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Hamilton High-Risk Domestic Violence Community Advisory Committee

Resolving the Conflict between Confidentiality and Information Sharing

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Hamilton High Risk Domestic Violence Community Advisory Committee

- The Committee includes: Police, Victim Services, Probation and Parole, Women's Shelters, Sexual Assault Centres, Corrections, Children's Aid Societies, Mental Health, Victim Witness Assistance Program and Citizen Representation
- Committee addresses victims' support and offender management in the same context
- Meet monthly and assesses needs on a case-by-case basis



PURPOSES OF THE COMMITTEE

- To provide police and community stakeholders with an opportunity for effective and informed input into the pre-release and release process in respect of High-Risk Domestic Violence Offenders in an effort to address issues of risk to community safety and public fear
- To create a forum in which police and community stakeholders may share information relating to the release of High Risk Domestic Violence Offenders in an informative, co-operative, and confidential manner;
- To identify and utilize resources relative to offender re-integration;



Legal Framework

- Subsection 41(1.1) of the *Police Services Act* states:

(1.1) Despite any other Act, a chief of police, or a person designated by him or her for the purpose of this subsection, may disclose personal information about an individual in accordance with the Regulations.



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- Subsection (1.2) of the *Police Services Act* states that any disclosure made under subsection (1.1) shall be for one or more of the following purposes:
 1. Protection of the public
 2. Protection of victims of crime
 3. Keeping victims of crime informed of the law enforcement, judicial or correctional processes relevant to crime that affected them
 4. Law enforcement
 5. Correctional purposes
 6. Administration of justice
 7. Enforcement of and compliance with any federal or provincial Act, regulation or government program
 8. Keeping the public informed of the law enforcement, judicial or correctional processes respecting any individual



Effect of Disclosure

- Pursuant to subsection 41(1.3) of the *Police Services Act*, any disclosure made under subsection 1.1 shall be deemed to be in compliance with clauses 42(1)(e) of the *Freedom of Information and Protection of Privacy Act* and 32(e) of the *Municipal Freedom of Information and Protection of Privacy Act*



Ontario Regulation 265/98 Disclosure of Personal Information

- Deals with disclosure of personal information by the Chief of Police, or designate, pursuant to subsection 41(1.1) of the *Police Services Act*
- Broad discretionary power to disclose personal information relating to individuals under investigation of, charged with convicted of or found guilty of an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or any other federal or provincial Act
- Disclosure driven by the protection of public safety, reducing risk to the public and victim notification



Section 2 - Ontario Regulation 265/98

A chief of police or his or her designate may disclose personal information about an individual to **ANY** person if:

- a. the individual has been **convicted** or **found guilty** of an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or any other federal or provincial Act;
- b. the chief of police or his or her designate who would disclose the personal information ***reasonably believes*** that the individual poses a significant risk of harm to other **persons or property**; and
- c. the chief of police or his or her designate who would disclose the personal information ***reasonably believes*** that the disclosure would reduce that risk



Section 5 - Ontario Regulation 265/98

A chief of police or his or her designate may disclose any personal information about an individual if the individual is **under investigation of, is charged with** or is **convicted** or **found guilty** of an offence under the *Criminal Code* (Canada), the *Controlled Drugs and Substances Act* (Canada) or any other federal or provincial Act to;

- a. any police force in Canada;
- b. any correctional or parole authority in Canada; or
- c. any person or agency engaged in the protection of the public, the administration of justice or the enforcement of or compliance with any federal or provincial Act, regulation or government program.



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Section 5 - Ontario Regulation 265/98

- Section 5 applies only if the circumstances are such that disclosure is required for the protection of the public, the administration of justice or the enforcement of or compliance with any federal or provincial Act, regulation or government program.
- The procedures to be followed in disclosing personal information under this section to an agency that is not engaged in the protection of the public or the administration of justice shall be in accordance with a memorandum of understanding between the chief of police and the agency.



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Section 6 - Ontario Regulation 265/98

- In deciding whether or not to disclose personal information under this Regulation, the chief of police or his or her designate shall consider the availability of resources and information, what is reasonable in the circumstances of the case, what is consistent with the law and public interest and what is necessary to ensure that the resolution of criminal proceedings is not delayed.



The Hamilton Model

All parties enter into a Memorandum of Understanding

- Confidentiality applies to written and verbal information
- Information shared is solely for the purpose of reviewing and assessing the release, or potential release, of High-Risk Domestic violence Offenders
- Membership subject to the approval of the chief of police and enhanced security clearance
- Representatives of each party swears an Oath or Affirmation of Confidentiality
- Parties are indemnified by the police unless negligent



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Thank You