

## **I PRO Consultation Submission**

Scadding Court Community Centre / Community Education  
& Access to Police Complaints (CEAPC) partnership  
March 18, 2009

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The Community Education and Access to Police Complaints Process (CEAPC) Partnership has been active since 2002 and grew out of the need to address the fact that diverse community members perceive the police complaints system to be inaccessible, insensitive to their needs and lacking in transparency and accountability. Led by Scadding Court Community Centre, CEAPC's two year demonstration project made Toronto's complaints system more accessible, particularly for marginalized communities. It also created opportunities for police and communities to come together, build trust and engage in dialogue. These priorities were at the heart of CEAPC's subsequent engagement in Ontario's legislative process on police complaints.

Operating through a partnership of forty organizations that includes legal clinics, ethno-cultural organizations, community centres, grassroots and advocacy groups, CEAPC's philosophy and principles align with those of community policing, i.e. police and citizens working together through innovative and collaborative problem solving, regular contact and consultation with communities, ownership and responsibility in neighbourhoods, and the creation of opportunities for the community to be active in the police process.

In September 2008 Scadding Court Community Centre (SCCC) and CEAPC partners hosted the Bill 103-Summit in Toronto, which put forward that a transparent, accountable, accessible and fair police complaints system rests on three pillars: Government, Police and Community. The Bill 103 Summit created an opportunity for all three pillars to engage in constructive dialogue focused on the development and implementation of a police complaints system that reflects the priorities of all parties involved. Of the three pillars, the community pillar is the least developed and as such requires particular consideration and attention in moving forward. The Bill 103 Summit Report (available at [www.bill103-summit.org](http://www.bill103-summit.org)) outlines ways for communities to be a part of and interact with the new system. Its recommendations reflect the fact that the complaints system is not only a mechanism for addressing individual complaints, but also an important component of promoting positive community-police relations.

**The I PRO's current consultation documents do not reflect a recognition of the importance of this approach and type of involvement and the system therefore runs the risk of once again alienating many communities that it is meant to serve.** The importance and value of meaningful community involvement in the development and implementation of the new police complaint system cannot be underestimated. Such involvement must span across the system itself, and include a specific focus on public education and support - an aspect of the system which carries very little weight both in Bill 103 and again in the current consultation documents.

From a community perspective, the paradigm shift required to create a system that is truly able to serve diverse Ontarians in an effective and sustainable way is not taking place. As a result trust and "buy in" to the new system by many population groups, including those at highest risk for negative interactions with the police, will not be achieved. This will, in turn, contribute to ongoing challenges with respect to improving community-police relations.

Listed below are answers to the specific consultation questions by posed by the IPRO Focused Consultations held in March, 2009:

## **Complaints Process**

### Question #1

There are elements of Ontario's diversity that must be addressed when considering the provision of timely updates. The IPRO must therefore consider factors such as language, culture and literacy. In order to provide this in a meaningful and cost effective manner, IPRO will need to develop mechanisms for verbal and written communication. The only way to do this is to build on existing infrastructure and resources, much of which is within the community.

In order to best serve complainants, complaint process correspondence frameworks must be flexible enough to allow them to be tailored to individuals based on what works vs. applying a systematic approach.

There are situations in which receiving and/or understanding updates will require community support, for example a mailing address for people who do not have their own or are reluctant to use it, assistance in understanding communication - this is different from the role of an agent.

### Question #2

Information made publicly available should not be able to be correlated with an individual officer or complainant. Information should be available by timeframe and by categories such as disposition, Division, etc... External parties should be able to sort information by such categories.

At the Bill 103 Summit, concerns were raised regarding information-sharing across jurisdictions. For vulnerable groups whose lives are intertwined with various "systems", this is of concern as it could impact their lives in other ways. How will the process address this? The issue of confidentiality of information in the complaints process as it overlaps with criminal and immigration law matters is serious and requires dedicated attention, firm policy, evaluation and ongoing monitoring.

### Question #3

A multi-pronged approach (individuals, agents, other 3<sup>rd</sup> parties) will be necessary to gather such information. The option of using third parties to survey clients after they have gone through the process will improve response rates, particularly among those who have had a negative experience with the system or are not satisfied.

