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# Official Report of Debates (Hansard)

Monday 24 November 2014

# Journal des débats (Hansard)

Lundi 24 novembre 2014

## Standing Committee on General Government

Public Sector  
and MPP Accountability  
and Transparency Act, 2014

## Comité permanent des affaires gouvernementales

Loi de 2014 sur  
la responsabilisation  
et la transparence  
du secteur public  
et des députés

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Monday 24 November 2014

Lundi 24 novembre 2014

*The committee met at 1405 in committee room 2.*

**The Clerk of the Committee (Ms. Sylwia Przewoziecki):** Good afternoon, honourable members. Owing to the absence of both the Chair and the Vice-Chair, it is my duty to call upon you to elect an Acting Chair. Are there any nominations? Mr. Colle.

**Mr. Mike Colle:** Madam Clerk, I'd like to nominate the esteemed member from Etobicoke North as the Acting Chair.

**The Clerk of the Committee (Ms. Sylwia Przewoziecki):** Does the member accept the nomination?

**Mr. Shafiq Qadri:** I am honoured by your confidence, Mr. Colle. Yes.

**The Clerk of the Committee (Ms. Sylwia Przewoziecki):** Are there any further nominations? There being none, I declare nominations closed and Mr. Qadri duly elected Chair of the committee.

Please come and take the chair, sir.

PUBLIC SECTOR  
AND MPP ACCOUNTABILITY  
AND TRANSPARENCY ACT, 2014LOI DE 2014 SUR  
LA RESPONSABILISATION  
ET LA TRANSPARENCE  
DU SECTEUR PUBLIC  
ET DES DÉPUTÉS

Consideration of the following bill:

Bill 8, An Act to promote public sector and MPP accountability and transparency by enacting the Broader Public Sector Executive Compensation Act, 2014 and amending various Acts / Projet de loi 8, Loi visant à promouvoir la responsabilisation et la transparence du secteur public et des députés par l'édiction de la Loi de 2014 sur la rémunération des cadres du secteur parapublic et la modification de diverses lois.

**Le Président suppléant (M. Shafiq Qadri):** Chers collègues, j'appelle à l'ordre cette séance du comité du gouvernement général. Thank you, colleagues. I call this committee officially to order. We are here, as you know, to deliberate on Bill 8, An Act to promote public sector and MPP accountability and transparency by enacting the Broader Public Sector Executive Compensation Act, 2014 and amending various Acts.

Yes, Madam Fife.

**Ms. Catherine Fife:** Seeing that the room is so crowded, is it possible for us to find some more chairs or make some accommodations so people don't have to stand up?

**The Acting Chair (Mr. Shafiq Qadri):** Good point. The room next door is being set up. We appreciate all the members of the public and other interested stakeholders for your presence and certainly value your contribution. We are, as I say, attempting to set up a room on that side. If there are any issues, please let us know. And no, they're not allowed to sit on this side.

## INSTITUTE OF CANADIAN JUSTICE

**The Acting Chair (Mr. Shafiq Qadri):** If there's no further business, we'll now call our first witness to please come forward: Mr. Gerald Parker, executive director of the Institute of Canadian Justice.

Mr. Parker, and your other colleagues who are all here, you will have 15 minutes in which to make your testimony. That will be reinforced with military precision. You'll have five minutes for your presentation, followed by a question-and-answer period rotating through the committee, and we'll have the PCs first.

Mr. Parker, your time officially begins now.

**Mr. Gerald Parker:** Good afternoon, members of committee, members of the public. My name is Gerald Parker. I'm the executive director of the Institute of Canadian Justice.

I'm here to focus on the provisions of Bill 8, specifically about the municipal, university, school boards and hospital accountability provisions therein.

We need to bring Ontario forward to be consistent with other provinces, at the very least; ensure public policy is respected; ensure that we do not complicate, increase costs; and also provide constructive public policy outcomes and ensure that they occur.

In this presentation, I will set out—and please pay particular attention to the presentation that has been sent to you and the links within it. Quintessentially, I am here to tell you that we need an Ombudsman's purview extended now more than ever before in our province's history. Our largest public sectors cannot remain beyond public purview, transparency and accountability.

I've been doing this kind of work for 25 years as a person with a disability, as a social justice activist but also as a leader who has helped folks like the Conference

Board of Canada write its reports on accessibility or the expert for the 50 million members of AAA and their barrier-free publications. My point is, I understand harm reduction and human rights, and as it pertains to Bill 8 and the provisions of our municipal sector, school boards and hospitals that I want to focus upon today, existing laws have not been respected.

**1410**

I can give you one simple example: the legislative amendment committee that I was on in 1990 with the Association of Municipalities of Ontario, which is going to be before you crying and crying so much about this bill. The point is, the laws of 1991 are not being respected in 2014, and that includes the accessible parking sign that our good Lieutenant Governor required, the very accessible parking sign. One of the links I showed you today is the town of Whitby, which is the centre of accessibility excellence, still today not providing for that.

My point is, whether it's me being before the standing committee in this room or 25 years ago, old habits die hard, and we have to stop them.

The AODA has become a mirage because of this. Municipalities, being the most important sector in its materialization, are not paying attention. For some obscure reason, municipalities seem to think that the Municipal Act transcends the charter, the Human Rights Code and governing public safety provisions—such as the Highway Traffic Act, the Planning Act and the building code—no matter how antiquated and lagging they still may be. The point is, our most precious, critical, vital and expensive public assets do not have the purview of the public, and there are too many examples of that. I've given you some today.

It's time to expand the role of the Ombudsman. The province of Ontario and the ministries are obligated, but they're still not respecting it. The AODA says that we shall not be building Ontario's newest high schools without sidewalks and that we won't build them in front of fire stations—because there are three things you don't put in front of a fire station: a long-term-care facility, a hospital and a school. The point is, this is a \$5-million statement of claim waiting to happen—again. We have to avoid that.

Where are we going to spend our money and how are we going to arrive at these solutions? Well, it starts with the municipal planning departments and the councils that, even under the AODA and the ODA, are still refusing to plan and, as a result thereof, knowingly endangering millions.

New barriers: We swore off these back in 2000. Co-opted and placated mandatory accessibility committees and the process thereof allow municipal councils to continue to fail to be responsible. Accessibility continues to have excuses—in our hospitals, in the parking that people pay the costs of. It's 5% of ODSP to park in a Toronto hospital—5% of your monthly ODSP to park for one day in a hospital. That has to stop. Our most vulnerable are being hit, not able to get to the buildings that they require.

**The Acting Chair (Mr. Shafiq Qaadri):** About a minute left, Mr. Parker.

**Mr. Gerald Parker:** Thank you. Even when we go through these processes, it's still not working. School boards with massive budgets are still not respecting input from parent involvement committees etc. We can't allow this to happen. No development agreements at the Abilities Centre: You folks paid millions of dollars into that building; no development agreements and \$80,000 coming out of the local coffer as a result. You see the pictures right before you.

My point is, there are existing solutions, but they're not being respected. So what do we need? We need to support Bill 8. We need to extend the role of the Ombudsman and the Ombudsman's purview into the patient ombudsman's office and enable the AODA and the Ombudsman's priority engagement so that we do not continue to create new barriers and dangerous liabilities. Remember, timely pedestrian infrastructure is good for everyone—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Parker.

I now offer the floor to the PC side. Mr. Nicholls, sir.

**Mr. Rick Nicholls:** Mr. Parker, first of all, thank you so much for being here today. I certainly do appreciate the passion with which you speak.

I don't have any questions, so what I'm prepared to do is give you additional floor time to take up whatever time is left of what I have right now, just as a courtesy to you.

**The Acting Chair (Mr. Shafiq Qaadri):** Go ahead, Mr. Parker.

**Mr. Gerald Parker:** Thank you so very much; I appreciate that.

Why we need to support Bill 8 is because education legislation and professional training have failed. The institutes of professional planners have not done what they should have done. They were given every opportunity under AODA 429/07 to learn about what they needed to do. They're not doing it. They didn't even come before the AODA review just recently. That speaks volumes. I've been speaking to Pat Vanini and crew over at AMO and said to them, and have been saying to them for over 20 years—because I sat on their legislative amendment committee—“If you don't learn to self-regulate, then we're going to have to do it for you.” We're at that point. We need to enforce.

We are the last province in this process. We need to start leading, not following and allowing these millions of dollars to fall through the cracks. When we do not fund for accessibility—let's say a curb cut costs \$400. To extract and then put a curb cut in costs \$4,000. Are we spending it righteously now with good planning, and municipalities that are accountable, transparent and not co-opting the process? Are we dealing with school boards that respect our money and also the processes when parents get frustrated and come to them and say, “This is wrong”? School buses are coming close to running over our children. It's not acceptable that sidewalks are not being put in on a road that 10 schools and 6,300 kids walk on.

The point here is that we can avoid preventable injuries, we can avoid insurance claims and we can avoid PTSD in EMS folks who show up on these scenes if the municipality does its job, if the school boards do their job and, yes, with this new high school, the province.

The Ministry of Education should have never allowed, under the AODA's "no new barriers," for Ontario's newest high school to be built without accessibility, never mind in front of a fire station—because yes, for those first responders, not putting on your siren and your horns coming out of the yard is accumulative PSD. My point is, they'd sooner spend \$5 million on defending the indefensible and a boatload of lawyers rather than \$5 million putting in an \$80,000 piece of sidewalk that the sub-developer should have paid for.

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds, Mr. Parker.

**Mr. Gerald Parker:** My point here is that the superstructure of the provision of these public policies, these public safety provisions, and then the trickle of public health benefits that come from it, are being usurped by processes and linkages knowingly failing. The Municipal Act does not transcend the charter, the Human Rights Code and public safety, but somehow, AMO seems to think that's the case.

Thank you.

**Le Président suppléant (M. Shafiq Qaadri):** Merci, monsieur Parker. Je passe la parole à M<sup>me</sup> Fife du NPD. Three minutes.

**Ms. Catherine Fife:** I think you've made some interesting points about how the province is spending money. On the AODA in particular, not putting in those specifications that school boards actually have to build in accessibility in new builds: Most school boards are, but not all school boards are. How do you attribute such a lost opportunity on behalf of the Ministry of Education to bring that in?

**Mr. Gerald Parker:** Well, I can assure you that in this one particular and very indicative example that I told you about, Brooklin high school up in Whitby—the home of the Abilities Centre; amazing—when development agreements are not being signed off on, like the Abilities Centre, it's like flying a plane without any training. And then there's \$80,000 coming out of the public coffer. Is there a public policy failure by the Ministry of Education to put its money where its mouth is and ensure that buildings that we run to during a nuclear burnout—because we have two nuclear facilities. Our schools are built for 100 years and they are the places that we're told to run to if something goes wrong. Do you know we had a leakage in Pickering just the other day? Yes, that's pretty scary. We can't even run to those places on the sidewalks.

Again: safe school routes; healthy living; the connections thereof; ensuring that mums and dads, if they are at home, are not pulling U-turns in front of schools, and mums are not getting run over walking back from school because the sidewalk is not there. The province has to provide the leadership and it has to provide the educa-

tion, because under the AODA 429/07, the customer service standard, the training was a multiple guess, pretty well, on the provincial side. It's not specific operationally and it doesn't come with the understanding—for instance, the Ontario Professional Planners Institute: They don't get it.

**Ms. Catherine Fife:** How much time do I have?

**The Acting Chair (Mr. Shafiq Qaadri):** You have about a minute, Madam Fife.

**Ms. Catherine Fife:** This is an omnibus bill. It has good pieces in it and it has weak pieces in it. Can you comment on this accountability and transparency act and the way that it has been presented to the people of this province?

**Mr. Gerald Parker:** Well, I would say that finding out about this on Friday afternoon when it was called on Wednesday and being here on Monday morning—as a person with a disability, the very intent and spirit of the AODA hasn't been met, because people need to have time and ability to have the information to process it and actually be here and, oh, arrange for Wheel-Trans to get here. That has been a weakness in the process itself, and I'm very big on integrity of process.

**1420**

The weakness, and a glaring one for me, is the patient ombudsman. Our hospitals have to have the Ombudsman's full purview. This is not just about patients; this is about pharmaceutical corruption—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Parker and Ms. Fife.

I now pass it to the parliamentary assistant to Treasury Board, Yvan Baker.

**Mr. Yvan Baker:** Mr. Parker, thank you so much for coming in and speaking about these important issues. There are 444 municipalities in Ontario, and in 2013, there were 1,600 complaints that were received about municipalities where the Ontario Ombudsman had no jurisdiction. We're in agreement with you that there's a need to expand the purview of the Ontario Ombudsman. This bill is really about making sure that everyone in Ontario has access to an Ombudsman. Could you talk a little bit to what the benefits would be to Ontarians of the expansion of that purview?

**Mr. Gerald Parker:** That's a great question. Well, first of all, we would be up and running with the rest of the provinces because we're the last of the gang, if you will. So having a system that all can look to—because the Ombudsman's work is very sincere. It's a tough job—very thick skin. I see him on Twitter getting beaten about all day, every day by very nasty trolls, but he stands his ground and that office stands its ground and very righteously so.

The benefit of the work that the Ombudsman does is that by the mere capacity to make a phone call—or, in my capacity of working with so many municipalities and regions that don't want to do what they should have done decades ago, it's to simply say, "Well, do you want me to reach out to the Ombudsman? Do you want me to reach out to the Office of the Independent Police Review

Director?" These are processes that carry moral suasion in and of themselves that would negate an additional process to be engaged, so the reputation, the actual moral standing and then legal standing have teeth, not just a bark, and it's not chasing its own tail most of the time.

That's where we get lost in this. We've got great policy, the AODA—and the ODA was a wonderful document—it just hasn't been implemented or enforced. So here we are, needing enforcement and the very best and the brightest in this province and many in the profession would say that the Ombudsman of Ontario is one of those people. I have great respect for that work. I am, myself, *de facto*, playing some of these roles. I'm handing off my research to CBC Fifth Estate and Marketplace because I can't get anything done on this. Hospital parking is one of them. We finally got guidelines going forward because someone had to start batting others around the ears. My point is, why should the public and good folks who can be attending to their time doing more important or just as important things—

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds, colleagues.

**Mr. Gerald Parker:** —be doing what the Ombudsman can and should be in a manner that is quintessentially consistent with every other province in Canada? We need to catch up, not follow. I think the Ombudsman will do a great job in that. I have every faith in them to do that.

**Mr. Yvan Baker:** Wonderful. Just very quickly, because we're out of time, what are the risks if we don't do it?

**Mr. Gerald Parker:** As any process, there are risks. There are political risks for you people sitting around this table, having to listen to some of the folks behind me—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. One of the risks, of course, is running out of time. Thank you, Mr. Parker, for your presence and your deputation today.

#### ONTARIO HOSPITAL ASSOCIATION

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenters to please come forward from the OHA, the Ontario Hospital Association: Mr. Jamie McCracken, board chair of the Ottawa Hospital, and Rob Devitt, president and CEO of Toronto East General Hospital. Thank you, colleagues. For the purpose of Hansard, you might just identify yourselves so we know who's who. Your five-minute opening address time begins as soon as you catch your breath, officially now.

**Mr. Jamie McCracken:** Good afternoon. My name is Jamie McCracken. I am the chair of the board of governors of the Ottawa Hospital and the vice-chair of the Ontario Hospital Association. With me is Rob Devitt, who is the chief executive officer and president of the Toronto East General Hospital. We are here on behalf of the Ontario Hospital Association, the body that represents Ontario's hospitals.

The OHA and its member hospitals support the ongoing commitment to improving transparency and

accountability across the broader public sector. The OHA acknowledges the importance of public trust in broader public sector organizations and the importance of ensuring scarce public resources are well spent.

Ontario's hospitals are incredibly complex organizations. They are open 24 hours a day, seven days a week. They employ over 250,000 staff, manage billions of dollars, educate thousands of students, conduct hundreds of millions of dollars in research and provide excellent care to millions of Ontarians every year. Ontario is home to the most efficient hospitals in Canada. On a per capita basis, we spend \$3.5 billion less on hospitals than the other provinces. This has freed up billions for other important health care priorities.

Competitive compensation is necessary to attract and retain the highly educated, highly skilled hospital leaders who can achieve the kinds of successes that have made Ontario a global health care leader. As a result of legislated salary freezes at the leadership level since 2010, there have been increased manifestations of compression at all levels of the organization. In some cases, front-line staff are earning the same amount as their supervisors, which creates challenges in recruiting and retaining qualified staff at all levels of the organization.

In 2011, an independent expert panel chaired by the Honourable John Manley conducted a review with recommendations. In 2012, the OHA developed a framework grounded in best practice for determining executive compensation, with the assistance of compensation experts. We would therefore request that this work be used as the basis for establishing a compensation framework for the hospital sector. Further, we would also ask that due consideration be given to the role and demands of hospital leadership, the fiduciary role of the hospital's board of directors in setting compensation, and the current and future challenges of recruitment and retention, given the restraint measures dating back for the past four years.

I will now turn it over to my colleague Rob Devitt, who will speak to the issue of the patient ombudsman.

**Mr. Rob Devitt:** Thank you, Jamie.

Ontario's hospitals support the additional accountability mechanisms of the patient ombudsman. We feel this would enhance hospitals' own patient relations processes and patient experience. The OHA supports the separate model of oversight chosen for the health care sector, given the complexity of the legislative and regulatory environment in which hospitals operate.

Hospitals frequently receive complaints regarding the configuration of the health system or programs that hospitals offer or do not offer. With the creation of the office of the patient ombudsman, there will be a mechanism to address these systemic issues.

There are several suggestions from our members to strengthen this section of the bill, which I will outline for the committee.

As the patient ombudsman will be housed in a provincial agency, it appears as though the Ombudsman of Ontario will have the ability to review the substantive

decisions or recommendations made by the patient ombudsman. We are of the belief that the Ombudsman of Ontario has a tremendous amount to offer around the development of effective policy and procedure and the set-up of the patient ombudsman's office.

**The Acting Chair (Mr. Shafiq Qaadri):** One minute.

**Mr. Rob Devitt:** The OHA recommends that the jurisdiction of the provincial Ombudsman be limited to review these practices and procedures as opposed to the substantive decisions and recommendations made by the patient ombudsman. Without this specification it could create duplication, and could undermine the authority of the patient ombudsman.

The second recommendation made by Ontario hospitals is around ensuring the effective and timely review of patient complaints. As currently drafted, the patient ombudsman will be required to receive complaints, regardless of how old they are. In order to ensure that the patient ombudsman is not overwhelmed by untimely complaints, the OHA suggests that the patient ombudsman's authority should be extended to actions or inactions that occur after the legislation comes into force. Or, if there is a desire to capture complaints that happened recently, the legislation could grant the patient ombudsman the authority to investigate actions or inactions affecting patients or former patients occurring after some fixed date.

The OHA suggests—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Devitt.

To the PC side: Mr. Nicholls.

**Mr. Michael Harris:** We'd be happy to let Mr. Devitt just finish up.

**The Acting Chair (Mr. Shafiq Qaadri):** Good. The floor is yours again.

**Mr. Rob Devitt:** Thank you. One sentence: The OHA suggests a set time frame in which complaints must be made to the patient ombudsman after the initial complaint occurs at the health sector organization. We submit that a period of one year is reasonable.

The OHA and its members are pleased to have had the opportunity to speak to you today. We continue to support the ongoing commitment to transparency and accountability across the broader public sector and would be happy to answer your questions.

**Mr. Michael Harris:** Thanks for that. A quick question for you: You had mentioned a 2011 independent expert panel chaired by the Honourable John Manley. I'm not sure if you want to highlight a few of those recommendations for the committee?

