

**NORTH BAY POLICE SERVICES BOARD
BY-LAW #08/2010
COMPLAINTS AGAINST POLICE OFFICERS**

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 Service 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. DEFINITONS

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. *Commission*: means the Ontario Civilian Police Commission.
5. *Complainant*: means a member of the public who makes a complaint in accordance with the provisions of Part V of the *Police Services Act*.
6. *Local Complaint*: means a complaint made by a member of the public under sub-section 2(1) of *Ontario Regulation 263/09* made under the *Police Services Act*.
7. *Misconduct*: means an act or omission of the part of a police officer that constitutes an offence under Section 80 of the *Act*.
8. *Offence*: means a violation of a law of Canada or of a Province or Territory.
9. *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.
10. *Policy Complaint*: means a complaint made by a member of the public that relates to the policies of or services provided by the North Bay Police Service.
11. *Public Complaint*: means a complaint made by a member of the public to the OIPRD under Part V of the *Police Services Act*.
12. *Respondent Officer*: means a police officer who is the subject of a public complaint.
13. *Service*: means the North Bay Police Service.
14. *Witness Officer*: means a police officer who may have been a witness to an occurrence that has resulted in a public complaint.

C. PUBLIC COMPLAINTS

1. To support this policy, the Chief of Police shall develop and maintain procedures to ensure that public complaints are processed in accordance

with the *Act* and this policy. The Chief shall provide a copy of the procedures enacted to the Board.

2. To further support this policy, the Chief of Police shall ensure the procedures relating to public complaints include that:
 - a. Public complaint process information, including the forms provided by the OIPRD, are made available at police facilities for the public;
 - b. Members of the public wishing to file a complaint at police headquarters are directed to the Platoon Staff Sergeant or Platoon Sergeant;
 - c. The Complainant is advised that they may make their complaint directly to the OIPRD;
 - d. The Platoon Staff Sergeant shall accept public complaints relating to the North Bay Police Service and those relating to another police service upon request of the complainant;
 - e. Public complaints received by the Service are forwarded by mail to the office of the Chief of Police where the complaint shall be forwarded to the OIPRD within three (3) business days of receipt; and
 - f. Where a complainant refuses to sign the complaint form that the complainant is advised that the matter may be subject to an Internal Chief's Complaint Investigation.
3. The Chief of Police shall ensure that notice of the public complaint is not provided to any respondent officer(s) or any witness officer(s) until the OIPRD provides direction pursuant to the *Act*.
4. The OIPRD shall review every public complaint made to the OIPRD under Part V of the *Act* and shall determine whether the complaint is about the policies or services provided by the Police Service or about the conduct of a police officer.
5. The OIPRD shall ensure that every public complaint is referred or retained for investigation in accordance with Section 60(5) of the *Act* unless the OIPRD decides not to deal with a complaint.
6. Where the OIPRD refers a public complaint 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.
7. Upon being notified that the OIPRD had decided not to deal with a public complaint, the Chief of Police shall promptly notify the police officer who is the subject of the complaint in writing of the substance of the complaint and of the OIPRD's decision not to deal with the complaint, with reasons.
8. Upon review of an investigation report, completed internally or externally, the Chief of Police may:
 - a. Determine that the complaint is unsubstantiated and no further action shall be taken pursuant to Section 66(2) of the *Act*;
 - b. Hold a hearing pursuant to Section 66(3) of the *Act*;

- c. Attempt to resolve the matter informally pursuant to Section 66(4) of the *Act*; and/or
 - d. Cause a criminal information to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.
9. The Chief of Police shall ensure that the complainant and the respondent officer are provided with a report containing the decision of the Chief and that the complainant is advised of their right to request the OIPRD to conduct a review within thirty (30) days of receipt of such notification.
 10. To further support this policy, the Chief of Police shall appoint a Liaison Officer(s) in accordance with Section 26.3 of the *Act* and shall ensure that the duties of the position are carried out in accordance with the *Act*, the OIPRD Rules of Procedure and Liaison Officer Protocol.

D. LOCAL COMPLAINTS

1. To support this policy, the Chief of Police shall develop and maintain procedures to ensure that local complaints are processed in accordance with the *Ontario Regulation 263/09* and this policy. The Chief shall provide a copy of the procedures enacted to the Board.
2. To further support this policy, the Chief of Police shall ensure that the authority to resolve local complaints is delegated to officers under the Chief's command as appropriate.
3. To further support this policy, the Chief of Police shall develop and maintain procedures that include:
 - a. Specifying the matters that qualify for local resolution;
 - b. Specifying that a local complaint shall not be accepted where the complaint is of a serious nature; or the complaint is in respect of the conduct of the Chief of Police or Deputy Chief of Police; or in the opinion of the Chief of Police, it is in the public interest for the matter to be dealt with as a public complaint.
 - c. That local complaint process information, including the forms provided by the OIPRD, is made available at police facilities for the public;
 - d. That persons wishing to make a local complaint are advised of their right to make a public complaint under Part V of the *Act*;
 - e. That local complaints that deal with the same subject matter as a public complaint are processed in accordance with the public complaint procedures;
 - f. That local complaints are resolved within thirty (30) days of receipt unless an extension is granted by the OIPRD;
 - g. That Local Resolution Agreements are forwarded to the OIPRD within seven (7) days of the resolution;
 - h. That where the complainant refuses to complete or sign the OIPRD Local Resolution Complaint Form, the matter is deemed not to be a

local complaint and the matter shall be treated as an inquiry and forwarded to the Quality Assurance Officer.

