

Classification **PUBLIC**

Meeting **March 8, 2010**

Agenda Item **Monitoring Report:
Asset Protection**



Recommended Motion:

THAT the Board find that all provisions of the *Asset Protection* Executive Limitations policy have been complied with.

ASSET PROTECTION

I hereby submit my monitoring report on your Executive Limitations Policy, “Asset Protection” according to the schedule set out. I certify that the information contained in this report is true.

Signed: _____
Chief of Police

Date: _____

BROADEST POLICY PROVISION:

The Chief of Police will not cause or allow Durham Regional Police Service assets to be unprotected, inadequately maintained or unnecessarily risked.

Interpretation of the Chief of Police:

It is my interpretation that the Board has comprehensively interpreted this policy in its subsequent policy provisions. My interpretations will be attached to those provisions below.

Further, without limiting the scope of the foregoing by the enumeration, the Chief of Police will not:

Policy Provision #1

“1. Unnecessarily expose the organization, its members, the Board or the Regional Municipality of Durham to claims of liability.

Interpretation of the Chief of Police:

Policing involves activity by our members in which they place themselves in danger as well as our tangible and intangible assets at risk of loss or damage.

Claims of liability means lawsuits launched by parties who allege that they have been damaged by the actions of our members in the course of their duties.

I interpret unnecessary exposure to such claims to occur when our members knowingly take actions or allow conditions to occur which will likely result in a claim.

I will take all reasonable steps to ensure that the Service is managed and controlled with an attitude, systems and procedures which avoid these outcomes. Further, in view of the fact that some claims will succeed even if all actions are proper, I will ensure that the insurance arrangements put in place by the Region of Durham provide an adequate level of protection against claims which are made.

Data in Support:

In 2009, fourteen (14) incidents involving our members were reported to the Special Investigations Unit with the following results:

- The S.I.U. invoked their mandate on nine (9) occasions.
- We had one officer (PC Baldini) charged criminally with assault in relation to one file (Beamish). The charges were subsequently withdrawn in court by the Crown. This officer and another Sergeant face charges under the P.S.A. for their actions in this file.
- We also had officers involved in two (2) incidents involving the O.P.P. in our jurisdiction. One was a pursuit that ended in Oshawa and the second was a departmental vehicle accident in north Oshawa involving an on-duty officer. Both cases involved an O.P.P. officer as a subject officer. Our officers responded to the calls and assisted with the investigations.
- There have only been minor amendments to Directives in 3 cases.
- No other charges laid by the SIU.
- Section 11 reviews have been completed on each file.
- No other PSA matters arose as a result of the reviews.
- We have also been notified of 3 inquests in 2009;
 - 1) Our officers arrested a male (Mr. Weeks) on the strength of an O.P.P. Bracebridge warrant. The male was arrested and lodged in our cells before being turned over to the O.P.P. After being lodged in their cells, he passed away. There is about a 7 hour window from the time our officers arrested the male and him passing away in the O.P.P. cells. Legal Services have been advised of this file and Inspector Osborne will be liaising with Coroner for disclosure. The inquest will be held sometime in 2010.
 - 2) A coroner's jury found that Mr. Garner, a 27 year old arrested July 4, 2007 died of acute liver failure on July 15, 2007 at Peterborough Regional Health Centre.
 - 3) There is an inquest pending regarding Mr. Ruscica who was arrested November 7, 2007 for cocaine possession, suffered seizures in the police interview room, was then taken by

ambulance to the Rouge Valley Health System in Ajax-Pickering where he was pronounced dead.

In May of 2005, the Risk Management Committee was entrenched into the 2004-2007 Business Plan (Global Ends, Objective A7 “To develop effective strategies that will minimize risk to our members, our service, and the community” for the Police Service). The Committee includes participants from our Quality Assurance Unit (policies and procedures), Professional Standards Unit (police discipline), Legal Services Unit (civil claims), Police Learning Centre (training), Duty Inspectors’ Office (front-line operations), Director of Business Services (asset protection and financial procedures), Inspector of Major Crime (SIU liaison officer). The Committee is now co-chaired by the Associate Counsel from the Legal Services Unit and Director of Business Services and the Deputy Chief of Operational Support sits on the Committee as a liaison to Command.