**Mr. Jamie McCracken:** Absolutely. Thank you for the question.

There is a document called the Principles and Guidelines for Hospital Chief Executive Officer Compensation. This panel did its work over the course of a year and put together a lengthy document, which the OHA then took and used as a framework for hospitals, which was given out to the hospitals. In this, there is a framework with 10 steps which compare hospitals, small hospitals to small

hospitals, and then goes up a scale to the larger health science medical centres. It is being used at this point by boards of governors, boards of trustees, like myself, to look at the compensation for their own particular CEO. So it's a very useful document. It took considerable time to do, and we believe this is the appropriate way to deal with this issue.

1430

**Mr. Michael Harris:** Are all of the hospitals under the association using that framework, then?

**Mr. Jamie McCracken:** I can't speak for all independent hospitals. There are 150 of them. But I know a lot of them are using this document as a tool in their deliberations.

**Mr. Michael Harris:** Was there anything else you'd like to add to the committee? I know we probably have about one minute left.

**The Acting Chair (Mr. Shafiq Qaadri):** And 10 seconds.

**Mr. Michael Harris:** Is there anything else you'd like to add, to get on the record?

**Mr. Jamie McCracken:** Nothing at this point.

**Mr. Michael Harris:** All right. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. Thanks, Mr. Harris.

Madam Fife.

**Ms. Catherine Fife:** Thank you very much, Mr. McCracken and Mr. Devitt, for your presentation.

I'll tell you at the start that the NDP did not support this piece of legislation for a number—there are too many reasons. On schedule 1, it doesn't set a cap for executive pay. You raised the issue of executive compensation. There are many examples out there, especially in the hospital sector, where CEOs are making three times as much as the Premier of this province. At Sunnybrook, for instance, the CEO makes \$780,000.

We've introduced—to start a cap at twice what the Premier makes: \$418,000. We think that's reasonable. Is your basic premise that you get what you pay for with executive compensation?

**Mr. Jamie McCracken:** No. It's very difficult to compare sectors, what leadership in different sectors make. I know that when the Manley report was done, they took into consideration CEOs in the private sector—the bottom 25th percentile, so the lowest-paid CEOs—and looked at comparable responsibilities. These are complex jobs—I'm not suggesting the Premier's job is not complex. But there is a healthy, competitive market out there for this position.

I know, for example, at the Ottawa Hospital, our CEO is courted by other large, American, hospitals all the time. To maintain the proper degree of expertise, you have to pay appropriately.

**Ms. Catherine Fife:** This complexity that you've cited in the hospital sector—they're very large institutions. This is one of the reasons that you don't support an independent provincial Ombudsman over the hospital sector. Isn't that a good reason to have true and independent oversight over the hospital sector?

**Mr. Rob Devitt:** I'll answer that. We actually do support an ombudsman, but a patient ombudsman, and it's for that very reason: the complexity of the health sector—the complexity in terms of regulation, the complexity in terms of the structure of the system and the complexity in terms of the interplay between clinical and non-clinical issues. It's our belief that with that complexity, having an ombudsman with specific understanding and access to the expertise to help navigate the review and analysis of issues would be helpful, both for the individual complaint, but also to develop system-level complaints. That doesn't mean the provincial Ombudsman would not have a function.

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Mr. Rob Devitt:** In fact, one of the things we want is to build on the wealth of experience from the provincial Ombudsman in setting up the patient ombudsman function.

**Ms. Catherine Fife:** We did call for full oversight of the entire MUSH sector. Municipalities, universities and school boards are very complex as well. Are you not concerned that the patient ombudsman will not have the same weight to effect systemic change within the system?

**Mr. Rob Devitt:** In fact, I think they will—

**The Acting Chair (Mr. Shafiq Qaadri):** I need to pass the floor to the government side. Mr. Baker.

**Mr. Yvan Baker:** Thank you both for coming in and for speaking to these two elements of the bill.

On executive compensation, I certainly appreciate the importance of attracting the right talent, particularly within our health care sector. In my private sector experience, I did some consulting on this topic, and I understand the balance that has to be struck there, but we also obviously have a mandate to balance the budget by the end of 2017-18. This bill allows us to go out and first of all collect the information to be able to put in place informed framework-managed compensation, so we hope to strike that balance as well.

On the patient ombudsman, one of the challenges in investigations and capping them is, of course, that some of the issues that the patient ombudsman may be looking into are systemic, complex and wide-ranging, so an arbitrary cap may be difficult to implement. I would love to hear your thoughts on that. I would also love to hear your thoughts on why you think a patient ombudsman is important for the people of Ontario.

**Mr. Rob Devitt:** I'll start. We think a patient ombudsman is an important step. It gives another layer of process and practice once a complaint has been dealt with to everyone's best effort as close to the incident as possible at the local hospital. It would provide that extra layer of process in case a patient or their family was unsatisfied.

The proposal we are endorsing, the idea of a patient-specific ombudsman, would ensure that that function really gets the complexity and the unique regulatory environment of health care.

I think another important reason for an ombudsman function is to help families and patients find closure on

issues. The complaints process isn't just about finger-pointing; it really should be about continuous improvement, finding out where we didn't do something that fully met the needs of the patient or their family and helping resolve it so that it doesn't happen again. But the whole process can be helpful in terms of bringing closure, and we think that's important. And finally, the opportunity to create system solutions: A lot of what we see at the individual hospital level really deals with issues that perhaps are more systemic—the hand-off from one part of the system to another. The idea of having a health-specific patient ombudsman would ensure that those sorts of recommendations to strengthen the whole system would come forward.

**Mr. Yvan Baker:** Is there anything else that you wanted to add in the remaining time?

**Mr. Jamie McCracken:** In terms of executive compensation?

**Mr. Yvan Baker:** Sure.

**Mr. Jamie McCracken:** I would like to add that there is real concern at the board of governors or directors level that there be a competitive salary, especially for the clinical expertise that we have just now. It would be a shame if we lost that, especially in a time when things are changing—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Baker, and thanks to our colleagues from the hospital sector, Mr. McCracken and Mr. Devitt, for your deputation, written submission and presence today.

#### iCARE HOME HEALTH SERVICES

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenter to please come forward: Ms. Mary Gavel, director of navigator and patient advocacy for iCare Home Health Services.

Thank you, Ms. Gavel. Your written submission has just been freshly distributed. I invite you to (a) pour your water, (b) have a seat, and (c) begin now.

**Ms. Mary Gavel:** Thank you for the opportunity to be here today. I'm specifically going to speak to section 5 of Bill 8 with respect to the patient ombudsman.

I am Mary Gavel, director of navigator and patient advocacy at iCare Home Health Services. In my current role I am responsible for a private health care advocacy and navigation service that provides support and education to patients and family about the ins and outs of the health care system.

iCare Navigator was launched in September 2014 in response to clients with questions about going forward within the public health care sector with concerns for fear that there would be a negative impact on their ongoing care. They were at a loss as to how to navigate the health care system and how to advocate for the health care they needed.

My background in the health care sector includes 30-plus years of experience working in a number of public hospitals and mental health facilities in the province of Ontario in patient relations, patient safety, privacy and risk management roles.



At the outset, I would like to commend the Liberal government for acknowledging the need for an ombudsman to address health sector complaints. Ontario is the only province that does not have Ombudsman oversight of health sector complaints.

Based on my experience, I believe that an ombudsman must be a neutral, objective resource to which patients and family can turn when they have not been able to achieve resolution of their concerns within the health sector. I also believe that there must be a trusting relationship for the process to be successful in achieving resolution.

While I strongly believe that the most effective place for resolution is at the point of care, when patient relations staff within a health sector facility are employed by the organization, it can be challenging for staff to remain neutral.

I recognize that a large number of complaints can be and are resolved within the health sector by patient relations processes within the organizations. However, as seen frequently in the media, there are cases that require independence from the health sector and its staff in order for the decisions and outcomes of investigations to be received as fair and credible.

From my experience working within the public health sector system for 30-plus years and more recently as a private patient advocator with iCare Home Health Services, I do not believe that a patient ombudsman that would exist as currently proposed under schedule 5 of Bill 8 will achieve what patients and family are looking for with regard to a neutral, independent third party to listen to their complaints after they have exhausted the internal processes within a health care facility.

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The patient ombudsman, as proposed in schedule 5 of Bill 8, will be a position appointed by the Lieutenant Governor in Council, employed by Health Quality Ontario, an independent crown agency funded by the government of Ontario through the Ministry of Health and Long-Term Care. I ask the question: If you, as a patient or a family member, were experiencing a concern related to care or treatment, would you be comfortable after exhausting the internal process within the public health sector, in bringing the issue forward to an ombudsman to whom the organization had accountability? Does that fit the criteria of being neutral and independent?

In my opinion, Ontario's Ombudsman is already a trusted third party that could immediately offer patients and family the independent third party investigation they are seeking when they have been unable to achieve resolution within the health sector system.

Time and time again, in my past position in the public health sector and in my current patient advocacy role at iCare Home Health, I hear patients express concern about speaking up with concerns about care and treatment for fear that their care, treatment or services will be affected. While we all know this could never happen, this is a genuine fear of patients and families. Would this same fear not exist with a health ombudsman with a direct link to the Ministry of Health and Long-Term Care?

I would urge the committee to examine carefully the lack of trust that could exist with a patient ombudsman as proposed in section 5 of Bill 8. Trust is fragile and hard to restore once lost. Trust is also a core pillar of quality care.

These are critical issues that must be addressed by this committee before the bill is referred back to the House. Section 5 of Bill 8 will have an enormous impact on the health care sector, and I believe it is vitally important to get it right so that the ombudsman process is seen as neutral and objective by patients and families.

Once again, thank you for the opportunity to appear before this committee. I welcome any questions.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Gavel, for your precision-timed remarks.

The floor passes to the PC side: Mr. Nicholls?

**Mr. Rick Nicholls:** I have nothing.

**The Acting Chair (Mr. Shafiq Qadri):** Mr. Harris?

**Mr. Michael Harris:** No.

**The Acting Chair (Mr. Shafiq Qadri):** The floor passes now to Madam Fife.

**Ms. Catherine Fife:** Thank you very much. Thank you for your presentation. I can appreciate the work that you do around navigating the various systems because they're very complex in the health care sector.

We share your concern around the ombudsman not having the kind of independence and power, if you will, to actually intervene in health care situations where families are in crisis. You touched on that: the vulnerability of the people. Do you want to share a story with us so that it actually may have some weight so that the committee may understand?

**Ms. Mary Gavel:** Recently, there was an elderly person with a disability. She was blind. She was having great difficulty in accessing health care services through the community care access centre. She was extremely afraid to go forward with those concerns because she felt that if she went forward, her services would be cut. Again, while we know that that's not going to happen, it is certainly a fear.

I have dealt with numerous situations within the public health care system where patients, or mostly family—and I know the OHA presentation touched on it. Patients are looking for closure. So it's not always necessarily that there has been a wrong done within the health care system, but when there is a lack of trust, it is difficult to go forward to an ombudsman, first off, within a hospital. The patient relations staff are employed by the hospital. Taking it outside to a patient ombudsman that's reporting through the Ministry of Health, I do not believe that, based on the stories—again, I want to emphasize that a large number of complaints and issues are resolved on a daily basis, but for those instances, I really believe that it needs that extended oversight.

**Ms. Catherine Fife:** And do you share our concern as well that while the Ontario Health Quality Council is given enhanced functions to monitor and report on the performance of hospitals', CCACs' and long-term-care homes' patient relations, the Ombudsman does not have oversight, and we know—

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Ms. Catherine Fife:** So can you touch on that a little bit?

**Ms. Mary Gavel:** Yes. The Ombudsman's office will not have the oversight to intervene. I heard many times throughout my career in the public health care system where patients just were not satisfied, went to the Ombudsman's office and were turned away. I really do share that they're going to fear that this is not an independent third party.

**Ms. Catherine Fife:** I thank you for your time today.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Fife.

To Mr. Colle, the government side.

**Mr. Mike Colle:** We just heard from the Ontario Hospital Association, who said they don't want the Ombudsman over the patient advocate. You're saying you don't want the patient advocate; you want the Ombudsman.

**Ms. Mary Gavel:** Correct.

**Mr. Mike Colle:** I guess the question I have for you is, in this bill we're going to give the Ombudsman not only the power to respond to questions from the public of all the Ontario ministries—the Ministry of the Environment, the Ministry of Labour and on and on—but we're also going to ask the Ombudsman now to take on oversight of municipalities, all 430 of them, school boards—I don't know how many hundreds of school boards—and then the universities and colleges.

**Ms. Mary Gavel:** Correct.

**Mr. Mike Colle:** So if I'm a patient—and I know we deal with a lot of patients in my office. We act as an ombudsman almost every day, dealing with OHIP and everything. But that individual coming in with a concern is going to go to the Ombudsman, who's going to have time in his very busy, expanding schedule to deal with all these new responsibilities, plus the existing responsibilities. Wouldn't you think it's better to have someone who's focused on the patient rather than focused on school boards, universities, colleges, cities, towns, whatever?

**Ms. Mary Gavel:** Okay. I believe—

**Mr. Mike Colle:** Isn't the ordinary Joe or Jane going to be lost in the shuffle?

**Ms. Mary Gavel:** I believe that that Ombudsman is truly an independent. As I said in my submission, many and most concerns—and the first place of point of contact for addressing concerns, as I strongly believe, is at the point of care and that proactive approach. Again, it's my understanding currently that the Ombudsman's office will refer—the question they would ask is, "Have you spoken to the hospital?" So they would be referred back.

I'm not saying that there won't be additional staff required. I don't know the numbers that they would actually deal with. But I do believe, based on my experience, that they would be seen as being truly that independent third party.

**Mr. Mike Colle:** But they're going to have time to deal with your individual issue—

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Mr. Mike Colle:**—when the Ombudsman is already taking care of the school boards. 430—

**Ms. Mary Gavel:** Well, they do it in all of the other provinces.

**Mr. Mike Colle:** Yes, but none as big as Ontario, not with 13.6 million patients.

**Ms. Mary Gavel:** I still believe that they would have the—

**Mr. Mike Colle:** I could see New Brunswick maybe, PEI, Nova Scotia, Manitoba, but 13.6 million patients—

**Ms. Mary Gavel:** Okay, so what happens then, when a patient goes to the patient ombudsman under Health Quality Ontario and they're not satisfied—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, colleagues. Thank you, Ms. Gavel, for your deputation and written submission.

#### MR. LIONEL TUPMAN

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenter to please come forward: Mr. Lionel Tupman, who I understand is in his capacity as a private citizen. Mr. Tupman, do you exist?

*Interjection.*

**The Acting Chair (Mr. Shafiq Qaadri):** There you go. Mr. Tupman, welcome.

**Ms. Catherine Fife:** Great timing. That was great timing.

**Mr. Lionel Tupman:** I was watching in the other room.

**The Acting Chair (Mr. Shafiq Qaadri):** Please have a seat. Your time officially begins now.

**Mr. Lionel Tupman:** Thank you. Good afternoon, committee members. My name is Lionel Tupman, and I am here today to make submissions in relation to Bill 8, the Public Sector and MPP Accountability and Transparency Act, 2014.

By way of introduction, as some of you may be aware, I ran as a candidate for the Liberal Party in the Niagara Falls riding in the recent election. However, I am not here in that capacity at all. I speak today as a barrister and solicitor and a member of the Law Society of Upper Canada, at the behest of members of communities from around Ontario whom I represent in public interest advocacy. In this light, I turn to my submissions regarding Bill 8.

I, along with many other public advocates around Ontario, applaud this legislation as a long-overdue step towards greater accountability for our public sector. I submit to you that greater accountability of administrative public sector actors at the municipal level is required in Ontario and that there is a significant void in terms of the recourse available to aggrieved citizens of Ontario who seek redress in relation to matters such as compensation paid to school board directors, and decisions of municipal bodies and, I know, with particularity, with respect to school boards in Ontario.

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Turning to specific aspects of this bill, it is a very key and excellent element of this bill that compensation of school board directors is now subject to the type of review contemplated in schedule 1.

In theory, while elected officials as school board trustees have some degree of oversight of school board administrative compensation, the reality on the ground is that school board trustees are not always well situated or qualified to provide the oversight necessary to ensure the appropriate expenditure of public funds.

Moreover, and of far greater significance, currently there is no accessible recourse for members of the public, short of costly litigation, which I will describe more fully.

On the topic of administrative litigation, I refer you to schedule 6 and the amendment in section 4.1 to the Municipal Freedom of Information and Protection of Privacy Act, which imposes the obligation on public institutions that reasonable measures respecting the records in the custody or under the control of the institution are developed, documented and put into place to preserve the records in accordance with any record-keeping or records retention requirements, rules or policies established under the act or otherwise, and so on.

From a litigation standpoint, and in respect of litigants in Ontario, this is an important aspect, because when you are a member of the public seeking to challenge the administrative actions of administrative public bodies, it can be very difficult to get the documents necessary to found your claim. So I applaud this particular section, because it's very helpful to people who want to challenge public bodies.

Finally, I turn to schedule 9, which makes the Ombudsman Act applicable to school boards. Historically, aggrieved citizens' groups who sought to challenge the decision of a school board were required to bring an application for judicial review to Divisional Court. Depending on the circumstances of such an application, this could range in price between \$30,000 to \$50,000, perhaps more. It's my hope that this amendment to the Ombudsman Act will allow for, firstly, greater accountability of school boards in the decision-making process and, secondly—and I highlight this point to the committee—for a more accessible dispute resolution process which is more efficient and cost-effective, which doesn't require enormous expenditures for members of the public to ensure a school board has acted properly.

One remaining question which I pose for the committee's consideration is whether the amendment to section 14(4) of the Ombudsman Act is clear on the point of whether aggrieved citizens seeking redress must exhaust their remedies before the courts before bringing the application before the Ombudsman, or whether they can proceed to that Ombudsman step before exhausting such expensive remedies. I don't know that it's resolved by the act. That is one concern that I have.

An important metric in the consideration of this bill by this committee and by the members of this Legislature

must be the recourse that members of the public have currently—

**The Acting Chair (Mr. Shafiq Qadri):** One minute.

**Mr. Lionel Tupman:** That's all.

**The Acting Chair (Mr. Shafiq Qadri):** Instantaneously well timed.

We'll pass it to the PC side: Mr. Nicholls.

**Mr. Michael Harris:** You have a minute left.

**Mr. Lionel Tupman:** Oh, I have a minute left?

**Mr. Michael Harris:** You have a minute. He said a minute.

**Mr. Lionel Tupman:** Oh, I thought he said I was done.

**The Acting Chair (Mr. Shafiq Qadri):** No, you do have a minute. Go ahead.

**Mr. Lionel Tupman:** Okay. Thank you. An important metric in the consideration of this bill by this committee and by the members of the Legislature must be the recourse that members of the public have currently, when they believe something has gone wrong in the course of the exercise of administrative decision-making.

Litigation is costly. Litigation is slow. I'm a litigator and I'm saying this. Litigation can sometimes prohibit unjust and erroneous actions of administrative decision-makers from seeing the light of day and being set right.

This bill, in my submission, helps to alleviate some of these issues.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you. Now to the PC side: Mr. Nicholls, Mr. Harris?

**Mr. Michael Harris:** I know Mr. Nicholls has got a question coming up.

Every time I hear about public sector and MPP accountability and salary disclosure, I think of Chris Mazza and Ornge. Obviously, the Liberals have been in place for now 11-plus years. Do you think, if a bill like this had been in effect years ago, it would have prevented the chaos and the ongoings at Ornge, in terms of Chris Mazza making a million-plus dollars? Do you think it would have perhaps allowed Ontarians to see further into an agency like Ornge before it got out of control to the extent that it did?

**Mr. Lionel Tupman:** I'm not prepared to speculate on that point, so I can't provide you an answer. I can't tell you what would have happened retroactively, unfortunately.

