

Submission to the Minister of Finance



**Pre-Budget Consultations
April 2013**

Submissions of the Police Association of Ontario

Introduction

The Police Association of Ontario (PAO) is the official voice for Ontario's front-line police personnel. It provides representation, resources and support for 57 police associations across the province. Our membership includes close to 34,000 police and civilian members and together we are committed to providing professional and fiscally responsible service to keep all Ontario communities safe.

The PAO has two priorities for your consideration:

1. Interest arbitration in the police sector; and
2. Presumptive WSIB coverage for police personnel suffering from Post Traumatic Stress Disorder.

Interest Arbitration in Police Sector – Efficient, Effective and Fair

On the matter of interest arbitration, we have good news. The interest arbitration system in the police sector is working. It is efficient, effective and fair. It does not need to be fixed.

The PAO and its members fully understand the cost pressures on municipalities. Most of us live in the communities we police and we are taxpayers. We are aware of tax levels across the province. We understand the political pressure on local councils to reduce taxes.

Like the cost of most municipal services, policing costs have risen. Keeping our communities safe in 2013 requires resources. We are developing the expertise and tools to deal with problems and crimes that barely existed a decade ago. With cuts to social services, our members are often the only ones available to the community around the clock. We have become the agency of first call and last resort.

Despite these pressures, we believe that the cost of policing has risen proportionally and reasonably and at the same pace as other municipal services. The PAO has compared the increases in overall municipal budgets to those of policing budgets. The portion of municipal budgets that goes to policing has been remarkably consistent. It is not out of control.

The PAO and its members have demonstrated leadership in seeking out more effective and efficient ways to deliver professional police services in Ontario communities without compromising the safety of the communities or our members. The PAO is working as a partner with the province and our local community representatives at the Future of Policing Advisory Committee to ensure effective and sustainable professional policing. We are working with you as part of the solution.

Our collective bargaining and arbitration system is working too. The vast majority of our collective agreements are freely negotiated. Arbitrators are rarely used in the police sector. More than 85 per cent of the collective agreements that are in place for 2012 were freely negotiated between the employer and the local police association with no need for an arbitrator. Police associations pride themselves in speedy and effective resolutions to collective bargaining. It is still early in 2013 and all but six of our 57 association members

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have collective agreements in place for 2012. About two thirds already have contracts in place for 2013 or beyond. Collective bargaining is working.

However, when negotiations reach an impasse, there has to be a resolution. Unlike most workers in the public and private sectors, our members have forgone their right to strike, having been deemed an “essential service”. That’s where interest arbitrators come in. The parties at the bargaining table invite an arbitrator into the process because they are unable or unwilling to reach a negotiated settlement.

The arbitration process in the *Police Services Act** is working. It is a transparent and unbiased process that imposes equal responsibilities on police associations and police boards to provide cogent and supportable evidence. It is efficient, effective and fair, ensuring that community safety and professional policing is delivered in a fiscally responsible manner.

First, the *PSA* provides opportunities for parties to resolve matters themselves through bargaining, through conciliation and through mediation.

Second, the *PSA* provides for an arbitrator who is **jointly** selected by the parties. We cannot stress enough the importance of this element to the arbitration process. If parties are to remain accountable in this process they must take responsibility and negotiate a deal themselves or take responsibility for selecting the person who will make the decision for them. Under the *PSA*, the parties either jointly select an arbitrator or have one appointed by the Ontario Police Arbitration Commission. The Commission, with representatives from the PAO and the Ontario Association of Police Services Boards, appoints a list of arbitrators agreeable to both sides. **In short, under the *PSA*, the parties either choose their own arbitrator or have one appointed from a list vetted by their own representatives.**

Third, the *PSA* already provides timelines. **Pursuant to s. 122(3.5), arbitrators have 90 days to make their decision**, unless the parties agree to extend the deadline. The parties sometimes agree to an extension. However, as previously indicated, all but a handful of our 57 affiliates already have agreements in place for 2012. The process is efficient, effective and fair.

Finally, arbitrators have a clear set of criteria in the *PSA* to guide them in their deliberations. The criteria are set out in s. 122(5) of the *Police Services Act*.

1. The employer’s ability to pay in light of its fiscal situation.
2. The extent to which services may have to be reduced, in light of the decision or award, if current funding and taxation levels are not increased.
3. The economic situation in Ontario and in the municipality.
4. A comparison, as between the employees and other comparable employees in the public and private sectors, of the terms and conditions of employment and the nature of the work performed.
5. The employer’s ability to attract and retain qualified employees.

