



***Standing Committee on Justice Policy  
Private Security and Investigative  
Services Act, 2005***

*September  
14, 2005*

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**The Chair:** I now invite our next presenter, Mr. Terry Mundell, president and CEO of the Ontario Restaurant Hotel and Motel Association and company.

Mr. Mundell, I invite you to please begin your presentation, reminding you that any time remaining will be distributed equally for questions afterward. Please begin.

**Mr. Terry Mundell:** Men and ladies of the committee, it's a pleasure for me to be here today. My name is Terry Mundell. I'm the president and CEO of the Ontario Restaurant Hotel and Motel Association, and with me is my colleague, manager of government relations Michelle Saunders.

It's my pleasure to have the opportunity to speak to you this morning regarding Bill 159, the Private Security and Investigative Services Act. The Ontario Restaurant Hotel and Motel Association is a non-profit industry association that represents both the food service and accommodation industries in Ontario, with over 4,100 members province-wide representing 11,000 establishments. The ORHMA is the largest provincial hospitality association in Canada. Ontario's hospitality industry is comprised of more than 3,000 accommodation properties and 22,000 food service establishments, employing well over 400,000 people.

Let me begin by stating that the hospitality industry is committed to ensuring the safety and protection of their customers, staff and the public and, accordingly, the ORHMA supports the intent of the legislation. The ORHMA is very pleased to have a seat on the private security and investigative services advisory committee as the sole representative of the hospitality industry. Participation on the advisory committee allows the ORHMA and our members to consider and respond to draft regulations and to ensure that the concerns and realities of the hospitality industry are reflected in the regulations. However, having said that, the ORHMA does have serious reservations with the legislation, which, if left unamended, may have serious implications for both the food service and accommodation sectors.

The legislation requires all security guards to undergo training and testing in order to become licensed security practitioners. The ORHMA, while supporting these guiding principles, has serious concerns with the definition of the term "security guard" and the use of the term "bouncer," which is undefined in the legislation.

Let me first discuss the impact this legislation will have on the food service industry. Under the Liquor Licence Act, operators are responsible for ensuring that no minors are served alcohol. For this reason, some bars and licensed establishments have door staff located at the front entrance of the property to verify identification to ensure that all patrons are of the age of majority. The legislation makes no distinction between door staff checking identification and door staff specifically responsible for the safety and security of patrons and staff.

Furthermore, the legislation defines a security guard as one "who performs work, for remuneration, that consists primarily of protecting persons or property." It is not uncommon practice for a staff person to perform security duties for only a portion of a night or perhaps only on Friday and Saturday evenings, while performing other duties throughout the remainder of their shift or of the week. Are these individuals to be licensed too? The use of the word "primary" then comes into question.

There is also a concern that licensed establishments in rural and northern Ontario, which typically do not have security guard personnel but who may periodically employ someone to act

as a security practitioner on a special occasion, may experience difficulty in accessing a licensed security guard due to their location. Bill 159 requires such operators to use the services of a licensed security guard from a licensed security company, and surely access is a concern for us.

Hoteliers, however, will be potentially impacted in a number of different ways. Some large hotels currently employ the services of security guards through third-party security companies. These security companies, under the new act, would be required to be licensed and to ensure that all security staff are also licensed practitioners. The government must ensure that the onus for ensuring the good standing of these security practitioners lies solely with the licensed security company they are directly employed by. Similarly, it is a common practice for large groups, such as a school group, staying at a hotel to employ the services of a security company. Hoteliers question who would be liable for ensuring that the company hired is in good standing: the group organizer or the hotel?

Further, hoteliers have raised a significant concern with the definition of "security" that we believe goes beyond the intent of the legislation. It is a common practice within the accommodation industry for managers to do regular rounds of each department within the facility to act on behalf of a manager not currently on shift. Acting managers on duty would deal with issues such as human resources issues, disgruntled guests or emergency situations, and part of their duties would include security rounds, although this is not a primary duty. The ORHMA questions if it is indeed the intention of the government that all hotel managers and assistant managers actually become licensed security guards. Common sense would suggest not, but again, the definition is vague and clarification is warranted.

As mentioned, the hospitality industry is committed to providing a safe environment for patrons, staff and the public. I would point out to the committee that 60% of the hospitality industry is independently owned and operated, with pre-tax profit margins ranging from 3.7% to 4.3 %. I would encourage the committee to be mindful of the economic reality of the hospitality industry when considering the cost burden this legislation may impose. Training standards and testing standards must be developed with the mindset that they may not be cost-prohibitive.

