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**Presentation To House Of Commons –  
Standing Committee On Justice And Human Rights**

**BILL C- 26 - An Act to amend the Criminal Code (citizen's  
arrest and the defences of property and persons)**

Remarks By: Acting Superintendent Greg Preston,

Edmonton Police Service

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## **INTRODUCTION :**

By way of introduction, my name is Acting Superintendent Greg Preston of the Edmonton Police Service and I am here representing the Canadian Association of Chiefs of Police (CACP) as a member of the CACP Law Amendments Committee. I would like to thank each of you, Members of the House of Commons Standing Committee on Justice and Human Rights, for allowing me to appear today regarding this important Bill.

The CACP is in favour of passage of Bill C-26 – An Act to Amend the *Criminal Code* with regards to Citizen's Arrest and the defences of property and persons. In particular, we feel that this Bill will improve the provisions dealing with self-defence making things more streamlined and likely easier for our police members to understand and apply when deciding whether a person is lawfully defending person or property, or whether charges should be laid. Also, while it is our preference that trained and properly equipped police officers make arrests of individuals, we recognize that there are times when citizens will react to situations around them, intervening to arrest individuals they see committing a crime. We support the proposed amendments to the citizen's powers of arrest provision of the *Criminal Code* for recognizing this reality by providing appropriate protections for persons who do

reasonably react to observing a crime on or in relation to their property by intervening to arrest an offender.

We also commend the Criminal Law Policy Section of the Department of Justice Canada for undertaking a review of the current law in this area and inviting the input of key non-governmental stakeholders towards improvements in legislation regarding this issue. I was pleased to participate in those consultations.

### **CONSIDERATIONS FOR THE COMMITTEE**

While the CACP supports passage of Bill C-26 there is one matter that this committee may wish to consider for a possible amendment to the Bill. The proposed amendments to power of arrest for property owners and their agents, section 494(2) of the *Criminal Code*, still speaks of finds committing. This is defined in the back grounder to the Bill as being "caught in the act". With the ever increasing use of CCTV in theft detection (shoplifters) by stores and their Loss Prevention Officers (LPO's) there are more and more situations where an LPO in an observation room watches the criminal act and then reports via radio / phone to a different LPO "down on the floor". Many times the floor LPO does not observe any elements of the actual offence; rather they receive details of the commission of

the crime from the observation LPO. Arguably the floor LPO if, and in most cases when, they act and arrest the suspect I would submit is doing so on the basis of Reasonable and Probable Grounds, rather than finds committing. As such, neither the current wording in section 494(2), nor the proposed amendments in Bill C-26 appear to provide the necessary powers and protection for such situations.

I submit that given how most private businesses protect themselves and their property in today's times through CCTV use, this should be considered by this committee. It may be argued that in my scenario the floor LPO is still finding the person committing the offence because the theft is still ongoing while in the store. I respectfully would not agree with such a position as they did not see any aspect of the taking - I submit they are rather working on Reasonable and Probable Grounds [see *The Queen v. Biron*, [1976] 2 S.C.R. 56 at 72]. I realize that this does not relate to police powers, but given that we work closely with many within the loss prevention industry given the requirements of section 494(3) of the *Criminal Code* this could have an impact on police officers who are called upon to continue such an arrest. Also, we the police could / would be called on to investigate complaints that a LPO acted without authority in arresting someone.

**CONCLUSION:**

In conclusion, the CACP supports passage of Bill C-26.

I will be pleased to respond to any questions that you may have.

Thank-you!