

Ministry of the Solicitor General

ZONE UPDATE

October 11, 2019

1. COMPREHENSIVE ONTARIO POLICE SERVICES ACT, 2019

- Bill 68, the *Comprehensive Ontario Police Services Act, 2019* received Royal Assent on March 26, 2019, however its proclamation date has not been determined yet.
- The Act creates the *Community Safety and Policing Act, 2019* and the *Special Investigations Unit Act, 2019*; it also amends the *Mandatory Blood Testing Act, 2006* and the *Coroners Act*.
- When the *Community Safety and Policing Act, 2019* comes into force it will repeal and replace the current *Police Services Act* (1990). Until then the *Police Services Act* remains in force.
- The amendments to the *Police Services Act* (1990) that added new community safety and well-being (CSWB) planning provisions, came into force on January 1, 2019. They will continue to be in force with a new provision requiring the participation of local police services in developing the plan.
- The *Comprehensive Ontario Police Services Act, 2019* also repeals the following statutes that were passed in 2018 under the previous government but had not yet come into force: *Police Services Act, 2018*, *Ontario Special Investigations Unit Act, 2018*, *Policing Oversight Act, 2018* and the *Ontario Policing Discipline Tribunal Act, 2018*.
- The *Missing Persons Act, 2018*, and *Forensic Laboratories Act, 2018*, and most of the previous amendments to the *Coroners Act* will remain as passed in the *Safer Ontario Act, 2018*.
 - An All Chiefs Memo (ACM 19-0044) went out on June 7th which confirms that the *Missing Persons Act, 2018* came into force on July 1, 2019.
- In order to bring the *Community Safety and Policing Act, 2019* into force supporting regulations must be developed to fully implement the Act. In late July, the Ministry of the Solicitor General began preparations to engage stakeholders on the new regulatory framework that will need to be developed to support the Act. Stakeholders from the policing sector and community and social services were invited to participate in engagement tables. The ministry will also set up an engagement table with First Nations partners. Engagement will be ongoing as the ministry works towards developing a robust regulatory framework. The ministry will continue to seek

collaborative input from our policing partners, the public and subject matter experts on this critical next phase.

A. THE COMMUNITY SAFETY AND POLICING ACT, 2019 (CSPA, 2019)

CSPA and Oversight

- The CSPA, 2019 transforms the Office of the Independent Police Review Director (OIPRD) into the Law Enforcement Complaints Agency (LECA). Its responsibilities would include:
 - Receiving and screening public complaints involving police officers, special constables employed by the Niagara Parks Commission, peace officers employed by the Legislative Protective Service, and forwarding complaints about members of a board (e.g., municipal or First Nations) to the Inspector General of Policing (IG).
 - Assigning complaints for investigation relating to police officers, Niagara Parks Commission special constables, and peace officers employed in the Legislative Protective Service to a police service (of the officer or alternate) or an agency investigator.
 - Requiring investigative entities (e.g., chief of police) to explain delays in the completion of an investigation after 120 days and every 30 days thereafter.
- The CSPA, 2019 also establishes the office of the IG within the Ministry of the Solicitor General to monitor, inspect, and ensure compliance with the act and its regulations. The IG would also be responsible for ensuring the delivery of adequate and effective policing. It also empowers the IG to receive and review policy/service complaints.
- The IG would also be empowered to impose remedies for non-compliance with the CSPA, 2019, and board member misconduct.
- The IG would be required to forward the investigative report regarding a board member's misconduct to the entity responsible for the appointment of the board member. The IG would serve a term of five years, with the possibility of a one-term renewal of five years.

CSPA & Policing Functions

- The CSPA, 2019 stipulates that policing functions that meet the following two standards must be provided by members of a police service:
 - The policing function is either (i) crime prevention, (ii) law enforcement, (iii) emergency response, or (iv) maintaining the public peace; and
 - The function requires the exercise of the powers of a peace officer or a police officer.
- The CSPA, 2019 also:
 - mandates human rights, systemic racism, diversity and Indigenous training for new police officers, new special constables, and Police Service Board members.
 - requires police service board members to successfully complete basic training on roles and responsibilities before exercising powers and performing duties; and,
 - mandates public consultations for Lieutenant Governor in Council regulations made under the new policing and police oversight legislation.

