



Peel Regional Police
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CHIEF NISHAN DURAIAPPAH

May 26, 2020

Mr. Stephen Leach
Independent Police Review Director
655 Bay Street, 10th Floor
Toronto, ON M7A 2T4

Dear Mr. Leach:

RE: Systemic Issues Regarding Investigative Detention and Rights to Counsel

Thank you for your letter of May 25, 2020.

I would like to assure you that I am aware of the Court of Appeal's findings in *R. v. Thompson*, 2020 ONCA 264 (*Thompson*), and that Peel Regional Police takes these negative judicial findings against the Service very seriously.

By way of background, I became aware of the *Thompson* decision on April 23, 2020, shortly after its release. I immediately requested a comprehensive review of our training and sought an update on what has been done to date to address this issue. In the meantime, on April 24, 2020, an urgent communication was issued service-wide, reminding all members of the following:

“Whether an individual is under arrest or detained for investigative purposes, they shall be afforded the same rights under section 10 of the Canadian Charter of Rights and Freedoms Act. The act stipulates that everyone has the right on arrest and detention:

(a) To be informed promptly of the reasons therefor;

(b) to retain and instruct counsel without delay and to be informed of that right;

and

(c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

These lawful requirements have been reinforced through the [Supreme Court of Canada \(SCC\)](#) in [R vs. Suberu 2009](#), which states police must inform the detained individual of their RTC "without delay", which means **immediately** and in SCC ([R vs. Grant 2009](#)), which also states that RTC arise **immediately** upon detention. Any delay in RTC must be justified and articulated.”

In person refresher training is also being delivered to officers on parades both by Staff Sergeants and our Learning and Development Unit. In addition to a full review of our current training on investigative detention and rights to counsel, I can advise that we are also working with our local Crown's office to ensure that consistent messaging and training is provided to all of our officers regarding their lawful authorities and their articulation of those authorities in court. Once approved an online CPKN refresher course will be provided to all sworn officers.

As you have noted, the decision in *Thompson* follows a number of other decisions in which Peel Regional Police has been the subject of criticism regarding their provision of rights to counsel to accused persons. I note that we do have a protocol in place with our local Crown's offices (both MAG and PPSC) to ensure that we are made aware of cases involving negative judicial findings against officers and / or systemic issues involving the Service.

Specifically, in 2017, when we were made aware of *R. v. Sandhu*, 2017 ONCJ 226 (*Sandhu*) (referred to at paragraph 92 of the *Thompson* decision), we also conducted a review of our training and issued an urgent training bulletin on *Charter* rights to counsel. Unfortunately, the incident that forms the subject matter of the *Thompson* decision happened in April of 2016, well before the *Sandhu* decision was released and as such these officers would not have had the opportunity to benefit from the enhanced training and training bulletins. This is also the case for all but one of the decisions (*R. v. Kou*, 2019 ONCJ 966) referred to by the Court of Appeal in paragraph 93 of its decision.

This is of course not to diminish the important concerns highlighted by the Court of Appeal in *Thompson*, but to underscore that I remain cautiously optimistic that those changes implemented in 2017 and again recently, will impart the importance of these fundamental *Charter* rights on our membership, and we will see fewer negative cases as they eventually work their way through the courts. In the meantime, we will continue to review and improve on our training and I will provide the very valuable suggestions from your correspondence to our Learning and Development Unit for incorporation into our training and policies, where appropriate.

Please feel free to contact me if you would like to discuss further.

Yours truly,



Chief of Police Nishan Duraiappah
Peel Regional Police

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cc: Mr. Ron Chatha, Chair, Peel Police Services Board