**Mr. Michael Harris:** But it could have been useful, had we had this legislation years ago, probably.

**Mr. Lionel Tupman:** Or other legislation perhaps could have avoided many things, but I am not prepared to speculate on that point.

**Mr. Michael Harris:** All right. Rick, do you have a question?

**Mr. Rick Nicholls:** No.

**The Acting Chair (Mr. Shafiq Qadri):** Madam Fife?

**Ms. Catherine Fife:** Thank you very much, Mr. Tupman, for your deputation. I'm interested—why the focus on school boards? There are millions of dollars being spent on public sector salaries, and this legislation

does not bring in a hard cap, so it actually doesn't address one of your key concerns. I'm the past president of the Ontario Public School Boards' Association, so I've been at that table negotiating director salaries, and it's not an easy thing to do. You've identified this one specific area of concern. Can you tell me why?

**Mr. Lionel Tupman:** In addition to the salaries issue, there is also the question of the reference to the Ombudsman for what are alleged to be, in some circumstances, actions on the part of the school board which violated procedural fairness. But that aside, the reason I chose to focus on education is because, as a lawyer, I have seen a proliferation of education-related litigation. There are judicial reviews of school board decisions proceeding across this province—more this year than we've seen in the past 14 years.

**Ms. Catherine Fife:** That's really interesting. Do you know that a majority of the judicial reviews have to do with special education underfunding and parents fighting for equal rights for their children in the education system? There are two issues at play here. You wouldn't see an increase in court litigation if education for special-needs children was adequately funded.

**Mr. Lionel Tupman:** Be that as it may, the point I'm making is that the cost of litigation is prohibitive. Regardless of the causes of education-related litigation—whether it relates to directors' salaries or whether it relates to anything else, to school board decisions relating to procedural fairness—the concern is that, in some circumstances, litigants are barred. This is an access-to-justice issue as much as anything else. Litigants are barred from proceeding against administrative actors like school boards because they can't scrape together the \$50,000 or whatever that they need to proceed with a judicial review—

**Ms. Catherine Fife:** Is this the recourse you've been talking about? You think that people don't have recourse. As my colleague mentioned, the public sector salaries outside of school boards are just growing. There are so many examples, like Pan Am or Ornge, and the people of this province have no recourse except for legislation, and this legislation doesn't address it.

Wouldn't you like to see a hard cap in this piece of legislation?

**Mr. Lionel Tupman:** I can't say that that's necessarily appropriate. In fact, I wouldn't go so far as to say that. I think the circumstances of each compensation issue have to be determined individually, and I don't think that can be appropriately addressed in the legislation.

**Ms. Catherine Fife:** With regard to school board directors' salaries, executive compensation—

**The Acting Chair (Mr. Shafiq Qadri):** Thirty seconds.

**Ms. Catherine Fife:** It will be public, following this. But the same argument is going to be made: that no hard cap can be applied to those positions if we don't start someplace—with a fair, industry-level hard cap.

**Mr. Lionel Tupman:** I'm not sure that a hard cap is appropriate. I think something more than the simple

oversight that exists at the moment is necessary. I think there is some concern as to the capacity and the efficacy of trustees in addressing these issues. I think that a review of the circumstances on the ground at school boards sees that the trustees aren't necessarily well suited to—

**Le Président suppléant (M. Shafiq Qadri):** Merci pour vos questions, madame Fife.

Monsieur Baker, vos questions. The floor is yours.

**Mr. Yvan Baker:** Thank you, Mr. Tupman, for coming in and sharing your thoughts.

On your point about compensation, one of the things that I think is in this bill that will hopefully help address some of the concerns that have been expressed is—and this allows us to gather the information around what that compensation is before we start imposing any kind of framework.

On your issue about accountability within the school board sector, of course the bill extends the Ombudsman's powers over the school board and will hopefully address many of your concerns. We talked earlier about how there were, in 2013, 1,600 complaints raised to the Ombudsman around municipalities. Well, I can only imagine how many there would be around school boards.

Could you speak a little bit on what you think the benefits are of expanding the Ombudsman's oversight to school boards?

**Mr. Lionel Tupman:** Tempered by the concern I have with respect to the amendment of section 14—and really, that is the question as to when the Ombudsman's authority becomes effective—I understand the point of the legislation to be in that case that aggrieved parties must exhaust their remedies before the school board before they can proceed to contact the Ombudsman. But there is some discrepancy in that particular section about whether that includes proceeding as a judicial review before a court, which is, of course, my concern, because judicial reviews are incredibly costly.

I guess the benefit of having the Ombudsman's oversight—provided I'm correct in my interpretation that an aggrieved party doesn't have to proceed with a judicial review before they can proceed with an application to the Ombudsman—is it could be a far more cost-effective and expeditious manner in, first of all, weeding out complaints that had no chance of success, thus decreasing the burden on our court system, should judicial reviews continue to proliferate. Then, secondly, in the event that these complaints are well-founded—and I think that in quite a few cases, if litigants start a judicial review and they're going to go through with it and they're going to invest the time and the money into proceeding with a judicial review, they really have something solid. The point is that the Ombudsman could act in a way to sort of alleviate the strain that's created by this proliferation. Secondly, the Ombudsman may be able to address the concerns of aggrieved people, be they parents or students or whoever, without going through the process of a formal judicial review, which, as I said, takes time and is very, very costly.

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**Mr. Yvan Baker:** What kind of complaints, what kind of issues, do you think the Ombudsman might be able to address if given this expanded oversight?

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Mr. Lionel Tupman:** I think that the Ombudsman would be well suited to address complaints which are of a broader nature than traditional judicial reviews. Ordinarily speaking, a judicial review can be commenced by a party who believes that they haven't been afforded procedural fairness in the board's decision-making authority. But the Ombudsman's authority is actually somewhat broader than that. It's not limited strictly to board decisions which it is alleged were executed not in accordance with procedural fairness. This may be a way to—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Tupman, for your deputation and your written submission.

OFFICE OF THE OMBUDSMAN,  
CITY OF TORONTO

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenter to please come forward: Ms. Fiona Crean of the Office of the Ombudsman of Toronto.

Also, colleagues, we will now begin rotation by parties. Ms. Fife, you'll have the first round of questions.

Welcome, Counsellor, and please begin.

**Ms. Fiona Crean:** Good afternoon. Thank you. I want to start by praising the Legislature's commitment to accountability and transparency. The need for independent ombudsman oversight is particularly apparent at the municipal level, and the expansion of jurisdiction to the Ontario Ombudsman is timely.

Bill 8 has it wrong in one sense. Toronto has always had an ombudsman with the same powers and independence as the Ontario Ombudsman. Bill 8 creates the potential for two ombuds with the same investigative and remedial powers to deal with the same matters. This is not only wasteful and inefficient, but it is unprecedented in Canada and around the world.

Let me give you some background. In 2006, the City of Toronto Act was enacted by the province, which had the foresight to create a statutory ombudsman at the city of Toronto. In doing this, the Legislature recognized that Toronto is distinctive and required greater autonomy. The Toronto ombudsman is uniquely situated to address and resolve complaints in Canada's biggest city, the sixth-largest government in the country. We serve 2.8 million residents in a city with a workforce of some 50,000 public servants, larger than eight other public services in the country.

Our story is a good one. The office has proven itself. City council has adopted all of my recommendations since we opened in 2009. We've conducted 24 systemic investigations, doing things such as improving governance at the Toronto Community Housing Corp., creating a framework for addressing residents with diminished

capacity, and preventing seniors from being evicted from public housing by improving systems and accountability.

Let me go to the nub of the problem: It's about duplication of effort. The function of the Toronto ombudsman and the Ontario Ombudsman is exactly the same. Both are independent officials acting as a last resort to investigate complaints. Both fulfill the universal criteria of our profession: independent and impartial investigators with credible and confidential investigation processes. A review by the Toronto ombudsman or Ontario Ombudsman is final. That means there is no right of review except where the ombudsman is challenged in court for lack of jurisdiction.

Bill 8 destroys the principle of finality and runs contrary to all international standards. It proposes duplication, with the associated costs and regulatory burden: two ombudsmen of different jurisdiction investigating the same thing all over again. This will promote confusion, red tape, duplication, inefficiency and unwarranted costs. In fact, the Toronto ombudsman will become the first example in the world where an ombudsman of last resort will be subject to the review of another ombudsman of last resort.

Here's a case in point: An investigation into HR practices at the Toronto Community Housing Corp. uncovered evidence that senior management repeatedly broke the rules, staff were hired and fired without process, contracts were unilaterally altered, and executives failed to declare conflicts of interest. The board accepted all of my recommendations, and the CEO and other executives resigned in the days following.

Let's take a look at what would have happened if Bill 8 had been law. It would have allowed potential complainants to ask the Ontario Ombudsman to reinvestigate the issues that I had already concluded. The corporation and its board would be bound by due process to await the outcome of the second investigation before moving forward with implementation of my recommendations. Without a doubt, this would have paralyzed the organization. Without a doubt, the CEO would still be in place, and the corporation and its employees—

**The Acting Chair (Mr. Shafiq Qaadri):** One minute.

**Ms. Fiona Crean:** —and, most importantly, the tenants would continue to suffer in the interim.

In sum, I applaud the government for its bold and progressive steps. Accountability is indeed important, but this provision in schedule 9 will paralyze what is currently an effective office of oversight.

I have three recommendations. The first is that the city of Toronto be exempted from Bill 8, the second is that whistle-blower protection legislation be extended to municipal employees, and the third is, if the city of Toronto is not exempted, then at minimum, that the confidentiality of Toronto ombudsman investigations be maintained.

Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Crean.

Madam Fife, the floor is yours.

**Ms. Catherine Fife:** Thank you very much for coming here today. I don't have a hard copy, and I would like a hard copy of that presentation, if possible, especially around the recommendations.

How many municipalities across Canada have an ombudsman?

**Ms. Fiona Crean:** Three.

**Ms. Catherine Fife:** Three. And what are they?

**Ms. Fiona Crean:** The city of Montreal and Sherbrooke. Actually, Quebec City has one, but not an ombudsman.

**Ms. Catherine Fife:** What do you think the historic issue has been in not having municipal ombudsmen?

**Ms. Fiona Crean:** I think that's a political question. The answer to this is that Bill 8, following from the city of Toronto—the province saw fit to put in place the City of Toronto Act with an ombudsman, and other municipalities have not followed suit, although the provision is there for them to do so.

**Ms. Catherine Fife:** But you made a compelling case about the value of a municipal ombudsman, and you've made a compelling case, in some regards as it relates to Toronto, against a provincial advocate. It's not actually meant to be political. I really do want to know. What are the historic issues? Municipalities just don't see the value in it, or they don't want to go down that road?

**Ms. Fiona Crean:** I would be speculating in response to your question. What I can tell you is that with the complexity and size of this city government, there is no question that there is a compelling need to have an ombudsman focused on this size of government. That's what the province did nine years ago, or whenever it was.

**Ms. Catherine Fife:** With regard to the provincial, we support some oversight, because there has been a historic lack of transparency across the province—some obviously stronger than others—around openness and transparency, and ironically “accountability and transparency” is the name of this omnibus bill. That was a political statement.

But do you think that a provincial Ombudsman then would—is your fear or your concern that a provincial Ombudsman would then trump the local needs of the city of Toronto?

**Ms. Fiona Crean:** In response to your question, an ombudsman is a place of last resort. There is finality there. So we're now creating a last resort with another last resort. It's simply duplicative. Concurrency makes no sense. Nowhere else in the world does this occur. It's not a question of trumping. Should Bill 8 go through unchanged, we will be a very effective complaints office, but we will cease to be a statutory ombudsman.

**Ms. Catherine Fife:** Very good. Thank you very much.

**The Acting Chair (Mr. Shafiq Qadri):** To Mr. Colle, the government side: three minutes.

**Mr. Mike Colle:** I guess I have a little bit of an issue with your portrayal of the powers you have and then the fact that we may want to have a comprehensive-power-based Ombudsman for Ontario, because some of the

problems Toronto may experience may be similar to the same ones in North Bay or Kitchener or Kingston. Therefore, some of the problems are system-wide, and you can't look in isolation at one municipality like Toronto. So the Ontario Ombudsman would have an opportunity to look at it. Let's say voter accessibility: It's not just a Toronto issue; it's a province-wide issue, so there needs to be perhaps a province-wide look. Maybe a complaint is made. Talking about accessibility: The variation of polling station standards across this province, whether provincial or municipal, is just beyond anyone's rationality. It should be looked at province-wide.

That doesn't preclude you from looking at Toronto's issue, but we need a systemic approach sometimes.

**1510**

**Ms. Fiona Crean:** I agree with you. The examples that you've used come from a provincial mandate or jurisdiction. If you want to look at something like how Ontario Works is dispensed, you're looking at provincial legislation.

Nothing I have said would preclude a system-wide look at something across the province. Respectfully, I cannot conceive of anything that is at the municipal code level that would apply in Toronto in the same way as it does in Hearst. I'm not saying that's not possible, but I really, respectfully, think that this is a solution looking for a problem.

**Mr. Mike Colle:** On the other hand, how can you exclude the 2.8 million people of Toronto from a systemic intervention on behalf of the provincial Ombudsman? Certainly I commend you for the heroic work you've done at the city of Toronto. I know how they've basically tried to challenge you in the last year or so on continuing your salary and your work and so forth, your contract. Maybe that's a reason why we need an independent ombudsman, provincially, so they won't be susceptible to the whim of council. You're the textbook case: You're doing such great work, and because you did great work you were challenged, and they weren't going to renew your contract.

**Ms. Fiona Crean:** But the framework at the city of Toronto, Mr. Colle, precisely mirrors that of the province. We have an integrity commissioner whose job is to investigate political conduct. That is the same at the provincial level. The provincial Ombudsman has no more jurisdiction to investigate politicians than I do in both statutes.

**Mr. Mike Colle:** If we don't debate the renewal of a contract before the Legislative Assembly here—

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Mr. Colle.

To the PC side. Ms. Thompson.

**Ms. Lisa M. Thompson:** I'm fine for now. Thank you for coming.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Thompson, and thanks to you, Ms. Crean, for your presentation, deputation on behalf of the office of the Toronto ombudsman.

TORONTO CATHOLIC DISTRICT SCHOOL  
BOARD

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenter to please come forward: John Del Grande, trustee of Toronto Catholic District School Board, representing ward 7. Welcome and please begin.

**Mr. John Del Grande:** Good afternoon, committee members, legislative support staff and gathered public. I'm currently a trustee with the Toronto Catholic District School Board representing ward 7, Scarborough-North York, first elected in 2003 and re-elected twice thereafter. My ward represents about 18 elementary schools and four high schools, representing approximately 10,000 students and over 35,000 school electors.

I'm in my final five days of service after a self-imposed term limit and wanting to focus on family and other activities. I've had the pleasure of being a witness before standing committees here a number of times over my tenure.

I welcome Bill 8's focus on adding certain accountability and transparency aspects pertaining to government and governmental organizations. I will say that government has gotten many of the fundamentals right in this bill. I applaud the venture into greater accountability and associated controls for the Ontario government, its institutions and associated entities. I thank you for the opportunity to provide comments with respect to Bill 8, Public Sector and MPP Accountability and Transparency Act, 2014.

I have focused my comments primarily on matters in the schedules within this bill that affect the management of school boards in this province. I make my submission as an individual trustee in one of Ontario's largest Catholic school boards. My materials have been provided to you.

One of the most fundamental aspects of this bill relates to the expansion of the provincial Ombudsman's role. We have huge institutions in this province by way of school boards that are almost 98% funded from the Ontario government, which affect the lives of students and families closer than no other. While elected trustees are the lowest form of democracy, and I've always taken the responsibility of helping to resolve constituent concerns and making the necessary changes to policy or procedure, the fact of the matter remains that we have large school boards, and "trustee" is only a part-time role. Many of the issues and concerns are buried within the system. I have long wondered whether the solutions and concerns I'm finding and solving locally are in fact happening in the eleven other wards across the city.

To make a note, our board was set to become one of the first school boards in the province to approve and appoint an ombudsman. It's been discussed over the last 16 years at our school board. The concept and launch were unfortunately stifled by staff and subject to legal interpretation. We even had an MPP in the past investigate the issue with the government legal branch. We need explicit provision for school boards or school board

authorities to hire their own ombudsmen and have them report directly to the board of trustees.

To give you some perspective in terms of issues, issues in my office can range from about 20 a month, ranging from unfair practices to policy issues and local concerns. Trustees act as ombudsmen all the time. I've even had conversations with the Ontario Ombudsman, that if oversight was given to the MUSH—minus the "H"—sector, in order to understand all the intricacies and policies of a school board, we would need a whole rethink of how services would be delivered and structured within the Ombudsman's office. It will be no easy feat, because the players, processes and policies differ between school boards across the province.

We all welcome the oversight, but be prepared: The net cause a lot of times is chronic funding issues and challenges keeping up with special education.

After seeing the herculean effort the Ombudsman has done with respect to the limited scope of municipal oversight with respect to closed meetings, you haven't begun to see what's below the iceberg at school boards. Municipalities have had it better with respect to meetings, notices and sunshine laws that have been instituted for a while.

At school boards, the Education Act has a number of conditions where matters may be closed to the public. I've found that except in rare circumstances, it's always being interpreted as closed, and even matters that are uncomfortable to discuss are being reserved to be closed out to the public.

From a cost and containment issue, while accountability layers are important, we must recognize that there are a number in place. Accountability layers are important. In all government organizations there exists some form of management controls and an elected or appointed governance body. Where government organizations and municipalities have established or appointed their own ombudsmen, prudence needs to be exercised so we don't create duplicating layers of accountability and citizen recourse. There will be cost impacts and opportunities for abuse of process.

Most universities have had ombudsmen, and Toronto specifically is required in the Toronto act to have its own. These roles have been well defined and their investigations have brought attention and changes where required. Many, if not all reports are made public.

I would strongly recommend, where ombudsmen exist in organizations that have similar provisions to that of the Ombudsman Act, that the provincial Ombudsman's role be limited to matters where it's deemed to be a systemic or a potentially wide-ranging provincial issue. While it's important to have transparency up and down the line, some things, including local issues pertaining to one board and municipality, do not need to be presented and become the debate of the Legislative Assembly.

One factor for the assembly to consider is whether students are allowed to make applications directly to the Ombudsman or if it has to follow through their parents. I've also made a number of recommendations pertaining

to schedules 3 and 11 in my presentations and I'm prepared to take any questions from the members today.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Trustee Del Grande.

To the government side: Mr. Baker.

**Mr. Yvan Baker:** Thank you for your submission, first of all. It seems as though there's some agreement from your side about the need for oversight. I know that the TCDSB in its last budget set aside funds to bring forward an ombudsman. My understanding is that it's the first school board in Ontario to bring forward such a role or to put in place such a role. I think that possibly speaks to the positive impact of this bill in that we're encouraging greater accountability throughout the school board sector.

You raise the issue of duplication, and I think one of the things that's in this bill, it's important to note, is that every school board has the option of bringing forward an ombudsman, as has been done at the TCDSB. The Ontario Ombudsman would only have oversight once that process has been exhausted, so there wouldn't be duplication; it would be a separate level of oversight. It would allow us to have that system-wide view that my colleague from Eglinton–Lawrence was speaking about earlier in the session.

Again, my question to you is, what do you think some of the benefits of having greater oversight over school boards would be?

**Mr. John Del Grande:** Oversight is important, like I said, because you've got different organizations, large systems there where citizens have issues, and there's a lot of bureaucracy in the system. That's not to say bureaucracy is bad, but there are a lot of moving parts in the system. Having that other layer of oversight that can provide to the elected body where there are issues of concern and possibly change policy or legislation is an important factor.