2. COMMUNITY SAFETY AND WELL-BEING

A. COMMUNITY SAFETY AND WELL-BEING PLANNING

- New legislative requirements related to community safety and well-being (CSWB) planning came into force on January 1, 2019, as an amendment to the current *Police Services Act* (1990).
 - Municipalities have two years from the in-force date to prepare and adopt their first CSWB plan (i.e., by January 1, 2021), working in collaboration with local police services/boards and various other sectors such as health/mental health, education, community and social services, and children/youth services.
 - Municipalities have the discretion and flexibility to develop CSWB plans either individually or jointly with other municipalities or First Nation band councils.
- Schedule 2 of the COPSA, 2019 amends the CSWB planning provisions in the current *Police Services Act* (1990) and these amendments came into force immediately upon Royal Assent (i.e., March 26, 2019).
- Amendments to the CSWB planning provisions (included in Scheduled 2 of COPS Act, 2019) that came into force on March 26, 2019, include:
 - Advisory Committee:
 - The chief of police of a police force that provides policing in the area, or his or her delegate, must be included on the advisory committee.
 - One person may satisfy multiple representation requirements of the Advisory Committee (i.e., one person could represent a community service as well as an educational service).
 - Plans adopted before these changes to the Advisory Committee section continue to be valid despite these changes.
 - Transition:
 - A transition provision allows for plans where consultations took place before January 1, 2019, to be deemed to have met consultation obligations if the Minister determines there is substantial compliance.
 - Publication:
 - Reports relating to the CSWB plan (i.e., reports on the effect the plan is having, if any, on reducing the prioritized risk factors) must also be published on the Internet.
- In support of this, in December 2018, the Ministry released an updated version of the *Community Safety and Well-Being Planning Framework: A Shared Commitment in Ontario* booklet, which now includes reference to the new legislative requirements related to CSWB planning, a new critical success factor that highlights the importance of cultural responsiveness in the planning process, as well as a new tool to assist municipalities with the engagement of Indigenous partners as part of their municipally-led CSWB plan. The booklet is available on the Ministry's website at: <https://www.mcscs.jus.gov.on.ca/english/Publications/MCSCSSSOPanningFramework.html>
- In addition, the Ministry hosted webinars in spring 2019 to support municipal, policing, and community partners as they engage in the CSWB planning process.

B. RISK-DRIVEN TRACKING DATABASE:

- The Ministry initiated the Risk-driven Tracking Database (RTD) project to provide a standardized means of gathering de-identified information on situations of elevated risk for communities implementing multi-sectoral risk-based intervention initiatives, such as Situation Tables.

- Complementary to the Ministry's Community Safety and Well-Being Planning Framework, the RTD is an important tool that can help communities collect local risk-based data that can be used to inform the community safety and well-being planning process.
- The Ministry continues to on-board new communities to the RTD. As of August 2019, 54 sites have been on-boarded.
- For any new communities considering use of the RTD for local multi-sectoral risk intervention initiatives (such as Situation Tables) or for a list of sites currently accessing the RTD, please reach out to Claudia Tenuta (416-212-1888).

3. ANIMAL WELFARE LEGISLATION

ANIMAL WELFARE INTERIM STRATEGY

- An agreement was in place between the Government of Ontario and the Ontario Society for the Prevention of Cruelty to Animals to extend animal welfare law enforcement services until June 28, 2019.
- As referenced in the All Chiefs Memorandum 19-0048, on June 6, 2019, the legislature passed the *Ontario Society for the Prevention of Cruelty to Animals Amendment Act (Interim Period), 2019*, a temporary measure to keep animals safe until a permanent animal welfare model is implemented.
 - The legislation includes provisions that allow for the following during the interim period of June 29, 2019 – December 31, 2019:
 - The Solicitor General may appoint any person as the Chief Inspector for the interim period; and,
 - The Chief Inspector may appoint any person as an inspector for the interim period.
 - The Solicitor General has appointed a Chief Inspector for the interim period, and the Chief Inspector has appointed inspectors employed by certain local humane societies and/or SPCAs to deliver enforcement services at the regional level.
 - Should you have any further questions, be seeking further clarity on the interim model or further information who your local humane society may be, please contact Chief Inspector, Paula Milne at Paula.Milne@ontario.ca.
- The ministry continues to engage a diverse range of interested individuals and groups, including police services and municipalities, in the development of a long-term model for animal welfare.

