

**NORTH BAY POLICE SERVICES BOARD
BY-LAW #09/2010
COMPLAINTS AGAINST THE CHIEF OR DEPUTY CHIEF OF POLICE**

WHEREAS Section 31 of the Police Services Act, R.S.O. 1990, c. P.15 and amendments thereto, sets out the responsibilities of a police services board.

And WHEREAS Section 31(1)(c) of the said Act provides that police services boards shall establish policies for the effective management of the police force.

And WHEREAS Section 31(1)(e) of the said Act requires that police services boards direct the Chief of Police and monitor his or her performance.

And WHEREAS Section 31(6) of the said Act authorizes police services boards to make, by By-Law, rules for the effective management of the police force.

And WHEREAS Part V of the said Act sets out obligations of police services boards and police forces relative to Public Complaints.

And WHEREAS the North Bay Police Services Board has considered the provisions of Part V in the context of its responsibilities under Section 31 of the said Act and recognizes and adheres to the principle that fair, open, prompt, thorough and efficient response to Public Complaints is a cornerstone to establishing and maintaining a positive community-police relationship.

The North Bay Police Services Board hereby enacts this By-Law to ensure that the response to Public Complaints by the Board and the North Bay Police Force adheres to the principles set out above.

AND WHEREAS the Board has deemed it necessary to amend By-Law 02-1998;

NOW THEREFORE the North Bay Police Services Board hereby enacts as follows:

A. POLICY STATEMENT

1. The North Bay Police Services Board recognizes and adheres to the principal that the prompt, thorough and efficient response to local and public complaints is essential to the establishment and maintenance of a positive relationship between the Police Service and the community, which it serves.
2. It is the policy of the North Bay Police Services Board that local and public complaints be dealt with in a professional and thorough manner in accordance with Part V of the *Police Services Act* and *Ontario Regulation 263/09*.

B. DEFINITIONS

1. *Act*: means the *Police Services Act, R.S.O. 1990, c. P.15*, as amended.
2. *Board*: means the North Bay Police Services Board.
3. *Chief of Police*: means the Chief of Police of the North Bay Police Service.
4. *Deputy Chief*: means the Deputy Chief of Police of the North Bay Police Service.
5. *Investigating Chief*: means the Chief of Police of another police service assigned by the Commission to investigate a complaint against the Chief or Deputy Chief.
6. *Commission*: means the Ontario Civilian Police Commission.
7. *Complainant*: means a member of the public who makes a complaint in accordance with the provisions of Part V of the *Police Services Act*.
8. *Misconduct*: means an act or omission of the part of the Chief or Deputy Chief that constitutes an offence under Section 80 of the *Act*.
9. *Offence*: means a violation of a law of Canada or of a Province or Territory.
10. *OIPRD*: means the Office of the Independent Police Review Director and includes the Independent Police Review Director and any employees appointed to carry out the functions of the Independent Police Review Director.
11. *Public Complaint*: means a complaint made by a member of the public to the OIPRD under Part V of the *Act*.
12. *Service*: means the North Bay Police Service.

C. GENERAL

1. In accordance with Section 56 of the *Act*, the OIPRD may provide guidance to the Board in handling of complaints made by members of the public.
2. In accordance with Section 57 of the *Act*, the OIPRD may examine and review issues of a systemic nature that are the subject of, or that give rise to, public complaints and may make recommendations respecting such issues to the Board or other prescribed parties.

3. In accordance with Section 91(1) of the *Act*, the OIPRD may, at any time, require that the Board submit a performance audit, conducted by an independent auditor at the Board's expense, of the Board's administration of public complaints.
4. In accordance with Section 91(2) of the *Act*, where a request is made from the OIPRD to undertake a performance audit, such audit shall be conducted in accordance with such direction that the OIPRD may give, if any.

