
BY PRIORITY COURIER

March 12, 2026

To: Ministry of the Solicitor General (Ontario)
Strategic Policy Division
25 Grosvenor Street
Toronto, ON M7A 1Y6

Re: **Consultation on Proposed regulation to extend authorities under the
Restricting Public Consumption of Illegal Substances Act, 2025 (RPCISA) to
transit special constables**

1. Summary and position

The Health Justice Program (HJP) opposes prescribing transit special constables as “officers” under RPCISA.

The HJP is an embedded legal service in a large, inner-city primary care setting. Our work sits at the intersection of access to justice and the social determinants of health; we routinely see how enforcement-driven approaches to poverty, disability, homelessness, and substance use create predictable legal and health harms that compound marginalization. HJP previously advised the Province that Bill 242, the *Safer Municipalities Act* approach is “punitive, harmful, and counterproductive” to addressing the drug toxicity and housing crises.¹

Extending RPCISA powers into transit will amplify those harms in an essential public service environment. Transit is not simply a “site of enforcement”; it is indispensable social infrastructure used to access health care, income supports, housing appointments, food programs, and community services. For many people who are unhoused or living in deep poverty, transit spaces also function as de facto shelter and a safer place to be than outdoors. Expanding coercive powers in transit will predictably deepen the “poverty penalty,” widen discriminatory impacts, and escalate health needs into law enforcement encounters, without addressing root causes.

In addition, expanding arrest and charge powers in transit risks triggering rapid incarceration data matching that can terminate Ontario Works (OW) or Ontario Disability Support Program (ODSP) benefits - even for short remand periods - destabilizing housing by cutting off income and any “pay direct” rent payments, increasing eviction risk.

¹ https://www.nlstoronto.org/uploads/4/4/3/9/4439251/hjp_submission_re_bill_242_-_so_called_safer_municipalities_act_jan_13_2026.pdf

2. What the proposed regulation would do (and why transit is different)

The proposal would give transit special constables police-equivalent powers under RPCISA in transit environments, including directing people to stop consuming substances or leave a space; demanding identification to commence proceedings; arresting/charging for non-compliance; and seizing/destroying substances found in “plain view” near a person believed to have committed an offence.

As the Canadian Civil Liberties Association (CCLA) notes in their submission,² expanding this authority expands the class of state agents who can deprive individuals of liberty through move-on orders, compelled identification, and arrest for non-compliance. This is often in circumstances arising from health or socio-economic conditions. In transit, removal or displacement can directly disrupt access to transportation, shelter, medical care, and harm-reduction supports.

3. Key concerns through an access-to-justice and health equity lens

A. Poverty penalty multiplier in a space people must use

The HJP’s experience (and our prior submissions) is that monetary penalties and enforcement contact do not “solve” poverty-related conduct; they intensify instability. We previously highlighted how fines and enforcement regimes disproportionately impact people with disabilities and those already criminalized on the basis of racism, and how unpaid fines and records can create cascading barriers to employment and stability.

B. Income-support termination risk through incarceration data matching (OW/ODSP)

Where an RPCISA-related charge carries the potential for jail time, any resulting detention - particularly remand - can have immediate and severe downstream impacts on low-income recipients of OW or ODSP. We are increasingly seeing rapid, automated data matching between correctional services and social assistance programs that results in near-instant benefit suspensions or terminations when a recipient is reported as incarcerated.

Even if a person is held for a short period (e.g., a week), a data match can stop monthly benefits and any “pay direct” rent payments. If benefits are cut mid-month, rent can go unpaid, and the person may face eviction - particularly where there is a pay-on-time order. If the person is not informed that their benefits have been terminated (or cannot access mail/phone while detained), they may only discover the loss on release, and must re-apply to restore assistance, creating avoidable gaps in income and housing stability.

² <https://ccla.org/press-release/ccla-opposes-expansion-of-arrest-powers-to-transit-special-constables-under-public-substance-use-law/>

This is a critical equity concern in transit: expanding enforcement powers to a new group of officers expands the pool of people who can initiate legal processes that may intersect with incarceration-based benefit termination, compounding housing instability for the very populations already most exposed to transit enforcement.

Transit is already a high-volume fine environment. In our clinical practice, we see the compounding impact of fare-evasion fines on people living far below the poverty line (e.g., ODSP recipients). A standard fare-evasion fine that is many multiples of a TTC fare becomes functionally unpayable, triggering downstream consequences that can include collections activity, credit impacts, and barriers to housing and employment (all of which are health determinants). The proposed regulation would add an additional enforcement stream in the same environment, increasing both the frequency and intensity of state contact for the same structurally vulnerable populations.

C. Heightened risk of discriminatory enforcement (and the need for data and accountability)

The proposal relies on discretionary judgments about “reasonable grounds” and compliance. In our earlier submission on Bill 242, the HJP cautioned against enforcement based on suspicion/“reasonable grounds” without direct evidence, as inconsistent with core fairness and rights principles. Expanding discretionary powers in transit, where “visibility” of poverty, homelessness, disability, and drug use is higher, predictably concentrates enforcement on those with the least ability to avoid contact.

Crucially, in public-space enforcement debates, courts will often ask: where is the evidence of disproportionate impact? *Fair Change*³ illustrates this evidentiary reality. In that case, the court declined to find a proven disproportionate impact for certain claimant groups on the record before it. This makes transparent, disaggregated, publicly reported enforcement data a minimum safeguard if the Province proceeds.