* Collective bargaining for the Ontario Provincial Police Association is governed by the *Ontario Provincial Police Collective Bargaining Act*. The *OPPCBA* has the same basic elements as the *PSA*. The criteria set out in s. 6(10) of the *OPPCBA* are similar to those in the *PSA*, but reflect consideration of the provincial economic situation and not factors affecting any specific local community.

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6. The interest and welfare of the community served by the police force.
7. Any local factors affecting the community.

All the criteria needed to come to a reasoned fair decision are there. They are complete. The framework provides the parties with a clear idea of the evidence they need to provide to the arbitrator and it provides the arbitrator with the necessary tools to come to a fair and reasoned decision.

The Committee will hear a lot about the ability to pay. Arbitrators in the police sector are required by law to consider a municipality's ability to pay and they do consider it when there is evidence in front of them. In St. Thomas, Arbitrator Fisher found that the employer provided enough evidence of their inability to pay salaries comparable to their neighbouring communities. He adjusted the increases accordingly. None of the handful of arbitration awards in the police sector set any trends. They were all decided long after their comparator associations had settled and they awarded salaries similar to, or less than, salaries that were freely negotiated.

Arbitrators do not and should not cap wages based on assertions that a municipality can't pay without demonstrable evidence based on the current legislative criteria.

Arbitrators are conservative decision-makers. They replicate the pattern of settlements the parties have set themselves through years of bargaining unless one party provides solid evidence that change is required. Both parties have an equal opportunity to present a wide variety of information that speaks to the criteria. Both parties are held to the same burden of proof.

When it comes to an arbitration system, the PAO shares common interests with our employers. We want an effective and efficient process and we want fair and timely decisions. Under the *Police Services Act*, the province has provided the components to make that happen. It does not need to be amended.

Post Traumatic Stress Disorder

The PAO's other priority issue is presumptive WSIB coverage for post-traumatic stress disorder in police personnel. There is a quote, attributed to an anonymous police officer, that was widely used when the Ombudsman released his report on PTSD among OPP officers:

Imagine the most horrific things that happen in this city that no one really hears about or sees. Homicides, rapes, car accidents, violent assaults, this is the kind of stuff we deal with on a daily basis... some of these cases involve children and teenagers.

Post traumatic stress disorder is an emotional and psychological response to experiencing life-threatening, disturbing or stressful events. Its symptoms include but are not limited to nightmares, paranoia, rage, flashbacks and panic attacks. PTSD is not a new phenomenon to occupations that have an inherent risk of exposure to traumatic events. We have heard about PTSD in our military for years. It is something that we are just starting to acknowledge

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among police personnel and other first responders. Yet there are still many who refuse to acknowledge this disability and who label those who suffer from it as malingerers or frauds. This has to stop.

Right now, the WSIB rejects a significant number of claims submitted by police personnel who have been diagnosed with PTSD. Often it takes years to successfully appeal those decisions. As a result, our members who are suffering the debilitating effects of PTSD are denied access to the health care they need to return to work and good health. Sometimes they are left without income. In order to prove that their disability was caused by their job they are forced to give detailed testimony at tribunal hearings, reconstructing the horrific incidents that led to their illness. Reliving the horror has led to setbacks in recovery.

We are fully committed to getting our members the treatment they need as soon as possible so they can make full recovery. Presumptive coverage is a key part of that process. Presumptive coverage means that once a member has a diagnosis of PTSD it will be presumed the illness was caused by the job unless the employer proves otherwise. This will allow our members to get the treatment they need as soon as possible.

Presumptive coverage is not a new concept. It applies to firefighters in Ontario who develop any of eight types of cancers or who have a heart attack within 24 hours of battling a fire. The province of Alberta has recently introduced just what we are requesting -- presumptive coverage for first responders suffering from PTSD. This went into effect in Alberta in December of 2012.

We ask you to follow the lead set by Alberta and recommend that the upcoming budget include legislation that would help our members by providing presumptive coverage for PTSD in police personnel. Giving our members quick access to treatment and secure income is the most cost effective method of getting a sidelined worker back on the job. It is also the most humane.

We thank the Committee for the opportunity to provide this submission.

Dave McFadden
President
Police Association of Ontario

Paul Di Simoni
Chief Administrative Officer
Police Association of Ontario



6730 Davand Drive, #1, Mississauga ON L5T 2K8
office: 905.670.9770 **fax:** 905.670.9755