



## STAFF REPORT ACTION REQUIRED

### TTC Special Constable Status in the Regional Municipality of York

<b>Date:</b>	Tuesday, February 21, 2017
<b>To:</b>	TTC Board
<b>From:</b>	Andy Byford, Chief Executive Officer

#### **Summary**

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As the first Toronto Transit Commission (TTC) subway line to cross the City of Toronto boundary, the Toronto-York Spadina Subway Extension project (TYSSE) will provide a critical extension for the existing subway system across the municipal boundary between the City of Toronto and The Regional Municipality of York (York Region). The TTC will continue to operate this line as part of its current service. An operational Memorandum of Understanding is currently being negotiated between TTC and York Region Transit (YRT) whereby the TTC is responsible for law enforcement and security in York Region at underground TYSSE stations. TTC Enforcement staff will work cooperatively with YRT/Viva Enforcement staff at TYSSE stations to ensure adequate safety and security of the facilities, our employees and our customers both above and below ground. In 2010, a joint services agreement provided YRT/Viva Special Constables with enforcement powers as they pertain to YRT/Viva operations with the City of Toronto.

As part of the TYSSE Memorandum of Understanding: Operation and Maintenance of Spadina Subway Extension, dated Dec 15, 2008 as between TTC, York Region and the City of Toronto, it was agreed that subject to approval of YRPS, TTC would be responsible for fare enforcement, law enforcement and security of the TYSSE.

The purpose of the 2017 Toronto Transit Commission Position Paper for Special Constable Status in the Regional Municipality of York is to provide the Regional Municipality of York Police Services (YRPS) Board and the Chief of Police with sufficient information and justification to confer limited powers and authorities under selected federal and provincial legislation to employees of the TTC Transit Enforcement Unit. With the approval of the Ministry of Community Safety and Correctional Services, this would be accomplished by appointing them as Special Constables under section 53 of the *Police Services Act*, R.S.O.

## **Recommendations**

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### **It is recommended that the Board:**

1. Approve the attached position paper to the YRPS Board to initiate a new Special Constable Agreement between the two agencies.
2. Forward the attached position paper to the YRPS Board for consideration to appoint Transit Enforcement Officers as special constables for the purpose of supporting the TTC's bylaw and limited law enforcement objectives.

## **Financial Impact**

Two additional Special Constable positions have been included in the 2017 TTC operating budget. On an annual basis, that would create an expenditure of approximately \$180,000.

The Chief Financial & Administration Officer has reviewed this report and agrees with the financial impact information.

## **Decision History**

In January of 2002 at the request of the TTC and with the approval of the Minister of Community Safety and Correctional Services, the YRPS Board designated employees of the TTC responsible for law enforcement and security as special constables. The purpose of this designation was to provide TTC officers with appropriate authorities to effectively deal with issues that arose from their duties. This agreement was suspended in February of 2012 while the TTC studied the most appropriate model of transit policing and security. Special constable status had been suspended between the TTC and the Toronto Police Services (TPS) Board in February of 2011.

The TTC executed a new Special Constable Agreement with the TPS Board in May of 2014.

Within the City of Toronto, TTC Transit Enforcement Officers provide effective law enforcement and security services consistent with the business needs of the TTC in partnership with the TPS and the TPS Board.

## **Issue Background**

The TTC has authority to enact by-laws regulating the use of its transit system and has enacted By-law No. 1 – a by-law regulating the use of the TTC local passenger transportation system.

The TTC has established a Transit Enforcement Unit in order to protect the integrity of the transit system, perform security and limited law enforcement functions with respect to TTC

properties and assets, and to ensure that the transit system remains a safe and reliable form of transportation.

Since July of 1987 the TTC has employed staff with Provincial Offences Officer status. These officers provide a visible presence, enforce TTC by-laws, and respond to calls for service in order to help preserve the peace, to protect the safety of TTC customers and employees and to protect TTC assets.

Order maintenance, proactive fare enforcement and bylaw enforcement on the transit system are generally not policing matters; rather they are matters of a corporate and public interest, both of which would normally be addressed by the transit authority.

It is in the best interests of the TTC and York Region to respond to and mitigate transit disruptions as quickly and efficiently as possible to ensure public safety is maintained at all times. Special constable authority for Transit Enforcement Officers is beneficial in supporting the TTC's by-law enforcement and limited law enforcement objectives with a view to ensuring safe and efficient transit operations.

A new special constable agreement between the TTC and the YRPS Board recognizes the need for adequate and effective powers and authorities to ensure Transit Enforcement Officers have the ability and tools to perform their functions while also ensuring accountability.

In support of YRP operations, the proposed additional authorities will allow Transit Enforcement Officers to deal effectively and efficiently with any issue that arises as a result of their duties and respond to TTC emergencies with an objective to minimize service disruptions that can result in significant public safety issues, and transit and traffic gridlock.

In 2015, the TTC set an all-time record of 538 million rides, surpassing its previous all-time total of 535 million set in 2014.

TTC ridership has increased each year for the last 12 years. Total ridership in 2003 was 405.4 million.

The TTC has the third largest ridership in North America, after Mexico City and New York City – cities with populations greater than eight million people.

To ensure that Transit Enforcement Officers can effectively and efficiently carry out their security related duties, staff is seeking the Board's concurrence to seek a new Special Constable Agreement with the YRPS Board.