It is important to note that despite the independent status accorded to the IPRO, it is highly probable that the IPRO will be perceived as part of the "system". It will take a long time for trust in the system's neutrality and effectiveness to be established. This will impact the process and outcomes of gathering such information and again, community involvement could mitigate this.

### Question #4

Outreach and education about the process is critical with respect to its legitimacy and faith. The Bill 103 Summit report includes many specific suggestions on this question, specifically that audiences for outreach and education include communities and police, should be

communicated jointly from all three pillars (government, community & police) to foster legitimacy and trust, be integrated with other opportunities and systems (education, immigration, license renewal, 211 Toronto...), build on existing networks, systems and assets, be linguistically and culturally sensitive for Ontario's diverse communities, use very clear language, be provided at "teachable moments" as people progress through the system, make use of multiple formats and media and be evaluated on a regular basis.

Use of technology is important, however over-reliance on this format of outreach and education is not advised. At the community level, there remains a significant digital divide within and between communities (due to lack of knowledge and access). Those who are more challenged with respect to use of technology are also more likely to have negative interactions with police. It must be reiterated that these population groups are also those most likely to require and seek community support to facilitate their navigation through the system.

The CEAPC project experience was that the best public education took place when police and community engage together. Again, this reinforces the value of the three pillar model put forward by Scadding Court and the CEAPC partners.

The six month time line requires the transfer of information of the complaints process at time of contact as site-specific education of target populations interacting with the police who may want to lodge a complaint. This means that, for example, upon arrest, persons should be given a small card or information sheet on the complaints process. Separate education sessions/ workshops are fine but they do not educate at the time of need, or reach everyone who comes in contact with the police. Many agencies do this - for example, when the legal clinic Justice for Children and Youth opens a client file, there is a notice about complaints and how to make one if you have a problem. When an individual files a workers compensation or insurance claim this type of information is also provided. Interactions warranting complaint with the police may be extremely traumatizing and have immigration or criminal law implications attached. These issues can rarely be resolved in six months and so the time at which an individual has the courage and capacity to come forward about a complaint may very well not occur until after six months – particularly if they are not aware of the complaints process or know how it functions. On arrest: or on investigation- the officers should therefore be tasked with giving this information, in writing, to those they are interacting with. Given the reality of a six month time limit for filing police complaints, individuals may otherwise feel more comfortable lodging a civil action in court where they have up to two years to make claim for damages.

#### Question #5

Statistics should include (through a process of sensitive, respectful optional self-identification) complainant race, gender, age, area of city (in Toronto), type of incident, language spoken, social/economic/income "category".

Who is not filing complaints and why in itself is very likely to identify systemic issues. How to get information / statistics about people who are NOT filing complaints...? Related to this, statistics and information should be sought from assisting agencies (assisting to lodge complaints) about complaints not filed or completed.

Where statistics point toward a possible systemic issue, the police training process should be cross-referenced for possible connections.

## **Third Party Complaints**

### Question #1

The option of filing third party complaints should be broadly available for policy and service complaints as these can relate to systemic issues and are generally not geared toward individual officers or but rather situations. A cluster of similar complaints in these areas raises a red flag with respect to systemic issues. Such complaints should not be limited because they are important mechanisms for improvement of policing.

### Question #2

There is a need to define a process to identify who is too remote so that the system does not run the risk of being bogged down. In order to assess whether a third party complaint should be considered, a matrix to categorize the severity of alleged misconduct along multiple dimensions is recommended. Where a complaint involves a very vulnerable community member and/or involves physical/mental assault and/or includes possible human rights violations – no one is too remote. In order to improve transparency, the intent and content of this matrix (or equivalent tool) should not be confidential / internal.

Another point of view is that there should be no ‘too remote’ category. Complaints should be categorized as ‘remote’ or ‘anonymous’, but not be discounted. The notion that the system will be flooded with complaints is an assumption at this point. If and when the system is in fact flooded with complaints, then this issue could be addressed.

## **Six Month Limitation**

### Question #1

In order to determine which circumstances warrant heightened access to the system through an extension of the six month limitation period, the use of a matrix or equivalent tool or mechanism (as described in the third party complaints question above) is recommended. This should include and consider severity of the complaint, complainant characteristics (age, ability, other vulnerabilities..). For complaints that score high on the matrix, extensions of up to twelve months should be possible as pursuit of these complaints is in the public interest.

