



REPORT TO THE POLICE SERVICES BOARD

Authors: Stan MacLellan

Date of Report: June 5, 2019

Subject: Monitoring Report – Treatment of Members

Recommended Motion:

THAT the Board finds that all provisions of the *Treatment of Members Executive Limitations Policy* have been complied with.

I hereby submit my monitoring report on your Executive Limitations Policy “Treatment of Members” according to the schedule set out. I certify that the information contained in this report is true.

I report compliance to all provisions of this policy.

Signed: _____

Chief of Police

June 10, 2019

Date: _____

Board Policy Statement:

With respect to the treatment of paid and auxiliary members of the Durham Regional Police Service, the Chief of Police will not cause or allow conditions that are unfair, undignified, disorganized or unclear.

Further, without limiting the scope of the foregoing by the enumeration, the Chief of Police will not:

1. Operate without written personnel directives which:

- a) clarify rules for members;*
- b) provide for effective handling of grievances; and,*
- c) protect against prejudicial or preferential treatment of members including as follows:*
 - i) establish procedures on equal opportunity including, but not restricted to, recruitment, selection, career development, promotion and separation;*
 - ii) establish procedures on responding to and preventing discrimination and harassment in the workplace, including stereotyping;*
 - iii) establish procedures on employment accommodation;*
 - iv) ensure that no sexist, racist or other offensive or derogatory material is displayed in the workplace; and,*
 - v) ensure that all officers receive training on race relations, diversity and human rights.*

2. *Fail to present for Board consent, with supporting data where warranted, all member hires, separations and Board-level responses to grievances.*
3. *Fail to acquaint members with the written directives set out above in item 1 of this policy.*
4. *Allow members to be unprepared to perform their duties effectively and safely in accordance with legislated and/or commonly accepted performance standards.*
5. *Fail to present, for Board information, disclosures and decisions under section 49 of the Police Services Act (secondary activities).*
6. *Fail to implement and maintain a performance appraisal system for all members.*
7. *Fail to establish procedures regarding the legal indemnification of members who are either subject or witness officers, acting in good faith in the performance of their duties, as related to criminal, civil and other tribunals constituted under federal or provincial statute. Such procedures shall:*
 - a) *ensure that legal indemnification procedures and practices are consistent with the Police Services Act, the coverage provided by the Region's insurer, and the legal indemnification provisions of the collective agreements, as each may be amended from time to time;*
 - b) *compel members and administrators to comply with published legal indemnification procedures; and,*
 - c) *ensure that indemnification is not extended to subject officers/members for legal costs arising from:*
 - i) *grievances or complaints either under Collective Agreement;*
 - ii) *the actions or omissions of members acting in their capacity as private citizens;*
 - iii) *proceedings and discipline charges under the Police Services Act and regulations (except where specifically provided for in the Senior Officers' Association Collective Agreement); or,*
 - iv) *criminal charges for which the member is found guilty (which shall be deemed to have occurred where the member is given an absolute or conditional discharge or where, if as a result of charges laid he/she is subsequently found guilty of, or pleads guilty to, other charges arising out of the same incident or incidents).*
8. *Fail to assess the risk of workplace violence and develop and communicate policies and programs on workplace violence and workplace harassment, as prescribed by law, including the requirement to:*
 - i) *Develop and maintain a workplace harassment program in consultation with the joint health and safety committee or health and safety representative;*
 - ii) *Establish a complaint mechanism for reporting complaints or incidents of workplace harassment and an investigation procedure to deal with such complaints or incidents;*
 - iii) *Provide members with appropriate information and instruction on the contents of its program and review the program annually.*
 - iv) *Fail to ensure measures are in place to address the risk of domestic violence in the workplace.*

Interpretation of the Chief of Police:

It is my interpretation that compliance with the nine policy provision statements fulfills the total requirements of this policy.

Further it is my interpretation for provision:

1. That it applies to the documentation of all policies and procedures relating to grievance administration, race relations, diversity, human rights, career development, and human resource management.
2. That I shall submit for Board approval, information and recommendations about new hires, retirements, resignations, and terminations, as well as responses to employee grievances reaching Board level.
3. That I shall ensure that all members are acquainted with Service policies and procedures relating to race relations, diversity, human rights, career development, and human resource management.
4. That I shall ensure that members are trained, certified, equipped, and supervised to safely perform the duties assigned to them and further that their training, certification, equipment and supervision shall conform to legislation and commonly accepted performance standards.
5. That the Service shall have a system monitoring and reporting information and infractions regarding secondary activities of members.
6. That the Service shall have a system for evaluating the performance of all police and civilian employees.
7. That the Service shall have written procedures for granting coverage or reimbursement to members for reasonable legal costs arising out of the performance of their duties subject to the limitations. Further, that I shall ensure compliance with these procedures.
8. That the Service shall have written procedures, assessment of risk related to workplace violence and workplace harassment, and communication to members on this. Further, that I shall ensure compliance with these procedures.
9. That the Service shall have written procedures, and ensure that assessment(s) occur and that safety measures are in place to address the risk of domestic violence in the workplace. Further, that I shall ensure compliance with these procedures.

