

Classification **PUBLIC**

Meeting **May 8th, 2017**

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 six formal Privacy Breach/Complaints filed with the Information and Privacy Commissioner/Ontario (IPC) in 2016; which is an increase from five in 2015. In all cases, the IPC commenced a privacy breach investigation. All investigations have concluded with the

Information and Privacy Commission/Ontario being satisfied that the Durham Regional Police Service has taken all necessary steps to contain the breaches, advised affected parties accordingly, and put measures in place to minimize future breaches. The breakdown of the 6 privacy breach incidents is as follows:

- The first two Privacy Complaints were filed from the same individual two months apart stating her privacy was breached with respect to information that the Durham Regional Police Service had allegedly shared with Durham Children's Aid Society incorrectly. In both instances the IPC closed both files as unfounded.
- The third breach related to an E-Ticket incident where the officer selected the wrong entity and ended up providing a Provincial Offence Act (POA) ticket to one individual with another individual's personal information contained on the ticket. This included their name, date of birth, address, driver's licence number as well as the POA infraction information. The individual was officially notified of the breach, the original ticket was cancelled and the IPC was notified of the breach. The file was closed with the IPC being satisfied that the breach was contained, the individual notified, and the error being brought to the attention of the officer's supervisor.
- The fourth breach was a Privacy Complaint filed with the IPC from a citizen who claimed that the Durham Regional Police Service had inappropriately collected and disclosed his personal information with respect to information that was shared during the process of a civil suit involving himself and the Durham Regional Police Service. The Legal Services Unit was advised and took carriage of this Privacy Complaint. The allegations in the investigation were responded to by Lerners & Associates and the Privacy Complaint investigation was closed by the IPC.
- The fifth Privacy Complaint was from a DRPS officer who claimed that an officer in PSB mislabeled his videotaped statement incorrectly and provided it to the Crown Attorney on a different matter, in error. A Privacy Breach Investigation was opened by the IPC and

the circumstances were explained. This satisfied the IPC and the investigation was subsequently closed.

- The sixth Privacy Breach/Complaint related to an E-Ticket incident where a citizen was stopped for a traffic infraction and was provided with a POA ticket that contained the personal information of an individual that was stopped and ticketed earlier in the day. The Information and Privacy Commissioner was content that the proper notifications were made and that the breach was contained. The IPC requested additional training and the creation and implementation of a Privacy Breach Protocol to ensure all DRPS members have clear direction on steps to take when a privacy breach occurs. This is currently being worked on by the Coordinator of the Information and Privacy Unit.

In 2016 the Information and Privacy Unit (FOI) received 1458 formal requests made under the *Municipal Freedom of Information and Protection of Privacy Act* in addition to processing 199 requests from the Office of the Children's Lawyer and 114 share requests. The FOI Unit received 8 appeals in 2016, which is 1 less than 2015.

Total FOI requests received in 2016 increased by 118 files from 2015, representing an 8.8 % increase in formal FOI requests. In addition, the Information and Privacy Unit maintained a 100% compliance rate for 2016.

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 both the Police Vehicle Operations (PVO) Committee and Risk Management 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.

The Risk Management Committee is chaired by the director of Business Services with the deputy chief of Operational Support as a liaison to Command. The Committee includes the unit leaders or Executive Leadership representatives from Quality Assurance Unit (policies and procedures, risk based audits), Strategic Planning Unit, Professional Standards Unit (police discipline and Special Investigations Unit liaison), Legal Services Unit (civil claims), Police Education and Innovation Centre (training), duty inspectors’ office (front-line operations and Collision Review Board), and director of Business Services (asset protection and financial procedures).

In 2016, Durham Regional Police Service (DRPS) officers engaged in 45 suspect apprehension pursuits, 7 of which were deemed to be non-compliant. This compares with 41 pursuits in 2015 of which 5 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 2015 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>
2017	13	-	-	-	-
2016	45	38	7	84 %	16%
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 2017 details only capture year-to-date pursuits. To date, only 3 pursuits have been debriefed and all are deemed to be compliant. Although 10 pursuits remain to be debriefed and from reviewing the submitted Fail To Stop Reports and General Occurrence reports, it is safe to report that 8 out of the 10 pursuits are compliant providing an 85 % compliancy or a 15% non-compliancy. 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 2016, officers engaged in 11 suspect apprehension pursuits of which 10 were deemed to be compliant. Compare this to first quarter of 2017, officers engaged in a total of 13 suspect apprehension pursuits. All that have been debriefed (3) are deemed compliant and as mentioned, it is anticipated, judging from the reports that at least 8 of the 10 pursuits will be reported as 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 16 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 5.4, 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*

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 / Indecent Exposure*
4. *Stupefying or overpowering for the purpose of sexual intercourse*
5. *Trespassing at night*
6. *Voyeurism*
7. *Human Trafficking*
8. *Major Fraud Investigations*
9. *Organized Crime/Intelligence Projects*

In 2016, there were 67 threshold major case investigations and 352 non-threshold major case investigations compared to 2015 where there were 98 threshold major case investigations and 345 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.

The human trafficking project dubbed “*Manhattan*” continued throughout 2016, providing a single, regional team responsible for investigations of forced labour and forced prostitution. The team continues to utilize a victim centred approach, collaborating with multiple community partners to assist survivors of human trafficking. Cases are investigated employing major case management principals and the use of PowerCase. Although the team operates as a project, it has received widespread recognition and is considered to be one of the leaders and authorities in the country on the investigation of human trafficking offences. Members of the team are often consulted on cases or requested to train members of other services in the recognition, investigation and compilation of prosecution files related to human trafficking.

