



TSAWWASSEN FIRST NATION  
s̓c̓əwəθən məsteyəx<sup>w</sup>

*Laws Enforcement Act*

**ENFORCEMENT (PEACE) OFFICER REGULATION**

**Date Enacted: 15 May 2013**

*Order Number:* O.051-2013

**Last Amended: 17 July 2013**

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Table of Regulation Changes

<b>Section(s) Amended</b>	<b>Date</b>	<b>Order number</b>
s.24 added renumbering	17/07/2013	O.072-2013

*Contents*

**CITATION ..... 2**

**DEFINITIONS ..... 2**

**DELEGATION OF AUTHORITY..... 2**

**JURISDICTION..... 2**

**ENFORCEMENT OFFICER IS PEACE OFFICER ..... 2**

**AUTHORITY ..... 2**

**USE OF FORCE ..... 3**

**APPOINTMENT AND RETENTION ..... 3**

**CODE OF CONDUCT ..... 3**

**REQUIRED TRAINING AND CERTIFICATIONS..... 3**

**WEAPONS AND EQUIPMENT ..... 3**

**RECORD KEEPING ..... 4**

**UNIFORM ..... 4**

**IDENTIFYING SYMBOLS ..... 4**

**ENFORCEMENT VEHICLES..... 5**

**APPLICATION..... 5**

**COMPLAINTS..... 5**

**INVESTIGATION OF COMPLAINTS..... 5**

**INVESTIGATIVE PROCESS ..... 5**

**FINDINGS ..... 6**

**DISCIPLINARY MEASURES ..... 6**

**NOTICE TO COMPLAINANT..... 6**

**NOTICE TO ENFORCEMENT OFFICER..... 7**

**DELEGATION TO INDEPENDENT ENTITY ..... 7**

**APPEAL OF COMPLAINT DECISION..... 7**

**APPEAL OF DISCIPLINARY DECISION ..... 8**

**SCHEDULE A – CODE OF CONDUCT..... 9**

**SCHEDULE B – NATIONAL USE OF FORCE FRAMEWORK..... 10**

## PART 1 – INTERPRETATION

### Citation

- 1 This regulation may be cited as the *Enforcement (Peace) Officer Regulation, 2013*.

### Definitions

- 2 In this regulation:
  - “**Act**” means the *Laws Enforcement Act*;
  - “**Chief Administrative Officer**” means the individual appointed pursuant to section 40 of the *Government Organization Act*;
  - “**enforcement officer**” means an individual appointed pursuant to section 3 (1) of the Act whose primary duty is the enforcement of TFN laws and regulations;
  - “**HR Policy**” means the TFN Human Resources Policy, as amended from time to time;
  - “**intermediate weapon**” means a weapon whose normal use is not intended or likely to cause serious injury or death, and includes oleoresin spray, conducted energy weapons, and a collapsible baton;
  - “**multi-tool**” means a device that contains various tools attached to a single handle;
  - “**TFN**” means Tsawwassen First Nation; and
  - “**Tsawwassen Lands**” has the meaning ascribed to it in the *Land Act* (Tsawwassen).

### Delegation of authority

- 3 The Chief Administrative Officer may delegate any or all of his or her authority under this regulation.

## PART 2 – JURISDICTION AND AUTHORITY

### Jurisdiction

- 4 Enforcement officers are empowered to enforce all TFN laws and regulations within the boundaries of Tsawwassen Lands, save and except for the *Fisheries, Wildlife, Migratory Birds and Renewable Resources Act* and regulations made under that act.

### Enforcement officer is peace officer

- 5 For greater certainty, enforcement officers are peace officers for the purposes of the *Offence Act* (British Columbia) and the *Criminal Code* (Canada).

### Authority

- 6 Unless limited by the terms of an appointment, an enforcement officer, by virtue of his or her appointment, is authorized to:
  - (a) lay an information to charge a person with one or more offences;
  - (b) remove trespassers from Tsawwassen Lands;
  - (c) exercise the powers and rights and carry out the duties of a peace officer under the *Offence Act* (British Columbia);
  - (d) arrest without a warrant a person whom the enforcement officer finds committing an offence under TFN law where the TFN law expressly provides for arrest without warrant; and

(e) take any further action as ordered by Executive Council.

