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This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.

CONSULTATION DRAFT

ONTARIO REGULATION

To be made under the

COMMUNITY SAFETY AND POLICING ACT, 2019

ADEQUATE AND EFFECTIVE POLICING (GENERAL)

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INTERPRETATION

Interpretation**1. (1) In this Regulation,**

“critical infrastructure” means processes, systems, facilities, technologies, networks, assets and services essential to the health, safety, security or economic well-being of Canadians and to the effective functioning of government, including processes, systems, facilities, technologies, networks, assets or services that are interconnected and interdependent with those of another province or territory of Canada or the United States; (“infrastructures essentielles”)

“incident commander” means, as applicable, an incident commander and any class of incident commander, including a major incident commander, critical incident commander and major critical incident commander; (“commandant des opérations sur le lieu de l’incident”)

“major incident” means, in relation to a police service, a situation in which there is reason to suspect,

- (a) that a terrorism offence within the meaning of section 2 of the *Criminal Code* (Canada) will be or has been committed that will cause or has caused casualties or negative impacts to critical infrastructure in the police service’s area of policing responsibility,
- (b) that a criminal offence will be or has been committed that will cause or has caused mass casualties that could potentially exceed the capacity of the police service,
- (c) that a criminal offence will be or has been committed that will cause or has caused negative impacts to critical infrastructure requiring a response by the police service that could potentially exceed its capacity, or
- (d) that multiple active attacker incidents will occur, or are occurring, simultaneously, at least one of which is in the police service’s area of policing responsibility, and there is reason to suspect the incidents are related; (“incident majeur”)

“Major Incident Response Plan” means the document titled “Major Incident Response Plan” approved by the Minister, dated [TBC] and available on a website of the Government of Ontario; (“Plan d’intervention en cas d’incident majeur”)

“police service’s area of policing responsibility” means, in relation to a police service, the area in which the police service board or Commissioner, as the case may be, has policing responsibility; (“secteur de responsabilité en matière de services policiers du service de police”)

“policing needs of the community” means, in relation to a police service, the policing needs of the people in the police service’s area of policing responsibility, based on such factors as crime, call for service and public disorder analyses, criminal intelligence, road safety information and any other relevant factor. (“besoins de la collectivité en matière de services policiers”)

(2) A requirement in this Regulation that there be capacity to deploy a specified minimum number of people to an incident shall not, for greater certainty, be read as requiring a minimum of that number of people to be deployed to every applicable incident.

ADEQUATE AND EFFECTIVE POLICING

Generally applicable standard

2. (1) A policing function shall be provided to an extent and in a manner that is reasonable, having regard to the following factors:

1. The policing needs of the community.
2. The geographic and socio-demographic characteristics of the police service’s area of policing responsibility.
3. The extent to and manner in which the policing function is effectively provided in similar communities in Ontario.
4. The extent to which past provision of the policing function by the police service has been effective.
5. Best practices respecting the policing function.

(2) Consideration of a factor listed in subsection (1) shall be based on quantitative and qualitative information, to the extent that such information is available in relation to the factor.

(3) In the event of a conflict between this section and any other provision of this Regulation or of another regulation made under subsection 261 (1) of the Act, the other provision prevails to the extent of the conflict.

CRIME PREVENTION

Standards

3. The following standards for adequate and effective policing, relating to crime prevention, are prescribed:

1. Crime prevention shall involve the provision of crime prevention initiatives, including community-based crime prevention initiatives.

2. Crime prevention initiatives shall be consistent with,
 - i. the strategic plan adopted under section 39 or 61 of the Act that applies with respect to the police service, and
 - ii. the policing needs of the community.
3. Crime prevention initiatives shall be monitored and regularly evaluated to determine their effectiveness and the ongoing need for them.

Procedures

4. Every chief of police shall establish written procedures on crime prevention initiatives.

LAW ENFORCEMENT

Standards

5. (1) The following standards for adequate and effective policing, relating primarily to law enforcement, are prescribed:

1. Community patrol shall be provided, using a police service's own police officers, and shall consist of,
 - i. general patrol, and
 - ii. directed patrol in the areas and at the times where it is considered necessary or appropriate.
2. Police services shall have,
 - i. a criminal intelligence process that meets the requirements of subsection (2),
 - ii. crime analysis, call for service analysis and public disorder analysis capacities, and
 - iii. investigative supports, including supports in the areas of crime scene analysis, forensic identification services, canine tracking, technical collision investigation and reconstruction, breath analysis by a breath analysis technician, drug recognition expert evaluation, standardized field sobriety testing, physical surveillance, electronic interception of private communications, video and photographic surveillance and behavioural science services.

