McKenzie did not abide by his conditions, including discarding a GPS ankle-monitoring device which he was ordered to wear while under the supervision of a surety.

I have written to the federal Minister of Public Safety, the Honourable Marco Mendicino, asking him to consider how the federal government can expeditiously action meaningful bail reform changes to address the officer and public safety concerns associated with repeat violent offenders who are charged with violent, firearms-related offences being released on bail while awaiting trial.

I've asked the minister to examine the following facts regarding McKenzie's history, including the Superior Court Justice's June 27, 2022, bail review decision. Specifically, McKenzie has a violent past, with criminal convictions for armed robbery using a firearm, assault with a weapon, possession of a weapon, and assault. He had been subjected to a five-year weapons prohibition in 2015, a 10-year weapons prohibition in 2016, another 10-year weapons and lifetime firearm prohibition in 2018, and, at the time of Provincial Constable Pierzchala's death, bail conditions prohibiting him from possessing a weapon and ammunition. The aforementioned bail conditions stemmed from a 2021 incident that included allegedly assaulting three victims, one of them a peace officer; possession of a prohibited weapon while prohibited from doing so; unauthorized possession of a firearm; knowledge of unauthorized possession of a firearm; carrying a concealed weapon; possession of a firearm with an altered serial number; and careless use, carry, transport or storage of a firearm, as well as mischief and assault charges.

As noted by the Superior Court Justice in his bail review decision releasing McKenzie from custody on June 27, 2022, Randall McKenzie had a record of five previous convictions for failing to comply with court orders. Yet again, despite all of this, he was released on bail, and as in the past, he did not comply with the conditions ordered, ultimately leading to the murder of Provincial Constable Greg Pierzchala, traumatizing civilian victims and witnesses, and forever damaging the lives of Greg's family, friends and colleagues.

Regrettably, as you are all aware, the incidents of repeat offenders with a history of violence being granted judicial interim release and committing further violent criminal acts thereafter is not rare. The public's right to be protected from these offenders and their violent criminal behaviour must be given far greater weight than is currently the case when bail matters are considered.

Close to 15 years ago, in 2008, the Canadian Association of Chiefs of Police put forward a resolution with a view to protecting the public from those offenders who have clearly demonstrated their unrelenting willingness to engage in criminal behaviour that directly harms other citizens. This resolution called on the federal government to change bail and sentencing laws so chronic offenders

are more effectively dealt with by considering their persistent criminal behaviour. As highlighted in the resolution, a minority of offenders commit most of the violent crime in Canada, and yet the dangerous nature of reoffending by these individuals is not adequately recognized in the current bail and sentencing practices. It is not acceptable that there has been no meaningful action taken to address the troubling and dangerous issues raised since 2008, and unfortunately, many innocent people have been victimized since.

0910

In many cases, incarceration is the only effective means by which to redress the issues of repeat violent offenders and thus reduce victimization in our communities. Specifically, the resolution requested amendments to the Criminal Code to establish a definition for the term of "chronic offender" based on a threshold number of offences committed over a distinct period of time; to establish the principle in bail hearings that being a chronic offender is prima facie proof that section 515(10)(b) and (c) of the Criminal Code have been satisfied; to place the onus on a chronic offender who is facing a bail refusal application to show cause why they should be given judicial interim release; to remove the sentencing principles established in the Criminal Code that require sentencing judges to consider alternatives to incarceration if the case in question relates to the sentencing of a chronic offender; and to mandate ever-increasing sentences of incarceration in cases involving chronic offenders for the specific purpose of decreasing victimization.

Although all of the 2008 recommendations, which could have prevented a significant amount of victimization, remain relevant 15 years later, you will note in the presentations from my colleagues throughout the day that the term "chronic offender" has been updated and is now referred to as "repeat violent offender," with a very specific focus on violent firearm- and intimate-partner-violence-related offences.

As you will hear from Chief Demkiw, Toronto Police Service is advocating for legislative changes associated to discharging a firearm in a congregate setting, and that bail hearings for the most serious firearms offences be heard by a judge of the Superior Court, or at least a judge of the provincial court.

Furthermore, for the protection and safety of the public, currently, police leaders throughout Canada are focused on enhancements to section 515(10)(b) of the Criminal Code that would result in conveying the will of the law-abiding people of Canada and compelling the court to consider factors that must be weighed against the release of accused, such as preventing the commission of a serious offence; the prior commission of a serious offence while on bail; the prior commission of an offence while using a weapon, in particular, a firearm or where a firearm was a party to such an offence; the extent to which the number and frequency of previous convictions of the accused for serious offences indicate persistent serious offending by the accused; and the nature and likelihood of any danger to the life or personal safety of any person or danger to the

community that may be presented by the release on bail of a person charged with an offence punishable by imprisonment of a term of 10 years or more.

It is important to note that unlike many opinions expressed on bail reform, those from the perspective of police services and police associations, like the ones provided today from Chief Demkiw and Chief MacSween, are based on real-world operational experience and the experience of practitioners in our courts that can only come from truly understanding how officers risk their personal safety dealing with dangerous repeat offenders and their mental wellness, while responding to victims who have suffered unimaginable harm and trauma, as opposed to theoretical perspectives and ideologies.

Further to the tragic and preventable murder of Provincial Constable Greg Pierzchala, when we analyzed our data within the Ontario Provincial Police, it identified that violent offenders who committed bail violations in 2021 and 2022 resulted in 1,675 charges for failing to comply, against 587 repeat violent offenders. Of those 587 violent offenders, 464 were involved in serious violent crimes while out on bail. Fifty-six of these serious violent crimes involved a firearm. There is clearly something not working in the system. These figures are concerning and express an immediate need for change.

Ideally, where possible, we prevent crime from happening; however, in cases where that is not possible, more must be done to ensure the Canadian Victims Bill of Rights is appropriately applied. Section 18 of the act explicitly states that it “applies in respect of a victim of an offence in their interactions with the criminal justice system while the offence is investigated or prosecuted” and “while the offender is subject to the corrections process or the conditional release process in relation to the offence.” Furthermore, the act is clear that “every victim has the right to have their security considered by the appropriate authorities in the criminal justice system.”

I strongly believe that Canadians deserve to live free from fear and protected from harm experienced at the hands of repeat violent offenders. Change needs to happen. As police officers, we understand the risks involved in going to work each and every day, but we do expect that the judicial and public safety framework will be in place to support us. Our officers and the public they protect deserve nothing less from their judicial system. Our officers, our community members and visitors to our province deserve to be safeguarded against repeat, known and violent offenders who are charged with violent and weapons-related offences while they are awaiting trial.

In closing, I would like to express my appreciation to Premier Ford and all of the Premiers across Canada for uniting to initiate change, and to this standing committee for adopting this study to ensure the necessary momentum is maintained to prioritize public safety through realizing the change that is needed.

I would also like to thank Chief Demkiw, the Toronto Police Service and the Toronto Police Services Board, as well as Chief MacSween and the Ontario Association of Chiefs of Police, for bringing their proposed strategies and

solutions to address bail decisions that are endangering police and society. I support their suggestions and urge you to adopt them.

Together, with support from our policing partners and government officials, we can expeditiously realize the necessary changes to bail reform, thereby improving the safety and security of Canada.

Thank you. Merci. Meegwetch. I am available for any questions, Mr. Chair.

The Chair (Mr. Lorne Coe): Thank you very much, Commissioner, for your presentation.

Members of the committee, this round of questions will start with the government, please. MPP Hogarth.

Ms. Christine Hogarth: Thank you, Commissioner, for being here. Thank you for your passionate speech a few weeks ago, which was a catalyst for bringing forward this committee. I also want to thank you for your leadership and the leadership of your colleagues, and thank our chiefs of police all across Canada and in our community. I live in Toronto, and we have been harder-hit than others, but that doesn’t make it right or wrong—just because we live in a big city. Crime happens in our small communities and our large communities. I believe, as you mentioned, we all deserve to feel safe in our homes and in our communities. So I want to thank you for your passionate advocacy in bringing this issue forward. I also thank Premier Ford for his initiative for pushing this issue forward to the federal government.

0920

We all have questions we want to ask. We all are going to take our two. My first one is a simple question: Do you believe bail reform will save lives?

Mr. Thomas Carrique: Thank you for your comments.

Yes, I do believe that bail reform will save lives. The experience of police officers in our communities will testify to that. The data where we see repeat violent offenders while out on bail committing further violent acts will corroborate that.

Ms. Christine Hogarth: My second question, then I will pass it off to my colleagues: Do you believe that saving lives should be the number one priority of bail reform?

Mr. Thomas Carrique: Absolutely, I do.

The Chair (Mr. Lorne Coe): Further questions, please, from the government?

Ms. Jess Dixon: Do you agree, sir, with the statement that our current bail system is not actually structured to protect public safety?

Mr. Thomas Carrique: I would agree that there are substantial changes needed to protect the public and protect society within our current bail system. There are components of the bail system that reference consideration needed to be given to public safety when considering secondary grounds, but they are inadequate and in desperate need of significant reform.

Ms. Jess Dixon: What, in your opinion, has been the impact of the principle of restraint legislated?

Mr. Thomas Carrique: Can you further explain your question? Sorry.

Ms. Jess Dixon: The concept of releasing somebody in the least-onerous-for-them form of release.

Mr. Thomas Carrique: I think the impact of that is evident in the story of Constable Greg Pierzchala. You will see it's evident in the information that will be shared with you from Chief Demkiw of Toronto Police—the number of gun-related homicides happening on the streets of Toronto, the number of offenders who have been re-arrested two and three times for violent offences having been released on bail. I think those are the consequences of those decisions.

The Chair (Mr. Lorne Coe): Further questions from the government? MPP Jones.

Mr. Trevor Jones: Thank you again, Commissioner. Having served in uniform and walked in those boots for many years prior to my tenure here, I can empathize. I understand. I have been in that situation. I have been in many of those situations, and I can clearly see some of those situations our front-line members are faced with, not understanding that all their good actions lead to further potential for harm and risk to the communities and the people sworn to protect our communities.

You touched on a resolution that was formulated by the Canadian Association of Chiefs of Police back in 2008. Sir, could you please elaborate on that? Would you say that the issues surrounding bail reform have been long-standing throughout the province of Ontario and in our country?

Mr. Thomas Carrique: Thank you for your service. You bring a unique perspective to the issues that are before the standing committee today.

Yes, I would describe this as long-standing, long-term—an issue that warranted attention back in 2008. There were very practical solutions proposed by the Canadian Association of Chiefs of Police, and here we are 15 years later with no meaningful change to bail reform.

The Chair (Mr. Lorne Coe): MPP Saunderson.

Mr. Brian Saunderson: Thank you, Commissioner, for the hearing here today. Having attended the two funerals in Barrie—three great police constables, one just starting his career and one who could have retired—this is certainly a very important topic and focus of our efforts here today.

My question to you, sir, is following the murder of Constable Pierzchala—you said that his murder was preventable, and you've said that here again today. I'm wondering, in your opinion, what are the immediate legislative actions that could be implemented to help tighten up the bail system?

Mr. Thomas Carrique: Thank you for your question, and thank you for your personal attendance at both of those funerals for the two officers from south Simcoe and Greg's funeral.

There are some very practical and immediate changes that could be made, many of which are included in great detail in the presentation that you'll receive from the Ontario Association of Chiefs of Police. One immediate is reverse onus—reverse onus for a repeat violent offender who has shown a propensity for using firearms. That

reverse onus in itself would prevent significant harm and ensure community safety to an extent that we currently do not enjoy.

Mr. Brian Saunderson: I'll look forward to reading that.

Just as a follow-up: Are there any other ways that you can think of, Commissioner, that our current bail system hinders the work of your front-line officers?

Mr. Thomas Carrique: I don't know if I can think of other ways that the current bail system hinders the work of our front-line officers as much as I can envision opportunities for our officers to work very closely with the Ministry of the Attorney General—local crown attorneys available who specialize in bail hearings, specialize in firearms-related offences, who could work with specifically designated police officers to ensure that bail packages are presented in a manner that results in the conditions that will ensure public safety.

The Chair (Mr. Lorne Coe): Government members, you have 54 seconds left for your questions. MPP Bailey.

Mr. Robert Bailey: Thank you, Commissioner, for appearing here today. Thank you for your dedication and work over the years and, of course, your forces and the other forces that are going to be represented here later today. I don't have much longer than that, but I'll get in on the next round. Thank you again for your service.

Mr. Thomas Carrique: Thank you.

The Chair (Mr. Lorne Coe): I'll turn now to the official opposition. MPP Wong Tam.

MPP Kristyn Wong-Tam: Thank you, Chair. I want to just clarify: The time allocation is 7.5 minutes for the opposition on two rounds, starting now, and does that roll over to—for example, do they run side by side, per deputation?

The Chair (Mr. Lorne Coe): Madam Clerk.

The Clerk of the Committee (Ms. Thushitha Kobikrishna): Each deputation is the two rounds, so you'll have seven and a half, and then we'll go to five, seven and a half, seven and a half, and five.

MPP Kristyn Wong-Tam: Thank you for that clarification.

Good morning, Commissioner. It's nice to see you. Of course, I would also like to personally convey my regrets for the passing of Constable Pierzchala and for all the recent violent incidents that we have seen. This is a very important issue, and I'm very grateful for your presentation. It was very clear.

One of the issues that you've raised that really struck me as perhaps a systemic failure, on wherever it landed—your comments about the resolution from the Canadian Association of Chiefs of Police. That resolution, I think, was very well thought out. It sounded like there was a lot of research behind it. The resolution was presented to who, and what was their response?

Mr. Thomas Carrique: Thank you for your question.

The resolution was forwarded from the Canadian Association of Chiefs of Police to the federal government. I can't specifically say if there was any response to it at the time. However, I can say that it has not resulted in any

changes that reflect the recommendations made in the resolution. I anticipate that in very short order the Canadian Association of Chiefs of Police will be issuing an amended resolution that further expands on the work done in 2018 to focus more specifically on repeat violent offenders and other considerations that should be given due weight when appearing at a bail hearing.

MPP Kristyn Wong-Tam: When your resolution was presented to the federal government in 2008—was that resolution presented anywhere else, or is the responsibility laying only at the feet of the federal government, that their response is the most important? Is there any work that the province could do, that we could do, here at Queen's Park, to keep, number one, officers and the public safe?

Mr. Thomas Carrique: Great question.

The responsibility clearly does lie with the federal government. It requires legislative change to realize the recommendations of that resolution and ensuing resolutions that I anticipate will be forthcoming.

There are things that the provincial government can do. First and foremost, this standing committee is a great first step towards realizing how the administration of the federal laws within our province is extremely important. I know the Ontario Association of Chiefs of Police have made some meaningful recommendations that will assist us in working in continued partnership with the Ministry of the Attorney General.

MPP Kristyn Wong-Tam: I understand that in many jurisdictions across Canada, when it comes to corrections as well as parole supervision, bail supervision, that responsibility has been shifted to the Ministry of the Solicitor General, whereas in the province of Ontario it still rests with the Attorney General. Is there any reason why we should stay on course? Or should there be a compelling reason to follow suit with what other governments and territories have done, which is to shift that responsibility—the resources and the supervision—over to the Solicitor General side, the corrections side?

0930

Mr. Thomas Carrique: I think that the current ministry has taken an important step towards reviewing the use of GPS monitoring devices, which is currently managed by the Ministry of the Solicitor General, and we share in the sentiment, as the Ontario Association of Chiefs of Police, that that is a program that warrants further examination. There are improvements that can be made to that specific program that could enhance public safety.

MPP Kristyn Wong-Tam: In the case of Constable Pierzchala, one of the accused was actually out on bail. He was supposed to be brought in on an outstanding warrant—I believe that's the case—from September, when he missed his day in court.

And we hear that oftentimes—I know in my conversations with front-line officers at the Toronto Police Service, they express frustration that there isn't enough supervision, so therefore there isn't actual monitoring of individuals once they're released on bail, or even if they've been released on surety. Is that your opinion as well—that perhaps we could use more supervision or it

could be clearer, that the pipeline of execution should be tighter? So if the federal government will set the rules, but it's the province that has to go and operationalize it—is that where the weak link is?

Mr. Thomas Carrique: I think there are three pieces to that particular scenario. First and foremost, it starts with these repeat violent offenders not being given bail where that decision is warranted. Secondly, there are additional resources required to monitor repeat violent offenders who are out on bail.

In the case of Randall McKenzie, which you've referred to, he was equipped with a GPS monitoring device. He removed that monitoring device. There were numerous attempts by the police service of jurisdiction to locate him, with no starting point because there was no GPS signal available to them. The police service of jurisdiction appropriately sought a warrant for his arrest, as did another police service, for failing to comply with conditions and failing to appear.

Additional resources to track down repeat violent offenders of that nature would definitely be something that police services across this province would embrace, make good use of, and there would be further enhancements to public safety.

MPP Kristyn Wong-Tam: Thank you, Commissioner. That's very helpful.

Who is responsible for the tracking down, the supervision of those released on bail? Is it the police service, individual police units? Is it compliance units operating out of the different ministries? Correctional services? Who is responsible for making sure that that GPS ankle bracelet stays on the one who has been released? Who is responsible for making sure that they meet their court date? Who is responsible for making sure that they comply with all the bail conditions?

Mr. Thomas Carrique: Ultimately, it's the offender who is responsible. The way the judicial system works, the offender is the one responsible for abiding by the conditions, for attending their court date. Their surety, in this particular case, has additional responsibilities to ensure that the offender abides by the conditions and attends the court date. That is part of the surety process.

There are opportunities to strengthen the surety process, whereby very seldom is a surety required to make a deposit; very seldom do the courts actually call upon the amount of monies that the surety has put forward and take that money as a result of conditions not being abided to.

The monitoring of the GPS devices is the responsibility of correctional services, who engages a third party for the purposes of monitoring those devices.

There are a lot of people who have responsibility, but the responsibility starts with releasing an offender who you are expecting to abide by conditions.

The Chair (Mr. Lorne Coe): Thank you, Commissioner, for that response. That concludes the time for the official opposition. Merci beaucoup.

Monsieur Blais, s'il vous plaît.

Mr. Stephen Blais: Thank you very much for your presentation and your service, and my sympathies to you and all your colleagues for the tragedies of the recent weeks.

I 100% agree that bail reform and additional legislative tools are important, and I have no doubt they will be helpful for you and your colleagues in other aspects of law enforcement. I'm wondering, though, in addition to that, about your view on training for those involved in these decisions, whether it's prosecutors, whether it's the justices. There are provisions already in the Criminal Code for reverse onus. There are provisions for a reverse onus where weapons are part of a party offence, that exist already within the Criminal Code. Clearly, that tells me that in certain circumstances, there is a gap in either the information provided to prosecutors or the training provided to the justices making decisions. I'm wondering about your view on that and if you or the association have any thoughts on how that training or information provision can be solidified or improved.

Mr. Thomas Carrique: I think it's twofold. One, it starts with the direction that is provided in law and the direction that is provided in policy, and that it should be a last resort to detain somebody in custody. Despite whether it's being considered under reverse onus, it is implied in law and through policy where that should be the last resort.

Additional training: Toronto police has done a nice job of highlighting the recommendation to have bail hearings overseen by Superior Court or provincial court judges. They have a higher degree of training. They are formally educated in law. They are the ones who hear these matters before trial and have a greater level of experience. We do feel that they're in the best position to preside over bail hearings that involve violent firearms-related offences. More training for everybody in the system would be a welcome addition. But I think the key is, for those violent firearms-related offences, that it is an actual judge who sits over those bail hearings.

Mr. Stephen Blais: Sure, I think that's probably pretty fair.

The Chair (Mr. Lorne Coe): That concludes the first round of questioning.

I will start the second round of questioning with MPP Bailey.

Mr. Robert Bailey: Welcome, again, Commissioner.

There was a letter sent on January 25 to the Prime Minister of Canada re bail reform by the Toronto Police Service and the Toronto Police Services Board. They presented three additional policy proposals, and they were endorsed as thoughtful and measured by the Ontario chiefs of police and the Ontario Association of Police Services Boards. For the record, and for Hansard, I will read them now and ask you to comment on them. Those proposals were: "an additional route to the charge of first-degree murder under section 231 of the Criminal Code by including a death that results from the discharge of a firearm in a congregated setting;" and "that bail hearings for the most serious firearms offences be heard by a judge of the Superior Court, or at least a judge of the provincial court;" and "that sentencing judges be given the ability, (not mandatory, but discretionary) to increase the parole ineligibility to two thirds of a custodial sentence when the court finds that an offender has discharged a firearm in a congregated setting in committing an offence."

Commissioner, do you agree with these proposals? And if so, why?

Mr. Thomas Carrique: Absolutely, I do agree with those proposals, all three of those recommendations. I think the answer to why will become evident when Chief Demkiw provides you with his presentation. He will provide you numerous examples of firearms being discharged in congregated settings where people have either been seriously injured, killed or impacted psychologically forever moving forward.

The Chair (Mr. Lorne Coe): Further questions from the government, please? MPP Jones.

Mr. Trevor Jones: Good morning, and thank you, through the Chair.

Commissioner, you may have a copy of this already, so forgive me if you don't, but a January 13 letter co-signed by Canada's 13 Premiers unanimously called for the creation of a reverse onus on bail for the offence of possession of a loaded, prohibited or restricted firearm in section 95 of the Criminal Code of Canada. Do you agree with this proposal? If so, please elaborate and tell us why.

Mr. Thomas Carrique: Absolutely, I agree with that proposal. I think the answer to the question why has been articulated in my opening statement and in many of the questions I have answered to this point. We are seeing repeat violent offenders continue to use firearms in the commission of violent offences while out on bail. In certain circumstances, there are no means to protect the public other than incarceration while these repeat violent offenders await trial.

Mr. Trevor Jones: Thank you for that succinct response, Commissioner.

The Chair (Mr. Lorne Coe): Further questions from the government, please? MPP Saunderson.

Mr. Brian Saunderson: Commissioner, you've talked a lot today about circumstances in cases where we have seen tragic outcomes. I'd like to get your sense, as the commissioner of the police of Ontario, of the impact that is having on our front-line officers and what it is doing to the morale.

0940

Mr. Thomas Carrique: Thank you for that very important question.

You will hear from John Cerasuolo, the president of the Ontario Provincial Police Association, and Mark Baxter, the president of the Police Association of Ontario, that it is taking a devastating toll on the psychological well-being of our officers. It is having a detrimental effect on morale. We are having the most challenging time in my 33-year history with recruiting police officers, and this is all part of it.

I had concerning conversations with police leaders across North America just last week, and in one particular case, 27% of an entire recruit class resigned within the first two weeks of training because of the implications of the job, the lack of support that they were feeling for the work that they were doing, the criticism that they were under, and the unsafe environment that they felt they were heading into.

Our officers, my officers, deserve the support of government to ensure that they can police under the safest circumstances and safeguard their psychological well-being. And it doesn't only affect them. It affects their families at home, as well.

The Chair (Mr. Lorne Coe): MPP Kusendova-Bashta.

Ms. Natalia Kusendova-Bashta: Good morning, Commissioner. Thank you for your presentation.

I would also like to add my sympathies to the whole police service for the loss of Grzegorz Pierzchala. I, myself, am a Polish Canadian. Grzegorz was a member of our community, and his loss was felt very deeply. He was involved in the church. He danced in the Polish dance groups. He was a mentor for a lot of our young people. He was very involved in his community. It was tragic that at the age of 28 years old, after he completed his training, on one of the very first calls he received as a trained police officer, this tragedy occurred. It was very impactful for me, because my brother is 28 years old, as well, so I can only imagine the tragic loss and the pain of that family—that life that was lost way too soon.

I also work as a registered nurse in the emergency room, and I often actually work with police officers when we do mental health handovers in the emergency room.

I also attend a lot of career fairs for our young people, and I often see different police forces recruiting—firefighters, paramedics, as well. I watch our young people as they interact with our men and women in uniform and they ask questions about potential careers in policing. What I have seen, and what I think we can all attest to, is that sentiment that perhaps a career in policing or as a first responder is not safe.

What would you say to our young people today who are thinking about their future careers, who are attending these career fairs, but who are also watching the news about the violence that's happening on the TTC? In Mississauga, we have had many Amber Alerts with active shooter scenarios. What can we say to our young people who are considering a career in policing to really encourage them to seek this career? We do need our young people to enter this profession. I know that there are issues in recruiting. I know in Mississauga, at Peel police, there are recruitment issues. How can we encourage our young people to still pursue this career?

Mr. Thomas Carrique: Thank you for sharing how personal the loss of Constable Pierzchala is to you. That is very impactful.

It's a very good question. For me, it comes down to a statement that I made at Greg's funeral: Being a police officer is not something that we just do. It's not just a job, and it's not just for anyone. It is who we are. It is a calling. It is—

The Chair (Mr. Lorne Coe): Commissioner, excuse me. I need to stop your response because the questioning from the government side has concluded.

I now need to go over to the opposition side. MPP Vanthof.

Mr. John Vanthof: Commissioner, thank you very much for being here. My condolences.

Mr. Thomas Carrique: Thank you.

Mr. John Vanthof: I listened very closely to your presentation, and it was very impactful.

What I'd like to ask your opinion on is a statement—the minority of offenders responsible for most of the violent crime. The topic here is the people who—the dangerous ones. How do we separate the problems that they cause, compared to some of the other problems that we have in our bursting-at-the-seams judicial system? There are formative pieces—the people who get ground down by the system and end up in there, and then there are the people who are basically incorrigible.

What we're talking about today is something the federal government can do, but what are the steps the province can do? I just heard that when someone discards their monitoring device, that's the responsibility of the Solicitor General, so that's provincial. What are things that the province can do? I think we all agree that something needs to be done on the bail part, but what can we do in conjunction with that right away?

Mr. Thomas Carrique: Thank you. That is an important question. I'd like to just focus on the first part of it and then speak to the things that we can do as a province.

You will find in all of the submissions today that all of your police leaders, all of your police associations are being very responsible and balanced with their asks. We are very focused on repeat violent offenders who are involved in firearms-related offences or where there is a pattern of violence related to intimate partner relationships. So it is not blanket change that we are asking for; it's purposeful, with restricted scope, very focused on public safety.

As it relates to those who are out on conditions and the example of a GPS monitoring device being discarded, once that device is discarded, it then falls to the police service of jurisdiction to attempt to locate that individual, to bring that individual to justice, who is now breaching their conditions. So additional resources to allow police to be able to focus on those very specific offences—but it is complex, because we need to have enough police officers on patrol in our detachments and in our divisions and in our districts to be able to pull from there to create specialized units and/or taskings to take on these high-risk cases.

Mr. John Vanthof: As I understand it, in discussions with officers in my area and at recruitment fairs, there is already a shortage of police officers to do those things.

Just going back to the monitoring device: Basically, if they discard the monitoring device and they're in the wind, there are likely not the resources to ever find them.

Mr. Thomas Carrique: It's not that there are likely not the resources to ever find them; it entails initiating an actual investigation. You have to establish a starting point. You have to have known locations where they could possibly be located. It undertakes a criminal investigation. It's not as simple as just showing up at the last known address, because they've discarded that device with the intention of not being apprehended. They are now unlawfully at large, and as police, we have the authority and the responsibility and the jurisdiction to apprehend them where possible, but resources are critical in being able to do that.

Mr. John Vanthof: I appreciate that your presentation and, I'm anticipating, the presentations of the other police services—that your requests are so tight, as is the description of what the committee is discussing. It's also very tight, and we appreciate that.

Having said that, are there—and you have lived experience, which I don't—other problems within the bail system that actually could relieve some of the pressure on your officers? Could the province make changes to make your officers have more time to do the things that they were trained to do and that they signed up to do? Being a police officer isn't a job; it's a calling. Are there things that the province could do so you could do your job to the fullest capacity?

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Mr. Thomas Carrique: One thing that we are in consultation with partner police services on now and that we will be working closely with our ministry on is a shared database and business intelligence tools for chronic violent offenders who are on bail conditions, so that information can be shared across jurisdictions. Right now, if I am charged in the city of Toronto and I am brought before the court, then I'm released on bail and I choose to reside in North Bay, there's no mechanism for the OPP officers in North Bay to know that I am residing in North Bay, that I present a risk to community and that I have conditions by which I need to adhere to. So by rolling out this platform, it would allow that information to be shared seamlessly, which would be a significant enhancement (1) to officer safety—you now know who you're dealing with—and (2) to public safety because we can monitor their compliance with conditions in the highest-risk cases.

Mr. John Vanthof: Since this is the—

The Chair (Mr. Lorne Coe): You have less than one minute left.

Mr. John Vanthof: Okay.

The stats in other provinces—are they different than ours for repeat violent offenders because of something that they do differently, provincially?

Mr. Thomas Carrique: I can't speak specifically to the statistics, but the issues are the same, because the Canadian Association of Chiefs of Police has banded together to say this is a national issue that needs to be addressed by the federal government.

The Chair (Mr. Lorne Coe): We're going to move on to our next questioner.

Monsieur Blais, s'il vous plaît. Merci.

Mr. Stephen Blais: On this system that you were just referring to: Where is the gap in doing that? Is that funding? Is it legislative? Is it just technological rollout? What is stopping that from happening?

Mr. Thomas Carrique: There's nothing stopping that from happening. That's an in-process item that is moving along. It was an initiative that was started by Toronto police and Durham Regional Police. They have now built it to the point where it can be available to police services right across the province. Those conversations are actively taking place to advance that with the assistance of the Ministry of the Solicitor General, so I anticipate that we will see that tool available to our front line in the not-too-distant future.

Mr. Stephen Blais: So, “can be available” suggests to me that it's optional. Is the work you're doing with the Solicitor General to make it not optional but mandatory or kind of standard practice, standard equipment, for lack of a better term, or will it remain optional based on local police resources and decisions by local councils etc. to fund it?

Mr. Thomas Carrique: It will take some time and collaboration to ensure that system has the capacity to intake all of the data that is available to us and is accessible to all police services across the province.

The Chair (Mr. Lorne Coe): Further questions?

Hearing none, Commissioner, thank you so much for being here today and sharing your views with this committee. This concludes your presentation, sir. Have a good day.

Mr. Thomas Carrique: Thank you, Mr. Chair, and through you, I would like to thank you and the committee for your attention to this, for the condolences expressed here this morning and for the important work that you have undertaken. Thank you for your service, as well.

The Chair (Mr. Lorne Coe): Thank you, sir. Be safe.

ONTARIO ASSOCIATION OF CHIEFS OF POLICE

The Chair (Mr. Lorne Coe): Committee members, our next presenter is here, and it is Mr. Jim MacSween, who is the chief and first vice-president of the Ontario Association of Chiefs of Police.

Mr. MacSween, when you get yourself seated and you're comfortable, for the record, please, sir, I need your name and your title for Hansard. You have 20 minutes for your presentation, followed by two rounds of questioning.

Mr. Jim MacSween: Good morning to everyone. Thank you to this committee for the important work we're all embarking on here today. My name is Jim MacSween. I'm the chief of York Regional Police.

Thank you once again, Mr. Chair and members of the Standing Committee on Justice Policy. I am honoured to be here on behalf of the Ontario Association of Chiefs of Police, or, as it's known, the OACP. I serve as the OACP's first vice-president and, as I mentioned, the chief of York Regional Police.

I want to begin by thanking the members of this committee for undertaking once again this important work set out before them. The issues around violent crime, particularly when it involves firearms, and the bail process are of concern to not just police professionals but to ordinary Ontarians who want to know their communities are safe.

You've already heard from my colleague Commissioner Thomas Carrique, whose comments I adopt in their entirety. You will also hear from our colleagues representing police associations and, of course, the chief of Toronto police, Myron Demkiw. What you will hear from all of us as police professionals is that we want to work with you, our elected representatives, as well as other justice stakeholders to address the incidence of violent offences committed while on bail in order to achieve a common goal for a safer Ontario.

I also want to make it very clear that the OACP recognizes the charter right of every Canadian to reasonable bail and the fundamental importance of reasonable bail to the presumption of innocence. Safeguarding the legal rights enjoyed by every Canadian is a duty that all of us here today share. However, any system of reasonable bail must necessarily take into account considerations for public safety. This is especially true when it comes to victims of crime and their families and loved ones.

Police leaders remind members of this committee and all lawmakers that we all have an obligation to prioritize listening to and protecting victims of crime on the issue we're addressing today and on all efforts to improve the justice system. Our message to you today as police leaders is this: We want to look at ways to improve how the bail system addresses repeat violent offenders, firearms offences and intimate partner violence. This is an issue that cannot be addressed in isolation and requires a co-ordinated, multi-faceted approach involving all levels of government and criminal justice system actors, including federal legislative reform to the bail provisions in the Criminal Code; provincial amendments to the Ministry of the Attorney General's policies, guidelines and directives on bail; and sufficient resources and funding from all levels of government to ensure adequate staffing and expertise in bail courts, improved training, and sufficient police resources to enforce bail compliance.

I want to briefly touch on a number of areas that we believe all justice stakeholders can work together on to effect real and meaningful change in order to achieve the appropriate balance between the rights of accused persons and public safety, resulting in safer communities while also safeguarding our police members in the vital work they do each and every day.

In relation to legislative changes, the OACP urges this committee to support a focus on repeat violent offenders in relation to public safety considerations and endorse the recommendation for legislative reform presented last year and repeated this month by the Toronto Police Service and its board. We seek your support for federal legislative changes that focus on a review of bail provisions as they relate specifically to serious violent offences; repeat violent offenders; firearms offences, including specific consideration for firearms-possession offences; and intimate partner violence, including clarifying and broadening the scope of reverse-onus intimate-partner-violence offences.

The OACP further urges a focus on creating truly effective reverse-onus bail provisions for the specific offences and offenders that create a substantial public safety risk. The Criminal Code already recognizes that in some circumstances, a reverse onus is warranted where it's presumed that an accused will be denied bail unless the accused can show cause why they should be released from custody pending their trial. A reverse-onus bail provision is narrowly tailored to address specific situations where the ordinary presumption of granting bail would not promote the proper functioning of the bail system, and more particularly, that a presumption of release does not adequately address the risk of pretrial recidivism and absconding.

While a reverse onus is not appropriate for all cases, it is appropriate for cases where there are significant public safety concerns. We're seeking expansion of reverse-onus provisions to include firearm-possession offences, repeat violent offenders and intimate-partner-violence offences where there are prior convictions against an intimate partner, including criminal harassment and distribution of intimate images, regardless of whether overt violence was used or threatened.

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Finally, the OACP recommends legislative amendments clarifying that the ladder principle of release does not apply in reverse-onus bail situations. In all of the above-noted circumstances where public safety dictates a reverse-onus approach to bail, the ladder principle is inappropriate, and the default position should be that the accused must show why their release is appropriate. To echo Commissioner Carrique, in some cases incarceration is the only effective means by which to redress the issue of chronic or repeat violent offenders and thus reduce victimization in our communities.