4. PROVINCIAL BOARD MEMBER APPOINTMENTS

- Appointments and potential candidates are being reviewed and processed by the Office of the Solicitor General. Please be aware that reappointments are not automatic or guaranteed, regardless of the number of years served.
- In July (2018), Ontario's Public Appointments Secretariat launched a new website and online application system. The new online application allows users to create an account to apply for multiple public appointments at once, or express interest in appointments with specific agencies.

- It is recommended that you visit Ontario.ca/public appointments to sign up and create a user profile in order to keep information up-to-date, apply for other/new positions, and receive email alerts.

5. POLICE SERVICES BOARD MEMBERS AND ELECTIONS

The Ministry distributed an All Chiefs Memorandum 19-0045 on June 14, 2019, stating it is the Ministry's position that a declaration of candidacy for the federal election is not necessarily cause for a board member's resignation. However, should a board member feel that, at any point in his/her political activity during the election period, he/she would be, or had the potential to be, in a real or perceived conflict of interest, it may warrant further consideration.

Should any individual police services boards have its own rules and procedures related to this issue, including those developed in accordance with s.37 of the *Police Services Act*, the board member or the board may wish to discuss this particular situation with their legal counsel. The board member might also wish to consult with the municipality to determine if there are any municipal by-laws to this issue.

6. GRANTS

Community Safety and Policing (CSP) Grant

- As a result of the Ministry's recent review of its grant programs, the Ministry has developed the new, outcomes-based CSP Grant through the transformation of the following grant programs: Policing Effectiveness and Modernization (PEM), Community Policing Partnerships (CPP), Safer Communities – 1,000 Officers Partnership (1,000 Officers), Provincial Anti-Violence Intervention Strategy (PAVIS), and Supporting Police Response to Sexual Violence and Harassment (SVHAP).
 - Beginning in 2019-20, the PEM, CPP, 1,000 Officers, PAVIS and SVHAP grant programs are no longer available.
- The new CSP Grant operates on a three-year grant cycle and supports eligible police services/boards in combatting crime on a more sustainable basis. It also provides eligible police services/boards with greater flexibility to implement initiatives that address policing and community needs related to safety and well-being.
- The CSP Grant offers two funding streams – one focused on addressing local priorities and the other focused on addressing provincial priorities. Projects funded under the provincial priorities funding stream must focus on addressing gun and gang related violence, sexual violence and harassment and/or human trafficking.
- The grant is available to municipal and OPP contract police services that were eligible to receive funding under the PEM, CPP, 1,000 Officers and/or PAVIS grant programs in 2018-19.
- The Call for Applications for the 2019-20 - 2021-22 CSP Grant cycle was issued to all eligible police services on April 18, 2019. The deadline to submit applications under the local and provincial funding streams of the CSP Grant was June 6, 2019.
- Successful applicants under the local priorities funding stream have been notified. Applications under the provincial priorities funding stream have been reviewed by the CSP Grant Review Committees and recommendations for funding are currently moving through

approvals. All grant applicants will be notified of the status of their provincial priorities application as soon as possible.

- For more information about the CSP Grant, please contact James Lee, Community Safety Analyst at James.Y.Lee@ontario.ca or Tiana Biordi, Community Safety Analyst, at Tiana.Biordi@ontario.ca.

Court Security and Prisoner Transportation (CSPT) Program

- The province has allocated a total of \$125 million in 2019 to assist municipalities in offsetting their CSPT costs.
- Funding is allocated based on each municipality's percentage share of the total provincial CSPT cost. For example, if a municipality's CSPT cost represents one per cent of the total provincial CSPT cost, then it will be allocated one per cent of the available funding. This is why allocations may vary from year to year.
- Agreements were distributed to municipalities on March 1st.
- Agreements have been fully executed and mailed back to municipalities on May 8th.
- Payment requests for the 2019 second instalments have been processed for municipalities who have submitted their 2018 Annual Financial Report.