**Use of force**

- 7 (1) Subject to subsection (2), enforcement officers, acting on reasonable grounds, are authorized to use as much force as is necessary for the administration and enforcement of TFN laws and regulations.
- (2) Enforcement officers are not authorized to use or carry firearms in the administration and enforcement of TFN laws and regulations.

**PART 3 – ENFORCEMENT OFFICER REQUIREMENTS**

**Appointment and retention**

- 8 It shall be a condition of the appointment and retention of appointment of an enforcement officer that the appointed individual has and maintains a clear criminal record.

**Code of conduct**

- 9 All enforcement officers shall abide by the Code of Conduct attached hereto as Schedule “A” at all times while on duty or otherwise representing TFN.

**Required training and certifications**

- 10 (1) Enforcement officers shall have completed provincially-approved training and achieved certification in the following areas prior to exercising their duties and responsibilities:
- (a) collapsible baton;
  - (b) oleoresin spray;
  - (c) pressure point control tactics (PPCT);
  - (d) emergency vehicle operator course (EVOC);
  - (e) Crisis Intervention and De-escalation (CID) course; and
  - (f) conducted energy weapons (CEW) course.
- (2) Enforcement officers shall maintain the certifications required by subsection (1) and shall re-certify at the following intervals:
- (a) at least every 3 years for: collapsible baton, oleoresin spray, PPCT, and CID course;
  - (b) at least every 5 years for: EVOC; and
  - (c) at least yearly for: CEW.

**Weapons and equipment**

- 11 (1) Enforcement officers may carry and use the following intermediate weapons and equipment in performance of their duties:
- (a) oleoresin spray (pepper spray);
  - (b) conducted energy weapon (taser);
  - (c) a baton;
  - (d) handcuffs, or similar restraining devices;

- (e) personal protective equipment including a bullet resistant vest, a stab resistant vest, or protective gloves, but not including weighted-knuckle gloves or similar gloves;
  - (f) tools and other items necessary for the performance of the enforcement officer's duties and responsibilities, including a multi-tool, but not including a knife.
- (2) Enforcement officers shall only use the intermediate weapons listed in subsection (1) in accordance with the National Use of Force Framework attached hereto as Schedule "B".
  - (3) Enforcement officers shall ensure that the intermediate weapons listed in subsection (1) are securely stored when not in use.

### **Record keeping**

- 12** (1) Enforcement officers shall record and/or retain the following information with respect to each regulatory complaint, incident or investigation, as applicable:
  - (a) a file number unique to each incident;
  - (b) the date of occurrence;
  - (c) the complainant's name and contact information;
  - (d) the suspect's name and contact information;
  - (e) details of the incident and investigation;
  - (f) a copy of the ticket(s) issued;
  - (g) a list of exhibits with storage particulars;
  - (h) the resolution of the file and the date concluded; and
  - (i) copies of all correspondence between TFN, the complainant, and the enforcement officer.
- (2) All notes taken by enforcement officers are and shall remain property of TFN and shall be returned to TFN immediately following the cessation of an enforcement officer's appointment.

### **Uniform**

- 13** (1) Enforcement officers shall wear a TFN-issued uniform at all times while on duty.
- (2) Enforcement officers shall not wear or otherwise use a TFN-issued uniform other than while on duty or immediately before or after a shift.
- (3) Enforcement officers shall return all TFN-issued elements of their uniform immediately following the cessation of their appointment.

### **Identifying symbols**

- 14** (1) Enforcement officers shall carry:
  - (a) a TFN-issued badge bearing an identification number or name; and
  - (b) a TFN-issued enforcement officer identification card,at all times while on duty.
- (2) Enforcement officers shall return their TFN-issued badge and identification card immediately following the cessation of their appointment.

### **Enforcement vehicles**

- 15** When travelling in a vehicle in the performance of enforcement duties, enforcement officers shall travel in a clearly marked TFN enforcement vehicle.