In relation to the Ministry of the Attorney General, the OACP also urges the government of Ontario to invest in additional crown and judicial resources. Resource shortages in Ontario have resulted in overburdened bail courts and systemic delays. Funding for additional crowns, with a focus on specialized bail/firearm crowns, is required to ensure the bail system works efficiently and in a way that promotes public safety and respect for the charter.

The OACP also encourages more resources aimed at training all persons in the justice system, including justices, judges, crowns and police, to ensure a comprehensive understanding of bail provisions, including considerations of public safety.

The OACP supports a review of the efficacy of the GPS monitoring system programs, which you've already heard from the commissioner today. We have concerns with the reliance on GPS monitoring programs as an alternative to custody, and the potential risk to public safety. We believe this is not always an appropriate alternative to custody for those charged with serious violent crimes and firearms offences. Thus, the OACP would like a review of how participant violations, equipment issues and monitoring issues have been addressed, including device tampering, inclusion and exclusion of zone violations, device equipment failures, low battery, location of individuals, and so on.

Enhanced resources for law enforcement partners are required to assist with monitoring offenders on release and ensuring compliance with conditions. Resource considerations should include funding for technology relating to monitoring, tracking, and compliance checks for those on bail.

In conclusion, sadly, the recent tragic and preventable murder of Provincial Constable Greg Pierzchala is not an isolated incident. Far too often, members of our communities are victims of violence at the hands of chronic, repeat violent offenders who are repeatedly released on bail despite their lengthy criminal records, patterns of escalating violence and documented histories of non-compliance with court orders. For more than a decade, chiefs of police

across Canada have been urging bail reform to redress this ongoing risk to public safety.

In 2020, the current president of the OACP, Chief Nishan Duraiappah of Peel Regional Police, highlighted the need for bail reform in his discussion of the tragic and preventable murder of Darian Henderson-Bellman.

I'd like to take this opportunity to briefly share the circumstances of Darian Henderson-Bellman's murder, but before I do, I'd like to especially thank Darian's family for allowing the OACP and me to share her story with you here today.

In July 2020, 25-year-old Darian was shot and killed by her former intimate partner, who, at the time of her murder, was on bail stemming from a previous incident of intimate partner violence. Since that charge, he had been arrested on four separate occasions for breaching terms of his release by being in contact with her and for being in possession of an illegal firearm. Her family and police struggled to keep her safe, but he was nonetheless released into the community once again with a GPS monitoring device. This was despite clear concerns regarding his risk to the victim and the community, and the potential to continue to reoffend. Within months of his release, he shot and killed Darian.

I'd like to repeat the sentiments that Chief Duraiappah expressed years ago: The criminal justice system failed Darian Henderson-Bellman. We cannot continue to fail our communities. The time for reform is now.

The observations and recommendations we offer today as police leaders are ones that we believe require all justice stakeholders to work together. The OACP is committed to working closely with all of our partners on these complex and important issues.

I'll leave you with this: We all deserve to live and raise families in safe communities, and the system needs to protect everyone. The communities we serve should have trust and confidence in the system, and right now I don't believe that's the case. The opportunity for change is now, to collaborate and do our very best to protect all people from further victimization at the hands of violent repeat offenders, not only across the province but across the entire country.

With that, I'll take any questions you may have, through you, Mr. Chair.

The Chair (Mr. Lorne Coe): Thank you very much, sir, for your presentation.

We'll start with the government, please. MPP Hogarth.

Ms. Christine Hogarth: Thank you, sir, for being here today, and thank you for your service. Thank you for your leadership on this issue.

We were all saddened by the loss of another officer. It touches us all very deeply, and I know there are no words that could be said to share our grief with you.

We talk about how so many innocent people have lost their lives at the hands of dangerous criminals who should have been behind bars and not on our streets. When we talk about this, we can talk and talk, but some things really need to matter—and this matters. I want you to know that it matters to us. We believe the system needs to be fixed,

and we believe that we need to do what we can to fix the system.

One thing you spoke about was intimate partner violence, which is a tragedy that we all hear about too often. We hear stories, which means there are so many that we don't hear; we only hear some.

One thing I'm working on as a private member is a private member's bill called Clare's Law. Clare was someone who was killed by their intimate partner. I'm going to be tabling that in the spring when the House comes back.

I'm going to ask you a similar question that I asked Commissioner Carrique: Do you believe that bail reform will help save lives, including in these intimate-partner-violence situations?

Mr. Jim MacSween: The short answer to that is, absolutely, I believe reforms will save lives.

Ms. Christine Hogarth: One other piece: Do you believe that, because we talk about public safety—and “public safety” were your first words when you spoke today. Do you agree with the statement that we should be saving lives and that should be one of the number one priorities with bail reform?

Mr. Jim MacSween: Absolutely. Bail is a risk management tool. The reality is, the system needs to protect all people equally, and bail reform and changes to the bail system in that narrow lane that we're continually talking about with violent repeat offenders will save lives and will do what it's intended to do.

Ms. Christine Hogarth: Thank you. I'm going to pass it off to my colleagues.

The Chair (Mr. Lorne Coe): MPP Dixon, please.

Ms. Jess Dixon: You talked about the ladder principle. We had Antic in 2017 and then codified in December 2019 with C-75. Can you talk a little bit about what you've seen since the codification of Antic and the reliance on the so-called ladder principle, the idea that you start at the bottom rung?

Mr. Jim MacSween: Well, I think collectively what we're seeing is, more often than not, people who—and I want to stick to those violent repeat offenders. More often than not, those folks are finding their way back out onto the streets. With the ladder principle being that when a crown is arguing on behalf of somebody being kept in custody, and the answer is that they're not kept in custody, that the lowest form of release should be granted to the person to manage them best—so it starts at the bottom rung of the ladder, with the most onerous conditions at the top rung. What we're suggesting here is that shouldn't even apply. We shouldn't even be talking about the ladder principle in these cases because it should be an accused who should be demonstrating why they should be released and not the crown to demonstrate why they should be kept in.

Ms. Jess Dixon: By way of follow-up: Do you feel that, based on what you hear from your officers, our JP is comprehending the idea that “least onerous” does not mean bottom rung—or are you seeing that concept that they're

frequently starting at bottom rung, obviously, undertaking without conditions, and working their way up?

Mr. Jim MacSween: I think that's the consensus, but I will also add there's inconsistency. I think it goes to the comment that Commissioner Carrique made around having those who are the best trained, the most knowledgeable, see those cases at the front end. It always struck me that the most complex and violent crimes are placed before a justice of the peace—and no disrespect to our justices; they do a very good job. But the reality is, on bail review, it goes to a provincial court or Superior Court Justice. Why not have them hear it in the first instance to make sure they're applying the risk management tool as it should be and making sure that those who shouldn't be on the streets aren't on the streets, so we all feel safe and we all are safe?

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The Chair (Mr. Lorne Coe): MPP Saunderson, you have two minutes and 39 seconds left for government questions.

Mr. Brian Saunderson: Thank you, Chief MacSween, for your testimony today. I liked your term about bail being a risk management tool, and you've talked about the need for specific bail teams. The Attorney General's office currently has a guns and gangs bail team, and I'm wondering if you see a usefulness to enlarging that model to include chronic violent offenders like you've spoken about today.

Mr. Jim MacSween: I think anything the government can do to create a more efficient and, particular to your question, more effective way of monitoring people out on bail would be a welcome addition.

There's no doubt about it: We do a great job around guns and gangs, to your comments. But again, there are far limited resources to focus on the numbers of people we find, day in and day out, out on bail. I can tell you that in York region today, there are over 300 people out on bail for gun crimes. We don't have 300 officers just to go out and check on these people on a daily basis.

We have to find a more effective way to manage the people who are out on bail and reduce the numbers of people who are out on bail but shouldn't be out on bail. That's the key, because then the system will be more manageable, because the people who should be managed appropriately on bail—we would all agree that the system needs to be balanced, and there are many people who should be afforded bail. We're talking about that narrow window of people who are repeatedly victimizing our communities, finding their way back onto the streets and allowed to do it once again. Unfortunately, in some circumstances, as you've heard here today, it culminates in people being killed and families having to pick up these pieces for years and years, trying to find, "Where's the sense in the system if it's not doing its best to protect us all as community members?"

The Chair (Mr. Lorne Coe): We're now going to go to the official opposition, please. MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you for your presentation. I found it to be extremely clear.

I want to seek some clarification on the outfit or the unit or the organization or the community organization that's actually responsible for bail supervision. My understanding is that bail supervision does not fall upon the responsibility and under the purview of the police units. Is that correct?

Mr. Jim MacSween: Well, we manage people on bail regularly—

MPP Kristyn Wong-Tam: Supervising them while they're on bail?

Mr. Jim MacSween: Supervising them on bail. We regularly supervise people on bail, based on the unit that laid the charges in the first place. In many cases—for example, if they were out on bail and supervised by a probation officer, for argument's sake, there may be a supervision piece there. But the reality is that the day in, day out checks of people who are out in the community on bail are left to the police of jurisdiction.

MPP Kristyn Wong-Tam: Is it solely the police jurisdiction that's responsible for the supervision of those out on bail?

Mr. Jim MacSween: I don't have a good answer on that. I think it's primarily the responsibility of the police agency of jurisdiction, when people are on bail within their jurisdiction, to monitor those folks.

As an example, in York region, we have a high-risk offender unit. Those posing the most high risk to the community on bail conditions—we check on those folks. We have an intimate partner violence unit. The intimate partner violence unit monitors the people who have committed high-risk intimate partner violence against victims. They regularly monitor those folks who are out on bail.

MPP Kristyn Wong-Tam: Who do the police units that are responsible for bail supervision report to, to ensure that—for example, someone under house arrest. Who is monitoring the fact that they're staying in the home? Is there a surety attached to it? Is it exclusively the police, or is there anyone else who shares that responsibility?

Mr. Jim MacSween: It depends. In some cases, there's a surety; therefore, the surety would be responsible to assist in monitoring that person. It's a shared responsibility across police, sureties, the system itself. The reality is there isn't any one entity that would be responsible—let's say, "This is your job only"—because in some cases, there are sureties attached, and we rely on those sureties to report to police if people are not abiding by those conditions or to remove their surety. That doesn't always happen.

MPP Kristyn Wong-Tam: Because bail and pretrial detention are very complex systems and require, I guess, a whole-of-government, a whole-systems approach, if there isn't one outfit, one unit or one organization that's exclusively "buck stops here" responsible for bail supervision, should there be? It seems to be a rather scattered approach right now.

Mr. Jim MacSween: I can't say. I think that's where the analysis needs to be done and the work has to be done to determine what the best approach is to an effective and efficient management of all those people who are out on bail.

I need to be clear on one piece here: Let's push those people aside for a second and agree on the fact that we all agree many people are appropriate for bail. What I want to land on here is the fact that what we're talking about are those repeat violent offenders. In my view, they shouldn't be managed in the community.

MPP Kristyn Wong-Tam: If those repeat violent offenders, the ones that perhaps there is no pathway to rehabilitation, perhaps it's just much more difficult, there's this special set of circumstances and supports and system changes required to change that violent offending behaviour, whether it's wielding a weapon or discharging a firearm—that requires an expansion of the reverse onus, which is what the police chiefs are suggesting: Let's take a look at how much broader does a reverse onus need to be applied and who it should be applied to.

For the individuals who are kept in pretrial detention longer, while they remain in custody, while they remain in jail—there have been instances and cases where courts have thrown out criminal charges because people have had to stay in jails for too long. The presumption of innocence is then discarded, and then we have people who may be released quicker than what lengthy sentencing they would have faced; for example, if they were in jail or detention for a year and they were facing a life sentence, but it took too long to get them to court.

My question would be, would it work—only by having bail reforms and not having a review of the judicial system and also clearing that backlog? Do we need the two of them working hand in hand?

Mr. Jim MacSween: I think we do. I think there needs to be further investment in our courts, further investment in hiring further crowns, more dedicated crowns to bail courts.

To answer the first part of your question around cases being thrown out, I believe that having judges see these violent repeat offenders at the first instance for bail actually goes a step further, because we have the people who have the most expertise to see the strength of the case at the first instance and make sure that the case that is before the courts is strong enough that somebody should be kept in jail, and if it isn't, then the crown and the police have work to do. The reality is, that would go a long way to making sure that cases aren't thrown out a year later. The investment in courts and further crowns and resources to clear the backlog and create pathways to make sure these trials are expedited will go a long way to solving some of these problems.

MPP Kristyn Wong-Tam: Thank you. Your answer was extremely helpful. I wonder why that recommendation did not come forward, as well, from the chiefs of police who have signed the letter around the resolution and wanting bail reforms, because it sounds clearly like we need to take a look at the system as a whole. The focus has been on the federal government, asking them for bail reforms, expanding reverse onus, but there has been very little talk about actually—

The Chair (Mr. Lorne Coe): Excuse me, MPP Wong-Tam. That concludes the time for the official opposition.

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I'm now going to go to MPP Blais. You have five minutes, sir.

Mr. Stephen Blais: Thank you for your presentation and for your service. I, too, appreciated the detail in your presentation and the fact that you were not simply focusing on a potential legislative change, but also on real-life, tangible, administrative and on-the-job facets that might need to change to make the system work better.

I think I heard you say there are something like 300 high-risk or violent offenders or gun offenders in York region. York region is about the same size as the city of Ottawa, and I know that the eastern Ontario detention centre doesn't have 300 extra spaces in it. So I'm wondering how we figure out that balance. We have to put these people somewhere if we're not going to put them out on bail, so there's a chicken-and-egg problem. I'm just wondering about your view on that.

Mr. Jim MacSween: Again, I think all approaches to bail should be through the lens of public safety. I would argue that some of those people who are in that number, 300, that I gave you—it's slightly higher than 300, and it changes on any given day. There are people in that stat that I gave you who shouldn't be out. I don't have the answer on how we fix—do we need more jails? I'm not going to go there, but what I'm going to say is, if the lens of public safety is used as we apply the approach to bail reform, then I think it goes a long way to getting us to a place where we can make sure the balance is kept and that people have confidence in the fact that the most violent people are kept in through that lens of public safety.

Mr. Stephen Blais: That's fair. I presume, then, through that answer but also through your presentation—and you shared your remarks with us ahead of time—that a simple legislative change, which I agree is likely needed, on its own is not enough. The training needs to be there. The interpretation of the rules needs to be there. The resources to police and other institutions need to be there. The capacity to hold these people needs to be there. There is more than one simple silver bullet with a piece of legislation in Ottawa.

Mr. Jim MacSween: Well, I don't necessarily agree. I think you have to prioritize, and you have to determine what's needed first, what's needed long-term. I think what we're talking about here are long-term, systemic changes that need to be made. The whole system needs to be reviewed, but in particular to sticking with just bail reform, there are things that can be done immediately to make changes and ensure that those who are the most prolific in our society, causing the most harm, should be kept where they need to be kept.

Mr. Stephen Blais: Sure. What I'm suggesting—and I thought I heard you say this explicitly or at least allude to it in your comments—is that some of those changes do not require legislative change in Parliament. Some of those changes are administrative—not the justice of the peace, but the Superior Court judge on the front end. There are changes that are not changes to the Criminal Code that

could be implemented to begin this process of reform, not needing Parliament in Ottawa to act before we start.

Mr. Jim MacSween: Sure, yes.

The Chair (Mr. Lorne Coe): That concludes our first round of questioning.

We're going to start our second round with the government side, please. MPP Jones.

Mr. Trevor Jones: Chair, through you: Thank you for your service to the people of York region and to the Ontario Association of Chiefs of Police—two very important roles and two overlapping mandates.

You said something that had an impact, because I saw the room settle into—you're laser focused. And it's not necessarily an exercise in expanding bail reform but refining it and strengthening it to do one thing: our collective job, restore trust and confidence and focus on repeat violent offenders.

Sir, in both your role as chief and as vice-president of the OACP—your organization statement said unequivocally, the time for action on legislative reform is now. So to expand on my colleague's line of questioning, what specific legislative actions does the OACP recommend be undertaken for that short-term progress we need, and secondly, what are some recommendations to address the failures of the Canadian system in a longer-term approach—the short-term view through the OACP and the longer-term mindset toward bail reform.

Mr. Jim MacSween: Through you, Mr. Chair: Short term, I believe changes can be made in relation to adding sections within the Criminal Code that are appropriate for reverse-onus situations immediately, some of those—without getting into specific sections in the Criminal Code, we're talking about violent offences, firearms offences, intimate-partner-violence offences and offences committed by repeat violent offenders. That is what we're talking about.

I don't have a good answer for what we need to do long-term yet. I think it has to start with the immediacy of what can be done right now, because we've been talking about this since 2008 and even before that. So 15 years later, without meaningful reform to protect society—it's unacceptable. The community believes it's unacceptable, and they're seeing it play out day in and day out on the streets in the province.

I really believe that there are things we can do immediately, like I just suggested. There are other things that can be reviewed medium- and long-term—GPS monitoring, all of what goes on there. But I'd almost call some of this—and I hate to use the term—low-hanging fruit. It's so obvious there are things to be done here that will have an immediate impact on public safety, and we need to act on that collectively and work together on it, because I think that will restore public trust and confidence, and it will actually do what it was intended to do in the first place: protect people and make sure that those who are repeat offenders stop repeat offending.

The Chair (Mr. Lorne Coe): Thank you for that response.

MPP Ke, you have four minutes left for the government questioning. Guide yourself accordingly.

Mr. Vincent Ke: Thank you, Chief. Thank you for your service in York region.

When the atrocity happened in Hamilton, when the young policeman was killed, people were really sad. That's what we know, because the criminals who—it confirmed they should stay where they should be and not just get bail and be free in the street again.

The people are also thinking about where the criminals get the firearms and weapons. The people are thinking about how it's very easy to get an illegal weapon, an illegal gun, on the street. So my question is, I know bail system reform is very important, but do you think that to control the illegal guns at the border—to tighten—is important too? If they don't have a gun, it would definitely not be easy to kill someone. That is all the people's concerns.

Mr. Jim MacSween: Specifically related to guns, I can tell you, in 2022—and I'll use statistics from York region to articulate the point. Is it important? It's absolutely important. It's critical that work be done at the border to control the proliferation of firearms being trafficked into Canada from the US.

I'll give you an example: In York region, we've seen a 4,000% increase in guns seized by front-line officers since 2016. In 2022, we seized 121 violent-crime guns in York region, and of those 121 violent-crime guns, 99% of those guns which were able to be traced were traced to the US. In relation to those crime guns, 31 people who were charged in relation to those guns were breaching court orders when found in possession of the firearm.

So both work hand in hand here. You have violent-crime guns finding their way into the region, you have border issues and the issue around trafficking guns and being traced into the US, and you have these repeat offenders who are repeating once again when found in possession of these handguns. We're talking about 25%—and I would say it's slightly higher.

1030

So is it important? It's absolutely important. It's a different topic, but it's something that is critical to the work we're going to be doing in the next several years to work with the federal government and our partners to find ways to change that. It's a significant issue.

Thank you for that question.

The Chair (Mr. Lorne Coe): MPP Ke, you have one minute for your question.

Mr. Vincent Ke: Also, in York region, even carjacking is a very, very high percentage, because they have the guns there.

Thank you so much for coming to us here.

The Chair (Mr. Lorne Coe): MPP Dixon, you now have 44 seconds.

Ms. Jess Dixon: Can you talk again about what you saw pre-codification of Antic and then COVID versus what we had before?

Mr. Jim MacSween: Anecdotal?

Ms. Jess Dixon: Yes.

Mr. Jim MacSween: I don't have any stats here.

I've been a police officer for 34 years, and I remember a time when we were keeping the people in jail who needed to be kept in jail.

Intimate partner violence has significantly changed. I asked the question one day of our officers: Why am I seeing more and more people who are charged with intimate partner violence finding their way back out onto the streets when, in fact, it should be a reverse-onus situation? That's the reality.

The Chair (Mr. Lorne Coe): I'm now going to go to the official opposition. MPP Wong-Tam, please.

MPP Kristyn Wong-Tam: I want to follow up on that line of questioning because I think it is important for us to understand who's being released, what the conditions are, and when the conditions are breached, who's supposed to monitor and bring them back in. I know that there are a number of instances where we have those repeat offenders out there and then we don't find them again until they've offended one more time. I really want to get to a place where we actually are able to identify who has breached their bail conditions and why they're still out there.

So my question to you would be, when someone breaches their bail conditions, when someone is in the community and they're supposed to be community-supervised—which is generally, I understand, cheaper than having them incarcerated, and of course, the detention centres and jails are full—what are the other implementations that need to be brought forward in order for us to close those gaps?

Mr. Jim MacSween: If you wouldn't mind, when you say "managed in the community" or "monitored in the community"—if you're able to clarify for me what you mean and by who you mean that by.

MPP Kristyn Wong-Tam: There are some offenders who have conditions that they're not supposed to be living in certain congregate settings, close to minors; there are others who are not supposed to be associating with known criminals, staying off-line; there are those who could perhaps be under curfews or house arrest—a number of those conditions, including the relinquishing of their passports. There's a whole series of conditions that are set out in the Criminal Code when bail is issued.

I'm just trying to get to a place where we can understand how to ensure that those bail conditions are met, so we don't keep everyone in jail, because there's also the revolving-door pathway of those who are perhaps further stigmatized, racialized, Indigenous, Black—the over-represented populations that are incarcerated, so that they're not stuck in the revolving-door system, so there is a way for them to be able to rehabilitate.

Mr. Jim MacSween: In relation to all of those various types of recognizances, it kind of depends. If somebody is released on their own recognizance, nobody is monitoring that person because it's left to them. The court has decided that you have to manage yourself and make sure you're abiding by your conditions. If there are more onerous conditions placed on someone—the commissioner talked about a collaborative approach between Toronto, Durham and what will play out across the province, and that will go a long way for us collectively as police services across

the province to do a better job of managing those who are on bail.

The reality is, there are a lot of people on bail who will abide by their conditions, and that's what we would expect—

MPP Kristyn Wong-Tam: That's helpful.

I believe the commissioner also responded that it should be the offender or perhaps the person who has provided the surety who should be responsible for the offender.

Across the country, there are bail supervisors, there are parole supervisors, there are parole officers—there is a whole host of actors who make sure that everyone follows the rules, including the bail conditions.

What I'm hearing from you and the commissioner is that, ultimately, it should be the offender who should be self-policing. Is there no other system that should be organizing that type of supervision?

Mr. Jim MacSween: I can't give you a good answer to that, because I think each situation stands on its own merit. The reality is, there are many people who abide by conditions, so—for argument's sake—to stand up units to monitor people on bail who actually aren't posing the most significant risk to the public is a waste of our time. What we should be doing is managing those who are released on bail who pose the most significant risk, who have been allowed to be out on bail.

As an example, I have five districts in York region. Each criminal investigation unit has its own bail management team. So we manage people on bail—and we know who is out there on bail—but we only have limited amounts of resources to do that.

Again, let's come back to what we're really talking about: We're talking about the lane of people who are violent repeat offenders. Let's fix that. And then the rest of it we can look at in a more long-term strategy on what is the best way to create a bail system that has less people in jail, that manages the people who can be managed out in the community but keeps the people in who need to be kept in—because that's where the public safety risk comes into this. That's what this is really all about.

MPP Kristyn Wong-Tam: Chair, do I have time?

The Chair (Mr. Lorne Coe): MPP Wong-Tam, you have one minute and 59 seconds left.

MPP Kristyn Wong-Tam: I'll try to make this very quick, then.

Thank you for that reply.

If we have someone who is actually kept in detention, awaiting pretrial—understanding how backlogged the courts are and recognizing that justices may end up having to toss out those charges largely because of the denial of justice and the delay in justice, what would you recommend here? I know that we're heading to the bail reforms and going to the federal government, but I can't help but feel like, for us to be able to honestly address this issue around community safety and public safety, including the safety of your officers, we have to have a much more comprehensive approach. Who needs to be at the table when that conversation takes place? Whether it's the crown prosecutors, whether it's justices of the peace, there are correctional system operators, bail supervisors—it needs to have a larger approach. Right now, I'm hearing we need

to get to the federal government, but there are a number of pieces that lay solely in the purview of the provincial government that we're not getting to.

Mr. Jim MacSween: Yes. I think all of the people you just suggested need to be in the conversation long-term, because what we're talking about here is long-term solutions to reforming an entire system.

I would agree that investment in crowns and bail courts and more focused approaches on how we deal with those prolific offenders can be done in the short term. I think we need to focus there and repair what needs to be done so this never happens again, and then, long term, create a strategy with all of the players collaborating across the board on this whole approach to bail.

But the reality is, the bail system works for many people in the province right now.

The Chair (Mr. Lorne Coe): MPP Blais.

Mr. Stephen Blais: I want to just pick a little bit at this computer system that has been referenced a couple of times. Who is leading the charge on that? The previous chief mentioned that it's in the process of rollout. We've seen computer systems be developed very quickly over the last two or three years to deal with the pandemic and other issues. What is the gap right now that's not leading this to be just used everywhere?

Mr. Jim MacSween: I think funding will be a gap. But the reality is we all have resources to bring to bear to make—I can tell you, in York region, I have a complete business intelligence team that's looking at working with Durham and Toronto to bring it into York region. I don't think it's going to be as complex a problem, because it has already been tested and tried between Durham and Toronto. I've seen a presentation on it; it's a fabulous tool. It allows you to have a bird's-eye view of who we're managing.

1040

Mr. Stephen Blais: But the municipal police forces are leading the development and implementation and—

Mr. Jim MacSween: Well, in consultation with the Ministry of the Solicitor General. I don't want to comment too much on it because I know you have Chief Demkiw coming, and I think he'll be able to answer that question much better than I because they're already using it.

Mr. Stephen Blais: That's fair. Thank you very much.

The Chair (Mr. Lorne Coe): Chief MacSween, thank you so much for being here today and for your presentation and your responses to the questions from the official opposition and the government members and our independent member. Be safe.

Mr. Jim MacSween: Thank you, Mr. Chair. Thank you, members of the committee, for taking on this very important work. We look forward to working with all of you.

ONTARIO PROVINCIAL
POLICE ASSOCIATION

The Chair (Mr. Lorne Coe): Our next presenter scheduled is the Ontario Provincial Police Association. Welcome, sir. Good morning.

Mr. John Cerasuolo: Good morning.

The Chair (Mr. Lorne Coe): For the record, Hansard in particular, please introduce yourself, and you will have 20 minutes for your presentation. As you saw earlier, there will be two rounds of questions, which I will moderate.

Mr. John Cerasuolo: My name is John Cerasuolo. I am the president of the Ontario Provincial Police Association.

Thank you for the invitation today to address the Standing Committee on Justice Policy. On behalf of the OPP Association, we appreciate the opportunity to address the issue of bail reform, a cause that is near and dear to the hearts and minds of our membership.

I would like to start by offering our condolences and respect to the family of former Ontario Lieutenant Governor David Onley. Mr. Onley was a faithful participant in our Ontario Police Memorial Foundation ceremony.

I would also like to acknowledge the family, friends and colleagues of OPP Provincial Constable Greg Pierzchala, an exemplary 28-year-old rookie officer who was murdered in the line of duty on December 27, 2022, near Hagersville, Ontario. The service and sacrifice of Greg and the 111 OPP members who have died in the line of duty in the province of Ontario since the OPP was formed in 1909 will never be forgotten. They are our heroes in life, not in death.

We also acknowledge the family and colleagues of our 43 members who have died by suicide since the OPP Association has started recording suicide statistics. I bring these numbers to your attention because I believe that we generally think Ontario is a safe place, and it is rare for us to lose our police officers and support staff in the line of duty or to the tragedy of suicide. Death of our members is real for us, and it is this latest murder of Provincial Constable Pierzchala that has led us to gathering here today.

For those who don't know exactly what the OPP Association does, I would like to give you a short overview of who we are and what we do. The OPP Association works on behalf of all civilian members and non-commissioned uniformed members of the Ontario Provincial Police. Our members work hard every day in our communities. They keep the community safe, healthy and prosperous. They're professional, well-trained, and committed, and they provide effective, cost-effective police services to 324 Ontario communities.

While our members are looking out for our communities, the association is looking out for them. As their sole bargaining agent, we represent our members' interests in negotiations. However, an equally important task is the promotion of healthy, safe work environments. We advocate for better tools, equipment, improved health and safety standards, and better supports for our members suffering operational stress injuries, among other things. These improvements help keep our members and our communities productive and safe.

We recognize that bail reform is a federal jurisdiction. We hope that the federal government is listening and will take action. There is much that can be done at the provincial level as well.

In my presentation, I am going to elaborate on five key areas for our association members throughout this address that I will mention here and circle back to, culminating to

better bail reform and, ultimately, better enforcement. We have staffing shortages. Mental health of our members—we have many members who are burned out due to staffing shortages and the inherent trauma of policing. There are also considerations to enhancements to the Crime Stoppers programs; focused resources on bail compliance checks and their programs; and continued and urgent provincial advocacy with the federal government to create reverse onus on bail for firearms offences and offences of serious assault, violent crimes, assaults and violent crimes with firearms.

I would also like to thank our Premier, the Honourable Doug Ford; the Honourable Michael Kerzner, our Solicitor General; and all the supporting staff and community members for bringing the issue of bail reform to the table, bringing the Premiers and the territorial leaders from across Canada to call on our federal government to consider bail reform in a timely manner. We also note that the Prime Minister has stated that he will look carefully and quickly and that there is a real concern at present.

The OPP Association recognizes and respects the presumption of innocence of accused persons. It also recognizes efforts made in Bill C-75 to deal with systemic issues in our justice system. The bottom line is, there's no excuse for bad behaviour. Those who choose to use a firearm in the commission of a criminal offence need to be held swiftly accountable and should not be released on bail to go out and put our community further at risk. We note that, in Bill C-75, intimate partner violence is now reverse onus on the accused to get bail. We would like to see that for accused persons facing violent firearms-related charges. Enough is enough.

We must be careful to not justify our positions or action on bail reform as an emotional reaction to Provincial Constable Pierzchala's murder. Our members have been dealing with what is known as catch-and-release issues with the bail system involving violent criminals, often involving firearms, for several years. This issue is not new. We have members who have been injured by accused persons out on bail, in addition to being killed.

There have been calls for bail reform for many years from the law enforcement community. They tend to get media attention after law enforcement members are killed. In fact, as a result of 42-year-old RCMP Constable David Wynn being shot and killed north of Edmonton in January 2015, Bill S-217, that aimed to alter the wording of the Criminal Code to make it mandatory for the prosecutor to disclose a suspect's criminal history during a bail application, was defeated at third reading in the House of Commons by the federal government in 2017. We truly hope that when legislative changes are proposed, they will be passed into law so that substantive changes that are needed can occur.

I would like to read you some excerpts from an email that I received from a member in northern Ontario, where I'm from. He's a retired sergeant, John Vandermeer. I'll just read it verbatim:

"I was an OPP officer for 30 years, the last 15 years as a road sergeant with a platoon of approximately 10

officers. I spent my whole career in the Temiskaming area. The current justice system with its catch-and-release procedures is a source of great frustration to police officers. Catch and release is a very appropriate phrase describing what is happening.

"Over the many years, many of my officers have complained bitterly to me about having to apprehend the same criminals time after time when the criminals were once again released rather than being held in custody until their charges were dealt with.

"I have, of course, experienced it myself many, many times over the years. I have had many Friday night arrests where the suspect I was arresting was very violent and force had to be used to restrain and arrest him. After the arrest I often learned the suspect was already facing charges on one or two or even three crimes and had been released on a recognizance each of those previous times. And on the following Monday, despite objections, the suspect would be released again on new charges. And the next weekend, we'd often be dealing with the same suspect again. In the typical situation a person is arrested for a crime and remanded in custody for a bail hearing. At the time of their bail hearing, a person comes forward and agrees to be a surety" and they vouch for the suspect. "The surety often pledges an amount of money, often \$1,000 or higher, but with no deposit. The suspect is then released and often reoffends shortly after. The suspect is arrested again, held for bail, a surety comes forward pledging an amount of money, again without deposit, and the cycle repeats."

1050

As I've stated, I'm going to talk about five areas which I'd like to focus on and elaborate on, which all affect our main goal here today: bail reform and enforcement.

Staffing shortages: The OPP Association records show that 40% of OPP platoons are understaffed. That means that there are fewer officers out on the road and no backup for solo officers, putting them at tremendous risk. The public is not receiving the policing in their communities that they expect. Our officers' safety and health are at risk. Over the next five years, the OPP is going to experience over 1,900 retirements. We are unable to recruit members at the pace we are losing them through attrition. The staffing shortage, we fear, will lead to more officer injuries, and although unspeakable for many of us, more officer deaths. We need the provincial government to radically alter the recruiting process and training facilities that will allow us to hire and train a lot more officers over the next five years. This cannot wait. We need more resources to ensure the public is safe and officers are safe as well. Proactive policing is, quite simply, not happening, as a result of staffing shortages. The element of prevention, of having a visible police presence in the community is lacking at present. We need to re-establish that. To enhance and have units to help with bail reform comes from the front line, and to do that and enhance that—we won't be able to do that.

I'm also going to key in on mental health. Since September 2022, five police officers have been killed in

the line of duty in Canada, four being in Ontario. All of them were ambushed. There is unprecedented violence towards police. When police lose a colleague in this manner, it's a ripple effect amongst the masses. Many officers suffer from anxiety and depression following incidents like the death of Constable Pierzchala. The reality is, many detachments aren't operating at full capacity because a number of officers are out on leaves. While the OPP is fortunate to offer mental health services through our Encompas program, which is an all-encompassing mental health program, our officers and our support staff struggle to return to work when tragedies like this happen. In the last three years, approximately 2,300 of our members and their families have accessed our mental health supports. This issue of mental wellness is directly in relation to the staffing crisis. We need mental health services and are grateful to have them. The bottom line is that we need an increase in staffing and we need it now.

We also need an enhancement to the community Crime Stoppers program. This is something that we've talked about as police associations. As you know, January is Crime Stoppers Month in Ontario. Crime Stoppers needs a much higher profile, with an infusion of funding for public outreach campaigns. It's imperative to utilize the Supreme Court of Canada's anonymity protection of a Crime Stoppers tipster to the best of our ability. More funds are not needed for cash or rewards, as it's proven that the anonymity of Crime Stoppers is much more valued by members of the public than the reward itself. The money should go into public education and outreach by both police and the community so that members of the public can safely and anonymously partner with the police to submit information to keep criminals off the street.

Now I'm going to talk about bail compliance checks. Compliance checks need further resourcing to ensure that those out on bail are adhering to the restrictions that are in place, such as remaining under house arrest and checking with sureties. Sureties also need to be held accountable and actually lose their money when a breach occurs. At present, there is little to no enforcement by the courts to enforce surety obligations. In order to prevent further tragic deaths of police officers and community members, we need to enhance bail compliance check units. We also have to ensure those sureties who fail to notify bail breaches to police are held accountable through estreatment hearings. At present, few sureties who neglect their responsibilities are subject to estreatment hearings. We also need to make the Global Positioning System monitoring program mandatory for all accused persons released on bail for firearms and serious violent offences. At present, it is an optional condition for adult offenders that the presiding justice of the peace or judge at the bail hearing can impose. We should also create a direct liaison between local victim services staff and local police to report concerns of victims of crimes of accused persons who are on bail and are failing to comply with their bail conditions.

