

Classification **PUBLIC**

Meeting **June 13th, 2016**

Agenda Item **Monitoring Report:**
 Police Services Act Regulations



Recommended Motion:

THAT the Board find that all provisions of the *Police Service Act* Regulations have been complied with and that counter-terrorism plans, preparedness, training, mitigation measures, responses, notifications, and recovery, are consistent with federal and provincial plans, regulations and guidelines.

I hereby submit my monitoring report on your Executive Limitations Policy, "*Police Service Act* Regulations" and "Response to Terrorism" according to the schedule set out. I certify that the information contained in this report is true.

Signed: _____

Date: _____

Chief of Police

BROADEST POLICY PROVISION:

The Chief of Police shall not fail to establish, communicate and operate with procedures that ensure adherence to the following Ontario Regulations:

- *O. Reg. 265/98 “Disclosure of Personal Information”*
- *O. Reg. 546/99 “Suspect Apprehension Pursuits”,*
- *O. Reg. 354/04 “Major Case Management”, and*
- *O. Reg. 550/96 “Violent Crime Linkage Analysis System Reports”.*

And further that the Chief shall not fail to ensure that counter-terrorism plans, preparedness, training, mitigation measures, responses and notifications, and recovery, are consistent with federal and provincial plans, regulations and guidelines.

BROADEST POLICY PROVISION:

The Chief of Police shall not fail to comply with all requirements prescribed in the Regulations made under the *Police Services Act*.

Further, without limiting the scope of the foregoing, he or she shall not:

1. Fail to establish, communicate and operate with procedures that ensure adherence to the following Regulations:
 - a. Disclosure of Personal Information
 - b. Suspect Apprehension Pursuits
 - c. Major Case Management
 - d. Violent Crime Linkage Analysis System Reports

2. Fail to ensure that counter-terrorism plans, preparedness, training, mitigation measures, responses and notifications, and recovery, are consistent with federal and provincial plans, regulations and guidelines, and further that:
 - a. Counter-terrorism plans, preparedness and training identify, evaluate and assess potential targets and associated risks within the community, and establish priorities and procedures for mitigation;
 - b. Counter-terrorism plans are clearly linked to the municipal and other pertinent local emergency plans;
 - c. Terrorism response and notifications serve to protect potential targets within the community; and
 - d. Terrorism recovery addresses community concerns and the prevention of repercussions; and
 - e. Terrorism response, notifications, and recovery serve victims.

Interpretation of the Chief of Police:

It is my interpretation of this policy provision that the Chief and the Service must be in compliance with all of the regulations under the *Police Services Act*, paying specific attention to areas of specific interest to the Board as identified in various Ministry Inspections. Given that these regulations govern basically all aspects of police service delivery, and that reporting on each and every aspect would be unreasonable, it is my interpretation that the reporting here needs to be at the highest level.

Supporting Details:

O. Reg. 265/98 Disclosure of Personal Information

There were five formal Privacy Complaints filed with the Information and Privacy Commissioner (IPC) in 2015 compared to two in 2014. In all cases, the IPC commenced a privacy breach investigation resulting in one closed informally and the remaining four

investigations concluded with the determination that the DRPS had taken all necessary steps to contain the breach, advised affected parties, and put measures in place to minimize future breaches. The breakdown of the 5 privacy breach incidents is as follows:

- Two files related to the E-ticketing. Both were closed with recommendations for training along with internal Service-wide messaging. The below messaging was posted internally on “What’s New” by the Freedom of Information Unit.

"The Durham Regional Police Service takes the privacy rights of its citizens very seriously. Unfortunately we have experienced circumstances where POA tickets were issued to one individual, bearing the personal information of another. This has resulted in two Privacy Complaints being filed against the DRPS, with the Information and Privacy Commission of Ontario. Members are reminded that when issuing a POA Offence Notice, it is imperative that you double check that the personal information on the ticket pertains to that individual."

- One breach related to our Video Disclosure Unit providing a digital video disc (DVD) to the Crown’s Office and in turn the Crown’s Office turned it over to a citizen without viewing. The citizen received a DVD of a witness statement as opposed to a digital video from a gas station. The file was closed with measures put into place to reduce the chance of this incident reoccurring.
- One privacy breach complaint was from a citizen who had their address and name released in one of our media releases. This investigation was responded to by Dave Selby, Director of Corporate Communications. The IPC confirmed that he had the legislative authority to release the personal information.
- The final breach related to a case of an officer at a Division photocopying records for a citizen and accidentally including something that was already on the copier that did not belong to the citizen. The citizen returned the records and this complaint was solved informally.