To your earlier point of duplication, I heard the presentation from the Toronto ombudsman and I agree with her premise that, in the case of Toronto, where they have an ombudsman established by an act, there's no point in having a second person who would kind of re-trump them. If you look at my submission specifically, I've said, add the clause "where it's deemed a systemic or province-wide issue." Then very clearly, you have clear lines of delimitation between a local ombudsman and a provincial Ombudsman, where ones exist of that nature. Obviously, if there's no ombudsman in that organization, then the provincial Ombudsman can have full authority over everything.

**Mr. Yvan Baker:** Can you talk a little about a specific example so that the folks watching at home on television can understand? What are the specific types of issues that might be addressed through greater oversight, through the oversight of an ombudsman?

**Mr. John Del Grande:** One issue could be closed meetings, so the public knowing in terms of what's being discussed at the school board and whether items really should be kept secret, out of the public eye or not. That's

obviously a classic issue that happens to municipalities. Special education is another one in terms of procedural issues around that, in terms of getting access to the services students need. Another issue could be in terms of following through on procedural fairness or policies, because that could be one of the biggest pieces in front of them: Was the policy followed? Was the procedure followed? Because a lot of the school boards have these things documented through and through.

1520

**Mr. Yvan Baker:** You spoke about the duplication issue just a moment ago. TCDSB has been the only one so far to bring forward this idea of an ombudsman—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Baker.

To the PC side: Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you for coming in today. I very much appreciate it.

My questions go around where my colleague was going as well. I would like to talk a little bit more about the ombudsman oversight that you're proposing. And I just want to go back and visit your recommendation 2(a): "Add an explicit provision in the Education Act for district school boards or school authorities to appoint their own ombudsman." How did you come to that conclusion? Are you hearing from other school boards that they're looking for this oversight?

**Mr. John Del Grande:** There's some fear by school boards that are afraid of extra oversight, but there are others that would like that oversight.

The issue that we particularly ran into was whether we could or could not, under the Education Act, appoint an ombudsman. I think it was deemed that we could. The issue then became reporting lines because, with an ombudsman, reporting lines need to report directly to the general assembly or the elected assembly. It cannot report through staff. Although we perhaps found a way around it when we were looking at it, it would be good for the provincial government to actually add that as a statute to make it very clear, so that school boards—large school boards particularly. If you look in Toronto, you have two very large school boards in the whole province. They're the size that might actually deem that they need their own local ombudsman.

**Ms. Lisa M. Thompson:** Interesting. In terms of the type of oversight, it's interesting that, over the last 10 business days or so, we're getting a glimpse of where we could be going with education here in Ontario. There's a very real threat of school closures. When you were giving examples of the type of things you see an ombudsman looking over, I found it interesting that by exclusion—it jumped out at me—accommodation reviews. Where do you see that appeal process falling? Because rural Ontario is seeing schools closed in a very rapid action. Where do you see accommodation review appeals falling? Would it go to a school ombudsman?

**Mr. John Del Grande:** It could well be there. As you know, the government, through various "B" memos and legislative pieces, has put a lot of rules around accommo-



dation reviews, and school boards are required to have robust policies around those pieces. I think the role of the ombudsman is to make sure that the process has been followed, to give people the appeal to go there, but obviously it's not the ombudsman's role to overturn or recommend the overturning of school accommodation reviews. They are an unfortunate reality of—I will call it funding issues and planning for the 1970s compared to 2010 enrolments and demographics.

**Ms. Lisa M. Thompson:** But in essence this could, with regard to the procedures around fairness.

**Mr. John Del Grande:** Absolutely.

**Ms. Lisa M. Thompson:** Yes. Okay.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Thompson.

Ms. Fife?

**Ms. Catherine Fife:** Thanks for coming in, John. And congratulations on three long terms that you survived at the Toronto Catholic school board.

I find it interesting that you raised the issue of having a local ombudsman because you also, in part of your presentation, accurately described what has, over the last 12 years, been an increased centralization of power imposed on school boards. I was really happy to see that you identified something which is my shared concern, the challenge around funding for special education needs. Is there some case to be made for having a provincial Ombudsman over school boards who would identify the systemic underfunding of special education and therefore might come to a resolution, versus having a local ombudsman?

**Mr. John Del Grande:** I think there's room for both. As I said, the local ombudsman may look in terms of the established procedures: Has all the process been followed, have the things that were supposed to be done—in IEP, for example, through the IPRC process—been done? That absolutely is a local issue to resolve at that point. We have to know the school board policies and the players at hand. For the role of the provincial Ombudsman, if you take my recommendation, they may look at the systemic problems of delivery, of underfunding, that we can't deliver on what we're supposed to be delivering on. Absolutely then, that becomes a provincial issue because ultimately that's where the cheque is coming from at the end of the day.

**Ms. Catherine Fife:** And you would have this local ombudsman report to the board? The board of trustees?

**Mr. John Del Grande:** Absolutely. To the trustees.

**Ms. Catherine Fife:** And then you would see that recommendation have to go through the board of trustees and come to the provincial advocate?

**Mr. John Del Grande:** The provincial Ombudsman could look at the reports of local ombudsmen to see where there are issues being raised. Or, of course, if someone wants to make a deputation to the Ontario Ombudsman, or he realizes that there may be an issue of systemic interest, then absolutely that would clear the way. But I think you really need to, in this legislation, remove any doubt of duplication, and to clearly separate,

where you have two ombudsmen—as I say, if you don't, then there is clear, full authority—but if you have two, that they're not overstepping each other or creating ultimately double courses of last resort.

**Ms. Catherine Fife:** School boards have long opposed a provincial Ombudsman because they felt it was disrespectful, I think, or undermined the local democracy. Of course, municipalities feel even more so in that regard. But I think that we've actually come to a breaking point in the province with regard to the accommodation of special needs, which now is exclusion.

**The Acting Chair (Mr. Shafiq Qadri):** Thirty seconds.

**Ms. Catherine Fife:** I think our hope, and I would like for you to comment on this, is that that a provincial Ombudsman would accurately identify a lack of funding so that we could address it here at the provincial Legislature. Do you think that's a possible outcome?

**Mr. John Del Grande:** Absolutely, and I don't think you need an Ombudsman to tell you that. Just hear from the parents every day on those pieces.

**Ms. Catherine Fife:** I know. I hear you.

**Mr. John Del Grande:** Thank you for your time today.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Mr. Del Grande, for coming forward and for your deputation.

#### PATIENTS CANADA

**The Acting Chair (Mr. Shafiq Qadri):** Now I'll invite our next presenter to please come forward: Mr. Brian Clark, adviser to Patients Canada. Welcome, and your time officially begins now.

**Mr. Brian Clark:** Good afternoon. I'll be very brief. I'm an adviser with Patients Canada. Patients Canada is a patient-led organization that fosters collaboration between patients, families, caregivers and the health care community.

We're delighted that the Ontario government is creating an ombudsman, and we think this is a first step in the right direction. We also believe strongly that the ombudsman should report to the Ontario Legislature. This government has an agenda for transparency. What better transparency than having this ombudsman report to the Legislature?

Thank you.

**The Acting Chair (Mr. Shafiq Qadri):** You're finished your remarks, Mr. Clark?

**Mr. Brian Clark:** Yes, I am.

**The Acting Chair (Mr. Shafiq Qadri):** To the Liberal side—any takers, colleagues? Ms. McMahan.

**Ms. Eleanor McMahan:** Mr. Clark, hi.

**Mr. Brian Clark:** Hi.

**Ms. Eleanor McMahan:** Thank you very much for coming here today. I see you have extensive experience in the health care sector.

We're taking a sector-specific approach to health care oversight by proposing the appointment of a fully in-

dependent patient ombudsman who will oversee public hospitals, long-term-care facilities, community care access centres and issue annual reports to the public. Does your organization support having a patient ombudsman oversee the health care sector? Can you expand on that a bit?

**Mr. Brian Clark:** Absolutely. Yes. Very much so.

**Ms. Eleanor McMahon:** Can you tell us a little bit about what that would look like from your point of view?

**Mr. Brian Clark:** Tell you what it would look like?

**Ms. Eleanor McMahon:** Right. What model do you think that should be? There are several options. Tell us what you think.

**Mr. Brian Clark:** The minister obviously sets his four priorities as—in two speeches I've recently attended—patient partnership, sustainability of the health care system, transparency and evidence-based care. Those are his priorities, and the best way to leverage those priorities, I think, is by walking the talk on this transparency issue. I believe the ombudsman should report to the Legislature because of that transparency. That transparency will also breed the trust in the system, which will enable the minister's primary priority, which is patient partnership. Patient partnership is built on trust and only works in a trust environment, and trust is built through transparency. So I would have thought that the minister would have been jumping at the chance to take any opportunity to walk the talk on this transparency issue, and I think this is a good vehicle to do that. Sorry, does that answer your question?

**Ms. Eleanor McMahon:** That's helpful. It's very helpful.

Given your years of experience in representing patients and navigating the health care sector and focusing on patient-centred care, which is certainly our model of care, what parts of the health care system will benefit most from the enhanced oversight of a patient ombudsman, in your point of view? If I may, a quick supplemental: As you probably know, the independent patient ombudsman will be able to initiate investigations and report annually. What are we looking at here? What do you think of this idea of a patient ombudsman, their capacity and their ability to report annually and really dig deep into the patient experience?

**Mr. Brian Clark:** I think that's all good stuff. I think that's very needed. I think the whole health care system is desperately in need of help and desperately in need of change, and the ombudsman could help right across the board.

1530

**Ms. Eleanor McMahon:** That's helpful. Thank you very much. I appreciate it.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. McMahon.

To Ms. Thompson, PC side.

**Ms. Lisa M. Thompson:** Thank you very much for being here. You just closed with a comment that I'd like to pursue. You just mentioned that the whole health care system is in need of a change, and you feel the role of an

ombudsman would help with that. Can you expand on that?

**Mr. Brian Clark:** The health care system is much as it was when it was designed more than 100 years ago. A hundred years ago, everyone was dying of acute diseases. Right now, 89% of the population die of chronic disease, and 3% of the population die of acute disease, despite Ebola.

We need a new health care system that is in tune with that reality. The primary vehicles we have within the health care system are hospitals and doctors' offices. Hospitals and doctors' offices are not the right way to treat chronic disease patients.

**Ms. Lisa M. Thompson:** Interesting. What is the right way for treating those patients?

**Mr. Brian Clark:** We certainly need hospitals, but we desperately need dramatically enhanced community and home care services as well. The best way to treat a person with a chronic disease is to stabilize them and maintain them, stabilized, in their own home. What the health care community should be focused on right now, in our opinion, is moving resources into the community and the home, to stabilize those people in their own homes.

**Ms. Lisa M. Thompson:** And you feel the resources aren't there today?

**Mr. Brian Clark:** No, they're not.

**Ms. Lisa M. Thompson:** Okay. I'm good. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Thompson.

To Madame Fife.

**Ms. Catherine Fife:** Thank you for your brief report. Do you share our concerns that the patient ombudsman cannot investigate a matter that lies within the jurisdiction of another person or body? They can't investigate retirement homes. Do you share the concern of that? Do you think a patient ombudsman should be able to go to a retirement home where health care services are being delivered?

**Mr. Brian Clark:** Yes.

**Ms. Catherine Fife:** As it stands right now with this legislation, the patient ombudsman can only enter a hospital, CCAC or long-term-care home premises with the consent of the organization or with a warrant. Do you think that that's necessary? Do you think that empowers a patient ombudsman?

**Mr. Brian Clark:** I don't think the consent should be needed.

**Ms. Catherine Fife:** Do you share our concern that the patient ombudsman, as it currently is in this legislation, is appointed by cabinet and therefore they're not an independent member of the office?

**Mr. Brian Clark:** That's right.

**Ms. Catherine Fife:** Do you also share our concern that they'll be employed by the Health Quality Council, so they are employed by an agency?

**Mr. Brian Clark:** Yes, I do.

**Ms. Catherine Fife:** That's good. You're a very smart man. I'm just joking with you. But can you please

explain a little bit further why the patient ombudsman, as is crafted right now, will currently not be effective, other than the reasons that I've just given you?

**Mr. Brian Clark:** I think it's all in the reporting. People pay attention to who they report to.

**Ms. Catherine Fife:** That's very good. Yes. We actually heard that earlier.

What do you think an effective, strong patient ombudsman would need to succeed and to protect the people in this province? It's a big ask.

**Mr. Brian Clark:** It is a big ask. I don't know whether I can comment on that.

**Ms. Catherine Fife:** No? In other provinces, as you pointed out, they have very clear reporting structures. There is a direct line of accountability, and the office of the ombudsman is truly independent, so they can actually do the work that they're called to do through the legislation.

I do appreciate you coming in and helping me make my points. Thank you very much.

**Mr. Brian Clark:** I agree with you. You're a smart lady.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Madam Fife.

Mr. Clark, before you leave, I have to ask: Is it Queensland or New South Wales, or where?

**Mr. Brian Clark:** I've been insulted by experts. I'm a New Zealander.

**The Acting Chair (Mr. Shafiq Qadri):** A New Zealander. All right. Welcome. Thanks for your deputation.

#### OFFICE OF THE INTEGRITY COMMISSIONER

**The Acting Chair (Mr. Shafiq Qadri):** I would now invite our next presenter. Mr. Melnyk, are you here? If not, we'll proceed to the presenter immediately after, and will therefore summon the Office of the Integrity Commissioner.

Je voudrais accueillir Lynn Morrison, commissaire à l'intégrité de la province de l'Ontario, et sa collègue, Liliane Gingras, legal counsel. Welcome, Ms. Morrison. I know you're well familiar with the drill. You have five minutes in which to make your opening address, to be followed by questions in rotation. Your five minutes begins officially. Procédez, s'il vous plaît.

**Ms. Lynn Morrison:** Thank you, Mr. Chair. Good afternoon, and thank you for this opportunity to meet with you today. I am the Integrity Commissioner of Ontario, as well as the lobbyist registrar. My remarks today are made in relation to both of these roles.

Three schedules in Bill 8 affect my work. Schedules 4 and 11 relate to two expense review mandates. I support the proposed amendments to these acts and am pleased they include my recommendation to have the ability to select from a rotating list of public entities for expenses review.

I would like to focus today on the proposed changes to the Lobbyists Registration Act in schedule 8.

I'm pleased that most of my recommendations have been accepted. I am particularly happy to see that, if passed, this legislation will allow the lobbyist registrar to investigate non-compliance with the act. This is an important tool that will improve the lobbyist registration law.

However, one of my recommendations was not included in Bill 8. I call it the 20% loophole. The act creates a registry to document lobbying activity in the province. The registry distinguishes between two types of lobbyists: consultants, and those who work in-house as employees of a company or organization.

Lobbyists, whether consultant or in-house, are individuals who are paid to communicate with public office holders in an attempt to influence certain government activities such as awarding funding or developing legislation. It may surprise some of the members of this committee that many of the stakeholders that government officials meet with are actually lobbying.

The two types of lobbyists are not treated equally in the act. Consultant lobbyists are always required to register. Even a brief phone call requesting a meeting triggers the requirement to register.

In-house lobbyists, on the other hand, are required to register only if they meet the "significant part of duties" threshold. This threshold is met if they spend 20% of their time communicating with public office holders. Simply put, this means that a full-time employee in a company would have to communicate with government officials for 96 hours in a three-month period before having to register.

That's a very high threshold. I believe it to be unrealistic, and it creates a two-tier system. I doubt that most of the in-house lobbyists on our registry meet that threshold. I do know some companies and organizations register to demonstrate transparency or because it's easier to register than to track lobbying hours.

In this two-tier system one company may decide to register even though it doesn't meet the threshold, while another company in the same industry will not register because the law does not require them to. This creates confusion for the public and registrants and undermines transparency. This is why the 20% loophole must be closed.

I propose that if the employees of a company or organization spend a total of five hours per year lobbying, they should be required to register. I believe that this is an appropriate threshold to exempt small business owners or employees of local community organizations.

Originally the 20% threshold was created when there was concern about the administrative burden of registering. Today, the registry is online, easy to use and it's free. In fact, more than 1,800 lobbyists register every year.

**The Acting Chair (Mr. Shafiq Qadri):** One minute.

**Ms. Lynn Morrison:** To conclude, while this is a significant change to the legislation, it is vitally important

to ensure that lobbying in Ontario is transparent. It is a legitimate activity and registering contributes to transparency. I urge this committee to tighten the registration requirement and close the loophole.

The bill will improve our goal of ensuring a culture of integrity in the public service. However, we have an opportunity to do more. To that end, I have provided the committee with additional comment and material on the 20% loophole and some minor housekeeping amendments that will ensure additional clarity to the legislation.

Thank you for this time. I welcome any of your questions.

**Le Président suppléant (M. Shafiq Qadri):** Merci, madame Morrison, pour vos remarques introductives. Je passe la parole maintenant à M<sup>me</sup> Thompson.

1540

**Ms. Lisa M. Thompson:** Thank you very much for being here today. I very much appreciate your comments. You had some recommendations accepted. I can sense your frustration that the transparency component associated with the 20% loophole was not embraced by this government, and I was wondering: When you got word that it wasn't accepted as your other ones were, did you rationalize why it wasn't?

**Ms. Lynn Morrison:** It was my understanding that there was concern by members that this would catch their local constituents when they came in to meet with them. That said, local constituents are not paid, and that's a criteria. Any constituents who come in on one-off issues don't lobby for 96 hours and certainly don't lobby for five hours. It's my feeling that five hours is a good amount of time: that if you're lobbying for five hours, you can take 20 minutes to register on a free registry.

**Ms. Lisa M. Thompson:** Fair enough. That's well said. Thank you for that.

What are some of your concerns? If we don't close this loophole, what are your concerns in terms of negative outcomes? What could happen? What have you seen happen? What could happen in terms of moving away from transparency?

**Ms. Lynn Morrison:** That's just it. It's not transparent. There are a lot of non-profits that are just as powerful as a consultant maybe, a government relations person. What makes them any different from a consultant in terms of registration?

The purpose of the registry and the legislation is to show the Ontario public who is lobbying who about what. There's nothing wrong with being a lobbyist; it's a legitimate activity. Just be transparent about it.

**Ms. Lisa M. Thompson:** I really appreciate your frankness. Thank you.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Thompson.

Madam Fife.

**Ms. Catherine Fife:** Thank you very much. Of course, we share some of your concerns. I was going to ask the same question as my colleague about the push-back on the 20% loophole, because we need to better understand why the government isn't supporting closing

that loophole. For me, it's not about a rationale; I think that they should give you, as the commissioner, a good reason why the loophole was not closed.

**Ms. Lynn Morrison:** Again, I think it was a misunderstanding. I never thought that the legislation intended to capture constituents. It wasn't my intention.

**Ms. Catherine Fife:** So this could be fixed.

**Ms. Lynn Morrison:** Absolutely.

**Ms. Catherine Fife:** But the five hours—I just want to gain a better understanding of that, because I've spent five hours with Habitat for Humanity or the independent living centre or the local shelter—and they are not-for-profits and, of course, they do receive government funding, but I go there to learn. Quite honestly, I think that politicians should spend a little bit more time learning. I'm a little concerned about the five hours. How did you arrive at five hours?

**Ms. Lynn Morrison:** We did a lot of consideration. I just believe that if you are spending that much time lobbying a public office-holder, then perhaps you should be on the registry to let the public know that you are lobbying.

**Ms. Catherine Fife:** So I think that there is probably an education component around the registry.

**Ms. Lynn Morrison:** Yes.

**Ms. Catherine Fife:** One final question: You know that the Premier is a lobbyist now in my riding, after only 14 months, having held the highest position here in the province. Do you—

**Ms. Lisa M. Thompson:** The former Premier.

**Ms. Catherine Fife:** Yes, sorry. I'll correct that—the former Premier.

The current registry says “one year.” Do you think that's appropriate: one year and then out lobbying on behalf of a company, the Legislature which you ran? Do you think that one year is reasonable?

