

Classification **PUBLIC**

Meeting **May 5th, 2014**

A9genda
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: _____
Acting 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. Req. 265/98 Disclosure of Personal Information

There was one formal Privacy Complaints filed with the Information and Privacy Commissioner (IPC) in 2013 compared to zero in 2012 and one in 2011.the IPC deemed the complaint to be unsubstantiated. The Professional Standards Unit did not receive any complaints of this nature.

In 2013 there were 1188 requests made to our police service under the *Municipal Freedom of Information and Protection of Privacy Act* which is a 1% decrease over requests made in 2012.

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 2013, we maintained a compliance rate of 100% for our site. This is the third 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. The OMU also liaises with the Provincial ROPE Unit where we have a Detective Constable on secondment. 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 2013, the panel was not required to convene.

O. Reg. 266/10 Suspect Apprehension Pursuits

In the calendar year 2013, Durham Regional Police Service (DRPS), officers were involved in 40 suspect apprehension pursuits of which 10 were deemed to be operationally non-compliant. This compares with 32 pursuits in 2012 of which 5 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. During the first quarter of 2014, the DRPS built on the original categorization of both Administrative and Operational non-compliance suspect apprehension pursuits that will ensure officer comprehension of the risk and liability factors that are at play during a non-compliant pursuit. Two new e-forms; ***“Suspect Apprehension Pursuit Feedback Form Non-Compliant Pursuits and Quality of Submitted General Occurrence Reports”***, form ***DRP 89G*** and ***“Compliant Suspect Apprehension Pursuit / General Occurrence Report Feedback Form”***, form ***DRP 89H*** were developed, addressing both supervisor accountability and officer training. The purpose of these forms is to ensure compliance with our procedure.

Administrative

1. The timely submissions of correct and signed ***“Suspect Apprehension Pursuit FAIL TO STOP REPORT”***, form ***DRP 89D*** by primary officers (officer that engaged in pursuit), to their supervisors; reviewed and signed by both supervisors and divisional inspector (inspector of division where pursuit occurred), and forwarded to the attention of the pursuit review officer in Quality Assurance for final review and cataloguing (review of form includes ensuring that the contents mirror the contents of the General Occurrence report).
2. ***“Suspect Apprehension Pursuit Debriefing”***, form ***DRP 89*** completed by the regional duty inspector or designate who was on duty at the time of the pursuit

occurrence. Debriefing of a pursuit is required within 21 days of the pursuit occurrence at which time the duty inspector completes the report following a comprehensive debrief of the occurrence, bringing to light any non-compliant issues, training and / or suggestions to improve the current state of the Service directive as well as any other considerations that may assist front line officers. The completed and signed debriefing form is forwarded to the Pursuit review officer in Quality Assurance for final review, consideration and cataloguing.

3. The pursuit review officer, upon a final review of all reports, Communications tape of pursuit and any required confirmations with the regional duty inspectors, completes the following:

a. ***“Divisional Inspector’s Suspect Apprehension Pursuit Debrief File Copy”***, form ***DRP 89F***, with an attached copy of ***“Suspect Apprehension Pursuit Debriefing”***, form ***DRP 89***; both forms forwarded to the appropriate divisional inspector for their review and file.

4. Completes and catalogues ***“Suspect Apprehension Pursuit Summary”*** form

DRP

89C. The form provides a brief overview of each pursuit.

Note: The ***FAIL TO STOP REPORT***, as required in previous years, is no longer required to be submitted to the Ministry of Community Safety and Correctional Services. The only requirement is for all Ontario police services to complete and retain the form.

Operational

An overview of both compliant and non-compliant conduct is set out in DRPS Directive **LE-10-001 “Suspect Apprehension Pursuits”** and Police Services Act.

In 2013, the non-compliance numbers increased compared to the previous year, from 5 to 10. On a positive note, there were no reported injuries to any of the pursuing officers, fleeing suspects, or the public. Also, only one non-compliant pursuit resulted in minor damage to the primary pursuing police vehicle (\$1600.00). The non-compliance can be

categorized as follows: 4 cases of not notifying Communications as soon as possible, not using both siren and roof lights in 2 incidents, failure to give final stopping point, poor positioning of vehicle, use of an unmarked car initially, and pursuing for a non-criminal offence. In each and every case, the incident was debriefed by the Duty Inspector with all involved staff. Documentation was also completed including corrective action taken or recommended.

During 2013, there were a total of three police vehicles that suffered damage; one was considered insignificant incurring damage cost of approximately \$500.00 and remained in operational service. The other two police vehicles suffered damage amounting to a cost of \$7319.88 (\$5719.88 & \$1600.00). This is down from damage of \$11,729.37 to 3 vehicles in 2012. These damages were due to the erratic driving behaviour of suspects being pursued.