This system needs to be structured so that it is able to capture complaints by and serve the most vulnerable community members.

Note that the six month limitation period is premised on having a visible, accessible and effective public education system in place so that people are able to become aware of the system and their options within it.

Please also see the response to Question # 4 under “Complaints Process) on page 3.

## **I PRO Investigations**

### Question #1

In order to decide who will investigate complaints about an officer’s conduct, a matrix such as the one described above should be applied. Where a complaint is severe and/or involves a very

vulnerable community member and/or involves physical assault and/or includes possible human rights violations, the officer's police force should not investigate the complaint.

If there are reasonable grounds to believe that systemic issues are involved, the IPRO should undertake the investigation.

#### Question #2

Complaints should be resolved as quickly as possible. Waiting for a complaint resolution can be a highly stressful experience and can exacerbate the impact of the incident itself for both complainant and officer.

What is critical is that both complainant and officer have the right and ability to easily access and understand information about the status of their complaint at any given time.

Identifying a specific timeframe is difficult as the circumstance of each complaint vary, however no complaint should take more than six months to resolve, with the possible exception of where legal proceedings make this impossible.

#### Question #3

As the details that lead to the outcome of a complaint are not public information, there should be full disclosure of investigative information to both parties, with the exception of personal information about either party. This is critical for transparency of the system, and from a community perspective, for building and sustaining trust.

It is important to be clear and open with both parties about who else has access to these reports and under what circumstances.

### **Local Resolution**

#### Question #1

The spirit and intent of local resolution is appropriate for certain complaints, but must be done with community and police for it to be more broadly effective. The current suggested approach will work for some individuals (those who are less vulnerable) and could work for others with community support.

It is premised on mutual trust, most significantly that of the complainant that the process itself (which is being administered by police) is fair. However, the imbalance of power that is inherent in policing and most pronounced for more marginalized community members, means that a facilitation and support mechanism for the complainant must be available; one that is grounded in the community in which that person lives their life.

Complainants interested in Local Resolution with third party facilitation should be provided with that option. The fear, intimidation, and vulnerability that many people feel when interacting with police - particularly around a complaint - cannot be underestimated. To counter this, support must be available if it is requested / required. The availability of such support would also go a long way toward alleviating concerns about coercion and bias that will undoubtedly

arise given that local resolution outcomes will not be recorded on an officer's record (unlike a formal complaint).

For Local Resolution to contribute to improved community-police relations in any meaningful way, it needs to be about more than individual interactions. The involvement of community facilitators/supports is one mechanism through which the mutual learning that takes place at a Local Resolution can have a greater impact than between individuals.

In order to address many of the issues outlined above, Local Resolution should also be offered at community sites – which are more neutral than police stations. Without this, the system will not have changed much from the perspective of a vulnerable community member. If every Division had a link to one community site, this would also feed into the system's mandate (and that of Local Resolution) to improve community/police relations.

Improper application of Local Resolution has the potential to skew the identification (or non-identification) of systemic issues. Community involvement would make this less likely. Every Professional Standards Unit should also maintain systematic documentation of Local Resolutions in order to be able to identify patterns that could indicate a systemic issue.

### Informal Resolution

Informal Resolution is an important and positive part of the system because it promotes communication and resolution of misunderstandings, such as those due to culture, language, lack of understanding, etc.. and because ideally it represents a move away from legalistic processes, which by their nature are highly inaccessible for the average community member.

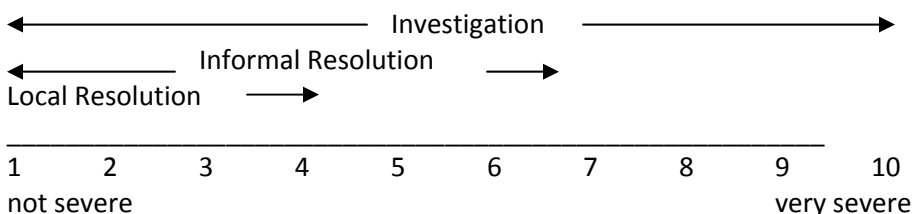
#### Question #1

The IPRO should monitor the entire Informal Resolution Process and its outcomes to ensure that it is used appropriately in order to ensure that its use is in keeping with the intent of the system and to identify systemic issues that may emerge. Through this role of gatekeeper and categorizer, the IPRO remains directly accountable for the process and its outcomes.