## **Accessibility/Equity Matters**

As Transit Enforcement Officers have significant public contact and perform both enforcement and customer service roles, equity becomes an important factor. Challenges serving customers in a diverse population and living with a mental illness will arise. The importance of having the skills necessary to ensure all customers are treated equally and with dignity and respect, is crucial. All front line members of the Transit Enforcement Unit participate in a mandatory five-day mental health awareness training program. This

training program covers such topics as Understanding Mental Illness, Psychological First Aid, Crisis Intervention and De-Escalation, Self-Care: Maintaining Health and Well-Being and includes an interactive panel discussion with community members living with a mental illness. Members also participate in instructor led training delivered by the Alzheimer's Society of Toronto and the City of Toronto Streets to Homes program. Transit Enforcement Officers participate in holistic simulation based training as part of the curriculum. All front line members of the Transit Enforcement Unit also participate in mandatory e-learning diversity and inclusion training as facilitated by the Ontario Police Video Training Alliance and instructor-led or e-learning training by the TTC Human Rights and Diversity Unit. In addition to the aforementioned diversity and inclusion training, all new Transit Enforcement Officer Recruits also participate in an extra one-day, interactive, instructor-led diversity course. As the training program evolves, should equity issues be identified, they will be resolved using a collaborative approach with appropriate stakeholders consulted, best practices identified, and policy and procedural changes made as required.

Recently, the Transit Enforcement Unit has also engaged with our City of Toronto partners at the SPIDER (Specialized Program for Inter-divisional Enhanced Responsiveness) Program. This is a city wide program that provides response to complex and unresolved health and safety risks that involve vulnerable individuals.

## Comments

The YRPS Board is responsible for the provision of adequate and effective police services in York Region pursuant to the provisions of Part III of the *Police Services Act*, R.S.O. 1990 Chap. P-15, (the "PSA").

The TTC is a local passenger transportation commission operating within the Greater Toronto Area. The TTC operates a transit system pursuant to the provisions of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A, as amended (the "COTA").

As the first subway line to cross the City of Toronto boundary, the TYSSE will provide a critical extension for the existing subway into York Region. Service on the new extension is planned to start at the end of 2017. It is anticipated that an additional 30 million riders will use the entire TTC system in the first year of the TYSSE opening. The TYSSE is an 8.6 km addition with a total of 6 stations to be built from Downsview Station northwest through York University within the City of Toronto and north to the Vaughan Metropolitan Centre in York Region. The 6.2-kilometre Toronto portion of the extension will connect Downsview Station to Steeles Avenue. The remaining 2.4-kilometre York Region portion will connect Steeles Avenue to the Vaughan Metropolitan Centre.

The TTC Transit Enforcement Unit is comprised of four sections: patrol operations, fare inspection, training and administration and system security. Major functions include:

- Proactive and reactive order maintenance and law enforcement activities to both the subway and surface;

- Ongoing development and implementation of an enhanced system security program.

Currently, within the City of Toronto, Transit Enforcement Officers carry out the duties of a sworn special constable/peace officer, and agent/occupier of the TTC, in accordance with the Criminal Code of Canada, the TTC's Special Constable Agreement with the TPS Board and the rules and regulations governing their special constable appointment, TTC and departmental policies and standards of the department's code of conduct. Transit Enforcement Officers have also been conferred with limited police officer designation for specified sections of the Trespass to Property Act, Liquor License Act and Mental Health Act. On April 26, 2016, the TPS agreed to proceed with the development and implementation of an initiative, reviewable after one year involving:

- Direction of traffic by police officer, section 134. {1) Highway Traffic Act;
- Removal of vehicle, debris blocking traffic, section 134.1 {1){2)(3){4) Highway Traffic Act;

Transit Enforcement Officers have also been designated as Provincial Offences Officers for the purposes of enforcement of the Liquor License Act, Trespass to Property Act and TTC By-law No. 1.

In addition, on April 26, 2016, the TPS agreed to proceed with the development and implementation of an initiative, reviewable after one year involving:

- Provincial Offences Officer Status under Part II of the Provincial Offences Act R.S.O

Staff is requesting a new agreement with the YRPS Board to designate Transit Enforcement Officers as special constables with limited powers and authorities under selected federal and provincial statutes to support a more effective partnership with the YRPS in creating a safe and secure transit environment while maintaining an appropriate duty of care to customers using the system.

The limited powers and authorities being requested by the TTC from the YRPS Board for Transit Enforcement Officers are similar to those conferred upon TTC Special Constables by the TPS Board. These powers and authorities are also consistent with those afforded to special constables employed by other large transit operators for limited law enforcement, and fare and by-law enforcement functions. The dedicated uniformed presence the TTC's Transit Enforcement Officers provide in partnership with the YRPS and York Region Transit Enforcement serves to enhance public confidence in the safety and security of the transit system.

The Transit Enforcement Unit has established a complaint investigation procedure for the intake and investigation of complaints concerning the conduct of a special constable. All public complaints regarding the conduct of a sworn Transit Enforcement Officer will be subject to investigation by the YRPS. The TTC Unit Complaints Coordinator is responsible for receiving and administering the complaints investigation process.

The TTC is committed to a full range of accountability to the YRPS Board. Powers and authorities conferred upon its Transit Enforcement Officers by the YRPS Board will be exercised to meet the needs and expectations of the TTC and the York Region Transit community having full regard to the agreement between the TTC and the YRPS Board and in compliance with the policies, procedures and core values of the YRPS.

## **Conclusion**

The role of the Transit Enforcement Officer is clear and includes crime prevention, fare and by-law enforcement, limited law enforcement and response to TTC emergencies and security related incidents. The transit system is a very specialized environment with unique needs and circumstances that are not found in other elements of the community.

The goal of any modern rapid transit system is to provide effective and efficient transit services to the public. The focus for the Transit Enforcement Officer is community and customer oriented by providing customer awareness and assistance to transit riders using the system, enhancing public awareness of crime prevention strategies and providing a security related function in matters of public safety, public interest and when the corporate business needs of the TTC require such action.

Limited special constable powers and authorities for the TTC's Transit Enforcement Officers in their proposed form are intended to contribute to an effective partnership with the YRPS and York Region Transit Enforcement to provide a safe, secure, and efficient transit service. Transit Enforcement Officers are trained and supervised to ensure they exercise their authorities granted by the YRPS Board both professionally and responsibly in instances when immediate action is favourable to public safety, the public interest, the interests of the YRPS and the TTC's corporate interests.

