



## The Corporation of the Town of Tecumseh

Chief Administrative Officer

**To:** Mayor and Members of Council

**From:** Margaret Misek-Evans, Chief Administrative Officer

**Date to Council:** May 25, 2021

**Report Number:** CAO- 2021-08

**Subject:** Tecumseh Police Service Board Response to Proposed  
Community Safety and Policing Act Regulations

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### Recommendations

It is recommended:

**That** Report No. CAO-2021-08, Tecumseh Police Service Board Response to Proposed Community Safety and Policing Act Regulations, **be received**.

**And that** the comments contained in Report No. CAO-2021-08 pertaining to the draft regulation on the OPP Governance Advisory Council **be endorsed and submitted** to the Ministry of the Solicitor General by June 7, 2021.

### Background

In March 2019, the government passed the *Community Safety and Policing Act, 2019* (CSPA), as part of the *Comprehensive Ontario Police Services Act, 2019*. Once in force, the CSPA will replace the current *Police Services Act* (PSA). The CSPA is an opportunity to modernize policing and enhance community safety in Ontario.

As part of the work to bring the Act into force, the Ministry of the Solicitor General (SolGen) is working on regulations on a number of matters. Correspondence was issued from SolGen on April 26, 2021 to all Chiefs of Police, the OPP Commissioner and the Chairs of Police Service Boards inviting comment on the draft regulations by June 7, 2021. Accordingly, Administration circulated the draft regulations to the Tecumseh Police Service Board (PSB) with an invitation to submit comments in time for Administration to prepare a report to Council for the May 25<sup>th</sup> Regular Council meeting. Generally, Council endorsement of comments on Provincial statutes and regulations is sought prior to submission to the Province. As there was no scheduled PSB meeting during May, the Board was canvassed by e-mail.

A summary of the proposed regulations is as follows:

#### 1. Oaths and Affirmations

The CSPA requires police officers, First Nation Officers (currently known as "First Nations Constables" under the PSA), special constables, auxiliary members of police services and board members to take an oath or affirmation of office. Police officers, First Nation Officers, special constables and auxiliary members of police services are also required to take an oath of secrecy.

SolGen is proposing to align the oaths and affirmations to reflect changes in the CSPA and ensure consistency with other public sector oaths and affirmations.

#### 2. OPP Governance Advisory Council

The CSPA requires that an Ontario Provincial Police Governance Advisory Council be established to advise the Solicitor General regarding the use of his or her powers with respect to the Ontario Provincial Police under sections 59 to 62 of the CSPA, which relate to the Minister's Duties under the Act, and perform any other prescribed duties. The proposed regulation would require the new Ontario Provincial Police Governance Advisory Council to have a minimum of eleven (11) and a maximum of twenty (20) members.

The regulation also proposes restrictions on eligibility for membership that are similar to those for police service boards. Specifically, it proposes that the following persons are not eligible to be members of the Advisory Council:

1. A judge or justice of the peace.
2. A member of a police service, a special constable or a First Nation Officer.
3. Any person who practises criminal law as a defence counsel or as a prosecutor.
4. A director, officer or employee of a prescribed policing provider.
5. A former member of the Ontario Provincial Police.

The regulation also proposes that a former member of a police service, other than the Ontario Provincial Police, is not eligible to be a member of the Advisory Council unless at least one year has passed since the person ceased to be a member of any police service.

#### 3. Community Safety and Well-Being Plans

Municipalities are required to develop and adopt community safety and well-being plans, working in partnership with police services/boards and various other sectors, including health/mental health, education, community/social services, and children/youth services.

SolGen is proposing to set the time period of 4 years for municipalities to review and, if appropriate, revise their CSWB plans, from the time the plan was adopted.

#### 4. Suspension Without Pay

The CSPA will enable a chief of police to suspend an officer without pay as an interim measure prior to a discipline hearing when specific criteria prescribed in the Act are met.

This includes the ability to suspend an officer without pay when they have been charged with a "serious offence". The proposed definition of a "serious offence" is any offence that may carry a prospective penalty of imprisonment for a period of five (5) years or more.