## **PART 4 – COMPLAINTS AND DISCIPLINE**

### **Application**

- 16** This Part applies to all individuals appointed pursuant to section 3 (1) of the Act, regardless of the primary nature of their duties.

### **Complaints**

- 17** Complaints respecting the conduct of an enforcement officer may be filed in writing with the Chief Administrative Officer within 30 days of the incident in question, and shall include the name of the complainant, reasons for the complaint and details of the incident.

### **Investigation of complaints**

- 18**
- (1) Subject to subsection (2), where a complaint has been filed in accordance with section 17, the Chief Administrative Officer shall investigate and resolve the complaint in accordance with this regulation.
  - (2) The Chief Administrative Officer may decline to investigate, or may discontinue an investigation, and dismiss the complaint if, in the Chief Administrative Officer's opinion,
    - (a) the complaint is frivolous, vexatious, made in bad faith, or otherwise without merit; or
    - (b) having regard to all circumstances, no investigation is necessary.
  - (3) In all circumstances, the Chief Administrative Officer shall resolve the complaint within 90 days of receipt, unless an extension to this time limit is approved by Executive Council.
  - (4) Prior to commencing a formal investigation, the Chief Administrative Officer may attempt to resolve the matter informally provided both the complainant and the enforcement officer in question consent to this process.

### **Investigative process**

- 19**
- (1) The Chief Administrative Officer conducting an investigation pursuant to section 18 may use the following investigative methods, as applicable:
    - (a) requesting oral and/or written information from the complainant, the enforcement officer in question, witnesses, and any other person who may have knowledge relevant to the incident;
    - (b) collecting and assessing relevant physical and documentary evidence;
    - (c) consulting technical experts; and,
    - (d) other methods, with the approval of Executive Council.
  - (2) At the conclusion of an investigation, the Chief Administrative Officer shall assess all available evidence and prepare a report which includes:
    - (a) a summary of all evidence that was received and considered;
    - (b) the Chief Administrative Officer's finding, pursuant to section 20;

- (c) reasons for the findings in (b);
- (d) disciplinary action to be taken, if any; and
- (e) remedial measures to be taken, if any.

### **Findings**

- 20** Upon conclusion of an investigation, the Chief Administrative Officer may find as follows:
- (a) “the complaint is unfounded”, if on the basis of a thorough investigation no reasonable belief exists that the complaint has merit or basis;
  - (b) “the complaint is unsubstantiated”, if on the basis of a thorough investigation there is insufficient evidence to determine the facts of the complaint and that it may or may not have occurred;
  - (c) “the complaint is found to have merit in part”, if on the basis of a thorough investigation a reasonable belief exists that the enforcement officer has engaged in misconduct in regards to a portion(s) of the complaint, but not in its entirety; or
  - (d) “the complaint is found to have merit in whole”, if on the basis of a thorough investigation a reasonable belief exists that the enforcement officer has engaged in misconduct in regards to the entirety of the complaint.

### **Disciplinary Measures**

- 21** If the Chief Administrative Officer determines that misconduct occurred, any of the following disciplinary measures, or a combination thereof, may be imposed on the enforcement officer in question, provided the severity of the discipline is proportionate to the gravity of the misconduct:
- (a) verbal warning, in accordance with the HR Policy;
  - (b) additional training or educational requirements;
  - (c) written reprimand;
  - (d) suspension from active duty, with or without pay, for a period not exceeding three months; or,
  - (e) revocation of appointment.

### **Notice to Complainant**

- 22** (1) Where a complaint is filed in accordance with section 17 and an investigation is commenced, the Chief Administrative Officer shall provide the complainant with the following information:
- (a) written notice of receipt of the complaint, within 30 days;
  - (b) written notice of the progress of the investigation, every 45 days while the file is active; and
  - (c) written notice of the findings made pursuant to section 20, within 30 days of the resolution.
- (2) The Chief Administrative Officer may provide the complainant with written notice of the disciplinary measures imposed, subject to confidentiality requirements.