## **Contact**

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## **Attachments**

2017 Toronto Transit Commission Position Paper for Special Constable Status in the Regional Municipality of York

# **2017 Toronto Transit Commission Position Paper for Special Constable Status in the Regional Municipality of York**

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Proposed Special Constable Powers and  
Authorities for Transit Enforcement Officers



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## Preface

The purpose of this document is to provide the Regional Municipality of York Police Services Board (the Board) and The Chief of Police with sufficient information and justification to confer limited powers and authorities under selected federal and provincial legislation to employees within the Transit Enforcement Unit of the Toronto Transit Commission (TTC). With the approval of the Ministry of Community Safety and Correctional Services, this would be accomplished by appointing them as Special Constables under section 53 of the *Police Services Act*, R.S.O.

Each legislated authority discussed has been divided into three parts: a purpose, a rationale and application and identifies the specific sections being requested. The Purpose serves to provide a brief background of relevance to the safety and security of the transit system. The Rationale provides a basis for requesting the authority outlining the benefits for the York Regional Police Service, the TTC and the transit community. Lastly, the Application describes how a Transit Enforcement Officer with Special Constable Status will professionally and responsibly apply the authority while executing their duties for the TTC while adhering to TTC policy and procedure, Code of Conduct, and terms of agreement with the Board.

Combined, all three components: Purpose, Rationale and Application, form the framework of justification for each authority requested from the Board.

## Background

The Board is responsible for the provision of adequate and effective police services in the Regional Municipality of York pursuant to the provisions of Part III of the *Police Services Act*, R.S.O. 1990 Chap. P-15, (the "PSA").

The TTC is a local passenger transportation commission operating within the Greater Toronto Area. The TTC is a branch of the City of Toronto and operates a transit system pursuant to the provisions of the *City of Toronto Act, 2006*, S.O. 2006, c. 11, Schedule A, as amended (the "COTA").

The TTC has authority to enact by-laws regulating the use of its transit system and has enacted By-Law No. 1 – a by-law regulating the use of the Toronto Transit Commission local passenger transportation system.

The TTC has established a Transit Enforcement Unit in order to protect the integrity of the transit system, perform security and limited law enforcement functions with respect to TTC properties and assets and to ensure that the transit system remains a safe and reliable form of transportation.

In 2015, the TTC set an all-time record of 538 million rides, surpassing its previous all-time total of 535 million set in 2014.

TTC ridership has increased each year for the last 12 years. Total ridership in 2003 was 405.4 million.

Nearly 85 per cent of all local transit trips in the GTA are made on the TTC. With more than 1.7 million customers on an average weekday, the TTC maintains a cost-recovery rate of more than 70 per cent from the farebox – one of the highest on the continent.

The TTC has the third largest ridership in North America, after Mexico City and New York City – cities with populations greater than eight million people.

Since July of 1987 the TTC has employed staff with Provincial Offences Officer status. These officers provide a visible presence, enforce TTC by-laws, and respond to calls for service in order to help preserve the peace, to protect the safety of TTC customers and employees and to protect TTC assets.

At the request of the Toronto Transit Commission (TTC) and with the approval of the Minister of Community Safety and Correctional Services, the Board designated employees of the TTC responsible for law enforcement and security as Special Constables in January of 2002. This agreement expired in February of 2012 while the TTC studied the most appropriate model of transit policing and security.

As the first TTC subway line to cross the City of Toronto boundary, the Toronto-York Spadina Subway Extension Project will provide a critical extension for the existing subway system across the municipal boundary between the City of Toronto and The Regional Municipality of York. TTC bus service in York Region is operated for York Region Transit.

The Toronto - York Spadina Subway Extension (TYSSE) is an 8.6km addition with a total of 6 stations to be built from Downsview Station northwest through York University within the City of Toronto and north to the Vaughan Metropolitan Centre, in The Regional Municipality of York. The 6.2-kilometre Toronto portion of the extension will connect Downsview Station to Steeles Avenue. The remaining 2.4-kilometre York portion will connect Steeles Avenue to the Vaughan Metropolitan Centre. The TTC will continue to operate this line as part of its current service. Service on the new extension is planned to start at the end of 2017. It is anticipated that an additional 30 million riders will use the entire TTC system in the first year of the TYSSE opening.

An operational Memorandum of Understanding is currently being negotiated between TTC and York Region Transit (YRT) whereby the TTC is responsible for law enforcement and security in York Region at underground TYSSE stations. TTC Enforcement staff will work cooperatively with YRT/Viva Enforcement staff at TYSSE stations to ensure adequate safety and security of the facilities, our employees and our customers both above and below ground. In 2010, a joint services agreement provided YRT/Viva Special Constables with enforcement powers as they pertain to YRT/Viva operations with the City of Toronto. To encourage commuters to use the subway system, 2,900 parking spaces are planned for various stations. Commuter parking lots are planned at the Finch West station with 400 spaces, Pioneer Village station with 1,850 spaces, and Highway 407 station with 563 spaces. TTC will not have parking lots at Downsview Park Station, York University Station or Vaughan Metropolitan Centre Station.

The TTC Transit Enforcement Unit is part of the Service Delivery Group and reports to the Chief Service Officer. The department is managed by the Head-Transit Enforcement and is comprised of four sections: Patrol Operations, Fare Inspection, Training and Administration and System Security. Major functions include:

- Proactive and reactive order maintenance and law enforcement activities to both the subway and surface;

- Ongoing development and implementation of an enhanced System Security Program.

In May of 2014, the TTC executed a new Special Constable Agreement with the Toronto Police Services Board.