D. Escalation of health crises into enforcement encounters, with foreseeable harms

The clinical and public health literature is consistent: criminalizing substance use behaviours does not protect health; it increases risk. A recent health equity report⁴ summarizes evidence that criminalization contributes to negative health outcomes, entrenches stigma and discrimination, and disproportionately impacts people who are Indigenous, Black, unhoused, and poor.

The HJP’s earlier submission to the Province emphasized that enforcement-based approaches can drive people to use substances in more dangerous, isolated settings,

³ *Fair Change v. His Majesty the King in Right of Ontario*, 2024 ONSC 1895 (CanLII), <<https://canlii.ca/t/k3vgk>>, retrieved on 2026-03-02

⁴ <https://www.hivlegalnetwork.ca/site/its-not-so-simple/?lang=en>

increase overdose risk, and disrupt access to harm reduction. It also highlighted evidence that police seizure of drugs can precipitate immediate return to the unregulated market, and that people released from custody face a markedly elevated overdose risk in the first weeks after release.

Transit-specific displacement is not benign: “move along” enforcement frequently pushes people into less visible, less safe settings and can deter people from seeking help.

E. Privacy, compelled identification, and seizure/destruction without meaningful safeguards

CCLA raises concern about seizure and destruction of property without judicial authorization, including situations where destruction may occur without an arrest or charge for the underlying offence. In addition, compelled identification powers raise serious questions about information retention, sharing, and misuse or over-collection, particularly for people already over-policed, precariously housed, or living with mental health disabilities.

4. Recommendations

- **Do not proceed with the proposed regulation**

The Province should not prescribe transit special constables as officers under RPCISA. This is consistent with CCLA’s primary recommendation.

- **Invest in health-aligned, non-punitive responses in transit**

If the Province’s goal is safety and wellbeing in transit spaces, the response must be health-centred and rights-respecting. This includes strengthening outreach and crisis-response capacity and improving access to voluntary mental health, addiction, and harm-reduction supports, rather than expanding arrest and seizure powers.

- **If the Province proceeds despite these concerns: establish minimum guardrails**

If the regulation proceeds, guardrails must be mandatory, not optional “policy”:

- **Clear limits on scope and on arrest/compelled ID powers**

Arrest should be exceptional, with a presumption of de-escalation and voluntary compliance.

- **Prevent OW/ODSP housing destabilization via incarceration data matching**

Any implementation must include safeguards to prevent short-term detention or remand from triggering loss of income supports and rent payments. At minimum, this requires: (1) notice to the recipient and an opportunity to respond before termination/suspension where feasible; (2) continuity of “pay direct” rent where housing stability is at risk; and (3) coordination with the Ministry of Children, Community and Social Services to ensure enforcement does not create avoidable benefit gaps that lead to eviction and homelessness.

- **Independent oversight, accessible complaints, and transparent reporting**
Mandatory public reporting on all RPCISA transit enforcement, including disaggregated race-based data and data on interactions involving homelessness/disability, to enable monitoring for discriminatory impacts (and to create an evidentiary foundation for accountability).
- **Strict privacy limitations and data governance**
Clear restrictions on retention and sharing of personal information obtained through compelled identification or incident documentation, with transparency and auditability.
- **Prohibit destruction of seized substances absent robust safeguards**
At minimum: no destruction without documented grounds, supervisory review, and reporting; and no destruction where it undermines health and safety (including risk of withdrawal, substitution, or toxic supply exposure).
- **Mandatory training and co-response pathways**
If transit special constables are given any expanded role, it must be tied to specialized training and real-time access to health co-responders and diversion pathways (not simply “move along” enforcement that relocates risk).
- **Fare enforcement, “poverty penalty,” and a workable alternative for TTC fines**
HJP is also concerned that expanding coercive powers in transit will interact with (and worsen) an already-punitive fare enforcement regime.

A practical, non-punitive alternative exists: replace standard fare-evasion fines with a modest “on-board fare” or administrative surcharge (e.g., \$10) for those without proof of payment, paired with easy access to fare assistance and supportive referrals rather than punishment. This approach better aligns with public health and equity objectives and avoids deepening cycles of poverty and enforcement.

6. Conclusion

Expanding RPCISA enforcement powers to transit special constables is a policy choice with foreseeable legal and health consequences. It will predictably deepen the poverty penalty and concentrate harms on people who are unhoused, living with disabilities, or navigating substance use and mental health needs without addressing root causes. HJP urges the Province not to proceed. If it proceeds, strict guardrails, independent oversight, and transparent enforcement data are the minimum conditions to mitigate predictable inequities and harms.

Sincerely,



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About the Health Justice Program

The Health Justice Program (HJP) is an embedded legal service in the St. Michael's Hospital Academic Family Health Team (SMHAFHT). This partnership within a large urban primary care team, launched in late 2014, is the first in the country to adopt a poverty law and social justice lens through its collaboration with community-governed legal aid clinics: Neighbourhood Legal Services, Aboriginal Legal Services, ARCH Disability Law Centre, and the HIV and AIDS Legal Clinic Ontario (HALCO).

Each organization involved in the program has complementary expertise working with marginalized populations. We address the legal issues of low-income patients related to the social determinants of health. We help to stabilize clients' health and social circumstances, in an effort to prevent cascading problems.