



Safer Ontario Act, 2017 – Overview

Presented to: Parliamentary Assistant

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Purpose

- To provide an overview of the proposed Safer Ontario Act, 2017, which, if passed, would modernize the delivery of community safety and support the government's vision to build an even stronger, safer province by:
 - Modernizing the policing framework, in accordance with the province's **Strategy for a Safer Ontario**, by enacting a new **Police Services Act, 2017**;
 - Improving the inquest system through **amendments to the Coroners Act**;
 - Implementing an oversight framework for forensic laboratories under a new **Forensic Laboratories Act, 2017**; and,
 - Assisting police in responding to missing persons occurrences, where there is no evidence of criminal activity, under a new **Missing Persons Act, 2017**.
- The proposed Safer Ontario Act, 2017, if passed, would also enact new legislation related to independent oversight of policing in Ontario (Ministry of the Attorney General lead).

Context for Action – Engagement to Date

- The ministry has been conducting extensive consultation and engagement to inform the development of these initiatives and the proposed Safer Ontario Act, 2017.
- Since early 2016, the ministry has been undertaking:
 - Public and regional engagements (focused on the Strategy for a Safer Ontario, including 11 regional sessions with stakeholders and eight sessions with the public across the province)
 - Focused engagements with key stakeholders and partners from across multiple sectors of society including:
 - Municipalities and policing organizations and associations
 - First Nations, Inuit and Métis communities
 - Civil liberties and privacy organizations, including the Information and Privacy Commissioner of Ontario
 - Anti-racism and human rights organizations, including the Ontario Human Rights Commission
 - Forensic associations and accreditation bodies
 - Social services, mental health and violence against women organizations
 - Engagements with those directly involved in service delivery including police officers, laboratory workers and judges, as well as those with lived experience, including the families of missing persons
- These wide-ranging engagements have informed the proposed approaches, which attempt to strike the appropriate balance in reflecting diverse perspectives and feedback.

Context for Action – Police Services Act, 2017

What is the Problem?

- × Reactive, resource-intensive emergency responses associated with traditional policing
- × Lack of ability at the provincial level to effectively measure quality in policing
- × Changing nature and complexity of crime
- × Increased demands on public safety personnel
- × Increased demands and challenges regarding human rights and civil liberties
- × Outdated policing framework

POLICE SERVICES ACT, 2017 AND STRATEGY FOR A SAFER ONTARIO

Shifting to a Community Safety and Well-Being Planning Model

- ❖ Mandate a collaborative approach to community safety and well-being planning at the local level
- ❖ Improve police interactions with vulnerable individuals

Defining Core Police Services

- ❖ Clarify core police responsibilities
- ❖ Increase opportunities for the use of alternative community safety personnel
- ❖ Enhance professionalism, education and training

Enhancing Police Oversight and Accountability to the Public

- ❖ Enhance governance and oversight of police services
- ❖ More active Ministry role in oversight of police services boards to ensure quality policing that meets provincial standards

Sustainability of First Nation Policing

- ❖ Provide enhanced legislative options for First Nation policing in Ontario

Enhanced Public Trust and Confidence

Sustainable Policing

Community Focused

Culturally Responsive

Outcomes

- ✓ Strengthened partnerships between police and the communities they serve
- ✓ New community safety services structure that clarifies core police responsibilities, updates training requirements and reduces pressures on police services
- ✓ Enhanced and consistent oversight, quality assurance and accountability
- ✓ Sustainable, effective and culturally responsive policing services

Proposed Framework – Police Services Act, 2017 (PSA, 2017)

Shifting to a Community Safety and Well-Being Planning Model

- Ensuring community safety and well-being requires provincial, municipal and First Nations partners, service providers and community members collaborating to:
 - Identify and address priority community risks such as mental health and homelessness
 - Implement strategies for prevention and social development
 - Build trust between community partners
 - Improve outcomes for residents
- Part XIII (Community Safety and Well-Being Plans) would require municipal councils to prepare and adopt a community safety and well-being plan (and would enable First Nations to choose to do so). It would outline requirements for municipal councils when preparing the plan, as follows:
 - That the plan must identify risk factors to the community and strategies to reduce prioritized risk factors.
 - That they must establish an advisory committee to assist in preparation of the plan, that must at a minimum consist of members from the municipal council, police service board, and health, education, community/social services and children and youth sectors.
 - That they must consult with certain groups when preparing the plan, including the advisory committee and members of the public encompassing racialized groups and of First Nation, Inuit and Métis communities.