Within the City of Toronto, Transit Enforcement Officers provide effective law enforcement and security services consistent with the business needs of the Toronto Transit Commission in partnership with the Toronto Police Service and the Toronto Police Services Board.

In general, Transit Enforcement Officers carry out the duties of a Sworn Special Constable/Peace Officer, agent/occupier of the TTC, in accordance with the Criminal Code of Canada, the TTC's Special Constable contract with the Toronto Police Services Board and the rules and regulations governing their Special Constable appointment, TTC and Departmental policies and standards of the Department's Code of Conduct. Transit Enforcement Officers have also been conferred with limited police officer designation for specified sections of the Trespass to Property Act, Liquor License Act and Mental Health Act. On April 26, 2016, the Transit Enforcement Unit received support from the Toronto Police Service to develop and implement an initiative, reviewable after one year, involving:

- Direction of traffic by police officer, section 134. {1) Highway Traffic Act;
- Removal of vehicle, debris blocking traffic, section 134.1 {1}{2}{3}{4) Highway Traffic Act;

Transit Enforcement Officers have also been designated as Provincial Offences Officers for the purposes of enforcement of the Liquor License Act, Trespass to Property Act and TTC Bylaw No. 1.

In addition, on April 26, 2016, the Transit Enforcement Unit received support from the Toronto Police Service to develop and implement an initiative, reviewable after one year, involving:

- Provincial Offences Officer Status under Part II of the Provincial Offences Act R.S.O

The TTC is seeking a new agreement with the Board to designate Transit Enforcement Officers as Special Constables with limited powers and authorities under selected federal and provincial statutes to support a more effective partnership with the York Regional Police Service in creating a safe and secure transit environment while maintaining an appropriate duty of care to customers using the system.

## **Mandate Of TTC Transit Enforcement Officers**

Order maintenance, proactive fare and bylaw enforcement are generally not matters of public safety; rather they are matters of a corporate and public interest, both of which would normally be addressed by the transit authority. It is in the best interests of the TTC, the Regional Municipality of York and the public to address these issues as efficiently and effectively as possible.

Planned or unplanned subway service disruptions have the potential to create severe traffic and transit gridlock as the TTC has to resort to shuttle buses to replace the affected portion of the subway, customers resort to driving their automobiles and other modes of transportation and often overcrowding conditions create a serious public safety risk.

It is in the best interests of the TTC and the Regional Municipality of York to respond to and mitigate transit disruptions as quickly and efficiently as possible with a swift response. In support of the Region's priority to modernize transit and relieve traffic congestion, our challenge is to keep transit moving.

Special Constable authority for TTC Transit Enforcement Officers is beneficial in supporting the TTC's by-law enforcement and limited law enforcement objectives with a view to ensuring safe and efficient rapid transit operations.

The new agreement between the TTC and the Board would recognize the need for adequate and effective powers and authorities for Transit Enforcement Officers to ensure they have the ability and tools to perform their functions while also ensuring accountability.

In support of York Regional Police operations, the proposed additional authorities will allow Transit Enforcement Officers to deal effectively and efficiently with any issue that arises as a result of their duties and respond to TTC emergencies with an objective to minimize service disruptions which could potentially result in significant public safety issues, and transit and traffic gridlock.

To ensure that Transit Enforcement Officers can effectively and efficiently carry out their security related duties, Special Constable Status is being requested.

## **Rationale for Special Constable Status**

The presence of both York Regional Police Officers and Transit Enforcement Officers provides enhanced safety and security for the TTC's employees and customers.

The role of a Transit Enforcement Officer, with limited powers and authorities is in many cases, the appropriate 'mode of response' to deal with issues that result out of their core function which is by-law and limited law enforcement.

The proposed limited Special Constable powers and authorities are designed to protect the health and safety of the Transit Enforcement Officer when otherwise benign situations unexpectedly escalate, as well as to deal with situations that are of an immediate public safety nature or in the public's interest when it is neither reasonable nor practical to await the arrival of the police.

A structured system for reporting Special Constable activity in relation to the powers and authorities granted Transit Enforcement Officers by the Board will be put in place to ensure compliance with the terms and conditions of the agreement and to ensure Transit Enforcement Officers use their powers and authorities responsibly and lawfully.

A report of all enforcement activity will be submitted to the York Regional Police Service daily for review. The TTC will report annually to the Board in a largely statistical report that amongst other things will identify the training received by Transit Enforcement Officers to ensure training is current thereby minimizing risk to both the TTC and the Board. Training standards will be prescribed by Board and Service. In addition, a new Code of Conduct for each member of the Transit Enforcement Unit has been developed to ensure that the roles and responsibilities of the Transit Enforcement Special Constable are understood.

## **Geographic Jurisdiction**

The geographic jurisdiction the TTC is requesting from the Board will be limited to:

- a) any TTC property which includes: all lands, facilities, structures, stations and vehicles owned, leased, occupied or maintained by the TTC, where an offence has occurred on or relation to TTC property;
- b) any place in the Regional Municipality of York provided the Transit Enforcement Officer has a legal authority to arrest a suspect(s) and that suspect(s) has made fresh departure from TTC property as defined in paragraph (a), and where not taking action may result in:
  - public safety being compromised;
  - the immediate opportunity for police to further investigate an offender being lost;
  - the undue disruption of transit service, and;
  - public order in the transit system being compromised;
- c) any place in the Regional Municipality of York for the purpose of transporting persons detained in custody to a police facility or medical facility or as otherwise directed by an Officer-in-Charge of the Service;
- d) any place in the Regional Municipality of York for the purpose of exercising powers and authorities as granted by the Board under the Highway Traffic Act or Part II of the Provincial Offences Act.

## **Requested Authorities, Federal Legislation**

### **FEDERAL LEGISLATION**

#### **Peace Officer Status**

#### **Purpose**

A Transit Enforcement Officer who while performing their normal duties, has, in relation to an offence under any Act or regulation, the powers and obligations of a peace officer under ss. 495 to 497 of the *Criminal Code*.

