



## TORONTO POLICE SERVICE BOARD

### CONDUCTING INVESTIGATIONS

DATE APPROVED	April 30, 2024	Minute No: P2024-0430-3.0
DATE(S) AMENDED		
REPORTING REQUIREMENT		
LEGISLATION	<i>Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1, section 38(1)(g)</i> <i>Investigations, O. Reg. 395/23</i>	

#### ***Policy of the Board***

It is the policy of the Toronto Police Service Board that the Chief conduct all investigations in compliance with O. Reg. 395/23. Addendum.

## **ADDENDUM**

Note: This addendum is included for ease of reference only. In case of any disparity between this addendum and the official regulation as amended, the language of the official regulation shall prevail.

### Ontario Regulation 395/23

#### Investigations

##### INTERPRETATION AND APPLICATION

#### **Definitions**

##### **1. In this Regulation,**

“familial relationship” means a current or former relationship between members of a family, and includes, without limitation, a relationship with or between,

- (a) adoptive parents, adoptive siblings and adoptive children,
- (b) step-parents, step-siblings and step-children,
- (c) individuals in a parent-child relationship within the meaning of section 4 of the *Children’s Law Reform Act*,
- (d) current and former married and common-law spouses and the children of either spouse; (“lien de parenté”)

“investigation” means a systematic inquiry,

- (a) to locate a missing person, or
- (b) into an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Cannabis Act* (Canada) that has been or will be committed when there is a reasonable suspicion that such an offence has been or will be committed; (“enquête”)

“investigating officer” means, in respect of an investigation, an investigator or senior investigator who undertakes the investigation; (“agent enquêteur”)

“investigation procedures” means, in respect of a police service, the procedures established by the chief of police under section 20; (“procédures d’enquête”)

“investigator” means a peace officer who is a member of a police service and who has successfully completed the applicable training prescribed by the Minister; (“enquêteur”)

“major case” has the same meaning as in the Major Case Management Regulation; (“cas grave”)

“Major Case Management Regulation” means Ontario Regulation 394/23 (Major Case Management and Approved Software Requirements) made under the Act; (“Règlement sur la gestion des cas graves”)

“major case manager” has the same meaning as in the Major Case Management Regulation; (“responsable de la gestion de cas grave”)

“Provincial ViCLAS Centre” means the Provincial ViCLAS Centre operated by the Ontario Provincial Police; (“Centre provincial du SALVAC”)

“senior investigator” means a police officer who,

- (a) has successfully completed the applicable training prescribed by the Minister, or
- (b) within the three years before this Regulation came into force,
  - (i) participated as a police officer in a threshold investigation, as defined in the Major Case Management Regulation,
  - (ii) led a non-threshold investigation, as defined in the Major Case Management Regulation,
  - (iii) led an investigation into an offence involving firearms or conducted energy weapons or into a criminal organization offence or terrorism offence, as those terms are defined in section 2 of the *Criminal Code* (Canada), or
  - (iv) led any other investigation that, in the opinion of the officer’s chief of police, required the exercise of the skills that a police officer would acquire by successfully completing the applicable training prescribed by the Minister; (“enquêteur principal”)

“supervisor” means a police officer who is assigned to monitor the performance of and provide support to an investigating officer with respect to an investigation; (“superviseur”)

“ViCLAS” means the Violent Crime Linkage Analysis System. (“SALVAC”)

## **Failure to comply**

**2.** (1) Failure to comply with a requirement of this Regulation does not, in itself, impugn the lawfulness of any step taken in an investigation.

(2) For greater certainty, subsection (1) shall not be read as having any effect on whether a failure to comply with this Regulation constitutes misconduct under a prescribed code of conduct.

## **Non-application**

**3.** This Regulation does not apply with respect to police officers appointed under the *Interprovincial Policing Act, 2009* or with respect to investigations undertaken by a police service all the members of which are police officers appointed under that Act.

## STANDARDS FOR INVESTIGATIONS

### Availability for investigation

4. A police service shall have at least one of each of the following individuals available 24 hours a day:

1. A senior investigator.
2. A supervisor.
3. A major case manager.

### Investigator or senior investigator

5. Every investigation shall be undertaken by an investigator or senior investigator, as determined by a supervisor.

### Duty to notify supervisor

6. (1) If a member of a police service, in the course of their duties, becomes aware of a matter mentioned in subsection (2) and believes that a supervisor has not yet been notified of the matter, the member shall as soon as possible notify a supervisor of the matter in accordance with the investigation procedures.