This leads me to my final ask: bail reform advocacy. We ask the Premier and the Ontario government for continued provincial advocacy with the federal government,

on an urgent basis, to create a reverse onus on bail for firearms offences and offences of serious assaults with firearms. Specifically, the OPPA fully supports the efforts of the country's Premiers and territorial leaders in calling for a reverse onus on bail to be created for the offence of possession of a loaded prohibited or restricted firearm in section 95 of the code. A person accused of a section 95 offence should have to demonstrate why their detention is not justified when they were alleged to have committed an offence where there was imminent risk to the public, as is already the case with several offences involving firearms. A review of other firearms-related offences is also warranted, to determine whether they should also attract a reverse onus on bail.

In conclusion, I would like to bring us back to the young man that Greg Pierzchala was. He was only 28 years old when his life was cut short. A skilled rookie police constable, he embodied all the characteristics we hope to attract to the OPP. He was passionate about making a difference and helping others in every possible way. He was a gifted athlete. Greg had been a soccer player and a university-calibre wrestler. He was a lover of nature and art, a devoted son and a brother to his two brothers and sister. Greg was kind, always checking on his friends and family, offering advice and inspiration to others. We mourn the loss of Greg not just for what he was when he was killed, but for what he could have been.

We can't lose another police officer because of loopholes in the system. One police officer killed in the line of duty is too many.

It is not just police officers who are being injured and killed by violent persons who are at large on bail pending trial; many members of our community are affected as well.

The police are the ones who end up dealing with the policy failures. We face policy failures each and every day on a multitude of levels. We want to work with all governments and all organizations to enhance the safety of our members and the communities we police.

On behalf of the OPP association membership, thank you for inviting us to the table. We look forward to working collaboratively with everyone for community safety.

The Chair (Mr. Lorne Coe): Thank you, sir, for your presentation.

We're now going to start with the first round of questioning from the government members. MPP Bailey.

Mr. Robert Bailey: Thank you, President Cerasuolo, for your service, and of course to your membership as well.

I've just got one question and then I'm going to yield to my colleagues. Can you explain to me—I'm sitting here, and I can't believe it; I should know more about the bail system. Luckily, I've never experienced it. Maybe that's why I don't know anything about it. Did you say that if I was to offer a surety for an offender and they break that, it doesn't cost me any money? I never have to pay that \$1,000?

Mr. John Cerasuolo: That's correct. They're never held accountable. In 27 years of being a police officer in

northern Ontario, I have never seen a surety held accountable for whatever they've put up.

Mr. Robert Bailey: I thought that's what you said, but I wanted to make sure and get it on the record, because to me that's one of the biggest problems we've got. I wouldn't be putting up the money if I didn't think the individual wasn't going to obey it, if I had to lose something. If I've got nothing to lose, why wouldn't I be a surety for half a dozen people?

I'll turn it over to my colleagues.

The Chair (Mr. Lorne Coe): MPP Hogarth.

Ms. Christine Hogarth: Thank you for being here. Thank you for your service. I appreciate the opportunity to work with you through the Solicitor General's office and Minister Kerzner and Premier Ford, moving these issues forward and coming up with solutions, because as I said earlier, this matters. It's important at our level; it's also important to get the message to our federal government that this is important to everyone, because everyone should feel safe in their homes and in our communities.

I'm going to ask a simple question, the one that I've been asking everyone, because I believe it's an important question to get on the record: Do you believe that bail reform will save lives?

Mr. John Cerasuolo: Absolutely, it will save lives.

Ms. Christine Hogarth: Do you think that saving lives should be the number one priority of bail reform—because we talk about public safety.

Mr. John Cerasuolo: Public safety is an arm of police, so if the police aren't safe, the communities aren't safe.

Ms. Christine Hogarth: Thank you very much. Thank you for your time and energy, for being here today.

1100

Yesterday, I spoke with Craig, one of our OPP officers on Grosvenor, and one thing he mentioned was similar to what you mentioned today about the time and energy and, sometimes, the frustration of finding these criminals, bringing them to justice, and then all of a sudden, they walk out free the next day. Something needs to be done.

Mr. John Cerasuolo: Absolutely. Something needs to be done.

The Chair (Mr. Lorne Coe): MPP Dixon.

Ms. Jess Dixon: You talked about catch and release. What do you have to say about the implications of catch and release in relation to—we had Antic in 2017 and codification of Antic at the end of December 2019. When did catch and release become something that you saw constantly?

Mr. John Cerasuolo: I think it has gradually increased over the number of years, and we've seen more and more. With catch and release, what you see is the escalation of violence, as well, because the offender himself knows that there is no accountability piece there, and depending on his last interaction with the police, it will also determine how the police officers are going to deal with him the next time and what they're going to come to deal with.

Ms. Jess Dixon: You spoke about the estreatment hearings. Have you had any conversations with crown colleagues about the issues in running those hearings and why

they are not happening, perhaps, to the extent that one would wish?

Mr. John Cerasuolo: To this point, no, I have not. But there is that option to do that, and that's not being done. If you hold 10 people accountable, then people will know that if they don't act as the surety and follow the bail conditions, then there is some liability to them.

The Chair (Mr. Lorne Coe): MPP Kusendova-Bashta, you have three minutes and 37 seconds.

Ms. Natalia Kusendova-Bashta: Thank you for your presentation. I'm really listening intently this morning and learning from you and your colleagues.

Could you please explain a little bit more about this reverse-onus condition for bail? You spoke about section 95 of the code, for possession of firearms. Chief MacSween also mentioned, for intimate partner violence, that should also have to use the principle of reverse onus to meet conditions for bail. Can you explain why that's so important?

Mr. John Cerasuolo: I think it's almost a proven fact with statistics about intimate partner relationships. If they keep coming back to that same situation and there's no accountability, it just seems to escalate. Having a reverse onus or strict bail conditions on people who reoffend would assist not only the community, but the victims themselves.

The Chair (Mr. Lorne Coe): Further questions from the government? MPP Jones, you have two minutes and 25 seconds.

Mr. Trevor Jones: Thank you, again, for your front-line leadership and your experienced voice and leadership of 324 Ontario communities.

For the record, how many sworn and non-commissioned and civilian members does the OPP represent? I don't think you said that in your opening.

Mr. John Cerasuolo: We have a little over 5,500 uniformed members and just under 3,500 civilian members.

Mr. Trevor Jones: Mr. President, on January 15 the OPPA said, "There are many issues that need to be addressed to ensure others are not in a situation to take the life of one of our police officers or community members." Would you please outline some of these issues you referenced that need to be addressed specifically, to have them captured on the record?

Mr. John Cerasuolo: There are a few issues that we need to address, and I think I provided that in my five points, my five areas of concern, that I did put out there.

I think the statement itself was something that we needed to put out there—along with the commissioner and his statement that he put out. Between the three associations and the Toronto Police Association, when we all put out our statements, we represent almost 60,000 members nationally, and we needed to get that statement out on behalf of our members to show our support and that we will be behind them in asking for better bail reform. When I say "better"—a lot of times in the discussions that we're hearing, it's "broken." It's not broken. It's just not working as it's supposed to be. That is the main issue.

Like Chief MacSween and the commissioner also stated in their presentations, there are other things that we can do to get some quick responses and things that we can do to get out in front of the public and protect the public.

The Chair (Mr. Lorne Coe): We're now going to turn to the members of the official opposition for their questions. MPP Vanthof.

Mr. John Vanthof: Thank you very much for coming and for your work on behalf of your members. I really appreciated your presentation.

Although the scope of this committee is very tight—it's about violent offenders being released, and it's about how changes to the federal Criminal Code are what's going to make that happen—during your presentation, you also talked about things that could be done within the scope of the province. I didn't realize the surety problem was the way it was, but neither did the government, obviously. So what things could we do? Quicker access to the court system? Is part of the catch-and-release problem because the court system is so clogged up? I don't know. You have more experience with that, obviously, than I do. Could you give us your perspective?

Mr. John Cerasuolo: It's a good question. I don't think there's one answer to that question, absolutely. I think, over the years and into the future, there are things that we can do to improve the system by holding people accountable. That is the main piece. We hold our children accountable when they do little things around the house. I think that's what we need to do—hold sureties accountable to make sure that the accused is following the conditions of the release. Bottom line, that's what needs to be done.

We're not asking for overt conditions or strict conditions. In some cases, you need strict conditions, depending on the violence and what's used in the act itself. But for the most part, we're just making sure that people are held accountable—not only the accused, but if they have a surety, the surety as well.

There are other things that we can do, as well, with GPS monitoring, but I think that needs to grow and we need to really investigate that, because how do you collect the data? Other things that the chief alluded to—when the battery is low, things like that.

The biggest thing? I know in the OPP, from my experience—and this is lived experience that I am presenting here, based on my members—when you charge someone and they are given bail, the investigating officer is usually given that responsibility of compliance. But when you're short-staffed and you have to do calls for service, you don't have the time to get to those compliance checks—although they get done, maybe not as regularly as they should have been done, but you just work with the resources that you do have. That's the biggest hurdle that we have these days. You need human resources and you need financial resources to get these things working properly.

Mr. John Vanthof: I'd like to recognize John Vandermeer for his service in my hometown. That's where he was most of the time. He had a long and distinguished career.

I sensed his frustration. I take it you read his email because his frustration is representative of what many officers face.

Mr. John Cerasuolo: We have many experiences where an arrest is made in Sault Ste. Marie and there's a warrant for arrest in Essex. We will return that person for those charges in Essex. By the time the officers get back to Sault Ste. Marie, that person has been released and they're back in Sault Ste. Marie. It's frustrating.

Mr. John Vanthof: I sense your frustration. We should all be frustrated.

I would like to make clear that that may not be, again, the dangerous offender that we're talking about, but the fact that that's happening also diverts resources from the dangerous offender. Or am I wrong?

1110

Mr. John Cerasuolo: Absolutely, it does.

Mr. John Vanthof: Although we are looking at one specific issue, what the federal government needs to look at, we won't solve the problem unless we look at—after this or in conjunction—the provincial issues.

Mr. John Cerasuolo: It's a continuous process. You can't just look at one thing. You have to look at it collectively. I always say, you need to work on things at the front end so that you don't have to deal with it on the back end.

The Chair (Mr. Lorne Coe): The official opposition has two minutes and 27 seconds left.

MPP Kristyn Wong-Tam: When a person is in the custody of someone who has offered surety, it's the highest standard short of staying in remand. I'm curious as to the relationship that the surety has with the bail supervisor, the court system, the police. How do we ensure that the person who has got the surety, the surety itself, is resourced to be successful? Do they have the proper understanding of what the bail conditions are? Will they understand when it's important for them to flag it for those who are responsible for the ultimate supervision? How do we make sure that the surety is going to be in partnership, so we're not just setting up a system where someone offers surety, they fail, and off they go without any consequences? Losing that sizable amount of money could also be devastating for that family. So how do we make it work?

Mr. John Cerasuolo: I think there needs to be an education piece of the sureties. Many times I've seen in courts, when we had an accused in front of the justice of the peace or the judge for bail, he would ask the accused, "Do you have a surety?" But the conversation is usually between maybe the counsel of record for that accused and the surety. So I don't know what discussion happens at that point. But I know it's not our role to educate them. Maybe there should be some education—a checklist or something like that—so the sureties know exactly what is at risk and what they're accountable for.

MPP Kristyn Wong-Tam: Yes, and what they're supposed to be performing.

Mr. John Cerasuolo: And it needs to be verbal. Sometimes they just give them a piece of paper, and they don't even read it. So there has to be some agreement on that

piece. They do sign the documents of release, that they are being their surety, but when are they held accountable? That's the question.

MPP Kristyn Wong-Tam: Would you consider that as part of the bail reform—that it has to be all connected together?

Mr. John Cerasuolo: Yes.

The Chair (Mr. Lorne Coe): We're now going to MPP Blais.

Mr. Stephen Blais: Thank you for your presentation and for your service to your members and to our community.

I want to go on with this surety question a little bit more. The lack of enforcement on the back end, if it's broken, or the limitation of the low dollar figure for the surety in the first place—is that regulatory or administrative policy that the province has control over on its own, or is that another piece that needs federal intervention?

Mr. John Cerasuolo: I think both could look at that piece. To be honest with you, I've never seen—if you ever watch in the States—million-dollar bails. I've never seen that in our local courts. I think that has to be something that we all have to look at—both the legal side, the justice side of the house, as well as some input from police and the police services.

Mr. Stephen Blais: Certainly, the “release” part of “catch and release” is a lot easier if there are no consequences for the person taking responsibility for that person who is being released.

Mr. John Cerasuolo: We see it day after day.

Mr. Stephen Blais: Yes. That's fair.

The Chair (Mr. Lorne Coe): We're now going to start the second round of questioning with the government. MPP Saunderson.

Mr. Brian Saunderson: Thank you, President Cerasuolo, for your comments today. I've had the pleasure of speaking to your association a number of times when you have your annual general meeting up in Town of the Blue Mountains, and we certainly look forward to welcoming you in the future.

You commented in your presentation that in 27 years, you've never seen a surety held to account for a breach by the offender who is out on bail, and I'm wondering if you can speak to this from your personal experience. When I look at the Crown Prosecution Manual, it says in cases involving firearms, the prosecutor “must” ask that the offender be detained. In your experience, how many times when there's an offence involving a firearm has the offender been detained?

Mr. John Cerasuolo: Depending on the severity of the case—and I think it has been said prior to me, it's case by case. In cases of a homicide and a charge is laid of first-degree murder or second-degree murder, that person is detained. So I'd have to say it's case by case.

Mr. Brian Saunderson: Commissioner Carrique talked about 587 violent offenders who were subsequently picked up. Between them, they had over 1,000 convictions for failing to comply with conditions.

In your experience, how many occasions when somebody out on bail who has called to account for a breach of a bail condition—how many times will they be detained after that? Or will they be released back out?

Mr. John Cerasuolo: Once again, it's case by case—and the number of times that they repeat and are into the same courtroom, sometimes in front of the same presiding justice of the peace or judge. It's not prescriptive.

Mr. Brian Saunderson: So it's not mandatory?

Mr. John Cerasuolo: Right.

Mr. Brian Saunderson: In your experience, would it be more often than not that they're detained or not detained?

Mr. John Cerasuolo: Not detained.

The Chair (Mr. Lorne Coe): MPP Dixon.

Ms. Jess Dixon: When we talk about preventive policing, your staffing shortages and catch and release, can you provide an example for the committee of what that looks like, when what would be preventive policing is not happening because of the resources tasked in picking people up, doing the paperwork—having them back out again in two hours?

Mr. John Cerasuolo: Yes, we call it “proactive policing.” That's what we call “flying the colours,” getting out into the community. We could be doing traffic enforcement. We could be doing RIDE checks. We can be just patrolling the cottage areas in rural Ontario, which primarily the OPP is out and about—we cover over one million square kilometres across the province. So it's those types of patrols. We have dedicated patrols as well, and those become difficult to do as well. Those would be specific, like traffic enforcement—be it commercial motor vehicles, aggressive driving—or it could be marine patrol, snowmobile patrol, things like that.

Ms. Jess Dixon: Again, with your members, have you ever seen cases of sureties being charged as parties to breaches?

Mr. John Cerasuolo: No, I've never seen that.

The Chair (Mr. Lorne Coe): MPP Kusendova-Bashta, you have three minutes and 32 seconds.

Ms. Natalia Kusendova-Bashta: You spoke about the need for better mental health supports for front-line first responders.

Throughout the pandemic, our government has increased support for front-line nurses, paramedics and police officers.

Can you tell us a little bit more about what kind of mental health supports would be beneficial for your members?

Mr. John Cerasuolo: We do have an integrated mental health program that we negotiated in our last contract. It's a 24/7 mental health program. Our members can call in 24/7, 365 days a year. It doesn't matter what kind of crisis they're having. It could be an extreme crisis, or it could be just a minor crisis. This is also extended to their family members, and they can reach out. When an officer is suffering, the family is living it as well. We're quite happy with the government—in our last round of bargaining—that we were successful in gaining that because it has

helped our officers. It helps officers who have been off with OSI injuries for a period of time, and we're seeing success now getting those officers back to work by offering those types of programs.

The Chair (Mr. Lorne Coe): MPP Dixon, you have two minutes and eight seconds left.

1120

Ms. Jess Dixon: When we talk about the idea of OPP and other organizations being able to actually monitor—you've got your guy out in North Bay versus Toronto. Have you done any work as far as looking at the comparisons with the scope system and with what the crowns have available? Of course, crowns have—not a perfect—more ability to see that than sometimes the police do.

Mr. John Cerasuolo: I have not looked into that at this point in time, but that is a good suggestion that we can maybe look into. This is all about a collaboration piece, with police services, police associations and government, to get to a common goal. That is just to make sure we are protecting the public and police and making sure we have everything in line so that we can do that.

The Chair (Mr. Lorne Coe): You have one minute and 10 seconds.

Ms. Jess Dixon: Can you talk more about the practicalities of preparing those bail packages? It's a relatively new thing, where we were actually doing it. What work are you doing with the crowns in order to actually make those usable in time?

Mr. John Cerasuolo: I've been off the road seven years. I didn't inquire with my members on that because I know things have changed. In the past, especially in the OPP and rural Ontario, you prepared the whole bail package yourself, then that got submitted to the court office, and the court office would take it to the crown's office, and from there it would go to bail court.

The Chair (Mr. Lorne Coe): I'm going to go over to MPP Hogarth. You have 22 seconds.

Ms. Christine Hogarth: How important is it that the federal government listens to this conversation today?

Mr. John Cerasuolo: In 22 seconds—very important.

The Chair (Mr. Lorne Coe): To the official opposition: MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you very much for your robust answers. I found it quite refreshing to hear the multi-dimensional thinking about how to solve a complex problem. The issue around police and limited resources has come up several times, actually, with every single speaker so far—about not having enough to do what you need to do.

My question at this point in time would be, are the police doing their sole job of policing, or have your officers and the officers you are aware of across the province been asked to do outside of normal, core police duties?

Mr. John Cerasuolo: Can you be more specific?

MPP Kristyn Wong-Tam: For example, if you were to solely focus on policing core duties, will you have enough officers to do what you do? Right now, you may be asked to do mental health wellness checks, you could be asked to deal with homelessness, you could be asked to be dealing with other very significant matters which may

not be best suited at the hands of the police. You could be a support to that front-line unit, but it's not your core policing duty.

Mr. John Cerasuolo: Absolutely. I think as community members and in our role as police, I don't think we have a problem in any role that we are given. Right now, with the level of police officers out there, we do have a hard time getting to everything that we are asked to. I'm not saying that's outside the scope of policing, because community policing, especially in the OPP, has been a pivotal part of policing. That's how you get to know your community members. That's how you get to know the people in your community. Sometimes, it's the best way to know the criminal element in your community as well.

MPP Kristyn Wong-Tam: If the resources are limited, how do we ensure that policing resources are going to be dedicated to actually dealing with violent offenders and repeat offenders? There may be other situations that are better left to other professionals—therefore, everyone does what they need to do, but we work in better coordination with one another to actually get to a complex situation more comprehensively.

Mr. John Cerasuolo: I think our core police duties are specifically for police. We wouldn't want to send an unarmed person to a violent offender who has a firearm. I get where you're coming from with your point, but when you're enforcing the statutes, be it provincial or the Criminal Code, you need police officers to attend, as well as at any time when use of force is being utilized or justified under the Police Services Act. We are accountable under the Police Services Act. So you have to be very, very careful on that piece.

MPP Kristyn Wong-Tam: Being able to clear up some of the resources that are taken up by non-dangerous offences—it could be said that if we were to try to address the problem and the situation comprehensively—those who are living with mental illness or perhaps addictions and homelessness. If there was a group of service providers dedicated to that and not asking police to do more than they should, especially for non-violent and non-dangerous offences, that would free up the police to actually take on core policing duties. Would you agree with that?

Mr. John Cerasuolo: I somewhat agree, absolutely. But I think working in co-operation with the community groups, sometimes police are needed and required to assist.

MPP Kristyn Wong-Tam: Yes, I do recognize that there are certainly those circumstances.

Ontario's bail and verification supervision programs, I'm starting to gather, are now delivered through a number of contracted agencies, so it's not necessarily uniform across the province. Every single region, every single community and, perhaps, local municipality does it somewhat differently. That is something that seems to have come out through the presentations today. And yet, in British Columbia, bail supervision is delivered solely through the province, through their community corrections division of the Ministry of Public Safety and Solicitor General.

Would it help us in Ontario to follow the BC model by actually getting to a one point of supervision or one point of absolute control over bail supervision, as opposed to it being a scattered approach across Ontario with everyone doing their own thing?

Mr. John Cerasuolo: I'm not totally up on what they're doing in BC, but I think that is something that the lawmakers—if there's something there in BC and it's working—need to look at and bring back.

MPP Kristyn Wong-Tam: I understand that it was a finding of the Ministry of the Attorney General's expert panel on bail that was held in 2013. It was a recommendation that came out. It doesn't sound to me like it was followed up on, but perhaps it's something that we should explore as a committee as we try to find comprehensive fixes to a very complex problem.

Mr. John Cerasuolo: I think that would add to the discussions that we are asking the lawmakers, police services, government and the police associations for, absolutely.

The Chair (Mr. Lorne Coe): You have a little over a minute left.

MPP Kristyn Wong-Tam: Thank you.

I really appreciate your broad and comprehensive analysis of the situation that's at hand. I think you've brought a lot of clarity to the discussion for me today.

With respect to ensuring that we take a broad systemic approach to a complex problem, we are going to be hearing from a lot of police outfits today, but we're not going to be hearing necessarily from all the stakeholders in the judicial and bail supervision communities and providers. Would you say that we need to broaden the opportunity to have those voices included as well?

Mr. John Cerasuolo: I think that would be up to this committee, to have those discussions. I think you're going to get a real good feel from the police services and the police associations of what we're dealing with day in and day out with regard to bail and bail violations and the lack of offenders abiding by their bail conditions.

The Chair (Mr. Lorne Coe): MPP Blais.

Mr. Stephen Blais: I think I heard you say that you agree that the federal government should make the legislative changes around the onus in terms of demonstrating your suitability for bail for certain violence- and weapons-related charges. Is that right?

Mr. John Cerasuolo: Yes.

Mr. Stephen Blais: You've also, throughout your presentation and through the question-and-answer period, said that there are other measures that can and should be taken, whether it's additional human resources, additional financial resources, other regulatory and/or process changes within the provincial system that should also be adopted as part of a broader look at bail reform and helping officers do their job to protect us better.

Mr. John Cerasuolo: Absolutely. It's not just to protect officers; it's ultimately to protect the community, because we are the community.

Mr. Stephen Blais: What measures or what efforts are under way at the moment to address with the various organizations within the province, whether it's the Solicitor

General's office or any other department, to start making progress on those issues?

Mr. John Cerasuolo: I think it's a continued effort. We're going to continue lobbying the federal government, of course. The Canadian Police Association will be taking the lead on that piece and taking that to the federal government. We are also part of the Canadian Police Association, so we'll be part of that as well, and that will be a big part of our lobby day in April. Hopefully we'll have those meetings with the public safety minister that we are asking for and be heard.

Mr. Stephen Blais: But as we've said, much of the process work isn't related to the federal government. There are legislative changes they need to make, to be sure. What other efforts are being made here in Ontario, through your organization or others that you're aware of, to make progress on the surety issue, the resourcing issue, the dedicated-officers issue, whatever those happen to be? As we said, it's not a silver bullet change to one or two lines of the Criminal Code.

Mr. John Cerasuolo: Right. We're going to continue our discussions with the Attorney General and the Solicitor General and keep bringing the concerns that I spoke to today. President Baxter and President Reid will also be bringing some of their ideas forward, and we'll be bringing that forward.

Mr. Stephen Blais: I look forward to those ideas on how the province can actually help, as well.

Mr. Lorne Coe: Sir, thank you very much for your presentation as well as your answers to the questions. Please take a seat in the audience.

Mr. John Cerasuolo: Thank you for all the work that you're doing in taking a real serious look at this.

The Chair (Mr. Lorne Coe): Committee members, thank you so much for your participation thus far. This committee will recess until 1 o'clock. Please try to be in the room by five to 1. We have other presenters.

The committee recessed from 1132 to 1300.

The Chair (Mr. Lorne Coe): Good afternoon, members. I have a proposal for you to consider, please, before we continue with our delegations. I'd like to suggest to the committee that we move the written submission deadline from Tuesday, January 31 at 7 p.m. to Wednesday, February 1 at 7 p.m. to reflect the end of public hearings on Wednesday, February 1. We're not setting a precedent. There have been other circumstances where this has occurred, from my discussions with the Clerk to my right. Is there agreement?

MPP Jones.

Mr. Trevor Jones: Through you, Chair, I'd support that amendment.

The Chair (Mr. Lorne Coe): All right. Madam Clerk, the deadline then has changed as I read it. Please effect that. Thank you.

POLICE ASSOCIATION OF ONTARIO

The Chair (Mr. Lorne Coe): The committee will resume its public hearings on the study on the reform of Canada's bail system as it relates to the provincial

administration of justice and public safety with regard to persons accused of violent offences or offences associated with firearms or other weapons.

I will now call on Mr. Mark Baxter, the president of the Police Association of Ontario, to come forward. You'll have 20 minutes for your presentation, which I will time. I'll let you know when you have one minute left. Following your presentation, there will be questions posed to you by the members of the government and members of the official opposition which, again, I will moderate and time. Please state your name for Hansard, sir, and then you can begin. Welcome.

Mr. Mark Baxter: Thank you. Good afternoon, committee members. My name is Mark Baxter, and I'm the president of the Police Association of Ontario. The PAO represents 45 police associations from Windsor to Ottawa, from Thunder Bay to Durham, and over 28,000 police employees who work every day to keep our communities safe.

I was hired as a police officer in January 2005 by the Brantford Police Service. Prior to my election to this full-time position in June 2021, I was working as a patrol sergeant on the front lines.

On behalf of our board of directors and membership, thank you for inviting me to address this vital issue. It is reassuring to know that policy-makers in Ontario are approaching the challenge of reform in our criminal justice system with dedication and thoughtfulness.

Every day, our members go to work to keep communities throughout Ontario safe. But the current bail system, as it stands, is an obstacle in doing that work. To explain the larger context of how the current bail system is failing to keep our communities safe, I want to share two recent scenarios that allowed for repeat violent offenders released on bail to commit other dangerous crimes. I'm sharing these stories to share with you the real-world impacts of our current bail system.

A few weeks ago, in early January, four Toronto-area men travelled to London, Ontario, and while there engaged in an armed robbery at a gold dealership. The owner was shot, and another worker was injured by blunt force trauma. The four men were arrested a short time later. One of these men who was arrested was on bail at the time of the incident. He had been arrested in Mississauga and was, under the terms of his release, barred from possessing any weapons. Despite his co-accused breaching his bail conditions, another of the four was released from custody on bail two weeks ago. His bail conditions also bar him from possessing weapons. He is also to remain at home. He is not permitted to drive. The court assumes that he will take these conditions more seriously than his co-accused did. All of this was reported in the London Free Press. What was not reported is that it is unlikely that there will be a check to see whether the released individual is complying with his conditions. It's unlikely that the court or the London police were able to inform the GTA police that the individual was released and what the current conditions of his release are. It will not be known if the individual is

staying home, driving a vehicle or in possession of a weapon.

In a different part of Ontario, last May, a man was arrested in Hamilton when his vehicle was stopped after police observed a drug transaction. The co-passenger had a pistol in his waistband, and another handgun was found in the vehicle's trunk. The man arrested was prohibited from possessing firearms at the time of his arrest, charged with firearm and drug offences, and was released on bail three months later. He was ordered to remain in his home. His compliance with those conditions could not be checked frequently, as the Hamilton bail enforcement unit was redeployed to front-line emergency response back in 2021. Police were called to this person's house three months after his release, after the house had been shot at from the street. He was not home at the time, and he could not be located. However, his room contained a large amount of ammunition, fentanyl and cocaine. A few days later, another shooting of a home occurred. The missing man is believed to be responsible. This male continues to be at large, and the Hamilton police continue to search for him.

These are just a few stories of the impacts that the current bail system has on our communities. Our front-line policing members are seeing the negative impacts of Criminal Code amendments, judicial decisions, crown prosecution policies and policing resource allocation decisions every day as they work to ensure that Ontarian families can be safe in their communities.

I'm fortunate to talk to members of the policing community from across Ontario, and what I hear more than anything else is the frustration of our members and of the community members they serve. Our members are frustrated to work within a system that is not prioritizing community safety. They are frustrated by apprehending a known offender one day and being called on their next shift to the same place, for the same reason, to arrest the same person. And community members are frustrated that this continues to happen within their communities. Too often, with each release, the offender's behaviour is worsened and their negative choices emboldened, until the day comes that the individual becomes violent, or more violent, and the result is that someone in our community is injured or killed. Every day, we see the justice system creating a pattern of apprehension, release and reoffending that must be broken in order to protect our communities. Through conversations with front-line members, we've learned that there isn't one specific policy or point along the cycle that needs a simple correction, but that the entire cycle needs reform to fix this system that is failing Ontarians.

First, bail is granted to too many chronic offenders or to individuals who are apprehended while in possession of a weapon. In our view, the courts are fundamentally misapplying the Supreme Court of Canada's decision in *R. v. Antic*. In the *Antic* case, the court made it clear that the bail framework described in the Criminal Code and guaranteed by the charter was being inconsistently applied in bail courts across Canada. The court offered guidance on the steps judges and justices of the peace should take

when administering the bail system. The case reiterated the state of law: that bail should not be denied unless there is just cause to do so, and any conditions imposed on release should only be the minimum necessary. Unfortunately, we are finding that, following this case, it seems nearly impossible to convince a judge or a justice of the peace that just cause exists to commit a person to custody.

The issue is compounded by the provisions of Bill C-75, which made a series of significant changes to the Canadian justice system. With regard to bail, the bill clarified the state of the law as the court had described in *Antic* by codifying the court's guidance as it relates to the use of condition, sureties and cash. It also created a requirement that the court have regard for accused persons who are Indigenous or members of vulnerable populations over-represented in the criminal justice system.

In the government of Canada's own briefing document related to Bill C-75, it is stated that there are three purposes for the bail system in Canada. First, the bail framework is designed to ensure that a person charged with a criminal offence will attend court; second, that the accused will not pose a risk to public safety prior to their trial; and third, that confidence in the criminal justice system is maintained. Unfortunately, given what we are seeing in our community and what we are hearing from law enforcement professionals, due regard is not being given to these purposes. Instead, the legal framework is being interpreted in a way that actually undermines these purposes. Accused persons who immediately pose a risk to public safety are routinely released on bail. This has the potential to revictimize the community, and it undermines public confidence in the criminal justice system. The rights of someone who has been accused of acting violently with a loaded handgun in their possession are prioritized over the safety of community members.

We recognize it is important to consider the over-incarceration of members of vulnerable communities. While some of these accused offenders are members of those communities, so too, often, are their victims, and the current bail framework is failing to protect these victims or the broader community in a meaningful way.

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At the end of the day, it's clear to our front-line members on the road, in our courts and in our jails across the province that the bail framework has been designed in a way that is disconnected from the actual realities of policing and criminal justice in Ontario.

The court, in *Antic*, stated that a pledge to pay or a surety who promises to pay functions in the same way and has the same coercive effect as a cash deposit. This is not true. The reality of the situation is that the crown and the court never seize the surety's property, and the accused individuals know this. A pledge or a surety has the same practical impact of no coercive provision at all. The accused may as well be released on a mere promise to appear. If the crown and the courts continue to be unwilling to seize assets, the Criminal Code must be amended to place a greater emphasis on cash deposits.

We understand the charter requires people not be denied bail unreasonably, but certainly as it relates to chronic offenders and those who have been apprehended while in possession of a prohibited weapon, it is reasonable for the public to expect that in the name of public safety, they will not be released unless there is a compelling reason to do so and a sensible plan to ensure that they are not at risk of reoffending while awaiting trial.

Of course, any change that results in more accused individuals being denied bail must be combined with the appropriate resourcing and provisions that ensure that incarcerated individuals are tried within a reasonable time. If speedy trials cannot be ensured and the resources do not exist to properly evaluate sureties or plans for compliance with conditions, the entire system is at risk of failure.

This speaks to the second point of the issue: the resourcing of our courts and policies of the crown. We have significant concerns that when our courts are considering bail, they are not in possession of the entirety of the accused person's history within the criminal justice system. Certainly, their past convictions will be available, but oftentimes when an accused is facing a litany of charges, many of those charges are dropped by the crown prior to the disposition of the matter. Charges for breach of conditions are among the most likely to be dropped. We find, therefore, that we have accused persons standing in court who have habitually breached their conditions, and neither the judge nor the crown prosecutor is aware—or, if the crown is aware, they aren't permitted to tell the judge. This makes the balancing exercise undertaken by the judge or the justice of the peace incomplete. The Attorney General and the crown must evaluate whether it is a continued best practice to drop breaches from a list of charges when attempting to resolve a criminal matter concerning a chronic offender.

Third and most crucially, when individuals are released with conditions, there is no consistent framework to ensure that they are complying with the conditions to which they have agreed. Across Ontario, dedicated bail enforcement units have been disbanded, with members redeployed to front-line emergency response. In jurisdictions where there are not such units, front-line officers simply do not have the time to do bail checks consistently. Police staffing is at a tipping point. For a variety of reasons, there are simply not enough people doing police work in Ontario today. Be it a police officer or civilian staff such as 911 communicators, shifts are running below minimums, and this has had a corresponding impact on service levels.

We are at a point where many accused persons released on bail are fully aware that there will be little or no checking on their compliance. In the event that there is a check and they are found not to be where they're required to be, there will not be any large-scale search. The only way for police to further interact with accused individuals is if they are caught committing a subsequent crime. This has a significant impact on the safety of our communities.

Having now heard the situation on the ground, it should come as no surprise that our members have stopped referring to the court and the prison system as a revolving

door. For them and for the communities they serve, it no longer feels like the door is revolving, but instead that it is simply wide open.

This leaves our front-line police officers inadequately prepared going into an interaction. Police officers and our impacted community members can no longer take comfort that once someone who is known to be a danger to the public is arrested, they will not encounter that person again. One encounter with an armed and dangerous individual already presents a significant risk for an officer attempting to effect an arrest, but when these dangerous individuals are arrested over and over again, the risk of preventable injury skyrockets.

Every time a dangerous accused is released back into the community, there are several risk factors that could make the next encounter with that individual more dangerous. First, the accused is emboldened by the fact that they walked out of the court with bail conditions that they know are never going to be enforced. Secondly, whatever risk factors have made them predisposed to violence and crime could be exacerbated by the experience of being apprehended. And third, as it relates to gang violence, being released allows tensions between rival groups to escalate because the number of participants is stable rather than steadily declining due to good police work.