#### **Rationale**

Peace officer authority (under ss. 495 to 497 of the *Criminal Code*) will provide Transit Enforcement Officers with powers and authorities beyond those of a citizen to affect arrests where reasonable grounds exist to believe the individual has committed an indictable offence or that the person is named in a criminal warrant. The powers of a peace officer will be limited as a Transit Enforcement Officer may not use any power conferred by his/her appointment as a Special Constable for enforcement of the *Criminal Code* for the sole purpose of looking for evidence of a criminal offence. If a Transit Enforcement Officer while performing his/her normal or regular duties encounters a person engaging (or is advised by a third party of such action) in criminal activity, the additional powers of a peace officer will enable the Transit Enforcement to take appropriate action.

#### **Application**

Based on an objective view of the circumstances, immediate action pursuant to the Criminal Code is necessary when it is likely the offender will escape criminal liability if action is not taken and it is neither reasonable nor practical given the circumstances, to await the arrival of a police officer and the arrest or detention is:

- in the interest of the public;
- in the interest of public safety;
- for lawful search and seizure;
- to maintain order on the transit system;
- for officer safety;
- to ensure operational effectiveness;
- to minimize exposure to civil and/or criminal liability due to an unlawful or unreasonable detention.

Where not taking action may result in:

- public safety being compromised;
- officer safety being compromised;
- the immediate opportunity for police to further investigate an offender being lost;
- the undue disruption of transit service, and;
- public order in the transit system being compromised.

The TTC is requesting peace officer authority for Transit Enforcement Officers for all sections of the Criminal Code and ancillary Acts as required to support issues that may arise out of their duties.

## **Requested Authorities, Provincial Legislation**

### **MENTAL HEALTH ACT R.S.O. 1990, CHAPTER M.7**

#### **Apprehension Authority Required: Section 16, 17 and 28**

#### **Section 16 (Justice of the Peace's Order for Psychiatric Examination)**

##### **Purpose**

To provide authority to Transit Enforcement Officer to take a person named in an order by a justice of the peace into custody forthwith and transport that person to an appropriate place for treatment.

##### **Rationale**

Transit Enforcement Officers in the performance of their duties encounter persons in distress suffering from mental illness. On occasion, the person has already been named on a Justice of the Peace's Order for Psychiatric Examination. Reasonable cause has already been demonstrated to a Justice of the Peace that the person named in the order:

- a) has threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself;
- b) has behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him or her; or
- c) has shown or is showing a lack of competence to care for himself or herself, **and:**

and in addition based upon the information before him or her the justice of the peace has reasonable cause to believe that the person is apparently suffering from mental disorder of a nature or quality that likely will result in:



- d) serious bodily harm to the person;
- e) serious bodily harm to another person; or
- f) serious physical impairment of the person,

## **Application**

If encountering a person apparently in distress and suffering from a mental illness the subsequent investigation reveals a Justice of the Peace has ordered that person be taken to an appropriate facility for treatment the Transit Enforcement Officer in consultation with the York Regional Police Officer in charge of the division may execute the said order.

The TTC is requesting apprehension authority for Transit Enforcement Officers under section 16 of the Mental Health Act to ensure persons requiring immediate intervention under the Act receive the protection and medical treatment required.

## **Section 17 (Action by Police Officer)**

### **Purpose**

To intervene in situations where a person facing mental health challenges that are potentially life threatening or may result in serious injury, receives the assistance and care required to prevent harm to themselves or others.

### **Rationale**

Transit Enforcement Officers while on duty will encounter individuals who appear to be suffering from a mental illness and who may present a physical danger to themselves or to others.

### **Before exercising apprehension authority under section 17 of this Act, Transit Enforcement Officers consider the following:**

- a) has the person threatened or attempted or is threatening or attempting to cause bodily harm to himself or herself;
- b) has the person behaved or is behaving violently towards another person or has caused or is causing another person to fear bodily harm from him or her; or
- c) has the person shown or is showing a lack of competence to care for himself or herself, **and:**

the Transit Enforcement Officer is of the opinion that the person is apparently suffering from mental disorder of a nature or quality that likely will result in:

- d) serious bodily harm to the person;
- e) serious bodily harm to another person; or
- f) serious physical impairment of the person,

For the immediate protection of the individual and the collateral protection of the public, Transit Enforcement Officers will exercise the authority granted under this Act to ensure a

person who appears to be suffering from a mental disorder is transported to a medical facility where a qualified physician will make an assessment.

### **Application**

Based on an objective view of the circumstances, immediate intervention of a person believed to be suffering from a mental disorder is paramount to ensure the safety of that person when it is neither practical nor reasonable to await the arrival of police or a crisis team and intervention and apprehension is:

- in the immediate public interest;
- in the immediate interest of public safety;
- for the immediate safety of the individual;
- for the immediate safety of other members of the public

Where not affecting an apprehension may result in:

- serious bodily harm to the person, or;
- serious bodily harm to another person, or;
- serious physical impairment to the person, and;
- officer safety being compromised;
- the exposure to civil and/or criminal liability due to an unlawful detention and;
- the undue disruption of transit service.

The TTC is requesting apprehension authority for Transit Enforcement Officers under section 17 of the Mental Health Act to ensure persons requiring immediate intervention under the Act receive the protection and medical treatment required.

### **LIQUOR LICENSE ACT R.S.O. 1990, CHAPTER L.19**

**Arrest and Seizure Authority Required: sections 31(5), 36(1), 47(1) and (1.1) and 48**

### **Purpose**

To give Transit Enforcement Officers adequate powers and authorities under the Liquor Licence Act to deal with infractions that may pose an immediate risk to public or employee safety (e.g. intoxicated persons) or that may be in the public interest from the standpoint of preserving public order in the transit system, preventing service interruptions, or that may be of a TTC corporate interest from the standpoint of customer safety or civil liability.

