OPP Guide to Legislation and Policy

July 17, 2006

Introduction

To assist the Inquiry, the OPP has provided topical Regulations, Police Orders, Standard Operating Procedures/Manuals, Protocols and Course Training Standards. The matrix of legislation and policy documents afford the front-line Ontario police officers both structure and flexibility to provide community-appropriate law enforcement. The following is intended to explain the interrelationship between these documents.

Legislation
- Laws enacted by a legislative body, also known as statutes or acts.
- Examples include Federal Acts such as Youth Criminal Justice Act (YCJA), Controlled Drugs and Substances Act (CDSA) and Provincial Acts such as the Police Services Act (PSA) and Highway Traffic Act (HTA).
- Compliance with legislation is expected, including provisions specific to exemptions in relation to certain law enforcement functions (e.g., permission to speed when responding to an emergency).

Regulations
- Form of secondary legislation/legal restriction enacted by government. Regulations are used to implement a piece of primary legislation or account for factors arising during primary legislation implementation.
- Examples include:
    - Safety Helmets R.R.O. 1990, Reg. 610 under the Highway Traffic Act
    - Major Case Management O. Reg. 354/04 under the Police Services Act
    - Adequacy and Effectiveness of Police Services O. Reg 3/99 under the Police Services Act and
    - Equipment and Use of Force R.R.O. 1990, Reg. 926 under the Police Services Act
- Police officers are expected to comply with Regulations as they would any other legislation.

Police Orders
- Official source of policy for the OPP that supports the OPP's values, vision, mission and goals, and reflects provincial core policing functions identified in the Adequacy Standards. Police Orders is an ever-evolving document and is developed and maintained by Operational Research and Development Bureau.
- Employees are expected to comply with Police Orders, although they are expected to use judgment and discretion consistent with ensuring public/member safety.
- Generally Police Orders articulates organizational decisions of the Commissioner. In some instances Police Orders states or links to legislative/regulatory requirements to ensure employees are aware of their obligation to comply with such provisions.

- Police Orders also serves as conduit to other sources of information/resources deemed suitable/approved for use by the OPP.

Standard Operating Procedures/Manuals

- Standards Operating Procedural Manuals are program/activity-based procedures used to operationalize policy requirements. They may or may not be part of Police Orders.
- Standard Operating Procedures (SOPs) and Manuals housed within Police Orders are based on OPP-wide programs. They build on the foundation of policy by outlining approved methods of achieving required/desired outcomes with respect to operations, conduct or business processes.
  - o Compliance is expected similar to any other Police Order, recognizing the need for sound judgement and discretion in the interests of public/member safety.
  - o These SOP's/manuals follow the same policy development and approval process as all other policy/procedures contained in Police Orders and are developed by Operational Research and Development Bureau in partnership with program area experts/leads.
  - o Examples include:
    - A Framework for Police Preparedness for Aboriginal Critical Incidents,
    - Ontario Major Case Management Manual, and
    - Underwater Search and Recovery SOP.
- SOPs/Manuals not contained in/forming part of Police Orders are program specific. Many Bureau's/Sections/Units have developed SOP manuals to guide internal program specific procedures for their employees.
  - o Although not housed within Police Orders, some of these SOPs/manuals may be directly referenced within Police Orders, including specific compliance requirements (e.g., PERT, EDU, TRU).
  - o SOPs/Manuals not specifically referenced in Police Orders constitute approved procedures in accordance with the program area's lead executive (e.g., Bureau Commander), who would determine compliance requirements. The need to develop/manager these SOP's/Manuals is determined by the program area lead.
  - o Updates to these SOP's/manuals are the responsibility of the program area lead

Protocols

- Protocols may exist at any level within the organization. Some are driven by policy (e.g., Child Abuse and Neglect, Domestic Violence, Youth Crime) while others are developed by program area leads to maximize efficiency of business practices/activities.
- Protocols are informal written agreements with external stakeholders guiding their interactions by setting out roles and expectations of each other's responses to specific activities. Their primary function is to inform stakeholders of each other's intended response to specific activities, as well as agreed upon methods of interacting.

- Organizational policies respecting protocols are topic oriented. Such policies indicate a specific requirement and responsibility to develop a protocol (e.g., Child Abuse and Neglect, Sexual Assault Investigation, Mutual Assistance Protocols with other Police Services) usually with specific stakeholders and generally setting out a framework of issues to be addressed.
- Compliance with Protocols is expected, although not binding.

Course Training Standards (CTS)

- A Course Training Standard (CTS) is the foundation from which training is based, providing the details required to select, coordinate, instruct, test, and evaluate required learning.
- A CTS is created/revised when:
  - A new course is being developed
  - New legislation/case law requires new/additional training
  - Lessons are learned on best practices, in a variety of ways (experiences, reviews, inquest recommendations from Ontario or elsewhere, regardless of whether the OPP was involved)
  - An existing course requires revision

- The Adequacy and Effectiveness of Police Services Regulation requires Ministry accreditation every three years for 10-core training functions (Police Communicator/ Dispatch, Crisis Negotiator, Hostage Negotiator, Major Incident Command, Tactical Rescue, Perimeter Control and Containment Teams, and Scenes of Crime Officer).

Overview of Policy Development, Approval, Publication Process

- The Police Orders production and approval process is set out in detail within the Introduction of Police Orders.

- Except for the following exception, all content (including policies/procedures) added to, amended or removed from Police Orders requires 4 levels of approval in the following order:
  1. Section Manager, Research and Policy Section, ORDB
  2. Bureau Commander, ORDB
  3. Client (usually executive level of Bureau or Provincial Command)
  4. Provincial Commander, Strategic Services Command.

- Exception: Housekeeping amendments (e.g., programs/structural name changes, typos, address/contact information) must be approved at minimum by the Section Manager, Research and Policy Section. The Bureau Commander, ORDB must be consulted in relation to complex amendments that may impact upon the integrity of Police Orders.

- Police Orders is updated on a monthly basis. Approved policies/procedures are scheduled into the next available release.

- Police Orders updates are communicated to OPP employees in a number of ways including: email distribution lists, monthly Intranet News items and fax from GHQ Duty Office to each OPP work location. Each monthly communication includes a memorandum signed by the Bureau Commander, ORDB and an Addendum, which provides a summary of key changes included for that particular month.

- Certain policies/procedures have been identified as critical and are specifically highlighted within Police Orders.
    - Critical policies are determined as part of the policy development and approval process using an established formula that considers factors such as: legislative requirements, Adequacy Standards, public safety, officer safety - including Occupational Health and Safety, as well as organizational priority.
    - Employees are expected have a greater understanding of critical policies/procedures.