D. PUBLIC COMPLAINTS:

1. In accordance with Section 61(8) of the *Act*, a complainant may file a complaint regarding the conduct of the Chief or Deputy Chief.
2. All public complaints about the Chief or Deputy Chief must be made to the OIPRD.
3. Where the Board receives a public complaint about the Chief or Deputy Chief, the Board shall forward the complaint to the OIPRD by mail within three (3) days of receipt of the complaint.
4. Upon completion of screening the complaint, the OIPRD shall refer the complaint about the Chief or Deputy Chief to the Board who shall conduct a review of the complaint.
5. Upon receipt of the complaint from the OIPRD, the Board shall promptly give notice of the substance of the complaint to the Chief or Deputy Chief, unless in the Board's opinion, to do so might prejudice an investigation into the matter.
6. Where, at the conclusion of the review, the Board is of the opinion that the conduct complained of is not an offence, misconduct or unsatisfactory work performance, the Board shall take no further action and shall notify the complainant, the Chief or Deputy Chief and the OIPRD in writing of the decision with reasons.
7. Where, at the conclusion of the review, the Board is of the opinion that the conduct complained of may constitute an offence, misconduct or unsatisfactory work performance, the Board shall request the OIPRD to investigate the complaint and provide a written report, at the Board's expense.
8. Where, upon conclusion of the investigation, the Board receives a written report from the OIPRD with the opinion that the complaint is unsubstantiated, the Board shall take no further action in response to the complaint and the

Board shall notify the Complainant and the Chief or Deputy Chief who is the subject of the complaint in writing of the decision, together with a copy of the written report.

9. Where, upon conclusion of the investigation, the OIPRD is of the opinion that there are reasonable grounds to conclude that the conduct of the Chief or Deputy Chief constitutes misconduct or unsatisfactory work performance, the OIPRD shall also make a determination as to whether or not the conduct in question is of a serious nature.
10. Where the Board receives a written report from the OIPRD with the opinion that the conduct is of a serious nature, the Board shall hold a hearing or refer the matter to the Commission to hold a hearing unless the Board is of the opinion that the conduct is not of a serious nature.
11. Where the Board is of the opinion that the misconduct or unsatisfactory work performance is not of a serious nature, the Board shall attempt to resolve the matter informally without holding a hearing, if the Complainant and the Chief or Deputy Chief consents to the proposed resolution.
12. The complainant or the Chief or Deputy Chief who consent to a proposed resolution may revoke their consent by notifying the Board in writing of the revocation no later than twelve (12) business days after the day on which the consent was given.
13. Where informal resolution is achieved, the Board shall give notice of the resolution to the OIPRD and shall provide the OIPRD with any other information respecting the resolution that the OIPRD may require.
14. Where resolution is not consented to or is revoked, the Board shall proceed with a disposition without a hearing in accordance with Section 69(12) of the *Act* and shall give notice to the OIPRD of any penalty imposed or action taken under paragraph 2 of Section 69(12).
15. Where the Chief or Deputy Chief refuses to accept the penalty imposed or action taken, the Board shall hold a hearing or refer the matter to the Commission to hold a hearing in accordance with paragraph 3 of Section 69(12) of the *Act*.
16. In accordance with Section 72(3) of the *Act*, the OIPRD may, at any time after a public complaint has been made and before a hearing is commenced:
 - a. Direct the Board to deal with the complaint as the OIPRD specifies;
 - b. Assign the conduct of a hearing in respect of the complaint to the Commission; or

- c. Take or require to be taken by the Board any other action with respect to the complaint that the OIPRD considers necessary in the circumstances.
17. A hearing held by the Board shall be in accordance with the provisions of the *Statutory Powers and Procedures Act*.
18. In accordance with Section 69(14) of the *Act*, any entry made in the Chief or Deputy Chief's employment record under paragraph 2 of Section 69(12) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record.

E. INTERNAL BOARD COMPLAINTS

1. In accordance with Section 77 of the *Act*, the Board may by its own motion make a complaint about the conduct of the Chief or Deputy Chief and shall review such complaint.
2. A Board member is prohibited from making a complaint in relation to the policies or services of the Service.
3. When initiating a complaint against the Chief or Deputy Chief, the Board is not a complainant for the purposes of Part V of the *Act*.
4. The Board shall promptly give notice of the substance of the complaint to the Chief or Deputy Chief, unless in the Board's opinion, to do so might prejudice an investigation into the matter.
5. If the Board is of the opinion that the Chief's or Deputy Chief's conduct may constitute an offence, misconduct or unsatisfactory work performance, the Board shall request the Commission to assign the Chief of Police of another police service to cause the complaint to be investigated promptly and the investigation to reported on, in a written report at the Board's expense.
6. Where the Board receives a written report from the Investigating Chief with the opinion that the complaint is unsubstantiated, the Board shall take no further action in response to the complaint and shall notify the Chief or Deputy Chief who is the subject of the complaint in writing of the decision, together with a copy of the written report.
7. Where the Board receives a written report from the Investigating Chief with the opinion that there are reasonable grounds to conclude that the conduct of the Chief or Deputy Chief constitutes misconduct or unsatisfactory work

performance, the Board shall make a decision regarding the seriousness of the misconduct or unsatisfactory work performance.

