



BY-LAW NO. 440-2024

**A BY-LAW RESPECTING
CRIMINAL HARASSMENT**

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 develops and maintains procedures on and processes for undertaking and managing investigations into criminal harassment;
- 1.5 AND WHEREAS Part LE-028 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing the Chief and police service relative to investigations into criminal harassment.

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 “Service” means the Niagara Regional Police Service.

3 BOARD POLICY

3.1 The Board recognizes that matters of criminal harassment 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 establish procedures for the investigations of criminal harassment complaints in accordance with the said Appendix A.

4.1.2 The Chief shall ensure that the procedures referred to in section 4.1.1 above include procedures relating to the provision of victim's assistance.

4.1.3 The Chief shall ensure that the procedures referred to in section 4.1.1 comply with the Ministry's designated Ontario Major Case Management Manual for criminal harassment.

4.2 TRAINING

4.2.1 The Chief shall ensure that Members are familiar with the offence provisions in the Criminal Code relating to criminal harassment offences.

4.2.2 The Chief shall ensure that Members involved in criminal harassment investigations have the requisite knowledge, skills and abilities.

4.3 USE OF INVESTIGATIVE TECHNIQUES

4.3.1 The Chief shall ensure that the procedures referred to in section 4.1.1 address the use of enhanced investigative techniques, such as behavioural science services as part of the investigation.

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 investigations into criminal harassment. The report shall include:

- (a) a summary of the written procedures concerning investigations into criminal harassment; and
- (b) confirmation of Service compliance with the said procedures.

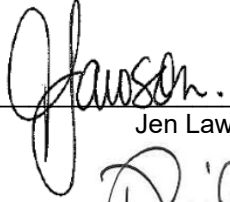
6 IMPLEMENTATION

6.1 By-law No. 220-2000 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 Standards Regulation requires a police services board to have a policy on investigations into criminal harassment. In addition, section 12(1)(c) requires the Chief of Police to develop and maintain procedures on and processes for undertaking and managing investigations into criminal harassment.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to undertaking and managing investigations into criminal harassment that the Chief of Police will develop and maintain procedures that address:

- a) the procedures for investigating criminal harassment complaints in accordance with the police service's criminal investigation management plan;
- b) the use of enhanced investigative techniques, such as behavioural science services as part of the investigation;
- c) the provision of victims' assistance;
- d) the information to be provided to police officers on criminal harassment; and
- e) compliance with the Ministry's designated *Ontario Major Case Management Manual* for criminal harassment cases that fall within the definition of major case.

Police Service Guidelines

Procedures

1. Every police service's procedures on criminal harassment should require that:
 - a) a complaint of criminal harassment be investigated as soon as possible, and in accordance with the police service's criminal investigation management plan;
 - b) an officer interview the victim and other witnesses, and advise the victim as to the methods for collecting, preserving and documenting evidence of harassment, including the maintenance of telephone message tapes and daily log/diary of communications, sightings and contacts in relation to the suspect;
 - c) an officer gather all relevant information and evidence, including where applicable information and evidence on:
 - i) the nature of the harassing behaviour;
 - ii) any available identifiers of the suspect (name, address, employer, apparent sex, age, ethnic origin, location, physical descriptors, vehicle information);
 - iii) the history of any relevant relationships between the suspect, victim or victim's associates;

- iv) accounts or records of the suspect's face-to-face or telephone conversations with the victim or her/his associates;
 - v) any telecommunication or computer evidence (such as e-mail);
 - vi) any written communications, writings or photographs by the suspect relating to the victim;
 - vii) why the victim fears for their safety or for the safety of their family members (both physical and psychological);
 - viii) the suspect's criminal record, outstanding charges, prior occurrences, restraining orders, conditions of bail, conditions of probation/parole, history of abuse and violence;
 - ix) alcohol/drug abuse by the suspect;
 - x) any known psychiatric, emotional or mental problems of the suspect;
 - xi) any previous occurrences involving disturbing, harassing or threatening behaviour by the suspect;
 - xii) whether there is a threat by the suspect to harm the victim or another person;
 - xiii) if a threat is made or exists, where, when, and the manner/method in which the threat may be carried out;
 - xiv) time, date and location at which the threat is received;
 - xv) the location of the suspect and whether the suspect has the means and opportunity to carry out the threat, as well as whether the victim believes that the suspect has the means and opportunity to carry it out;
 - xvi) how the threatened harm can be avoided;
 - xvii) why the suspect is making this threat and what the suspect wants;
 - xviii) indications of increasing specificity of the threat;
 - xix) any reference by the suspect to weapons, ammunition, explosives, arson, etc.;
 - xx) emotional tone and change in attitude in any conversations between the suspect and victim;
 - xxi) number of contacts made with the victim; and
 - xxii) observations by the suspect's family members and associates, if known;
- d) as part of the investigation, an officer should include in the case file information such as:
- i) the profile of the suspect including sex, age, physical description, education, marital and employment status;
 - ii) the suspect's behavioural history including criminal record, outstanding charges, prior occurrences, restraining orders, conditions of bail, conditions of probation/parole, history of abuse and violence;
 - iii) evidence of alcohol/drug abuse, mental illness, mental or emotional problems, and/or disturbing, harassing or threatening behaviour;
 - iv) any risk assessment if undertaken; and
 - v) any other evidence and information gathered as set out in 1(c);