**Ms. Lynn Morrison:** I've worked with this for a long time—with the one-year prohibition—and yes, I do think it's a reasonable amount of time. I do caution you: If you increase that, you are going to limit the type of people who will want to run for office.

**Ms. Catherine Fife:** Really?

**Ms. Lynn Morrison:** Yes.

**Ms. Catherine Fife:** Okay. We all don't grow up and be lobbyists, in my opinion, nor do we want to be.

**The Acting Chair (Mr. Shafiq Qadri):** Thirty seconds.

**Ms. Catherine Fife:** I've seen an impact of lobbyists in this Legislature over the last two years. Is there somewhere between the one year and the five years perhaps? The federal government has set a five-year freezing period or cooling-off period, if you will.

**Ms. Lynn Morrison:** That's up to the government, up to the members. I will administer whatever is decided. I just caution you to—

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Madam Fife.

To the government side: Mr. Baker.

**Mr. Yvan Baker:** Thank you, Ms. Morrison, for coming in. Before I ask my question, I would just like to thank you, first of all, for all the work you have done in support of this legislation.

**Ms. Lynn Morrison:** Thank you.

**Mr. Yvan Baker:** I know your review of the Lobbyists Registration Act was critical. I know that we did adopt the majority of the recommendations you made. Thank you for your work in general in increasing transparency and accountability in our government. I think you do very important work, and we're grateful for that.

**Ms. Lynn Morrison:** Thank you.

**Mr. Yvan Baker:** I know that as part of this legislation, there are new investigative powers. There are fine provisions that are put in place, and there are others. As you think about this legislation, which of these or other aspects of the legislation are most important to you?

**Ms. Lynn Morrison:** If this bill passes, I'll have enforcement powers and investigation. I think that is crucial to a more transparent registration process. That will be very important.

**Mr. Yvan Baker:** Okay. I'm speaking now as a local member who's newly elected, since June. One of the things that I think about as we're talking about the threshold for lobbyists is, I have a lot of folks who come to me who I would call local businesspeople and who I meet with quite frequently. As I think about many of those, some of them I may not spend as many as five hours with, some I think I might. I think many of them come to me, frankly, as good citizens and are there because they believe we can make government even better. What happens to them? What happens to those constituents? Are we catching a lot of folks who we maybe don't intend to catch as part of the—

**Ms. Lynn Morrison:** Well, the key to remember is that they have to be paid first. If you have a business in your community that comes and lobbies you, once they reach the threshold of five hours, what's wrong with registering?

**Mr. Yvan Baker:** Okay. Could you talk a little bit about the fine provisions in the bill?

**Ms. Lynn Morrison:** The fines?

**Mr. Yvan Baker:** The fines, yes.

**Ms. Lynn Morrison:** Right now, if a lobbyist puts a public office-holder in a conflict of interest, they're subject to prosecution and a fine of up to \$25,000. The proposal is, for any second or additional offences, it's up to \$100,000.

**Mr. Yvan Baker:** Okay. Great. I know this bill, if passed, would enable you to provide guidance/direction on lobbyist conduct, allow you to create a code of conduct for lobbyists. Can you talk a little bit about what might be in that code of conduct?

**Ms. Lynn Morrison:** I'm not sure yet. I'm not convinced that a code of conduct is the best way to go. I'm certainly prepared to consult with the stakeholders. But how do you legislate, control or monitor professionalism in a code of conduct?

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Morrison and your colleague, for your deputation on behalf of the Office of the Integrity Commissioner of the province of Ontario.

MR. WALTER MELNYK

**The Acting Chair (Mr. Shafiq Qaadri):** I'll invite our next presenter to please come forward: Mr. Walter Melnyk, who comes to us in his capacity as an Ontarian. Welcome, Mr. Melnyk.

**Mr. Walter Melnyk:** Thank you very much.

**The Acting Chair (Mr. Shafiq Qaadri):** Please be seated, and your time officially begins.

**Mr. Walter Melnyk:** I'm very grateful, by the way, for an opportunity to be here. In fact, I brought a letter from the retired MPP who served the longest in the GTA, the honourable Tony Ruprecht, who tried to assist me with my problem, which had to do with an awful lot of civil rights, human rights and constitutional rights violations by the city of Toronto. In all instances I tried to deal with the city.

You write to the management there or the directors of the departments and so forth. I would write to councillors: my own councillor and then other councillors who would be chairing committees. I wrote to the police because some of these instances either are directly criminal activities—*theft of vehicles and so on*—or they border on criminality.

In my problems with the city, each time I went either to the ombudsman's office or to the mayor's office—by "went," I mean submitting written communications and phone calls to them. Each time, they were interested in hearing all the information. They asked me to make my submissions written submissions. I was happy to do that, but each time there were no results. Nothing came out of that. In fact, even if you write to the city ombudsman, and I know she has a very difficult job, you do not get an acknowledgement of your submission, which surprised me. So I would phone up and try dealing with—I dealt with three or four people there. At least they provided, ultimately, because I was so persistent, a verbal acknowledgement of having received my submissions.

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But the problem is that nothing ever gets done. I would refer you to the annual reports. This became a real puzzle to me because I tried to understand things or figure them out. The annual reports of the Ombudsman cite the number of investigations they do, and if you look at those numbers, I think you'll be really surprised. If, for example, there are 1,000 or 2,000 complaints in a year, the number that get attention in terms of investigations is really minuscule; we're talking maybe 3% or 4%. These figures will come out in the annual report.

Also, another very interesting fact that comes out in the annual report is that the city ombudsman seems to be powerless or toothless. There must be some kind of constraint in the law or something that does not enable her to do things with regard to problems that citizens

bring to her attention. So in the actual reports, you will see that the same departments that are constantly offending the citizens by their inaction, poor decisions, deliberate, possibly—those departments appear, year after year, as top offending departments in the annual reports at the city of Toronto.

My really big problems were caused by the MLS department, the extremely aggressive activities. They come and confiscate your material. My Mercedes was gone. I tried to phone my councillor, then Sandra Cooke. They could not find out where my Mercedes was taken because the MLS people said that it didn't have the current validation plate. Well, yes, it didn't have the current validation—I don't use it year-round; I don't know if you know those diesel vehicles at all.

But I then found out—going to trial with the MLS people, with the inspector, I thought, “Well, here's my opportunity to find out what they did with all my material, including my construction material.” I own two properties in Toronto. Both I gave to the city of Toronto in terms of their rehabilitation program to make them affordable for low-income people, and for several years now the city has done nothing but undermine, undercut and totally sabotage those two programs.

Now, I'm not just speaking off the cuff; I have the documentation here. But we're talking about 100 pages of proof and so forth, so I was happy when I was told that I could make these written submissions as a follow-up.

The MLS officer did not appear at the trial. The judge made an interesting statement about the city's abuse of the court system. So you could not ask him, “What did you take with my cars?” Actually, they took the Mercedes and then they took my Lincoln as well. You cannot ask them. They do not appear. You can get no justice. You cannot defend yourself, because there is no trial. Where did he take all the windows that I was installing in the property? You don't know. The Thermo-pane windows to replace, as part of the RRAP—I don't know if you're familiar with the Residential Rehabilitation Assistance Program. You offer your property. For 15 years you accept only low-income people and you keep your rents down—you don't raise your rents—and, of course, you can't sell under those conditions. And then they could relieve you from that loan, assuming you've done all the conditions.

The MLS problem is only one—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Melnyk.

**Mr. Walter Melnyk:** —out of 10 problems. Sorry.

**The Chair (Mr. Shafiq Qaadri):** I need to pass the floor to the NDP. Madam Fife.

**Ms. Catherine Fife:** Thank you, Mr. Melnyk, for coming. It's not a lot of time, obviously, for you. You threw a lot in there, but I just want to say that we do appreciate some of the statements that you made around your frustration in dealing with the ombudsman.

With regard to Bill 8, though, is there anything specific that you wanted to share with us?

**Mr. Walter Melnyk:** In very broad terms, we do not have accountability. If you write to the mayor and do not

get a reply, if you write to the ombudsman and do not get a reply and there's no investigation, if you write to the department head, the manager, where they put my properties up for sale, the bailiff, on fraudulent taxes—totally fraudulent. I reported it to the police. Then, I guess because of the police activity, they removed the \$26,000 that they wrongly put on my tax bill so they could tax sale my property. Again, I have this in factual, written documentation. My lawyer is working on it.

By the way, you were introduced as an NDP MPP. I must say, in addition to all the other comments that have been made about Councillor Jack Layton, later MP, I worked with him at the board of health, where I was repeatedly appointed; food policy council with Marilyn Churley. I really enjoyed it. He was a wonderful human being, a very warm individual.

**Ms. Catherine Fife:** Thank you very much for coming here and thanks for your feedback with regard to the bill.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Fife.

To the government side: Ms. Hoggarth.

**Ms. Ann Hoggarth:** Hi, Mr. Melnyk. Thank you very much for your presentation. I can see that you're very fervent about what you believe.

Our government has introduced this legislation to strengthen oversight, transparency and accountability across government and the broader public sector, because we believe it's the right thing to do. In your view, does increasing transparency and accountability make government work better for Ontarians such as you?

**Mr. Walter Melnyk:** I absolutely think so. I mean, if we had transparency, I would know what they did with all my construction material. They did report at the trial—they gave me a disclosure document as to what they did with the materials. That document cannot be relied upon, because it says that the car was disposed of the same day on Hyde Avenue. There's a car wrecker on Hyde. At that point, I had gone to all the police auctions and the scrapyards looking for the vehicle, you know? At least then, I had the disclosure from the MLS department. So I went there. I spoke to the people at the scrapyard. There's only one on Hyde Avenue. The closest one, they did not go to. For some reason, they chose an obscure place to take my vehicle, so they say.

I asked to speak to the president. His name is George. I do have his business card, and if you need this information, I'll provide you with all the facts that you require. George said, “Walter, we did not receive any Mercedes. We do not get any cars from the city. We have no dealings with the city of Toronto.” I said, “But in their report, they say they brought it here.” He said, “Sorry. Go back to the city.”

There has been lie upon lie. If you're interested, there are some very grievous, very astounding things that have gone on, that have to be revealed. They have to be brought out to the public. When you fight with a \$10-billion corporation the way I've been doing for seven years, the stresses—they prop me up with pills now. You

get cardio pills that you have to take for heart problems. You get major depression. You don't sleep nights. You're on medication all the time.

**Mr. Mike Colle:** Have a glass of water and take it easy, Mr. Melnyk.

**Mr. Walter Melnyk:** Thank you. I get very excited on this topic, because they destroy your health. You cannot fight the city of Toronto.

**Mr. Mike Colle:** You can't fight city hall.

**Ms. Ann Hoggarth:** You can't fight city hall.

**Mr. Walter Melnyk:** You need to bring some fresh air, sunlight, sunshine onto their files, onto what they do to people.

**The Acting Chair (Mr. Shafiq Qadri):** Thirty seconds.

**Mr. Walter Melnyk:** For how many years, we did not have an ombudsman. They told us we had an ombudsman in 2006. I've been calling there for years. They didn't actually have one until 2009, contrary to the laws that you people put in place under the new Toronto act. Where was the ombudsman? What, a million people in Toronto, and no recourse, with a \$10-billion corporation that manipulates and does whatever they want to people, to citizens? They violate all the rights that you've—including, by the way—

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Mr. Melnyk.

To the PC side: Ms. Thompson.

**Ms. Lisa M. Thompson:** I appreciate you coming in and sharing your concerns, but I have no further questions.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Thompson.

Thank you, Mr. Melnyk, for your presence and your comments.

**Mr. Walter Melnyk:** I thank you very much.

**The Acting Chair (Mr. Shafiq Qadri):** Our next presenter is Ms. Carolyn Scholey. Is she present? Ms. Scholey, are you here?

If not, we'll move to our next presenter, Mr. Scott Somerville, who is also here in his capacity as an Ontarian.

#### MR. SCOTT SOMERVILLE

**The Acting Chair (Mr. Shafiq Qadri):** My Clerk will not let me start the time until you're officially seated. Please.

Thank you, Mr. Somerville. Your time officially begins now.

**Mr. Scott Somerville:** Thank you, Mr. Chairman. Mr. Chairman, members of committee, my name is Scott Somerville. I'm a retired municipal public servant with some 53 years of service and work experience in Ontario local government, primarily as a city manager or chief administrative officer in five of these 444 municipalities we have in the province. That followed a number of postings as a municipal auditor, a department of municipal affairs finance officer—and I think the use of the

words “department of municipal affairs” dates me a little bit, back into the 1960s—

**Interjection:** Good years.

**Mr. Scott Somerville:**—good years, real good years—a finance officer with a large Ontario municipality, and the president of a large municipal hydroelectric utility. I state that mainly to just try and let you know that I have spent some time in the field.

I come to you today, though, as a private citizen, an individual with a continued keen interest in Ontario municipal governance and administration.

I would like to read to you—some of you may have seen it. This is a quote of our provincial Ombudsman that was done October 19, a month ago, at a Hamilton news outlet. It was a video that's on Facebook, but I do want to quote it because I think it's important to what I would like to say.

**1600**

Mr. Marin said this:

“Bill 8 is a bill which would provide our office with oversight over all municipalities over virtually all matters across Ontario. That's 444 municipalities at both the administration level and the council level. So we are talking about a huge responsibility, and we take it very seriously.

“Bill 8 also extends jurisdiction over universities and school boards. So it's like a reinventing of the Ombudsman's office when this bill goes through.”

To suggest that this is a huge responsibility is a huge understatement. The public expectation is that results will be incredible. The question comes: Can the Ombudsman deliver?

To recognize the words that were used, this responsibility provides the provincial Ombudsman with oversight over all 444 municipalities, over virtually all matters—I take that to mean everything from dog tags to sewer design—at both the administration and the council level; so not just at the corporate level, but also at the political level.

This bill, in my mind, begs the question: What is the role of the elected councils and their appointed administration if the Ombudsman, who is an unelected public official, will now become responsible for all oversight? That certainly, using his word, is a “reinvention” of the office.

This bill, in my most considered opinion, will totally restructure how Ontario municipalities do their business in an adversarial role whose like has never been seen before, unless, Mr. Chair—and I say this with all respect—the underlying purpose of the bill is to obtain oversight compliance through the investigation of complaints by an unelected public official, rather than by provincial regulation passed by the Legislature of Ontario, which is the way it is now, i.e., a complaints-based process vis-à-vis a provincial regulation-based process.

Mr. Marin is quoted in the press in more than one area as saying, “Municipal government”—

**The Acting Chair (Mr. Shafiq Qadri):** Thirty seconds.

**Mr. Scott Somerville:** “Municipal government is notoriously unaccountable. It spends \$3.5 billion in provincial funds.... Nothing happens in between.”

I submit, Mr. Chairman, that in between the four years that he is referring to, annually, municipalities by regulation have to have audited financial statements, comprehensive information returns, debt limits—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Somerville, for your introductory remarks.

We pass it to the government side: Mr. Colle.

**Mr. Mike Colle:** Thank you, Mr. Somerville. I appreciate your candour and your experienced insight. This is going to be a huge job.

**Mr. Scott Somerville:** Massive.

**Mr. Mike Colle:** Maybe what I’m thinking is that since the job is so huge, maybe the Ombudsman won’t have the time to get into all the day-to-day work of the municipalities, but perhaps just focus in on the critical aspects of major complaints that may come in—because you’re so right: It’s not only the municipalities, it’s also the school boards—

**Mr. Scott Somerville:** School boards and universities.

**Mr. Mike Colle:** —the universities, colleges. I was speaking to one of the other deputants and I said, “At least if you’ve got a patient advocate, the patient advocate can take care of patient things because the Ombudsman’s going to be pretty darned busy.”

There are always issues of accountability at the municipal level. I’ve been there myself. People who don’t know anything about municipalities usually say, “Well, they’re not accountable,” but as you know, you get the phone call every day. People are at city hall every day. So there is accountability. On the other hand, on some big issues there seem to be some real problems, and maybe that’s what the Ombudsman should be focusing in on, like what happened in Brampton with these things. There were some major contracts or some major policy errors. There might be a role for the Ombudsman there, rather than taking on everything, which is going to keep him pretty busy.

**Mr. Scott Somerville:** I would agree. I think what bothered me, quite honestly, was when the Ombudsman basically made the statement that municipalities are “notoriously unaccountable.” Those of you around this table and others in the Legislature who have been at the municipal or school board level know that’s not entirely true. They are accountable. As I say, I listed seven different aspects where the province requires that municipalities, by regulation, do all the things. That’s accountability. That’s oversight. I believe the councils are responsible for that. I’m not here to argue against an Ombudsman. I’m here, though, to say this a bigger thing. As a practitioner of 50-some years, this is a much bigger thing than just, “Now we have an Ombudsman, and now we’re okay.” We’re not. We can’t be, and we’re not going to be.

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Mr. Scott Somerville:** I think education is as important in all of this: education of the public; education of the

Legislature of what you’re about to do; education, I believe also, of the Ombudsman, because no way should he make a statement like he made there when there is so much provincial regulation over the governing of municipalities.

**Mr. Mike Colle:** Maybe everybody should sit on city council before they make these pronouncements.

**Mr. Scott Somerville:** Well, that would be good.

**The Acting Chair (Mr. Shafiq Qaadri):** To Ms. Thompson.

**Ms. Lisa M. Thompson:** Thanks very much. It’s interesting: I agree that municipalities are accountable. Smaller, rural municipalities are seeing their constituents every day. I actually grew up with a municipal office in my home till I was a teenager. My mom was clerk/treasurer/administrator for 35 years when she retired. I get what you’re saying.

I appreciated your comments, your quote from Mr. Marin in terms of providing oversight over all municipalities on all issues. It made me think of the Green Energy Act. I have to go there. We currently have a government that’s stripping local autonomy through vehicles such as the Green Energy Act. Where does that place the Ombudsman then in terms of setting a business plan and moving forward? We’ve seen a decade of leadership from this government that strips away autonomy. What do you think will potentially happen to the Office of the Ombudsman if they continue on this path of stripping away autonomy?

**Mr. Scott Somerville:** Well, to be as candid as I can in answering that, it possibly depends on how the Ombudsman reports. Who is the Ombudsman accountable to? I’m not sure that is 100% clear, to be honest.

Yes, the province has done a lot over the years to change the responsibilities of municipalities, to tighten them up. Some have really worked and some have not. Some leave the municipalities out in the hinterland, sort of saying, “Where the hell are we?” Excuse me. “Where are we vis-à-vis what the province really wants us to do?” That communication sometimes isn’t there.

The problem I have is, I think it has to be clear how the Ombudsman is not only going to implement this huge responsibility but who the Ombudsman is going to report to. Is it going to be to the Legislature, or is it going to be out there more on his own?

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Ms. Lisa M. Thompson:** Interesting. We don’t have enough time to go on, but I’ll catch up with you later. Okay, Scott?

**Mr. Scott Somerville:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** To Ms. Forster of the NDP.

**Ms. Cindy Forster:** Thank you for being here today. As a municipal politician for about 18 years, I think one of the biggest issues that’s been highlighted for Ombudsman oversight in the province is the issue of in camera meetings, non-public meetings. In my own riding, there was a report issued by the Ombudsman just in the last



week that four of the six in camera meetings that were held shouldn't have been held in camera—at least parts of them. I know from experience that you get into one of those meetings, and you've got a couple of issues on the agenda, and then all of a sudden, you're dealing with four or five other issues that you rightly shouldn't be dealing with under the Municipal Act.