#### Question #2

Conduct suitable for informal resolution would be those that appear to have been caused by miscommunication, misperception, misunderstanding and/or involve minor misconduct.

One possibility is to develop a grading system (based on the matrix that is previously mentioned) that identifies which options for resolution are possible for complaints, for example:



### Question #3

In order to decide whether Informal Resolution is a viable course for a particular complaint, the application of the previously mentioned matrix (or equivalent tool) is recommended. Where a complaint involves serious misconduct, and/or involves a very vulnerable community member and/or involves physical/mental assault and/or includes possible human rights violations, the complaint should not be resolved using informal resolution.

Service and policy complaints should never be resolved through Informal Resolution due to their intersections with systemic issues.

### Question #4

Informal Resolution should be held in a place that is safe, neutral and comfortable for both parties to the complaint. The balance of power in the room needs to be equal – for this it is important to note that the IPRO will not be considered neutral by community members (will be seen as “the system”). Informal Resolution should be facilitated by someone who is neutral and who has specific mediation training. In order to ensure that complainants are able to fully engage in and understand the process, translation/interpretation and community support must be made available as needed. Both mediation skills and other supports are widely available within existing systems and infrastructures in the community and should be accessed in order to ensure that this important component can be provided in a sustainable way. The capacity and interest in this exists at the community level.

### Question #5

Community participation provides legitimacy, safety and adjusts the balance of power to a more equitable level. From the perspective of the system, community participation brings contextual information that is often lacking, linguistic and cultural perspectives, knowledge and skills, and are a mechanism to disseminate information and perspectives to improve community-police relations. Specific roles are outlined in Question #4.

### Question #6

- Allow each party to articulate the issue from their point of view
- Articulate a neutral understanding of what the other party is saying
- Identify areas of agreement and outstanding issues
- Work on outcome of disagreements (negotiate) and create documented agreements

It is important that private sector mediators are not engaged as a part of his system as they are profit-driven and have a vested interest in how and the extent to which the system is used. Use of community-based mediators also enhances community relations and creates opportunities for very important face to face interactions between police, the system and the communities it serves and promotes mutual learning and understanding.

## **Regional Outreach and Education**

### Question #1

The process of identifying criteria for selecting members of working groups should include an assessment of population groups that are represented in the particular region and to what

degree, so that they can be appropriately reflected . Working groups should include past complainants and members of group that are disproportionately represented with respect to police contacts and in the judicial system – for example Aboriginal groups and youth. They should also include service providers, as the information they bring to the table tends to be informed by a broader perspective.

The working groups represent a step forward, however from a community perspective they could represent yet another form of consultation that will likely engage the “usual suspects” and not have any real input, responsibility or authority. It is important that they succeed in bringing communities into the system.

#### Question #2

Working groups should definitely include both community and police representatives. If these groups are not brought together, the system will continue to reinforce the huge divide that exists between them. This would in turn reinforce the current state of community-police relations, which is already tenuous and divisive.

#### Question #4

The working groups should have rotating membership using a model of staggered terms such as that which is commonly used for Boards of Directors and which allows for organizational knowledge and “memory” to be transmitted over time. They also need to be adequately resourced.

#### Comment:

The police complaints process is an extension of the broader issue of community-police relations. If this is not recognized and actively addressed, particularly in the realm of outreach and education, then this system will be characterized by the same characteristics that made the last one fail.

If these questions are the extent of the consultation on public education and outreach, then there is great concern that the new system will simply be a slightly modified version of the previous system, particularly for vulnerable community members. At this point there is a lack of definition about what constitutes public education (and related support) – this must include resource dissemination, community engagement, orientation of police forces to the communities they serve and vice versa, educating and training community workers to support the members of their communities with respect to the complaints process and an ongoing public campaign to raise awareness and confidence in the system.

The attention and weight given to this issue is inadequate. Outreach and education is a process and represents a form of prevention. Given the growing understanding of the value of prevention in health, crime and other areas, why are we not applying a similar philosophy here?

#### **Comment**

Section 57 of the Bill addresses systematic issues. Community organizations can and should play a large role in assisting to identify such issues - this is a key point of collaboration (statistic compilation and/or issue identification).