#### 5. Chief's Referral to the Law Enforcement Complaints Agency (LECA)

SolGen is proposing the following circumstances for which chiefs of police would be mandated to provide notice of misconduct to the Complaints Director of LECA:

- Breaches, found by a court or tribunal, of the Charter of Rights and Freedoms (that are not justified under s. 1 of the Charter) or Human Rights Code; and
- Allegations of any contravention to the police officer code of conduct that is committed in relation to, or is witnessed firsthand by, a member of the public\*

\*Note: member of the public other than those restricted from complaining to LECA are defined under CSPA s. 154

With respect to items 4 and 5, it should be noted that the interpretation of a 'chief of police' under the CSPA includes the Commissioner of the OPP. Therefore, the requirements and responsibilities of the chief of police within both the CSPA and the accompanying regulations would generally also apply to the Commissioner of the OPP.

## Comments

In response to the call for comments from the PSB, comments were received from the Chair, Christopher Hales, specifically on the proposed regulation for the OPP Governance Advisory Council. His comments are based on information and discussions through his affiliation with the Ontario Association of Police Services Boards. He recommends that the regulation governing the establishment of this new Governance Advisory Council guarantee the following:

- Membership in this governance advisory is restricted to include only representatives of municipalities served by the OPP;
- Members may also concurrently serve on local Police Services Detachment Boards;
- The structure of this Governance Advisory Council include equitable geographic representation, with at least two representatives from each of the (6) zones currently established by the Ontario Association of Police Services Board;
- There is First Nations' representation on the Governance Advisory Council, independent of and in addition to the geographic zone representation;
- There is a mechanism established to ensure diversity and inclusive representation of all Ontario citizens on the new Governance Advisory Council;
- The Governance Advisory Council meet at least 6 times per year to provide for meaningful input to the Minister on matters prescribed in Sections 59-62 of the Act,

generally including: performance of the OPP Commissioner, development of policies respecting the provision of adequate and effective policing, development and review of a strategic plan for the provision of policing by the Commissioner and directions to the Commissioner within the limitations of the Act;

- The new Governance Advisory Council should be funded by the Ministry of the Solicitor General, with sufficient resources to include a service stipend for each advisory member and sufficient travel allowances to guarantee attendance at meetings by all representatives; and
- Provision should be made for meetings to be held virtually to account for weather and public health considerations.

Further, on Administration's review of the proposed regulation for the Community Safety and Well Being Plans, it is noted that the proposed term of four years for the review of each local plan coincides with the legislative requirement for the Minister to review the strategic plan for the provision of policing by the Commissioner. Accordingly, it appears that there is intent to align the review terms of these documents.

## **Consultations**

Tecumseh Police Services Board

## **Financial Implications**

None.

## Link to Strategic Priorities

| Applicable                          | 2019-22 Strategic Priorities  |
|-------------------------------------|---|
| <input type="checkbox"/>            | Make the Town of Tecumseh an even better place to live, work and invest through a shared vision for our residents and newcomers.  |
| <input type="checkbox"/>            | Ensure that Tecumseh's current and future growth is built upon the principles of sustainability and strategic decision-making.  |
| <input type="checkbox"/>            | Integrate the principles of health and wellness into all of Tecumseh's plans and priorities.  |
| <input type="checkbox"/>            | Steward the Town's "continuous improvement" approach to municipal service delivery to residents and businesses.   |
| <input checked="" type="checkbox"/> | Demonstrate the Town's leadership role in the community by promoting good governance and community engagement, by bringing together organizations serving the Town and the region to pursue common goals. |

## Communications

Not applicable ☒

Website ☐ Social Media ☐ News Release ☐ Local Newspaper ☐

This report has been reviewed by Senior Administration as indicated below and recommended for submission by the Chief Administrative Officer.

Prepared by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

Prepared by:

Ellen Preuschat  
Recording Secretary, Police Services Board

Recommended by:

Margaret Misek-Evans, MCIP, RPP  
Chief Administrative Officer

| <b>Attachment<br/>Number</b> | <b>Attachment<br/>Name</b> |
|------------------------------|----------------------------|
| None                         | None                       |