- (3) Where a complaint is filed and dismissed pursuant to section 18 (2), the Chief Administrative Officer shall provide the complainant with written reasons for the dismissal within 15 days of the dismissal.

**Notice to Enforcement Officer**

- 23**
- (1) The Chief Administrative Officer shall notify the enforcement officer against whom a complaint has been filed within 5 business days of receipt of the complaint, unless such notice may reasonably prejudice the internal investigation or any external investigation.
  - (2) If notice is provided under subsection (1), the Chief Administrative Officer shall inform the enforcement officer of the details of the complaint and shall afford the enforcement officer a reasonable opportunity to furnish relevant evidence to contradict or explain the allegations.

**Delegation to independent entity**

- 24**
- (1) The Chief Administrative Officer may delegate any of his or her powers or duties under this Part to an independent entity, which may include but is not limited to, the Judicial Council.
  - (2) At any time after an investigation is commenced pursuant to section 18, if Executive Council considers it necessary in the public interest that a person other than the Chief Administrative Officer, or his or her delegate, oversee the investigation, Executive Council may designate an independent entity to assume the Chief Administrative Officer's powers and duties under this Part.

*[Amended by Order number O.072-2013]*

**Appeal of Complaint Decision**

- 25**
- (1) A complainant may appeal a finding made pursuant to section 20 by submitting a written notice of appeal to the Judicial Council within 30 days of receiving notice of the decision.
  - (2) A notice of appeal must include the complainant's name and contact information, and reasons for the appeal.

### **Appeal of Disciplinary Decision**

- 26**
- (1) An enforcement officer may appeal a disciplinary decision resulting in the revocation of his or her appointment to the Judicial Council in accordance with the procedures set out in section 13 of the *Government Employees Act*.
  - (2) An enforcement officer may appeal a disciplinary decision, other than a revocation of appointment, in writing to the Judicial Council within 30 days of receiving notice of the decision.
  - (3) Upon hearing an appeal filed pursuant to subsection (2), the Judicial Council may
    - (a) dismiss the appeal, or
    - (b) if it determines that the original order is inconsistent with TFN laws, regulations, or employment policies or procedures, either
      - (i) reverse the decision, or
      - (ii) alter the decision to include a remedy.
  - (4) A decision made by the Judicial Council pursuant to subsection (3) is final.