Data Support:

1. PERSONNEL DIRECTIVES

The Durham Regional Police Service (DRPS) directives are the written orders of the Chief of Police for all members outlining directions, instructions, roles, responsibilities and processes to be followed. There are currently 217 directives, accessible by all members through the intranet, that help members carry out their job by clarifying the rules of the Service. The DRPS Quality Assurance – Directives Forms and Audits (AO-01-001) directive sets out the procedures to be followed for effective policy management including the creation of new directives, revisions, deletions and the like.

Effective Handling of Grievances (Provision 1.b)

Article 6 of the collective bargaining agreements (CBA) sets out the process for the effective handling of complaints and grievances. The Uniform and Civilian CBA provisions are further supported by the DRPS's directive "Grievance Process-DRPA Members" AO-09-008. All grievance activity is reported to the Board on a monthly basis.

In 2018, 10 new grievances were received from the Durham Regional Police Association of which:

- One is held in abeyance
- Two were settled
- Seven are in various stages of the arbitration process

Historical grievance activity is as follows:

YEAR	NEW GRIEVANCES
2013	16
2014	12
2015	13
2016	11
2017	15
2018	10
2019 (as of May 30)	2

Protection Against Preferential or Prejudicial Treatment of Members (Provision 1.c)

Procedures on Equal Opportunity (Provision 1.c.i)

RECRUITMENT AND SELECTION

The Service continues to subscribe to the Ontario Association of Chiefs of Police (OACP) Constable Selection System ensuring an efficient and equitable selection process. This process is supported by the Service's Constable Recruitment and Selection (HR-04-004) directive. As of November 2018, the Service continued to attract both new and experienced constable candidates and we were successful in hiring 40 Recruits and 15 Experienced Constables. DRPS attended approximately 82 community events in 2018 to support future recruitment. Representatives of the service attended 22 events in the first quarter of 2019. Attendance at these various events supports community partners and develops relationships, strengthening the candidate pool and the attraction of solid candidates for future hiring.

CAREER DEVELOPMENT

The Service supports and promotes self-directed skills development and learning to enhance current job performance, and the pursuit of future aspirations. The directive, Career and Skills Development (LT-05-001), sets out the components of the skills and development plan.

The Service's directive LE-05-003 Educational Assistance Program (Referred to as EdAP), sets out the procedures required for those sworn and civilian members interested in enhancing their knowledge, skills and abilities through various educational endeavours. The program offers financial support to members engaging in off duty studies and is managed by the Police Education and Innovation Centre. EdAP provides, upon successful completion of a pre-approved learning opportunity, member reimbursement of 75% of the cost.

In 2018, 15 members made application for the EdAP, all of which were approved. All of the applicants who were approved and satisfactorily completed their courses received reimbursement in accordance with the Directive. The total payout for approved and completed request for learning opportunities was \$33,998.21.

Early in 2019, the PEIC in partnership with the Management Development Centre at Ontario Tech University (University of Ontario Institute of Technology), launched the Certificate in Police Leadership, (CPL) to replace our current Leadership Development Series.

The program will run three cohorts in 2019. Each program will be three months with three half day in class requirements.

Thus far 29 officers have completed or are in progress to complete the Certificate program. In addition to its position in our internal promotional processes, the CPL will also be granted one course equivalency in the Faculty of Social Sciences and Humanities at Ontario Tech.

PROMOTION

The Job Posting and Selection Process Directive (HR-04-002) sets out the process for sworn members interested in rank promotion. Since January 2018 up until June 2019, all five ranks were posted for promotion; Sergeant/Detective, Staff Sergeant/Detective Sergeant, Inspector, Superintendent and Deputy Chief. In 2019, the Sergeant and Staff Sergeant rank was posted for promotion. The number of candidates who are still currently placed on the eligible for promotion list and those who have been promoted from January 2018 to date are provided in the table below.