(2) The criminal intelligence process referred to in subparagraph 2 i of subsection (1) shall include,

- (a) the collection of intelligence information, including,
 - (i) an intelligence collection plan that at a minimum addresses the resources to be used for the collection of intelligence information where needed, and
 - (ii) the gathering of information covertly and overtly as needed;
- (b) the processing and collation of intelligence information, including,
 - (i) the storage of intelligence information in record management systems or intelligence databases, as applicable, and
 - (ii) the management and retrieval of collected intelligence information;
- (c) the analysis and evaluation of intelligence information, including,
 - (i) the assessment of the reliability and validity of information and its source,
 - (ii) the analysis of information to assess its usefulness, and
 - (iii) the analysis and collation of information to create intelligence products; and
- (d) the dissemination of intelligence information, including,
 - (i) ensuring that appropriate classifications and restrictions, as determined by Criminal Intelligence Service Ontario, are included on intelligence products,
 - (ii) protocols for the timely approvals and sharing of intelligence information within the police service,
 - (iii) protocols for the timely approvals and sharing of intelligence information with other police services, law enforcement agencies, intelligence agencies such as Criminal Intelligence Service Ontario, appropriate government agencies and other organizations, as applicable,
 - (iv) protocols for the timely approvals and sharing of intelligence information through intelligence databases, as applicable, and
 - (v) a process to record and track the dissemination of intelligence information; and
- (e) the maintenance of intelligence information in a manner that ensures its security.

Procedures

6. Every chief of police shall establish the following written procedures:

1. Procedures on community patrol that address when and where directed patrol is considered necessary or appropriate, based on the policing needs of the community.
2. Procedures on traffic direction and enforcement, including traffic patrol.
3. Procedures for when more than one police officer must respond to an occurrence or call for service.
4. Procedures in respect of,
 - i. internal task forces,
 - ii. joint forces operations,
 - iii. undercover operations,
 - iv. criminal intelligence,
 - v. crime, call for service and public disorder analyses,
 - vi. informants and agents,
 - vii. witness protection and security,
 - viii. police response to persons who are in crisis, regardless of whether those persons appear to have a mental illness or a neurodevelopmental disability,
 - ix. search of the person,
 - x. search of premises,
 - xi. arrest,
 - xii. bail and violent crime,
 - xiii. detainee care and control,
 - xiv. detainee transportation, and
 - xv. property and evidence control.

5. Procedures in respect of the investigative supports listed in subparagraph 2 iii of subsection 5 (1) and any other investigative supports available to members of the police service.
6. Procedures for the provision of law enforcement in respect of all navigable bodies and courses of water within the police service's area of policing responsibility.

MAINTAINING THE PUBLIC PEACE

Standards

7. (1) In this section and section 8,

“public order incident” means an incident requiring the services of a public order unit.

(2) The following standards for adequate and effective policing, relating primarily to maintaining the public peace, are prescribed:

1. A police service board or the Commissioner shall either provide for a public order unit in a police service or, if permitted by Ontario Regulation [***/** reference to regulation re alternative provision of policing functions] made under the Act, enter into an agreement pursuant to section 14 of the Act for the services of such a unit.
2. For the purposes of paragraph 1, a public order unit,
 - i. shall have the capacity to deploy to a public order incident, at a minimum, a section of the unit consisting of,
 - A. at least 32 police officers, including a section leader, and
 - B. a public order commander, and
 - ii. must be able to be deployed in a reasonable time, having regard to,
 - A. the policing needs of the community,
 - B. the geographic and socio-demographic characteristics of the police service's area of policing responsibility,
 - C. the total population and population density of the police service's area of policing responsibility,
 - D. the presence of critical infrastructure in the location where the public order unit is to be deployed,

- E. information about public order incidents in the police service's area of policing responsibility within at least the previous three years, including information about the scope and severity of the incidents, and
- F. best practices in relation to response times for public order units.