In order to ensure support from the hospitality industry, the ORHMA recommends that this committee amend the definition of "security guard." Such an amendment should more clearly define who is, and therefore who is not, impacted by this legislation. The ORHMA would also further recommend that this committee define the term "bouncer."

As a final note, let me state clearly that the safety of our patrons, staff and the public is paramount within the hospitality industry. It's just good business.

Thanks for your time, Mr. Chairman.

**The Chair:** Thank you very much, Mr. Mundell. You've left a lot of generous time for questions, and we will begin with the PC side.

**1020**

**Mr. Dunlop:** Terry, it's good to see you here again.

Michelle, are you doing a separate one?

**Ms. Michelle Saunders:** I will be presenting for the GTHA as well.

**Mr. Dunlop:** OK. Thank you very much.

You're looking for the committee to re-examine the definition of a security guard, just outright on that?

**Mr. Mundell:** Yes. The real question or concern that we have is that the definition, as it sits now, may be all-encompassing and leaves too much room for interpretation. Again, under the Alcohol and Gaming Commission of Ontario, if you were to look at the amount of fines or suspensions that were levied by the AGCO, two of the most prominent issues are underage drinking and overcrowding. So a lot of the licensed establishments have people at the door who are checking identification to make sure that those coming into their establishments aren't minors. They're also doing a head count to make sure that they're not overcrowding the facility. Again, that's under the Fire Marshals Act.

The question is, for those particular people, are they included under this legislation? We think there's a possibility that they may be and we don't think that's appropriate.

**Mr. Dunlop:** Can I get more time?

**The Chair:** Please.

**Mr. Dunlop:** Good. I agree that you want community safety, and the safety of your patrons and your employees is a priority here. But what type of a demand is there from your members for this type of legislation? Is it very important? How would it rank as far as a priority to your membership?

**Mr. Mundell:** I think in terms of safety and security in any business, particularly in our business -- we are in the hospitality business, not the hostility business, so it's important that we provide a good, enjoyable experience for those who are in Ontario or who come to Canada or come and enjoy our great tourism industry that we have. Safety and security is obviously paramount; it really is a significant issue for us.

Having said that, to suggest that we pinned for this legislation, I would tell you that's not the case. But it really is important, again, to get a clear definition on who will be involved in this type of legislation; whether a hotel manager needs to become a registered or licensed security personnel. Those are real, significant questions that we need to get clarity on.

**The Chair:** Thank you, Mr. Dunlop. We move to Mr. Kormos; three minutes, please.

**Mr. Kormos:** I share your concerns. For instance, somebody hired to be a house-sitter -- because their primary role is to just be there, to prevent break and enters, to turn lights on and off, to make sure the furnace doesn't go off in the wintertime -- could well be required to be licensed under this legislation. I don't think that's what anybody has in mind. That's the extreme example. I'm building a new house and I hire a kid because they just delivered the two-by-fours, and I want to make sure nobody comes -- down where I come from we have a lot of pickup trucks -- and pilfers my little, private, one-of, residential construction site. I can't hire a neighbour kid to sit there in a lawn chair all night to protect my property, I believe, unless he or she is licensed. So it causes concern.

Bouncer: Again, if it isn't defined, then the courts or adjudicators will have to use a dictionary definition, and I put to you that dictionary definitions will be in many cases overly broad or overly narrow.

The issue arises, from my view, not around the passive security personnel; the concern arises from the active security personnel. It doesn't arise from the Canadian Corps of Commissionaires sitting in the front of provincial court at city hall, directing people to courtroom A, B, C or D, or the fellow sitting in the shopping plaza, telling people where Zellers is.

What about training? We've heard a proposal that we need standards. Mr. Gardner has referred us to the federal standard. We heard about 40 hours as a standard. We heard that police officers' initial training is 12 weeks at the Aylmer police college. The community colleges are going to be here, talking about 12 months, I suspect; I'm not sure. What's the standard for training, in your view?