## **Rationale**

Transit Enforcement Officers are routinely called upon to deal with disorderly conduct and security related incidents on the transit system. Often, they encounter individuals who are intoxicated and/or who have consumed or are consuming alcohol unlawfully and may be acting in a disorderly manner or interfering with the ordinary use and enjoyment of the transit system. The identified sections of the Liquor License Act will authorize Transit Enforcement Officers to take the requisite action to prevent continuation of offences and ensure persons who are unable to care for themselves through the consumption of alcohol receive the treatment required at a medical or detoxification facility or are lodged in a place of safety (police facility) until fit to care for themselves.

It is not uncommon for intoxicated persons to ride the transit system, nor is it uncommon for intoxicated persons to be incapable of caring for their own safety and in some instances from becoming aggressive and thereby, posing a threat to other users of the transit system.

## **Application**

Based on an objective view of the circumstances, immediate action pursuant to subsection 31(5) of the Act is necessary when it is neither practical nor reasonable to await the arrival of a police officer and affecting an arrest will:

- significantly reduce the risk of an intoxicated person harming him or herself;
- significantly reduce the risk of an intoxicated person harming another user of the transit system;
- begin the detoxification treatment process at the earliest possible opportunity by facilitating transport under section 36, to a medical or detoxification facility;
- ensure persons exhibiting aggressive behaviour are delivered to a police facility **and**;

where taking immediate action under section 31(5) will:

- serve the public interest for the efficient operation or resumption of transit service and to ensure operational effectiveness;
- in the interest of public safety, maintain order on the transit system;
- ensure the safety of the individual;
- ensure the safety of the Transit Enforcement Officer through taking physical control of the person;
- minimize exposure to civil and/or criminal liability due to an unlawful or unreasonable detention

- under section 36, protect the Transit Enforcement Officer from an action or other proceeding for damages on the grounds that a person brought to a medical facility, is treated without consent.

Since the provision for arrest and detention under section 48 only survives the refusal of or tendering of false identification, release from custody and commencement of a proceeding by way of Provincial Offence Notice or Summons will immediately occur upon the correct identification being given, thereby ensuring the public's interest for any judicial proceeding.

## **Seizure**

When an arrest cannot be made in relation to the Act and there is a need to prevent the continuation of an offence under this Act, or to seize evidence required to establish a prima-facie case with a reasonable prospect for conviction, Transit Enforcement Officers require authority under subsection 47(1) and (1.1) to seize without warrant, property that the Transit Enforcement Officer reasonably believes will afford evidence of an offence under this Act or property that will prevent a continuation of an offence under this Act.

## **Application**

Based on an objective view of the circumstances, property under section 47 would be typically restricted to:

- liquor and the packages in which it is kept that were used in connection with the offence
- identification that was provided as false identification

The TTC is requesting arrest and seizure authority for its Transit Enforcement Officers for subsections 31(5), 36(1), 47(1) and (1.1) and 48 of the Liquor Licence Act relevant to enforcement, procedure and seizure of liquor illegally being conveyed on the transit system.

## **TRESPASS TO PROPERTY ACT R.S.O. 1990, Chapter T.21**

### **Purpose of the Act**

The Trespass to Property Act is a statute affording control to owners and occupiers of premises as to who may enter their premises, what activities are permitted on the premises and the right to direct persons to leave the premises, through the enforcement of highly specific and limited offences.

### **Authority Required: Section 9**

#### **Section 9**

#### **Arrest without warrant on premises**

9. (1) A police officer, or the occupier of premises, or a person authorized by the occupier<sup>1</sup> may arrest without warrant any person he or she believes on reasonable and probable grounds to be on the premises in contravention of section 2.

### **Delivery to police officer**

(2) Where the person who makes an arrest under subsection (1) is not a police officer, he or she shall promptly call for the assistance of a police officer and give the person arrested into the custody of the police officer.

### **Deemed arrest**

(3) A police officer to whom the custody of a person is given under subsection (2) shall be deemed to have arrested the person for the purposes of the provisions of the Provincial Offences Act applying to his or her release or continued detention and bail.

### **Rationale**

Transit Enforcement Officers on a regular basis encounter persons who are on TTC property when they have been prohibited from entering, or who are engaged in prohibited activities on the premises, or who refuse to leave premises when directed. The authority granted under the Trespass to Property Act (the Act) authorizes Transit Enforcement Officers as persons authorized by the occupier, to arrest and detain persons who are on the property or who are engaging in activities on the property in contravention of the Act.

Requiring a police officer to attend TTC property merely to conduct a release is not an efficient use of police resources when Transit Enforcement Officers could be granted the authority to release arrested individuals. Release of an individual at the earliest opportunity once the conditions for release are met provides for the least amount of intrusion with the trespasser's liberty.

### **Application**

Based on an objective view of the circumstances, it is neither practical nor reasonable to await the arrival of a police officer to release a person from custody who meets all the conditions for release. Transit Enforcement Officers require the requisite authority to expeditiously affect a release subsequent to arrest when all the conditions for release have been met, **and it is:**

- in the interest of the person arrested to prevent unnecessary detention;
- for officer safety with respect to continuing detention, particularly if that detention is unnecessary;
- to minimize exposure to civil and/or criminal liability due to an unlawful or unreasonable detention;
- to investigate a security breach affecting the protection of critical infrastructure

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<sup>1</sup> Includes a TTC TRANSIT ENFORCEMENT OFFICER

- to maintain order on the transit system;
- to ensure operational effectiveness;
- and where extended or unnecessary detention of persons in custody is not practical and may be considered unlawful.