Proposed Framework – Police Services Act, 2017

Defining Core Police Services

- The changing nature and complexity of crime, coupled with increased demands for police to respond to calls for service related to social issues, requires a rethinking of what services are delivered and how, and what skills and educational requirements are needed from personnel such as police officers and special constables.

Community Safety Service Delivery

- Part III (Provision of Policing) would set out a legislative framework for the delivery of policing functions in Ontario, with details to be established in regulation.
- The legislative framework would set out broad requirements that:
 - Police service boards and the Commissioner of the OPP would be responsible for providing “adequate and effective policing” in their areas of policing responsibility, which includes the delivery of five core functions (e.g., law enforcement).
 - A police service must use their own members or persons acting under their direction.
 - A policing function may be provided using people who are not peace officers (e.g., private security), unless the function requires the exercise of a legislative or common law power of a peace officer or police officer.
- The regulations would then set out exceptions, prohibitions and details related to the above requirements, including:
 - Specific standards related to core adequate and effective functions (e.g., domestic violence investigation standards)
 - Where a police service board or the Commissioner may enter into agreements with other entities to provide a policing function (e.g., Thunder Bay Police Service enters into a contract with the OPP for tactical response services from OPP members).
 - Further instances where a policing function would be prohibited from being provided by people who are not peace officers.

Proposed Framework – Police Services Act, 2017

Defining Core Police Services, cont'd

Special Constables

- Part VII (Police Officers and Other Policing Personnel) would set the duties of police officers and the requirements for a person to be appointed as a police officer. This would include new educational requirements to be appointed as a police officer, including one of the following:
 - A university degree
 - A degree, diploma or advanced diploma granted by a college of applied arts and technology or its equivalent
 - A secondary school diploma and the person meets additional prescribed criteria
- It would also set new requirements related to special constables in Ontario, including those related to:
 - **Appointments, powers and duties:** Police service boards and the Commissioner would be given the power to appoint persons as special constables.
 - Special constables would have to meet certain eligibility criteria and would be issued a certificate of appointment specifying the name of the employer for whom they may work, the powers of a police officer that they may exercise, and the purpose for which they may act.
 - **Authorizations to employ special constables:** The Minister could issue authorizations to employ special constables. Special constable employers would have certain duties established by the PSA, 2017 and be required to investigate conduct of their special constable employees that may contravene the PSA, 2017 or its regulations.

Proposed Framework – Police Services Act, 2017

Enhancing Police Oversight and Accountability to the Public

Inspector General and New Authorities to Collect Information

- The ministry intends to build an enhanced framework to enable more effective monitoring and inspections of police services, and enhanced research and analysis to inform policy and program development and the evaluation of outcomes.
- Part VI (Inspector General of Policing) would enable the Lieutenant Governor in Council to appoint an Inspector General of Policing (IGOP), whose duties include monitoring and conducting inspections related to compliance with the Act and dealing with certain complaints regarding compliance with the standards in the PSA, 2017 and board member compliance with their code of conduct.
 - The IGOP would have the authority to collect prescribed information in accordance with the regulations from certain police entities and certain information on request.
 - The IGOP would also have the power to:
 - Recommend to the Minister that he or she use a disciplinary power if there is evidence that a board member is not complying with their code of conduct.
 - Issue a direction or remedy if there is evidence of other non-compliance with the standards in the Act. If that direction is not complied with, then the Inspector General could recommend that the Minister impose a disciplinary measure.
- Part II (Minister's Duties and Powers) states that the Minister has the authority to collect information from certain policing entities as set out in regulation (e.g., use of force data, race-based data). The Information and Privacy Commissioner would be given the power to review the practices of the ministry in relation to personal information, to safeguard privacy. Offences related to the unauthorized use and disclosure of this information would also be outlined.

