

Classification **PUBLIC**

Meeting **March 6th, 2012**

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: _____
Chief of Police

Date: _____

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. Suspect Apprehension Pursuits Regulation
 - b. Major Case Management Regulation
 - c. Violent Crime Linkage Analysis System Reports Regulation
 - d. Disclosure of Personal Information Regulation
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 DATA

O. Reg. 265/98 Disclosure of Personal Information

There was one formal Privacy Complaint filed with the Information and Privacy Commissioner in 2011 compared to two in 2010. This complaint was subsequently closed by the Privacy Commissioner's office with findings of no breach of the *Municipal Freedom of Information and Protection of Privacy Act* having been committed by this Police Service. The Professional Standards Unit did not receive any complaints of this nature.

In 2011 there were 1159 requests made to our police service under the *Municipal Freedom of Information and Protection of Privacy Act* this compares with 1183 requests made in 2010.

Our Service also has an Offender Management Unit (OMU) which is part the Crime Administration Branch under the command of Inspector Dan McMullan. The OMU strives to ensure that no high-risk offender resides autonomously in Durham Region. Their role is to enhance community safety and prevent crime by monitoring and enforcing conditions for persons on bail parole probation or registered with the Ontario Sex Offender Registry.

The Ontario Sex Offender Registry is a provincial registration system for sex offenders who have been released into the community. These offenders are required to report to police every year. During the registration process, police enter information about these individuals into a database. Our Offender Management Unit works to gain compliance where offenders fail to comply with the reporting provision of the legislation. There are many challenges with this as some of these offenders prefer to go undetected in the community which defeats the purpose of the Sex Offender Registry and may expose the community to danger. In 2011 for the first time since the registry began we achieved a compliance rate of 100 % through the hard work of our OMU in tracking down offenders who were not compliant with the legislation.

The Offender Management Unit is also responsible for the coordination of our High Risk Review Panel, which is a "second pair of eyes" to help review the files of high-risk offenders to determine if public notifications should be made by the Chief of Police. Launched in 2002, the High Risk Offender Review Panel is overseen by the Chief of Police and the Deputy Chief of Operations. The Panel is made up of experts in the field of risk assessment and also includes representatives of the public and separate school systems. The advisory panel has the responsibility to review files of recently released high-risk offenders on a confidential basis and to make recommendations to the Chief of Police regarding whether a public notification should take place in the interest of community safety. The panel must remain advisory in nature due to existing legislation, which allows only a Chief to disclose certain types of personal information.

In 2011 the identity of one high risk offender was disclosed to the public. This was an emergent situation where there was no opportunity to consult with the review panel. In this case the decision to disclose the information was made by the Chief of Police in consultation with members of the Police Service.

O. Reg. 266/10 Suspect Apprehension Pursuits

In the calendar year 2011 our officers were involved in 37 pursuits of which 11 were deemed to be non-compliant in a minor administrative manner. This compares with 41 pursuits in 2010 of which 9 were deemed to be non-compliant.

Each and every incident was debriefed by the on duty Inspector and of the 37 pursuits, only 1 required that an officer be sent for re-fresher training. Of note, our officers and non-involved citizens suffered no injuries during these incidents.

Furthermore, there were no reported injuries to any of the suspect drivers; this includes those incidents where there were two or more occupants inside the suspect vehicle. There was no reported property damage (i.e., vehicle damage or otherwise), incurred by non-involved citizens resulting directly from any of the pursuits.

There were two incidents of note where both police and suspect vehicles sustained minor damage. In both incidents, the suspects involved, in an attempt to escape the police, collided with the police vehicles (i.e., incident 2011-18019, suspect attempted to maneuver his vehicle around the police vehicle causing minimal damage to the left rear bumper & incident 2011-264168, the suspect rear ended an assisting cruiser as officers were attempting a rolling block). It was not necessary to remove these two police vehicles in question from regular service.

Our Service continues to be vigilant with training and our Police Learning Centre provides the mandatory training via our E-Learning modules; 'In the Pursuit of Excellence' which has been updated to our fourth volume (i.e., "In the Pursuit of Excellence I, II, III & IV"). Our pursuit directive is reviewed annually by S/Sgt. Albrecht in Quality Assurance and he is responsible for reporting to the Ministry. S/Sgt. Albrecht also holds a position on our Suspect Apprehension Pursuit Review Panel which also includes Inspector Maiorano, Inspector Reti, Inspector Lessard, and P.C. Thompson, our certified Pursuit Driving Trainer. The panel convenes to review incidents which may involve non-compliant behaviour on the part of our officers and determines the appropriate training or action required.