In 2015 the Freedom of Information Unit (FOI) unit received 1341 formal FOI requests in addition to processing 182 requests from the Office of the Children's Lawyer and 102 share requests. The FOI Unit received 9 appeals in 2015, an increase from 2014 when the FOI Unit received 1 appeal.

Total FOI requests received in 2015 increased by 44 files from 2014, representing a 3.3 % increase.

O. Reg. 266/10 Suspect Apprehension Pursuits

All Suspect Apprehension Pursuits are documented, reviewed by a supervisor, appropriate divisional inspector, debriefed by a duty inspector and finally reviewed again by the pursuit review officer. The pursuit review officer presents 'non-compliant' pursuits, including any other relevant concerns to the Police Vehicle Operations (PVO) Committee. The PVO Committee is comprised of members from Senior Leadership, pursuit review officer, Fleet manager, PEIC Use of Force sergeant and Police Vehicle Operations trainer. The PVO Committee meets quarterly to review and provide any additional recommendations addressing Service vehicle collisions and pursuits, regardless of the fact whether a member was engaged in a suspect apprehension pursuit or a motor vehicle collision during their tour of duty. One of the main priorities of the PVO Committee is to ensure "directive compliance", i.e., are members of the Service conscientiously adhering to current directives. Our Directives flow from this Regulation.

In 2015, Durham Regional Police Service (DRPS) officers engaged in 41 suspect apprehension pursuits, 5 of which were deemed to be non-compliant. This compares with 37 pursuits in 2014 of which 7 were deemed to be non-compliant. Different factors determine the ultimate reason for an officer to engage in a pursuit with a slight increase in pursuits over 2014 but this was somewhat countered by the continuing improvement with compliant pursuits. The comparisons are detailed in the below figures, revealing a gradual marked improvement for compliant and non-compliant pursuits.

<u>YEAR</u>	<u># of Pursuits</u>	<u>Compliant</u>	<u>Non-Compliant</u>	<u>Percentage Compliant</u>	<u>Percentage Non-Compliant</u>
2016	14	13	1	93 %	7%
2015	41	35	5	87.5 %	12.5 %
2014	37	30	7	81 %	19 %
2013	40	34	6	85 %	15 %
2012	32	27	5	84 %	16 %
2011	37	27	10	73 %	27 %
2010	41	32	19	78 %	22 %

In viewing the above figures, you will notice the current 2016 details only capture year-to-date pursuits. This midway point in the year showcases that patrol officers are increasingly paying attention to the Service directive which equates to a safer roads for our community.

In the first quarter of 2015, officers engaged in six suspect apprehension pursuits of which all were deemed to be compliant. Compare this to first quarter of 2016, officers engaged in a total of eleven suspect apprehension pursuits. All, except one were deemed compliant. In addition, officers received recognition for their “excellent” judgment, not only from the regional duty inspectors, but also their peers and the pursuit review officer.

The DRPS, in comparison to other police services in Canada, has one of the most stringent pursuit guidelines and is considered by the Ministry to be a leader in this field. A recent OPP policy, dated January 6th, 2016 of ‘not to engage a stolen vehicle’ was reviewed by members of the PVO Committee. It was determined that our current policy accurately balanced officer and public safety without the need to add this provision.

The Service continues to provide additional training and guidance as well as management oversight of these activities. In addition to pursuits, there were six incidents where officers made the decision ‘not to engage in pursuit of a motor vehicle violator’. Decisions like this factor in community safety along with risk and liability indicators. Clearly we are seeing our members making judgment calls consistent with Service training and leadership monitoring of suspect apprehension pursuits.

O. Reg. 354/04 Major Case Management

The Durham Regional Police Service (DRPS) Major Case Management Directive LE-02-001 establishes policies in accordance with the Ontario Major Case Management Manual. These policies and procedures ensure there is a common, coordinated case management process for conducting major case investigations. The most recently released version of PowerCase is 5.1, and it is the software used to undertake and manage investigations into major cases as required by the regulation.

Major cases as defined by the Ontario Major Case Management Manual include:

- a) Homicide and all attempts*
- b) Sexual Assault and all attempts*
- c) Non-familial abductions and attempts*
- d) Missing Persons-foul play suspected*
- e) Found Human Remains-homicide suspected*
- f) Criminal Harassment-offender not known*
- g) Any other case designated as a major case by MCM Executive Board*
- h) Missing person(s), where police have yet to ascertain whether foul play is involved when the individual(s) remain outstanding and unaccounted for 30 days after being reported missing*

In 2008, the Major Case Management Executive Board designated that PowerCase may be used for the offences listed below. The use of PowerCase for these offences is voluntary, and at the discretion of the Police Service. Use of this program for these offences has resulted in numerous positive hits in the past that have assisted in some of our major cases. These cases are reviewed to determine whether or not they should be entered into the PowerCase software.

