

Report to / Rapport au:

**OTTAWA POLICE SERVICES BOARD
LA COMMISSION DE SERVICES POLICIERS D'OTTAWA**

23 November 2020 / 23 novembre 2020

Submitted by / Soumis par:

Chief of Police, Ottawa Police Service / Chef de police, Service de police d'Ottawa

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**SUBJECT: RESPONSE TO INQUIRY I-20-22: POLICY AND TRAINING ON RIGHTS
TO COUNSEL**

**OBJET: RÉPONSE À LA DEMANDE DE RENSEIGNEMENTS I-20-22:
POLITIQUE ET FORMATION SUR LE DROIT À L'ASSISTANCE D'UN
AVOCAT**

REPORT RECOMMENDATIONS

That the Ottawa Police Services Board receives this report for information.

RECOMMANDATIONS DU RAPPORT

**Que la Commission de services policiers d'Ottawa prenne connaissance du
présent rapport à titre d'information.**

INQUIRY

A recent decision by a judge on a drug case involving OPS officers cited the following, "The fact that two senior and experienced drug unit officers so flagrantly disregarded fundamental rights related to the right to counsel is shocking. Each officer held a fundamental misapprehension of the right to counsel and the spirit of that right. Both claimed to be familiar with the duty to hold off after giving the right to counsel, but their evidence spoke to how little they actually understood of that right. Their ignorance of these basic charter protections is highly troubling." What is the policy and training

offered to OPS officers? What follow up action or policy review is proposed in this direction to avoid recurrence of such incidences which brings disrepute to the organization and good work being done by the OPS members as a whole in our community?

RESPONSE

The Ottawa Police Service's (OPS) current training on arrests and right to counsel are in strict accordance with federal regulations and associated legislation.

Federal statutes require that all instructors at the Ontario Police College (OPC) train new recruits on the processes involved in an arrest; including providing an opportunity for the accused to contact a lawyer as soon as possible. Any delay in this regard would need to be explained and justified. This process is further reinforced within additional classes on both federal and provincial law as part of the curriculum. Recruits are guided through an arrest process scenario as part of their training and understanding.

When new recruits return from OPC to start their careers with the OPS, they are given additional training through our Professional Development Centre (PDC) on the six stages of arrest, including right to counsel, and our embedded Crown provides an overview of case law and how it impacts policing operations.

Additionally, process and policy are further reviewed by Field Training Officers (Coach Officers) when the recruit is first out in the field, as part of the mandatory 500 hours of training. Field Training Officers must meet pre-requisite Primary Leader Course requirements, which includes CPKN training and advance patrol courses, where processes relating to the six stages of arrest and right to counsel are reinforced.

Our embedded Crown additionally monitors Can Law to ensure that the OPS is apprised on any emerging changes to laws and regulations and provides a timely report to our Intelligence, Information and Investigations Command. This report is reviewed by the chain of command and then shared internally with officers, so that all unit commanders and investigators are up-to-date on case law and decisions that affect our investigative techniques. Investigative officers are also continually in touch with our embedded Crown who provides extra context to operational procedures impacted by changes in case law.

The Crown also provides update sessions, during the annual Use of Force training at PDC, to our sworn members to catch them up with any changes to laws and regulations as well as a review of the Charter of Rights (Charter). For example, in the Criminal Investigations course the embedded Crown provides a half-day lecture that covers Charter issues as they relate to lawfully stopping and searching persons without a

warrant. And polygraph experts provide a full day lecture on the admissibility of statements, which includes a review of section 7, 8, 9 and 10 (a) and (b) of the Charter. Other initiatives include a week-long Search Warrant course where experienced investigators cover section 8 of the Charter.

Any additional time-sensitive updates are shared internally through mass distribution emails on a case by case basis.