8. Where the Board is of the opinion that the misconduct or unsatisfactory work performance is serious in nature, the Board shall either hold a hearing into the matter or refer the matter to the Commission to hold the hearing.
9. Where the Board is of the opinion that the misconduct or unsatisfactory work performance is not of a serious nature, the Board shall attempt to resolve the matter informally without holding a hearing, if the Chief or Deputy Chief consents to the proposed resolution.
10. Where the Chief or Deputy Chief does not consent to an informal resolution, the Board shall hold a hearing or refer the matter to the Commission to hold a hearing in accordance with Section 77(7) of the *Act*.
11. The Board shall be responsible for the costs of an external investigation and any hearing process undertaken by the Commission.
12. The Commission may, at any stage in the complaints process, direct the Board to deal with the complaint as it specifies or assign the review or investigation of the complaint or the conduct of a hearing in respect of the complaint to another police service in accordance with Section 78(1) of the *Act*.
13. A hearing held by the Board shall be in accordance with the provisions of the *Statutory Powers and Procedures Act*.
14. In accordance with Section 77(10) of the *Act*, any entry made in the Chief or Deputy Chief's employment record under Section 77(9)(2) shall be expunged from the record two years after being made if during that time no other entries concerning misconduct or unsatisfactory work performance have been made in the record.

F. RESIGNATION

1. Where, at any time after a complaint about the conduct of the Chief or Deputy Chief is made, either by the Board or a public complaint, and the Chief or Deputy Chief resigns before the complaint is finally disposed of, the Board shall take no further action.
2. Where the complaint was made by a member of the public, the Board shall promptly notify the OIPRD of the resignation of the Chief or the Deputy Chief.

3. Where the complaint was initiated by the Board, the Board shall promptly notify the Commission of the resignation of the Chief or the Deputy Chief.

G. WITHDRAWAL OF COMPLAINTS

1. A complainant who has made a public complaint against the Chief or Deputy Chief may withdraw their complaint on notice to the OIPRD unless a hearing in respect of the complaint has commenced.
2. Where a complaint is withdrawn, the OIPRD shall notify the Board.
3. The Board shall, within thirty (30) days of receiving notification from the OIPRD, make a determination of whether it is appropriate to continue to deal with the complaint.
4. The Board shall, within thirty (30) days of receiving the notification from the OIPRD, notify the Chief or Deputy Chief of the withdrawal and whether the Board seeks to continue to deal with the complaint.
5. Where the Board determines it appropriate to continue with the complaint, the complaint shall be processed in accordance with Section 77 of the *Act*, as a Board initiated internal complaint.
6. The notification obligations of the Board are subject to the Board's discretion to delay notification, if to do so may prejudice the investigation.
7. A complainant may withdraw their complaint against the Chief or Deputy Chief after the hearing has commenced if the Board and the OIPRD consent.

H. PUBLICATION OF DECISIONS

The Board shall ensure that every decision made by the Board after a hearing held under sub-section 69(8) of the *Act* is made available to the public in the manner that the Board considers appropriate in the circumstances and shall provide a copy of every such decision to the OIPRD.

I. EXTERNAL COMPLAINT INVESTIGATIONS

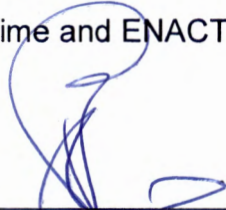
1. Where the Commission refers a complaint involving the Chief or Deputy Chief of another police service to the Chief of Police, the Chief shall cause an investigation to be conducted and the investigation to be reported on, in a written report.

2. External complaint investigations shall be at the expense of the involved Police Services Board.


READ a 1st time this 21st day of December 2010.

READ a 2nd time this 21st day of December 2010.

READ a 3rd time and ENACTED AND PASSED this 21st day of December 2010.



Peter Chirico
Chair



Carol Miller
Secretary