- e) an officer, prior to interviewing a suspect concerning a criminal harassment complaint, should consider the risk implications for the victim and, if necessary, obtain advice from a risk assessment specialist;
- f) officers when assessing the reasonableness of the fear from the victim's perspective, to consider the following factors:
 - i) the age, gender and physical size of the victim;
 - ii) the background of the victim and suspect;
 - iii) the relationship between the victim and suspect; and
 - iv) the context of the relationship particularly as it applies to abuse;
- g) where an officer has reasonable grounds to believe that an offence has been committed under the criminal harassment or related provisions of the *Criminal Code* a charge should be laid;
- h) in all domestic violence occurrences that involve a complaint of criminal harassment, the officers involved will also comply with the police service's procedures on domestic violence occurrences;
- i) in all occurrences that involve a complaint of criminal harassment, the officers involved will also comply with the police service's procedures on preventing or responding to occurrences involving firearms;
- j) during all criminal harassment investigations the officers involved will also comply with the police service's procedures relating to bail and violent crime;
- k) a criminal harassment investigation that involves a suspect who is a stranger to the victim will be dealt with as a major case, and that the investigation will be undertaken in accordance with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*;
- l) officers notify correctional authorities when it is determined that the accused is on probation, parole, temporary absence, etc., and /or when a condition of probation, parole or temporary absence has been violated, including forwarding the relevant occurrence reports or synopses;
- m) the content of the Crown brief should include, in addition to general information, the following:
 - i) any utterances by the suspect;
 - ii) place or location and time where the conduct occurred;
 - iii) whether the victim was alone;
 - iv) the vulnerability of the victim;
 - v) the relationship between the victim and suspect, and the suspect's perception of the relationship;
 - vi) terms of any pre-existing bail, probation, prohibition, parole, civil orders or peace bonds;
 - vii) previous conduct including conduct aimed at the victim's peers, co-workers or other members of the victim's family or household;

- viii) whether there was a warning or request to cease by the complainant, or the suspect persisted in harassing behaviour despite requests to cease from any source; and
 - ix) any damage, mischief, theft, or vandalism; and
 - n) an officer consult with the Crown and correctional authorities, regarding the appropriate response to an accused continuing, while in custody, to engage in harassing behaviour.
2. Every police service's procedures should address the use of enhanced investigative techniques, including the use of behavioural science services to assess the risk posed by a suspect when necessary.
3. Every police service's procedures should address the provision of victims' assistance, including:
- a) that the investigating officer will provide the victim with assistance based on local procedures;
 - b) that victims will be kept fully informed of any contact made with the suspect by the police that may escalate the situation or have some impact on the victim;
 - c) that victims will be provided with information on safety planning, and advised on appropriate protective/supportive measures which may be taken to enhance the victim's safety and reduce the accessibility of the victim to the suspect; and
 - d) the roles and responsibilities are set out for notifying and informing the victim about the release of the accused, bail conditions and the criminal justice process, consistent with local protocols.
- Information* 4. Every Chief of Police should ensure that police officers are familiar with the offence provisions of the *Criminal Code* relating to criminal harassment, including assessing and establishing specific facts in issue relating to the offence of criminal harassment, including:
- a) the suspect did not have lawful authority to engage in the proscribed conduct;
 - b) the suspect engaged in any one of the following types of proscribed conduct:
 - i) repeatedly following from place to place the other person or anyone known to them;
 - ii) repeatedly communicating with, either directly or indirectly, the other person or anyone known to them;
 - iii) besetting or watching the dwelling-house, or place where the other person, or anyone known to them, resides, works, carries on business or happens to be; or
 - iv) engaging in threatening conduct directed at the other person or any member of their family (does not require repetition);
 - c) the suspect knew the victim was harassed;

- d) the suspect was reckless as to whether the victim was harassed by this conduct (e.g., the suspect was persistent/coercive, the victim made direct indications to the suspect that were ignored); and
- e) the victim reasonably, in all of the circumstances, feared for her/his safety or the safety of anyone known to the him/her.