## SCHEDULE A – Code of Conduct



### TSAWWASSEN FIRST NATION s̓əwaθən məsteyəx<sup>w</sup>

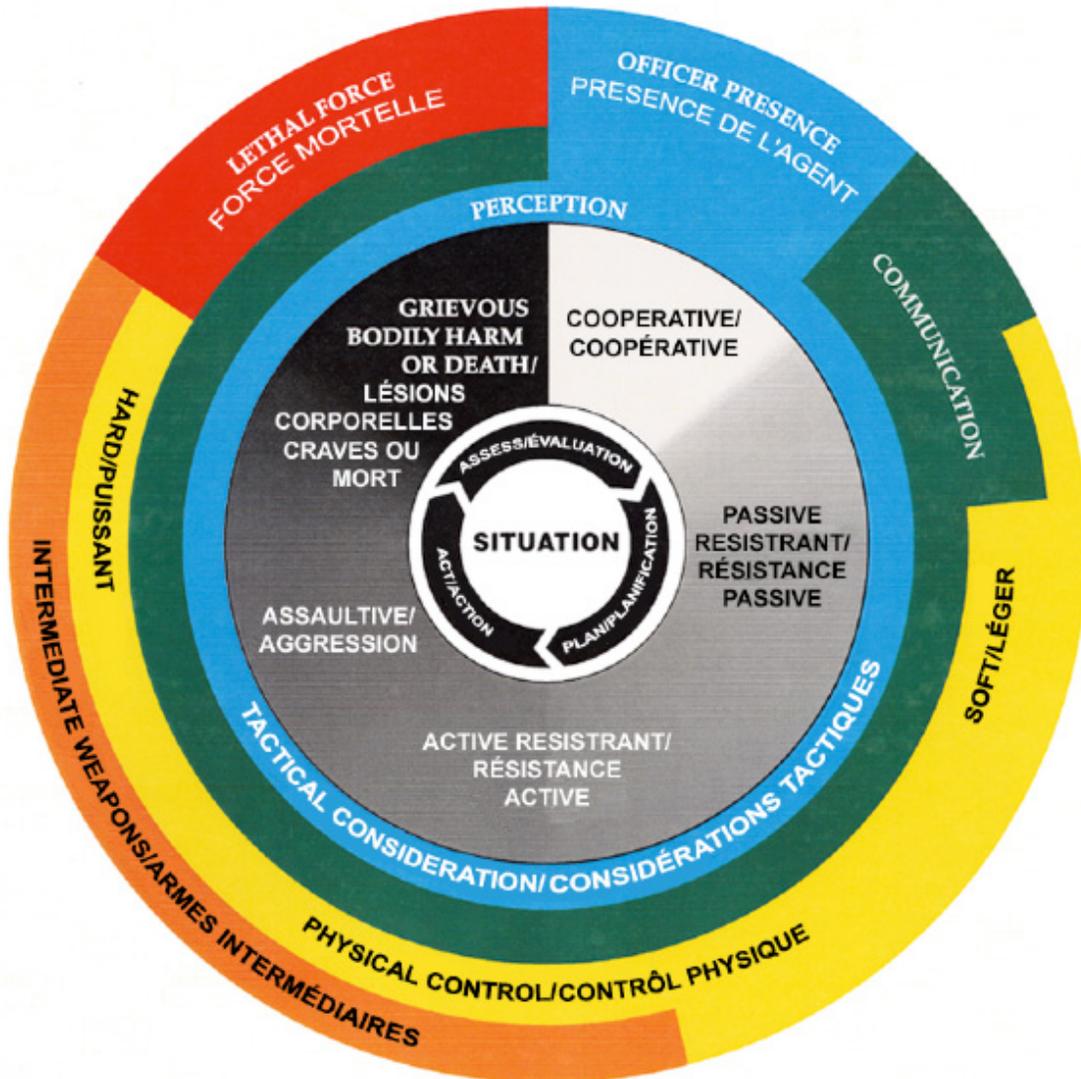
#### ENFORCEMENT OFFICER CODE OF CONDUCT

All enforcement officers appointed by Executive Council pursuant to section 3 (1) of the *Laws Enforcement Act* shall abide by the following code of conduct at all times while on duty or otherwise representing Tsawwassen First Nation (“TFN”):

- 1) All enforcement officers shall:
  - a. comply with the terms and conditions of TFN’s authorization;
  - b. comply with the terms of the enforcement officer’s appointment;
  - c. promptly and diligently perform the enforcement officer’s duties and responsibilities;
  - d. strictly maintain TFN’s confidentiality standards; and
  - e. properly account for and return money or property that the enforcement officer receives in his or her capacity as enforcement officer.
  
- 2) All enforcement officers are prohibited from:
  - a. engaging in disorderly or inappropriate conduct;
  - b. acting in a way that would be harmful to the discipline of enforcement officers or that is likely to discredit the office of enforcement officer;
  - c. withholding or suppressing information, complaints or reports about any other enforcement officer;
  - d. making or signing false, misleading, or inaccurate statements;
  - e. destroying, mutilating, or concealing records or property;
  - f. altering or erasing an entry in a record;
  - g. engaging in activities which may or will result in a conflict of interest or an apprehension of or a lack of integrity in the office of enforcement officer;
  - h. using the enforcement officer’s position for his or her own advantage or another person’s advantage;
  - i. exercising the enforcement officer’s authority as an enforcement officer when it is unnecessary to do so;
  - j. consuming alcohol while on duty, except in the performance of the peace officer’s duties; and
  - k. consuming or possessing controlled drugs or substances.

**SCHEDULE B – National Use of Force Framework**

**National Use of Force Framework  
Le cadre national de l'emploi de la force**



The officer continuously assesses the situation and acts in a reasonable manner to ensure officer and public safety.

L'agent doit continuellement évaluer la situation et agir de manière raisonnable afin d'assurer sa propre sécurité et celle du public.