Rank	Promoted Jan 2018 to June 2019	Eligible for Promotion as of June 2019
Sergeant/ Detective	25	0
Staff Sergeant/ Detective Sergeant	11	6
Inspector	3	0
Superintendent	2	0
Deputy Chief	2	0

SEPARATION

Separations and retirements are regularly reported to the Board through the monthly Human Resources Update reports. Historical activity is as follows:

Separation Activity

	2013	2014	2015	2016	2017	2018	2019 (April 30)
RESIGNATIONS							
SOA – Civilian							
SOA - Sworn			1			1 Sworn	
Uniform	3	4	9	10	18	12	4
Civilian FT / PT	4 / 17	17	2/12	5/8	3/8	1 / 7	2 / 3
Students	209	168	137	129	125	135	68
Subtotal	233	185	161	152	154	156	77
RETIREMENTS							
Chief		1					
Deputy Chief				1		1	
SOA – Civilian					1 Civ	1 Civ	
SOA - Sworn		2	5	9	2 Sworn	4 Sworn	1 Sworn
Uniform	13	17	24	27	43	24	6
Civilian FT / PT	5 / 0	3 / 0	12 FT	10/1	9 FT	12FT	4 FT
Deceased		*1	*1				
Subtotal	18	23	42	48	55	42	11
TOTAL	251	208	203	200	209	198	88

**For 2019, the data gathered is from May 1st, 2018 to April 30th, 2019.

Procedures on Responding To and Preventing Discrimination and Harassment in the Workplace (Provision 1.c.ii)

The DRPS's directive, "Respect in the Workplace [Anti-Harassment and Violence Policy] (HR-02-011)", sets out roles and responsibilities for all members in providing and maintaining a working environment that is based on respect for the dignity and rights of everyone in the organization. It further notes procedures to be followed where allegations of harassment and violence occur.

The status of respect in the workplace investigations are reported as they arise to the full Board during monthly in camera sessions.

In 2018, seven formal respect in the workplace complaints alleging harassment were received by Human Resources. Four investigations were completed and three remain active.

In 2019, as of May 30, two formal respect in the workplace complaints alleging harassment were laid. Both investigations are active.

Procedures on Employment Accommodation (Provision 1.c.iii)

As per the board policy statement, 1 (c) (iii), *establish procedures on employment accommodation*; the Service has a Disability Management Directive, HR-03-007 which is designed to assist members who have a medical condition and are temporarily or permanently disabled.

In 2018, there were 66 modified work assignments completed to provide temporary disability management and a graduated return to work. The number of temporary work assignments from January 2019 to April 30, 2019 was 34. The number of permanently accommodated sworn members increased to 42 in 2018 from 36 in 2017 and the total number of permanently accommodated civilian members decreased to 20 from 22 in 2018. Each permanent accommodation continues to be reviewed on an annual basis and updated medical is required.

Sexist, Racist, or Derogatory Material in the Workplace (Provision 1.c.iv)

The Service was not made aware of sexist or derogatory materials posted in the workplace in 2017, nor have any complaints been received this year as of May 24.

Training on Race Relations and Diversity (Provision 1.c.v)

The Service provides training on race relations, diversity and human rights through the Anti-Racial Profiling electronic learning module (ELM) and compliance is monitored through the Police Education and Innovation Centre. Additionally, Fair and Impartial Policing training was instituted across the Service by the Diversity, Equity and Inclusion Unit for every member.

The 2017-2019 Diversity, Equity and Inclusion (DEI) Strategic Plan encompasses the goal of fostering trust and confidence of diverse communities through training.

2. MEMBER HIRES, SEPARATIONS, AND BOARD-LEVEL RESPONSES TO GRIEVANCES

The current system for monthly reporting to the Board, with supporting data where warranted, ensures that all member hires, separations and Board-level responses to grievances are presented for Board review, consent and/or direction as appropriate.

3. ACQUAINTANCE WITH WRITTEN DIRECTIVES

As noted in section 1. a above, written Service Directives are available to all members through the Service's intranet. The Human Resources Unit continues to provide relevant information to new members at the time of hire including the review of key directives. Specifically, On-boarding sessions continue and are aimed at providing new members and students with relevant information as they commence their positions with the Service.

4. PREPARATION TO PERFORM DUTIES EFFECTIVELY AND SAFELY

The Service continues to promote safe and effective performance of duties through the following core initiatives:

- The Joint Health & Safety Committee (JHSC), constituted under the Occupational Health and Safety Act. The Joint Health and Safety Committee meets monthly to discuss relevant issues and the divisional representatives meets bi-annually;
- The Designated Officer program, ensuring that there are identified sworn members available across the Service who are trained and certified;
- Mandatory training and re-certification regarding Use of Force and officer safety, conducted annually for all sworn members to ensure they remain qualified under Reg. 926, sec 14.2 of the Police Services Act.