Guns and Gangs Funding

- The province recently introduced the new Guns, Gangs and Violence Reduction Strategy (GGVRS) to address the increase in gun violence and gang-related activity in Ontario. The GGVRS is being implemented in a phased approach that balances the government's policy objective to deliver a comprehensive and effective solution to the gun and gang crisis, with the government's fiscal priorities and commitments.
- Phase I of the GGVRS included an investment of \$25 million over four years to fight an increase in gun and gang violence in the City of Toronto (2018-19 to 2021-22). Funding was allocated to Toronto Police Service to provide them with additional digital, investigative and analytical resources necessary for fighting gun and gang violence and support Intensive Bail Firearms Teams in Toronto courthouses.
 - Most recently, on August 12, 2019, the government announced that it is authorizing up to \$1.5 million to be used by Toronto Police Service as part of the \$4.5 million in funding commitments Toronto Police Service will receive from all three levels of government.
- On March 26, 2019, the government announced Phase II of the GGVRS, which involves boosting local crime prevention, enforcement and prosecution across the province. An investment of approximately \$16.4 million has been made over two years in the fight against guns and gangs. This includes approximately \$11.4 million over two years from the federal government in support of Phase II.
- Phase II will equip police officers, law enforcement teams and justice partners with the resources and tools including enhancing their ability to conduct multi-jurisdictional investigations to effectively combat gun and gang-related crime. In addition, recognizing that enforcement and prosecution become more effective at combatting guns and gangs when combined with prevention and intervention, Phase II will implement initiatives that tackle root causes of violence and provide exit strategies for youth and young adults already involved in gang activity.

Reduce Impaired Driving Everywhere (R.I.D.E.) Grant

- The R.I.D.E. Grant provides funding to police services to enhance local enforcement capabilities and ensure a year-round provincial program to conduct spot checks aimed at deterring and detecting impaired drivers. The R.I.D.E. Grant has an annualized budget of \$2.4M and is intended to cover only sworn officers' overtime and paid duty R.I.D.E. activities. All municipal and First Nations police services and OPP municipal contract locations are eligible to apply for funding.
- As part of the 2018/19 – 2019/20 R.I.D.E. Grant cycle, the Ministry has approved the 2019/20 R.I.D.E. Grant funding allocations and issued agreements to 171 grantees on June 11, 2019.
- As this grant program is currently mid-cycle, the next Call for Applications is not anticipated until 2020.

Proceeds of Crime – Frontline Policing (POC – FLP) Grant

- The POC – FLP Grant reinvests assets seized by the provincial and federal governments during criminal prosecutions to support front-line policing efforts related to crime prevention and community safety and well-being initiatives.
- This grant is only available to municipal and First Nation police services as well as the OPP.
- There is an eligibility requirement to partner with a minimum of two other sectors (e.g., a community mental health agency, a local social service provider, etc.).
- As part of the 2018/19 – 2019/20 POC-FLP Grant cycle, the Ministry is funding 28 projects. This grant program is currently mid-cycle, and the Call for Applications is not anticipated until later this year or early 2020.

Safer and Vital Communities (SVC) Grant

- The SVC Grant provides one-time funding to incorporated non-profit/community-based organizations and First Nations Chiefs and Band Councils to implement local community safety and well-being projects.
- As part of the SVC Grant, non-profit/community-based organizations and First Nations communities are required to partner with their local police service as well as an organization from a sector different from their own on their proposed project.
- The Ministry is currently funding 26 projects as part of the 2018/19 – 2019/20 SVC Grant cycle. Similar to the POC-FLP Grant, this grant program is currently mid-cycle, and the Call for Applications is not anticipated until later this year or early 2020.

7. APPROACH TO CONSTABLE SELECTION

- The Ministry issued an All Chiefs Memorandum 19-0063, indicating that the review of the Constable Selection System (CSS) has concluded. Furthermore, the Ministry has announced an approach to constable selection in which police service have:
 - Local flexibility to determine their hiring and selection processes: the ministry will make the existing CSS tools available, on an as-is basis, for use by police

service or by organizations interested in providing pre-hire screening services (including the OACP).