As I stated, our members are frustrated, and the communities our members serve are frustrated. And we should be frustrated too. But more than frustrated, I, for one, am worried. I am worried that without drastic action, the situation in our communities will become more dangerous for the people of Ontario and for the people whose job it is to keep them safe. We need action now.

The Criminal Code must be amended to recognize the reality of what is occurring in our communities. A greater emphasis should be placed on cash deposits, which will make released individuals more likely to comply with their conditions. It should be more difficult for chronic offenders and those arrested in possession of a weapon to be released on bail if they have previously breached their conditions or it's clear that they're going to be a danger to the public.

Here in Ontario, the province must help to ensure that compliance checks are happening by committing dedicated resources to police services. Our courts and crown attorneys must learn more about the real-world consequences of both their policies and how they allocate resources, and they must be willing to follow through by seizing property when conditions are breached and ensuring that criminal records reflect an offender's habitual failure to adhere to conditions.

I'll leave you with one final story. Last February, Waterloo regional police were called to the scene of a motor vehicle collision in Cambridge. While attempting to place the male driver under arrest, two Waterloo police officers were stabbed and sustained serious injuries. The man accused of stabbing the officers was charged with various crimes, including assault, possession of a prohibited weapon and dangerous driving. At the time, the man was also charged with breaching his previous release

conditions. To be clear, a man who is dangerous enough to stab multiple police officers was out on release when those stabbings occurred.

I'm very happy to take your questions, but before I do, I would like to close my remarks with a question of my own. When our members are violently attacked, or worse, tragically shot by individuals who have previously been caught with weapons and granted bail, how can our communities maintain confidence in our justice system? How can we keep Ontarians safe when the justice system can't keep all of us safe? Thank you.

The Chair (Mr. Lorne Coe): Thank you, Mr. Baxter, for your presentation.

We're going to the first round of questions, starting with the government members. MPP Dixon.

Ms. Jess Dixon: Sir, in response to your last question, I'm happy to say that is why we are doing this.

Having eight years as a crown attorney—thank you so much for your presentation today. That was incredibly succinct and helpful. We will be paying great attention to what you have said.

In your experience and in your members' experience, are you seeing crown attorneys running the bail hearings and justices of the peace not keeping the offender in, or are you increasingly seeing crown attorneys no longer running the hearings?

Mr. Mark Baxter: I've been off front lines for a year and a half, and it has been a while since I've been in a bail hearing. I can't say what's happening in the bail hearings, unfortunately. I'm sorry.

Ms. Jess Dixon: Just as a follow-up, do you feel—I believe you were referencing this earlier. Do you believe that part of this catch-and-release system can be attributed to Antic and then the codification of Antic and the ladder principles?

Mr. Mark Baxter: Yes, absolutely. We've seen since Antic came out, when that decision from the Supreme Court came out, whenever it was, 2016 or 2017, that's sort of when the door became wide open and we really—I was working front-line policing at the time, and we really started seeing more and more violent, repeat offenders just getting released, whereas prior to that, it wasn't happening, certainly, at the rate that it was happening.

Then, as we moved into 2019 with Bill C-75, which, if I recall, came in somewhere around December—late 2019. Three months later, we were in the pandemic and there became this push to keep people out of our jails. It has really been wide open since that time.

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The Chair (Mr. Lorne Coe): MPP Hogarth.

Ms. Christine Hogarth: Thank you, Mark, for being here. It's always a pleasure to see you. Thank you for your work.

For the record, I just want you to say again how many officers you represent.

Mr. Mark Baxter: We represent 28,000 sworn and civilian members.

Ms. Christine Hogarth: And associations across the province—how many do you represent of different associations?

Mr. Mark Baxter: We represent members from 45 police associations—every police association across the province with the exception of the Toronto Police Association.

Ms. Christine Hogarth: Thank you for the work you do for all our officers, and please extend our thanks. As you know, we stand united behind our police services and their call for change, which is the reason we're here today.

A simple question for you, on behalf of yourself and your members: Do you believe that bail reform will save lives?

Mr. Mark Baxter: Absolutely.

Ms. Christine Hogarth: And do you think that saving lives should be the number one priority of bail reform?

Mr. Mark Baxter: The number one priority of bail reform has to be community safety, ensuring the safety of the public, ensuring the safety of our members, and that includes saving lives and preventing injury.

The Chair (Mr. Lorne Coe): MPP Kusendova-Bashta, you have four minutes and 17 seconds.

Ms. Natalia Kusendova-Bashta: Thank you for your presentation—and thank you to your members for coming to see us every year to really advocate for what your members are expressing. To have that continued dialogue with our government is very important.

As you know, our Premier is a huge fan of our men and women in police uniforms. I believe two of his sons-in-law are actually police officers. So rest assured that you have a good partner in this government.

What struck me about your presentation was this idea of the open door. You said our court and law enforcement system used to be a revolving door but now it's wide open. Can you tell me a little bit more what you meant by that? That is a very powerful visual image.

Mr. Mark Baxter: Our members used to refer to this as this revolving door, where we arrest people and they get out and then we arrest them again, but now it's just—we arrest them, we make some arguments to keep them incarcerated, and they get out. Now it seems like it doesn't really matter what the argument that's put forward is, and everybody just gets out. The door is just wide open. People are arrested—out. That statement came from one of our members. It's really how people on the front lines are feeling.

Ms. Natalia Kusendova-Bashta: I was talking to my colleague MPP Dixon earlier and she said that perhaps COVID and the pandemic accelerated some of these changes. Would you agree with that statement?

Mr. Mark Baxter: Yes, I think so. I think it accelerated, but it's really hard to know because Bill C-75 came in and, as I said, a very short time later, within a few months, we were right into COVID. When we recall the early days of COVID and the fear around COVID, there was a push to release people from our institutions so that we didn't maybe have an outbreak in an institution where all the inmates contracted COVID. So it's really hard to

say whether it's because of COVID or if it was exacerbated by COVID just because we didn't have enough runway for when Bill C-75 came in to when we got to COVID.

Ms. Natalia Kusendova-Bashta: You also mentioned that the crown or the court never actually seizes the property or assets of a surety, and also that the accused know that their bail conditions are never going to be enforced. Why is that the case?

Mr. Mark Baxter: I'm glad that you asked me a follow-up on that. This is a really big issue that we're seeing. An example: An offender gets arrested, and Mom comes to the courthouse. Mom owns her house. Mom offers—they say it's a serious offence; promise to pay \$10,000. They have a house. The person breaches their conditions, and routinely they're not made to pay. The mother comes to court and says, "It's too much of a hardship. I don't actually have the cash. I own a house. I'd have to get a loan against my house to get the cash to pay the court. I can't do that. I don't make enough salary to cover it"—whatever the case may be.

I've never seen, and I've never heard of, any time when a surety has been held responsible for the money that they've promised to put up.

That's the problem with the system, where Antic says promising to pay is the same as giving a deposit; it's not. If Mom came in and had to put up \$10,000 cash to get her son out of jail, and if he breaches, commits another offence, and she loses that \$10,000, that's going to have a big impact across the system, because now Mom, Grandma—they're not going to be so quick to come into court and say, "Oh, I'll be the surety. I'll put it up." Right now, they know they're never going to have to pay if the person that they're saying they're going to be responsible for breaches their conditions. If they have to come in and put cash down and the crown hangs on to that cash when breaches happen, then I think it's going to have a really big impact right away. I think in doing so, the judges—

The Chair (Mr. Lorne Coe): Thank you, Mr. Baxter, for that answer.

The government's questions for this round have concluded.

I'm going to turn to the official opposition, starting with MPP Vanthof.

Mr. John Vanthof: Thanks, Mark, for your presentation. You do a good job of speaking to us all, and you are always very to the point. I'm not saying I agree with everything, but you're always very to the point, and I've always appreciated your discussions.

You brought up several really good points. The purpose of this committee is to see—specifically for violent offenders, people who commit intimate partner violence or are at risk of it—how the Criminal Code should be changed. That's a federal issue which we are talking about.

You also referenced that unless the court has enough resources—I don't want to put words in your mouth—if the court remains logjammed, these people could actually get out because they don't have a trial quick enough. That's a provincial issue. Could you elaborate on that, please?

Mr. Mark Baxter: Certainly. When we're talking about the things that we're talking about today—violent offenders, repeat offenders, offenders who are found in possession of firearms—we should hold them in custody, and we need to make sure that the courts are properly resourced to get them speedy trials. We're not advocating and saying we should hold these people in custody for a long period of time, because we know that when we hold them in pretrial custody for too long—there are examples where they've been in custody for so long and then they get released or the charges get dropped. That's a problem. We need to ensure that we have enough judges, that we have enough crown attorneys, that we have enough courtrooms to be able to hold these trials and hold them in an expedited manner.

Mr. John Vanthof: The issue here is, we need to find ways to keep the people who are at risk of being dangerous—keep the public safe from them, and also keep people who aren't dangerous, who perhaps have been charged for something but who will comply, out of the system until their trial date. Is that—

Mr. Mark Baxter: Yes. Certainly, if someone is found in possession of a handgun—in this country, if you're walking around with a handgun, you have a handgun for one reason: to shoot somebody. This isn't like the United States, where you've got a right to bear arms and you can get a permit to carry a firearm. If you have a handgun and you're walking around our streets in this community, you have that gun to shoot somebody with the intent to kill them.

If you're found in possession of a gun, especially with the technology that our police have today—we've got a lot of officers in a lot of communities wearing body-worn video. If we've arrested someone with a gun, they're most likely guilty, because we have the gun. Maybe we have the officer on body-worn camera who is observed pulling the gun out of the accused's pocket and unloading it on the camera and saying, "Oh, look, the magazine has 14 bullets in it." All of this happens on video; we know that they've done it. We should be holding those people in custody, get them a quick trial. Maybe they will plead guilty. In the circumstances where they're saying, "It's not my gun; it's Susie's gun," that's fine. Then we're going to bring Susie to the bail hearing, and Susie can come and Susie can say that it's her gun, and then we'll deal with Susie.

But that's not the reality. The reality is, people are being found in possession of a firearm, sometimes after having shot someone, and they get released because Grandma has said, "Yes, I promise to pay \$10,000 if they breach." Oftentimes, these criminals are people who—their first interaction with the police or with the criminal justice system isn't the day that they were found to have a gun on them; they've already had previous involvement with the criminal justice system. Those are the folks we should be holding in custody and getting a speedy trial for.

Mr. John Vanthof: I would like to emphasize that if the feds do the one step, then we also have to assure that they have access to a speedy trial.

Mr. Mark Baxter: Right.

Mr. John Vanthof: I've never really thought about sureties before, but I think—and correct me if I'm wrong, because I've been wrong lots of times—for many, a surety would work. If my kid does something wrong—I don't know how the system works—I go to court, put up my house for the kid, fully knowing that I would be at risk of losing the house. There are certain people who would play the system—there are always people who play—but I think for most people, the surety system would work.

Mr. Mark Baxter: Yes, I think so, as well. That's why we're talking about a specific group of offences that have been committed by individuals who are chronically breaching their conditions, committing violent offences, being in possession of a firearm. Those are the ones we're talking about. If one of my children gets in a schoolyard fight and gets charged with assault—or anyone in that circumstance—we're not suggesting that we should be holding those people in custody. We're talking about very serious offences, very serious offenders.

Mr. John Vanthof: I think that is the crux of the issue, a serious offender, but that everyone—because also, part of the bigger issue is that everyone deserves a speedy trial. I have people in my riding who are remanded from their first, and they're in for—specifically, at one institution, and the majority are First Nations. Their first introduction to how our justice system doesn't work is because they're waiting for their trial. That's also something we have to look at. I see you nodding.

Mr. Mark Baxter: Yes, and that, I would say, has been exacerbated by COVID, because there's a backlog in the courts. That's just the reality of what we're facing right now because of COVID.

The Chair (Mr. Lorne Coe): You have 48 seconds, sir.

Mr. John Vanthof: I don't have time for a question, but I would like to reiterate that we really appreciate your directness. You speak in a way lay people can understand, and I really appreciate that.

Mr. Mark Baxter: Thank you.

The Chair (Mr. Lorne Coe): We're back to the second round of questions. MPP Saunderson.

Mr. Brian Saunderson: Mr. Baxter, thank you very much for your time today and for speaking to us on this important topic.

Earlier, I asked a question of Mr. Cerasuolo about morale in the force. You represent 28,000 police officers across our province. What would you say about the impacts on morale of recent events and the failures of the bail system?

Mr. Mark Baxter: It's having a big impact on morale. Our members are frustrated. They're tired, and in a lot of circumstances, they're worried, they're concerned. The four police officers who were killed in Ontario in the last four months were all ambushed. They were killed because they were wearing a uniform, and they were specifically targeted. As we learn more details of Constable Pierzchala's murder—but what we know about Constable Hong and Constable Russell and Constable Northrup is, we know that could have been any police officer. They

were just doing their job. I think as we learn more details about Constable Pierzchala, we're going to learn the same thing. So that has an effect on members' well-being and on their mental health. This creates anxiety around going to work: What are you going to walk into?

Mr. Brian Saunderson: You mentioned that you think the current bail system is an obstacle to keeping all our residents safe, and you talked about the number one priority, to keep our front-line officers and the public safe.

I want to drill down a little farther on MPP Vanthof's questions. In terms of the specific people we're addressing—and you were quite explicit about what that would include. It would include violent offenders, repeat offenders and use of firearms in a violent crime. In your experience, what percentage of the accused population are we looking at when we narrow it down and drill down to just those types of offenders?

Mr. Mark Baxter: I don't have the statistics, but it's a small percentage. I listened to Jim MacSween speak this morning, and he talked about 300 cases last year in York region. When you think about the number of cases that came before the courts in York, in my estimation it would be in the tens of thousands, and he's talking about 300 cases. So the group that we're talking about is a small but very dangerous segment of our population.

Mr. Brian Saunderson: Based on those numbers, we're looking at maybe 3% or less.

Mr. Mark Baxter: Probably.

Mr. Brian Saunderson: In your estimation, then, in terms of resources to look at changes, for example, enforcing sureties and making that mean more—but then in terms of expediting trials, if you're talking about the overall investment in our justice system. This may not be a fair question, and you can tell me you can't answer it, but in terms of increasing our current investment, do you have any idea the order of magnitude of what that would involve?

Mr. Mark Baxter: I couldn't comment on that, no. I'm sorry.

Mr. Brian Saunderson: Fair enough. I appreciate it.

The Chair (Mr. Lorne Coe): MPP Bailey.

Mr. Robert Bailey: Thank you, Mr. Baxter, for coming in today.

I've got one question. No one has touched on it yet, that I've heard, at least, and I've tried to listen to all the testimony so far. The illegal guns that are coming across the border—most of these scoundrels and miscreants who are causing all this trouble. Would the bulk of those firearms be illegal? We've talked a lot about sureties and bail, but we're going to have to really push our federal cousins, our federal courts to enforce the border. Aren't most of these guns illegal? Most of these people shouldn't even have these guns.

Mr. Mark Baxter: Yes. We're seeing that the majority of crime guns that are coming in that are being used in criminal offences are guns that have come from the United States. We've got to do a better job of securing the border and stopping these firearms from coming across the border.

It's my understanding that the Department of Homeland Security on the United States side of the border has made billions of dollars of investments into securing the border, to stop firearms from coming into their country illegally, but we haven't made anywhere near the same investment on our side of the border to stop them from coming in. We need that investment. The CBSA, the border services members, need more resources. They need more tools so that they can stop these firearms from coming across the border.

Mr. Robert Bailey: I know there's a lot of publicity around Sarnia and Windsor, in my area, where they think they're only getting a portion of them. They know that there are more that are coming across that they're not getting.

The Chair (Mr. Lorne Coe): MPP Jones.

Mr. Trevor Jones: Through you, Chair: Thank you, Mark. You've touched on a laser-focused target of a small but dangerous, motivated and deliberate group of criminals who are probably more responsible for the greater cause of violent crimes against officers and against community members, and community victims themselves.

Has your membership identified any other ways that the shortfalls of Canada's bail system have hindered the work of Ontario's police services?

Mr. Mark Baxter: Yes, it hinders our work because we have these offenders who are back out in the community, and we're spending our time and our resources conducting further investigations, assisting victims of crime who have been revictimized by someone who should have been incarcerated and held in custody in the first place.

The Chair (Mr. Lorne Coe): Did you have a supplementary to that?

Mr. Trevor Jones: To follow up on that, I want to highlight something and maybe I can tease it out a little bit. You mentioned the increased dangers if bail is not reformed: (1) It emboldens offenders, because they know there are no consequences legally; and (2) the increase of violence, especially among gang members and gang affiliates, because that population in the community is now reinstated.

Mr. Mark Baxter: Yes, rather than having them incarcerated, where they can't get access to firearms, they're out in the community.

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Mr. Trevor Jones: That's right. You had another point, but I missed that point. Could you bring that up again, Mark? Those two points are salient, and I'm glad you brought those up. Those are new and fresh ideas.

Mr. Mark Baxter: Was the third piece that I talked about that when individuals are released with conditions, there's no consistent framework to ensure they're complying with the conditions to which they've agreed?

Mr. Trevor Jones: Exactly. Yes.

Mr. Mark Baxter: What's happening is, whether parole is responsible for monitoring members who are on conditions—they need to be properly resourced, because

our police departments don't have the resources to be doing—

The Chair (Mr. Lorne Coe): Mr. Baxter, excuse me. That concludes your answer to the question.

We're now going to turn to the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you, Mr. Baxter, for your presentation.

The topic here is bail reform and, specifically, about trying to keep communities safe and to keep violent reoffenders who have used weapons or firearms out of harm's way from the public and, of course, law enforcement officers.

How do we provide considerations for bail so that we capture people who are most likely to breach their bail conditions, who will pose a risk to the public, as opposed to others who may not? How do we get more specific?

Mr. Mark Baxter: Well, I think the framework is there. You're talking about the next level of offenders that maybe aren't committing as violent of offences? Is that what you—

MPP Kristyn Wong-Tam: No, I'm trying to ensure that—obviously, we work in a judicial criminal system that allows for the presumption of innocence. We have the Bail Act. We've got all sorts of other considerations for us to balance. I know that there's a call for stricter, tougher bail reform. How do we make sure we don't sweep up too many individuals but target specifically those who can do the community harm, especially when they are repeat offenders, those who we know are violent, that we should find a pathway through rehabilitation, but to also keep them out of the public's way?

Mr. Mark Baxter: One of the things that we can do, particularly when we've got offenders who continue to reoffend—what happens now is that if someone has been charged, over their time that they've been committing criminal offences, they can be charged with 10, 20 or more breaches, but when they get to court and they plea, those breaches of conditions often get pled away, so there's no conviction registered. So I think one of the things that we can do is a greater job of ensuring that breaching of conditions are charges that are pled guilty to, or that they're found guilty of through a trial. What happens is that when they're before a justice of the peace for a bail hearing, they may only have three or four convictions on their record for previous breaches, but they've had 15 times that they've been charged, but they were pled away. The justice of the peace is never going to know about those 15, which then presents them with—well, they're not understanding the full picture when they're granting bail. I think that's something we can do, as well as get more of those convictions for breaches so that they're in front of the JP.

MPP Kristyn Wong-Tam: My understanding is that most of the bail hearings are presided over by a justice of the peace but not necessarily actual justices, and that for those who have breached their bail, it's unlikely that they would be offered another opportunity to be out on bail again. You're saying that's not true. Those who breach

bail have those bail-breach charges dropped and they're out in the community again, and that's not even before the bail hearing. Is that what you're saying?

Mr. Mark Baxter: Yes. What could happen is, if someone gets arrested, gets released on bail, they breach their condition, they get released again, and then they have their day in court for that set of charges, whatever they were originally charged with, the breach that they had—they may never plead guilty to that breach. Then the next time they're before a justice of the peace, the justice of the peace doesn't know that six months ago this person, when they were convicted of this assault, also was alleged to have breached their conditions. They don't have that information in front of them because it's not a conviction.

MPP Kristyn Wong-Tam: Would you say that's a deficiency of the court system and of the relationship between the crown, the justice, the defence lawyer? Obviously, there are individuals who have this information, but it's not properly before the bail hearing, so those who are presiding aren't able to make fully informed decisions. So where is that deficiency? That's not necessarily up the stream at the federal level. That seems to be sitting squarely within our court system.

Mr. Mark Baxter: One of the things, to be fair, in our justice system, is that I think it's difficult to bring charges that somebody was never convicted of before a justice of the peace. They haven't been convicted of that, so it's difficult to bring those to a bail hearing and say, "Well, this person was alleged to have committed that." I believe that the federal government or someone attempted to pass a bill around this maybe five or six years ago so that these previous allegations could be brought in, but I understand that bill was defeated.

MPP Kristyn Wong-Tam: Time check, Chair?

The Chair (Mr. Lorne Coe): You have two minutes and 46 seconds.

MPP Kristyn Wong-Tam: Thank you.

Another question I would have just tangentially to the point we're speaking about now: How do we ensure that considerations for bail are not prejudicing people who are perhaps caught in the revolving door of systemic failures? Those who are living with addictions, mental health issues, poverty, homelessness, who also could be violent—not everyone is, but they could be. How do we ensure that we're able to make a proper intervention, disrupt that behaviour, break the cycle of violence and actually get people to a place of rehabilitation properly, and at the same time make the court system work to respond to that?

Mr. Mark Baxter: Obviously, having people rehabilitated and giving them opportunities to access resources, whether it's for their own mental health or getting them resources for homelessness or whatever it may be, is really important and we should be assisting those people. The group of offenders that I'm talking about today are ones who have committed very serious violent offences. So, yes, in those scenarios, where they are victimizing members of the community and maybe members of their family—if we're talking about intimate

partner violence—we have to balance the victim and the injuries or the victimization that has taken place with the rehabilitation and having them back in the community ahead of time. That’s why I’m talking about the most serious offenders who are committing violent crimes or who are continually breaching and disregarding court orders.

MPP Kristyn Wong-Tam: Therefore, are people who may be out on bail today more likely to reoffend if they’re not receiving mental health or addiction counselling or supports?

Mr. Mark Baxter: I think that’s a fair assessment, yes.

MPP Kristyn Wong-Tam: And yet, we know that part of the system is also broken, but that is not part of today’s discussion.

Mr. Mark Baxter: Right, it’s not part of the discussion today, but certainly, yes, that’s an area that at some point we need to look at as well. It deals with social services, providing mental health support, getting people connected with resources that we know exist in their communities. We have got to get them to those resources.

The Chair (Mr. Lorne Coe): Thank you, Mr. Baxter, for your presentation. That concludes your presentation. Have a good afternoon.

TORONTO POLICE SERVICE

The Chair (Mr. Lorne Coe): Members of the committee, I’d like to call forward for delegation the chief of police for the Toronto Police Service, Myron Demkiw.

Welcome, Chief. For the record, I need you to identify yourself for Hansard.

Mr. Myron Demkiw: I’m Myron Demkiw, chief of police, Toronto Police Service.

The Chair (Mr. Lorne Coe): Thank you. You have 20 minutes for your presentation. I’ll let you know when you’ve got a minute left. That will be followed by two rounds of questions from the members of the government and members of the official opposition, which I’ll be moderating. Please begin, sir.

Mr. Myron Demkiw: Good morning, Chair. Good morning, members of the committee. Thank you for this invitation and opportunity to appear before you here today on this critical public safety issue.

On Wednesday, January 25, 2023, I and the chair of the Toronto Police Services Board, Mr. Ainsworth Morgan, wrote to the Prime Minister of Canada, Justin Trudeau, in regard to bail reform. The chair and I decided to bring three proposals for reform based on the Toronto Police Services Board last year approving a report which included reforms. We chose to send it directly to the Prime Minister to bring it to his attention in light of the Premier’s request for action. These ideas of reform have been endorsed by the Ontario Association of Chiefs of Police as well as the Ontario Association of Police Services Boards.

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In my time available, I cannot provide an in-depth analysis of the multiple ways gun violence impacts our communities and how the law can and should do better to

prevent, protect and repair the damage it does, but I will provide some insights into this most significant problem. And I want to be clear: No one should misinterpret me and say that I am suggesting legal reform alone will solve these issues; these issues are here as a result of multi-dimensional issues and problems, and the solution will be found by examining them from multiple dimensions.

Toronto, along with many other communities across Ontario and Canada, continues to deal with a troubling number of incidents of gun and gang violence, and far too often, they involve individuals who are out on bail at the time. Even more troubling is that the charges these individuals are on bail for are frequently other firearms offences. Our analysis of Toronto data from 2021 and 2022 outlines with real numbers some of what I am speaking of, and these statistics should be viewed in the context of illegal firearms offences being one of the most significant public threats to our communities.

Here, I will demonstrate what I’ve outlined for you: In 2021, Toronto experienced 46 shooting-related homicides, which is just over half of all the homicides for that year. Of those, we arrested and charged for these offences eight accused persons who were on firearms-related bail at the time they are alleged to have committed the offence, and 17 accused persons who were on any type of bail at the time they were alleged to have committed the offence. In 2022, the numbers again are similar. Toronto experienced 44 shooting-related homicides, which is almost two thirds of all homicides for that year. Of those arrested and charged for these offences, seven were on firearms-related bail at the time of the allegations, and 17 persons were on any type of bail at the time they were alleged to have committed these offences.

The next two slides show the issue we are seeing with those already on firearms bail who commit new firearms offences and then receive additional bails, demonstrating that bails in these limited circumstances have proven to be ineffective. In 2021, 46 people received multiple bails for firearms-related offences within the year, of which 15 people had five or more previous firearms convictions, and 2022 saw similar numbers, as you can see from the slide.

This slide shows how those arrested for firearms offences receive bail yet go on to accumulate new firearms charges and are released yet again on bail. I want to be clear that what I’m talking about here are some of the most serious offences committed multiple times by the same people. In 2021, 772 people were released on bail for firearms-related charges. Of these, 21%, or 165 people, were re-arrested while on bail for more firearm-related charges. Of these people who have now been re-arrested and released for a second time, 60%, or 98 people, were re-arrested yet again for firearms-related charges, and of those, yet another 50%, 47, received bail again, for a third time. You will see on this slide that this troubling trend repeated in 2022 with a series of people being granted bail not once, not twice but three times for firearms-related charges. This data, frankly, I find shocking. I’m not talking about technical charges or simple violations of bail conditions, which are, quite frankly, bad enough; I’m

talking about people allegedly committing multiple new firearms offences while already on bail for a firearms offence to begin with.

Yes, these are yet unproven allegations, and I am certain you will hear that from others appearing before you today, but when contrasted with the firearm homicides and bail data I've just shown you, the link to public safety and firearm bail calls out for urgent action.

It's very difficult to discuss bail reform around gun violence without contextualizing the city of Toronto and gun violence. Over the past eight years, gun violence has increased in our city, not only in the number of shootings and firearm-discharge incidents, but in the number of rounds used, a change in the age of offenders, and an increase in gun-related violence in congregate or public settings.

Here you will see graph details on total shootings and firearm-discharge incidents in 2015, and that's represented by the grey bar. Now we overlay this data with shootings that occur in congregate settings, and you can see at the bottom of the slide the different colours: streets, parks, bars and restaurants. You can see the degree to which there is an opportunity for multiple people to be struck during these incidents who are not involved and could be caught up in the crossfire, with over 60% of gun-related violence occurring in congregate settings, predominantly on streets and in parking lots in our city.

This slide depicts four events that I'm sure members of this committee will recall but I'll bring to the forefront for us. On the left side, you see a food court. That is the Eaton Centre in 2012. Two people died in that shooting. Multiple people were injured, and trauma impacted many, many present. The next picture to the right is of a fence. You can see bullet holes that are circled. That's from a 2018 shooting at a playground in a small park where two children aged five and nine were struck by gunfire. The next slide, middle right, that is 2019, during a wonderful celebration of the Raptors championship, where gunfire erupted near Nathan Phillips Square—not far from here—and four people were shot. Three people were arrested. Others were injured, and trauma was imparted on many present. In the final slide on the right is a 2020 homicide that occurred on Blue Jays Way in the middle of the day. You see, of course, the image, just in the corner, of a small child who was on the street at the time of that event. You see a screen capture of the firearm that was brandished that day, with an extended magazine.

These are just some of the examples of the more well-known shootings that have occurred in Toronto in congregate settings over the years. Some of these have resulted in death, some in serious injury, some in both, and some of these shootings resulted in no injuries, but those present continue to be affected by events. Let's make no mistake, the fact that more people aren't killed by callous, dangerous criminal behaviour is not because of the great skill or care of these criminal gunmen; it is rather luck, and the grace of God, frankly.

Here you will see the total number of firearm discharges in the city since 2015 and the proportion of those that resulted in a shooting, meaning where someone was

injured when the firearm was discharged. They're troubling numbers to be sure, when we are well into the hundreds of shootings in this city alone. This is Toronto alone, to be clear.

Over the past eight years, there has been an increase in the number of shell casings located by police annually in shootings. This coincides with the increase in the number of overcapacity magazines the service has been seizing, along with the seizure of illegal handguns that have been modified to fire in an automatic fashion. You can see from this graph that there has been an overall increase in the number of shell casings recovered by the service, with an average of over 2,200 since 2019. That represents 2,200 bullets that have been fired in this city that we can account for because of shell casings. That does not account for revolvers or shell casings we did not recover.

Here are some excerpts and quotes we received from community members. These are not uncommon, and our members hear this. Frankly, I've heard it from the communities that we serve. They speak for themselves. And while you read these, let me explain further about what we have heard from our communities. Community members and organizations have repeatedly called for greater coordination between the police, community supports, city resources and all levels of government.

Introduced in 2021, SafeTO, as it's called, is Toronto's community safety and well-being plan. It's a 10-year, city-led collaborative plan that includes the development of a comprehensive multi-sector gun violence reduction plan to address the complex challenges posed by gun and gang activity. The goal is to shift from reliance on reactive and siloed responses towards a model of integrated prevention and intervention that addresses upstream root causes. The Toronto Police Service has also committed to additional prevention and intervention initiatives with the creation of the Integrated Gang Prevention Task Force, designed to offer those wishing to escape the gang lifestyle the proper resources, guidance and mentorship to do so.

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Just last week, the Midaynta Somali mothers, who have all lost children to gun violence, some who have lost more than one—a mother who has lost more than one child to gun violence. They appeared before us at our police service board meeting last week to discuss this very issue and pressed for the need for coordination and support. Our board committed \$25,000 to support that work, but clearly more is needed.

Turning back to firearm bail and resources required to manage firearm-related offender bail: Last year, Toronto had over 1,500 people on bail for a firearms-related offence residing within our city. These numbers include people charged in other municipalities who live within Toronto and those whose bail spans multiple years as they await trial. This is clearly a very complex, multi-jurisdictional issue. To assist, Toronto police has developed a bail compliance dashboard to help us with ensuring compliance of violent offenders.

I would be remiss if I didn't take a moment to thank the government of Ontario for their continued support of our

efforts as a police service in Toronto in gun and gang work and, of course, the development of a provincial gun and gang strategy. The challenges Toronto experiences with regard to gun violence clearly radiate across the province. As I'm sure you've heard all morning, and I'll say again: We need to do more.

The board and the service commended three potential reforms to the government of Canada for consideration, and here they are:

First, an additional route to the charge of first-degree murder under section 231 of the Criminal Code by including death that results from the discharge of a firearm in a congregate setting.

Second, we recommend that bail hearings for the most serious firearms offences be heard by a judge of the Superior Court or at least a judge of the provincial court.

Third, we recommend that sentencing judges be given the discretionary ability to increase parole ineligibility to two thirds of any custodial sentence when the court finds that an offender has discharged a firearm in a congregate setting in committing the offence.

The board and the service remain deeply committed to applying a community safety and well-being approach to reducing risk by effectively intervening in a manner that supports the individual so as to prevent future offending and putting in place measures to reduce overall victimization. We believe our three proposals are not in conflict with this general approach, as they relate only to those charged with or convicted of the most serious offences. According to our data, that is a relatively small yet dangerous group of individuals.

A little deeper on the recommendations: The first, as I said, relates to an additional route to the charge of first-degree murder by including death that results from the discharge of a firearm in a congregate setting. Earlier in this presentation, we touched on the impacts of firearms violence in congregate settings. I showed you pictures of what happens in our communities and what our communities are experiencing and how their life looks—you saw in those quotes. This additional route to first-degree would act as a strong deterrent to potential offenders and express Parliament's disapprobation of this conduct.

Our second recommendation calls for bail reform; specifically, that bail hearings for those accused of firearms offences be heard by a Superior Court judge or at least a provincial court judge. Currently, bail decisions are almost exclusively being made by justices of the peace, who may not be legally trained. Judges are uniquely positioned to understand all the issues at play and the collective impact of gun violence and bring these perspectives to decisions about bail for firearms offences. It would ensure that decisions on release or detention for the most serious allegations are made by those who sit in judgment on the ultimate trials and sentencing hearings related to these most serious firearms offences. We have assessed the volume of cases associated with this proposal, and it would be easily managed by the courts. Frankly, it's worth the effort. You should know that this idea was developed with the advice and assistance of criminal practitioners with

decades of courtroom experience on both sides of the aisle. Making this mandatory rather than permissible would clearly convey Parliament's view of the seriousness of these offences and the impact that these offences have on our communities, as well as reflect the legitimate views and concerns of the public about these incidents.

Our last recommendation is on sentencing: that sentencing judges be given the discretionary ability to increase parole ineligibility to two thirds of a custodial sentence when the court finds that an offender has discharged a firearm in a congregate setting in committing the offence. We recommend that this sentencing change be extended to those who are also found to be parties to the offence, as well.

One initiative—not listed, but vitally important—that we are also developing in concert with our crown attorneys is the design of a community impact statement to be used on these most serious firearms offences, so that courts considering bail will better understand the impact these occurrences have on the communities where they occur. We will co-develop, co-design and co-deliver these community impact statements with the communities and the crown attorneys in such a way that the communities feel heard and are heard, and that their rights are appropriately balanced along with those of the accused person. We encourage the government to explicitly endorse them in any reform of the bail provisions. These reforms balance the needs and rights of the community, while respecting the rights of the accused, and will help ensure that firearms offences are effectively dealt with at charge, bail and sentencing phases of criminal proceedings.

We brought forward this call for reform in May 2022, well before any of the most recent tragic, senseless and often preventable killings of police officers in this province. Some may attempt to characterize our ideas as a knee-jerk reaction by law enforcement; they clearly are not. They reflect a deep and long-standing concern about the impact of serious gun violence in our communities—a concern which is absolutely underscored when that violence is perpetrated on those who protect the public.

Gun violence and associated gang activity continue to be the most significant community safety concerns for the people of Toronto and, indeed, for communities across Canada, including the law enforcement community. This criminal behaviour has a direct impact on victims, their families and our neighbourhoods as a whole. Members of our service witness every day the horrific, traumatic and life-altering impact that gun violence has on communities we serve, and of course our members are not immune to that traumatic exposure.

