



BY-LAW NO. 491-2024

**A BY-LAW RESPECTING
POLICING FIRST NATIONS OCCUPATIONS AND PROTESTS**

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 subsection 39 (1) of the CSPA requires the Board's Strategic Plan include quantitative and qualitative performance objectives and indicators of outcomes relating to, inter alia, interactions with members of First Nation, Inuit and Métis communities;
- 1.3 AND WHEREAS, Section 1 of the CSPA sets out principles for the provision of Police Services throughout Ontario, including:
- the need to ensure the safety and security of all persons and property in Ontario, including First Nation reserves;
 - the importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*;
 - the need for co-operation between policing providers and the communities they serve;
 - the importance of respect for victims of crime and understanding of their needs;
 - The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society;
 - the need to be responsive to the unique histories and cultures of First Nation, Inuit and Métis communities;
 - the need to ensure that Police Services and Police Service Boards are representative of the communities they serve; and
 - the need to ensure that all parts of Ontario, including First Nation reserves, receive equitable levels of policing.
- 1.4 AND WHEREAS Section 82 (1) (a) of the CSPA states the duties of a police officer include, preserving the peace;
- 1.5 AND WHEREAS Section 82 (3) of the CSPA states a police officer has the powers and duties ascribed to a constable at common law;
- 1.6 AND WHEREAS Section 2 of the Criminal Code defines peace officer, referring to a duty to ensure the preservation and maintenance of the public peace;

- 1.7 AND WHEREAS O. Reg. 392/23: Adequate and Effective Policing (General) prescribes standards for adequacy and effectiveness of police services;
- 1.8 AND WHEREAS Part PO-003 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 policing First Nations occupations and protests.

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 “First Nations Occupation” means the seizure and control of an area arising from assertions of First Nations or treaty rights by members of a First Nations group;
- 2.5 “First Nations People” has the same meaning as Aboriginal Peoples as detailed in Section 35(2) of the Constitution Act, 1982, which states that Aboriginal Peoples includes Indian, Inuit and Métis people;
- 2.6 “First Nations Protest” means a physical demonstration related to assertions of First Nations or treaty rights by members of a First Nations group;
- 2.7 “Manual” means the Policing Standards Manual published by the Ministry of the Solicitor General;
- 2.8 “Member” means a member of the Niagara Regional Police Service;
- 2.9 “Service” means the Niagara Regional Police Service.

3. BOARD POLICY

- 3.1 The Board recognizes the objective of policing First Nations occupations and protests is to preserve the peace, prevent offences, and enforce the law in a manner that respects the rights of all involved parties, and it is therefore the policy of this Board that the policing of First Nations occupations and protests 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 will develop written procedures in accordance with Appendix “A” that set out the policing of First Nations occupations and protests.
- 4.1.2 The Chief shall ensure the role of the police at First Nations occupations or protests is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to a police officer under the law.

4.1.3 The Chief shall ensure the consideration of police actions at First Nations occupations or protests include preserving the peace, communication, negotiation and building trust with participating and affected communities.

4.1.4 The Chief shall develop and maintain procedures on:

- (a) communicating information in relation to police procedures on First Nations occupations and protests;
- (b) training requirements for policing First Nations occupations and protests;
- (c) fostering community understanding of the police response to the events;
- (d) the collection and analysis of information prior to and during events; and
- (e) addressing the uniqueness of First Nations occupations and protests.

4.2 TRAINING

4.2.1 The Chief shall ensure that Members receive the appropriate training and that Members involved in policing First Nations occupations and protests have the requisite knowledge, skills and abilities and receive training on an ongoing basis.

4.3 COMMUNICATIONS STRATEGY

4.3.1 The Chief will develop a communication strategy on policing First Nations occupations and protests in accordance with Section 2 of Appendix A.

5. REPORTING REQUIREMENTS

5.1 The Chief shall make a written report to the Board on or before August 30 of each year in respect of policing First Nations occupations and protests. The report shall include:

- (a) a summary of the procedures as required by this By-law;
- (b) the status of Service compliance with the said procedures;
- (c) a summary of the training given to Members with respect to policing First Nations occupations and protests;
- (d) a summary of any incidents of police response to First Nations occupations and protests; and
- (e) a summary of the steps taken by the Service to monitor and evaluate response to First Nations occupations and protests.