PROGRAM HIGHLIGHTS OF 2018/2019 TO DATE

The Service continually invests in initiatives that promote health and wellness. Here are a few highlights:

- The program, Healthy Apples, remains popular with members with a completion rate of 286 members in 2018. The program aims at improving the physical and mental health of members who voluntarily enroll in the program.
- This year, a mentorship program between new recruits and PILLAR peer supporters was created. The program matches peer supporters with new recruits to assist with normalizing reaching out for mental health help from the beginning of their careers.
- DRPS and members of the first responders community are collaborating with Ontario Shores and Wounded Warriors to establish the first Centre For First Responders in Durham Region. The Centre will provide Public Safety Personnel with a continuum of mental health and addictions services beginning with building resilience to providing timely, accessible and culturally appropriate support.
- The Service continues to collaborate with Wounded Warriors Canada in effort to provide additional mental health support for members and their families. In the spring of this year, Wounded Warriors presented to the PILLAR peer supporters on programming available for first responders.
- In June of this year, PILLAR peer supporters were provided with Safer-R Model training through the Canadian Critical Incident Stress Foundation.
- Three Use of Force instructors and a PILLAR peer supporter will be trained in Critical Incident Reintegration Program this month. It is a peer-driven return to work program for police officers dealing with the stress of a critical incident.

2018 OCCUPATIONAL INJURIES

One way to monitor the effectiveness of safety training is through the occurrence of occupational injuries. There were 221 occupational injuries reported in 2018. The most frequent injury on duty reported was 'Struck Against or Contact with', which includes: being struck by an accused with an object; struck against walls, desks, doors; or in contact with substances, sharp objects, dog bites.

Out of the 56 Struck Against or Contact with reported, 15 members lost time from work, 20 sought medical attention and 21 reported the incident as a hazard.

2019 OCCUPATIONAL INJURIES TO DATE

There have been 99 occupational injuries reported in 2019 as of April 30, 2019. The most frequent injury on duty reported was 'Slip, Trip or Fall' which includes slipping on ice, tripping on uneven ground, or falling from an elevated height or same height due to an encounter with an object or an accused.

Out of the 29 'Slip, Trip or Fall' injuries reported, 8 members lost time from work, 6 sought medical attention and 15 reported the incident as a hazard.

The following table details the categories of occupational injuries reported over the past 7 years together with this year's incidents as of the end of April.

Historical Occupation Injuries

Category	2013	2014	2015	2016	2017	2018	2019 (as of April 30)
Slip Trip or Fall	43 (18.22%)	38 (13.5%)	19 (7.95%)	27 (11.8%)	30 (14.2%)	25 (11.3%)	29 (29.3%)
Over Exertion	32 (13.5%)	24 (8.5%)	34 (14.23%)	17 (7.5%)	19 (8.9%)	18 (8.1%)	1 (1%)
Exposure	44 (18.64%)	127 (45%)	68 (28.45%)	51 (22.4%)	38 (17.9%)	30 (13.6%)	21 (21.2%)
Occupational Stress Injury	Previously included in exposure	Previously included in exposure	17 (7.11%)	18(7.9%)	24 (11.3%)	47 (21.3%)	4 (4%)
Struck By	34 (14.41%)	6 (2.10%)	12 (5.02%)	4 (1.8%)	1 (0.47%)	2 (0.9%)	3 (3%)
Struck Against or Contact With	40 (16.95%)	41 (14.5%)	52 (21.76%)	63 (27.6%)	58 (27.4%)	56 (25.3%)	15 (15.2%)
Training	23 (9.75%)	17 (6.0%)	18 (7.53%)	11 (4.8%)	16 (7.5%)	18 (8.1%)	8 (8.1%)
Motor Vehicle Collision	11 (4.66%)	14 (5.0%)	10 (4.18%)	9 (3.9%)	14 (6.6%)	8 (3.6%)	6 (6.1%)
Caught in Under or Between	3 (1.27%)	1 (.4%)	1 (0.42%)	3 (1.3%)	3 (1.4%)	6 (2.7%)	3 (3%)
No Injury	2 (0.85%)	3 (1.1%)	1 (0.42%)	13 (5.7%)	6 (2.8%)	9 (4.1%)	3 (3%)
Repetitive Strain	5 (2.12%)	11 (3.9%)	7(2.93%)	12 (5.3%)	3 (1.4%)	2 (0.9%)	6 (6.1%)
Total Incidents Reported	237	282*	239	228	212	221	99

*increase can be directly attributed to 1 incident (Fire at a Whitby retirement/Long term care facility) which resulted in 74 claims