The price paid by law enforcement in this province was unprecedented in 2022 and must stand out as an opportunity to galvanize our call to action with our communities, who have called repeatedly for something to change.

Chair, that brings me to the end of my presentation. I'd like to thank the committee for inviting me, and I look forward to any questions.

The Chair (Mr. Lorne Coe): Thank you, Chief.

We're now going to start with a round of questions from the government members. MPP Hogarth.

Ms. Christine Hogarth: Thank you, Chief. I don't think we've had the opportunity to meet. I am a Toronto member. Welcome. I'm pleased to have you at the helm, sir.

Mr. Myron Demkiw: Thank you very much.

Ms. Christine Hogarth: I have a letter in front of me from the former chief, Chief Ramer, and I was reading through it with some of the stats that you've presented today. I found it interesting that you see some of the numbers, when you look about reoffenders being granted bail, as you mentioned here—in 2019, 2020 and 2021, the numbers seem to have gone down a little bit. Would that be because of COVID?

Mr. Myron Demkiw: I'm sorry, I—

Ms. Christine Hogarth: You may not have that letter in front of you.

Mr. Myron Demkiw: I probably do. I believe you're looking at a police services board report. What page?

Ms. Christine Hogarth: It was on page 6 of the letter. It just says the numbers have gone down for recidivism for persons charged and granted bail.

Mr. Myron Demkiw: Right. There are probably going to be a number of factors impacting that. It would be hard to attribute it to just COVID. Certainly, COVID is a factor. But our ability to track some of this is relatively new, as well, so we're being very careful around determining that there are trends in some of this work.

Ms. Christine Hogarth: Thank you. I just wanted clarification on that one point.

Now I have a question I've been asking everyone, because I think it's an important one.

First, I should say thank you for your service—and to your officers, especially 22 Division, who protect the community I live in.

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We believe public service and public safety are extremely important.

Do you believe that bail reform will save lives?

Mr. Myron Demkiw: I believe that not only will it save lives, but I think it's an imperative for all of us in public service to champion bail reform that's meaningful. The communities that are impacted by gun violence—I cannot overstate this; I have spoken very clearly. You saw just some of the quotes. This is where people live in this city, and the call to action is clear.

Ms. Christine Hogarth: Thank you very much for being so concise.

My second question is, do you think that saving lives should be the number one priority of bail reform?

Mr. Myron Demkiw: Thank you for that question.

I believe that bail reform has many dimensions and many priorities, but saving lives is always top of mind for everything we do, particularly as it relates to the impact of guns on our streets.

Ms. Christine Hogarth: I just want to comment, because you talked a lot about guns in our city, in our community, and I also join your call to the federal

government to jump up on those guns that are smuggled across our borders. I appreciate your efforts. We need to do all we can to stop those guns from coming into our country.

I'll pass it off to my colleagues.

The Chair (Mr. Lorne Coe): MPP Saunderson.

Mr. Brian Saunderson: Thank you very much, Chief, for taking the time to come and speak to us today. It was a very powerful presentation. It's always nice to see the numbers, because they can fly by quickly, but you had some very stark statistics for us today about gun violence in the city of Toronto.

I have another stat, and I'll just get you to confirm this. My understanding from the Toronto Police Service's January 25 letter to the Prime Minister—there was a stat that in 39% of all Toronto firearm-related homicides, the accused involved were out on bail at the time of the alleged offence. Does that sound accurate to you?

Mr. Myron Demkiw: I'd have to look at the year, but yes, it does.

Mr. Brian Saunderson: We've heard from some other witnesses that there's really—what we're targeting is a very small segment of our accused population. We've heard in the past that it would be maybe 3% or less. Do you think that's an accurate statistic?

Mr. Myron Demkiw: I don't want to comment on the statistic because I don't have it in front of me, but we are targeting a small number of the most serious offenders who disproportionately impact and cause harm on our communities. We are laser-focused on the most serious offenders.

Mr. Brian Saunderson: I appreciate that, and I also appreciate your comments about the impacts on the communities. Certainly, in Antic, the court talks about some of our vulnerable populations and racialized populations that might be overrepresented in our prison system. However, we're also hearing from you about the devastating impacts it has on those communities in the city of Toronto.

Chief, in balancing the interests of public safety and then those of the rights of the accused, I certainly get the sense that you're saying it's time for us to maybe shift that balance and take a holistic view of the impacts on our community and public safety when we consider bail in this very small but violent core of repeat offenders.

Mr. Myron Demkiw: I think you raise a very important point in that question. Yes, we need to acknowledge that there are victims, and we owe it to our victims to give them a voice in this process. But you talk about the impact it has in society, and I think we have to also be careful and mindful of—and we have been. We believe in our recommendations, and that is to take care and be guided by the Constitution and the legal principles of our charter in the crafting of reforms, and I believe there are reforms that do just that.

The Chair (Mr. Lorne Coe): MPP Dixon, you have one minute and 43 seconds left in the government's time.

Ms. Jess Dixon: We had Antic in 2017, and then we had C-75 at the end of 2019. Can you comment on what you have seen as far as bail and firearms before Antic and

the ladder of release and what you've seen since the end of 2019?

Mr. Myron Demkiw: Well, that's one of the challenges we were talking about earlier in the stats. Our ability to analyze some of the impacts of bail has been enhanced over the last couple of years. The view that we need going backwards is not quite what we'd like with our data. But what we can say is that gun violence has continued to rise. We can say that we've had a number of cases where people are out on bail committing gun crimes again, so there's a growing concern. If you look at the number of rounds fired, there's a change in criminal behaviour that's very concerning as it relates to public and community safety. So we know that gun crime has changed over the course of that time.

The Chair (Mr. Lorne Coe): MPP Kusendova-Bashta, you have 37 seconds.

Ms. Natalia Kusendova-Bashta: Maybe I will just quickly pose my question and you can respond in the next round.

I was looking at the statistics you presented in terms of bail for firearms-related charges in 2021 and then in comparison to 2022. It seems that the number of repeat offenders who are re-arrested and receive bail for a second time for the same offence has gone up from 2021, in which it was 50%, to 71%. So if I'm correct in reading these statistics, the number of offenders who are—

The Chair (Mr. Lorne Coe): Thank you very much, MPP Kusendova-Bashta. We'll have to circle back, maybe, in round 2.

We're now with the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: Chief, thank you very much for your presentation. In your slide deck, I recognize that almost all your comments were really restricted to bail reform for firearm offences. The amendment and the study before us is about violent offences, especially those using weapons as well as firearms. But your presentation was very sculpted and tailored. Are these recommendations only about firearm charges?

Mr. Myron Demkiw: Correct.

MPP Kristyn Wong-Tam: Do you want to share with us your recommendations when it comes to bail reform on the other type of offences, including the scope of the study today, which includes the use of weapons? Is it comparable or is there a big deviation?

Mr. Myron Demkiw: Thank you very much for that question. That's a complicated question, frankly. I believe bail reform broadly is something that is long overdue. I think there's an entire system here that needs to be examined.

We're focused very much on gun violence because that's the most pressing issue in this city, and our reforms are specifically focused around that call to action that our communities have made in the city. But I believe that there's an opportunity for a broader discussion, as you're having. So any opportunity to make the ability to control those offenders who will not be otherwise adhering to bail is something that needs to be examined. I believe I spoke

to, and it has been alluded to, that there are other supports that need to be brought to bear in different circumstances. I think bail reform is an opportunity to have a discussion around being able to bring that kind of support to bear on those who are before the courts

MPP Kristyn Wong-Tam: That's very helpful just for my understanding of the presentation directed to where—and maybe I'm going to open up my line of questioning to things that were not touched upon in your presentation but still part of what we have spoken about all morning and afternoon here.

Ontario's bail verification and supervision programs are delivered right now through a range of contracted agencies, and it's not always uniform across the province. This is something that has come up with previous presenters. In British Columbia, they do have a province-wide approach when it comes to bail supervision as well as monitoring.

Would the province of Ontario benefit from having a more unified approach from edge to edge of the province?

Mr. Myron Demkiw: I'm sorry; what was the last part of that?

MPP Kristyn Wong-Tam: Would the province of Ontario benefit from having a province-wide, uniform approach to bail supervision and monitoring?

Mr. Myron Demkiw: Absolutely. I'll tell you, just on the gun file itself, we developed a bail dashboard which provides us the type of insights that I think are scalable to other types of bail, to provide a unified picture of what the community is experiencing as it relates to released offenders in a community—the types of conditions, the type of offences that are being managed. It allows the police to be better equipped to be responsive to community safety needs based on the bail conditions that exist within the society or the community they're policing in. So we've developed a dashboard out of our gun and gang work that is very much scalable in that regard, I'd expect.

MPP Kristyn Wong-Tam: I understand that dashboard—the bail supervised program—is sharing data with the Peel Regional Police. We know that municipalities are very porous. People come from all sorts of places; they leave Toronto and they enter Toronto and every other regional municipal jurisdiction. Has that tool been provided to the provincial government? Are they aware of it? Are they perhaps funding it? Is there any desire to scale it up, especially if there's a proven test model that it works?

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Mr. Myron Demkiw: That's a great question, and I appreciate the opportunity to discuss this directly. It's actually Durham Regional Police that we've partnered with already.

I will tell you there is greater awareness in the policing community broadly. Tomorrow, in fact, we are presenting to the Ontario Provincial Police this very dashboard. There is definitely an impetus to expand the utility of the dashboard and to resource the analytics and the people it takes to bring that to life, so that we have a consistent view

across the province as it relates to managing offenders out on bail.

MPP Kristyn Wong-Tam: I'm going to ask questions around bail supervision, because that's something that has obviously been a topic.

Do you believe that there should be a unified compliance monitoring of bail conditions, and if so, who should do that work?

Mr. Myron Demkiw: Well, I think there needs to be the ability to monitor bail consistently across jurisdictions, so to the first part of your question, yes, I believe there needs to be. I do believe that there is a very important role for local police to play in that. We've learned from other work that one of the only 24/7 agencies that are available to respond to public safety issues is, quite frankly, the police, and when we build infrastructure that is not responsive when needed, it comes back to the police. So the police, at the very least, are a key partner in this, if not the main participant, because we are the only 24/7 agency in this specific space.

MPP Kristyn Wong-Tam: And because you're the only 24-hour outfit that's responding to these matters, for those who are living with mental illness or perhaps complex care conditions—people living with psychosis and addictions—would it benefit the police to have increased services and supports for those vulnerable populations, so that the police are not called to do that type of work?

Mr. Myron Demkiw: I think you raise, again, an important point. Why I specifically spoke of SafeTO as multi-dimensional, looking at this problem from many different angles—one of them is, of course, that there are other elements of care required in some of these circumstances. Whatever type of bail people are on, there may be other issues of concern. We see that in our gang prevention and gun prevention work, where there are other resources that are required. We just are uniquely placed to put them in touch with those resources. So when those resources are available, there is an opportunity to enhance our ability, for sure.

MPP Kristyn Wong-Tam: When those resources are not available, where do the police refer those individuals for support?

Mr. Myron Demkiw: Well, right now we partner with whatever agencies are available. There are definitely opportunities to grow that capacity.

MPP Kristyn Wong-Tam: Would someone out on bail be less likely to fall into breach if they were receiving the mental health, addictions and other supports that they require in order for them to meet compliance?

Mr. Myron Demkiw: That's a very broad statement, respectfully, but I think—

The Chair (Mr. Lorne Coe): Chief, I need to interrupt you. That concludes the questioning from the official opposition.

MPP Blais.

Mr. Stephen Blais: Thank you, Chief, for coming. I apologize that I missed your presentation, but I had a chance to look at the deck earlier this morning.

Unless I missed something, the recommendation that's in your deck on bail reform is relating to having a Superior Court justice or other provincial judge conduct bail hearings, instead of a justice of the peace. Is that the limit of your recommendations vis-à-vis bail reform, or are there other elements that you think should be changed?

Mr. Myron Demkiw: The recommendations are also—well, as far as bail specifically, we believe that a very effective step forward would be having a Superior Court judge listen to the bail, but there's other law reform in this space that we're recommending.

Mr. Stephen Blais: Yes, absolutely. So why don't we talk about that, then, for a second—your recommendation for the changes to first-degree murder in congregate settings. By “congregate settings,” do you mean any public space, or are you thinking of institutional spaces, schools, churches etc. Would a shooting in a park be considered a congregate space, or out at a mall plaza or something?

Mr. Myron Demkiw: That's an excellent question. I think to define “congregate setting” would be the work. We certainly are looking at the impact of shootings in our public spaces. To define it for the purpose of this recommendation obviously would take some further discussion in committee rooms just like this, to better define what would fall into a legislative reform.

What we do know is that shootings in public spaces put people in harm's way as a result of the potential for cross-fire in far too many cases, and we need to examine how we can better reflect our concerns in that regard in our legislation. When someone is killed in a place like the Eaton Centre, that needs to be treated as something uniquely different.

Mr. Stephen Blais: Fair enough.

Following up on some comments from MPP Wong-Tam in terms of how offenders are supervised once they have been released and who bears responsibility for that etc., do you feel that the information you have available at your disposal or the disposal of the officers you have doing this work is sufficient, or is there more information that is needed for your guys to handle this?

Mr. Myron Demkiw: I would say that's an evolving bit of work. There are always opportunities to better understand the information that helps inform where to put our greatest attention and where the justice system needs to focus more succinctly. So I would say that's evolving work.

Mr. Stephen Blais: But is your information about individuals sufficient? Do you have ready access to the fact that person X is out on a gun-related or otherwise violent offence and is at risk of continuing that type of activity because of XYZ history, or is there an information gap, or a fog of war, so to speak, for your officers trying to do that work?

Mr. Myron Demkiw: As I said, we are evolving in this space our ability to actually capture the data and report it out in a visualized way that can be used. That capacity is growing, and it needs to continue to be invested in, because that is definitely something we need more of to

better understand the environment we're operating in and the risk our communities are exposed to.

Mr. Stephen Blais: Do you think that investment or the management or leadership on that particular initiative or type of initiative is best suited for a local police force to then coordinate across the province, or should one of the ministries take responsibility for trying to coordinate that across the province? Should the OPP take responsibility? Where is that best housed in terms of achieving the results you need?

Mr. Myron Demkiw: In my experience, I will tell you that I have great confidence that Toronto police will provide the necessary leadership to share this tool that we are developing and enhance and grow the tool with our policing partners. Our policing partners are quite seamless in this regard, and quite frankly, we work very jointly incredibly well on many files, and will on this file.

The Chair (Mr. Lorne Coe): We're now going to start the chief's second round of questions, starting with the government members.

Just a reminder to help the Chair and help my Clerk: Hands up when you want to speak, please. It makes it easier for us to track and record for Hansard as well.

We'll start with MPP Kusendova-Bashta.

Ms. Natalia Kusendova-Bashta: I was wondering if we could bring up the presentation again, very quickly, on the slide that says "Bail for firearms-related charges." In the meantime, I just did quick math on that slide. Chief, you mentioned that in 2021, 772 people were arrested on bail for firearms-related charges, and of these, 165 people were rearrested while on bail, again for firearms-related charges. Of these people, 60% were rearrested again, so that's about 99 people, out of which 50%, which is about 50 people, were released on bail into the community once again in 2021. Following the same math, in 2022, 29 people were released onto the streets of the city of Toronto after being arrested twice for the same offence. They were released into the community.

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So my question is with regard to the morale of your police officers. They're doing their job. They're arresting people. They're bringing them in front of the judicial system. But if they're seeing the same people reoffending and then getting released back into the community, at one point they're going to wonder—if they're doing their part of the job, which is bringing these criminals in front of the justice system, but the system is failing them because they're seeing the same people reoffend. In the streets of Toronto alone, in the last two years, 79 people reoffended on the same offence and were released into the community. I am just wondering about the morale of your police officers, who are putting their lives at risk every single day to do their job and bring these criminals in front of the justice system.

Mr. Myron Demkiw: I appreciate you raising that issue.

I will tell you, we have incredible police officers in this city who, quite frankly, rush into harm's way day in and day out and do it in a most admirable way, notwithstanding

the bureaucracies or justice system challenges that we all are challenged with from time to time.

I really draw our attention to not just the police perspective, but our communities, who have expressed quite clearly a discontent with how things are going. And when we look at bail and the primary, secondary and tertiary grounds and the confidence in the justice system, there's a conversation to be had about, at what point is that confidence rocked and at which point is it challenged? We're just not getting this done to protect our communities—and of course, 2022 saw our officers suffer from gun violence in a uniquely horrible way. I think our police officers certainly do get frustrated by these things, but they always rise to the challenge. In this city, they always do and always will rise to the challenge, because that's who they are and that's what they do. But our communities have spoken clearly.

Ms. Natalia Kusendova-Bashta: A very quick follow-up: If we were to continue with these numbers and to see a third offence and a third release, would you say that there would still be individuals in our community who re-offended for a third time and were released for a third time?

Mr. Myron Demkiw: Yes.

Ms. Natalia Kusendova-Bashta: That's shameful.

The Chair (Mr. Lorne Coe): MPP Dixon, you're at 4:07 left.

Ms. Jess Dixon: Chief, I'd like you to speak frankly about where the role of the crown attorney is in this, because, of course, the crown is responsible for vetting the bail files, for deciding to run the hearing and for ultimately running the hearing. In your work with the crown, are they making the right decisions as far as running the hearing? Are they running the hearings as zealous advocates and then running up against justices of the peace? Are we not running the hearings at all? What is happening?

Mr. Myron Demkiw: I'll say this: Our crown attorneys and our Ministry of the Attorney General partners are exceptional partners with us. We benefit in this city from an integrated environment with our gun and gang crowns, and what we have found is an amazing relationship. They do everything possible to put forward the best possible case and reflect the concerns of the community, the judiciary, the justice system and the constitutional considerations.

What we are doing to help our crown attorneys is, we've created bail support teams, a small group of officers who work very closely with crown attorneys to present the best possible information for the crown to have in the morning when these decisions are being made. In the speed and flow of technology, whether it's video evidence or other, and to get it in front of—hopefully at one point—a Superior Court judge in the most serious gun offences, but today, mostly in front of the justice of the peace. We want the best possible package in front of them so the most informed decision can be made.

We are shoring up our capacity as much as we can, and I believe the ministry is doing everything they can from a crown attorney's perspective. Could we use more resources on both sides in that space? Yes.

Ms. Jess Dixon: Just a brief follow-up: Basically, you are bringing all the resources to the table, and the crown is. Is this, therefore, ending up at the justice of the peace, where you have given the best argument you can, and we are still seeing a release happening due to, essentially, legislation and common law?

Mr. Myron Demkiw: I think that's at the heart of our recommendation—to put some of these most serious offences in front of the Superior Court, because this is where the best legal training is. This is where judges are who eventually are presiding over these cases and who understand the true impact these offences are having on our communities, and have, quite frankly, the best legal experience to make these decisions.

The Chair (Mr. Lorne Coe): MPP Jones, you have one minute, 36 seconds.

Mr. Trevor Jones: Through you, Chair: Thank you, Chief. As a long-serving police officer myself, you said something that resonated with me, and that's the concerning change in the criminal behaviour, especially the violent firearms-related criminal behaviour, that was distilled in your presentation and focused your service to focus on these firearms offences.

Tell me about the long-standing issues that require bail reform—because I agree this is not a knee-jerk reaction, even though you face unprecedented officer violence and community violence.

Mr. Myron Demkiw: The CACP has been calling for action for many, many years, and there are resolutions, of course, that have been before the CACP and new resolutions that are evolving as we speak and sit here today. The call to action in the policing community and in other circles has been long-standing, but I believe that this sense of urgency has to be now. If not now, then when? The level of gun violence in this city can never, ever, ever be normalized. We talk about numbers in abstracts. We need to understand that all of these are real events impacting real people and leaving them traumatically impacted for the rest of their lives, if not scarred. In worst-case scenarios, they're no longer with us.

The Chair (Mr. Lorne Coe): We'll now move on to the official opposition. MPP Vanthof.

Mr. John Vanthof: Thank you very much, Chief, for your presentation, for your answers. Today reminds me what an incredible opportunity it is for a farm boy from Timiskaming to be able to talk to the chief of police of Toronto.

On one of your slides, it said that some people waited years on bail for a trial. I wrote it down—it said “multiple years” on bail as they await trial. So that tells me that the court system is too slow.

Mr. Myron Demkiw: Well, the courts have been clear on that.

Mr. John Vanthof: You also mentioned that for potentially dangerous offenders, it would be better for judges to look at their bail, as opposed to a justice of the peace. I don't disagree with that. To make those things come true, do we have to invest more in the court systems in Ontario?

Mr. Myron Demkiw: The cases that I'm referring to in our recommendation are the most serious firearms offences. There's around a dozen, maybe 13 offences, that we've focused on, and we're talking about somewhere in the neighbourhood of over 100 cases. I would suggest that that's manageable in our present environment and, certainly, the impetus for action is now, given that—we can get that done with our present construct.

Mr. John Vanthof: I accept that. I'm not sure that will be possible in many parts of the province where we don't have access to judges. So it's something we need to consider. What came across from your presentation is, you're doing everything you can. Perhaps the province isn't doing everything we can to support on the court side.

The Chair (Mr. Lorne Coe): MPP Wong-Tam.

MPP Kristyn Wong-Tam: Following up on my colleague's question: I believe the statistic is that 77% of those who are in detention and incarcerated right now—not necessarily sentenced, but just waiting for trial—are those who have been denied bail. They're actually contained, they're restrained, and they're not in the community. And yet we know that the backlog is very significant.

If we can't get to a clearing of the court in an expedient manner, we can oftentimes see that the actual charge is dropped and the case is tossed out, to the point that even those who have been in detention end up being in longer detention than they would be facing a sentence. How would we address that if we don't have more support for court services?

Mr. Myron Demkiw: I don't know that we don't need support or not. What I can say is, we need, certainly, to ensure that we are considering the constitutional impacts of everything we do, particularly as it relates to section 11(b) and the need for expeditious and reasonable access to justice. So wherever that is an issue, we need to consider how we invest in that. What we can't compromise is community safety.

MPP Kristyn Wong-Tam: I absolutely, wholeheartedly agree with you, Chief. We don't want to compromise community safety and being able to strike that balance, especially in light of the charter.

Because your recommendations are so sculpted for the firearms charges, or even firearms possession—the larger conversation that this committee is tasked with is ensuring that we try to provide some recommendations around larger bail reform for those who are also violent offenders or who have used other weapons. I'm just trying to get to the issue of what else needs to be done with respect to bail monitoring, bail supervision. How do we bring the crown and the defence together to resolve that issue? That is something that I think we touched upon in this meeting throughout the day, but we haven't necessarily landed on it.

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Mr. Myron Demkiw: Well, if I may, bail supervision, bail monitoring, I'm not sure—I'm sure the defence feels a role in that, but at the end of the day, these people are in our communities, and somebody needs to understand the scope and scale of the challenge communities face.

We spoke of the dashboard and the need to continue investment in our analytics and understanding what the challenges are that are existing in our communities where bail exists. From a policing perspective, we'd certainly encourage the continued development of that kind of operational awareness so we can be well positioned and leverage our ongoing relationships for a multi-sectoral response where appropriate.

MPP Kristyn Wong-Tam: You mentioned that the Toronto police have brought these issues forward before. There have been other command officers who have sat in that very chair throughout the morning and afternoon who have said to us that these are not new issues; these are issues that perhaps may be exacerbated by COVID. There have been a number of resolutions, motions and recommendations brought forward by various police outfits who have said, "This is what we need in order for us to keep our communities safe. This is what we need in terms of how we keep our officers safe," and yet government after government have not acted on those recommendations.

What message do you have for us today so that we do take this warning seriously and there is no more excuse, and we don't point our finger to the province or the federal government, but we take a multi-sectoral, multidisciplinary approach to it?

Mr. Myron Demkiw: I will say this: I think every opportunity to invest and grow our capacity as it relates to community safety and well-being and bringing that approach is very, very important so that we can get upstream and ahead of what leads to the most impactful offenders being in our midst. The reforms that I speak of, quite frankly, are for the government of Canada, which is why I, as chief, wrote the Prime Minister of Canada directly to bring this to the forefront of their consideration.

MPP Kristyn Wong-Tam: I believe you mentioned that you were asked by the government of Ontario to submit communications to the government of Canada with your recommendations for reform. Did I hear you correctly?

Mr. Myron Demkiw: No, I did not say that. That was something that I consulted the chair of the Toronto Police Services Board on. He endorsed our recommendations and approved them. We wrote jointly to the Prime Minister.

MPP Kristyn Wong-Tam: In your slide presentation, there was that information that you just provided, that it was endorsed by your board, but it said that this information was also provided to the Ministry of the Solicitor General. What did the Ministry of the Solicitor General provide as a response to this recommendation that you brought forward, or any other recommendations you may have asked of them?

Mr. Myron Demkiw: I'll say that the recommendations we're bringing forward are certainly supported by the government. I can tell you that's why I specifically made a point of mentioning the support of the government of Ontario as it relates to Toronto Police Service capacity to address gun violence in—

The Chair (Mr. Lorne Coe): Thank you, Chief. That concludes the questioning from the official opposition.

MPP Blais.

Mr. Stephen Blais: Chief, I appreciate that you've written the Prime Minister about the legislative changes that you'd like to see in Parliament.

A number of elements of bail reform are currently already within the jurisdiction of the province to actually implement. I'm wondering if you've written to the Premier, the Solicitor General or any other provincial official about the province making changes that are already within its authority.

Mr. Myron Demkiw: I think there are ongoing discussions amongst policing partners in Ontario, and officials, around everything around this space of our response to gun activity. That has been an ongoing bit of work with government that included the support for a provincial strategy. And as we evolve the dashboard, as I said—the commissioner of the Ontario Provincial Police will be visiting with me and my team tomorrow to get an understanding of the dashboard. Our policing partners in the GTA are also aware, as are ministry officials. But I think one area for consideration is adequacy standards as it relates to bail monitoring, and the development of adequacy standards that we are discussing with government as it relates to the Police Services Act.

Mr. Stephen Blais: Your recommendation is for the federal legislation specifically around who hears bail hearings to change, to require it to be a Superior Court judge and not a justice of the peace. That is already allowed, though, under law. Given that it's already allowed, have you communicated to the government that they should be doing that and not waiting for a change in federal legislation; that that should just be common practice here in Ontario?

Mr. Myron Demkiw: Well, the purview of whether it's allowed—it's certainly allowed in law; we know that. But the practical reality is that it does not happen. Justices of the peace do that. The mandate to make it mandatory is a federal mandate, because it's federal legislation that governs these types of things. Although it's permissible, it's not done by practice, and I think there's an important opportunity for the Parliament of Canada to demonstrate the importance they place on this issue by making it mandatory through federal legislation.

Mr. Stephen Blais: But you would agree that in the absence of federal legislation, or as we await federal legislation, however long that might take, if there are administrative procedures or processes that could begin today, tomorrow or in the short term to make this the regular occurrence in Ontario, you would encourage the government to begin that process irrespective of what the federal Parliament decides to do?

Mr. Myron Demkiw: I think anything that helps us move the needle and move these cases to an appropriate court for the best possible consideration is good work.

The Chair (Mr. Lorne Coe): Chief, that concludes our questions for you. I want to thank you very much for your thoughtful presentation. I wish you and your command well as you move forward with your work.

Mr. Myron Demkiw: Chair, I thank you and the committee members. I appreciate it.

TORONTO POLICE ASSOCIATION

The Chair (Mr. Lorne Coe): Members of the committee, I'd like to call forward Mr. Jon Reid, the president of the Toronto Police Association, for his presentation to us.

Welcome, Mr. Reid. Thank you for appearing before the Standing Committee on Justice Policy. I need you to identify your full name and your position with the association for Hansard, which is the record of our proceedings today. You have 20 minutes for your presentation. I'll remind you when you've got a minute left, if you're approaching that 20-minute mark, and that will be followed by two rounds of questions, as you just witnessed, which I will moderate. Please begin, sir.

Mr. Jon Reid: Thank you very much. Good afternoon, Chair, Vice-Chair, members of the standing committee, legislative staff and fellow presenters. My name is Jon Reid, and I'm president of the Toronto Police Association. As president, working together with the vice-president, board of directors and dedicated management team, I have both the responsibility and the privilege of being the voice of Toronto's policing community.

Our members give up certain rights when they take their oath of office and wear a uniform. The badge they carry is very heavy. They cannot speak on certain matters publicly; they must remain impartial. It is my responsibility to be their voice.

The Toronto Police Association represents almost 8,000 full-time members of the Toronto Police Service, who work in both a uniform and civilian capacity. Our members include front-line police officers, special constables, criminal investigators, community response officers and civilian members who perform a myriad of specialized functions that contribute to public safety.

However, my appearance here today is not just to advocate on behalf of my members, but also on behalf of communities we know are deeply impacted by the current system of bail—a system that is failing—and a justice system that has very much eroded our collective sense of justice and safety. I tell you I'm here on behalf of the communities we serve because neither I nor our members ever lose sight of the fact that we not only serve our communities; we also form part of our communities, whether that be here in Toronto or any other part or region of this province. They are all community members. They all have an interest in public safety.

With unwavering dedication, all of our members are committed to upholding the safety of Toronto's residents on a daily basis. Often, they face the most dangerous circumstances under the ebb and flow of criticism, but they, like all police officers, cannot do this alone. They need support, especially now. They need resources.

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While criticism is uncomfortable—and often undeserving—it plays an important role. The key to criticism is to be constructive, done in a way that always gets things better, to always improve, to identify something is wrong, and find a way to fix it.

This is why we're here today. Our sense of justice is broken. Our safety feels like it's diminishing. And I applaud this government for convening this committee to deal with this very important issue.

As elected officials, you know our police operate independently from the Legislature, the crown and the judiciary. Each have a system of checks and balances, mechanisms and procedures to hold them to account. But all of these entities have one thing in common: They all have the responsibility to ensure the public maintains its confidence in the administration of justice. In fact, on the issue of bail, our Criminal Code uses those exact words: The detention of an accused person is justified "if the detention is necessary to maintain confidence in the administration of justice."

I'm not here to suggest that bail be outright denied. I never lose sight of the fact that the charter ensures we all benefit from the presumption of innocence and that reasonable bail is a right. But as a society, as a community, as justice leaders, we must assess whether or not there's a disconnect on this notion of reasonableness; whether or not there's a disconnect between decision-makers and ensuring that the public maintains their confidence in the administration of justice.

I'm not a lawyer; I'm a police officer. I've been in this job for almost 35 years. There will be people up here with many more letters after their names than I, who will take a different viewpoint than I when they do deputate later this week. That's okay. In fact, I welcome that perspective and dialogue.

But what I do know is this: The men and women who serve our communities do not experience events on paper, on video, or in theory. They live it in real time, daily, within their communities they serve. And sometimes they pay the ultimate price. This past year has been a stark reminder of that. The victims of crime, the communities, members of the public also do not experience these events on paper, or on video, or in theory. They, too, live it daily.

While the rights of an accused are important, they cannot and should not be at the expense of public safety. I appreciate that this involves a delicate balancing act. I welcome the dialogue, but I think I share the perspective of the reasonable person that the pendulum of this balancing act has swung too far in the wrong direction.

The TPA, along with other police leaders, has been sounding this alarm, not only on the need for bail reform but also on staffing levels, for years; we must. In fact, we owe it to our people who put their lives on the line every day. We need to ensure they have the best protections available so they can do their jobs as safely as possible. This sends a message that public safety is a top priority. It helps ensure that our collective confidence in the administration of justice is maintained.

You've heard some of the examples from my colleagues at the Police Association of Ontario and the Ontario Provincial Police Association, but I have something here to offer from Toronto.

Ms. Hogarth, you may remember the case of the bank robbery back in March 2021 that occurred in Mimico, in

your riding. Two men wearing masks entered a bank armed with knives. One stood lookout, and the other demanded cash while holding the knife, yelling, terrorizing the bank employees. By sheer luck, fortunately, two plainclothes police officers were nearby and responded without hesitation. As a result, one of the officers was stabbed in the abdomen, and the other suffered lacerations. As you would expect, these offenders were charged with a range of serious offences. Within 24 hours, one of these accused was released on bail. This was before both officers were released from hospital.

At the time, I wrote an op-ed in the *Toronto Sun*, and I concluded it by saying, “If our bail system is designed and/or interpreted to justify releasing individuals in these circumstances, what message does this send to the community” that they’re serving? The simple answer is this: It sends the wrong message to the people who protect our communities and those who seek to live in a peaceful and just society. It erodes confidence in the administration of justice.

Just last week, here in Toronto, a man was arrested and charged with seven separate incidents. He was charged with two counts of robbery, 19 counts of breach of probation, three counts of break and enter, four counts of theft—including theft of a vehicle, which we all know is a problem here in Toronto—in addition to two weapons-related charges. He was released on bail the next day. A mere four days later, he was arrested again in another stolen car.

In June, a man was arrested for his alleged involvement in a carjacking. He was carrying a loaded firearm at the time of his arrest and was charged with multiple offences, including disguise with intent, weapons dangerous, carrying a concealed weapon and possession of property obtained by crime. In September, he was released on bail. While the courts did impose electronic monitoring on this individual, once released, the offender wasted no time cutting off the ankle device. Thankfully, he was rearrested later in December.

In August 2018, a man received a five-year firearms prohibition after he was convicted of assault causing bodily harm. Four years later, the same man received a lifetime firearms ban for aggravated assault and possession of a firearm. He was recently arrested again in your riding, Mr. Ke, of Don Valley North and charged with multiple firearms offences.

These are just some of the many examples that have come to our attention at the Toronto Police Association, because our members are beyond frustrated with the things they see and deal with every day, and they, in turn, use us, the association, to communicate their concerns to the public.

I acknowledge that we are not going to fix these issues in a day. They’re complex matters and multi-faceted. However, given that I, along with other police leaders, are here to help inform the committee as subject matter experts on areas to study and find solutions in reforming the system, I would like to offer some topics on areas that

require review, investment and immediate consideration and action.

First and foremost, our police services need people, and we need them desperately. At our current staffing levels, our members are finding it increasingly difficult to meet the demands expected of them. We need adequate resourcing so they can respond in a timely manner to emergency calls, which we’re already struggling to do, but also to ensure we have the resources to deal effectively with proactive issues dealing with public safety. A priority of these proactive issues must be supervision of people accused of crimes that have benefited from the presumption of bail. I’m sure you’d be shocked to hear that some nights, in some divisions across this city, there are only a few patrol cars available to be deployed to cover tens of thousands of residents.

The reality is, there’s no time or resources for proactive initiatives. There’s no time or resources to seek out individuals on bail. There’s no time or resources to seek out those who fail to appear. Too often, we treat administration of justice offences as less serious. You’ve heard the comments from my colleagues. I offer the following: If you want respect for the administration of justice, the administration of justice must first respect itself. Breaches of recognizance, undertakings, failures to appear in court should always be treated seriously and enforced seriously. The accused person cannot be allowed to thumb their nose at the conditions placed upon them by the court—the same conditions they agreed to in order to obtain bail. Breaches of such conditions need to be punished seriously. There are changes in policy that must be taken and can be taken expeditiously.