Procedures

8. Every chief of police shall establish the following written procedures:

1. Procedures respecting the functions, responsibilities and reporting relationships of a public order unit and its members, including in relation to the role of a public order commander and, if any, to a police liaison team.
2. Procedures respecting the deployment of a public order unit for planned and unplanned public order incidents, including,
 - i. setting out the circumstances for deployment,
 - ii. specifying the process for authorizing deployment, and
 - iii. identifying operational responsibility for authorizing deployment.
3. Procedures for debriefing a public order incident within the police service following the deployment of a public order unit, which shall include,
 - i. the preparation of a summary of information regarding the incident, including the nature of the incident, the date, time and location of the incident, the environment in which the incident occurred and the details on the response to the incident by the public order unit, and
 - ii. an analysis of the outcome of the incident, including what worked well and recommendations for improvements, as well as matters to be addressed through changes to procedures or training.
4. Procedures on police action in respect of labour disputes.
5. Procedures on police action in respect of protests, demonstrations and occupations.

EMERGENCY RESPONSE

Standards

9. (1) The following standards for adequate and effective policing, relating primarily to emergency response, are prescribed:

1. Response to emergency calls for service shall be provided, 24 hours a day.
2. Emergency response shall include,
 - i. the functions of a tactical unit, as set out in subsection (3),
 - ii. the functions of a hostage rescue team, as set out in subsection (4),
 - iii. the functions of an incident commander,
 - iv. the functions of a crisis negotiator, and
 - v. explosive disposal.
3. The members of a police service providing the emergency response functions listed in paragraph 2 must be able to be deployed within a reasonable time, having regard to,
 - i. the policing needs of the community,
 - ii. the geographic and socio-demographic characteristics of the police service's area of policing responsibility,
 - iii. the total population and population density of the police service's area of policing responsibility,
 - iv. information about incidents requiring the provision of an emergency response function listed in paragraph 2 in the police service's area of policing responsibility within at least the previous three years, including information about the scope and severity of the incidents, and
 - v. best practices in relation to emergency response times.
4. A tactical unit or hostage rescue team shall have the capacity to deploy at least 18 full-time tactical officers, including a supervisor, to an incident requiring tactical or hostage rescue services. However, the functions of a tactical unit and hostage rescue team may be provided by a single unit or team that is capable of performing the functions of both a tactical unit and a hostage rescue team.
5. Police officers who are not members of a tactical unit and who are deployed in a containment function, including members of a containment team, shall not, before the arrival of members of a tactical unit, employ offensive tactics unless the police officers believe, on reasonable grounds, that to do so is necessary to protect against the loss of life or serious bodily harm.

6. For the purposes of subparagraph 2 iv, there shall be capacity in the police service to deploy at least two crisis negotiators simultaneously to any incident requiring the functions of a crisis negotiator.
7. Emergency response shall include emergency ground and waterways search, rescue and recovery which, in the case of emergency ground searches for missing persons, shall include capacity to deploy members of a police service to conduct searches and a search manager to coordinate searches and manage searchers.
8. Members of a police service providing emergency ground and waterways search, rescue or recovery must be able to be deployed within a reasonable time, having regard to,
 - i. the policing needs of the community,
 - ii. the geographic and socio-demographic characteristics of the police service's area of policing responsibility,
 - iii. the total population and population density of the police service's area of policing responsibility,
 - iv. information about incidents requiring emergency ground and waterways search, rescue or recovery in the police service's area of policing responsibility within at least the previous three years, including information about the scope and severity of the incidents, and
 - v. best practices in relation to response times for emergency ground and waterways search, rescue and recovery.
9. In the case of emergency ground searches, the search manager must ensure that the area covered by the emergency ground search is recorded and that the steps taken to complete the search are documented.

(2) In paragraph 4 of subsection (1), "full-time tactical officer" means a police officer assigned and dedicated to a tactical unit or hostage rescue team but who, when not training or undertaking tactical or hostage rescue activities, may undertake community patrol.

(3) The functions of a tactical unit are,

- (a) containment; and
- (b) apprehension of an armed barricaded person.