(2) The matters referred to in subsection (1) are the following:

1. A missing person occurrence.
2. A matter in relation to which there is a reasonable suspicion that an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or the *Cannabis Act* (Canada) has been or will be committed.

### Determination re investigation

7. (1) On being notified of a matter under section 6, the supervisor shall determine whether the matter should be investigated.

(2) If the supervisor determines the matter should be investigated, the supervisor shall, based on the following factors, assign either an investigator or a senior investigator to undertake the investigation:

1. All information available at the time regarding the matter to be investigated.
2. The complexity of the investigation.
3. Public safety concerns and the impact on the community resulting from the matter to be investigated.

4. The resources required for the investigation and the anticipated length of the investigation.
5. Any applicable investigation procedures.

(3) This section does not prevent the start of an investigation of a matter by an investigating officer once the supervisor is notified of the matter, but any such investigation is subject to the determinations made by the supervisor under this section.

### **Supervisor duties re investigation**

8. A supervisor who determines that a matter should be investigated shall,
- (a) monitor the performance of and provide support to the investigating officer;
  - (b) ensure that the investigation is carried out effectively and in compliance with all relevant law, including this Regulation;
  - (c) reassign the investigation to a different investigating officer if the assigned investigating officer is unable to undertake the investigation adequately; and
  - (d) notify the chief of police, or the chief's designate, if any factors relating to the administration of the police service create systemic barriers to effectively undertaking the investigation, including factors such as resources, the investigation procedures and any agreements made under section 14 of the Act.

### **Duty to notify major case manager**

9. If a supervisor determines that a matter of which the supervisor has been notified under section 6, or which is already under investigation, is a major case, the supervisor shall as soon as possible notify a major case manager.

### **Ensuring safety of persons**

10. Every investigating officer shall take all necessary and reasonable steps to ensure the immediate safety of all persons relevant to the investigation, including victims, suspects, witnesses and persons of interest, and notify a supervisor if there is an immediate threat to the safety of any of these persons.

### **Interviews**

11. Every investigating officer shall perform any individual interviews with a victim, suspect, witness or person of interest in accordance with the officer's training, the investigation procedures, all relevant law, including this Regulation, and the reasonable exercise of the officer's discretion.

### **Searching a scene**

**12.** (1) If a location is identified as a scene that should be searched for the purpose of an investigation, an investigating officer shall,

- (a) establish the boundaries of the scene;
- (b) ensure that the scene is secured;
- (c) limit access to the scene; and
- (d) identify and maintain a record of persons present at the scene.

(2) If subsection (1) applies, an investigating officer shall ensure that,

- (a) a complete scene search is conducted;
- (b) the scene is documented, including through photographs and, if possible, video recording; and
- (c) records of all actions taken as part of the search are made and kept.

### **Evidence collection**

**13.** (1) An investigating officer shall ensure that all items of potential evidentiary value that may lawfully be collected are collected, regardless of whether immediate relevance to the investigation is established.

(2) An investigating officer shall ensure that the chain of continuity is maintained for all evidence collected, including ensuring that any transfer of evidence from one person's control to another person's control is documented.

### **Records management**

**14.** An investigating officer shall ensure the following records relating to an investigation, if obtained or prepared by them or by someone acting under their direction, are entered into the police service's records management system:

- 1. A copy of the occurrence report or missing person report regarding the matter to be investigated and copies of reports regarding follow-up steps taken.
- 2. Confessions, admissions and any other statements recorded in any form.
- 3. Investigative notes.
- 4. Any Canadian Police Information Centre checks.
- 5. Any reports from another police service in relation to a Canadian Police Information Centre check.
- 6. A list of evidence collected during the investigation.

### **Special investigative teams**

**15.** If a police service has a team primarily responsible for conducting investigations into one of the following matters, then at least one member of the team must have successfully completed any training prescribed by the Minister with respect to the investigation of that matter:

1. Familial or intimate partner violence.
2. Hate crimes.
3. Elder abuse.
4. Human trafficking.

### **Use of specialized services**

**16.** (1) An investigating officer shall consider whether it is appropriate to make use of any specialized services provided by members of a police service who are dedicated to or specially trained for the provision of those services, and, if so, shall make use of them.

(2) Examples of services to which subsection (1) applies include,

- (a) forensic identification;
- (b) technical collision investigation and reconstruction;
- (c) physical surveillance;
- (d) video and photographic surveillance; and
- (e) community liaison services.

### **Consulting with Crown Attorney**

**17.** (1) An investigating officer shall consult with the Crown Attorney before continuing an investigation, if an in-custody informer becomes relevant to the investigation.

(2) An investigating officer undertaking an investigation that involves an in-custody informer shall consult with the Crown Attorney before starting any new investigative avenue.

