



**BY-LAW NO. 357-2016**

**A BY-LAW TO ESTABLISH POLICY  
FOR THE MANAGEMENT AND DISPOSITION  
OF CIVIL ACTIONS AGAINST THE POLICE**

**1. PREAMBLE**

- 1.1 WHEREAS section 31(1) of the *Police Services Act*, R.S.O. 1990, c.P.15 as amended, provides that a Board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall:
- (b) generally determine, after consultation with the Chief of Police, objectives and priorities with respect to the police services in the municipality;
  - (c) establish policies for the effective management of the police force; and
  - (e) direct the Chief of Police and monitor his or her performance;
- 1.2 AND whereas a Police Services Board may, by by-law make rules for the effective management of the police service under Section 31(6) of the *Police Services Act*;
- 1.3 AND whereas the Board deems it expedient to pass a by-law to establish guidelines relating to the management and disposition of civil actions filed against the Board, the Chief of Police and members of the Police Service.

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

**2. DEFINITIONS**

- 2.1 "Act" means the *Police Services Act*, R.S.O. 1990 c.P.15, as amended;
- 2.2 "Board" means the Regional Municipality of Niagara Police Services Board;
- 2.3 "Chief" means the Chief of Police of the Niagara Regional Police Service;
- 2.4 "Member" means a member of the Niagara Regional Police Service as defined in the *Act*;
- 2.5 "Niagara Region" means The Regional Municipality of Niagara;
- 2.6 "Service" means the Niagara Regional Police Service.

### **3. BOARD POLICY**

- 3.1 The Board recognizes the importance of outlining the manner in which Board staff, the police service, contracted services as provided by the Niagara Region's Legal Department and other legal and professional advisors, directly or indirectly contracted by the Board and/or the Chief, are to administer, supervise and dispose of civil actions filed against the Board, the Chief and members of the Police Service.
- 3.2 It is the Board's intent to defend itself when it is named as a party in a civil action in a manner that protects the interests and reputation of the Board and the Police Service, including any individual Service members that may be named in accordance with the legal indemnification provisions in the Collective Agreements; protects the interests of the residents of the Niagara region; provides for the professional administration of all claims with a view to bring claims to a resolution in the most effective and cost-efficient manner possible.

### **4. DIRECTION TO THE CHIEF**

- 4.1 The Board hereby directs the Chief of Police to implement and comply with these requirements in his/her administration and operation of the Niagara Regional Police Service in accordance with this By-law.
- 4.2 Further, the Board directs that this By-law and Police Service directive and/or procedures, or any procedure instituted by contracted agencies and individuals, be interpreted based on the following principles:
- (a) That decisions be made in accordance with the stated objective;
  - (b) That decision making authority be vested in appropriate individuals based on the nature and content of individual civil actions and based on financial thresholds;
  - (c) Subject to the rights of the insurers, that the Board reserve its right to provide direction in any claim and specifically in individual claims of an exceptional nature which include, but are not limited to, claims arising from any unusual event or circumstance, claims arising from a significant event reported or very likely to be reported by the media which could create or does create a negative perception or could impact the reputation of the Board and/or Police Service, claims raising significant issues of liability for the Board and the Police Service and any claim likely to involve a settlement to a third party in excess of \$25,000 in damages plus \$10,000 in disbursements, prejudgment interest and costs, for a total payout exceeding \$35,000;
  - (d) The Board hereby delegates to the Chief of Police the authority to provide settlement instructions for claims in which the payout to the third party is \$25,000 or less in damages plus \$10,000 or less in disbursements, prejudgment interest, and costs, for a total payout not exceeding \$35,000, in which case the Chief shall report to the Board on the settlement after it has been concluded at the next meeting of the Board.
  - (e) That the Board continue to exercise its oversight function through the receipt of reports set out in this By-law.