- Expert advice informing post-hire assessment at Ontario Police College (OPC): All CSS components are already assessed as part of Basic Constable Training (BCT), either through formal assessments, or through occupational tasks. As such, an advisory body to the OPC, the Executive Education and Training Advisory Group (EETAG), is being established to provide ongoing input and feedback to the curriculum and assessments for BCT and other areas as appropriate.
- The Ministry is now working with the OACP to fully transition to the new approach.
 - As part of this move, there are additional operational changes with respect to stage two of the CSS hearing assessment, which involves the Hearing in Noise Test (HINT) conducted by the University of Ottawa.
 - Going forward, the decision to require the HINT as an assessment of a candidate's hearing abilities will be at the discretion of police services. As part of the transition, the ministry will continue to cover expenses for candidates being tested in Ottawa until January 01, 2020.
- Police services seeking more information on obtaining the CSS tools from the ministry for use in recruitment may contact Lindsey Gray, Manager – Operations Unit, at lindsey.gray@ontario.ca

Recent All Chiefs Memoranda (ACMs)

- On September 4, 2019, the ministry distributed an All Chiefs Memorandum (19-0067) – which outlined changes to fees for Basic Constable Training and senior course fees.

8. MAJOR CASE MANAGEMENT INSPECTION

- The Ministry is currently conducting a focused inspection on the Major Case Management (MCM) Regulation (354/04), which sets out procedures and processes for undertaking and managing investigations into major cases in accordance with the MCM Manual.
- The regulation also requires that police services use the provincial PowerCase software for managing major case investigations.
- As referenced in the All Chiefs Memorandum, 17-0078, the inspection of the MCM Regulation includes a two-pronged approach beginning with a review of closed 2016 investigations entered in PowerCase and analysis of data from the Service's Records Management System (RMS).
- The inspection notice was issued to all municipal police services at the end of January 2018 and, so far, the onsite component of the inspections of 44 municipal police services has been completed. As always, inspection findings and recommendations will be outlined in inspection reports to be provided to the board and chief.

- The remaining municipal police service inspections, and the OPP, will take place throughout the rest of 2019.

9. CANNABIS LEGALIZATION

- On June 6, 2019, Bill 108, *More Homes, More Choice Act, 2019* received Royal Assent and came into force on the same day. This legislation included amendments to the *Cannabis Control Act, 2017* to provide police with enhanced tools to address the illegal sale and distribution of cannabis.
- On August 22, 2019, the Alcohol and Gaming Commission (AGCO) conducted a second licence allocation lottery to add 50 new retail cannabis stores.
- Ontario Regulation 468/18 under the *Cannabis Licence Act, 2018* was amended to reflect this new allocation. The regulation establishes that the AGCO must use a method for selecting applicants that does not rely on the discretion of the Registrar or of any other person.
- Of the 50 new private cannabis retail stores being licenced, the government has allocated eight stores to retailers who wish to operate on a First Nations reserve, and the remaining 42 stores allocated as follows:
 - East Region: seven stores
 - GTA Region: six stores
 - Toronto Region: 13 stores
 - West Region: 11 stores
 - North Region: One store in each of the following cities: Kenora, North Bay, Sault Ste. Marie, Thunder Bay and Timmins

Provincial Funding for Municipalities Update:

- The Ontario Cannabis Legalization Implementation Fund (OCLIF) was created to provide \$40 million in funding over 2 years to help municipalities with incremental implementation costs related to the legalization of recreational cannabis.
- On August 13, 2019, the Minister of Finance provided an update on OCLIF in a letter to the Heads of Council. Through early 2019, the government provided municipalities with \$30 million in OCLIF funding, and \$10 million was set aside to address costs from unforeseen circumstances related to the legalization of recreational cannabis, for which priority would be given to municipalities that did not opt-out of hosting cannabis retail stores.
- With respect to the \$10 million that was set aside, so as to support the objectives of protecting our youth and communities and to combat the illegal cannabis markets, the government made an investment of \$3.26 million to support enhanced enforcement against illegal cannabis operations (including but not limited to enhanced enforcement through provincial joint forces cannabis enforcement teams, led by the OPP).
- The government announced it would distribute the remaining \$6.74 million in OCLIF funding through the end of August as follows:
- Funding would be provided on a per household basis to municipalities that did not opt-out of hosting retail stores as of January 22, 2019, adjusted so that each recipient municipality will receive at least \$5,000.