E. INTERNAL CHIEF'S COMPLAINTS

1. In accordance with Section 76 of the *Act*, the Chief of Police may make a complaint about the conduct of a police officer employed with the North Bay Police Service, other than the Deputy Chief of Police, and shall cause the complaint to be investigated and the investigation to be reported in a written report.
2. When initiating a complaint against a police officer, the Chief of Police is not a complainant for the purposes of Part V of the *Act*.
3. The Chief shall promptly give notice of the substance of the complaint to the police officer, unless in the Chief's opinion, to do so might prejudice an investigation into the matter.
4. With the approval of the Board and on written notice to the Commission, the Chief of Police may request the Chief of Police of another police service to cause the complaint to be investigated and to report, in writing back to the Chief at the expense of the Service.

F. POLICY COMPLAINTS

1. Where the OIPRD determines that a public complaint is a policy complaint, the OIPRD shall refer the complaint directly to the Chief of Police in accordance with Section 63 of the *Act*.
2. Upon receipt of a policy complaint from the OIPRD, the Chief of Police shall review the complaint and shall take any action, or no action, in response to the complaint as the Chief considers appropriate.
3. The Chief of Police shall, within sixty (60) days of the referral of the complaint, notify the complainant in writing of the Chief's disposition of the complaint, with reasons, and of the complainant's right to request that the Board review the complaint if the complainant is not satisfied with the disposition.
4. The Chief of Police may extend the sixty (60) day period by notifying the complainant in writing of the extension before the expiry of the period being extended.
5. The Chief of Police shall, upon disposition of the complaint, submit a written report to the Board and to the OIPRD respecting the disposition, with reasons.

6. Upon receipt of a written request from a complainant for a review pursuant to Section 63(5) of the Act, the Board shall:
 - a. Advise the Chief of Police of the request;
 - b. Review all the material relating to the complaint that was considered by the Chief in making the disposition and take any action or no action in response to the complaint, as the Board considers appropriate; and
 - c. Notify the complainant, the Chief of Police and the OIPRD in writing of its disposition of the complaint, with reasons.
7. For the purpose of reviewing a policy complaint, the Board may appoint a committee of no fewer than three (3) members of the Board, two (2) of whom constitute a quorum. The committee shall review a complaint and make recommendations to the Board after the review and the Board shall consider the recommendations in camera and shall take any action or no action, in response to the complaint as the Board considers appropriate.
8. In conducting a review, the Board or the Committee of the Board may hold a public meeting respecting the complaint.
9. The Board shall ensure that policy complaints are disposed of within thirty (30) days of receiving a request for a review, or within such longer time as the Board considers appropriate provided that notice of the extended time is provided to the complainant, the Chief of Police and the OIPRD.

G. EXTERNAL COMPLAINT INVESTIGATIONS

1. Where the OIPRD refers a complaint involving 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 Service.

H. RESIGNATION

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

3. Where the complaint was initiated by the Chief of Police, the Chief shall promptly notify the Board of the resignation of the police officer.

I. WITHDRAWAL OF COMPLAINTS

1. A complainant who has made a public complaint against a police officer 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 Chief of Police.
3. The Chief of Police 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 Chief of Police shall, within thirty (30) days of receiving the notification from the OIPRD, notify the police officer of the withdrawal and whether the Chief seeks to continue to deal with the complaint.
5. Where the Chief of Police determines it appropriate to continue with the complaint, the complaint shall be processed in accordance with Section 76 of the *Act*, as a Chief initiated internal complaint.
6. The notification obligations of the Chief of Police are subject to the Chief's discretion to delay notification, if to do so may prejudice the investigation.
7. A complainant may withdraw their complaint against a police officer after the hearing has commenced if the Chief of Police and the OIPRD consent.

J. PUBLICATION OF DECISIONS

The Chief of Police shall ensure that every decision made by the Chief after a hearing held under sub-section 66(3) of the *Act* is made available to the public in the manner that the Chief considers appropriate in the circumstances and shall provide a copy of every such decision to the OIPRD.

K. BOARD REPORTS

1. The Chief of Police shall submit an annual report to the Board briefly summarizing each policy/service complaint reviewed by the Chief in accordance with the requirements of the *Act*, indicating the manner in which the complaint was disposed of and/or the disposition of the Chief of Police.

2. Notwithstanding Article K.1 (above), the Chief of Police shall, by way of confidential written report, notify the Board of any conduct complaint, which involves allegations of criminal misconduct by a police officer or any complaint which is of a serious nature that, if proven, may call into question the reputation or integrity of the Service, or which involve the public interest. The Chief of Police shall provide regular written updates until the matter is concluded.

3. The Chief of Police shall include relevant public complaints information in the Service's Annual Report.

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