The TTC is requesting authority for its Transit Enforcement Officers for section 9 of the Trespass to Property Act relevant to arrest and release of persons who have been prohibited from entering or who are engaged in prohibited activities on Commission properties, or who refuse to leave TTC property when directed. This authority will support the Service given both them and the TTC are operating with limited resources.

### **Highway Traffic Act, R.S.O. 1990, c. H.8**

#### **Purpose**

A Transit Enforcement Special Constable who while performing their normal duties at the scene of a TTC emergency has the powers and obligations of a police officer under sections 134 and 134.1 of the *Highway Traffic Act, R.S.O.* regarding the direction of traffic, and removal of vehicles and debris blocking traffic.

#### ***Direction of traffic by police officer***

*134. (1) Where a police officer considers it reasonably necessary,*

- (a) to ensure orderly movement of traffic;*
  - (b) to prevent injury or damage to persons or property; or*
  - (c) to permit proper action in an emergency, he or she may direct traffic according to his or her discretion, despite the provisions of this Part, and every person shall obey his or her directions.*
- R.S.O. 1990, c. H.8, s. 134 (1).*

#### ***Removal of vehicle, debris blocking traffic***

*134.1 (1) Where a police officer considers it reasonably necessary,*

- (a) to ensure orderly movement of traffic; or*
- (b) to prevent injury or damage to persons or property, he or she may remove and store or order the removal and storage of a vehicle, cargo or debris that are directly or indirectly impeding or blocking the normal and reasonable movement of traffic on a highway and shall notify the owner of the vehicle of the location to which the vehicle was removed. 2005, c. 26, Sched. A, s. 20.*

#### ***Costs of removal***

*(2) The costs and charges for the removal and storage of the vehicle, cargo or debris removed are a debt due by the owner, operator and driver of the vehicle, for which they are jointly and severally liable, and the debt may be recovered in any court of competent jurisdiction and are a lien upon the vehicle, which may be enforced in the manner provided by the Repair and Storage Liens Act. 2005, c. 26, Sched. A, s. 20.*

### ***Conflict with other Acts***

*(3) In the event of a conflict with this section, the following prevail:*

- 1. Part X of the Environmental Protection Act and the regulations made under it, with respect to a pollutant on a highway.*
- 2. The Dangerous Goods Transportation Act and the regulations made under it. 2005, c. 26, Sched. A, s. 20.*

### ***Protection from liability***

*(4) No action or other proceeding for damages shall be brought against a police officer, a police force, a police services board, any member of a police services board, the Crown, an employee of the Crown or an agent of the Crown for any act done in good faith in the performance or intended performance of a duty under this section, or in the exercise or intended exercise of a power under this section, or any neglect or default in the performance or exercise in good faith of such duty or power. 2005, c. 26, Sched. A, s. 20.*

### **Rationale**

In order to complete infrastructure upgrade projects which necessitate both partial and total closures of the subway system from time to time, the TTC initiates a Planned Closure Protocol which includes the use of a shuttle bus replacement system over the affected areas of the transit system.

In 2015 in the City of Toronto, the TTC had 36 of these planned closures scheduled over a total of 64 days. In 2016, the TTC has 41 of these planned closures scheduled over a total of 77 days<sup>2</sup>.

It is in the best interest of public safety and TTC operations to move shuttle buses in and out of the affected subway stations and along shuttle routes as quickly and efficiently as possible. TTC buses regularly have difficulty moving in and out of the affected subway stations and along shuttle routes due to traffic congestion on the adjacent roadways.

Additionally, in the case of an unplanned closure or TTC emergency affecting the transit system, limited Police Officer authority under the aforementioned sections of the Highway Traffic Act R.S.O. will provide Transit Enforcement Officers with powers and authorities beyond those of a citizen to respond effectively to the emergency where reasonable grounds exist to believe that a significant disruption to transit service is occurring or is imminent. The proposed additional limited police powers are designed to facilitate the safe, efficient and orderly movement of TTC customers and vehicles during a TTC emergency which has resulted in a significant disruption to transit service, when otherwise benign situations unexpectedly escalate, as well as to deal with situations that are of an immediate risk to public or employee safety or in the public's interest when it is neither reasonable nor practical to await the arrival of the police, or to support police operations at a TTC related incident.

These additional powers of a police officer will be limited as a Transit Enforcement Special Constable may not use any power conferred by his/her appointment as a Special Constable in these circumstances for any other purpose.

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<sup>2</sup> Manager-Closures and Diversions-Subway Transportation

Based on an objective view of the circumstances, immediate action pursuant to Highway Traffic Act R.S.O. is necessary when a significant delay to transit service is occurring or is imminent, the delay is likely to be aggravated if action is not taken and it is neither reasonable nor practical given the circumstances, to await the arrival of a police officer and the response is:

- in the interest of the public or;
- in the interest of public safety or;
- in the interest of traffic safety or;
- likely to reduce congestion or gridlock or;
- in the interest of minimizing or resolving a transit delay;
- likely to restore or maintain order on the transit system;
- to ensure operational effectiveness;

Where not taking action may result in:

- transit operations being further compromised;
- public safety being compromised;
- employee safety being compromised;
- the immediate opportunity for police to attend being lost;
- the undue disruption of transit service, and;
- public order in the transit system being compromised.

## **Application**

TTC Transit Enforcement Officers shall not direct traffic on a highway, or remove a vehicle from a highway unless they are under the supervision or have consulted with a Municipal or Provincial Police Officer.

No TTC Transit Enforcement Officer shall direct traffic without prior approval and direction of the Duty Transit Enforcement Sergeant or higher ranking officer. Where no police officer is in attendance, the Duty Transit Enforcement Sergeant or higher ranking officer shall notify the officer in charge of the police division in which the incident is occurring and be guided by their direction before authorizing any Transit Enforcement Officer to exercise an authority under the HTA to direct traffic. No Transit Enforcement Officer shall direct traffic on a highway unless they have completed training in these responsibilities by the York Regional Police Service (or designate) and are wearing the necessary Personal Protective Equipment.