- 1. Child Pornography*
- 2. Luring Child by means of Computer*
- 3. Indecent Act*
- 4. Stupefying or overpowering for the purpose of sexual intercourse*
- 5. Trespassing at night*
- 6. Voyeurism*

In 2015, there were 98 threshold major case investigations and 345 non-threshold major case investigations compared to 2014 where there were 88 threshold major case investigations and 242 non-threshold major case investigations. In determining what is a threshold major case investigation, established criteria is used to determine what type of investigative response is given to the major case keeping in mind the broad definition of major case management and the varying degrees of complexity that may be involved. In non-threshold major case investigations only tombstone data information is added to PowerCase, whereas, all investigative information is added to PowerCase for a threshold cases.

Our Major Case Management directive addresses required staffing when an incident is deemed to be a major case. When a major case investigation is assigned to a qualified investigator, consideration is given to fulfilling all of the responsibilities associated to the function of a Major Case Manager, File Coordinator and Primary Investigator. Depending on the complexity of the investigation, these roles may be assigned to one individual or specific individuals. A major case management team is established and may consist of one or more individuals, as required by the complexity of the investigation. Major Case Management requires that these functions be performed by the number of persons required to meet the expectations as set out in the Ontario Major Case Management Manual. Detectives assigned to the Homicide Unit, as well as officers working in Sexual Assault Unit, routinely perform these roles on assigned cases. The Manual also speaks to the role of Multi-Jurisdictional Major Case Manager (MJMCM). Our Service currently has one MJMCM occupying a leadership role in our Homicide Unit.

Our Human Trafficking Pilot Project, dubbed “*Manhattan*” began in 2014 to provide a regional focus on this developing problem. In 2015 the project team was recognized in Ontario for their innovative use of the Major Case Management Methodology. The award presented to DRPS reads “Achieving Excellence in Major Case Management through the innovative use of technology”. This was a combination of following the principles of major case management and utilizing PowerCase to track similarities occurring throughout our province and country with investigations involving human trafficking. As a result, we have received several “hits” internally as well as externally in identifying possible links to individuals and criminal organizations involved in this deplorable crime. Along with DRPS, police services such as

Toronto, Halton, Ottawa, and the OPP are now using PowerCase to enter all human trafficking cases. In 2015, Project “*Manhattan*” continued with another successful year yielding the following results:

- (217) Cases of prostitution/forced prostitution reviewed by the team
- (76) Incidents assigned to investigators within the unit
- (136) Women in the sex trade interviewed
- (65) Potential pimps identified
- (37) Accused
- (195) Charges
- (67) Search warrants/production orders authorized and executed

Human Trafficking thrives on anonymity and has gone largely gone unnoticed because very few victims ever come forward to report it. To break that anonymity, investigators from provided presentations to Victim Services of Durham region, Durham Hotel Association, Social Services, and the Children’s Aid Society. Project “*Manhattan*” has had early successful investigative results in 2016 while increasing community and law enforcement awareness. It is anticipated that by year-end 2016, Project “*Manhattan*” will develop into the fulltime Human Trafficking Unit.

O. Reg. 550/96 Violent Crime Linkage Analysis System Reports

Violent Crime Linkage Analysis System (ViCLAS) is a national database for tracking violent offenders and the offenses they commit. This automated case linkage system is designed to capture, collate and compare crimes of violence through the analysis of victimology, offender/suspect description, modus operandi, forensic and behavioural data. Reporting and investigating officers from all Ontario police services in are required to submit an electronic booklet to the Provincial ViCLAS Centre located at Ontario Provincial Police (OPP) Headquarters in Orillia, when involved with the following criteria offences:

1. All homicides or attempt homicides - solved or unsolved;

2. All sexual assaults or attempts, solved or unsolved, EXCEPT familial/domestic unless the
 - a. victim is under 16 years of age or the assault includes unique or significant physical,
 - b. Sexual or verbal behaviour.
3. Missing person(s) where the circumstances indicate a strong possibility of foul play and the person(s) remain missing;
4. Unidentified body or found human remains where the manner of death is known or suspected to be a homicide;
5. All non-parental abductions and attempts;
6. False allegations of sexual assault or attempted murder;
7. All solved, unsolved, or attempted child luring. Regardless of the nature of the investigation, a case may be submitted to ViCLAS, if it is believed that the offender involved (known or unknown) may have been responsible for other violent crimes or has the potential to offend/re-offend.

The electronic ViCLAS book, launched in our Service on January 11th, 2013, has been updated and no longer requires an encrypted and signed email for submission. Officers submit their books via email to the ViCLAS Coordinator. Once quality control is complete, the ViCLAS book and corresponding Versadex report are submitted to the Provincial ViCLAS Centre via a secure portal. The Provincial ViCLAS Centre downloads the material from the book onto their national database and reports back to our police service if there is a linkage.