Proposed Framework – Police Services Act, 2017

Enhancing Police Oversight and Accountability to the Public, cont'd

Civilian Police Governance

- The ministry intends to strengthen civilian police governance in Ontario through new standards and requirements for police service boards, and changes related to governance of the Ontario Provincial Police (OPP).
- Part IV (Municipal Policing and Police Service Boards) sets out new requirements to strengthen civilian police governance, including:
 - **Clarifying and strengthening roles and responsibilities and supporting outcomes-based performance measurement:**
 - The board would be required to develop a strategic plan for the provision of policing, that includes quantitative and qualitative performance objectives and indicators of outcomes, and addresses interactions with certain populations including persons who appear to have a mental health condition, youths, and members of racialized groups and First Nation, Inuit and Métis communities.
 - The PSA, 2017 would also clarify where the police service board would not be able to direct the chief of police (e.g., regarding specific operations) to ensure the board is able to effectively carry out their mandate and role.
 - **Addressing board composition and training requirements:**
 - The list of those who are ineligible to be members of a police service board would be expanded, for example to include former members of a police service (unless it is a different board from where they were formerly employed and at least two years have passed).
 - Prescribed training would be mandatory including with respect to human rights and systemic racism.

Proposed Framework – Police Services Act, 2017

Enhancing Police Oversight and Accountability to the Public, cont'd

Civilian Police Governance

- **New measures to support board diversity:**
 - Municipal councils would be required to prepare a diversity plan for police service boards, to ensure that the board members are representative of the diversity of the population in the area.
 - The municipal council and Minister would need to take reasonable steps to promote the availability of police service board appointments to historically underrepresented groups such as racialized groups and First Nation, Inuit and Métis.
 - The Minister would be required to publish an annual report on the steps taken to ensure that public appointees to municipal boards reflect the diversity of the population of the area.
- Part V (Ontario Provincial Police) would establish clear powers for the Minister with respect to governance of the OPP (e.g., establish policies and prepare a strategic plan). The Ontario Provincial Police Governance Advisory Council would be established, to provide advice to the Minister regarding the use of the Minister's powers with respect to the OPP.
- Part V would also create local OPP detachment boards to advise OPP detachment commanders with respect to policing provided by the detachment. They may establish local policies and local action plans.

Proposed Framework – Police Services Act, 2017

Enhancing Police Oversight and Accountability to the Public, cont'd

Discipline

- In alignment with the Ministry of the Attorney General's work to respond to recommendations of the Report of the Independent Police Oversight Review, changes are proposed with respect to internal discipline to create a more streamlined system.
- Part IX (Discipline and Dismissal) would set provisions regarding investigations into conduct that constitutes professional misconduct, workplace misconduct or unsatisfactory work performance and imposing disciplinary measures.
 - Certain disciplinary measures, such as temporary suspensions, forfeiture of pay and reprimands, could be imposed directly by the chief of police, board or Minister. The police officer may request a hearing before the Ontario Police Discipline Tribunal (formerly Ontario Civilian Police Commission) to dispute the measure.
 - Termination of employment and demotion could not be imposed directly. Instead, the chief of police, police service board or Minister must apply to the Tribunal to hold a hearing on the matter first.
- It would also set out circumstances for where a police officer could be suspended without pay, including where there are charges for certain serious offences (to be defined in regulation) that were not committed in the performance of the officer's duties, for which termination of the officer is being sought and is likely to take place and where a failure to suspend the officer without pay would bring discredit to the reputation of the police service.
- Part VII (Right to Report Professional Misconduct) would also ensure that the members of a police service or special constables may disclose alleged professional misconduct by fellow members/special constables without fear of reprisal.

Proposed Framework – Police Services Act, 2017

Sustainability of First Nation Policing

- New options for First Nation communities to choose from related to the delivery of First Nation policing, based on their locally-defined needs and interests.
- This would include two new legislative options, as follows:
 - Part IV (Municipal Policing and Police Service Boards) would enable First Nations to request the constitution of a First Nation police service board by a Minister's regulation. If a regulation is constituted, it would enable First Nation board to have policing responsibility for an area and maintain a police service that meets standards under the PSA, 2017.
 - Part V (Ontario Provincial Police) would enable First Nations to request the constitution of a First Nation OPP board by a Minister's regulation. These boards would have many of the same functions and powers as an OPP detachment board and would be responsible for overseeing the agreement for policing services.