(4) The functions of a hostage rescue team are,

- (a) the functions listed in subsection (3);
- (b) explosive forced entry; and
- (c) hostage rescue.

Procedures

10. (1) Every chief of police shall establish the following written procedures:

1. Procedures respecting the provision of the functions listed in paragraph 2 of subsection 9 (1),
 - i. setting out the circumstances in which the members of a police service providing the functions will be deployed,
 - ii. in relation to the functions of tactical units and hostage rescue teams, authorizing the tactical supervisor or incident commanders to determine how many tactical officers are required to be deployed to an incident, and
 - iii. in relation to the deployment of incident commanders and crisis negotiators,
 - A. specifying the process for authorizing deployment,
 - B. identifying operational responsibility for authorizing deployment, and
 - C. in the case of incident commanders, ensuring that an incident commander assigned to manage an incident has the training prescribed by the Minister under the Act that is appropriate to the incident.
2. If the police service has a containment team, procedures for that team, including setting out the circumstances in which the team will be deployed.
3. Procedures on preliminary perimeter control and containment,
 - i. setting out the circumstances in which preliminary perimeter control and containment will be established,
 - ii. identifying who has operational responsibility for the establishment of preliminary perimeter control and containment, and

- iii. setting out the duties of police officers in respect of establishing preliminary perimeter control and containment until the arrival of a tactical unit or containment team.
4. Procedures relating to major incidents that are consistent with the Major Incident Response Plan.
5. If the police service has a mobile mental health and addictions crisis team, procedures respecting its functions and the provision of those functions.
6. Procedures on explosive forced entry and explosive disposal,
 - i. respecting the initial response to occurrences involving found or suspected explosives,
 - ii. respecting the deployment of police forced entry explosives and explosive disposal services, including,
 - A. setting out the circumstances for deployment,
 - B. specifying the process for authorizing deployment, and
 - C. identifying operational responsibility for authorizing deployment.
7. Procedures on responses to a chemical, biological, radiological, nuclear or explosive incident.
8. Procedures on emergency ground search, rescue and recovery,
 - i. respecting the coordination of searches and management of searchers by a search manager, including the deployment of members of the police service as searchers, and
 - ii. setting out requirements for the tracking and documentation of ground searches by a search manager for the purposes of paragraph 9 of subsection 9 (1).
9. Procedures on emergency waterways search, rescue and recovery, including underwater search and recovery,
 - i. respecting the functions, responsibilities and reporting relationships of members of a police service who are responsible for or undertake waterways search, rescue and recovery and of persons who are assisting those members while acting under their direction, and

- ii. respecting the deployment of members of the police service for waterways search, rescue and recovery, including,
 - A. setting out the circumstances for deployment,
 - B. specifying the process for authorizing deployment, and
 - C. identifying operational responsibility for authorizing deployment.

10. Procedures respecting canine units,

- i. respecting the functions, responsibilities and reporting relationships of canine units and canine teams,
- ii. respecting the deployment of canine units and canine teams, including,
 - A. setting out the circumstances for deployment,
 - B. specifying the process for authorizing deployment, and
 - C. identifying operational responsibility for authorizing deployment.

(2) For the purposes of paragraph 10 of subsection (1),

“canine team” means a team comprised of a dog and a member of a police service who is a dog handler; (“équipe canine”)

“canine unit” means a unit of two or more canine teams. (“unité canine”)

Other duties of chief of police

11. (1) Every chief of police shall ensure that the following individuals are police officers:

1. A member of a tactical unit or hostage rescue team.
2. A member of a containment team, if any.
3. An incident commander.
4. A crisis negotiator.

(2) Every chief of police shall,

- (a) comply with any obligations of chiefs of police set out in the Major Incident Response Plan; and
- (b) ensure that members of the police service respond to major incidents in a manner consistent with the Major Incident Response Plan.

(3) Every chief of police shall take reasonable steps to develop partnerships with other emergency service providers and, if any, trained volunteer groups, for the purpose of facilitating coordination of operations in the police service's area of policing responsibility in relation to the matters listed in paragraphs 7, 8 and 9 of subsection 10 (1).