The following results were seen in 2016:

- 114 Incidents of reported human trafficking assigned to investigators within the unit
- 133 Women in the sex trade interviewed
- 61 Potential pimps identified
- 16 Accused
- 79 Charges
- 52 search warrants/production orders authorized and executed

Along with investigation and enforcement of human trafficking incidents, the team has recognized how vital educational and awareness initiatives are to reducing the prevalence of the activity in the community. One particularly significant project involved the local school boards and the creation of an educational presentation for young girls at risk of becoming human trafficking victims. Team members developed an awareness presentation for grade 9 girls in the region. It required consultation from the school board and received final approval after pilot presentations were delivered in the spring of 2016. Further to the presentations to youth, team members regularly deliver presentations to multiple different community groups, all with the intention of educating the public on the prevalence of human trafficking in the community.

Project “*Manhattan*” has been a highly successful investigative initiative while increasing community and law enforcement awareness. It is anticipated that by year-end 2017, 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 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 (currently Ver.5.0), 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 2016, our Service submitted 514 booklets to the ViCLAS Centre: 116 books for non-criteria, 398 books for criteria related offences. The breakdown for criteria related offences was as follows: 7 were submitted for Homicides/Attempt Homicides, 363 for Sexual Assault incidents, 0 for Missing Person, 3 for Child Pornography, 13 for Child Luring/Attempt Luring, and 12 for Non-Parental Abductions.

The number of submissions are up from 492 in 2015 and 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 2016.

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 and intelligence gathering. 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 summer of 2016 and is compliant with relevant legislation.

In 2015, the Criminal Intelligence Branch implemented its own Countering Violent Extremism Information Officer (CVEIO) program which is derived from the RCMP’s frontline program. In 2016, the Criminal Intelligence Branch has continued to foster this program and support the service’s members with this designation. 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 and our organization. These designates

have regular meetings with members of the Intelligence Operations Section to keep abreast of issues and trends.

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, bulletins and internal messaging.

In 2016, countering violent extremism communication expanded over the previous year keeping up with the escalation of terrorism worldwide. The following results are reported:

- (65) Internal priority communications to the Services' CVEIO's.
- (29) E-Parade messages
- (19) Media One 'What's New' postings

Most importantly, the messaging we have provided to our membership has been timely and issued around the following terrorism related events:

1. Orlando Nightclub Shooting - January 2016
2. Brussels Bombings - March 2016
3. Nice Truck Attack - July 2016
4. Strathroy Terrorism Attack Attempt – August 2016 *
5. Several Global Terrorism Events 2016 (targeted attacks on law enforcement- (officer safety))
6. Minnesota Mall Stabbing Attack – September 2016
7. New York And New Jersey Bombings – September 2016
8. Remembrance Day – CF Member Alert – November 2016 *
9. Quebec City Mosque Attack – January 2017 *

*Canada

In keeping with the forward momentum our service has maintained in regards to counter terrorism, members of the Intelligence Operations Section are drafting a Counter Violent Extremism Strategy which will provide our organization with a framework and direction on how

to approach these issues with the goal of mitigating the threat of terrorism and to support national security investigations. Over the course of this past year, members of the Intelligence Operations Section have consulted outside agencies and stakeholders in developing this strategy. Members travelled to Montreal to liaise with the Center for the Prevention of Radicalization Leading to Violence (CPRLV) on best practices. These members also met with the program director for the RCMP's CTIO program to gather updated training information on Terrorism Event Pre-Incident Indicators which will establish a connection to establish facilitators to deliver this training locally to our organization and our partners in the community (Fire, Ambulance, and OPG etc.)

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. This significant trend of use was previously identified and as a result members of the Criminal Intelligence Branch have sought out enhanced training in open source internet intelligence. Two members are currently participating in the Ontario Covert Internet Investigations Working Group. This working group is under the management the Criminal Intelligence Service of Ontario (CISO) which will set out new standards in training and investigations to guide police agencies within the province in implementing these investigative strategies.

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 around the world to join terrorist groups such as ISIL. Many of the persons of interests that are under investigation for terrorism offences are sometimes placed under new national security measures implemented through the use of peace bonds. In the summer of 2016, one such individual, Aaron Driver of Strathroy Ontario, prepared himself for a suicide bomb attack after he was inspired by the terrorist group, ISIL. Fortunately this individual was thwarted by law enforcement and prevented from following through with his tragic plan. As result of a review and through consultation with stakeholders within National Security externally (RCMP and OPP) and internally within DRPS around this event, we realized the need to enhance our response measures. Patrol Support, Incident Command and the Intelligence Operations Section collaborated together to develop a new enhanced framework which directs how DRPS will respond to terrorism events. This new terrorism response model will be unveiled in the upcoming year and it has significant changes in how this service will

respond, mitigate and manage terrorism events within our region. The model establishes core threshold knowledge of key appointments within the major case management framework and clarifies roles and responsibilities. A key enabler for this process is accessing training in national security. For the first time, outside of joint forces secondment opportunities, members of DRPS from the rank of Cst to S/Sgt will be trained with the RCMP in the National Security Criminal Investigations Course. In 2017, we will have five new additional members qualified within the service to this level of expertise. Terrorism Models have also been tested with our service's inclusion in the Greater Toronto Area Incident Commander Working Group. This working group established four training scenarios in which we participated in exercises involving mitigating and responding to this threat. This training cascaded down locally where members of Incident Command held its own joint training exercises with Department of National Defence in Oshawa. The two exercises consisted of a table top exercise and a physical deployment exercise to military facilities within Durham Region.

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