

**Legislative Assembly of Ontario Standing Committee
on General Government Public Sector and
MPP Accountability and Transparency Act (Bill 8)**

Speaking Notes for the Toronto Ombudsman

Check against Delivery

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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 for the Ontario Ombudsman is timely.

Bill 8 has it wrong however in one respect. Toronto already has an ombudsman with the same powers and independence as the Ontario Ombudsman. Bill 8 creates the potential for two ombudsman 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 internationally.

First, Some Background

In 2006, with the *City of Toronto Act*, the Province had the foresight to create a statutory ombudsman for the City of Toronto. In doing this, the Legislature recognized that Toronto was distinctive and required greater autonomy.

The Toronto Ombudsman is, uniquely situated to address and resolve complaints in Canada's biggest city and 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 provincial public services.

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 have conducted 24 systemic investigations that have produced clear benefits:

- Improving governance at the Toronto Community Housing Corporation;
- Creating a framework for addressing residents with diminished capacity;
- Preventing seniors from being evicted from public housing by improving systems and accountability;

Let me get to the nub of the problem: duplication of efforts. The function of the Toronto and Ontario Ombudsman are 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 or Ontario ombudsman is final. That means there is no right of review or appeal except where the ombudsman is challenged in court for lack of jurisdiction. Bill 8 destroys this principle of finality and runs contrary to all internationally known principles and standards.

It proposes duplication, with the associated cost and regulatory burden. Two ombudsmen of different jurisdictions may investigate the same matter all over again.

This promotes confusion, red tape, duplication, inefficiency, and unwarranted costs.

In fact, the Toronto Ombudsman will likely 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 is a case in point:

An investigation into HR practices at the Toronto Community Housing Corporation uncovered evidence that senior management repeatedly broke the rules. Staff were hired and fired without due 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 look at what would have happened if Bill 8 had been law. It would have allowed potential complainants to ask the Ontario Ombudsman to re-investigate the issues that I had 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. The CEO would likely remain in place, and the corporation, its employees, and most importantly, the tenants would continue to suffer in the interim.

To Sum Up

I applaud the government for its bold and progressive steps in proposing this Bill. Accountability in the municipal sector needs to be strengthened. The legislation however has missed the mark by including Toronto. It will weaken and paralyze what is currently a robust and effective office of oversight.

I have three recommendations. First, that the City of Toronto be exempted from Bill 8. Second, that whistle-blower protection legislation should be extended to municipal employees making complaints to the Toronto Ombudsman. Third, that if the City of Toronto is not exempted then, at a minimum, the confidentiality of Toronto Ombudsman investigations be maintained

Thank you for the opportunity to depute on this most important Bill.