### **5. PROCEDURES**

- 5.1 It is the policy of the Board:
- 5.1.1 That the day-to-day administration, supervision and disposition of civil actions shall be vested in the appropriate police staff as designated by the Chief of Police and as contracted with Risk Management personnel with the Niagara Region and that this shall be done in conjunction with the insurer;

- 5.1.2 That, if external counsel is retained by staff it shall be from a stable of firms as approved by the Niagara Region's insurers; such a list of approved firms to be reviewed on a five-year period;
- 5.1.3 That immediately upon being served notice of an action, Board staff shall forward the claim to the appropriate police staff, who shall forward to the appropriate Niagara Region staff.
- 5.1.4 Upon receipt of any civil claims against the Board and/or Members of the Service, and in addition to the other requirements of this policy, the Chief shall ensure that Risk Management personnel within the Service contact the Members named in the law suit and obtain duty book notes, occurrence reports, statements and any other documentation reasonably relating to the claim, and forward same to the Risk Management personnel with the Niagara Region on behalf of the solicitors appointed to defend the claim on behalf of the Board.

## **6. BI-ANNUAL BOARD REPORT FROM CHIEF**

- 6.1 The Chief shall make bi-annual written confidential reports to the Board, with the advice of Counsel, in respect of the management and disposition of civil actions filed against the Board, the Chief of Police and members of the Police Service. The report shall include:
- (a) A brief description on how civil actions are handled administratively;
  - (b) A statistical compilation of the number of civil actions ongoing outlining the number initiated the past calendar year, the number resolved the past year, and a comparison to the previous year(s);
  - (c) Each civil action shall include a brief synopsis of the circumstances of the claim. The synopsis shall also list the date of the incident, the claim date, the amount being sought in damages, the current status, and the potential financial risk to the Board;
  - (d) Each civil action resolved in the past year shall also include a brief description of how the matter was concluded, including any damages and/or costs paid;
  - (e) In addition to the above, the report shall include any recommendations the Chief of Police may wish to make with respect to policy issues, procedure, and on the handling and administration of civil actions either by the Niagara Regional Police or the Niagara Region. If the Chief of Police does not wish to make any recommendations, this will be expressly stated in the report.
- 6.2 Notwithstanding the bi-annual reporting requirement, the Board shall be informed at the first opportunity of any civil action initiated that is of an exceptional nature as described in 4.2(c) above.

## **7. BOARD REPORTS ON INDIVIDUAL CLAIMS**

- 7.1 The Chief of Police shall make a confidential information report to the Board, with the advice of Counsel, such report to provide notice of the civil actions served, including a brief description of the civil action, a copy of the Statement of Claim and action taken to respond.
- 7.2 The Board Solicitor shall obtain relevant information from the solicitor who has carriage of the file, and shall deliver to the Board a written report respecting each civil action of an exceptional nature at the time that a settlement offer is received from another party to the proceeding, or at the time that a settlement offer is being recommended to the Board by the Solicitor having carriage of the file.

- 7.3 The reports listed in 7.2 shall include a brief summary of the following information:
- (a) The nature of the claim;
  - (b) An opinion respecting liability;
  - (c) An opinion respecting the likely quantum of damages that would be awarded if liability is established;
  - (d) Settlement prospects and recommendations with reference to both damages and court costs;
  - (e) In respect of claims being handled by external Counsel, the legal fees incurred to date and an estimate of the future legal fees likely to be incurred;
  - (f) In respect of claims being handled by internal Counsel, the number of hours docketed to date in the file by the Niagara Region's lawyers and support staff.
- 7.4 Except for settlements of cases described in 4.2(d) above, and except for reportable claims controlled by the insurers, no claim shall be settled without having first obtained explicit instructions from the Board.

**8. IMPLEMENTATION**

- 8.1 This By-law shall come into force upon the date of its enactment.
- 8.2 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 28<sup>th</sup> day of January 28, 2016.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

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Chairperson

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Executive Director