Committee members, you may be silently asking yourselves, “Why are we discussing staffing if this is a study on bail?” I bring this up because while we may revisit our bail system, and while we may make amendments to shift priorities, the reality is that reasonable bail is a constitutional right, and many people will return to their communities until such time as they have their day in court. Police have a responsibility—in fact, it is their most important responsibility—to maintain public safety. However, it is not their responsibility to shoulder this alone. As an example, years ago, here in Toronto, across every division, we had bail compliance units: a team of officers whose sole purpose was to monitor and conduct compliance checks at local divisional levels within their communities. While we still have some capacity to do that, we have removed that from the local divisional level. We’ve removed the community notion of it. The initiatives require resources.

When accused parties are on bail, they sometimes fail to appear in court. While I’ve already suggested that courts and prosecutors treat those failures to appear strongly, we as the police also need resources to track these individuals down proactively. Again, these initiatives require resources, and they require investments in people.

In discussing this, I would be remiss in failing to mention our other justice partners and stakeholders and the resourcing that they require. It is not lost on me, nor our

members, that our assistant crown attorneys are also overworked, overburdened and require more resources. Also, our colleagues in probation and parole are overworked and require more resources. These are all important investments in public safety. All too often, we have an either/or conversation. Too often, we ask, “Do we fund front-end enforcement or back-end programs?” The answer is, both.

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With respect to policing, and specifically on the issue of bail, our government can take concrete steps at a policy level to help ensure these investments are made. The Community Safety and Policing Act is slotted to replace our current Police Services Act once the regulatory drafting that accompanies the act is complete. Like our Police Services Act, the legislation stipulates that police services boards must provide adequate and effective policing in an area for which the policing is their responsibility. Adequate and effective policing means crime prevention. It means law enforcement. It means maintaining public peace. It means emergency response. It means the assistance to victims of crime. On the topic of bail reform, what is of importance to this committee is that the functions be provided in accordance with the standards set out in the regulations. We know these regulations are currently being drafted and worked on. Some of the accompanying regulations of this new act have already been placed on the public registry for comment.

I would like to take a moment to discuss specifically the regulation expected in the legislation that deals with adequate and effective policing. This is an opportunity to establish minimum standards for police services boards; for them, they must abide by in respect of bail compliance—a standard that does not give way to fiscal pressures. Surely bail compliance, and appropriate benchmarks to be measured against, must be part of adequate and effective policing—a requirement to have a proactive initiative separate and apart from the reactive duties from the officers that we expect them to do. When defining “adequate and effective,” surely bail compliance contributes to crime prevention. Surely bail compliance contributes to law enforcement. Surely bail compliance contributes to maintaining the public peace. And surely bail compliance, perhaps most importantly, contributes to the assistance of victims of crime and sends a message that they are taken and treated seriously.

Committee members, I’m cognizant of my time limit before you today, but at a high level, in addition to these items I’ve discussed here, topics and perspectives that you’ve heard from other police leaders, I also implore you to review and study the following:

—whether or not it’s appropriate that justices of the peace be charged with the responsibility in our provincial courts to preside over bail hearings, especially for serious matters. We’ve embarked on programs where dedicated teams of crown attorneys are looking after bails. Perhaps a similar system is needed for those who preside over bail hearings, especially for serious offences;

—to explore if training on community issues would assist the judiciary in what I perceive to be a disconnect between what a reasonable person, fully informed of all the circumstances, expects, to maintain confidence in the administration of justice. That confidence is critical.

Much like resourcing is an issue for policing, I believe it’s also an issue for the justice system. You will hear, I’m sure, that bail ought to be given because of the time it takes for things to get to trial. Resourcing assists with that. The answer should never be to do less; the public demands otherwise.

Again, thank you for inviting me here today. We can all contribute to finding solutions. I welcome any questions you may have.

The Chair (Mr. Lorne Coe): Thank you very much, Mr. Reid.

We’re going to the questions, starting with the government members. MPP Dixon.

Ms. Jess Dixon: Sir, you spoke about the administration of justice, offences and the concept, of course, with our tertiary grounds having respect for justice, and that part of that is with those offences. I wonder if you could explain from the police perspective for the committee—when you have a catch-and-release system, you have people accumulating large numbers of open files until ultimately there are so many of them that even they can be held in custody. In your experience as a police officer, what do you see happening with the crown with those large number of charges that have accumulated in that time? Are you seeing the administration of justice charges essentially going by the wayside as part of resolution?

Mr. Jon Reid: I think one of the problems you run into is, obviously, defence counsels have to advocate as best as they can for their client, so they would like to try to deal with those charges—things like fail to comply, fail to appear—and get them off the table because their concern is that the next time this individual is arrested, they will be held in custody and those would be held against them.

I think the important piece is that we need to make sure the crowns are properly resourced, that they can actually proceed on all these charges, that they have the time and the resources to actually follow through and treat them as seriously as they need to be.

Ms. Jess Dixon: When we are essentially not being able to proceed on these types of charges due to those resourcing issues, amongst other things, would you agree we are then not creating an accurate record of non-compliance for an accused person upon the next instance of non-compliance? Is that what is happening?

Mr. Jon Reid: Absolutely. What happens, obviously, at a bail hearing is, their criminal record will actually be part of the record, but any charges that are withdrawn are not. When we end up in the position where a lot of these charges are withdrawn, the court is never privy to that information.

The Chair (Mr. Lorne Coe): MPP Hogarth.

Ms. Christine Hogarth: Thank you very much for being here, and thank you for your service. Thank you for helping to look after our community.

And a shout-out to 22 Division, which is the division in my area, for all the work they do to keep our community safe.

I really did appreciate your deposition today. It was really touching when you talked about Mimico or Vincent's area. You put a face to the people. Our officers are people, too, who want to go home every day to their families—and how important their work is to us, to everybody. We always say our police officers—we run away from danger; they're the ones who are running towards it to make sure our communities are safe. So again, thanks for those officers.

I was pleased that Mayor Tory took on—and it was passed unanimously—the Toronto police budget of an additional almost \$50 million to add about 200 more police officers to our streets, which I think is an important thing to discuss because of what is happening in our community.

This isn't just a big-city problem. We have to look at our small cities. We are a province, and crime happens everywhere.

Again, we talk about guns and where these guns are coming from. Most of them, in these crimes, are smuggled from across the border. That's another issue for another day, but it's still an important topic to discuss.

I've been asking the same question to all our visitors today, and it's obviously about the topic of bail reform. In your opinion, do you believe that bail reform will save lives?

Mr. Jon Reid: The simple answer is yes, but it's actually more than that. Bail reform is going to assist in saving lives. It's also going to assist in protecting victims of crime, witnesses of crime. And it will actually provide a stronger and more true belief in the administration of justice. Right now, we're at a point where people are actually questioning what's going on in the justice system. I think with some bail reform—we talk about saving lives; that's one part of it, but it's also the general understanding of what's going on with our justice system right now. I think the bail reform piece will allow the public to look at it and, if it's changed in the right way, managed properly, restore some confidence in the system itself.

Ms. Christine Hogarth: My second question is, do you think that saving lives should be the number one priority of bail reform?

Mr. Jon Reid: Absolutely. Saving lives is always the number one priority. For policing, saving lives is our number one job.

The Chair (Mr. Lorne Coe): MPP Saunderson, you have two minutes and 59 seconds.

Mr. Brian Saunderson: Thank you very much, Mr. Reid, for coming today.

I served on the police services board up in Simcoe-Grey for eight years, and I know that we took advantage of an enhancement in our contract with the guns and gangs grant that we had applied for. There is already a guns and gangs bail team that travels around. I wondered if you had any experience with that and if you can comment on the enhancements or the expertise that they bring to that process.

Mr. Jon Reid: I actually used to work on a guns and gangs task force here in Toronto, so I do have a good understanding of that process. It's an excellent process. We have integration between the officers and the crown as far as the information, so they end up with timely information.

One of the key things I'm finding more now at bail hearings is the ability to introduce photographs. It really brings back to the courts what we're talking about here. We're not just talking about a .22-calibre gun. Once people see a picture of it—mind you, these are just some of the smaller firearms we're starting to see in Toronto. We're seeing some serious firearms with the multiple extended magazines, things like that. Once you actually bring that to court and the courts see it, I think people start to take notice more and it gets their attention, which is an important piece.

That's one of the things we're also talking about from the point of view of the education piece, to make sure some of these justices of the peace and some judges understand what is going on out there.

Mr. Brian Saunderson: If I could just do a quick follow-up, understanding my time constraints—there are lessons to be learned on the broader picture of the bail reform that we're talking about today from the guns and gangs bail teams.

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Mr. Jon Reid: Yes. So I think, once again, it goes to show—having that intimate knowledge of the charges you're actually dealing with. I think with any kind of situation, like with doctors—you have your general doctor, and then you have your specialist. I think we need the specialist for firearms cases, from their point of view—assisting with judges, any JPs, if that's the way it's decided. The specialist piece is important on the firearms because it has such a detrimental effect on society and the community and our members.

The Chair (Mr. Lorne Coe): MPP Ke, you've got about 50 seconds.

Mr. Vincent Ke: Thank you for being here.

The example you presented in your presentation is really a shock—the criminal was released in 24 hours. That's unbelievable. The other one, you mentioned was in my riding, Don Valley North. Imagine, if the emergencies show up in their community, what the community will think.

Thank you for your recommendations. Are there any other ways the shortfalls of Canada's bail system—

The Chair (Mr. Lorne Coe): MPP Ke, I'm going to have to interrupt you. That concludes the government's questions for the first round.

We are now going to turn to the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: Mr. Reid, it's always nice to see you. Thank you for your presentation. I am eternally grateful for the hard work that the men and women in uniform do, especially in our communities of the downtown east in Toronto. You know that patch really well. We all sort of walk through those streets. I couldn't agree with you more that there is a lot of concern about trying to keep

the streets and communities safe, but also to do it in a really balanced way that's intelligent and forward-thinking.

I can't help but think as you were speaking about taking a really coordinated approach on issues that affect bail hearings, or the bail system failing us—let's just call it that for now—what else needs to be done. In areas that we are seeing where individuals who have fallen through the cracks, or perhaps those who are repeat offenders, have access to firearms—and we want to make sure that they are definitely off the streets; no questions asked. Let's just get them to a place where they need to be so that they can get the help they need, and also to keep our communities safe. But then there's another group of individuals where the bail system also fails them and the police officers sometimes fall into harm's way.

I think you would probably be the best person for this question. In communities like ours, especially in the city of Toronto, we have the Salvation Army as well as the John Howard Society that actually are agencies out in the community that are contracted to do some of that bail supervision, in-community work. Do they have the resources they need in order for them to meet their obligations to their funders at this point in time?

Mr. Jon Reid: I'm not able to comment on that.

MPP Kristyn Wong-Tam: Oh, you're not?

Mr. Jon Reid: On their funding, no. Sorry.

MPP Kristyn Wong-Tam: Another question that I think you probably could speak to is that the recommendations and the scope of bail reforms, as discussed right now—some of it may require the creation of a new bail compliance unit. You spoke to it directly in your remarks. The Toronto police used to have those units. They don't have those units anymore. But we don't have that unit across the province, and we know that criminal activity needs to be coordinated province-wide, especially around bail supervision. Would it be beneficial for the province to implement a new province-wide bail compliance unit?

Mr. Jon Reid: I think there's definitely a benefit in that structure, especially with exchange of information. As we know, criminals don't know any borders. They will travel throughout the province, throughout the country. I think it's important to have that ability to exchange information. But then the question comes to, what does that unit look like? I think that would be something where the police would play an integral part.

I did capture a bit of the chief's deposition earlier today, and one of the key pieces here is, the police are always the ones working. We're working there 24/7, 365. When all the other organizations close shop and go home, we're here. We end up catching everything. When you look at the bail itself, can more be done upstream sometimes? Definitely, it can. I think that's where we have to look for those opportunities, because I think if we're able to deal with things a little further upstream, maybe the police don't have to deal with it, and maybe the courts don't have to deal with it.

MPP Kristyn Wong-Tam: There would be a value for money and benefit to having that work done upstream.

Therefore, the supervision and monitoring are taken care of upstream, as opposed to letting an individual fall through the cracks or, perhaps, someone who is a violent repeat offender in the community. There is a financial benefit to us overall if we're able to address the problem upstream. Would you agree?

Mr. Jon Reid: When I talk about upstream, I'm talking about things that will assist people in never getting into trouble—

MPP Kristyn Wong-Tam: Right. By the time someone is homeless, by the time someone is street-involved or living with mental illness or addictions, it's already too late.

Mr. Joe Reid: I think it's difficult for them. They need assistance.

MPP Kristyn Wong-Tam: Yes, I know—I mean not too late in the path of recovery, but it's too late because the system, the safety net, has failed them. We have people who are in that cycle of violence perpetuating further violence.

Mr. Jon Reid: Yes, some people are.

MPP Kristyn Wong-Tam: In the province of Ontario, we have a very unique situation where we have bail supervision under the Ministry of the Attorney General, but in other jurisdictions across Canada, provinces and territories, it actually sits under the Solicitor General. Obviously, the Solicitor General also has corrections. Would it benefit us to open that dialogue here on what would be the appropriate ministry or the appropriate jurisdiction to actually take on that province-wide approach?

Mr. Jon Reid: I think one thing you have to look at is span of control. If you end up with an organization that's too large, it's not going to be nimble enough to deal with people who are being arrested and released on bail. Here in Toronto, we end up with a lot of individuals arrested and released on a daily basis. That information needs to be captured, uploaded and then followed up on. I think moving to a federal level, if that's what you were talking about, is too large of a beast. I think, maximum, you want to be looking at maybe a provincial system.

MPP Kristyn Wong-Tam: Sorry, just to clarify: I was speaking about the provincial Ministry of the Solicitor General—I'm not talking about federally. Having a community safety division within the Ministry of the Solicitor General that can specifically respond to bail monitoring, bail supervision, all those areas that are, certainly, right now in deficiency, where we want to be able to close the gap—that's what I was suggesting.

Mr. Jon Reid: Yes. So once again, I'll talk about span of control. You would almost be creating a brand new law enforcement entity to do that, so I'm not sure fiscally whether that would be the best way to go. But I think if the money is there, that might not be a bad idea.

MPP Kristyn Wong-Tam: Right now, we have community agencies that are contracted out to do that type of monitoring, but also supervision in the community. So at this point in time, it's already a patchwork. We may have some reach within the city of Toronto that's undertaken by John Howard or the Salvation Army, but it certainly isn't going to reach outside of the court, or the

city of Toronto. So my suggestion—and I'm looking for your feedback—is, would it benefit us to have a province-wide approach to this issue?

Mr. Jon Reid: I think there's value in it, but it would have to be a 24/7 function. That's the problem that we always run into, and it always ends up falling at the feet of the police—the police will be basically tasked because that entity will not be working on the weekends and they won't be working in the evenings. The police will ultimately be tasked to do it anyway.

The Chair (Mr. Lorne Coe): That concludes your time.

I will now move to MPP Blais.

Mr. Stephen Blais: Thank you for your presentation. I appreciate it.

I was interested in a comment you made in responding to MPP Saunderson about the specialist team. I think you were referring to the creation of a specialist team of judges or justices to deal with gun-related crimes or serious violent crimes. I just want to make sure I'm right and that I heard that rightly. Is that an idea that has been fleshed out? It's a good idea. Is that something you just kind of popped up with, or is there background material that you can provide to us with that kind of detail?

Mr. Jon Reid: That is something that I look at from the point of view of my past experience. Having individuals who specialize in firearms is important. It has worked very well as far as having the crown attorneys who are trained specifically in firearms and how to do the investigations, because there are very unique things in proving a firearms case if it's going to be a full-on trial. I think the benefit, also, is making sure we have judges who understand all the intricacies of those investigations and prosecutions.

1520

Mr. Stephen Blais: Sure. I'm not discounting the idea at all. I think it sounds very interesting. I'm wondering if there has been any work beyond talking about it out loud a little bit to identify how you'd go about doing this, what would need to change in order to do it etc.

Mr. Jon Reid: That's something we've discussed as far as amongst ourselves. Whether there was actually a meeting to look at it at the provincial level, I'm not sure.

Mr. Stephen Blais: Fair enough. Are there any legislative changes that would need to happen in order to implement this, or do you think that this could be done through whatever regulatory and other administrative measures the government has at its disposal?

Mr. Jon Reid: I think it would be relatively simple. It's the education piece, really.

Mr. Stephen Blais: But you would want judges who are well educated in the subject matter to be assigned these cases.

Mr. Jon Reid: Correct.

The Chair (Mr. Lorne Coe): We'll now continue with the second round of questioning. MPP Ke.

Mr. Vincent Ke: Thank you again for working hard to protect the public safety and make the community safe.

Per your presentation, we know that Canada's current bail system needs to be changed, needs to be reformed and

improved. I thank you for so many recommendations in your presentation to change—including the bail system and sentencing.

My question is, are there any ways the shortfalls of Canada's current bail system hinder the work of the Toronto Police Association?

Mr. Jon Reid: I wouldn't say so much that it hinders. The bail system itself is there, but I think certain areas need to have more attention paid to them, and they need to be exercised. Things I talk about like the "fail to appear"—that needs to be taken more seriously.

We've had an individual who on countless occasions has promised the court, "Yes, Your Honour, I will abide by those conditions if you let me go," and then they turn around and they breach those conditions. Then they're back in the court again, and they promise, "Yes, Your Honour, I promise to abide by those conditions," and then they're back for a breach again. I think at some point a reasonable person will look at this and say, "This person is not going to follow these conditions." At that point, I think the courts seriously have to look at whether or not they're going to release this person—especially when it comes to violent offenders and people with weapons.

The Chair (Mr. Lorne Coe): MPP Jones.

Mr. Trevor Jones: Mr. Reid, I want to share that this government truly values your lived experience. Thank you for taking an investment of time out of your day to share your lived experience with us.

If action is not taken on bail reform, Mr. Reid, in your professional experience, what might be the consequences for policing and for our communities?

Mr. Jon Reid: Unfortunately, I think they're tied together. I think as far as policing goes, we're already seeing an erosion in the trust of police with the courts—especially with the public as well. Members of the public I end up dealing with and speaking with—you tell them some of the stories we've spoken of today and they can't believe it; they don't understand why. They say, "That can't be"—but it is. I think it's important to make sure that we actually look at ensuring the administration of justice and people's belief in the justice system is supported, and the way we do that is with firm bail conditions.

Enforcement is the key. Enforcement is something that's going on right now very, very little here in the province. People need to know that if they promise the judge they're going to abide by certain conditions, someone's going to come knocking on their door to make sure they are.

The Chair (Mr. Lorne Coe): MPP Kusendova-Bashta.

Ms. Natalia Kusendova-Bashta: Thank you very much for your presentation. You're the first presenter today to mention fiscal pressures, and I think that's a really important topic to further elaborate on. You mentioned that, in your opinion, minimum standards for police boards should be put in place regardless of the fiscal pressures.

As MPP Hogarth mentioned, Mayor John Tory recently approved an increase in the policing budget of \$50 million. This increase was met with some opposition from the

public and some protests. Some of these notions of defunding the police, especially in the United States, do have some proliferative effects here in our society.

Can you expand further on that point about these minimum-standard police boards regardless of fiscal pressures?

Mr. Jon Reid: The adequate and effective policing standard will actually set a standard that all police services boards must abide by. It is key here. The key piece is to make sure that if the province were to mandate that each police service must have a bail compliance unit with the ability to do so many checks or staffed at a certain number—they must do that and it's not an option for them, so, unfortunately, when we end up with some kind of budgetary crunch, they can't say, "Well, we're going to cut that unit." We have to make sure that these units are stood up all the time.

This has been a problem we've experienced with policing over the last five or eight years now, where we have consistently been effectively defunded with the 0% budgets. Here in Toronto, as an example, our budgets haven't gone up at all. They've actually shrunk as far as a portion of the total budget of the city, and it has crippled us. It has crippled policing here in Toronto. It has crippled policing, I think, across Canada, quite honestly, right now. We need to make sure that they are re-funded.

Ms. Natalia Kusendova-Bashta: Based on your expertise and your knowledge, how many police forces across Ontario—and I know you represent the Toronto Police Association, but how many units or forces do not currently have the bail compliance unit?

Mr. Jon Reid: Honestly, I'm not sure offhand. I couldn't tell you. I just deal with the Toronto police. That would be a question for Mark.

The Chair (Mr. Lorne Coe): Government members, anyone else with a question? We have one minute and 56 seconds. I don't see any hands going up.

I am now going to move to the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you, Mr. Reid, for all of your extremely informative answers.

With respect to the recommendation from the police chief, which you have actually now echoed as being in support of, the bail hearings presided over by justices rather than justices of the peace—my colleague here from the independent benches mentioned that this is something that can occur right now. It doesn't necessarily require any federal changes. Is there a reason why—if this is a recommendation that has been brought forward to the current government of the day—it hasn't already been acted upon?

Mr. Jon Reid: Unfortunately, I cannot answer that question as to why it has not.

MPP Kristyn Wong-Tam: Was there resistance to the recommendation?

Mr. Jon Reid: That's not something that I brought forward to the government myself, so I can't tell you, I'm afraid.

MPP Kristyn Wong-Tam: Coming back to the issues around resources: Certainly, I think that the issue around

resources has been brought up on several occasions. In the conversations I've had with the officers on the front lines—and we're not going to name names—they have expressed some level of frustration that they're being asked to do a lot of work that's not necessarily policing work; work that's oftentimes related to mental health, asking the police to respond to addictions crises, people living with psychosis. At the same time, sometimes it's paramedics who are responding to those calls, sometimes it's Toronto fire. But overall, it's not a crisis response team that's mental health-informed or perhaps trained on de-escalations in the same way. That's what they really want to see. So mental health nurses should be going out, perhaps, on non-violent calls.

Do you support the resource allocations to making sure the other social agencies are supported so that the police can get back to policing work?

Mr. Jon Reid: I think there is definitely a benefit to having the alternate response available to be utilized. As you are aware, here in Toronto, we actually have a couple of pilots running right now with that process. That said, with these pilots, and as I can tell you with my experience and career, mental health calls unfortunately can go very sideways, very quickly. So we need to make sure when those people are out doing that job, that we have the police resources available to come and assist them if they need it. This has always been a concern of mine—when it ends up being this or that. It's not a this-or-that argument or conversation; it should be both. We need to make sure if those people are going to go out and do their part in the mental health area, that we have the resources there to assist them if they need it. Having a reduction of police officers does not accomplish that. It puts those people at risk.

1530

MPP Kristyn Wong-Tam: It sounds to me like you would support a more thoroughly coordinated effort in order for these pilot projects, perhaps, to be scaled up. Is that a fair assessment?

Mr. Jon Reid: I think the reality is, we're running these pilots now, and I think we need to have a look at the pilots and see how they work out.

Here in Toronto, we handle over 30,000 mental health calls a year. Most of them go off without any issues at all. Our men and women do a great job each and every day.

MPP Kristyn Wong-Tam: With respect to the calls that don't necessarily require policing, because they're not violent calls, but the police officers are the first ones to be called because you're the ones who are 24-hours—there isn't a 24-hour sort of deployment of crisis that's uniform and a blanket service across the city. By your own testimony just provided, it's that they're not violent calls, but they could have a different approach to free up police officers to do a different type of work. Wouldn't it be beneficial for us to invest in those services so that your officers don't have to do mental health calls that are non-violent?

Mr. Jon Reid: I think it's beneficial to run the pilots which are going on right now and have a look at the data. The one thing I've learned doing this job is that data

trumps everything. We need to make sure we actually look at the data, analyze it, and see where the value is.

MPP Kristyn Wong-Tam: I think the first round of data is out and the results are astoundingly successful. Hopefully we'll be able to scale that up.

I know that cities don't necessarily have the purview of providing mental health or addictions support. It's not what any municipality will do, especially since they don't have the expertise on it. But that certainly lands squarely within the purview of the provincial and federal governments—coordinated and related to—but the operational implementation side, the funding as well as the implementation side, that's strictly within the purview of the provincial government.

I guess in order for us to free up resources, in order for us to get to bail hearings that are successful—people who are released on bail are less likely to recommit if they have pathways to supports, pathways to services that will actually get them out of the life that they're in, which could end up being a perpetuation of the cycle of violence. Do think that's a fair statement?

Mr. Jon Reid: I want to see the data on that, quite honestly, and see if it's actually true.

I think any time we can try to assist an individual out of a life of crime, it's always a positive move forward.

MPP Kristyn Wong-Tam: I think the data and research is comprehensively conducted by the Canadian Mental Health Association. I don't have that information at the tip of my fingers or right before me, but I'm pretty confident that that data does exist.

Do I have time?

The Chair (Mr. Lorne Coe): You have 1:38 left.

MPP Kristyn Wong-Tam: Thank you, Chair.

With respect to the potential setting up of new bodies to provide oversight as well as supervision and monitoring of bail, is this a job for Toronto police, or police units across the province? Or should it be the job of another entity?

Mr. Jon Reid: I personally think it should be left to the police to actually operate within their jurisdiction, but I think having the benefit of an overarching body to gather and exchange that information would be of value. Obviously, all the information as far as a bail now gets entered into the CPIC system, so it is available to people if they need it.

MPP Kristyn Wong-Tam: Toronto police is a very large outfit and fairly well-resourced compared to other jurisdictions. Would the other jurisdictions that have other police outfits have the resources and capacity to actually supervise bail hearings as well?

Mr. Jon Reid: Supervise bail hearings or—

MPP Kristyn Wong-Tam: Sorry, the bail supervision—so out in the community, reporting back to the officers. Is that something that every police unit in Ontario would have the ability to do if it becomes a sole responsibility for policing?

Mr. Jon Reid: I think that depends on the scale, quite frankly, on the criminality within a certain city, and also the size of the police service. A lot of the police services across the province are actually policed by the OPP, so I say—

The Chair (Mr. Lorne Coe): Thank you, Mr. Reid. Your answers are concluded.

Mr. Blais?

Mr. Stephen Blais: No.

The Chair (Mr. Lorne Coe): Okay, thank you.

Mr. Reid, that concludes your presentation. Thank you, sir, for being with us and for your responses to the questions. We wish you well. Be safe.

Mr. Jon Reid: Thank you very much, everybody.

Interjection.

The Chair (Mr. Lorne Coe): MPP Hogarth, can I have a motion, please, to recess until about—

Interjection.

The Chair (Mr. Lorne Coe): We're going to recess until about five to 4.

The committee recessed from 1535 to 1557.

NISHNAWBE ASKI POLICE SERVICE

WOMEN IN CANADIAN CRIMINAL DEFENCE

The Chair (Mr. Lorne Coe): Members, we're back in session. Thank you for coming back promptly. The remainder of our presenters today have been scheduled in groups of three—and in the case of one group, two—for each one-hour time slot. Just so that we're clear on the guidelines, going forward, so that there are no misunderstandings, each presenter will have seven minutes for their presentation. After we've heard from all three presenters, or two, the remaining 39 minutes of the time slot will be for questions from members of the committee. The time for questions will be broken down into two rounds of 7.5 minutes for the government members, two rounds of 7.5 minutes for the members of the official opposition, and two rounds of 4.5 minutes for the independent member.

I will now call on Roland D. Morrison, the chief of police from the Nishnawbe Aski Police Service, to make his presentation, please.

Welcome, Chief. You have seven minutes for your presentation. We need you to state your name for Hansard and then you can begin, and then we'll follow that with questions.

Mr. Roland Morrison: Good afternoon, everyone. My name is Roland Morrison. I am with the Nishnawbe Aski Police Service. We are an Indigenous police service. We are the largest Indigenous police service in Canada. We are based in northern Ontario. We are responsible for policing 34 of the 49 Nishnawbe Aski Nation communities. I'm very thankful to be before the committee here today to talk about the bail reform, and I think this is something that has been long overdue. Certainly, I think, with the recent incidents that have involved firearms, especially with police officers—

The Chair (Mr. Lorne Coe): Chief, we need you to stop. We're going to adjust the audio. We're having some difficulty hearing you. I'll let you know when to start again. Thank you.

The Clerk of the Committee (Ms. Thushitha Kobikrishna): Can we just have you speak closer to the mike so that we can hear you a little clearer?

Mr. Roland Morrison: How does this sound? Is this better?

The Chair (Mr. Lorne Coe): Can all the committee members hear the chief? Is everyone good?

All right, Chief. Start again, please. Thank you.

Mr. Roland Morrison: Good afternoon, everyone, committee members. Again, my name is Roland Morrison. I am the chief of police of the Nishnawbe Aski Police Service. We are the largest Indigenous police service in Canada. We are responsible for policing 34 out of the 49 Nishnawbe Aski Nation communities in northern Ontario, of which 23 of the 34 are remote fly-in communities only. Certainly, we have a unique policing environment when we work in remote settings.

When we look at the bail reform, which we're here to discuss today, there need to be changes. There absolutely needs to be some reform in this. When you look at the number of officers who have lost their lives at the hands of weapons, especially just over the Christmas holidays, something needs to get done. I think Commissioner Carrique said it best: These are our officers, your officers, and they're charged with protecting the public, but when the judicial system has failed in also protecting the public, something needs to get done. The young officer did not have to lose his life, especially to a person who should not have been walking the streets. So, again, when you look at the bail reform, it is really, really needed.

Some stats from the Nishnawbe Aski police: In the year 2022, we had a population of around 45,000 people, and we had 27,301 calls for service. When you look at that and when you think about the residential school impacts and you think about those calls for service, we see a large number of domestic occurrences and sexual assaults. In fact, we had over 700 domestic assaults that occurred. We had over 150 sexual assaults and nearly 60 weapon offences. When we make those types of charges and release conditions are required, we always have people who are not going to adhere to those conditions. In fact, we had 446 bail violations, and of those bail violations, 32 were in direct relation to domestic violence incidents. We had over 70 firearm charges. Just from September 2022 to December, we had seven drug warrants executed, with 19 people charged, and of those 19 people charged, six were out of the jurisdiction. When you think about that, are those people going to come back to our territory to face court? Probably not; let's be realistic about it. When people come to our territory and get charged, we'll always have a bench warrant for them. They never return. What does that say to you right away? That says the system is not working.

When you look at the region—because we have to rely on our regional partners to be effective in our policing—we have a lot of joint efforts in terms of working with Thunder Bay police and working with Timmins police, because these are hubs that go to our remote communities in the northeast region. We work a lot with Timmins. In

some of the drug investigations that we recently did from September, five people were charged from Toronto who were already on release orders. Six firearms were seized in conjunction with Timmins police.

When you look at the Thunder Bay Police Service and you look at the city of Thunder Bay, it is also a northern hub to many of our communities in the Nishnawbe Aski Nation territory. I have to talk about Thunder Bay because it is a major hub here, and we're seeing a large influx of people from southern Ontario who have come to northern Ontario, to Timmins, to Thunder Bay because they know that they can sell their drugs at a much higher profit level. When you look at Thunder Bay police, they executed 112 warrants, with 235 people arrested. And of the 150 people charged from those warrants, 150 were from outside of the jurisdiction of Thunder Bay. Of the 150, over 50% were already in breach when they were charged and picked up by Thunder Bay—half of the 150, 75 people, already on conditions. When you look at that, this system is not working.

When we look at this from the outside, people are travelling great distances to come to the Far North even when they are on conditions. So they're not abiding by conditions, even just to come north. The risk is worth it. The money is worth it. In fact, when you look at the warrant—the total value of street drugs seized by Thunder Bay police was over \$8 million. With that profit margin, we are going to continually see people coming to the Far North to cause harm. They have no respect for their conditions, none whatsoever. The bail system isn't working.

When you look at some of the offences—we are starting to see more firearms coming to the Far North, illegal handguns, and when you look at this and you look at the number of warrants that are being done in the Far North to protect the citizens from the illicit drugs, there is no deterrent. Let's just call it for what it is: There's no deterrent to prevent people from coming north and selling drugs. It is too profitable. Even when they are charged, they are coming back, because it is worth it. There's no deterrent for them. So when we look at that, it's becoming a hardship on the Thunder Bay police, Timmins police and Nishnawbe Aski police to really protect their citizens from the harm of illicit drugs. When you look at that, when you want to protect your cell and protect the income, of course you are going to use anything that is going to provide that protection, and firearms are being used now. You're seeing more firearms-related offences, more homicides in the city of Thunder Bay, homicides occurring in the city of Timmins, so something needs to get done.

Obviously, when you look at illegal firearms being used in a commission of an offence—and I'm going to say it—I would suggest that there be no release conditions on any person who is going to use firearms, especially in the commission of an offence—homicides. This is just something that should be the right thing to do, but our justice system is not set up that way. Instead, it is set up in the favour of the accused persons. When you look at—

The Chair (Mr. Lorne Coe): Chief, you have a minute for your presentation, please.

Mr. Roland Morrison: I think when it comes to firearms offences, when we look at the intimate-partner violence, these are two scenarios where reverse-onus conditions should be applied, because again, there is absolutely no deterrent for people.

I know I am coming to the end of it, but I do want to say this—I have to read this. This is the reality of our system. This was out of Sarnia, Ontario, from Justice Mark Poland: “If there was ever a strong argument that something needs to be done, it’s Mr. Spinks’s circumstances. His behaviour here makes a fool of the bail system. He keeps getting out. He keeps dealing drugs. It’s just as simple as that.” Those are his exact words.

The Chair (Mr. Lorne Coe): Chief, excuse me. I need to end your presentation. We now are going to start questions, which will give you an opportunity to expand—yes?

The Clerk of the Committee (Ms. Thushitha Kobikrishna): We’re going to do the next presentation.

The Chair (Mr. Lorne Coe): Sorry, before we get to questions, the Clerk just reminded me that we have to do the next presentation first. Then we will be asking questions.

Our next presenter is Cassandra DeMelo, the treasurer of Women in Canadian Criminal Defence.

Welcome. You have seven minutes for your presentation. I will remind you when you have a minute left so you can wrap up. That will be followed by questions from the committee members. Please start your presentation.

Ms. Cassandra DeMelo: Thank you so much, everybody, for having me. I’m Cassandra DeMelo. I am a criminal defence lawyer in London, Ontario. I’m here on behalf of Women in Canadian Criminal Defence. We lovingly refer to our group as WICCD. We are women and gender-nonconforming lawyers who practise in criminal defence.

A bit of background just so you understand where I am coming to this from: I have my master’s in law from Western Law. My study was of mental health and bail reform, specifically. I am also completing my PhD at Western Law. Having heard the previous speaker, I can tell you that a lot of my work right now is focused on drug reform as well.

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I start with an acknowledgement that the loss of an officer is an awful and unfortunate set of circumstances. However, I think it’s important to resurface the conversation in first principles, and that is what I am hoping to do today with my presentation.