**Mr. Mundell:** I think the issue for us comes around twofold. There is one issue about what is the level of training required, and secondarily, what is the cost component to it, because obviously there is an affordability issue in terms of training. There's also an access issue. In rural and remote parts of northern Ontario, which may be required to have trained personnel, access to that could be quite difficult. We know that in our industry it is a struggle in specific parts of Ontario to get training in other fields, whether it's issues through public health that we need to train for or whether it's other issues around the Alcohol and Gaming Commission. It is difficult to access personnel without an eight-hour trip in a lot of parts of northern Ontario. Clearly, we believe the training should be outcome-based. We think it should be delivered by a variety of models, including public and private sector. The government should set the standards. We're involved in the committee to work toward getting those standards set, but again, access and affordability are two major issues for us.

**The Chair:** Thank you, Mr. Mundell. Mr. Kormos, you do have a little more time if you'd like to use it.

**Mr. Kormos:** Let's see what these folks come up with. There may be a little bit of time; I'm just trying to be fair. I'm going to share.

**The Chair:** I appreciate your efforts toward equity. I move to the government side. Mr. Delaney is interested in the first question.

**Mr. Delaney:** Thank you very much.

I have a question for you. I'd like to extrapolate a little bit from some of the remarks that you've made. Are you suggesting that pursuant to Bill 159 there should be multiple categories for security guards? If so, does that suggest different standards for each category and perhaps different licence classes?

**Mr. Mundell:** I would suggest that that's a possibility, and that is something we need to work through the committee process to try and get to. Again, when you go back to training, there could very well be multiple levels of training, there could be multiple access points for the training, and there could be multiple price points as well. It is something that we want to explore further. Our association is interested in talking about that. I don't think we're far enough advanced in the process to understand what those levels are, again understanding that affordability and access are important issues.

**Mr. Delaney:** Just one other question. Again, I'm looking for your opinion on this. To what degree do you think it's fair to require an employer to pay training expenses, and to what degree do you think an individual should take responsibility for training expenses in such an occupation as providing security services?

**Mr. Mundell:** That's an interesting question. Our industry is fairly diverse, and in fact about 63% of it is independently owned and operated. With profit margins running between 3.7% and 4.3%, there's not a lot of room to move. The bottom line is that somebody has to pay for it. At the end of the day, the consumer will end up paying for it. This will drive costs; that's the reality of the beast. We work in a variety of environments, from mom-and-pop shops to union environments, and I think it will be left up to all of those operators individually which is the best way to make that determination.

**The Chair:** Ms. Sandals.

**Mrs. Sandals:** First of all, let me assure you that it is not the intent of the legislation that all hotel managers become security guards. Quite clearly, it is not the primary business of a hotel manager to be a security guard. There is no requirement that that person be a licensed guard.

You've raised the issue of the definition of a bouncer, and that perhaps that needs to be clarified in regulation. Have you made any specific proposals as to how that should be clarified?

**Mr. Mundell:** What we have done is brought to this committee's attention, and to the other committee's attention, the issues we have.

Specifically, we are required under the Alcohol and Gaming Commission to make sure that those coming into our facilities aren't minors, so you've got somebody at the door checking ID. Under the fire act, you've also got people doing a head count, making sure we're not overcrowded. They are, by the way, and again I re-iterate, probably the first two -- one and two - - charges that the Alcohol and Gaming Commission levies against the hospitality industry in Ontario.

What you don't want to have happen is that operators decide they'll no longer put that person at the front door because all of a sudden they've got to license them as security personnel. In fact, you'll find many operations that will have that person at the front door and security personnel inside, so there's a hybrid situation there. We're looking to get clear definition to have exclusions for those groups. We need to work through that process to get them. It's the same with the hotel manager. Clarity is extremely important for us. When you look at the Alcohol and Gaming Commission's legislation, there are over 1,000 pages of interpretive guidelines. It's a significant burden on small, independent operators, as with any operator in Ontario, to understand the rules of the game. Clarity is paramount in this stuff.

**1030**

**Mrs. Sandals:** You would be able, then, to provide the committee that's actually working with the regulation and definition with some input --

**Mr. Mundell:** Yes.

**Mrs. Sandals:** -- into suggestions for clarifying the "bouncer" definition? It seems to me that that's where that needs to occur, at the committee level.

You raised another issue around a concern about liability when you hire a third party security company. I'm wondering how that would work right now. If you're hiring a third party security company right now, while the licensing requirements aren't satisfactory or we wouldn't be here trying to amend this, you would have the same situation where you've got a company in which the employees are required to be licensed. I'm wondering how you currently manage that liability situation.

**Mr. Mundell:** Again, I think --

**The Chair:** Just for the committee, I'm going to have to render that question rhetorical only, and thank you, Mr. Mundell, for your testimony.