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What would you propose to do to deal with this very important issue where municipalities won't open their meetings, even though it has been highly publicized across the province in a number of municipalities?

**Mr. Scott Somerville:** I do not take issue with trying to enforce better standards as far as in camera meetings go. I don't, because for 50 years I've been in them and I know what goes on in them and I know how they, as you say, digress.

My problem is that the lumping together—and I'm going to be candid, Mr. Chair—of politicians under one umbrella, and Mr. Marin said this with respect to a Toronto Star article on Brampton. Basically, he wants to make sure that the politicians are honest. He said that. When he's talking about politicians, he's not just talking Brampton politicians or the former municipal affairs minister that's going to be there. He's talking about all politicians.

He's talking Pelee Island, where I spent some time; he has talked Vaughan, where I've spent some time; he's talking the larger cities; he's talking the Legislature; he's talking about you folks as well. You're the same politicians in the same bucket, and some of his responsibilities will work into your areas as well.

I lost track a little bit where I was going with this, to be honest. It's a matter of trying to get some balance—maybe that's the word I'm looking for—some balance into this bill that will allow for—

**The Acting Chair (Mr. Shafiq Qadri):** Thirty seconds.

**Mr. Scott Somerville:** —the municipal council to still be a municipal council, because I see every municipal council looking over their shoulder and saying, "This guy is going to just take me to task for everything I do, even though I believe it's the best thing for the people who elected me"—or what you think is best for the people who elected you. But nonetheless, Mr. Ombudsman is going to be there. He's going to look over my shoulder. That's what I mean about restructuring the way municipalities do their business. It will change.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Forster, and thanks to you, Mr. Somerville, for your many years of service, your presence today and your deputation.

**Mr. Scott Somerville:** Thank you for your indulgence, Mr. Chair.

**The Acting Chair (Mr. Shafiq Qadri):** Is Carolyn Scholey here? She was originally supposed to present at 4:15. Carolyn Scholey?

If not, we'll move to our teleconference for the 905, Christopher York.

MR. CHRISTOPHER YORK

**The Acting Chair (Mr. Shafiq Qadri):** Mr. York, are you there?

**Mr. Christopher York:** Yes, I am.

**The Acting Chair (Mr. Shafiq Qadri):** Welcome. Maybe we could augment that volume. You'll have five minutes, as you likely know, to make your opening remarks, and we'll rotate questions from all parties. Please begin now.

**Mr. Christopher York:** Okay. First of all, I'd like to thank everybody for the opportunity to be able to speak to the committee today. The reason why I believe that Bill 8 is essential: We need to have Ombudsman oversight of the MUSH sector in many, many places and for many reasons.

As Ms. Forster, the MPP for the Welland riding, is well aware, I was a candidate in the Thorold municipal election in this past election. Her office is already being inundated with complaints from a number of candidates for that election because there were a number of violations that took place under the Municipal Elections Act. Unfortunately, we have no recourse because we have nobody we can complain to. That's just for starters. We're still going through this.

Right now, the Ombudsman is only allowed to investigate for in camera meetings, which I've also made a complaint about and it's currently being investigated, but that's as far as he can go. The Ombudsman needs greater powers to be able to investigate the municipalities and make recommendations, because currently there is nobody you can complain to with regard to the municipalities when they do make mistakes and when they do violate the laws. Right now, we don't have any recourse for that, except for the next election, which is four years away, so we have to put up with politicians breaking the law and violating the rules with no recourse whatsoever and no punishment whatsoever to take place. They get no punishment whatsoever when they do violate these rules.

As far as a couple of other issues go with this act, I also found that there is a problem with the bill with regard to allowing the provincial advocate to have oversight of the children's aid societies, and I find this a big problem because right now, as it stands, the provincial advocate can only take calls from the children. It has to be the kids to contact the provincial advocate's office. The parents cannot call them when they have problems with the children's aid societies.

The children's aid society is a major, major problem today in the province of Ontario. This is something that I believe should have been taken over by the province itself in being a government-run agency, as opposed to being contracted out to private corporations. The main reason is: They are extremely corrupt. I have video-recorded evidence as well as documented evidence of perjury in court cases where this is taking place every day.

I don't need to remind the government about the recent memo that was leaked by the Peel region CAS to

keep cases open and to open as many new investigations as possible in order to make sure that they retain funding for the future fiscal year and to ensure more funding. So they are actually stacking the books so they can get more money from the government.

This is a major problem. They need to take away the funding formula that they have by having them funded based on the amount of open cases they have. As long as that's there, they have an incentive to apprehend children and open cases frivolously for no reason whatsoever. It is a major problem.

Myself, I dealt with them based on lies. They came in, and they apprehended my son when he was three weeks old based on lies that they knew were lies at the time, and they took him anyway. They ended up apprehending him, saying I was a cocaine addict and an alcoholic, neither of which was true. I don't use drugs and I don't drink. I even offered to stick out my arm for testing, and they said that wasn't good enough.

I ended up going to the doctor, and I got tested myself by my own doctor. He found everything was negative. We took it to court, and four days later I got my son home because I was able to prove that this was lies. However, for the next 18 months, my life was put through a living hell by these people, in and out of court, using taxpayers' dollars to try and fight us in court to try to get crown wardship of my son.

When we went to court, I went into the judge with the papers from my doctor with the test results stating that I was not in fact an addict, that I was not an alcoholic, that all drugs and alcohol tests came back negative. The children's aid immediately asked for the test results to be excluded because they were not conducted by their doctor.

I'm sure I also don't need to tell the government about the situation currently going on with Motherisk at Sick Kids in Toronto, the scandals going on with that. There are a lot of problems in the system that need to be rectified, and the only one who has the ability to do that is Mr. Marin, the provincial Ombudsman.

I continued in court. I continued for a year and a half of fighting the CAS. I ended up finally, ultimately, beating them. When we went to court the first time, it was funny how in their court papers, they stated drug addiction and alcoholism as being the reasons why they had to apprehend—it was even in the police reports. When we proved that to be false, with my lawyer, they immediately changed their tune in court and said to the judge that it was never about drug abuse or alcoholism anyway, that it was about my mental health status, of which there was none. They changed their story simply because they knew they were losing and they were being beaten.

The other problem that I found was that we have judges sitting on the benches of these Family Court cases and CAS who are former CAS lawyers. A perfect example is in the Welland courthouse. The one judge who's in there currently sat on the board of directors for the Kitchener-Waterloo CAS, and she's now the judge

presiding over the Family Court in the city of Welland. There's a serious issue with that. That's a major conflict of interest. There's no way she should be allowed to be doing that—

**The Acting Chair (Mr. Shafiq Qadri):** Mr. York, thank you very much. Your five minutes for introductory remarks has expired. I now offer the floor to Lisa Thompson, MPP for the Progressive Conservative side. She'll now have three minutes in which to question you.

Please go ahead, Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much, Mr. York, for sharing your personal example and why you exercise your support for Bill 8. At this time, I don't have any questions. Thank you.

**The Acting Chair (Mr. Shafiq Qadri):** Mr. York, you're now being passed to the NDP. Ms. Fife.

**Ms. Catherine Fife:** Thank you very much, Mr. York. Not a question: I just want to let you know, though, that the NDP has supported full oversight over the entire MUSH sector—

**Mr. Christopher York:** Yes, I'm aware of that—

**Ms. Catherine Fife:** —not just hospital—

**Mr. Christopher York:** I've been pushing for that oversight for quite some time. I'm actually quite familiar with most of the NDP members, as you're aware.

**Ms. Catherine Fife:** Thank you. Also, of course, our member Monique Taylor has been fighting for CAS oversight. So we're going to continue to support—

**Mr. Christopher York:** Absolutely. She has been doing a fantastic job of that.

**Ms. Catherine Fife:** We're going to support the Provincial Advocate in his call for improved powers to protect children. Thank you very much for calling in today.

**The Acting Chair (Mr. Shafiq Qadri):** To Madam Hoggarth of the government.

**Ms. Ann Hoggarth:** Good afternoon, Mr. York. Thank you for your very ardent presentation. Just to tell you, having been on the other side of the CAS as an educator: There is a law that says if we believe there's any chance that there has been any kind of abuse, we need to report it, whether we know for certain or not. Unfortunately—

**Mr. Christopher York:** You know what? I'm well aware of section 72. I'm very familiar with that, and I fully support that. Anybody has that duty, not just educators. Everybody in the province and society does.

**Ms. Ann Hoggarth:** Okay. I have a question for you.

**Mr. Christopher York:** Yes.

**Ms. Ann Hoggarth:** We introduced this legislation to strengthen oversight and transparency and accountability across all government and the broader public sector because it's the right thing to do. In your view, how does increasing transparency and accountability make government work better for all Ontarians?

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**Mr. Christopher York:** Currently, right now, as it stands, there is no accountability, especially with regard to the children's aid societies most specifically. I'll use

an example of the Child and Family Services Review Board. I've actually gone before them not once, not twice, but five times, and they were found in violation all five times.

The review board makes it very, very well known that while they do have the power to investigate, they don't have any power to take any action against them. So you can have all the powers you want for investigative procedures, but unless they have the power to take punitive action against them, it's really pointless. It's like giving the police a gun and a badge and saying, "Okay, you can investigate crime, but you can't arrest anybody."

**Ms. Ann Hoggarth:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Do you cede your time, Ms. Hoggarth?

**Ms. Ann Hoggarth:** Yes. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Hoggarth.

Thanks to you, Mr. York, for coming to us via teleconference. Your time is now concluded.

#### ONTARIO ASSOCIATION OF CHILDREN'S AID SOCIETIES

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenter to please come forward: Ms. Miller of the Ontario Association of Children's Aid Societies. Your written submission has just been distributed.

If you would like to please be seated—

*Interjection.*

**The Acting Chair (Mr. Shafiq Qaadri):** Yes, please. Your choice. And your time begins now.

**Ms. Wendy Miller:** Thank you very much. Thanks for having me this afternoon. My name is Wendy Miller. I'm here on behalf of the Ontario Association of Children's Aid Societies.

The OACAS is the membership organization of 44 out of 46 of Ontario's designated child protection agencies. As people know here, children's aid societies have the unique statutory mandate to deliver child protection services in the province of Ontario.

My submission will focus on schedule 10 of Bill 8, the provisions that give the Provincial Advocate for Children and Youth investigative powers with respect to children's aid societies and residential licensees where CASs are the placing agency.

In general, the OACAS and children's aid societies support the bill. We support the intent of Bill 8, in particular, to strengthen accountability of public services and enhance public confidence.

As a public sector service provider, children's aid values accountability and transparency in promoting public confidence. In fact, public confidence in children's aid is a strategic priority for the field, as we are well aware of the need for public confidence in our sector in order to fulfill the legislated mandate to keep children safe.

We support alignment of the bill, as drafted, with the paramount purpose of our act, the Child and Family Ser-

vices Act, the purpose being the best interests, protection and well-being of children.

We also believe that the Office of the Provincial Advocate for Children and Youth is a good choice for vesting investigative powers because of its experience with and expertise in working with children and promoting their rights and well-being. We would observe that existing complaints mechanisms are largely accessed by adults and focus on the needs of adults, which is why we believe this is a good place for those powers.

OACAS and children's aid would also support the intent of Bill 8 to promote resolution of prior complaints processes before accessing the new investigative powers proposed by this bill. We would support there being clarity of purpose and process, and that clarity of purpose being understood by all people who wish to access complaints mechanisms, both this one and existing complaints mechanisms. Essentially, people who wish to have their concerns heard must know where to turn, and understand the unique purpose of every one of those complaints mechanisms.

We would make the following observations, request some clarification, and make some recommendations with respect to Bill 8:

The bill, as drafted, does not reflect the full scope of the provincial advocate's advocacy services. As such, it excludes children and youth who may be placed in a residential setting by a mental health, a youth justice or a developmental service agency. We would want to see, and CASs would want to see, that all children within the mandate of PACY, the provincial advocate, be able to access those investigative services. As drafted, as I think you can appreciate, a situation could take place in which children who were placed by different agencies for different purposes, and yet all living in the same residential facility, would not have equal access to those investigative powers of the advocate.

The bill, as drafted, does not address the unique needs of aboriginal children and youth in children's aid care, despite their overrepresentation in our system as well as a history of oppression with respect to child welfare in aboriginal communities. We would want to see this perspective in some way informing the discussion of moving forward with this new investigative process.

We would like clarification with respect to the sequence of steps involved in the investigative and reporting process. We would also like to seek further clarification with respect to the alignment with, or differences from, the Ombudsman's investigative powers.

Our final recommendation would be to see a thorough policy review of all existing oversight and complaints mechanisms or functions with respect to children's aid societies, a review that is anchored in the best interests and needs of children. Such a review, we believe, would lead to a strengthened and streamlined approach—

**The Acting Chair (Mr. Shafiq Qaadri):** One minute.

**Ms. Wendy Miller:** —to resolving complaints and hearing concerns. It is important for members of this panel to understand that timely resolution of such con-

cerns is critical to children's well-being. Currently, there are multiple complaints processes that in some cases are duplicative and can lead to the delay of critical decisions with respect to a child's future. Finally, we would want such a comprehensive review to be anchored in a robust dialogue regarding all children's services in Ontario.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Miller.

We'll now proceed to the government side for opening questions: Madam McMahon.

**Ms. Eleanor McMahon:** Thank you for your excellent presentation. On a personal note, my brother and his wife are foster parents, so I listened to your comments with particular interest and concern because of what I've seen in their home. They are generous, giving foster parents, as most of the foster parents I know are, in fact; of course, not all. But it's very interesting to me.

In your comments, you talked about all children not having access. Can you explain that and maybe give us an example of what you mean by that? That was news to me.

**Ms. Wendy Miller:** The scope of the investigative powers, as the bill is currently drafted, doesn't mirror the full scope of advocacy services of the provincial advocate. The provincial advocate's mandate includes children who are in all service sectors, but the investigative powers would be limited to children in the care of a children's aid society or complaints related to children's aid societies or children in a residential facility where the CAS is a placing agency.

Residential facilities, group homes and institutional care settings often have children from different service sectors living in the same home. So in theory, a situation could occur in which a child who has been placed by a CAS is living alongside, in the same home, a child who has been placed by a developmental service agency, for example. Whatever the circumstances giving rise to the one complaint, it would be reasonable to think that all children in that same home could receive the same benefit of an investigation as the one child who has been placed by a CAS. We think that's an inequity and it should be addressed.

**Ms. Eleanor McMahon:** So you're concerned about children who would fall outside the scope of a CAS. Interesting.

**Ms. Wendy Miller:** Exactly—fall outside the scope of the investigative powers as drafted, yes.

**Ms. Eleanor McMahon:** Right. No, no, sorry, right. You truncated your comments, forgive me, but I understand that. It's very helpful. What would be the benefits, then—I think you touched on this, but if you could sort of elucidate a little bit more—of giving the Provincial Advocate for Children and Youth investigative powers that don't currently exist?

**Ms. Wendy Miller:** All the existing mechanisms are adult-focused. It would be the only place where people who have concerns related to children's aid societies, at the heart of which are the children's needs and best interests—it would be the only place that could actually

respond to those concerns and investigate those concerns from a child and youth focus and perspective.

**Ms. Eleanor McMahon:** Interesting. Extremely helpful.

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Ms. Eleanor McMahon:** Thank you very much.

**Ms. Wendy Miller:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. McMahon.

To the PC side: Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much for being here today. I appreciate that you were straight up. You said that you appreciate and support the overall intent of Bill 8, but I heard a "but." I thank you for the report that you submitted, because it adds more detail to the "but." Just to go over this, just to revisit it, you have concerns, and clarity is needed, with regard to the proposed approach. You also are looking for clarity around the scope of the proposed investigative functions. Let me see. Is there one other one? No, that was primarily it.

My question for you today is: Given that there's so much clarity needed around some key elements of Bill 8, prior to coming here today, were you consulted with regard to where Bill 8 should go? As one of the three major areas in the MUSH sector, were you consulted prior to hearing about Bill 8?

**Ms. Wendy Miller:** We were, and we have been actively pursuing conversations related to a wide range of mechanisms for oversight and complaints and trying to understand the difference between and the specific purposes of each of the existing processes: the Child and Family Services Review Board and the internal complaints review panel, which is a mandated process within CASs. Our purpose is understanding: Do all of these existing mechanisms, and the new mechanism that's being proposed—do they make sense? Is their original purpose being fulfilled currently? Is there an opportunity to make sure that they are each fulfilling their individual purpose, which we understand to be quite distinct?

**1630**

If there's duplication, is that necessary duplication or could that duplication be resolved through a streamlining exercise?

The point being that children's aid societies, and the front-line workers who work with children and families, need to spend as much time as possible working directly with those children and families. To the extent that they are required to participate in important processes, complaints-driven or otherwise, it's time away from families and from children, so we want to know that it's time spent in the right way.

**Ms. Lisa M. Thompson:** Very good. Again, I really appreciate you saying, "We like this, but we need more clarity on the various elements of this bill." What's your gut? Do you think that you're going to get that clarity? Is Bill 8—

**Ms. Wendy Miller:** Oh, I think so. My gut tells me yes, and my gut tells me it is the right—

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Ms. Wendy Miller:** —my gut and the people I represent—that this is a much better fit than some of the other proposals that have come forth, precisely because the provincial advocate has that focus.

Some of the concerns that we have raised in the written submission really are about clarity with respect to purpose and procedures. We would want to make sure that parents or aunts or uncles or children themselves—anybody who is raising a concern through these new powers—would know which door to go through, which would be the process that makes the most sense for that purpose.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Thompson.

To Madam Fife.

**Ms. Catherine Fife:** Thank you very much, Ms. Miller. We're supportive of the provincial advocate's recommendations, which he first submitted under Bill 179, which are not reflected in this piece of legislation—for instance, removing barriers to investigations, such as only being able to investigate licensed residential placements, and I think that you raised that. Also, the fact that the First Nation, Métis and Inuit children are not truly reflected under the provincial advocate's—and under this piece of legislation.

One of the biggest concerns is—and I would really appreciate it if you could comment on it—the advocate points out that only being able to investigate licensed would mean that individual complaints about children's aid societies made by children and youth would be excluded from the investigation by the advocate's voice. We want children's voices truly heard in this province. Can you please comment on that?

**Ms. Wendy Miller:** I'm not aware of the provision you're referring to. I'm not aware that children and youth would be excluded from raising concerns. I might be misunderstanding something.

**Ms. Catherine Fife:** The advocate can only investigate licensed residential placements within the children's aid system, and is prohibited from investigating matters eligible for review or that have been decided by the Child and Family Services Review Board. Does that clarify it?

**Ms. Wendy Miller:** Yes, it does. This is related to prior processes having to be resolved before anybody can access the new provisions.

**Ms. Catherine Fife:** So it's a delay.

**Ms. Wendy Miller:** It is a delay. I think what we would say to that, and I think the side we come down to on that, is the idea of the streamlining and ensuring that there is a clarity of purpose of each of the processes.

To the extent that duplication, as I say, is necessary to services, two complaints processes could be taking place at the same time. If that makes sense, then we would support it.

**Ms. Catherine Fife:** Yes, if it protects children.

**Ms. Wendy Miller:** We're concerned with unnecessary duplication, and we're concerned with the existence

of processes that aren't able to fulfill their full mandate before the next one kicks in.

**Ms. Catherine Fife:** For sure, yes. The advocate is also seeking whistle-blower protection for all staff of agencies and related entities covered by the advocate's mandate. Currently, this is not provided in the act. Can you comment on how important it is for staff to actually come forward and talk about the safety of children?

**Ms. Wendy Miller:** We haven't addressed that in our written submission. I think what I would say is that, in the spirit of seeking provisions that promote accountability and transparency, we would support that provision.

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Ms. Wendy Miller:** We support the notion that for anybody who had a concern, that concern would find the appropriate place to be raised.

