



BY-LAW NO. 438 - 2024

**A BY-LAW RESPECTING
CHILD PORNOGRAPHY (INTERNET CHILD EXPLOITATION)**

1. PREAMBLE

- 1.1 WHEREAS subsection 37 (1) of the *Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1, ("CSPA")* provides that a Board shall provide adequate and effective policing in the area for which it has policing responsibility as required by Section 10 of the CSPA;
- 1.2 AND WHEREAS subsection 38 (2) of the CSPA provides that a Police Service Board may establish policies respecting matters related to the Police Service or the provision of policing;
- 1.3 AND WHEREAS O.Reg. 392/23: Adequacy and Effective Policing (General) prescribes standards for adequacy and effectiveness of police services;
- 1.4 AND WHEREAS the Board deems it appropriate that the Chief of Police develop and maintain procedures on and processes for undertaking and managing investigations into child pornography (Internet child exploitation);
- 1.5 AND WHEREAS Section 163.1 of the *Criminal Code* defines *child pornography* and related offences;
- 1.6 AND WHEREAS Section 172.1 of the *Criminal Code* defines *child luring* and prohibits the use of computers to communicate with an underage person or a person whom the accused believes to be underage for the purpose of facilitating the commission, with respect to that person of the specified sexual offences;
- 1.7 AND WHEREAS Part LE-036 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing the police service and the Chief relative to investigations into child pornography (Internet child exploitation).

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD ENACTS AS FOLLOWS:

2. DEFINITIONS

- 2.1 "Act" or "CSPA" means the *Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1*, and amendments thereto;
- 2.2 "Board" means the Regional Municipality of Niagara Police Service Board;

- 2.3 “*Chief*” means the Chief of the Niagara Regional Police Service;
- 2.4 “*Manual*” means the Policing Standards Manual published by the Ministry of the Solicitor General;
- 2.5 “*Member*” means a member of the Niagara Regional Police Service;
- 2.6 “*Ministry*” means the Ministry of the Solicitor General;
- 2.7 “*Provincial Strategy Co-ordinator*” means the OPP Staff Sergeant, or other officer, designated from time to time by the OPP, responsible for the liaison and co-ordination between various policing agencies participating in the implementation of the project;
- 2.8 “*Provincial Strategy*” means the Ministry of the Solicitor General’s Provincial Strategy to protect children from sexual abuse and exploitation on the Internet. This is a unified team approach intended to support child victims of Internet exploitation. The Provincial Strategy will assist child victims of Internet sexual abuse and exploitation, and permit the justice system to build the capacity and sustainability to:
- Identify child victims through image analysis;
 - Provide specialized child victim support;
 - Identify and prosecute offenders which will assist in preventing children from being re-victimized;
 - Educate via awareness campaigns to assist victims to self-identify and thereby prevent both victimization and re-victimization (self-identification); and
 - Engage in partnerships with key stakeholders, which will establish and maintain community and justice system linkages ensuring the reporting and prosecution of offences with a link to victim support;
- 2.9 “*Service*” means the Niagara Regional Police Service.

3 BOARD POLICY

- 3.1 The Board recognizes that matters involving child pornography are serious in nature, and it is therefore the policy of this Board that investigations into such matters be conducted professionally and thoroughly, and in accordance with procedures established by the Chief as directed in this By-law.

4 DIRECTION TO THE CHIEF

4.1 PROCEDURES

- 4.1.1 The Chief shall develop and maintain procedures relating to investigations into child pornography (Internet child exploitation). These procedures shall be in accordance with Appendix A and shall:
- (a) require that investigations be undertaken in accordance with the Service’s Criminal Investigation Management Plan; and
 - (b) require compliance with the procedures set out in the Ministry’s designated Ontario Major Case Management Manual.

4.1.2 The procedure referred to in Section 4.1.1 above shall require that the Provincial Strategy to Protect Children from Sexual Abuse and Exploitation on the Internet (Provincial Strategy) be immediately notified in all cases of suspected child pornography (Internet child exploitation).

4.2 **TRAINING**

4.2.1 The Chief shall ensure that Members involved in investigations into child pornography offences have the requisite knowledge, skills and abilities.

4.2.2 The Chief shall ensure support is provided to manage the psychological well-being of Members to acknowledge risks associated with long-term effects from exposure to Internet child exploitation investigation related-activities.

4.2.3 The Chief shall ensure that the Skills Development and Learning Plan is consistent with Appendix A for Members performing this function.