Agreements under s. 14 of the Act

12. (1) The parties to an agreement under section 14 of the Act regarding the provision of a policing function shall ensure that, before the agreement is entered into, the chiefs of police of the affected police services consult with each other on the procedures each has established under this Regulation with respect to the function.

(2) Before entering into an agreement under section 14 of the Act respecting the provision of the functions of a tactical unit or of a hostage rescue team, the party to the agreement who would be receiving the functions shall ensure that,

- (a) the agreement provides that either,
 - (i) the police service that would provide the functions would also provide the functions of incident commanders and crisis negotiators who have trained with the tactical unit or hostage rescue team, or
 - (ii) the incident commanders and crisis negotiators of the police service that would be receiving the functions would train with the tactical unit or hostage rescue team; and
- (b) the agreement provides that, if police officers from more than one police service participate in the tactical unit or hostage rescue team, the chiefs of police of each of those police services would ensure that all the unit or team members train together.

ASSISTANCE TO VICTIMS OF CRIME

Standards

13. The following standards for adequate and effective policing respecting assistance to victims of crime are prescribed:

1. Victims of crime shall be offered assistance as soon as practicable.

2. Victims of crime shall be provided with referrals to, as appropriate in the circumstances, emergency services, health care professionals, victim support agencies, social service agencies and other appropriate governmental, non-governmental or community organizations.

Procedures

14. Every chief of police shall establish written procedures on providing assistance to victims that,

- (a) reflect the principles of the *Victims' Bill of Rights, 1995* and the *Canadian Victims Bill of Rights*; and
- (b) set out the responsibilities of members of the police service in providing assistance to victims.

ADDITIONAL POLICING FUNCTIONS

Dispatching

15. (1) For the purposes of paragraph 6 of subsection 11 (1) of the Act, adequate and effective policing includes dispatching members of a police service.

(2) The following standards for adequate and effective policing, relating to the dispatching of members of a police service, are prescribed:

1. A communications centre that operates 24 hours a day with one or more communications operators or dispatchers to answer emergency calls for service and that maintains constant two-way voice communication capability with police officers who are on patrol or responding to emergency calls must be used for the purposes of dispatching members of a police service.
2. A member of a police service must be available 24 hours a day to supervise police communications and dispatch services.
3. Police officers on patrol must be provided with portable two-way voice communication capability that allows the police officers to be in contact with the communications centre when away from their vehicle or on foot patrol.

(3) Every chief of police shall establish written procedures on communications and dispatch services.

Compliance with other legal duties

16. For the purposes of paragraph 6 of subsection 11 (1) of the Act, adequate and effective policing includes compliance with any duty imposed on a chief of police, police officer, police

service or member of a police service, as applicable, under the *Children's Law Reform Act*, the *Courts of Justice Act*, the *Police Record Checks Reform Act, 2015* or any other Ontario statute.

OTHER MATTERS RE PROVISION OF POLICING FUNCTIONS

Supervision

17. (1) Supervision shall be available to members of a police service 24 hours a day in the provision of any policing function.

(2) Every chief of police shall establish written procedures on supervision, including setting out circumstances in which a supervisor must be contacted and when a supervisor must be present at an incident.

Capability

18. Every chief of police shall ensure that the members of the police service, or persons performing a policing function under the direction of a member, are capable of performing the functions assigned to them.

Emergency plan

19. (1) Every chief of police shall, subject to subsection (2), prepare an emergency plan for the police service setting out the roles and responsibilities of the police service during an emergency and the procedures to be followed during an emergency.

(2) In developing a plan under subsection (1), the chief of police of a police service that is maintained by a police service board shall consult with the municipality or First Nation that maintains the board and any other applicable emergency service providers.

(3) A chief of police to whom subsection (2) applies may adopt as the police service's emergency plan the emergency plan of the municipality or First Nation, if that emergency plan addresses the roles and responsibilities of the police service during an emergency and the procedures to be followed by members of the police service during an emergency.

Compliance with written procedures

20. Every chief of police shall ensure that the police service provides policing functions in accordance with the written procedures the chief of police establishes under the Act.

Quality assurance

21. Every police service board and every chief of police shall implement a quality assurance process relating to,

- (a) the provision of adequate and effective policing; and
- (b) compliance with the Act and the regulations.

COMMENCEMENT**Commencement****22. [Commencement]**