**Ms. Catherine Fife:** Thank you very much. Certainly, we're going to be trying to strengthen this legislation to make sure that the provincial advocate can actually follow through on his or her mandate, going forward, to protect children.

Thank you very much.

**Ms. Wendy Miller:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you very much, Madam Fife.

Thanks to you, Ms. Miller, for your presentation and presence on behalf of the Ontario Association of Children's Aid Societies.

#### MS. CAROLYN SCHOLEY

**The Acting Chair (Mr. Shafiq Qaadri):** Now we are going to return in the schedule and go back to an earlier presenter who has just arrived, I understand.

Ms. Carolyn Scholey, if you'd please come forward. Your materials have, I think, been distributed to members of the committee. You have five minutes in which to make your opening address, and then you'll have questions rotating with each party.

I'd invite you to please begin now.

**Ms. Carolyn Scholey:** Good afternoon to everyone present for this Standing Committee on General Government hearing for Bill 8, the Public Sector and MPP Accountability and Transparency Act. I thank everyone for your participation.

I am Carolyn Ellen Slizys-Scholey, and I reside at 2935 Headon Forest Drive, Unit 6, in Burlington, Ontario. I have been waiting to sit here before you all for a very, very long time.

I am not here representing any organization or advocacy group. I also do not want you to hear my words and interpret them as someone who just wants certain individuals or corporations to pay for the circumstances that have happened. Rather, I don't want our story to ever happen to another family in Ontario going forward. What we endured could have easily been investigated, if not prevented, if there were provisions for accountability and transparency in place.

On October 24, 2008, my life changed forever. On that evening, I opened my front door to a world of turmoil that I never could have imagined. Two women from the children's aid society came to my door and told me that someone in our medical community had started a medical investigation and was accusing me of Munchausen syndrome by proxy, otherwise known as medical child abuse. That night, the two women removed my three children from my care. My two youngest children—Naomi was 16 months and Ryan was aged three—were apprehended from their daycares. My oldest son, Joshua, age seven, was home and witnessed these events first-hand from by my side and was apprehended. My oldest son has type 1 diabetes and had been on insulin since the age of three. My youngest son had also been diagnosed with diabetes two years before this apprehension.

Apparently a doctor was questioning my younger son's diagnosis and involved the children's aid society for assistance, although in all honesty, they did not seem to know how to proceed other than apprehend all my children without any evidence of wrongdoing presented to them by the medical professionals, other than a query.

As I'm sure you know, in child protection cases, you are assumed guilty and must present evidence of your innocence, which in our case was quite difficult, considering it was based on a hypothetical "what if." The children's aid society never opened a child protection court application.

As the mother to these children and as the person accused of such an atrocity, I turned all my efforts to proving that the allegations were unfounded, which is what resulted in the text that you all have before you, the Scholey 3, which I distributed to all parties, including doctors, the children's aid society members and hospital administrators. Within three weeks' time, the two youngest children were returned back to my care. However, the children's aid society continued with the apprehension of my oldest son, Joshua, the child whose diagnosis was never in question nor was my care of his diagnosis questioned. The children's aid society recommended that my ex-husband, the father of my oldest child, file for divorce and subsequent custody of my oldest as they felt that this would make my life easier and put my family at a lesser risk of potential future harm. Again, the children's aid society never opened a child protection court application.

I was at a complete loss as to how to get my oldest child returned to my home, the only home he had ever known prior to this apprehension. The children's aid society stated that, since my ex filed for a divorce and since divorced parents increase the risk of furthering emotional harm, my son should stay where the society placed him, creating a new status quo.

I tried complaining through the hospital complaint procedures, which resulted in my hardship falling on deaf ears. They had consulted and met with the children's aid society behind closed doors without my knowledge. They had a retired pediatrician determine I could easily have Munchausen syndrome by proxy, but I was denied contact with this health professional. To date, I have

never met him, yet he diagnosed me with a suspected serious mental health illness with no training or background or experience in adult mental health. To this date, I have not even be able to get my hands on a copy of the report that he allegedly wrote. To this date, I have never been given the opportunity to see our children's aid file, other than a summary, which took months to obtain and is still one person's depiction of the events that unfolded.

Our children's aid file was open from 2008 to 2012 and spanned four years with no child protection court application ever. I complained and asked children's aid for the return of four years' of my son's return involvement with our family. I cannot access our health records because they've listed him as a crown ward.

So you see, our story is not a simple one. I do understand that there is some framework for accountability and transparency with each governing body. However, there needs to be a quarterback that you can go to who has the power to organize the bigger picture of accountability and transparency, someone who can access and investigate the entire MUSH sector, like an ombudsman can in other provinces—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Scholey. The time now goes to questions.

Ms. Thompson, you have three minutes.

**Ms. Lisa M. Thompson:** I would like to give you some time to finish your comments, please. She can use some of my time.

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**The Acting Chair (Mr. Shafiq Qaadri)** Go ahead.

**Ms. Carolyn Scholey:** Thank you. Our family, in particular, would have needed a multi-public-sector investigation handled. Our CAS social workers were not registered social workers, nor did they provide counseling to the children when it was asked of the society by multiple health practitioners. There was no way I could actively open investigations with the college of registered social workers. The Child and Family Services Review Board don't investigate complaints currently before the courts, such as custody, the duty to diagnose, the jurisprudence of the hospital and the college of doctors and physicians, the lack of access to child protection records and to hospital records, and the lack of inclusion at meetings between two intertwined organizations, especially after being branded with a superficial scarlet letter for hypothetically suspected medical child abuse. An ombudsman with increased oversight is exactly the person our family, and other families like ours, need.

I don't want our story to be a "How dare they?" but a "How can we prevent this ever happening again?" It has been six years and I still have no answers. It has been six years and the child, now age 13, not reunited with his family, is now majorly suffering from anxiety, depression and a disabling panic attack. I call this the ripple effect. It is for the children who are like my oldest that I stand here—sit here—in front of you, reliving our struggle. My son was told he only needed to pack enough clothes for three days, which turned out to be a lifetime.

I'm hopeful that the standing committee can make recommendations for Bill 8 to protect families like mine

and others, who need increased accountability and transparency with increasing the oversight of our provincial Ombudsman. For the first time ever in 40 years, I felt disadvantaged because of what province I lived in, and that's not right. I had no idea that our Ombudsman could not help us out. The provincial Legislature has the capacity to change policy, to make this Bill 8 come to fruition with a schedule that increases his Ombudsman oversight, accessibility of records and accountability of the public sector.

This is my hope and prayer and contribution, dedicated to my three children, Joshua, Ryan and Naomi, and Ontario families everywhere.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. Ms. Thompson, you still have 30 seconds or so.

**Ms. Lisa M. Thompson:** I just want to thank you for sharing your very personal story with us to try to make a difference. It means a lot. I appreciate it as well, and we'll go back and reflect upon it in the record. You not only came to share your story, but you had some very specific actionables that we'll take a look at as well. So, thank you very much and then, we'll move along.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Thompson.

Ms. Fife.

**Ms. Catherine Fife:** Thank you very much. I'm amazed at your courage to come here and share your story. The documentation that you've provided us is very impressive.

This act, as it stands right now, does not have Ombudsman oversight over children's aid societies. Would you like to comment on that? This is your chance to do so.

We support it. We think the Ombudsman should have oversight to protect families and children.

**Ms. Carolyn Scholey:** Yes, I definitely think there needs to be an Ombudsman, because I asked for an internal complaints review committee and I was denied. Not only that, we weren't even told there was a place you could file a complaint with the children's aid society until two and a half years into our dealings with them. It was me trying to reach out to anyone I could find, basically, on the Internet to hear our story. I was lucky enough that by writing and compiling those documents, they at least returned two of the kids within three weeks. But if I had no issue parenting those two children, then there was no reason why I couldn't have had the third.

**Ms. Catherine Fife:** Okay. Thank you very much.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Fife, and thanks to you, Ms. Scholey, for coming forward, and your documentation as well.

I'd like to invite our next presenter to please come forward—

*Interjections.*

**The Acting Chair (Mr. Shafiq Qaadri):** Oh, I'm sorry. We do have the Liberal side. Pardon me. Please be seated again.

Mr. Baker.

**Mr. Yvan Baker:** Ms. Scholey, thank you so much for coming in, and I'm going to second the thoughts of

the folks opposite that it takes a lot of courage to come in and tell a story like the one you've told us. So thank you for doing that and for sharing that with all of us.

Your MPP for Burlington, Eleanor McMahon, is here, but I asked if I could ask the questions on this, just because I've been active on this particular piece of the bill. One of the things that I want to quickly ask you about was the issue of oversight that you've spoken to so much. You spoke to the importance of making sure that people have someone that they can turn to.

The intention of this bill was to do that: to give the Provincial Advocate for Children and Youth that oversight of children's aid societies. We believe—I think I believe anyway—that the advocate is well positioned, has the expertise, has the knowledge to be able to do that. We've been consulting with the advocate as we've been putting together this legislation.

My personal hope for you and others who are in your situation is that the advocate provides that oversight that you've been asking for. Although we've provided powers to the Ombudsman in this bill in other areas of government, in this particular area we think it's highly specialized and requires someone who has particular expertise and can really dig into those specific concerns that people like yourselves and others have raised.

The question I'd like to ask you is, in light of your personal experiences, what do you think would be some of the benefits of additional oversight of children's aid societies?

**Ms. Carolyn Scholey:** Additional oversight—sorry?

**Mr. Yvan Baker:** Oversight of children's aid societies. What would be the benefits of that?

**Ms. Carolyn Scholey:** It would cover cases like ours where we were not called a family in care, so we fell in the grey areas. There's no one you can complain to. We weren't technically in care, so we can't even go to the Child and Family Services Review Board. I didn't realize that by signing a temporary voluntary service agreement under coercion that I wouldn't see my kids again, and that that meant I was not in care but voluntarily giving my children away and I didn't actually have any rights as a parent by doing such.

I think even when the provincial advocate spoke she said that the children would have to still be in care for the children's aid to be investigated, so we—

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Ms. Carolyn Scholey:** —kind of fell off the radar of anyone who could help us.

**Mr. Yvan Baker:** I'd just like to thank you again for coming in and for sharing your experience.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Baker, and thank you, Ms. Scholey, for coming forward.

MS. PAULA BILZ

**The Acting Chair (Mr. Shafiq Qaadri):** I now invite our next presenter to please come forward: Paula Bilz.

Welcome. As you've seen, the drill is five minutes. I think we've received your written submission as well.

**Ms. Paula Bilz:** Yes.

**The Acting Chair (Mr. Shafiq Qaadri):** Please begin now.

**Ms. Paula Bilz:** Okay. I want to thank you all for allowing me to speak on Bill 8, schedule 9. My name is Paula Bilz and I'd like to speak specifically about long-term care in Ontario and why we need an independent body to investigate complaints about the Ministry of Health and Long-Term Care, rather than keeping investigations in-house.

We are the only province in Canada that is not granted the provincial Ombudsman oversight of our health care system and vulnerable persons living in long-term care. As a person who has experienced first-hand the long-term-care system after being a primary caregiver to my mother, who was diagnosed with early-onset Alzheimer's disease and lived in a long-term-care home for over eight years, to an individual who went back to school and received a diploma in activation in gerontology, to working in the field as a front-line worker and concluding with working as a recreation manager, I have personal knowledge and professional experience regarding the decline of the care of individuals in long-term care.

A few of the critical issues are included in the handouts that I handed out to you, but due to time limitations I'm only going to touch on one specific point, and that is that incidents are not being reported to the home or ministry as residents, families and staff are fearful of any retribution from administration and owners. Family are also concerned about possible reprisals against their loved ones by the home and staff.

The few issues and complaints that are reported are not investigated thoroughly, and sometimes if they are resolved, I have witnessed that the first few months there may be a change but there is little or no follow-up, which at times leads the facility to backslide into old habits.

I have personally witnessed the resident bill of rights ignored and staff not reporting it because of intimidation and fear from the administrators and owners that make the staff work environment difficult, if not unbearable.

Yes, we know there is whistle-blower protection, but it cannot protect staff from backlash within the home. If health care was covered under the Ontario Ombudsman, this would give staff, family members, but more importantly, residents, a sense of security, safety and confidentiality.

There are some other issues that I have witnessed: the decline in the quality of adult briefs for residents and daily verbal abuse towards residents from staff because there's not enough time or staff to do their jobs in a professional manner. I've personally experienced outings for residents significantly decreased, all in the name of profit. When I have tried to resolve these issues through the way of doing things, I was personally bullied by the administration, and through the creation of a hostile work environment I was forced to resign from my position.

Why the Ontario Ombudsman? Allowing the Ontario Ombudsman to oversee the province's health care, spe-

cifically long-term care, would go a long way to restoring the public's and, more importantly, your constituents' faith and confidence in our health care system.

**1650**

The Ombudsman's 39-year track record of handling and resolving tens of thousands of individual complaints a year speaks for itself, because the Ontario Ombudsman already has the tools, staff, skills and training in place and does not have to reinvent the wheel. This would allow for true transparency, accountability and objectivity through an arm's-length, independent and impartial investigative body.

If this were to fall under the Ministry of Health and Long-Term Care, they would have to create the ombudsman position and department from scratch. Certainly if nothing else, there would be costs and extensive retraining associated with this new body. There would also be a start-up time during which time there would still be no real ombudsman process.

As a member of the voting public, I strongly feel that the optics of having an in-house investigative body working within and reporting to the Ministry of Health and Long-Term Care would be a conflict of interest at best. As we all know, this industry has seen more than its fair share of negative press and headlines. An in-house investigative body would move it further in that direction. An in-house ombudsman system should have at least the appearance of impartiality. How can it be done if the Ministry of Health investigates itself? This is where an independent investigative team like the Ontario Ombudsman's needs to be considered.

I respectfully ask that Bill 8's amendment 9 be changed to reflect the inclusion of Ontario health care services. We have to ensure that the individuals in long-term care who built and contributed to the growth of this province receive the best care when they are at their most vulnerable.

Bottom line: This is your moment to shine by allowing Ontario Ombudsman oversight of health care in this province and restoring Ontarians' faith in our health care system.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Bilz, for your precision timing.

The floor now goes to the NDP. Ms. Fife.

**Ms. Catherine Fife:** I thank you for coming in and sharing your experience.

It's almost like the weather is co-operating with your warnings. We share your concerns around not having provincial Ombudsman oversight. Specifically, though, can you comment on—right now, as it stands, the patient ombudsman can only enter a hospital, CCAC or long-term-care premises with the consent of the organization or a warrant. Do you think that's right?

**Ms. Paula Bilz:** No.

**Ms. Catherine Fife:** Do you think that the new patient ombudsman is going to be appointed by cabinet and, therefore, a government appointee? Do you share some concerns of that?

**Ms. Paula Bilz:** I totally share concerns with that.



**Ms. Catherine Fife:** The patient ombudsman is going to be employed by the Health Quality Council and, therefore, is going to be an employee of the government as well. Do you have any concerns with that?

**Ms. Paula Bilz:** I do have concerns with that.

**Ms. Catherine Fife:** You did reference retribution and some places having whistle-blower protection. Can you clarify why an in-house patient advocate or ombudsman is not truly going to be protected if they actually go to the wall for a patient?

**Ms. Paula Bilz:** How they're not going to be protected?

**Ms. Catherine Fife:** If they're in-house.

**Ms. Paula Bilz:** If they're in-house? If they're an in-house, like I said, they're still investigating themselves, and at some point, they're always going to side with their organization.

**Ms. Catherine Fife:** Because of the fear?

**Ms. Paula Bilz:** Fear.

**Ms. Catherine Fife:** Fear. Okay.

**Ms. Paula Bilz:** Yes.

**Ms. Catherine Fife:** Would it surprise you that this new patient ombudsman, based on the legislation as it's crafted right now, is not explicitly forbidden from holding other employment? So they can actually have another job and then also hold this very important job.

**Ms. Paula Bilz:** I do not agree with that at all.

**Ms. Catherine Fife:** No, nor do we.

I want to thank you for coming in. We're going to try to strengthen this piece of legislation as it goes to committee.

**Ms. Paula Bilz:** Thank you very much.

**Ms. Catherine Fife:** Thank you.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Fife.

To the government side: Mr. Baker.

**Mr. Yvan Baker:** Thank you so much for coming in as well and for sharing with me and with us. We don't have time here today, but I've also had my grandparents in long-term-care homes, and I'd wish for them the best possible care. My community of Etobicoke Centre is one where we have one of the largest proportions of seniors of any riding in Canada and a number of long-term-care homes, so I certainly understand this issue and sympathize with your concerns.

I wanted to say a few quick things and then, if I may, ask you a question—and I appreciate your points around the independence of the office. Our belief is that the office will be independent, and let me just share you why I say that. One element of it is that it's housed within Health Quality Ontario, which is an arm's-length agency—although under the Ministry of Health, an arm's-length agency.

The patient ombudsman's responsibility will be mandated, actually, to disclose publicly his or her findings—not just to the minister, not just to cabinet, but publicly. One of the things that, to my mind, is so important, having experienced what I have in the long-term-care homes, is the specialized expertise that you need in

someone who's going to be overseeing long-term-care homes and other aspects of health care, and a patient ombudsman could be that person with those specialized expertise. But also, because we've linked it with other aspects of the health care system—think about more systemic issues that translate across long-term-care homes, hospitals and other aspects of our health care.

Of course, one of the things that I'm particularly interested in and excited about is that when we hear complaints, those complaints filter up and, as quickly as possible, get disseminated into policy that then allows actionable steps to be taken to correct the problems that we have. Health Quality Ontario's mandate is to do just that, and that's one of the other reasons for having the patient ombudsman within Health Quality Ontario. These are some of the reasons why I believe it's independent, but also we can get more quickly to the outcome that I think you and I want, which is the best possible care for our seniors.

My question to you is: Could you talk a little bit, even just broadly, about why oversight over long-term-care homes is so important?

**Ms. Paula Bilz:** Why it's so important? Because these are our most vulnerable individuals, and they feel—and I can speak on their behalf—that they've been thrown away. No one wants to live in long-term care—no one. No one says, "I want to live in long-term care."

There are people who don't do group activities and they sit in their bedrooms all day, without visitors. It's very important that we don't forget about them. They're thrown away. That's how they feel and that's how they're being treated. That's why I believe that we should have the Ontario Ombudsman rather than the patient ombudsman that you are suggesting.

**Mr. Yvan Baker:** Thank you for coming in. We appreciate it.

**Ms. Paula Bilz:** Thanks.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Mr. Baker.

To the PC side: Ms. Thompson.

**Ms. Lisa M. Thompson:** Thank you very much. I appreciate your personal perspective and experience that you bring to the table today. Just to revisit, you'd like to see amendment 9 changed to reflect the inclusion of our health care services specifically with regard to long-term care.

**Ms. Paula Bilz:** Yes.

**Ms. Lisa M. Thompson:** Okay. You touched on a couple of them. Can you share with us what else you've experienced with regard to the intimidation, if you will? What have you seen that is an atrocity that could have Ombudsman oversight?

**Ms. Paula Bilz:** I've seen staff intimidate residents. I've seen administrators intimidate managers, and staff also. Basically, they run the home. It is their home and they figure that they can run it their way without anybody complaining because their jobs are—I mean, everybody needs to work.

Most of the people in long-term care who work there are great people; there's just not enough of them. There's

more complex care. Some 60% of people in long-term care are suffering from dementia. They have no voice because they don't understand what you're asking them.

**Ms. Lisa M. Thompson:** Can you touch on the complex care that's evolving and needed?

**Ms. Paula Bilz:** What I've been noticing is that more and more young people are coming into long-term care, people who have MS and MD. They're younger and they are all in wheelchairs. They all have to have lifts. They need more nursing care, but the people who also have dementia need just as much nursing care. Even though they can still walk, they still can't tell you sometimes if they have to go to the washroom. They can't tell you things. So there's just not enough.