What I want to make clear is that many of the reforms that are being talked about, many of the requests that are being called upon, are already in existence, and I’m not sure that everyone is acknowledging or aware that that is the case. For example, when we talk about reverse-onus positions for people charged with domestic charges, that is already a thing. That was done by way of Bill C-75 just three years ago—four years ago now, since we’re in 2023. Moreover, there is already a reverse onus for many firearms-related offences, including where people are said to have committed an offence with the use of a firearm.

I want to take us back to those first principles of primary, secondary and tertiary grounds for bail. The primary

grounds are considered when we’re talking about whether or not a person is going to come back to the jurisdiction in which they were charged to answer to the offences. Secondary grounds consider whether or not the person poses a reasonable risk to the community. That is where there’s an opportunity to look at that person’s criminal record and also other instances that might give the court pause or concern for whether or not they are likely to go out and reoffend. And then you have the tertiary grounds. The tertiary grounds are considered for offences that are so serious that perhaps the only way to answer for such an allegation is to hold the person in custody. Otherwise, the justice system would be considered to be in disrepute.

When you are asking for input about whether or not bail reform is necessary, I agree that bail reform is necessary, but, unlike many of the speakers I have been able to hear speak today, I actually think that bail reform is necessary in a very different way than what has been often presented to this committee. For example, as I’ve already mentioned, a lot of the requests for bail reform are already in place, and I think that there needs to be an understanding of what tools are already available to the courts.

We also need to remind ourselves that bail is about the presumption of innocence. These people are legally innocent and have not been proven guilty of anything at the time that they are charged. That is the crux of our criminal justice system—the presumption of innocence. When I hear broad and far-reaching comments like, “People ought not to be given bail as soon as they use a gun,” it is forgetting the very first principle of bail, which is that those who are charged are presumed innocent.

Another already-existing tool that I want to remind this committee is available to members of the justice system is the crown policy manual. I’ve heard much reference to that today as well, but what I’m not sure people are recognizing is that the crown policy manual already makes recommendations that crowns ought to contest firearm charges for bail, and in fact, they do. Moreover, any bail plan that’s being considered with respect to someone who is on firearm-related charges will be vetted by a senior crown; typically, the crown attorney for that jurisdiction.

I assure this committee that we are already conservative when it comes to bail. Nearly three quarters of the people in Ontario jails are awaiting trial and presumed innocent. That means that three quarters of the people in custody have not been proven guilty of the thing that they are in there for. I want you to consider that when you then consider the cost of incarcerating these people. It costs roughly \$80,000 a year to incarcerate someone, and I ask this committee to consider whether or not that is where you want to spend your money, on legally innocent people.

There was a recent article that talked about the statistics of further things to consider in the criminal justice system, like the fact that about 70% of people are found guilty of their offences, and that means 30% are not. And of the people who are found guilty of their offences, only four out of 10 will actually serve a custodial sentence. And yet 75% of people are being kept in custody on bail. What that leaves room for is wrongful convictions, because you are putting a pressure on someone to potentially plead guilty

as a way of getting out of jail faster than if, instead, we simply were to use those resources and ensure a better chance at rehabilitation or, perhaps, preventive measures to help ensure they don't get into trouble in the first place.

I've heard a concern about—and I know my time is coming short, so I have one minute, I assume, left?

The Chair (Mr. Lorne Coe): You have about a minute left in your presentation.

Ms. Cassandra DeMelo: Thank you.

There was a concern that pledges by sureties are not being taken seriously and that there are no estreatment hearings. I heard that being spoken about today. To be clear, the Canadian bail system is premised on the fact that we do not require cash for bail, because that would create a classed system. And we need to recognize that whatever reforms we put in place on bail are going to have a disproportionate impact on disadvantaged groups. That includes our Indigenous folks, that includes our racialized folks, that includes people who have mental health and drug addiction issues. And there has been a lack, a complete vacuum, or an avoidance of that discussion, I think, so far in what I've heard today, and I want to focus on that.

This is an incident that was not the failure of the bail system, but rather an intentional breach and removal of the ankle monitoring bracelet. That is also an uncommon occurrence. The vast majority of persons on bail—

The Chair (Mr. Lorne Coe): Thank you for your presentation. It's concluded. We're now on questions from the committee members.

Committee members, because we're in this particular platform, move your microphones closer to you, please, so that the presenters can hear the questions clearly.

MPP Dixon, please go ahead.

Ms. Jess Dixon: My question is for you, Chief. We haven't heard very much about the challenges of fly-in communities and fly-in courts when it comes to bail. I wonder if you could speak a little bit further about your input on that and information that we may not have heard, because everyone we have talked to today has access immediately to courts and court resources, and I'd like to hear a little bit more about the fly-in component when it comes to bail.

Mr. Roland Morrison: Well, most of the bails in the fly-ins are done by audio—or video, if the infrastructure can support it, and with this, sometimes it's not readily available, or due to weather, sometimes it does play a factor. So most of the times it's done by audio. So there is the access. It does happen. No matter what community you are in—if you're in Fort Severn, Peawanuck, Moose Factory or Chapleau—you can do the bail system by audio, and that happens.

For most offences, people are released back into the communities, and there's really no consistency, especially when you look at sexual assaults. When you look at small communities such as Summer Beaver, which is in Nibinamik—a community of about 350 people—when you have a person committing a sexual assault and they're released back into that community, they could be living next door to each other. How do you protect the victim when that happens?

We've had times where we've been asked to go locate sureties on behalf of the accused. Well, honestly, do you think we're going to go and bang on doors for the accused people to be released, especially on something like a sexual assault? No, we're not. But that happens; that's the reality of our bail system in the north.

When a person has to be remanded into custody and we've got to take them out, sometimes that person doesn't leave and may get stuck in the jail for the weekend; we can't get that person out due to weather. It especially happens in the spring, happens in the fall, happens in the wintertime quite often.

Again, when you look at the bail system, it is accessible, but there are also strong considerations that have to be made to support the victim in the bail system—especially in remote, Indigenous communities, because on some of these conditions, it's very hard to protect the victim. I think when you look at the impacts of residential schools, if you look at domestic violence and sexual assault that's occurring in the Indigenous communities—this is just what gets reported; we know that there's so much more, and people are reluctant to come forward because the bail system doesn't work for them. They know that the accused is going to get released no matter what.

The Chair (Mr. Lorne Coe): MPP Hogarth.
1620

Ms. Christine Hogarth: My question is going to be for Ms. DeMelo and for the chief. Thank you both for being here. It's a question I've been asking all our deputants so far. I'm going to start with you, Ms. DeMelo. We're talking about bail reform today. Do you think that bail reform will save lives?

Ms. Cassandra DeMelo: Bail reform, executed properly, will save lives, but not the way that I think this committee has been really considering it today.

Let me be clear: There are many ways to save lives. If you would like to save lives, I strongly encourage preventive measures to help fight drug addiction issues at their core. I do not agree that jail or that holding people in remand, in detention, prior to their charges being fairly tested by the courts is the way that you are going to save lives.

All lives matter, not just police officer lives, and I say that with all due respect. We want to hit some these issues on of the head. We need to consider the lives of the disadvantaged as well, including our mentally ill and our persons who are fighting drug addiction issues. This makes up a great majority of people who make up the accused in our system, and what we are seeing, also, in vast numbers, is opioid addiction overdoses and people passing away from other related issues, that if we—

Ms. Christine Hogarth: I think we're going a little off-topic here. We're talking about violent offences.

I'm going to go to my second question, because today we're talking about violent offences with guns or weapons of other kinds. Do you believe that having violent, repeat offenders on the streets, which is today's topic, is better for public safety than keeping them in custody?

Ms. Cassandra DeMelo: I'm going to be very clear: I think you're assuming that the people I'm talking about

can't be the same ones that you're talking about, and they can. In fact, drug addiction issues and mental health issues could be part of the underlying features of what is causing violence. If you want to talk about drugs and gangs that use guns, you need to look at issues like poverty and homelessness. What is driving those people into that behaviour? Oftentimes, it's a lack of options and a lack of resources.

Again, to answer your initial question, if you want to talk about saving lives, yes, I agree, bail reform can save lives, but I don't think that we are going to agree on the way that we approach that. I think more money needs to be put into preventive measures, grassroots measures.

Ms. Christine Hogarth: Thank you.

Chief, thank you very much for being here. I do want to hear the end of your quote that you almost finished that we didn't hear. But first, I have the same question for you: Do you believe that bail reform will save lives?

Mr. Roland Morrison: Absolutely. I think when you look at the number of people who are on conditions already and when you see the number of firearms-related incidences increasing, everything is going to increase with that. So when you think about people who are causing harm, especially when it comes to the illicit drug trade, they're going to exploit the vulnerable people, but they're also going to exploit pretty much everyone in society.

It comes down to making a choice. It is a choice. It's the choice of the person. The victim is going to be able to make a choice. The accused is going to be able to make a choice. Regardless of your societal background, it still comes down to a choice.

Ms. Christine Hogarth: Do you think that saving lives should be the number one priority of bail reform?

Mr. Roland Morrison: Absolutely, it has to be. The safety of the public has to be considered when it comes to bail reform. You have to weigh all the circumstances. Is it going to probably come to something when you have a person committing an offence with a firearm? Are there going to be more stringent considerations? I would hope so. I hope that this is the purpose of what this reform committee is going to look at—really evaluating the system that's there. And if there needs to be improvement, then improve it. If there needs to be from the defence side of things, "Then I'm going to go here; I'm going to go here"—they have to be listened to as well. Again, when you look at the seriousness of the offence, that has to be considered. Maybe the system, when you take that blanket approach to everything, "Okay, for these threshold offences, here's what has to apply"—

The Chair (Mr. Lorne Coe): Thank you, Chief, for that answer. We've run out of time for the government members' questions.

We'll now turn to the official opposition, beginning with MPP Vanthof.

Mr. John Vanthof: Thank you, Chief Morrison and Ms. DeMelo.

My first question—actually, first statement—is for the chief. I regret that the committee didn't allow more time for a northern perspective. We have had lots of Toronto police perspective, and I fully appreciate that, but I wish, looking back, that the committee had taken the opportunity

to ask for more of yours, because specifically, with fly-in First Nations, you face incredibly unique challenges.

I would like to direct my first question to Ms. DeMelo. You said that three quarters of people in Ontario jails are waiting for trial. Correct?

Ms. Cassandra DeMelo: Correct.

Mr. John Vanthof: That is a travesty. I think we can agree on that.

There are two problems we're facing here. We are facing the people who are in jail, waiting, and who likely don't pose a danger to society. We're also facing—I don't know the correct terminology, but repeat—people who do pose a bigger threat to society. Although reverse onus is on the books, it doesn't seem to be working. How do we balance that?

Ms. Cassandra DeMelo: I think it is already very balanced, and it is already very tough. There's a reason that our Supreme Court of Canada, in *R. v. Zora*, very recently, in the last few years, has repeated the principles of bail and their importance. This is a reminder that we are given from our Supreme Court several times over several different decisions, time and time again—that it is a dance. It is a very careful weighing of different factors. There is no clear-cut answer. There is never going to be a perfect system, and we need to let go of this idea that we are ever going to strive and hit perfection.

What we need to do is the best that we can, and I believe that most players in the system are doing the best that we can. We'll often also disagree about what that means or how we achieve that, but the reality is that the system as it currently is set out does not need to be stricter. That is my position. I would be quite content if I came out of this and the status quo was maintained as it relates to the decisions that this legislative committee is looking at, because really, I'm telling you, the current state of bail is that most people charged with the types of offences you're concerned with—weapons and gun offences, specifically—are not making bail. On the secondary and tertiary grounds alone, they are oftentimes not making bail; when they are, it is with stringent, very serious conditions. These are not charges that anyone is taking lightly. I think it would be a mistake to assume that because we've had this one incident in recent history, this is something that ought to be of concern.

Mr. John Vanthof: Chief Morrison, in your opinion, from your perspective in the Far North, is the system working as it currently stands?

Mr. Roland Morrison: We wouldn't be having the discussion if the system was working. Again, I had to include our policing partners' stats in this, because when you look at Thunder Bay and Timmins, the hubs before you get to the remote Indigenous communities, for the work that they're doing, they need more bodies because—I have to look at this and describe it as a dike system, a dam system where you plug one hole and another one is going to pop open. Basically, that's what we see here in the Far North—people from southern Ontario exploiting the people in the Far North, especially the vulnerable sectors of society.

When you look at the facts from Thunder Bay police—150 people who are coming to this jurisdiction from outside the jurisdiction, and 50% of those are already on conditions. That tells you right there that they're travelling great lengths just to increase their profit margins. That's all it is. They're bringing weapons, something that's not being seen in the north—and a lot of these, when they are coming back, are untraceable; they've had serial numbers filed off. There's a lot of thought that goes into, basically, "How can we make the most money?" That's what's happening. They're coming north, making the most money, because what they can sell up here—they can threefold, fourfold their increase in their profits, and they don't care who they exploit or who they harm.

Mr. John Vanthof: I have another question for both of you, because it has come up a couple of times. Several deputants have suggested that they would prefer having a justice for bail hearings as opposed to a justice of the peace. What is it your opinion of that? Ms. DeMelo?

1630

Ms. Cassandra DeMelo: There is a system currently in place where a majority of the city centres will have justices of the peace hear bail hearings. There are, however, city centres already that have judges hearing them. So it really does seem to depend on the jurisdiction. There is not always rhyme or reason to that.

Certainly, judges are perhaps more versed sometimes in bail laws. They will, for sure, have a legal education. The will, by training, have a law degree. Justices of the peace do not necessarily need to have that, so there can be a difference between the two.

However, in my experience, justices of the peace become subject matter experts in bail because they are primarily, and almost exclusively, dealing with bail. I am not sure that there needs to be a change to judges hearing all bail matters because the justices of the peace become very well experienced in that area—as I see it, I don't know that it needs to be judges. In fact, I think that would put a further strain on the system. If we want to talk about those people who are waiting in custody for their trial, it's going to put a further strain on the judges, who are the only participants who can hear their trial, if we're also asking them to hear bail hearings. There are lots of considerations at play as to why it is that we rely on justices of the peace to do that work.

The Chair (Mr. Lorne Coe): You have 41 seconds.

Mr. John Vanthof: Chief Morrison?

Mr. Roland Morrison: I think more personnel are needed. If we're going to look at making the system better, I think we need more resources.

Obviously, I'm sure a justice would be fine, but a JP? We need more JPs across the north. We need more crown resources across the north. If we're going to look at improving the system, let's look at improving the whole system. In the Far North right now, it's hard to find a JP. In the northwest region, it was very hard to find a JP. So we need more JPs to start with.

If we're going to look at some of the bail reforms, let's look at more JPs—

The Chair (Mr. Lorne Coe): Thank you, Chief, for that response. I have to stop you now.

MPP Blais.

Mr. Stephen Blais: Thank you both for your presentations.

Ms. DeMelo, one of the suggestions from one of the deputants earlier in the day was to create a special type of justice who would specialize in violent crime, or gun crime in particular, to oversee bail hearings related to those kinds of offensives. I'm wondering about your point of view on that particular proposal.

Ms. Cassandra DeMelo: I'm just not sure that it's necessary. The reason I say that is because the types of bail hearings that are mainly going to bail hearing are already these offences—so, as I already alluded to, the justices of the peace are becoming subject matter experts, in a way, on these issues. What is going to bail hearings? What is being contested? Are these serious violent offences? So when you are asking for an expert, you've already got one. It's already the people in the courts every day, hearing these hearings, who, after a few months, even, of doing that work, are going to have learned about the principles and are going to be able to weigh and consider both sides of the issues. In other words, I think you already have those experts on hand. They're already doing the work.

Mr. Stephen Blais: If it's your contention that the expertise already exists—I don't want to put words in your mouth, but I think you either explicitly said or alluded to the fact that most serious gun offences or violent crime offences are not receiving bail in the first place. How is it that the statistics that we have been provided today by police officials are pretty serious when it comes to re-offending while on bail and reoffending with violent crime while on bail? How do you square those two—what you said and the statistics we were provided by chiefs of police from some of the biggest police agencies in the province?

Ms. Cassandra DeMelo: Unfortunately, I have been not been able to watch all of the presentations today; I did have other trial obligations. However, to the extent that I have been hearing some of the statistics you're referring to, here would be my questions and here's what I would be asking myself: First of all, when we talk about re-offending, are we talking about charges or are we talking about convictions? I am not sure that the statistics that have been alluded to are actually talking about convictions. So again, we're foregoing a conclusion that that means the crime actually did happen or that the crime can be proven, and those are two different things.

The other question I would ask myself is, in what manner are those statistics being collected? Statistics are a beautiful tool, but they can also be twisted sometimes to paint a different picture than what is always the case, and it depends on the methodology used to interpret those statistics. So without further ability to research the numbers being thrown out by some of those police services, I can't better answer your question, but those would be my starting points.

Mr. Stephen Blais: I appreciate your commitment to the presumption of innocence, and obviously, that is a staple, if not the foundation, of the justice system in our

country. But you would have to agree, would you not, that at some point, if you were arrested repeatedly with a prohibited firearm or in the commission of an offence with a firearm or whatever these people are being arrested for, there is an element of caution that is needed in order to protect the public?

Mr. Cassandra DeMelo: Certainly, and that is where the secondary and tertiary grounds are already doing the work for you. I, again, am curious to see these statistics and to see these cases in action, because I do question the number of people who are getting out several times in a row on gun- and weapon-related offences. In my practice—I've been doing this for 10 years—I can tell you I have not seen that happen very often. So when we talk about reoccurring offences, I am curious how many of those are breach charges, for example, simply for non-communication, failing to attend court or other more mundane or non-violent, non-weapon offences. That is where I would need to really break down the statistics more to better answer your question. But those are my initial thoughts.

Mr. Stephen Blais: Thank you very much.

Chief, I don't have any questions for you at the moment. Thank you.

The Chair (Mr. Lorne Coe): We are going to start the second round of questioning. MPP Saunderson.

Mr. Brian Saunderson: Thank you to both of you for your presentations today.

Chief Morrison, I will be up in your neck of the woods next week or this weekend coming. We're coming up for the opening of the justice centre in Kenora and then going up to Fort Frances with Minister Rickford. So I do not know if we'll have a chance to meet, but I will certainly be up and be interested in getting feedback from the people I meet.

My questions are, I think, similar to MPP Blais in the sense that we have heard today some compelling evidence and statistics from our previous deputants talking about the number of violent crimes occurring—it would appear not just after being released on bail once and then being charged with a subsequent violent offence again, but then breaching their previous terms of release and then going on to a third infraction again while they're out on bail. While we'd like to think that Constable Pierzchala's death was an anomaly, I'm not sure that is the case based on what we're hearing today.

What I have taken from what we've heard today is that we're talking about 3% or less of our accused. So the statistic you have, Ms. DeMelo, about 75% of our current inmates in correctional facilities—and I assume that's provincial and federal. No? Maybe you can specify it for me, then. Which facilities are there in which 75% of the inmates are awaiting trial?

Ms. Cassandra DeMelo: Provincial remand centres are the only places where accused people stand awaiting trial. If you are in the federal system, it means that you have now been convicted and you have been moved to serve your sentence in a penitentiary. My statistics are Ontario-based specifically, because that is where people awaiting trial would wait on remand.

Mr. Brian Saunderson: What does that 75% represent in an actual hard number?

Ms. Cassandra DeMelo: Unfortunately, I can't give you the hard number right now. I would have to go back to my original source to get that hard number. I'm sorry. I can't answer that question.

Mr. Brian Saunderson: Let me put it to you this way: If the statistics we are hearing where there are people who have been charged on three separate occasions with violent offences, and they've contravened their bail requirements and conditions, and then they're involved in a violent crime in which there's an injury or death—do you not think that's a problem?

Ms. Cassandra DeMelo: Of course, it's a problem, and I'm not trying to undermine the fact that it's a problem and it's a concern. What I am trying to avoid is a net widening that is going to capture people who do not necessarily need to be captured in it, and that will be just as much of an injustice, especially for our disadvantaged groups and our disadvantaged populations.

1640

If we want to talk about Indigenous folks in the north, for example, that is a group that will be specifically targeted by increased policing—already are. They are going to be targeted by an increased lack of access to bail because of their situation sometimes, but also because, unfortunately, as the Court of Appeal for Ontario has recently found, racism does occur in our system, and that is a notable fact.

I referred to this earlier as a dance. It's about how you protect the community as best as possible and stop trying to strive for perfection. Of course, we would all love to live in a society where no deaths are ever occurring in an unnatural way. However, our system still has to be flexible enough to account for the people who are going to be otherwise caught by your net that you're going to cast if you involve any further bail reform to make this more stringent or more strict. We are already operating in a stringent and strict bail legislation framework. That's why I'm here today. That's why we felt it important to address this committee today—to not let it be assumed that the system is currently not working; it is. It's always going to have examples that aren't perfect, but, again, we are never going to achieve perfection.

Mr. Brian Saunderson: Well, I take your point, but I have to say, in fairness to our previous delegates, that they all acknowledged that the primacy of charter rights and the presumption of innocence are defining and very important principles in our system, but they're saying these are these cases—and you've agreed with me that they are problematic if they're happening, and I accept that they are. So I think there needs to be some reform brought to this system.

Chief, I look to you, because Ms. DeMelo raised a very good point about vulnerable populations and particularly our Indigenous nations. I'm wondering if you can shed some light on your perspective on that, as an Indigenous police chief.

Mr. Roland Morrison: Well, I think when you look at the Indigenous nations across Canada and in Ontario, the system that has been imposed on the Indigenous people is

not a system that is of their own. Prior to settlers arriving at Turtle Island, there was a system in place that Indigenous people followed, and that system worked. Now we're starting to see a push from many of our tribal councils, many Indigenous communities that want to bring back the traditional laws and incorporate them into mainstream. There are some tribal councils in the Nishnawbe Aski Nation territory that are starting to work on this, because they feel that this system, the European system, is not working.

I go to communities, I go to council meetings and I go to community meetings, where the harm that's coming to the communities now in the form of illicit drugs—and it's coming up there; it's actually in these communities, and they're being brought in by people—some of it is the Indigenous people themselves. We have people who are coming, like I said, from southern Ontario, aligning themselves with Indigenous people and causing harm. In fact, they're even taking—when you look at the Indigenous people living in Timmins and Thunder Bay, there are a lot of home takeovers by people from outside the jurisdiction. Again, the harm that's being caused—our chiefs, our community members, our elders, the kokums want a system that's going to work for them, because the European system is not working. The violence that's happening—and our community members see this. They know—and especially our offenders, even our Indigenous offenders—that the system doesn't work. They don't want to go to a system where they may be banished from their community. These are some of the considerations that are being spoken about when going back to traditional laws.

The Chair (Mr. Lorne Coe): We will go to the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: To both our speakers, thank you very much for your presentations today.

Chief, I can sense the emotion in your voice as you're doing the very best you can to explain to us in the south what is happening in the communities in the north, and especially with respect to the impact on Indigenous communities, keeping them safe, and perhaps the perpetual cycle of violence.

With respect to breaking that cycle of violence, making sure that communities have the resources they need so they can make those other decisions or perhaps be given opportunities and pathways to economic independence, or perhaps other community supports that will move them away from violence and move them away from the challenges and vulnerabilities they're facing—do you believe that there could be more done to support the Indigenous communities you serve so there are different choices that may be more in tune with even Indigenous learnings and teaching, so we can break that cycle of violence?

Mr. Roland Morrison: Yes. The communities are recognizing themselves that the system doesn't work for them. This is why they are now pushing MAG and government ministries to bring back their system. They want their system in place, a system that they followed for thousands of years. To be thrust into a system that doesn't work for them—there's a lot of questions with that.

Is throwing more resources going to make it better? I'm going to say yes and no. Yes, throwing more resources will improve having options for better choices in the communities. But let's look at the reality. Are governments going to spend the financial resources to put those in place in Indigenous communities? No, it's not going to happen. I just can't see it happening. They've been asking for that already, and it doesn't happen.

There needs to be a balance that's going to be found, and that's what's being worked on with the Windigo tribal council right now and Nishnawbe Aski police—trying to find that balance where you can restore that harmony. That's what Indigenous communities were based upon. They were based on harmony, being able to get along. You did have to do things, but those were done for protecting your trap lands, the areas that were going to provide food for your family. You protected those by any means, but you also respected a system. When it wasn't necessary to protect your lands, there was a system of balance in place, and that's what Indigenous people are trying to get back to.

MPP Kristyn Wong-Tam: Thank you. I'm going to move my questions over to Ms. DeMelo.

Ms. DeMelo, I believe you're the first woman to speak today, so you're bringing a very different perspective, not necessarily because you're the first woman, but because you represent defence attorneys. Obviously, you're looking at the system from perhaps a different vantage point. Thank you for your presentation.

I'm really interested in understanding your comments about the fact that the bail system and the bail program work today but there are pieces that are broken. That was very evident in the presentations provided from our earlier presenters this morning and this afternoon. They're asking for a very tailored response coming from the federal government. But they all alluded to—or they spoke directly to—the fact that the province can do its share with respect to bail supervision or perhaps to clearing the backlogs in the court, so you don't have 77% of people actually sitting in jails while they're waiting for their trials and hearings. Can you speak to that issue? Thread it together for me.

Ms. Cassandra DeMelo: In short, I agree that there are parts of the system that could be improved upon. What I disagree with are some of the calls that I've heard today on how we do that. I don't mean any disrespect, of course, to the number of police chiefs we've heard from and other people here who bring a different vantage point. I appreciate that that's part of our world; we're always going to come to this with our own perspectives and experiences. My experience, however, is that there are a lot of options available for bail that simply cannot be better utilized because resources are an issue. This is the million-dollar question: How do you better fund these things?

For example, there has been a lot of emphasis on surety requirements for bail, but we've been forgetting that there have been other programs in place, like the John Howard Society bail supervision program, which is local to me in London, where I practise. There are other similar programs elsewhere in the province that can also assist with helping to supervise accused persons on bail. This does not always need to fall to the police. This does not always need

to fall to their officers—to go out and clear up bench warrants, failing to attend or breaches. There can be a bail supervisor in place who helps to keep that person on the right path and get them connected with community support, so that perhaps they're not getting into those breach situations in the first place.

What we need to see is, as I've said, more thinking outside the box on these grassroots issues and how we prevent crime to begin with, not just respond to it. That's my point: If we continue to do the same thing, which is to try to get tougher on crime—it has not been working for us all these years, so let's start looking at the issue from a people-first perspective of how we can better fund our programs to avoid this happening in the first place, rather than simply responding after it has been too late.

MPP Kristyn Wong-Tam: I wholeheartedly agree that we need to be able to invest in the social determinants of safety, which I often find to be almost exactly the same as the social determinants of health.

My question to you now is with respect to those who are set out and released on bail and conditions that have to be met but there aren't any other resources attached to it—therefore, if someone doesn't have a pathway to housing but they've been released from jail, or they don't have necessary mental health or addictions support but they've been released from jail, and they're supposed to be meeting these bail conditions, but on their own, without the community's support. As wonderful as John Howard is, they may not be able to reach everybody. We know the numbers are staggering. Would it make a difference if the provincial government—our government—and every other order of government invested in community supports in mental health and addictions and supportive housing, so therefore there are alternatives and pathways that can divert people away—

The Chair (Mr. Lorne Coe): MPP Wong-Tam, your time for questions has concluded.

I want to thank both of our deputants for your time and your answers to the questions.

Interjection.

The Chair (Mr. Lorne Coe): No, he doesn't have any questions. I've already asked.

You don't have any questions, right?

Mr. Stephen Blais: No.

The Chair (Mr. Lorne Coe): Okay.

Thank you very much for your time. This concludes this portion of our meeting.

We're going to move on to our three other delegates— are they here? They're not here yet, so we're going to recess for seven minutes until 5, and reconvene at 5 o'clock.

The committee recessed from 1653 to 1700.

MR. JUSTIN PICHÉ

SOCIETY OF UNITED PROFESSIONALS

CRIMINAL LAWYERS' ASSOCIATION

The Chair (Mr. Lorne Coe): The Standing Committee on Justice Policy has reconvened. We have an order of

speakers, members; it's on your agenda. We're going to start with Justin Piché.

Mr. Piché, welcome. You will have seven minutes for your presentation. Following your presentation, there will be questions from the committee members. There will be two rounds of those questions, which I will moderate. Please start your presentation—but your name, first of all, and your affiliation, for Hansard.

Mr. Justin Piché: I'm Justin Piché, and I am an associate professor in the department of criminology at the University of Ottawa. Bonjour, tout le monde. I'm coming to you from Ottawa, which is located on unceded and unsurrendered Algonquin-Anishinaabe territory. I've studied imprisonment and alternatives to imprisonment for over 15 years.

I'll start by agreeing with your previous panellists: There are problems with the bail system. However, I don't agree with them that one of these problems is that Canada's bail regime and how it's executed in this province generally is too lenient. Why? Well, according to Statistics Canada data from the mid-1980s to the mid-1990s, the portion of prisoners on pretrial detention fluctuated between 23% and 30% of all provincial-territorial prisoners. By 2000-01, 40% of those incarcerated by the provinces and territories were awaiting their day in court, with these prisoners accounting for approximately half of this institutionalized population by 2004-05. Since that time, almost 20 years, those remanded in custody have outnumbered sentenced prisoners at the provincial-territorial level. In other words, today there are more people who have yet to be tried or sentenced than those serving a sentence in penal institutions operated and managed by the provinces and territories. While the increase in remand over the long term has been uneven across Canada, we can count Ontario as being among the jurisdictions with the highest portion of provincial prisoners awaiting their day in court, which was over 75% according to a Solicitor General official testifying at a coroner's inquest into deaths in custody at the Lindsay superjail that took place last year. I should note this was just a coroner's inquest into a handful of deaths of the close to 200 in Ontario's provincial jails between 2014 and 2021, documented in the report released today by the Office of the Chief Coroner entitled *An Obligation to Prevent*. You should check it out.

There have been other consequences to this remand boom, as well. One of those consequences has been the construction of new, bigger and very expensive detention centres, like those opened in the last decade in Windsor and Toronto that, together, had a price tag of \$1.4 billion over the life of their 30-year design-build-finance-and-maintain prison mortgages. There are also recent multi-million dollar additions to the Kenora Jail and the Thunder Bay Correctional Centre, which you may be familiar with, as well as new provincial prison infrastructure projects planned for Kemptville, Brockville and Napanee that Infrastructure Ontario estimates will cost up to \$2.1 billion to erect. These massive costs don't include operational costs associated with imprisonment—which, for just one provincial prisoner, costs an average of \$297 per day, or

around \$9,000 per month, or close to \$110,000 per year, in 2019-20, in Ontario.

I would like to remind all of us here that there is criminological research that was done by my colleague Irvin Waller at the University of Ottawa—he's now a professor emeritus, so he's been around the block for a while—that shows that for every dollar spent upstream on violence prevention, \$7 is saved in policing, court, prison and victim services costs incurred after victimization has happened.

So let's talk a bit about prevention. Let's talk about safety. That's what I'm here to do today.

For every imprisoned person locked up for a year in Ontario provincial jails, that costs \$110,000 a year. You could almost fund three permanent and supportive housing spaces that cost \$40,000 a year each.

For that money, you could fund four emergency housing spaces at \$25,000 a year each.

For that money, you could provide rent supplements of \$500 a month to 18 people trying to keep a roof over their heads, which is quite difficult right now.

For that money, you could open and run nine community gardens at the cost of \$12,000 each per year to help combat food insecurity, experienced by so many at this time.

For that money, you could provide 108 kids with a breakfast and snack program for an entire school year, which would allow them to concentrate and learn better, diminish behavioural issues and prevent them from entering the school-detention-to-suspension-to-expulsion-to-prison pipeline.

For that money, you could enrol 54 youth in a mentoring program per year at a cost of \$2,000 per kid. You could enrol 124 youth in six-week leadership training courses at a cost of roughly \$900 each.

For that money, you could provide 15 youth with nine weeks of full-time employment at \$20 an hour during the summer when they're not in school.

For that money, you could provide 35 days of drug treatment and a year of aftercare to more than five people at a cost of \$19,000 each per year.

For that money, you could provide intensive case management for eight people living with mental health issues at a cost of \$13,300 per year.

For that money, you could provide 722 hours of counselling at \$150 per hour for those seeking care and compassion.

For that money, you could hire two support workers, at an annual salary of \$52,000 per year, to walk with people struggling in the community in need of care and compassion, not cuffs and cages.

These are the kinds of supports that organizations calling for increases in the use of prevention, diversion and decarceration have called for before and throughout the pandemic, and it is what we need to keep each other safe and enhance community well-being and safety.

I have a lot more to say, but I'll leave it there for now. Thank you.

The Chair (Mr. Lorne Coe): Thank you very much, sir, for your presentation.

Our next presenter I'd like to call forward is Dana Fisher. Please identify yourself and your affiliation before you start your presentation. I'll let you know when you've got a minute left. You have seven minutes.

Ms. Dana Fisher: Thank you. My name is Dana Fisher. I am a vice-president of the Society of United Professionals. That's a union that represents almost 400 lawyers and articling students employed by Legal Aid Ontario, as well as lawyers and workers with Aboriginal Legal Services, the Chinese and Southeast Asian Legal Clinic, and the National Judicial Institute. The majority of my members are criminal duty counsel. These are the lawyers who represent accused people in over 80% of the bail hearings in Ontario. In addition, we have members who work on policy for legal aid and those who are senior criminal litigators. Our members are a cornerstone of the bail system and are experts in the area of bail.

The points that I would like to make today are:

(1) That the law of bail must be consistent with the Canadian Charter of Rights and Freedoms, which includes the presumption of innocence and the right not to be detained without just cause.

(2) That the law on bail in Canada, including for those charged with firearms and violent crimes, is not lenient, and, in fact, there is and has been a long-standing crisis in the bail system of over-incarceration of persons accused but not found guilty.

(3) That Indigenous and racialized persons continue to be over-incarcerated at all stages of the justice system and that any changes to the bail system that are not designed to ameliorate this will undoubtedly have a negative disproportionate impact on these groups.

We all understand the tragedy that has led us here today. Our members share in the devastation and outrage that is felt at the death of a police officer. This incident, though, as tragic as it is, should not cause us to abandon our charter rights and freedoms.

To paraphrase the Canadian Bar Association, it's important that the changes to the justice system be evidence-based and not a response to an outcry from those unfamiliar with the system and the delicate balance of constitutional tenets it represents.

We encourage this committee to make evidence-based decisions and findings that are fully charter-compliant. Our charter rights are too fundamental to our fundamental freedoms as citizens to be encroached.

Everyone who is accused of a crime is presumed innocent until proven guilty, and they're not to be denied reasonable bail without just cause. Ensuring attendance at court, public safety and maintaining the public's confidence in the administration of justice can already justify the legal detention of an individual in custody for days, weeks, months or even years before there has been a trial or any weighing of evidence.