Overall, as police pursuits continue to make periodic headlines throughout the country, our Service had an outstanding year in 2011, the details of which are further articulated in the annual report which has been submitted to the Ministry as required.

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 System**. 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 software is used to undertake and manage investigations into major cases as required by the regulation.

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

1. Homicides and attempts.
2. Sexual assaults and attempts.
3. Non-familial abductions and attempts.
4. Missing person where the circumstances indicate a strong possibility of foul play.
5. Found human remains where homicide is suspected.
6. Criminal harassment in which the offender is not known to the victim.
7. Any other case designated as a major case pursuant to the Ontario Major Case Manual.

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 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 manual.

In 2011 there were 92 threshold major case investigations and 305 non-threshold major case investigations in our Region. This compares with 107 threshold major case investigations and 316 non-threshold major case investigations in 2010. In determining what is a threshold major case investigation, certain criteria (a yard stick) 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 basic information is added to the PowerCase information management system.

On February 22nd, 2012 pursuant to S. 2(1) (a) of Ontario Regulation 354/04 a report was prepared and submitted to the Minister of Community Safety and Correctional Services setting out the number of major cases the force investigated in 2011.

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

Violent Crime Linkage Analysis System (ViCLAS) is a reporting mechanism coordinated by the Ontario Provincial Police at their headquarters in Orillia. Reporting and investigating officers are required to submit a booklet to the Provincial ViCLAS Centre when involved with the following criteria offences:

1. All homicide or attempt homicide- solved or unsolved;
2. All sexual assaults- solved or unsolved;
3. Missing person(s) where foul play is suspected;
4. Unidentified human remains where foul play cannot be ruled out as the manner of death;
5. All non-parental abduction and attempts;
6. False allegations of sexual assault or attempt murder;
7. All solved, or unsolved, or attempt child luring;

8. Regardless of the nature of the investigation, you may submit a case to ViCLAS, if you have reason to believe that the offender involved may have been responsible for other violent crimes or has the potential to offend/re-offend.

In 2011, our service submitted 604 ViCLAS booklets to the provincial centre: 442 books for criteria offences and an additional 162 books submitted for non-criteria offences. Submissions included 4 for homicides/attempts and 413 for sexual assault incidents. Our officers are governed in their duties by Directive LE-02-005 ViCLAS Reporting Procedures.

Cindy Stewart-Haass is our dedicated civilian employee identified as the full time ViCLAS coordinator. She works within the Sexual Assault Unit and ensures we are compliant with our obligations according to the Regulations. To assist with continued compliance she completes a weekly report, which is submitted to D/Chief Burns, that outlines any outstanding ViCLAS submissions.

In 2011, a compliancy audit was conducted by the Ministry on our service. We were found to be compliant with requirements of the regulations and our ViCLAS coordinator was recognized as one of the best ViCLAS staff in the province.

Currently the completed booklets are printed and mailed out to the ViCLAS Centre via courier. The Provincial ViCLAS Centre takes the material, downloads it into their data base, and reports back to police services with linkages. A new web-based version of the booklet has been in development for quite some time and two trial versions will be rolling out, within the OPP, next month. Once the web-based program is approved and in place it will eliminate the need for the printing and courier.

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 force investigated in 2011. The 2011 report to the Minister is attached to this monitoring report as Appendix 'C'.

Counter Terrorism (Adequacy and Effectiveness of Police Services)

Section 2 of this Executive limitation references one of thirty seven sections of Regulation 33/99 (Adequacy and Effectiveness of Police Services).

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

Supporting Data

DRPS Directive CT-01-001 on Terrorism 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 in 2011 and found to be compliant with relevant legislation.

Members are required to be aware of potential terrorist targets located within the Region of Durham as outlined in our directive. Regular awareness instruction is provided to front line officers regarding terrorism concerns and threats.

In the 10 years since 9/11, DRPS has participated within Canada's National Security Framework at both the Federal and Provincial levels. The commitment to the National Security program has been maintained solidly with our participation and involvement in Provincial and Federal Joint Management Teams and their joint forces units.

The DRPS has officers seconded to both the Provincial Anti-Terrorism Section (PATS) as well as the Integrated National Security Enforcement Unit (INSET). Our seconded officers to these units continue to play crucial roles in leading substantial investigations involving national criminal investigations inside and outside the Region of Durham securing the safety of Canada.

These members working with Provincial and Federal Law Enforcement partners as well as our Divisional Counter Terrorism Information Officers and our Criminal Intelligence Branch keep abreast of current terrorism information and trends that may impact our community.

In the event of terrorist activity the Police Service Emergency Measures Officer will work with the police incident commander or other persons in charge to notify and assist the public affected by the emergency pursuant to the Durham Region Emergency Master Plan (DREMP).