**Ms. Lisa M. Thompson:** I'm curious; in your experience, is there an opportunity for feedback? Did you feel you had the opportunity to go to your manager who in turn went to the administrator, and the administrator had another area to vet concerns with, outside of the Ombudsman? Has the government been responding to some of these concerns?

**Ms. Paula Bilz:** No, and that's another thing; a lot of people have lost faith in the Ministry of Health and Long-Term Care, and because they've lost faith they're not going to say anything.

**Ms. Lisa M. Thompson:** Thank you very much. One last thing: Would you be available for further consultation if we had more questions for you to clarify?

**Ms. Paula Bilz:** Absolutely.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Thompson, and thanks to you, Ms. Bilz, for coming forward in your deputation.

## COUNCIL OF ONTARIO UNIVERSITIES

**The Acting Chair (Mr. Shafiq Qadri):** I now invite our next presenters to please come forward: Barbara Hauser, secretary to council and senior policy adviser; and Vicki Hodgkinson, university secretary, University of Guelph, representing the Council of Ontario Universities.

You might just introduce yourselves. You've seen the drill; five minutes, beginning now.

1700

**Ms. Barbara Hauser:** Hello. My name is Barbara Hauser. I'm secretary to council at the Council of Ontario Universities.

**Ms. Vicki Hodgkinson:** And my name is Vicki Hodgkinson. I'm the university secretary at the University of Guelph.

**Ms. Lisa M. Thompson:** Go, Gryphons.

**Ms. Barbara Hauser:** Can I start?

**The Acting Chair (Mr. Shafiq Qadri):** Yes, please.

**Ms. Barbara Hauser:** Okay. Thank you very much for the opportunity to address this committee today in connection with Bill 8. We are here specifically in connection with schedule 9 of Bill 8 related to the extension of authority of the Ontario Ombudsman to universities. We understand that the government is seeking the author-

ity of the Ombudsman over universities to increase accountability and oversight of the university sector, but we're here today to tell you that universities are committed to open and fair policy and processes for the types of concerns that may come to the attention of an ombudsperson.

We believe that the extension of the Ombudsman authority duplicates the processes that are already in place at universities, and this raises the issue of the efficient use of resources, both public and private, both the government's resources and the university's resources.

All 20 universities have well-established and effective policies and processes that govern their activities and rules and regulations designed to ensure due processes for employees and students. Ten universities already have ombudsman's offices or persons, and the universities that do not have that specific function generally have an equivalent function handled through other university offices.

**Ms. Vicki Hodgkinson:** More specifically, universities have complaint procedures, as well as dispute resolution processes and academic appeal processes and procedures, that are designed to fit within the institution's array of programs and services, as is befitting their legislative responsibilities and their structures, roles and governance arrangements. The senate, for example, has very clear statutory authority for academic matters and academic decisions, including concerns that may emerge at the student level.

The fact that some universities have chosen to establish an ombudsperson office and others haven't chosen to do it in that way is just speaking to the differentiated approach that the universities take. It relates usually to their size of institution and the array and complexity of their organization. In any event, there are functions and processes and responsibilities in place to address those kinds of issues.

We believe that the extension of the Ombudsman's authority is unnecessary. Statistics from the most recent annual report made available, in fact, by the ombudsperson's office show that the number of university-related complaints are very small and not sufficient to warrant increased oversight into the sector, particularly, as I mentioned, in light of the fact that there are existing policies and procedures in place at each institution.

So Barbara and I are here to present the opportunity of managing scarce taxpayer dollars and pointing out the opportunity, then, to set aside adding to the Ombudsman's load by bringing in universities, and we'll continue with our processes at the sectoral level that by all evidence are performing well.

*Interjection.*

**Ms. Vicki Hodgkinson:** We work well with our government ministry and regulators and tend to, when issues come up, work well them to try and find resolutions. We know that every institution isn't perfect and there are sometimes things that get snagged, but I can tell you, speaking specifically from the University of Guelph

perspective, that we do work really hard to try and keep people feeling they've had their issues heard and well attended.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. You still have 25 seconds or so, if you'd like to use them. No? We'll move on with questions. Fair enough.

To the government side. Mr. Baker?

**Mr. Yvan Baker:** Thank you so much. Thank you both for coming in.

One of the things that I think is important to highlight is that we certainly appreciate that each university has—there are various forms, as you pointed out, of oversight and accountability mechanisms in response to student and other concerns. So the idea behind the legislation is that the Ombudsman would not be involved in oversight until each university's respective approach in dealing with those had been exhausted. I wanted to highlight that fact because I think it's meant to be clear that certainly we would allow the universities to exhaust their processes before it went on, and of course, each university still has the option of pursuing whatever mechanisms they would like, whether it be an ombudsman—I know it's probably around half that have one—or whatever other mechanisms they would like to have in place. Obviously, the option is still there for each university to institute its own ombudsman.

But again, the goal is to think about how across government, in the institutions that taxpayers fund—when you talk about the scarcity of resources—we provide that oversight that so many are looking for.

My question to you would be, can you talk a little bit about the fact that the bill does not require that a university take on an ombudsman, nor does it interfere? The Ontario Ombudsman would not oversee a complaint until internal processes had been exhausted. Can you comment on that?

**Ms. Vicki Hodgkinson:** Yes. Actually, I think COU can provide a detailed analysis, but the way that it's written suggests that if a student or an employee just waits out the time periods that are available for internal processes, then they get to come to the ombudsperson, sort of letting any opportunity to use the internal mechanisms pass, and so sort of leapfrogging over to the ombudsperson. Not to nitpick, but I think there is some other interpretation of the draft legislation that I know the Council of Ontario Universities would be happy to point to some tightening there.

Again, it's just the feeling that there are already ample public resources going into addressing concerns, and it's a question of how many more public resources the province has available to do that kind of work.

**Mr. Yvan Baker:** I think the other goal, too, is to think systemically about the university sector, so having someone who is looking over all universities offers an opportunity for learnings that can be shared and really, hopefully, benefit individual universities.

**Ms. Vicki Hodgkinson:** We have many looking over us. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Baker.

To the PC side: Ms. Thompson.

**Ms. Lisa M. Thompson:** Full disclosure: I'm a proud Gryphon, just so you know.

**Ms. Vicki Hodgkinson:** I love you.

**Ms. Lisa M. Thompson:** I'd like to learn more about your dispute resolution that's already in place. Can you describe that? I'd like to hear about the process, and then my supplemental would be, is the process a standard that other universities adapt to and adhere to?

**Ms. Vicki Hodgkinson:** Right. There are several stages. As a first order, the policies are designed to try to get the problem to be evoked early, and there will be informal mechanisms used at the earliest level by the people most vested in the issue at hand, whether it's students involved or employees. Then there's usually some staging, so there are usually two or three stages so that if something can't be resolved, no matter the nature of the problem—and there are human rights-related issues, academic-related issues, student behaviour-related issues, there are staff harassment issues—there are different policies and processes, all of which have been evolved and attended to with care in light of provincial legislation that covers that gamut.

Then there are some stages of appeal. Ultimately, most of the processes that have a structure and a procedure at the university can also go to judicial appeal, so go to the courts.

We are very attentive and can say as a sector on how these procedures and policies are designed and implemented. We strive for transparency and administrative fairness around all of these different streams of decision-making.

**Ms. Lisa M. Thompson:** Thank you. Are those processes standard across the 10 universities?

**Ms. Vicki Hodgkinson:** They aren't standard because they have been designed to fit with that set of programs. Some universities are into certain kinds of businesses that others are not, in terms of services and support for students or the roles that faculty and staff play.

**Ms. Lisa M. Thompson:** Okay, got it. Thank you very much.

**Ms. Vicki Hodgkinson:** Thank you.

**Ms. Lisa M. Thompson:** Thanks for taking the time to be here today.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Thompson.

To the NDP side: Ms. Fife.

**Ms. Catherine Fife:** I, too, appreciate your coming here and making the case for university exemption. However, if you look at the recent media cycle, for instance, we are seeing sexual harassment and assault on university campuses across this country and this province as hugely concerning, and I know you share these concerns as well.

1710

One in four young women reports sexual assault on campus. In that instance, where would those women, or men—because in some cases it's men—or lesbian, bisexual or transgendered seek a truly independent voice to

protect their rights to go to school and not be victimized on campus?

**Ms. Barbara Hauser:** I think what's happening right now is that something is in the media, and it's on the front page, and it's characterized as there not being policies in place. But universities have been addressing this over the years in different ways. There are policies. The Council of Ontario Universities is now working with the universities to bring these policies together, to examine them and to see if there might be a set of guidelines to put in place with respect to the policies. That's the way the universities operate, and one of COU's roles is to help coordinate them when they're working in the collective.

That is being addressed. I don't know that the Ombudsman would change that.

**Ms. Catherine Fife:** Just to be clear, the NDP fully support Ombudsman oversight on university and college campuses, because clearly we've missed—you may have individual universities and colleges that are being very progressive and are trying to address the gap, but this is a systemic issue. I think, from our perspective, the goal is to ensure that there are some resources, or a vision or legislation or what have you, to address the bigger issue across the province.

Specifically, aside from that specific example, how would students come forward if there is a lack of confidence, or if there's a confidence issue, that their inquiry would be handled independently on a campus? How about that?

**Ms. Vicki Hodgkinson:** Catherine, I think if you—and I'm only referencing the University of Guelph ones, because they're the ones I know best—

**The Acting Chair (Mr. Shafiq Qaadri):** Thirty seconds.

**Ms. Vicki Hodgkinson:** —but they're not unique in the sense that they aren't available elsewhere. We have very specific protocols and procedures, and they're produced in a way that makes them student-friendly and accessible. They are available on our websites, and you can go to counselling services or support services that are available for students. Those are known to our staff and help get people to appropriate, fair-minded places and processes that will let them address their concern with confidence that they're being addressed appropriately and confidentially.

**Ms. Catherine Fife:** One quick question—

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Ms. Fife.

Thanks to you, Ms. Hauser and Ms. Hodgkinson, on behalf of the Council of Ontario Universities. You are now officially dismissed.

**Ms. Ann Hoggarth:** Chair?

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Hoggarth.

**Ms. Ann Hoggarth:** I just wanted to ask if we could have a list of the 10 universities that do have ombudsmen, please.

**The Acting Chair (Mr. Shafiq Qaadri):** You are absolutely within your rights, as an elected member of this assembly, to do so.

We now have Ms. Forster.

**Ms. Cindy Forster:** I have one question too—

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Forster, committee time is officially over for these witnesses—

**Ms. Cindy Forster:** I want some information brought back to the committee.

**The Acting Chair (Mr. Shafiq Qaadri):** Of the committee or of the witnesses?

**Ms. Cindy Forster:** Of the witnesses to the committee. I want them to give us some information.

**The Acting Chair (Mr. Shafiq Qaadri):** Fine. Go ahead.

**Ms. Cindy Forster:** I'd like to know if there's a list available of each of the universities and colleges and their board of governors, and whether those meetings are actually open to the public, if the council of universities and colleges can provide that to us.

**Ms. Vicki Hodgkinson:** Yes.

**Ms. Cindy Forster:** Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** What I might just ask is, whatever the two latest research requests are, if you could just communicate that to legislative research.

Our final presenter, whom we're trying to reach by teleconference, is Shannon Alberta. We're going to give her five minutes to be reached. If not, the committee will adjourn. The committee is still in session, but there is a sort of—

**Mr. Mike Colle:** Is she in the room, maybe?

**The Acting Chair (Mr. Shafiq Qaadri):** An excellent point: Is Shannon Alberta in the room? No. She's coming via teleconference. Therefore, unless she was extremely generous, she likely would not have done so, although I suppose I should have cleared that.

#### MS. SHANNON ALBERTA

**The Acting Chair (Mr. Shafiq Qaadri):** Committee is still in session. We have five minutes of time. Now counting.

Colleagues, Shannon Alberta is now coming to us via teleconference. Ms. Alberta, are you there?

**Ms. Shannon Alberta:** Yes, I am.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you. We'll just increase your volume.

Just for protocol: You'll have five minutes for an opening address, and then we'll rotate through the different parties for questions, beginning with the PC side. Please begin now.

**Ms. Shannon Alberta:** Okay. Hi, everyone. I'm sorry; I'm in the middle right now of picking up my vehicle at the shop. I had expected to do the teleconference at 5:45 today, so I'm going to do my best without the information I had gathered in front of me while I pay for my vehicle and pick it up.

What I'd first like to say is thank you for hearing me. The other thing is that I'm pro-Bill 8 to pass. I have some

personal experience with some things that have been going on with child and family services, as well as the school boards and hospitals, where there is municipal jurisdiction. It seems that everyone thinks a child could be at risk from missing two days of school a year. Some of the children who are being apprehended are being placed in foster care homes that aren't monitored. These children are being abused in the homes, and there needs to be oversight.

I know that Bill 8 isn't going to address everything, and not to the full extent it needs to be addressed. However, this is a step in a positive direction, and I have high hopes for this. I'm looking forward to writing my piece for the Child and Family Services Act review, as well; I will be doing that from an agency perspective rather than my own individual perspective.

1720

Like I said, I don't have any of my notes in front of me, so it's really hard for me to do this call. I hope I'm coming across clear enough for everyone. What else would I like to say? There are a lot of "ums" in here. Sorry about that.

I guess what I can touch on is with oversight by—that's basically what I'm talking on. I believe it's schedule 9 mostly, the Ombudsman's oversight a bit because things need to be changed. There are a lot of indiscretions and things going on in the courts that don't need to be. There are children who are not at risk in their homes being taken from families, and there are children at risk in foster homes.

The way that child and family services is doing it through their standards, which they are allowed to do by the Ministry of Children and Youth Services, which is overseen by OACAS—it's not proper; it's not right. They're not addressing what a child of abuse would be that we would see, and that would be someone who was actually being physically, emotionally or mentally abused. They're using their "abuse" as those who may miss one or two days of school.

I guess that's my opening address for now. Like I said, I don't have any of my information in front of me. I'm just picking up my vehicle at the shop. I think that's it for my first five minutes. Thank you for listening, everyone.

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Alberta. I appreciate we've put you a bit on the spot, getting you considerably earlier than booked.

I will now pass you to the Progressive Conservative caucus and MPP Lisa Thompson, who will have three minutes in which to ask you questions.

Ms. Thompson.

**Ms. Lisa M. Thompson:** Shannon, thanks very much for making yourself available earlier than originally scheduled. If it's any consolation, we've heard from other people today who have shared similar concerns to what you were sharing with us.

One thing that stuck with me during your opening comments: You mentioned that things need to be changed. Can you take a moment and be very specific with what you feel needs to be changed?

**Ms. Shannon Alberta:** Yes. What needs to be changed is how the children's aid society is using the Child and Family Services Act. They're using their own standards for what a child in need of protection is. It needs to change because they're not actually addressing the children who are at risk.

I don't have the documents in front of me, Ms. Thompson, but there are things like, let's say, under part III, I think it's (2)—it goes from (2)(a) to (f). They're using 2(a), (b), (d) and (e), and all those are little laws. They're legislation in the act that say a child is at risk, according to the ministry and the minister. The other ones that they're omitting are actual abuse. So if a child is—if there's a call in and there's a family fighting, let's say the male had beaten the woman, his wife, and he had knocked his child down the stairs at the same time. What child and family services is doing for protection in that case is they're just opening a file, and then they just go and refer them to counselling services. Then, if they don't hear any more reports after three months, then they just close it, whereas if it was a child who was missing a couple of days of school and there was a call in that maybe the parent forgot to send them to school with lunch, that's where they put them at risk, and then they will take them for an interim time into temporary custody.

**Ms. Lisa M. Thompson:** Thank you very much for sharing that. In terms of a timeline, we have Bill 8 working its way through the process. Will you be following the committee activity and additional deputations?

**Ms. Shannon Alberta:** Yes, I will be.

**Ms. Lisa M. Thompson:** Okay. Very good. Stay in touch. To be fair, if there's anything you've missed, given that we called you earlier, please don't hesitate to submit your documentation through to the Clerk of this committee and she'll be sure to get it through to us.

**Ms. Shannon Alberta:** Thank you, Ms. Thompson. I think I will do that because when I was referencing the point under the Child and Family Services Act, I'm not even sure that I referenced the right parts. So I will do that—

**The Acting Chair (Mr. Shafiq Qadri):** Thank you, Ms. Thompson.

Thanks, Ms. Alberta. We'll now pass you to the NDP caucus: Ms. Fife.

**Ms. Catherine Fife:** Thank you very much. You're going to need a new gavel, I think, by the end of today.

Shannon, I do appreciate the fact that you didn't have your notes in front of you.

The children's advocate couldn't oversee foster homes outside of the Children's Aid Society. Do you have concerns about the limits of the advocate's powers to investigate in those circumstances?

**Ms. Shannon Alberta:** Yes, I do. I do have concerns. They should have more power to investigate. I think there should be more oversight on that part. They should have that, definitely.

**Ms. Catherine Fife:** And just for your records, I don't know if you know this, but we support in total any amendments to schedule 10 of the act sought by the chil-

dren's advocate because we think that he or she should have all the tools at their disposal to protect children.

Thank you very much for calling in today, Shannon.

**Ms. Shannon Alberta:** All right. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** We now pass you, Ms. Alberta, to the government side: Mr. Colle.

**Mr. Mike Colle:** Thank you again for making yourself available. Whatever car trouble you have, I hope it goes well.

**Ms. Shannon Alberta:** Thank you.

**Mr. Mike Colle:** Just if you have something in writing or something you want to send to us electronically, please take your time and send it to the committee—through the Clerk or through the Chair?

**Ms. Shannon Alberta:** Okay.

**Mr. Mike Colle:** Madam Clerk, who should she send the information to?

*Interjection.*

**Mr. Mike Colle:** To the committee Clerk.

**Ms. Shannon Alberta:** Yes.

**Mr. Mike Colle:** So just get it to us and she'll get it to us promptly. Okay?

**Ms. Shannon Alberta:** Okay. I appreciate that.

**Mr. Mike Colle:** So when you get home tonight, have a cup of tea and then send us something that you have, that you want to share with the committee. I'm sure the committee's anxious to look it over.

**Ms. Shannon Alberta:** Okay. Thank you, Mr. Colle.

**Mr. Mike Colle:** Okay. Take care. Thank you.

**The Acting Chair (Mr. Shafiq Qaadri):** Thank you, Mr. Colle, for your questions and nutritional counselling. Thank you, Ms. Alberta, for joining us earlier.

If there are no further questions—thank you very much for your time, Ms. Alberta. If you'd just hold on for a moment while I hear a whisper.

**Ms. Shannon Alberta:** Yes.

**The Acting Chair (Mr. Shafiq Qaadri):** Ms. Alberta, I'm just reminded that 6 p.m. on Wednesday is the last opportunity for you to submit materials to us in writing or by email. So if you might just comply with that. Thank you very much.

**Ms. Shannon Alberta:** Okay. Thank you very much.

**The Acting Chair (Mr. Shafiq Qaadri):** Committee members, if there is no further business, I'll just remind you that committee reconvenes out of schedule but Wednesday, November 26 at 1 p.m.

Any further business, colleagues, besides a call for a clock or anything like that?

**Mr. Mike Colle:** Yes. I move that at the next meeting we have a public clock available.

**The Acting Chair (Mr. Shafiq Qaadri):** No, you may not. Thank you. Committee is adjourned.

*The committee adjourned at 1728.*

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Ms. Cindy Forster (Welland ND)

Mr. Rick Nicholls (Chatham–Kent–Essex PC)

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