Context for Action – Amendments to the *Coroners Act*

- On April 6, 2017, Ontario publicly released the Report of the Independent Police Oversight Review (IPOR), led by the Honourable Michael H. Tulloch, which contained 129 recommendations to improve police oversight in Ontario.
- The IPOR made recommendations with respect to amendments to the *Coroners Act* to improve the inquest system, which include that:
 - The *Coroners Act* should be amended to require that the coroner hold an inquest when a police officer's use of force, including use of restraint or use of a firearm, is a direct contributor to the death of an individual
 - The coroner should retain discretion to hold an inquest in cases where a police officer is involved in an individual's death, but that police officer's use of force was not a direct contributor to the death. For those cases, the coroner should provide written reasons to the public if the coroner decides not to hold an inquest

Proposed Framework – Amendments to the *Coroners Act*

Improving the Death Investigation Framework

To enable the implementation of Justice Tulloch's recommendations and ensure that the death investigation framework continues to deliver on its mandate in an effective, transparent and accountable manner, MCSCS has proposed key amendments to the *Coroners Act*.

Amendments that address Justice Tulloch's recommendations:

1. Mandatory inquests when a police officer's, special constable's or First Nations Constable's use of force is the direct cause of death
2. Mandatory inquests if a person's death resulted from injuries or a medical event (e.g., a heart attack) while they are detained or in the actual custody of a peace officer
3. Publicly report on a coroner's decision to not hold an inquest in cases where SIU is investigating a death as result of a police officer's, special constable's or First Nations Constable's involvement, but not as a result of use of force

Other amendments to the *Coroners Act* to support effective operations include:

1. Removal of OIC appointment process to enable the Chief Coroner to appoint coroners (e.g., through letter of appointment) so that cases can be assigned more quickly
 - The Chief Coroner and Chief Forensic Pathologist would be required to collect information on appointments/authorizations made and report to the Ministry on the diversity of the appointments.

Proposed Framework – Amendments to the *Coroners Act*

Other amendments cont.:

2. Enabling the Chief Coroner to appoint a judge or lawyer to preside over an inquest to support implementation of Justice Tulloch's recommendations related to police-involved deaths.
 - In many, if not most, of these inquests, it would be beneficial for a legally trained person to preside.
3. Expanding the authority to collect, use and share information, including personal information, to enable broader, more robust analysis and identification of trends related to deaths, including police-involved deaths, that can be used in death prevention strategies.
 - Would meet a recommendation from the Seven Youth inquest that Office of the Chief Coroner develop a process/protocol to improve data collection and analysis to track and analyze death rates of First Nations youth on and off-reserve.
4. Stipulating that anything seized by a coroner for the purposes of an investigation be kept safe and secure, but not require that it must be with the police.
 - This would not include items such as firearms and other items that are evidence for a police investigation.

MCSCS is also going to be undertaking a broad review of the *Coroners Act*, which will include targeted consultations and likely further legislative changes to modernize the Act..

Context for Action – Missing Persons Act

- The police are currently limited in their ability to investigate reports of missing persons when there is no evidence of criminal activity.
- A new Missing Persons Act, 2017 would provide new tools for police officers in missing persons investigations by allowing access to specific information (e.g., telephone, banking and travel records) to assist in locating a missing person, while respecting rights to individual privacy.
- Missing persons legislation currently exists in six other provinces in Canada. The development of missing persons legislation has been recommended by a number of inquests and inquiries, most recently by the inquest into the deaths of seven Indigenous youths in Thunder Bay.

Proposed Framework – Missing Persons Act

Measures to Assist in Locating a Missing Person

- The Missing Persons Act would establish the following three measures that a police service could access to assist in locating a missing person:
 1. **Applying to a justice for an order for the production of records:**
 - A police officer would be able to apply to a justice to obtain an order for the production of records, provided he/she has reasonable grounds to believe that:
 - The records will assist in locating a missing person; and,
 - They are in the custody and control of the person specified in the order
 - When presented with an application for an order for records, a justice would have to consider the following factors:
 - Whether the public interest in locating the missing person outweighs the privacy interests of the person whose information is to be accessed
 - Whether there is any information that would suggest that a missing person may not wish to be located, including because they may be attempting to leave a violent or abusive situation
 2. **Applying to a justice for a warrant to facilitate the search of a premises:**
 - A police officer would be able to apply to a justice to obtain a warrant to search premises provided the officer has reasonable grounds to believe that the missing person may be located at the premises, and that entry into the premises is necessary to ensure the safety of the missing person.
 - As with an order for the production of records, the justice would have to consider the same two factors specified above before issuing a warrant