The Committee reviews claims and complaints received by the Police Service for the purpose of identifying trends that may impact upon training and police policies. The Committee reviews operational and administrative practices and makes recommendations to senior management with respect to the apparent risks associated with the practices. The Committee also ensures that the recommendations are reviewed and tracked until completion.

The Risk Management Committee delivered the following initiatives in 2009:

- Training for Forensic Identification Unit members with respect to physical safety on high elevation investigations and to obtain their class “D” driver’s licenses.
- The committee arranged for the “Guaranteed Safe Arrival” video to be shown during Block Training.
- Professional Standards is committed to diligence with Police Services Act - Part V investigations and they will be looking closely at the process in order to reduce the number reaching the level of Chief of Police. Officers who are frequently investigated will be flagged by Professional Standards and they will be brought to the attention of their unit leader.
- Officers involved in SIU investigations will now be transported separately from the scene to ensure independence of duty statements.
- The Collision Review Board (CRB) completed a directive revision that states that the divisional leadership teams should look at accident investigations for quality and accuracy prior to the crown prosecutor looking at them. The Police Vehicle Investigations directive was modified to reflect the change.
- The CRB modified the Marked General Patrol Vehicle directive with respect to ambulance escorts to ensure adequate officer safety.
- Auxiliary Officers are now put through judgmental scenarios during their baton training.
- Eight directives were changed to clarify that all mandatory training must be complete before members can apply for job postings, enter the promotional process or be transferred. A message to this effect also went out on Media One.

- There is a quarterly reporting process in place for Taser use. There are now debriefings for all Taser deployments for education and training purposes. The Duty Inspectors will be doing these debriefings.

Since 2004 the Risk Management Committee has helped the service focus on reducing our vehicle accidents and the attendant injuries with significant success as outlined in the following table:

Motor Vehicle Accident Expenses and Premiums

	2004	2009	% Change 2009/2004
\$ Value	\$623,000	\$324,386	-48%
# Accidents	208	214	3%
Average \$ Damage	\$2,995	\$1,516	-49%
Member Injuries	35	5	-86%

Another area of focus has been Suspect Apprehension Pursuits. It represents a relatively risky activity which is necessary to maintain community safety in certain circumstances. The service has provided additional training and guidance as well as management oversight of these activities with the following results:

Suspect Apprehension Pursuits

	2005	2009
Number of Pursuits	48	39
Policy Compliant	28(58%)	32(82%)
Non-Compliant	20(42%)	7(18%)

In 2009 there were 39 pursuits and 32(82 %) were fully compliant with policy. Of the 7 which were not fully compliant only 1 required attention, the others were minor issues. No injuries were sustained, no time was lost and vehicle collision damage was modest at \$10,700 in 5 incidents.

When compared to 2005, when these new processes were identified as necessary, the number of pursuits was higher, at 48 and the policy compliance rate was much lower, at only 58 %.

That is clear proof that officer behaviour has changed for the better and that our risks have been managed and reduced.

The Regional Finance Department's Insurance and Risk Management Division have confirmed that the Region has an insurance program in place which provides protection for individuals, protection against liability, and protection of assets, along with additional benefits for claims made against the organization, its members, the Board or the Regional Municipality of Durham. This program includes comprehensive policy wordings with high limits of liability. The Region has assured us that they have developed comprehensive custom solutions that will meet DRPS needs.

In 2009 Durham Regional Police received 15 claims of civil liability; 1 for malicious prosecution, 3 for negligent investigation, 3 for unlawful arrest, 2 for libel and slander, 4 for motor vehicle collisions, and 2 for other causes.

Due to the confidential nature of the claims and their disposition the Region's Risk Manager has offered to provide a verbal In Camera report to the Board if further details are required on our claims experience.

Statement of Compliance/Non-Compliance:

I report compliance with this provision.

Policy Provision #2

“2. Fail to protect intellectual property, information and files from loss, damage or compromise.

Interpretation of the Chief of Police:

It is my interpretation of the provision that I am to ensure there are effective systems and controls to protect intellectual property and information, and that patents and licensing provisions of electronic information and systems remains secure from breaches, misuse or misappropriation. Furthermore, I have a duty to ensure that the intellectual property licensed by the Service and developed for the Service is protected.

Data in Support:

There have been no instance(s) that I am aware of where intellectual property, information or files have been lost, damaged or compromised.

There are strict provisions that limit the utilization of licensed products (e.g. computer software), which are strictly monitored and managed by our Information Technology Department, including the administrative controls over adding computer programs and the downloading of programs.