(3) In addition to the requirements of subsections (1) and (2), an investigating officer shall consult with the Crown Attorney when necessary, including when necessary with respect to,

- (a) search and seizure;
- (b) evidence collection;
- (c) use of electronic surveillance;
- (d) recording of interviews;

- (e) undercover operations;
- (f) use of informers or agents;
- (g) charges to be laid; and
- (h) provision of disclosure to the Crown.

## **ViCLAS reports**

**18.** (1) In this section,

“reportable investigation” means an investigation into any of the following matters:

1. Homicide within the meaning of subsection 222 (4) of the *Criminal Code* (Canada) or attempted homicide within the meaning of section 239 of the *Criminal Code* (Canada).
2. Sexual assault or attempted sexual assault within the meaning of sections 271 to 273 of the *Criminal Code* (Canada) where the victim and the person responsible are not intimate partners or in a familial relationship, whether solved or unsolved.
3. Sexual assault where the victim and the person responsible are intimate partners or in a familial relationship, if the victim is under 16 years of age at the time of the assault or the assault includes unique or significant physical, sexual or verbal behaviour.
4. Sexual interference within the meaning of section 151 of the *Criminal Code* (Canada).
5. Sexual exploitation within the meaning of sections 153 and 153.1 of the *Criminal Code* (Canada).
6. Invitation to sexual touching within the meaning of section 152 of the *Criminal Code* (Canada).
7. A non-parental abduction or kidnapping or an attempted non-parental abduction or kidnapping.
8. A missing person, if,
  - i. there is a strong possibility that the missing person has been the victim of homicide, an assault causing serious bodily harm, abduction or kidnapping, or
  - ii the person cannot be located or contacted by a member of a police service for 30 days after being reported missing.
9. An occurrence involving found human remains that is suspected to be homicide.
10. An attempt to meet with a child for the purpose of committing an offence, solved or unsolved.



(2) Within 30 days of the start of a reportable investigation, the investigating officer leading the investigation shall complete and submit one or more ViCLAS Crime Analysis Reports respecting the investigation to the Provincial ViCLAS Centre.

(3) Within 30 days of a material change or of acquiring information that is significant to a reportable investigation, the investigating officer leading the investigation shall update the ViCLAS Crime Analysis Report and resubmit it to the Provincial ViCLAS Centre.

(4) The investigating officer leading an investigation that is not a reportable investigation may submit a ViCLAS Crime Analysis Report to the Provincial ViCLAS Centre if the officer has reason to believe that the person responsible for committing the offence, whether known or unknown, may have been responsible for other violent offences or has the potential to reoffend.

(5) An investigating officer who receives a Potential Linkage Report respecting an investigation from the Provincial ViCLAS Centre shall,

- (a) follow up the potential linkage with the investigation as soon as possible; and
- (b) within 60 days of receiving the Potential Linkage Report, submit to the Provincial ViCLAS Centre a Potential Linkage Response Form reporting the results of the follow up.

(6) A document that is required to be provided to the Provincial ViCLAS Centre under this section must be in the form approved by the Provincial ViCLAS Centre's Manager and must be submitted in accordance with the established standards of ViCLAS.

### **If hindered**

**19.** An investigating officer shall as soon as possible inform a supervisor if their ability to undertake the investigation is hindered.

## **PROCEDURES**

### **Procedures re investigations**

**20.** Every chief of police shall establish and maintain the following procedures:

1. Procedures regarding notifying supervisors of matters for the purposes of section 6.
2. Procedures for undertaking investigations.
3. Procedures for the management of information relating to investigations.
4. Procedures for managing informers and agents and ensuring their security.

## **OTHER DUTIES OF CHIEF OF POLICE**

## **Consulting with Crown Attorney**

**21.** Every chief of police shall consult with the Crown Attorney regarding any concerns raised by the Crown Attorney or judiciary regarding the investigation procedures or the practices of members of the police service related to any aspect of an investigation.

## **Deployment**

**22.** Every chief of police shall deploy members of their police service as required to undertake or supervise investigations.

## **Factors re number of members required**

**23.** Every chief of police shall consider at least the following factors when determining the number of members of a police service that are required to undertake and supervise an investigation:

1. Data on the workload of members conducting investigations from the previous five years.
2. The crime severity index for areas being policed.
3. The strategic plan for the police service.
4. The geographical characteristics of the community.

## **POLICIES**

### **Policies to be established by police service boards, the Minister**

**24.** The conduct of investigations is prescribed for the purposes of clauses 38 (1) (g) and 60 (1) (f) of the Act.