5 REPORT TO THE BOARD

5.1 The Chief shall make a written report to the Board on or before August 30 of each year in respect of the investigations of child pornography (Internet child exploitation). The report shall include:

- (a) a summary of the written procedures concerning child pornography (Internet child exploitation) investigations, including charges since the date of the last report;
- (b) the status of Service compliance with the said procedures; and
- (c) a summary of the steps taken by the Service to monitor and evaluate response to child pornography occurrences.

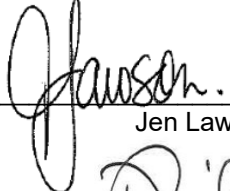
6. IMPLEMENTATION

6.1 By-law Nos. 228-2000 and 333-2013, as amended, and all other By-laws, sections of By-laws and procedural policies of the Board inconsistent with the provisions of this By-law are hereby repealed effective March 31, 2024.


6.2 This By-law shall come into force on April 1, 2024.

ENACTED AND PASSED this 28th day of March, 2024.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD



Jen Lawson, Chair



Deb Reid, Executive Director

Attachments (1)

Legislative/Regulatory Requirements

Section 29 of the Adequacy and Effectiveness of Police Services Regulation made under the *Police Services Act*, requires a police services board to have a policy on investigations into child pornography.

In addition, section 12 (1)(b) requires the Chief of Police to develop and maintain procedures on and processes for undertaking and managing investigations into child pornography.

Child pornography

In section 163.1 of the *Criminal Code*, child pornography means:

- a) a photographic, film, video or other visual representation, whether or not it was made by electronic or mechanical means,
 - (i) that shows a person who is or is depicted as being under the age of eighteen years and is engaged in or is depicted as engaged in explicit sexual activity, or
 - (ii) the dominant characteristic of which is the depiction, for a sexual purpose, of a sexual organ or the anal region of a person under the age of eighteen years;
- b) any written material, visual representation or audio recording that advocates or counsels sexual activity with a person under the age of eighteen years that would be an offence under this Act;
- c) any written material whose dominant characteristic is the description, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act; or
- d) any audio recording that has as its dominant characteristic the description, presentation or representation, for a sexual purpose, of sexual activity with a person under the age of eighteen years that would be an offence under this Act.

The *Criminal Code* makes it an offence to:

- a) make, print, publish or possess for the purpose of publication any child pornography (section 163.1(2));
- b) transmit, make available, distribute, sell, advertise, import, export or possess for the purpose of transmission, making available, distribution, sale, advertising or exportation any child pornography (section 163.1(3));
- c) possess any child pornography (section 163.1(4));
- d) access any child pornography (section 163.1(4.1)).

Child Luring

Section 172.1 of the *Criminal Code* prohibits the use of **telecommunications systems** to communicate with an underage person or a person whom the accused believes to be underage for the purpose of facilitating the commission, with respect to that person, of the specified sexual offences.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to child pornography (Internet child exploitation) investigations that the Chief of Police will:

- a) develop and maintain procedures that require that investigations be undertaken in accordance with the police service's criminal investigation management plan;
- b) notify the Provincial Strategy to Protect Children from Sexual Abuse and Exploitation on the Internet (Provincial Strategy) in all cases of suspected child pornography (Internet child exploitation); and
- c) ensure support is provided to manage the psychological well-being of members to acknowledge risks associated with long-term effects from exposure to Internet child exploitation investigation-related activities.

Police Service Guidelines

For the purpose of this guideline, Internet child exploitation means that type of child pornography which victimizes children using the Internet.

Procedures

1. Every police service's procedures on the investigation of child pornography (Internet child exploitation) should:
 - a) require that investigations be undertaken in accordance with the police service's criminal investigation management plan;
 - b) provide that if the police service does not have the resources to undertake an investigation into child pornography (Internet child exploitation) it should make arrangements with the Provincial Strategy Coordinator to transfer responsibility for the investigation to another law enforcement agency;
 - c) where the child pornography (Internet child exploitation) investigation meets the criteria of a major case, require compliance with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*;
 - d) require officers to follow the police service's procedures on child abuse and neglect, including local protocols with the Children's Aid Societies and victim services; and
 - e) provide that the Provincial Strategy Coordinator be contacted upon identifying a victim of child pornography (Internet child exploitation) to ensure any images or videos of the identified victim get added to the International Child Sexual Exploitation database.

2. If assistance is required, the Provincial Strategy Coordinator may be consulted to contact a law enforcement and any other relevant agency outside of Ontario in relation to a child pornography (Internet child exploitation) investigation.

Training

3. Every Chief of Police should ensure that the police service's skills development and learning plan addresses the training for child pornography (Internet child exploitation) investigators either through formal training or work under the supervision or in consultation with a trained investigator.