In 2015, our Service submitted 492 booklets to the ViCLAS Centre: 100 books for non-criteria, 392 books for criteria related offences. The breakdown for criteria related offences was as follows: 6 were submitted for Homicides/Attempt Homicides, 322 for Sexual Assault incidents, 1 for Missing Person, 19 for Child Luring/Attempt Luring, and 44 for Non-Parental Abduction.

The number of submissions are slightly up from 468 in 2014 but still lower than the 2013 submissions of 586.

Our ViCLAS Coordinator position is attached to our Sexual Assault Unit. The Coordinator ensures that we are compliant with our obligations according to the Regulations. Forming part of the weekly Major Crime Unit report is a ViCLAS summary of submissions and outstanding reports. This weekly report is provided to the Chief, Deputy Chief, and Superintendent of Crime Management.

Pursuant to S. 3 (1) of Ontario Regulation 550/96 a report has been prepared and has been submitted to the Solicitor General and Minister of Correctional Services setting out the number of major cases the Service investigated in 2015.

Counter-Terrorism (O. Reg. 3/99 s.28 Adequacy and Effectiveness of Police Services)

This Executive Limitation references only one of thirty seven sections contained within this regulation; specifically section 28.

The DRPS is compliant with Section 28 of Police Services Act Ontario Regulation 3/99 that states: *“Every chief of police shall establish procedures that are consistent with any federal or provincial counter-terrorism plan designated by the Solicitor General”*.

The coordinated terrorist attacks of September 11th, 2001 affected civilized countries around the world. Since then, the DRPS has participated within Canada’s National Security Framework at both the Federal and Provincial levels. Our commitment to the National Security program has been continuous with our participation and involvement in the Integrated National Security Enforcement Team (INSET) and the Provincial Anti-Terrorism Section (PATS). The RCMP-led INSET team is multi-agency and responsible for investigating all criminal threats related to national security in Canada with teams spread throughout the country. The OPP-led PATS team is made up of specially trained members from the OPP and municipal law enforcement agencies,

providing the provincial terrorism response. We have officers seconded to both teams and who report on a monthly basis to the Inspector in charge of our Criminal Intelligence Branch.

Supporting our members is Directive CT-01-001 on Terrorism. It provides officers with direction in dealing with terrorist incidents or threats of terrorist acts. The directive complements the Provincial Counter Terrorism Plan (PCTP) and the National Counter Terrorism Plan (NCTP). This directive was reviewed and amended in the spring of 2015 and is compliant with relevant legislation.

In 2015, the Criminal Intelligence Branch rolled out the Countering Terrorism Information Officer (CTIO) program that has now evolved into the CVEIO (Countering Violent Extremism Information Officer) program. The name change is in line with other national programs. The CVEIO group utilizes a CVEIO email group for dissemination of information in order for the material to be provided to frontline members. CVEIO members have access to a link via the Service's "Mediaone", containing pertinent information relevant to countering extremism in Durham Region. Members of the Criminal Intelligence Branch are developing a CVEIO PowerPoint presentation, to assist CVEIO's in delivering current necessary material to their respective divisions, platoons and units. This CVEIO presentation is designed to educate the organization on; violent extremism, roles of CVEIO officers, and the information routing process with members of Intelligence Operations Unit-Criminal Intelligence Branch. In addition to information sharing with our members, certain CVEIO officers have been identified as Divisional CVEIO Coordinators, tasked with ensuring there is consistent messaging to the community.

Members of our Service are required to be aware of potential terrorist targets located within the Region of Durham as outlined in our directive. Recent terrorist acts around the globe and in our nation require regular information awareness and updates be provided to frontline officers regarding terrorism concerns and threats. When necessary, information is provided to DRPS members through e-parade postings and internal messaging.

In 2015, countering violent extremism communication expanded over the previous year to include:

- (8) E-Parade messages
- (6) 'What's New'

- (62) Internal priority communications to the Services' CVEIO's.

More importantly, the messaging has been timely issued around the following events:

1. Paris Attacks
2. Brussels Attacks
3. Parliament Hill Anniversary
4. CF Recruiting Centre Attack
5. Remembrance Day – CF Member Alert

In certain cases social media has been successfully used by terrorist groups for online indoctrination of some to commit terrorist acts at home or by others to travel and join terrorist groups in select countries. Our country has already been marred by a few senseless acts of violence and we are aware that a small number of Canadians have travelled across the world to join ISIL.

The DRPS, in partnership with our provincial and federal partners, will work to target and intercept those that adopt and support acts of violent jihadism. We will engage our communities and through education and early intervention, look to minimize or eliminate community concerns related to acts of terrorism.