The Crown Prosecution Manual already directs all crowns to seek detention in any firearms charges. The current law on bail is not lenient. As mentioned, in Ontario jails the legally innocent vastly outnumber those who have been found guilty; more than three fourths are legally

innocent. This is preposterous and should be appalling to everyone. Our jails should be for the guilty.

I personally have witnessed people's shock when they observe a bail court. The shock is not from the ease with which people obtain bail. The shock is at how people are regularly detained in a pro forma manner, including being held for days without even a judicial officer having heard the allegations.

1710

This warehousing of the legally innocent is not normal. Canada's rate of persons held in pretrial detention is higher than that of most western European nations, Australia and New Zealand. Not only that, but bail is also a matter of life and death for accused persons. As previously mentioned, deaths in custody have been increasing in frequency, and since 2010, there have been 280 deaths in Ontario's provincial institutions.

I think sometimes the public believes that the presumption of innocence is a fallacy; that we may say someone is presumed innocent, but really, they just haven't been found guilty yet. That is not the case. More than one third of adults charged with a crime will not be found guilty. Even of those found guilty, we know from very public wrongful conviction cases as well as from research studies and from experience working in the courts that, though hard to believe, many people plead guilty for reasons other than guilt, and as well, that people are found guilty after trial who are later exonerated. This is the reality of our bail and justice system. A person can be held in custody, denied bail, awaiting trial and may spend years in jail only to be found not guilty. They effectively serve a sentence for a crime that they have never been found guilty of.

Those who are charged with violent offences may not be guilty of those. As well, those who are guilty may never commit another offence again. Being tough on bail is not being tough on crime because the legally innocent are not yet guilty of the crimes with which they are charged.

We also know that it is Indigenous people, the mentally ill, the homeless and certain racialized groups who are most overrepresented in custody. Repeated efforts have been made by the Supreme Court of Canada and by the federal government to address this discrimination and over-incarceration, and yet we continue to see over-incarceration of these populations. Any bail reform efforts must include addressing the issue of over-incarceration of Indigenous and racialized persons and of the mentally ill and the homeless in order to ensure that this problem is not further exacerbated.

I have two last thoughts before closing. First, this government can do something to protect the public, as we've heard: funding the justice system, including the bail system, and funding community and social and health programs. The sooner someone is tried, and if guilty, sentenced appropriately, the safer the public will be. As well, bail decisions are significant, and good bail decisions require experienced judicial and court officers. Those actors must also be given sufficient time and resources to prepare. It has long been known by academics, as we just heard, in the field of criminology, that incarceration does

little to reduce crime. Indeed, resources need to be put towards the community, health and social programs that will reduce involvement in crime and increase pro-social behaviours.

Lastly, there are calls for an automatic detention for firearms offences or to otherwise limit the ability of those facing such charges to get bail. This may sound reasonable on its face, but an unintended consequence would be the pretrial incarceration of grandparents, sisters, mothers, brothers, fathers—those who are the target of these charges. Working in the bail courts, you see that the police will charge everyone in a house when a firearm is found in that house. Holding these family members, even overnight, before releasing them on bail happens, and I would think that it's a serious affront to the sensibilities of the majority of Canadians that it does.

The Chair (Mr. Lorne Coe): You have a minute left in your presentation.

Ms. Dana Fisher: To even contemplate making bail more onerous for these legally innocent people who will in all likelihood have their charges against them withdrawn is contemptuous of the very notion of the presumption of innocence and the right not to be denied reasonable bail without just cause. Thank you.

The Chair (Mr. Lorne Coe): Thank you very much. We appreciate your presentation.

Our next presenter is Anne-Marie McElroy. Welcome.

Ms. Anne-Marie McElroy: Thank you. My name is Anne-Marie McElroy. I'm here on behalf of the Criminal Lawyers' Association. This is an organization that represents over 1,800 criminal defence lawyers in Ontario. Our members, including myself, are on the front lines of bail courts along with duty counsel every day in this province, so that's the perspective that I'll be bringing today.

The issue with bail as it operates in Ontario has clearly come into the spotlight over the last month. In considering these issues, the Criminal Lawyers' Association's position is that the availability of bail should not be restricted over one singular case. I'm sure that having heard a whole day of submissions from various experts, you're now all experts yourselves in bail matters, but I'll just go back to the legislative framework that you know is set out in the Criminal Code.

It's important to remember that the issues of bail and how it's decided are grounded in the ladder principle, meaning that a justice has to consider the least onerous form of release that is appropriate in the circumstances before considering a more onerous one. The analysis is informed by the grounds of detention, whether the individual is a flight risk, whether there's a substantial likelihood of reoffence, or whether their detention is necessary in order to maintain confidence in the administration of justice. A justice deciding bail does have a wide discretion with respect to what conditions to impose, and they can be carefully crafted to address specific concerns related to the individual.

There's always a risk analysis that goes on in determining bail, and a justice has to do their best to decide, with the information before them, the appropriate balance

between the right to reasonable bail and the liberty of the individual and the safety of the community. There is no way to reduce that risk completely; the only way that could happen is if we detained every single person who was charged, which would be not only counter to charter principles but also completely unfeasible in terms of the resources, the space in jails, the cost associated and so on.

As has been reflected by my fellow presenters, as it stands, the courts tend to be risk-averse when it comes to deciding bail. This is reflected in the statistics that were offered by Mr. Piché in terms of the number of people who are in pretrial custody. Many of those people are acquitted at trial, and those—even those who are found not guilty may not end up serving a custodial sentence.

We know that the impacts of individuals being held in custody awaiting trial can be catastrophic. People lose their employment, their housing, their community supports. The conditions of pretrial custody are often harsh, with little to no programming available. I see my clients who are struggling with addictions, with mental health issues receive little to no care at all. We also know that racialized individuals are detained at higher rates than non-racialized people in Ontario. So any tightening of bail provisions would no doubt have an even further disproportionate impact on marginalized people.

We also know that detention results in a significant cost to the province. I won't repeat any of the statistics that my fellow presenter has provided.

The Criminal Lawyers' Association does support the use of community resources to provide supervision and programming to individuals as they await their trials. Programs such as the bail beds program through the John Howard Society have provided the possibility for supervised residential programs for those without a surety or stable housing and allow the clients to access services. Further, the ministry's contract with Recovery Science to provide GPS ankle monitoring allows for those facing economic barriers to access bail in a way that's more closely monitored.

The police have a role in ensuring that people on bail are compliant with their conditions, executing warrants for those who are alleged to have breached these conditions.

The courts can also hold those who fail to properly supervise individuals accused of offences accountable through the process of estreatment, which is a separate civil proceeding where individuals may be ordered to pay back some or all of the money that they promised as a bond.

In the end, there is no way to completely eliminate the risk of reoffence while an individual is on bail. It's important to remember that, absent the most dangerous cases, an individual who is charged with an offence will eventually be released back into the community. The safety of the community is not enhanced by removing discretion of the justice system to allow for individuals to be released on bail, where appropriate, with carefully considered conditions. It's important that we strive for a bail system that respects the presumption of innocence and the right to reasonable bail, and that supports individuals in the community as much as possible.

The Chair (Mr. Lorne Coe): Thank you very much for your presentation.

The round of questions will start with the government members. MPP Kusendova-Bashta.

Ms. Natalia Kusendova-Bashta: I'd like to thank all three presenters for their insightful presentations. We've been hearing presentations all day, and I must admit this is not my area of expertise, so I did learn a lot, and I really, really appreciate that.

Professor Piché, do you think that the current bail system status quo, as it is, is working?

Mr. Justin Piché: No. I would point to a few things that were alluded to in the previous presentation.

There is a culture of risk aversion within that system, where there are more charges being laid against an accused party, that increases the complexity of cases, and in a number of cases, those charges get dropped.

1720

An increase in the proportion of cases that enter courts via bail proceedings as opposed to police releasing people on their own recognizance, which they can do—and I was surprised to hear earlier speakers talk about, “Well, there are people we can release who are in pretrial detention.” Well, why aren't the police releasing them on their own recognizance to begin with?

There has been an increase in the number of appearances to resolve the bail question, a greater number of conditions placed on individuals who are granted bail. That increases the probability of revocation and subsequent custody in remand centres. For instance, you could have someone who gets a condition about, “Oh, you're only allowed out of the house while you're working.” Okay, well, let's say in Ottawa right now, where the LRT does not work—we have like the equivalent of the Simpsons monorail. What happens if someone is outside of their curfew time, can't get home because the LRT is down and a police officer gets—

Ms. Natalia Kusendova-Bashta: Is it your opinion that the current bail system as it exists is already too onerous? Am I understanding that correctly?

Mr. Justin Piché: I would say, overall, that the increased rate of individuals who are in pretrial detention over the last several decades indicates that, yes.

Ms. Natalia Kusendova-Bashta: That's in opposition to many of the presentations we've heard today.

Do you then think it's significant that all Canadian Premiers representing all political stripes and all areas of Canada have signed a letter calling for bail reform?

Mr. Justin Piché: I believe that they are misguided. I also believe that—

Ms. Natalia Kusendova-Bashta: You believe all 13 Premiers of Canada are misguided? Is that your professional opinion, Professor?

Mr. Justin Piché: That is my professional opinion, and they're receiving bad advice.

Ms. Natalia Kusendova-Bashta: Thank you very much. I'll pass it on to my colleagues.

The Chair (Mr. Lorne Coe): We'll go now to MPP Dixon.

Ms. Jess Dixon: I will preface my question by saying that for the utility of this committee, this is the study on reforming the Canadian bail system with regard to people

accused of violent offences or offences associated with firearms or other weapons. This committee and this government is sophisticated enough to know that we are not aiming at trying to put a wide net to simply collect as many people as possible and put them in detention. As you would know, bail reform happened several years ago for that express reason.

What I am wondering, given some of the comments that I hear—I can open it to anyone who wishes to answer.

For example, if you pull up a list of the victims of homicide in Toronto over the past five years, the vast majority of those victims are primarily young men who are Indigenous or racialized. Those are people who were not protected.

Again, we are not talking about preventive measures here. We are talking about people who are already within the system, who are already carrying loaded firearms, who are already using them against others.

Do you believe, given the number of, as I said, young men who are Indigenous or racialized who have been shot dead on the streets of Toronto, that we are adequately protecting them with the bail system that we have in place currently?

Ms. Anne-Marie McElroy: I can start by answering that. I think that your question assumes that the individuals who have been killed are being killed by those who are on bail, which I'm not sure that we know—

Ms. Jess Dixon: Thirty-nine per cent.

Ms. Anne-Marie McElroy:—whether they are.

I can say that for those people who are accused of crimes that involve firearms, the ability to get bail is very limited. The person has to have a very, very tight plan with a lot of supervision for that. A lot of the time, the tertiary ground, which is whether or not the administration of justice would be brought into disrepute, is something that a justice will take very, very seriously when it comes to deciding that, and the use of a firearm in the commission of an offence is one of the enumerated grounds for considering that tertiary ground.

The Chair (Mr. Lorne Coe): Dana Fisher, please.

Ms. Dana Fisher: I'd echo the comments that we just heard. I did hear some mention about perhaps the statistics of people who were on bail, but do we know—were they on bail for serious violent offences prior to being caught up in committing a homicide, as you're alleging? If we're talking about "well, they were on bail," but they were on bail for something that was very minor, then we haven't solved the problem here if we make that more difficult.

As I mentioned earlier, it sounds very obvious to say that if somebody has a gun, they should be held in custody. But it's not that simple in terms of what you actually see in the bail courts. In bail courts, you are presented with a charge. Maybe the gun was found on the person, but maybe it was found in the person's son's bedroom, underneath their bed, in a place that nobody would have ever looked and that the other people in the house have no knowledge of. That's not uncommon; I'm not using that as a very rare circumstance, where this never happens. It was a regular occurrence at the College Park courthouse.

So this sounds on its face to be very reasonable, but in practice, you're going to find that it's not.

As has been stated, the system itself already has the ability to detain somebody for public safety if that's a concern. It already has the ability to detain somebody—if it will bring the administration of justice into disrepute and the public will lose confidence in the system of justice. These things are already in place to address those issues, and by and large they do a good job of it, but more money needs to be invested in the justice system in order to ensure that all the players have the time and resources to be able to actually spend the time, to make sure that they've investigated the case properly, that the proper materials are before the courts.

Another piece is just making sure that people actually get to trial in a reasonable amount of time, because I think another thing you will find is that as a court case drags out for three years, justices become less comfortable with having held somebody in custody who is legally innocent, knowing that it has been three years and they still haven't had their trial date. If we're able to actually invest in the justice system and move trial dates to a reasonable time period, then these people won't be on bail for as long, or maybe they will be held, and held for a more reasonable time period, and then you can find out whether they actually are guilty or not guilty, and they will be sentenced accordingly.

The Chair (Mr. Lorne Coe): The government has 11 seconds left in its time. MPP Saunderson, you're on my list for the next round. If there are supplementaries from other members of the government, I'll add you to my list at that time.

I'd like to turn to the questions from the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: Thank you to the presenters for your deputations.

I'm curious to know—this is in light of some of the contradictory comments. Of course, we would expect it; it's a full day of hearings on bail reform. I'm happy to see that there are some dissenting voices. That's just part of why we're here. But I want to be able to drill down a bit on this.

I'm going to start with you, Ms. Fisher. I'm very interested in hearing your opinion on if there are risks assessed differently in different regions as to when someone may get access to bail, if there are discrepancies between what the police will do in Toronto versus another jurisdiction—same with crown attorneys. How do they evaluate risk aversion? How does all of that factor in? Will someone be more likely to be released on bail in Toronto versus, for example, Oakville?

Ms. Dana Fisher: I don't know if you can say that somebody would be more likely to be released on bail in one jurisdiction versus another, although there are variations depending on the various justices who will be hearing a case. The law is what the law is in the sense that there's fairly clear case law that sets out what would be appropriate. But yes, there are variations. You will absolutely see variations.

I'm not sure if I'm the best person to answer this question. I'm wondering if the representative from the CLA might have a piece, and I might join in afterwards, once I've—

MPP Kristyn Wong-Tam: Thank you. I'm going to redirect that question. I'm sorry if it's not as clear, but hopefully you can unpack it to the best that you can.

Ms. McElroy, do you have a response to that?

Ms. Anne-Marie McElroy: Yes. Again, my personal practice is limited to the east. I practise in eastern Ontario. I'm based in Ottawa, but I go to jurisdictions around Perth, Pembroke, Cornwall and so on. I certainly see differences in different jurisdictions. Some of that comes down to the crown's office and whether—or the police services, the crown's office and the bench as well, in terms of the justices of the peace. There are different cultures that develop in different offices based on the leadership that is there. While they still are under the umbrella of the same policies, there is certainly some variation. I can't give you that with any specifics or any statistics, but the law, while it is the same, certainly can be applied differently. Sometimes it's just a matter of—we see this in sentencing, as well, where, when a certain kind of offence is seen to be more prevalent in a certain jurisdiction, sometimes there develops sort of a higher tariff that's associated with that. For example, in the Ottawa Valley, where we've seen a spike in impaired driving, sometimes the penalties there are harsher. So I think when there is more of a concern, say, of drug trafficking or violence, sometimes there ends up being more of a risk aversion in terms of releasing people on bail.

1730

MPP Kristyn Wong-Tam: My next question is to Mr. Piché. Thank you for your deputation. I recognize you're a numbers fella, so I want to be able to drill a little bit deeper into some of the financial equations that you offered us earlier.

With respect to trying to manage and create public safety with the limited resources that we have, on one hand we've got the police, and there are those who say let's get tougher on bail reform and making sure that people who can cause harm, and violent harm, to the community are kept behind bars and kept away from community. As well, there are those who say—I think you're one of them—that if you can divert those finances into diversion programs, you're probably going to save money and you're going to get better outcomes, meaning safer communities, by reaching people upstream and not necessarily through incarceration or punitive measures.

With respect to what you said in terms of \$110,000 a year, I believe, for someone who's incarcerated versus providing housing and opportunities for employment and other pathways, what would it take for us to redirect that? Because right now, we're not talking about mental health supports. We're not talking about supportive housing. There isn't really any other innovation coming forward on those matters, but we are looking at bail reform specifically for this very small, narrow group of individuals.

Mr. Justin Piché: Just to answer your previous question, I've sent a link to the operator for the committee around statistics provided on bail by the Ontario Court of Justice—and they're all readily available; I'm looking at them right now from 2015-22—which will give the committee a sense of the unevenness that may exist in bail decisions across different courts in the province. So that's one thing I'll just put out there.

With respect to your question that you just asked, I would say, again—and I would recommend the book *Less Law, More Order* by Irvin Waller, who is a victims' advocate, who is a prevention advocate, who's a colleague of mine. Again, for every dollar you invest in prevention, improvement programs that work and other supports, you save \$7 that you spend after victimization occurs on policing, courts, prisons and victim services. I would advocate for shifting as much as you can towards those supports so that, eventually, you phase down what we currently have as a so-called approach to justice to prevent young people from being gunned down in the street instead of trying to respond and react to it—which is what investments in policing, courts and prisons are, right?

We don't spend lots of money on prevention versus imprisonment in this country. The federal government—I'd have to look up specifically, but the last time I checked, they spend, I believe, around \$100 million a year on prevention initiatives and they spend roughly \$2.5 billion on federal penitentiaries. I don't know what that looks like in Ontario, but I encourage you all to look into that and see what you can make possible immediately and what you can strive to achieve in the future. Because by the time you lock someone up, it's not actually like—

The Chair (Mr. Lorne Coe): That concludes the questioning from the official opposition.

MPP Blais.

Mr. Stephen Blais: I have a question for Ms. Fisher or Ms. McElroy.

We were presented with statistics earlier today from the Toronto police about situations in Toronto. In 2021, 772 people were released on bail for firearms-related charges; 165 of those people were rearrested while on bail for firearms-related charges—that's 20%. Of those 165 people, 60% were rearrested for a third time for firearms-related charges. Of that 60%, another half were arrested a fourth time for firearms-related charges.

I appreciate the consideration that needs to be given between, obviously, the presumption of innocence as a foundation of our system, but if such a large percentage of people are demonstrating to be reoffending for firearms offences, at what point is that balance to public safety needing to be weighted more heavily?

Ms. Anne-Marie McElroy: Sorry; do I understand that the statistic that was presented was that, of those people arrested for firearms, a percentage of them had four separate outstanding offences with firearms?

Mr. Stephen Blais: Yes.

Ms. Anne-Marie McElroy: I think, in some ways, the question is rhetorical. I understand that there are a lot of concerns in terms of violence and reoffending. Frankly,

that number surprises me because, given the way that the framework is set up in terms of the reverse-onus provisions that come into play when there is a firearms offence, it is the accused person's onus to demonstrate that they can be supervised in the community, and then, if they are already on bail, they would also be facing that reverse onus. We're talking about the interplay here between the judicial branch of government and the legislative one, and I'm not sure that there's an answer that comes from the legislative branch when we have this framework there.

I don't know if that was much of an answer to your question.

Mr. Stephen Blais: So if the reverse-onus provision is there, is it possible that these situations are occurring as a result of lack of training and/or lack of information provided at the time of bail consideration? Is there a need for greater investment in training for the justices or the Superior Court judges, or is there a different formulation of information that they need to be provided when they're making these decisions in order to avoid three, four re-occurrences, which—I'm sure everyone can agree—would be alarming if the broader public were more aware?

Ms. Anne-Marie McElroy: That's right. I don't think there's harm in terms of the education of either the crown or the justices who are making these decisions. Typically, it's the justices of the peace who are making the determinations on bail, who are appointed and do not have legal training.

We did have a pilot project that occurred in Ottawa and a few other jurisdictions—I believe there were some at one or two courthouses in Toronto—that did have Ontario Court of Justice judges deciding bail, and, in our experience, that was an efficient use of resources. Sometimes the judges have legal training; they're aware and have a deep knowledge of the bail provisions and the case law, as well. Sometimes, too, that would result in the resolution of some matters where, after the bail hearing, when they have that information, they could give both counsel an idea of what they thought a reasonable outcome might be.

My colleague Ms. Fisher may have some input on that, as well, in terms of the education piece.

Ms. Dana Fisher: I, too, would be very surprised by those statistics, and I work in Toronto. That shocks me. I would say that if somebody is getting bail after having even one firearms-related charge, there is likely something very wrong with that case for them to be able to get bail. This is not a situation where there is a strong case and they are getting bail. This would be a situation where—I'm not seeing the numbers before me, but there's something wrong there.

The Chair (Mr. Lorne Coe): The time has concluded for that round of questioning.

We are now going to start the second round of questioning with MPP Saunderson, please, for the government.

Mr. Brian Saunderson: You're our final panel of the day, so thank you; it has been a long day.

I do want to pick up on the same stream of thought that MPP Blais was pursuing, and that's that we've been hearing statistics during the course of today, one of which

is that in the Toronto Police Service's letter of January 25 to the Prime Minister, they stated that 39% of all Toronto firearms-related homicides—in those cases, the accused was out on bail at the time of the alleged offence.

1740

Also, to pick up on the statistics that Mr. Blais referred to directly: We had the police service chair and the police service chief from the city of Toronto, and they indicated that in 2021 and 2022, approximately 170 to 200 individuals were charged with a gun offence or a crime involving a firearm while out on bail. Half of those then committed a second offence involving a firearm and then, again, half of those, approximately, committed a third offence.

I appreciate that you haven't had an opportunity to review those statistics, but if that is the case, and accepting those numbers, do you not think, then, there's an issue with the bail system that requires some drilling down to look at and to understand better how these situations occurred? It obviously directs our police officers, our front-line law enforcement officers—but also, under number 2 of the three considerations, it goes to our community safety, and I think, to the third one, as well, on the administration of justice.

So I'd be interested in your comment about whether or not you think we need to look at this bail reform at all, or if you're satisfied with the system as it is, and this type of leakage is an acceptable part of a human system that's quite complex.

The Chair (Mr. Lorne Coe): MPP Saunderson, could you help me by indicating who you're directing this question to?

Mr. Brian Saunderson: I saw your hand go up, so I'll go with you first. And then if anyone else would like to weigh in on this, I'd love to hear.

The Chair (Mr. Lorne Coe): So we'll start with Dana Fisher and once she has completed, we'll go to Anne-Marie McElroy, please.

Ms. Dana Fisher: I think there are a few things built into that. One is, I think the first thing you said was that a person was on a charge and then was charged with a firearms-related offence. So the first charge wasn't firearms-related. I think we keep getting stuck into the whole—if the first charge was related to a non-firearms-related charge—

Interjection.

Ms. Dana Fisher: The first one was firearms?

Mr. Brian Saunderson: They were all firearms.

Ms. Dana Fisher: Okay, sorry, then I will—

Mr. Brian Saunderson: It's not a huge number, but I guess what's concerning are the percentages of the recidivism while these charges are outstanding and they're out in the public.

Ms. Dana Fisher: Okay. In that case—well, actually, I'll let Ms. McElroy go first and then I'll jump in afterwards, if that's okay. I saw that there was some eagerness.

The Chair (Mr. Lorne Coe): Pardon me, I'll chair the meeting, so would—

Ms. Dana Fisher: Oh, apologies. Sorry. Thank you.

The Chair (Mr. Lorne Coe): Thank you. If you're finished your response, yes, we'll go to Anne-Marie McElroy. Thank you.

Ms. Anne-Marie McElroy: Again, I am very surprised at those statistics in terms of the availability of bail for multiple gun offences. It's not something that I've seen personally in my practice.

In answer to the question of whether this is just sort of something that needs to be accepted, I'll just go back to one of the points I made in my opening argument or submission: We do need to maintain compliance with the charter, so we do need to be considering the presumption of innocence with respect to these offences. We cannot simply automatically jail people because of the type of offence that has been committed.

There is some risk of recidivism and, in that case, I would need to look at those examples more carefully to see what was going on there. Were the conditions that were imposed too loose? In my experience, people who are facing gun charges are on strict house arrest with residential sureties that are supervising them. They're having to check in with the police. They have a number of restrictions on their mobility, including a GPS ankle monitor. That would be something to consider—to look at those cases and see what were the conditions that were in place and could those be reconsidered.

The data that I've seen in my personal experience is that often we're in this more risk-averse mindset, so I don't want to advocate imposing more onerous conditions. But if there are situations where the risk is intolerable, then it may not be a matter of limiting the bail, but of making sure that the conditions that are imposed, as well, are appropriate. I don't know if there needs to be some looking at maybe the crown policy manuals about that or training with the justices of peace who are imposing bail.

The Chair (Mr. Lorne Coe): MPP Hogarth.

Ms. Christine Hogarth: Actually, this is for Professor Piché. You're the money guy talking about numbers, so I'm wondering if you think it's a good use of police resources to incarcerate repeat violent offenders—we're talking about violent offenders—out on bail instead of ensuring those repeat offenders are not released on bail in the first place?

Mr. Justin Piché: One thing that hasn't been addressed—and I'll respond to your question as well as chime in on the previous one at the same time—is what kinds of supports exist for people who are diverted through bail releases ahead of their trials that could perhaps—

Ms. Christine Hogarth: I think we're going to stick to the question that I asked. Do you think it's a good use of police resources?

Mr. Justin Piché: I think it would be a better use of resources to spend that money on supports—to provide people the support they need to keep them out of the community, to the degree that it is possible.

Ms. Christine Hogarth: They're in the community right now. So you don't think the police should be spending time finding those people again? So then do you

believe that we need bail reform? Do you believe that bail reform saves lives?

Mr. Justin Piché: I don't believe the bail reforms you're proposing today will save lives, no.

Ms. Christine Hogarth: May I ask the same question to Ms. McElroy? Do you believe that bail reform will save lives?

Ms. Anne-Marie McElroy: In my experience, professionally, I don't believe that the bail reforms that are being proposed in terms of restricting the bail will necessarily save lives. And I don't—

Ms. Christine Hogarth: No, that's fine. Thank you. I'm just running out of time.

My same question is for Ms. Fisher. Do you believe that bail reform will save lives?

Ms. Dana Fisher: No. I'm going to echo the comments that have been made. I don't think that that is by any stretch a guarantee, and in fact, as we heard earlier, the number of deaths in custody have been increasing in frequency, so there's a good possibility that incarceration—

The Chair (Mr. Lorne Coe): Thank you very much for that answer. The time is concluded for the government members.

I now turn to the official opposition. MPP Wong-Tam.

MPP Kristyn Wong-Tam: I wanted to just offer a comment before I go into a question. I recognize that all the speakers before us today did not have a chance to review the presentations from the Toronto police chief, so there may be something that requires a little bit of further review. I think that the police chief's presentation was anonymized. It was probably stripped of any type of extraneous details, but it was sort of presented to us as a generality. I don't think we're going to be entirely far apart, but perhaps I will be wrong. But just in all fairness to all of you, we're asking you questions that—you were not here to receive the previous presentation, and I want to just comment on that.

My question about bail—oh, goodness, it has been a full afternoon of bail discussions. I realize that I have not asked you the questions I asked the previous speakers who came before us, and that was around supervision and monitoring—recognizing that there are individuals who are released, obviously, on bail conditions, and when those bail conditions are breached, who is supposed to be going out to get them? Checking on them whether they're on house arrest, curfews—who do they check in with? Is it the police unit that's supposed to be doing it? Is it supposed to be a regional bail or parole compliance unit? Should it be the Ministry of the Solicitor General?

Just so you know, I got a different response from almost every single different speaker beforehand. Just out of curiosity, who are your clients checking in with when it comes to monitoring and supervision of their bail?

The Chair (Mr. Lorne Coe): MPP, who are you directing the question to?

MPP Kristyn Wong-Tam: Sorry. I'll start with Ms. Fisher, who is in the room.

Ms. Dana Fisher: I think it depends on the circumstances. If the person is reporting to the Toronto Bail

Program or the John Howard Society, then they go and check in with those individuals. If a person is on conditions like a curfew and things of that nature, the police are generally the individuals who do bail compliance checks. Those are the individuals who would go—if it's a failure to attend court when they had a court appearance, that again would be the police. There would be a warrant issued and they would be responding to that warrant and executing it, ideally, probably as quickly as possible in order to prevent somebody being out when they shouldn't be. I think those are the two main ones. I may be missing something.

MPP Kristyn Wong-Tam: To our speakers on the screen—maybe we'll start with Mr. Piché, because I had you last, I'll bring you in second.

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The Chair (Mr. Lorne Coe): Anne-Marie McElroy?

Mr. Justin Piché: Yes, I'm tossing to Anne-Marie.

The Chair (Mr. Lorne Coe): Okay.

Ms. Anne-Marie McElroy: I think that if there is a breach that has been alleged, then it would be the police who would be responsible for issuing and executing a warrant with that. I don't see a lot of bail compliance checks to see if people are complying with bail ahead of a breach having been reported or discovered in some way.

Also, a large number of cases involve surety, where it's a person who has signed on someone's behalf, so they would have the responsibility of checking in with the person to make sure that they're complying with the conditions.

There also are bail programs such as John Howard, and there are some courthouses that have an Indigenous bail worker who would be ensuring that the individuals are complying with their conditions.

The Chair (Mr. Lorne Coe): Mr. Piché?

MPP Kristyn Wong-Tam: Chair, I just want to ask for a time check. Sorry.

The Chair (Mr. Lorne Coe): You have 3:48.

MPP Kristyn Wong-Tam: Thank you.

Sorry, Mr. Piché; I'm going to withdraw that question from you and take my time back. I'm going to ask a different question.

With respect to the case of the OPP officer, Constable Pierzchala, he is obviously the fallen officer who largely catalyzed this conversation that's before us today—and I recognize that bail reform conversations aren't new; it's something that has been bantered around for some time, and recommendations have come from different police outfits to the federal government and perhaps even to the Ministry of the Attorney General here in Ontario. But one of the individuals who was charged with his murder was actually out on bail, and he was not brought before an outstanding warrant when he missed a court date. Another individual, who was, I guess, the person who was with the accused and charged, had removed some type of monitoring system from their ankle, so they'd had an ankle monitor attached to them. On both accounts, there needed to be somebody or some outfit going back out to check in on these individuals who (1) missed a court date, (2) had

an outstanding warrant, and then there was the one individual who had a restraint but somehow had removed it. Who was responsible for that activity—to make sure that these individuals who were out on bail and parole were to meet their conditions? Would that still be the compliance unit, or was that the police? Or should it be someone else?

Mr. Justin Piché: My understanding is that it would be the police that would execute the warrant.

I've certainly thought about this a lot, as someone who spent my teenage years in Barrie, Barrie being the city where Officer Pierzchala is from and where we both went to high school. I thought of his family and the community in the wake of his death, and the different ways we could go about preventing it.

I do think that there needs to be an independent review of what the police did or didn't do, and that review also needs to include looking at what the provincial government could put in place to support people who are on bail to prevent violence, because this is troubling and it needs to be addressed. I just don't believe that what's on the table, laying this squarely on the federal government's shoulders, is a fair assessment.

MPP Kristyn Wong-Tam: Chair, just a time check.

The Chair (Mr. Lorne Coe): You have one minute left.

MPP Kristyn Wong-Tam: This is my final question. Across Canada, it seems like different provinces and territories have a slightly different approach to bail monitoring and bail supervision. In the province of Ontario, we're one of the outliers. Our bail system sits within the Attorney General, whereas in other provinces and territories it sits within the Solicitor General. Would it be beneficial for us to create a system under the Solicitor General where we have more of a province-wide approach? It seems to be a patchwork of bail supervision, and we're getting different answers from different individuals, different stakeholders, whether it's police or perhaps crown attorneys and anyone else. You'll have 10 seconds each to answer that question. Sorry about that. Would it be beneficial to bring it all under one umbrella—

The Chair (Mr. Lorne Coe): Thank you very much. Your time for questions has concluded.

We now go to MPP Blais for questions. If you could please identify who you're directing the question to, it helps our audio team to activate who's receiving a question.

Mr. Stephen Blais: The question is for Ms. McElroy.

We were last talking about the pilot project on having Superior Court judges doing bail instead of justices of the peace. A number of police agencies actually recommended that throughout the day today for violent crime, or at the very least for gun crime. I believe you had referenced that you thought that pilot had been successful. I don't want to put words in your mouth, but that was my impression of your response. So if that's true, I'd like you to confirm that—but also did that make other aspects of bail more efficient? Were justices of the peace able to handle other bail cases, less serious crimes, faster? Did it improve other aspects of the system and have wholesale positive impact?

Ms. Anne-Marie McElroy: I'll just clarify that in Ottawa at least, and I assume everywhere, it was the Ontario Court of Justice as opposed to the Superior Court. I can't see how a Superior Court of Justice would be responsible for the initial bails when often if there are appeals of the bail decision, that goes to the Superior Court. We don't want to send them to the Ontario Court of Appeal for that.

So the short answer is yes, it seemed to be a positive exercise in Ottawa in terms of streamlining the bail hearings that were heard. And to be clear, this was all bail hearings, not just the more serious ones. So all bail hearings were heard by an Ontario court justice, and some of the procedures were modified with respect to having affidavits sworn instead of viva voce evidence, which saved on time and basically allowed for the judges to sort of get to the heart of what the issue was, and they had a better sense of assessing the strength of the crown's case and some of the risk factors that were at play. In our experience, having that was a positive experience. What it has allowed now is that while we've gone back to having bail hearings primarily done by justices of the peace, we are now able to transfer before a trial judge if they have availability, and we do those. So it has helped speed up a little bit or at least increased the availability of the sitting justices who are able to hear bail hearings.

Mr. Stephen Blais: Did the work that these judges were now doing for bail compromise the other work that they would otherwise be doing? Did that other work get slower? Did the other aspect of the system get bogged down as a result of them taking this on?

Ms. Anne-Marie McElroy: Some of the resources were definitely put towards the bail hearing, so they were taken away from plea and trial courts. I tried to find a report on what the end result of that pilot project was but I

wasn't able to locate that, so I don't know what the net gain of efficiency was. That may be something that the committee wishes to look into further if they have more success in finding that report.

Mr. Stephen Blais: Ms. Fisher, I'll just ask the same questions to you.

Ms. Dana Fisher: Yes, and I can actually echo the comments that were said, because one of the other pilot projects was at the College Park courthouse, which, again, was where I worked. From all accounts, it was a success. It was all bail hearings, as was said. Bail hearings, I would say, were much more efficient in that manner, but also I think judges were able to get to the heart of the issue, as Ms. McElroy indicated. They were able to work through lists in a more efficient fashion, and I think all parties were quite satisfied with the outcome.

Mr. Stephen Blais: So we have something that both the police and the defence attorneys agree on, right? We've made progress today.

Ms. Dana Fisher: It happens.

The Chair (Mr. Lorne Coe): Thank you very much, MPP Blais.

That concludes our business today. As a reminder, the deadline to send in a written submission will be 7 p.m. on Wednesday, February 1, 2023.

I want to thank all the committee members for your diligence and participation today.

Also, to all of our presenters, thank you for your participation.

Thank you to my Clerk and all the other members of the Legislative Assembly who helped our committee today.

The committee is now adjourned until 9 a.m., Wednesday, February 1, 2023.

The committee adjourned at 1800.

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