In relation to protecting the development of intellectual property while in the employ of, or on behalf of the Service I have instructed Human Resources staff to review our current hiring practices, and ensure that all offers of employment clearly identify the proprietary rights of the Service for the intellectual property and products developed on behalf of the Service, during the individual's term of employment (contract or otherwise). There are also directives in place to deal with installation of hardware and software as well as monitoring tools to determine if there is inappropriate software installed on our network.

The Human Resources unit has confirmed that new employees of the Service are now required to sign an employment offer letter agreeing to abide by the Service's Intellectual Property policy which reads as follows:

Intellectual Property

All work products including documentation, reports, and intellectual property created or developed by the member for the DRPS during the course of their employment shall belong to and remain with the DRPS.

Directives include:

AO-08-005 "Computer Data Recovery and Data Storage management"

AO-08-001 "Internet Use by Police Service Members"

AO-08-003 "Electronic Messaging (e-mail and VMDT transmissions)"

AO-08-002 "Computer Software and Hardware"

The Service is in compliance with the Records Retention By-Law passed by the Board in 2007.

Computerized data is backed up daily onto offsite magnetic storage media.

The IT department regularly checks service computers to ensure that only properly licensed software are being used.

As part of the CPIC Reference manual developed by the Canadian Police Information Centre all agencies need to be in compliance with IT security and conduct both an external and internal security audit every 3 years. The last audit was done in 2008 and we will be conducting another one in 2011. The security infrastructure audit involves the following:

External Penetration Testing is the process of assessing our DRPS network for external vulnerabilities and if any penetration is found, subsequently performing a controlled attack to verify the results.

The Infrastructure security audit looks at our documentation and records on our configured devices such as firewalls, routers, switches, etc. Thoroughness and organization of the network documentation is reviewed during the assessment. The greater security concern associated with sensitive documentation is the proper encryption of the data while at rest (storage) and while in transit (over the network). The assessment reviews the following:

- Thoroughness of network documentation including network diagrams
- Storage location of documentation
- Encryption of documentation at the disk and network levels

The best strategy to protect our systems and users against social engineering (defined as the act of manipulating people into performing actions or divulging confidential information, rather than by breaking in or using technical hacking techniques) is awareness of the risk. End user education should focus on how to identify and protect corporate confidential information. We did this through numerous What's New Messages, Insider Reports and All messages. Our users are much more aware of security vulnerabilities as they have in the past.

In 2009, The Professional Standards unit reports that there was one case of discipline for CPIC breach and no cases of discipline for misuse of DRP email. (By comparison, in 2008, the Professional Standards Unit reports that there were 5 cases of discipline involving misuse of DRP email and there was 1 case of discipline for CPIC breach.)

Statement of Compliance/Non-Compliance:

Therefore, I report compliance with this provision.

Policy Provision # 3

- “3. Receive, process or disburse funds and found or seized property under controls that are inconsistent with sections 132, 133 and 134 of the Police Services Act, or insufficient to meet the standards of the auditor appointed by the Regional Municipality of Durham.

Interpretation of the Chief of Police:

It is my interpretation of this provision that I am to ensure that appropriate directives and procedures are in place to meet the above standards and that they are being complied with. The directive covering these procedures is in place and is called AO-04-001 Seized and Found Property.

Data in Support:

The Quality Assurance Unit will be conducting an audit in February 2010 of the property unit, specifically targeting the drug vault location to ensure compliance with the directives. The Property Sergeant also conducts random audits frequently, prepares discrepancy reports and takes corrective action if necessary.

The Region of Durham's auditor, Deloitte and Touche will audit the 2008 and 2009 Durham Regional Police Services Board Unclaimed Property Fund in 2010.

On January 29, 2010, the Manager of Financial Services conducted a review of cash held in the money vault to assess the accuracy and completeness of cash recordkeeping. Samples were checked from the records to the cash on hand and from cash on hand to the records and no significant errors were found. However, two recordkeeping errors were found in that two items where money was recorded as being in the vault had actually already been released to the officer for court. The two items were actually properly signed for by the officer and taken to court. The records location field was corrected.