Due to the broad range of their duties and functions, TTC Transit Enforcement Officers operate patrol vehicles of a standard police make and model. With the exception of the



vehicle normally utilized by senior members of the department, all Transit Enforcement patrol vehicles are clearly identified as such by a high visibility, highly reflective graphics package. All Transit Enforcement patrol vehicles are currently equipped with a low profile (clean roof) emergency lighting and siren package as to afford a high level of visibility and traffic safety when activated. All marked Transit Enforcement Special Constable patrol vehicles shall be equipped with high profile, roof mounted emergency lighting equipment capable of producing intermittent flashes of red and white light in all directions. (360 degrees)



Unmarked patrol vehicles, although not decaled, will have a low profile emergency lighting package capable of producing intermittent flashes of red and white light in all directions (360 degrees) sufficient to provide a high level of traffic safety and visibility when activated.

The rationale for this change in vehicle specifications was two-fold. First, the addition of highly visible emergency lighting provides an extra measure of safety whenever a patrol vehicle is stopped in traffic servicing a call to surface vehicles and particularly should the patrol vehicle be stopped in a hazardous position.

Second, installation of high profile roof lights will provide a measure of increased safety and awareness to the public and TTC employees and alert them to the presence of a Special Constable patrol vehicle and an officer who may be exercising peace/police authorities.



The most suitable product was found to be the Pursuit light bar manufactured by Code 3 or similar as displayed above.

Until such time that approval is granted by the Board to permit otherwise, Transit Enforcement Officers will be instructed to only use emergency lighting equipment capable of emitting intermittent flashes of red and white light when the vehicle is stationary on a public highway or when on TTC property exclusively.

## **PART II-PROVINCIAL OFFENCES ACT, R.S.O. 1990, c. P.33**

Since July of 1987 the TTC has employed staff with Provincial Offences Officer status. These officers provide a visible presence and deterrence, enforce TTC by-laws, respond to calls for service in order to help preserve the peace, protect the safety of TTC customers and employees and protect TTC assets.

### **Purpose**

A Transit Enforcement Officer who while performing their normal duties on TTC property or a highway as defined by the Highway Traffic Act R.S.O. on which TTC vehicles operate, has the powers and obligations of a Provincial Offences Officer under Part II of the Provincial Offences Act R.S.O. to commence proceedings for parking infractions in cases where transit service is being or is about to be obstructed.

### **Rationale**

The TTC operates bus service on behalf of the Regional Municipality of York on a shared roadway. It is vital that these transit routes remain clear of illegally parked autos or other unlawful obstructions. Provincial Offences Officer status under Part II of the Provincial Offences Act will afford Transit Enforcement Officers the authority to commence proceedings for parking infractions and/or have vehicles towed from the roadway.

Based on an objective view of the circumstances, immediate action pursuant to Part II of the Provincial Offences Act is necessary when a significant delay to transit service is occurring or is imminent, the delay is likely to be aggravated if action is not taken and it is neither reasonable nor practical given the circumstances, to await the arrival of a police officer or Parking Enforcement Officer and the response is:

- in the interest of the public or;
- in the interest of public safety or;
- in the interest of traffic safety or;
- likely to reduce congestion or gridlock or;
- in the interest of minimizing or resolving a transit delay;
- likely to restore or maintain order on the transit system;
- to ensure operational effectiveness;

Where not taking action may result in:

- transit operations being further compromised;
- public safety being compromised;
- traffic safety being compromised;
- the immediate opportunity for police or Parking Enforcement to attend being lost and;
- the undue disruption of transit service.

## **Application**

Transit Enforcement Officers are currently designated as Provincial Offences Officers for the purposes of the enforcement of the Toronto Transit Commission Bylaw #1, the Trespass To Property Act, and the Liquor License Act.

Transit Enforcement Officers would be trained to standards prescribed by the York Regional Police Service (or designate) to perform these additional duties and report these activities annually to the Regional Municipality of York Police Services Board.

## Summary

Limited Special Constable powers and authorities for the TTC's Transit Enforcement Officers in their proposed form are intended to contribute to an effective partnership with the York Regional Police Service to provide a safe, secure, and efficient transit service. Transit Enforcement Officers are trained and supervised to ensure they exercise their authorities granted by the Board both professionally and responsibly in instances when immediate action is favourable to public safety, the public interest, the interests of the Police Service and the TTC's corporate interests. Training will be performed in accordance with standards as provided by the Service/Board.

The role of the Transit Enforcement Special Constable is clear and includes fare and by-law enforcement, limited law enforcement and response to TTC emergencies and security related incidents. The transit system is a very specialized environment with unique needs and circumstances that are not found in other elements of the community.

The goal with any modern rapid transit system is to provide effective and efficient transit services to the public. The focus for the Transit Enforcement Special Constable is community oriented by providing customer awareness and assistance to transit riders using the system, enhancing public awareness of crime prevention strategies and providing a security related function in matters of public safety, public interest and when the corporate business needs of the TTC require such action.

The limited powers and authorities being requested by the TTC from the Board for Transit Enforcement Officers are consistent with those afforded to Special Constables employed by other large transit operators for limited law enforcement, and fare and by-law enforcement functions. The dedicated uniformed presence the TTC's Transit Enforcement Officers provide in partnership with the York Regional Police Service serves to enhance public confidence in the safety and security of the transit system.

The TTC is committed to a full range of accountability to the Board. Powers and authorities conferred upon its Transit Enforcement Officers by the Board will be exercised to meet the needs and expectations of the TTC and the York Region transit community having full regard to the agreement between the TTC and the Board and in compliance with the policies, procedures and core values of the York Regional Police Service.

If you have any questions with regards to this position paper please contact:

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