Proposed Framework – Missing Persons Act

Measures to Assist in Locating a Missing Person, cont'd

3. **Making an urgent demand for the production of records in the absence of an order:**
 - A police officer would be able to make a demand in writing for records if the officer has reasonable grounds to believe that:
 - The records will assist in locating the missing person and are in the custody and control of the person specified in the order; and,
 - In the time required to obtain an order from a justice, the missing person may be seriously harmed or the records may be destroyed.
 - Upon making an urgent demand, the officer would be required to prepare a report to another member of the police service (designated by the chief of police to receive such reports) outlining what records were demanded, and how the reasonable grounds above were satisfied.
 - Annually, the chief of police/Commissioner of the Ontario Provincial Police would also be required prepare a report, that would ultimately be made public, and that would contain the total number of urgent demands made in that year, and a description of the types of records that were requested.

Proposed Framework – Missing Persons Act

Disclosure of Information about a Missing Person

- The Missing Persons Act would also establish the following rules that would apply to the disclosure of a missing person's personal information, before and after the person is located:
 1. **Disclosure of information to the public:**
 - The chief of police, or person designated by the chief, would be permitted to disclose information about a missing person to the public provided the chief or their designate has reasonable grounds to believe that the release of the information will assist in locating the missing person, or it is for a prescribed purpose. The Act would also provide guidance on the types of information that may be disclosed (e.g., name and physical description).
 - In the event that a missing person is located, the chief of police or their designate may publicly state the fact that the missing person has been located, or the fact the missing person has been found deceased.
 2. **Limits on disclosure of information to family and friends of the missing person:**
 - A member of a police service would be prohibited from disclosing a missing person's personal information to facilitate contact between the missing person and the spouse, relative, friend or acquaintance of the missing person except with the consent of the missing person.

Context for Action – Forensic Laboratories Act

- There is currently no legislation in Ontario that sets specific oversight requirements for forensic testing or requires that forensic laboratories be accredited or disclose their accreditation status.
- A new Forensic Laboratories Act, 2017 would provide a multi-faceted oversight framework for forensic laboratories in Ontario.

Proposed Framework – Forensic Laboratories Act

The proposed *Forensic Laboratories Act* will introduce a new oversight and enforcement regime of forensics labs in Ontario.

Mandatory Accreditation

- The province will mandate accreditation for all laboratories that knowingly perform forensic tests:
 - For the purpose of specific legal proceedings;
 - For other potential legal purposes;
 - Pursuant to an order of a court or other lawful authority.
- These laboratories will be required to:
 - Obtain accreditation from an accreditation body that is a signatory to the International Laboratory Accreditation Cooperation (ILAC) Mutual Recognition Agreement.
 - Meet the international standard for forensic testing (ISO/IEC 17025) and additional supplementary requirements as determined by the ministry.

Inspection and Enforcement Regime

- Inspection and enforcement of the accreditation requirements would happen on two fronts:
 1. Post-accreditation inspections and quality assurance visits by accreditation bodies
 2. Provincial inspections to verify the status of accreditation
- Along with any enforcement measures used by accreditation bodies (e.g., suspension of accreditation), inspectors (e.g., MCSCS or procured third party) will also have the authority to issue substantial fines for non-compliance with the requirements.

Proposed Framework – Forensic Laboratories Act

Online List of Accredited Laboratories

- The proposed Act provides that the Minister may make publicly available on the MCSCS website an online list that would provide detailed information on accredited forensic laboratories including:
 - The name, location and contact information of the laboratory
 - The laboratory's accrediting body
 - The scope of laboratory accreditation, and
 - Any sanctions or fines.

Cover Form

- To provide more transparency to the justice system, ALL laboratory reports (clinical and forensic) that are requested for use in legal proceeding or other legal purpose will be required to have a cover form that must include:
 - A plain language description of test results
 - The purpose of the test conducted (clinical vs. forensic), and
 - The accreditation status of the laboratory at the time the test was conducted.

Advisory Committee

- Due to the complexity, technical subject matter and multi-sectoral impacts of forensic oversight, the ministry will establish an independent Advisory Committee to provide technical expertise and advice to the Minister on:
 - Standards and supplementary requirements (i.e. related to specific disciplines and tests)
 - Potential education and training for forensic, legal, laboratory, social service, child protection and other professionals
 - Research, best practices, and emerging forensic trends, and
 - Potential changes or improvements, as required, to the oversight framework

THANK YOU