The DRPS continued its commitment in 2013 to provide quality training, direction and accountability to all members in order *“to have the safest community for people to live, work and play”*. In addition, a template was provided for 2014 that outlines an accountability process for every member of the Service, whether involved directly or indirectly in a suspect apprehension pursuit including any required training. Also, there were several milestones in 2013, specifically:

1. The Suspect Apprehension Pursuit Review Panel and Collision Review Board amalgamated into one committee; Suspect Apprehension Pursuit Collision Review Board Panel. The committee is scheduled to meet four times annually (one month prior to the scheduled Risk Management Committee). Their mandate is to review and provide any additional recommendations addressing Service vehicle collisions, 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 is **“directive compliance”**, i.e., are members of the Service conscientiously adhering to current directives.

2. Three new e-forms were created; ***“Divisional Inspector’s Suspect Apprehension Pursuit Debrief File Copy”***, form ***DRP 89F***, ***“Suspect Apprehension Pursuit Feedback Form Non-Compliant Pursuits and Quality of Submitted General Occurrence Reports”***, form ***DRP 89G*** and ***“Compliant Suspect Apprehension Pursuit / General Occurrence Report Feedback Form”***, form ***DRP 89H***. These forms not only provide a basic overview of a pursuit, but also address any required training and confirmation of successful completion as well as now holding supervisors accountable that any necessary requirement addressing non-compliance and training has been addressed and successfully completed. No stone has been left unturned, assuring complete compliance with the Police Services Act and its regulations.
3. The 2014 Suspect Apprehension Pursuit spreadsheet and attachments (**summary, non-compliant pursuits, and quality of General Occurrence reports**), has been improved in order to accurately provide a thorough overview of each pursuit.

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:

- 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 persons, where police have yet to ascertain whether foul play is involved when the individual remains 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. 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

Our 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 Ontario Major Case Management Manual. The detectives who are 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). In 2013, D/Sergeant JJ Allan continued in the MJMCM role on Project Pilot which included Durham Regional Police, Toronto Police, Royal Canadian Mounted Police, Ontario Provincial Police and the National Police of Columbia. In February 2014, a plaque was presented by Inspector Brad Nunn, the Director of Major Case Management to the Royal Canadian Mounted Police, the Durham Crown's Office and the Durham Regional Police to recognize and thank the principle agencies involved on the Pilot multi-jurisdictional investigation. The wording on the MCM plaque is agency specific ... *In recognition of the coordinated efforts of your organization toward the successful conclusion of Project Pilot. This case demonstrated the highest levels of efficiency through multijurisdictional cooperation.* The Ontario Homicide Investigator's Association (OHIA), in May 2014, will also be recognizing the work completed by everyone involved on Project Pilot when Primary Investigator D/Sergeant Mitch Martin and File Coordinator Detective Darren Short receive the OHIA Major Case Management Award at the OHIA Awards Banquet. The OHIA Award is presented ... *to the individual, team or service that has exhibited outstanding innovation and achievement in case management in a homicide investigation.* A plaque was also presented by D/Chief Paul Martin, in February 2014, to the RCMP, the Durham Crown Attorney's Office and DRP Homicide to recognize and thank these principle agencies involved on this investigation. The wording on the plaque, which is agency specific, is ... *In recognition of the investigative partnerships, successes and the work of the prosecution team in achieving convictions or 2nd Degree Murder and Kidnapping on December 13, 2013.*

In 2013, there were 69 threshold major case investigations and 303 non-threshold major case investigations in our Region. This compares with 53 threshold major case investigations and 370 non-threshold major case investigations in 2012. 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 26th, 2014 pursuant to S. 2(1) (a) of Ontario Regulation 354/04, a report was prepared and submitted to the Ministry of Community Safety and Correctional Services, setting out the number of major cases our Police Service investigated in 2013.

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 an electronic 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, EXCEPT familial/domestic unless the victim is under 16 years of age or the assault includes unique or significant physical, sexual or verbal behaviour.
3. Missing person(s) where foul play is suspected;
4. Unidentified human remains where foul play is suspected;
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.

In 2013, our service submitted 586 ViCLAS booklets to the Provincial ViCLAS Centre: 410 books for criteria offences, 142 books for non-criteria offences and an additional 34 supplementary books. Submissions included 8 for homicides/attempts and 369 for sexual assault incidents. The number of submissions is down from 636 in 2012. 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. This forms part of the weekly Major Crime Unit report. In addition, Cindy has been commended by the ViCLAS centre for her dedicated work.

The electronic ViCLAS book, that was launched within 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.

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 2013.

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 (OPP Provincial Anti-Terrorism team) and Federal Joint Management Teams (RCMP Integrated National Enforcement Team) and their joint forces units. We have officers seconded to both teams and they report on a monthly basis to the Inspector in charge of Intelligence. Our officer with the RCMP was the lead investigator in a major investigation in 2013 involving a plot to blow up part of our integral infrastructure. This case is before the courts currently.

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).