

Classification **PUBLIC**

Meeting **March 18th, 2013**

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 were no formal Privacy Complaints filed with the Information and Privacy Commissioner in 2012 compared to one unfounded complaint that was filed in 2011. The Professional Standards Unit did not receive any complaints of this nature.

In 2012 there were 1277 requests made to our police service under the *Municipal Freedom of Information and Protection of Privacy Act* which is a 10% increase over requests made in 2011.

Our Service has a Sex Offender Registry Unit which is part the Crime Administration Branch under the command of Inspector Eva Reti. The Ontario Sex Offender Registry (OSOR) 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, the civilian staff enters information about these individuals into a database. Since 2009, the

province has conducted registrar site assessments to ensure the OSOR is as complete and accurate as possible. In 2012, the provincial compliance rate was 97%. At DRPS our Sex Offender Registry Unit went beyond this rate and maintained a compliance rate of 100% for our site. This is the second year in a row that our Sex Offender Registry Unit has obtained a compliance rate of 100%.

The Offender Management Unit (OMU) is also situated within the Crime Administration Branch. The OMU strives to ensure that no high-risk offender resides autonomously in Durham Region. Its role is to enhance community safety and prevent crime by monitoring and enforcing conditions for persons on bail, parole, probation or who are registered with the Ontario Sex Offender Registry. 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. 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 and 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. No such disclosure occurred in 2012.

O. Reg. 266/10 Suspect Apprehension Pursuits

In the calendar year 2012, our officers were involved in 32 pursuits of which 5 were deemed to be operationally non-compliant. This compares with 37 pursuits in 2011 of which 11 were deemed to be non-compliant.

A more in-depth, accountable examination of non-compliance was initiated in 2012, i.e.; non-compliance was divided into two categories: Administrative and Operational.

Administrative

1. The timely submissions of correct and signed **Fail to Stop Reports** by primary officers to their supervisors, reviewed and signed by both supervisors and divisional inspectors, and forwarded to the pursuit review officer for review and cataloguing.
2. **Suspect Apprehension Pursuit Debriefing** reports (i.e., debriefings held within 21 days following a pursuit and submitting these reports immediately thereafter).
3. The pursuit review officer, in conjunction with recommendations made by the pursuit review panel, initiates proper training for officer(s) that have failed to comply with the pursuit directive and / or legislation as set out in the *Police Services Act*.
4. Timely submissions of **Fail to Stop Report** to the Ministry of Community Safety and Correctional Services (i.e., submissions within five working days of each previous month).

Operational

This includes any violation of procedures/conduct, as set out in the Service's directive and *Police Services Act*.

In 2012, each and every suspect apprehension pursuit was debriefed by a Regional Duty Inspector. Of the 32 pursuits, one officer was "flagged" for future observations and one was directed to review the "*Suspect Apprehension Pursuit*" directive with their divisional Inspector. Of the five non-compliant pursuits, there were neither reported injuries nor lost time associated to any DRPS officer. There was one reported self-inflicted injury to one suspect due to their erratic driving behavior, having no regard for the immediate area of the offence (i.e., school zone), and attempting to injure both officers and members of the public. Pursuing officers, taking into consideration the activity of the suspect, acted in a professional manner and engaged in appropriate action to quickly terminate the reckless actions of suspect.

During 2012, there were a total of three police vehicles that suffered damage; two were considered insignificant with each vehicle incurring damage costs of approximately \$200.00 and remained in operational service. The third police vehicle suffered extensive damage amounting to a cost of \$11,729.37 (mainly due to the erratic driving behavior of suspect, continually ramming his stolen vehicle into the police vehicle). The suspect in this incident also rammed two “parked” vehicles. A total of five pursued suspect vehicles were damaged during the year. These damages were not attributed to any of the pursuing officers.

The DRPS is vigilant with training and the Police Education and Innovation Centre continues to provide all mandatory training via their E-Learning modules; ‘**In the Pursuit of Excellence**’ which includes four volumes, namely: “**In the Pursuit of Excellence I, II, III & IV**”. The DRPS pursuit directive is annually reviewed by pursuit review officer, S/Sgt. Reinhard Albrecht in Quality Assurance. He is responsible for reporting all regional pursuit activity, on a monthly basis, to the Ministry of Community Safety and Correctional Services.

The Suspect Apprehension Pursuit Review Panel convenes whenever there is an incident of non-compliance on the part of a DRPS officer(s) to review and determine appropriate training and corrective action. Currently there is a committee facilitated by Supt. Kim Bulloch to merge both the Suspect Apprehension Pursuit Review Panel with the Collision Review Panel. It is anticipated that the merger will be complete, receiving final approval from Command and the Leadership Group by the end of March 2013. It will be mandatory for the panel to meet on a monthly basis, regardless of whether or not there were occurrences of pursuits or accidental motor vehicle collisions during regular patrol schedules.

The year 2012 commenced with Command and the Leadership Group raising the bar in accountability. Members, including those physically involved in a pursuit as well as the administrative domain, were subjected to ensuring their actions and documentations of the events were precise and correct. The objective remains very clear: address risk and liability factors; ensuring that Chief Mike Ewles, members of Command, and the Board receive accurate reports resulting directly from those officers engaged in pursuits. It has become apparent that since tracking suspect apprehension pursuits commenced in the mid 1990’s, the risk and liability thermometer has plummeted to an acceptable level. Officers engaging in pursuits are more cognizant today of the high risk and liability factors associated with 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 the 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 Manual 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 by the Major Case Management Executive Board.

In 2008, the Major Case Management Executive Board approved the designation of additional offences for the purpose of using the PowerCase software. The use of PowerCase for these offences is voluntary and at the discretion of the police service. These offences can be entered as threshold or non-threshold.

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

The Directive speaks to staffing on 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 manual.

In 2012 there were 53 threshold major case investigations and 370 non-threshold major case investigations in our Region. This compares with 92 threshold major case investigations and 305 non-threshold major case investigations in 2011. 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 basic information is added to PowerCase. All investigative information is added to PowerCase for a threshold case.

On February 28th, 2013 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 our Police Service investigated in 2012.

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 homicides or attempt homicides - solved or unsolved;
2. All sexual assaults or attempts - 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 abductions and attempts;
6. False allegations;
7. All solved, unsolved, or attempt child lurings;

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

In 2012, our service submitted 636 ViCLAS booklets to the Provincial Centre: 416 books for criteria offences, 182 books for non-criteria offences and an additional 38 supplementary books. Submissions included 5 for homicides/attempts and 387 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, submitted to D/Chief Burns, D/Chief Martin and Supt. Osborne, that outlines any outstanding ViCLAS submissions.

The new, electronic ViCLAS book was launched within our Service on January 11th, 2013. Officers now 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 encrypted and signed email. The Provincial ViCLAS Centre takes the material from the book, downloads it into their data base, and reports back to our police service if there is a linkage. This new program has eliminated the need to print ViCLAS books and the process of submissions via 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 2012.

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 2012 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 and updates are provided to front line officers regarding terrorism concerns and threats.

In the nearly 12 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 Team (INSET). Our seconded officers to these units continue to play crucial roles in leading substantial investigations involving national and international 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).