Federal Developments – New Legislation and amendments to the Canada Gazette:

Bill C-93 - *An Act to provide no-cost, expedited record suspensions for simple possession of cannabis*

- An Act to provide no-cost, expedited record suspensions for simple possession of cannabis (formerly known as Bill C-93) came into force on August 1, 2019.
- The Act permits Canadians who have been previously convicted only of simple cannabis possession to apply for a pardon (also known as a record suspension) with no application fee or wait period, once their sentence has been served.
- Individuals convicted only of simple possession of cannabis can now apply to the Parole Board of Canada (PBC) for a pardon through a streamlined, simplified process. The \$631 fee and five-year waiting period associated with pardon applications have been eliminated. Applicants will be eligible even if they have outstanding fines or surcharges associated with their conviction, as long as they have completed the rest of their sentence.
- This Act amends the *Criminal Records Act* to, among other things, allow persons who have been convicted under the *Controlled Drugs and Substances Act*, the *Narcotic Control Act* and the *National Defence Act* merely of simple possession of cannabis offences committed before October 17, 2018 to apply for a record suspension without being subject to the period required by the *Criminal Records Act* for other offences or to the fee that is otherwise payable to the PBC in applying for a suspension.

Announcement by Health Canada about *The Regulations Amending the Cannabis Regulations (New Classes of Cannabis)*

- On June 14, 2019, Health Canada announced *The Regulations Amending the Cannabis Regulations (New Classes of Cannabis)*, which establish new regulatory controls to address the public health and public safety risks associated with edible cannabis, cannabis extracts and cannabis topicals.
- The amended regulations introduce a series of controls including restrictions on product composition and ingredients, tetrahydrocannabinol (THC) limits and new requirements pertaining to promotion, packaging and labelling, good production practices and record keeping. These amendments will also enable a comprehensive range of product forms, consistent with the objective of enabling the legal industry to displace the illegal industry. The amended regulations will come into force on October 17, 2019.
- In conjunction with the release of the new regulations, a new Cannabis Tracking System (CTS) Order has been issued to enable the collection of necessary data on the new cannabis products. The new CTS Order, which will apply to participants in the legal supply chain, will come into force at the same time as the amended regulations, on October 17, 2019.
- The new regulations allow for a broad variety of product forms, consistent with the Government's objective of displacing the illegal market, subject to regulatory controls to reduce public health and public safety risks. The amendments to the *Cannabis Regulations* control the production and sale of three new cannabis products: Edible cannabis, such as baked goods and beverages, Cannabis extracts, such as vaping liquids, tinctures, wax, hash and cannabis oil and Cannabis topicals, such as creams, lotions and balms, and similar products that are meant to be applied to a person's skin, hair or nails.

Recent All Chiefs Memoranda (ACMs)

- On June 7, 2019, the ministry distributed an All Chiefs Memorandum (19-0043) – entitled “Amendments to the *Cannabis Control Act, 2017*”. It outlined the amendments to this act to provide police with enhanced tools to address the illegal sale and distribution of cannabis.
- On August 13, 2019, the ministry distributed an All Chiefs Memorandum (19-0058) – which provided information on “Drug Impaired Driving Detection Training and Enforcement 2019/20 - Eligible Expenses and Submission Processes”.
- On September 12, 2019, the ministry distributed an All Chiefs Memorandum (19-0071), entitled “Final Federal Regulations for the Production and Sale of Cannabis Edibles, Extracts and Topicals”.
- On October 17, 2019, regulations under the Cannabis Act (Canada) will be amended to add new classes of cannabis (edibles, extracts and topicals). Once the Cannabis Regulations are amended, the Ontario Cannabis Retail Corporation (Ontario Cannabis Store) will be able to purchase these new classes of cannabis and sell them online. The ACM also summarized the remaining associated timelines:
 - **October 17, 2019:** Regulations and Order come into force, and federal cannabis processing licence holders will be able to begin submitting new product notifications to Health Canada.
 - **December 16, 2019:** Earliest date new products could be available for purchase by the Ontario Cannabis Store.
 - **Mid-January 2020:** Anticipated timing for new product classes to be available for sale to the public through AGCO-licensed private retailers and the Ontario Cannabis Store online channel.