Legend

- Exposure includes loud noise, fumes, blood contaminations, smoke inhalation, heat exposure
- Occupational Stress Injury includes Post-Traumatic Stress Disorder, critical stress, mental health related claims
- Struck By includes altercation with accused (i.e. a direct hit by accused)
- Struck Against or Contact with includes being struck by an accused with an object; struck against walls, desks, doors etc, or contact with substances, sharp objects, dog bites
- Training includes PEIC, OPC, work outs in/on site gym
- Caught in, Under or Between includes caught in doors, fences, handcuffs
- No Injury means Non-WSIB compensable

5. SECONDARY ACTIVITIES

The Service's directive, Secondary Activities (HR-02-001), together with the *Police Services Act* sets out the procedures to be followed should members wish to engage in same. The policy is also informed by relevant case law which sets the landscape for the management of secondary activity requests. It is important to note that as a result of case law in 2004, the application and notification processes to engage in secondary activities have changed. Specifically, as of 2004, members are not required to disclose secondary activity unless it appears to, or may, conflict with the four restrictions referenced below.

Secondary activities are not prohibited; however, reasonable restrictions are placed on members and in certain circumstances activities must be disclosed to the Chief of Police. Members shall not engage in any activity:

- a) That interferes with or influences adversely the performance of their duties as a member of the police service, or is likely to do so;
- b) That places them in a conflict of interest, or is likely to do so;
- c) That would otherwise constitute full time employment for another person; or
- d) In which the member has an advantage derived from being a member of the Service.

Prior to the change in reporting secondary activities in 2004, members had to request approval to engage in any and all secondary activities, not solely those in conflict with the four elements aforementioned.

Human Resources has received 5 requests to engage in secondary activities in 2018 and 2 requests to engage in secondary activities as of April 30, 2019.

6. PERFORMANCE APPRAISAL SYSTEM

The Service's directive, Performance Management Process (HR-03-001), sets out procedures to be followed when performance meets, exceeds or falls below acceptable standards.

The Performance Management Process sets out performance goals and expectations for all members. The Performance Management Process was audited in June of 2015, March of 2016 and June of 2017 for both compliance and quality. A management action plan was created in response of the audits and

closed out. The process is currently undergoing another audit to ensure the integrity of the process and accountability of duties and responsibilities. New to this review is an educational component for leaders to help ensure consistency of ratings and content amongst the varied leaders completing the PMPs. As well as auditing goals for equity and inclusion. As of May 31, 2019 the Service is at a compliance rate of 74%. The outstanding appraisal number is composed of members who have had changes in leadership due to transfers and/or promotions or prolonged absences from work.

7. PROCEDURES ON THE LEGAL INDEMNIFICATION OF MEMBERS

Article 7 of the CBAs provides reimbursement for legal fees under certain circumstances. The Service's directive, Risk Management and Legal Indemnification (AO-05-004), sets out established procedures regarding the application of the legal indemnification as provided for in the CBAs, the regional insurance pool and the *Police Services Act of Ontario*.

In 2018, \$220,036.85 was paid out in legal indemnification despite the fact that the legal costs may actually have been incurred in prior year(s). The breakdown of the amount paid in 2018 is:

- \$16,561.44 under section 7.01 - Uniform CBA - for two OIPRD directed hearings
- \$67,347.69 under section 7.02 - Uniform CBA – for ten SIU matters
- \$136,127.72 under section 7.04 – Senior Officer's CBA – for four matters

In 2019, as of May 30, \$34,265.49 has been paid in legal indemnification as follows:

- \$30,520.21 under section 7.02 - Uniform CBA – for four SIU matters
- \$3,745.28 under section 7.04 – Senior Officer's CBA – for one matters

8. WORKPLACE VIOLENCE AND HARASSMENT

The *Occupational Health and Safety Act* of Ontario sets out roles and responsibilities for employers and employees regarding workplace violence and harassment. The Service's directive, Respect in the Workplace [Anti-Harassment and Violence Policy] HR-02-011, sets out procedures to be followed where allegations of harassment and violence occur.

There were no complaints or visits with the Ministry of Labour in 2018 and none as of May 30, 2019.

9. DOMESTIC VIOLENCE IN THE WORKPLACE

The *Occupational Health and Safety Act* of Ontario requires employers to take every reasonable precaution to protect employees at risk of physical injury as a result of domestic violence. Together with the Respect in the Workplace directive noted above, the Domestic Violence Occurrences (LE-01-024) directive sets out procedures to address domestic violence and support for members dealing with same. No complaints of domestic violence in the workplace were received in 2018 or as of May 30, 2019.