The Property Sergeant conducted a review of the disposal method for monies seized by the Durham Regional Police in 2009. Section 132 and 133 of the Police Services Act address how seized money is to be handled by police services. This authority was applied to the monies seized by the Durham Regional Police Service that met the following conditions: being that all legal matters are concluded in court, there is no disposition order on the money, and 3 months of being in possession of the police services has passed. Monies falling within the parameters stated in the Police Services Act have been deposited into the Police Services Board account per the Police Services Act.

Therefore, I report compliance with this provision.

Policy Provision # 4

“4. Fail to ensure that all monies that accrue from the local sale of unclaimed goods are promptly transferred to the Board's control.

Interpretation of the Chief of Police:

It is my interpretation that I shall ensure that all revenue accrued from the sale of unclaimed goods is accounted for, and that all monies from the sale are properly and promptly transferred to the Board.

Data in Support:

The Property unit arranges public auction sales with an independent auctioneer. Both the Unit and the auctioneer maintain separate records of the sales and funds received.

For the purpose of Records management systems (Versadex) and auction follow up the DRPS is given a computer printout that indicates each item sold, the amount of the bid, and it identifies the

bidder. The reconciliation of the auction list, property files in Versadex, and the remitted funds sent to the Board occurs after every auction. The property staff conduct the reconciliation.

There were four property auctions in 2009. I am not aware of any identified discrepancies between the sales lists/ totals and the total amount remitted to the Police Services Board.

The auctioneer provides the Durham Regional Police Services Board with a cheque for the proceeds minus their commission. The Service has no role in remitting funds other than to act as courier of the cheque to the Board.

The Auctioneer's computer printouts are kept at the Property Unit. Auction records are on file in accordance with retention by-laws.

The Region of Durham's external auditor (Deloitte and Touche) carries out an audit on this account activity and forwards it directly to the Board. They will audit the 2008 and 2009 Durham Regional Police Services Board Unclaimed Property Fund in 2010.

It is my recommendation that the Board advise the Region to include this aspect of the auction process in their next independent audit.

Statement of Compliance/Non-Compliance:

Therefore, I report compliance with this provision.

Based on the above proof provided, I report overall compliance with the policy.

Policy Provision # 5

“5. Compromise the independence of the Board's audit or other external monitoring or advice. Engaging parties already chosen by the Board as consultants or advisers is unacceptable.

Interpretation of the Chief of Police:

It is my interpretation of this provision that I will not engage parties who are under contract to the Board where a conflict of interest may exist or where it may compromise the independence of the Board's audit or other external monitoring.

Data in Support:

I have been provided a list of these parties by the Executive Director of the Board. I confirm that the Service has not taken any actions with these parties which would compromise the independence of these parties as it relates to providing advice or monitoring to the Board.

The list of parties is as follows:

Hicks Morley Barristers and Solicitors, Heenan Blaikie Barristers and Solicitors, Perley Robertson, Hill and McDougall, Deloitte and Touche and Mathews Dinsdale.

Therefore, I report compliance with this provision.

Policy Provision # 6

“6. Endanger the organization’s public image, credibility or its ability to accomplish Ends.

Interpretation of the Chief of Police:

It is my interpretation of this provision that the Service will not perform any action that impacts negatively on the public image or credibility of the police Service. The Service will not perform any function that is contrary to the achievement of the Board’s Ends.

Data in Support:

The organization's image and credibility remains high. The Corporate Communications Unit measures newspaper coverage as it has a major influence on public perception of the police service. Of the 2,783 newspaper articles/editorials clipped in 2009, a total of 2,671 were considered balanced (fair), 56 were clearly positive in tone about the police service and only 56 were negative in tone. This means that only two per cent of all monitored newspaper coverage was negative, resulting in virtually no negative public perception of the police service. No one issue dominated the negative coverage category, but the most negative coverage centered around two incidents in which police officers were charged.

Also, the most recent Pollara public opinion survey released in early 2008 confirmed citizens have a high opinion of the police service. The scientifically-valid survey found 86 per cent of citizens were satisfied with the quality of police service they received.

Therefore, I report compliance with this provision.

7. Change the organization's name or substantially alter its identity in the community.

Interpretation of the Chief of Police:

It is my interpretation of this provision that there will be no change in the name of the Service or in the role that the Service plays within the community.

Data in Support:

I have neither directed nor allowed any changes in the organization's name or identity.

Statement of Compliance/Non-Compliance:

Therefore, I report compliance with this provision.

Based on the above proof provided, I report overall compliance with the policy.