6. IMPLEMENTATION

6.1 By-law No. 324-2012, 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.

6.3 The Chief shall implement this By-law, where applicable, through General Order.

ENACTED AND PASSED this 25th day of April, 2024.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD



Jen Lawson, Chair



Deb Reid, Executive Director

Attachment (1)

Legislative/Regulatory Requirements

Section 4(1) of the *Police Services Act* states every municipality to which this subsection applies shall provide adequate and effective police services in accordance with its needs.

Section 4(2) of the *Police Services Act* states adequate and effective police services must include, at a minimum, all of the following police services:

1. Crime prevention.
2. Law enforcement.
3. Assistance to victims of crime.
4. Public order maintenance.
5. Emergency response.

Section 1 of the *Police Services Act* sets out principles for the provision of police services throughout Ontario, including:

- The need to ensure the safety and security of all persons and property in Ontario.
- The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code*.
- The need for co-operation between the providers of police services and the communities they serve.
- The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.

Section 42(1)(a) of the *Police Services Act* states the duties of a police officer include, preserving the peace.

Section 42(3) of the *Police Services Act* states a police officer has the powers and duties ascribed to a constable at common law.

Section 2 of the *Criminal Code* defines *peace officer*, referring to a duty to ensure the preservation and maintenance of the public peace.

1. For the purposes of this guideline, Aboriginal occupation means: the seizure and control of an area arising from assertions of Aboriginal or treaty rights by members of an Aboriginal group.
2. For the purposes of this guideline, Aboriginal protest means: a physical demonstration related to assertions of Aboriginal or treaty rights by members of an Aboriginal group.
3. For the purposes of this guideline, Aboriginal people has the same meaning as in s. 35(2) of the *Constitution Act, 1982*. Subsection 35(2) states that Aboriginal peoples includes Indian, Inuit and Metis people.

Sample Board Policy

Board Policy # _____

The objective of policing Aboriginal occupations and protests is to preserve the peace, prevent offences, and enforce the law in a manner that respects the rights of all involved parties. To this end, it is the policy of the _____ Police Services Board with respect to policing Aboriginal occupations or protests that:

- a) the role of the police at an Aboriginal occupation or protest is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to a police officer under the law.
- b) the consideration of police actions at an Aboriginal occupation or protest include preserving the peace, communication, negotiation and building trust with participating and affected communities.
- c) the Chief of Police will develop and maintain procedures on:
 - i. communicating information in relation to police procedures on Aboriginal occupations and protests;
 - ii. training requirements for policing Aboriginal occupations and protests;
 - iii. fostering community understanding of the police response to the events;
 - iv. the collection and analysis of information prior to and during events; and
 - v. addressing the uniqueness of Aboriginal occupations and protests.

Police Service Guidelines*Procedures*

1. Every police service's procedures on policing Aboriginal occupations and protests should:
 - a) indicate that the role of the police at an Aboriginal occupation and protest is to preserve the peace, prevent offences, and enforce the law including offences against persons and property, in accordance with the powers and discretion available to an officer under the law. With respect to their role in preserving the peace, officers should have regard to:
 - i. remaining neutral as to the underlying grievance, where possible; and
 - ii. facilitating the building of trust between police, participating and affected communities.
 - b) include training requirements for policing an Aboriginal occupation or protest that focus on:
 - i. the role of police;
 - ii. communication skills;
 - iii. ability to negotiate, mediate and/or engage in dispute resolution; and
 - iv. building trust.
 - c) foster community understanding of events by:
 - i. seeking the assistance/involvement of First Nations police services and First Nations police officers, when appropriate and where resources permit;
 - ii. seeking the assistance of Aboriginal mediators, when appropriate;
 - iii. consulting and sharing information with local communities that may be affected by an Aboriginal occupation and protest.
 - d) address the continuous gathering and use of relevant information prior to and during the event;
 - e) encourage police commanders for the event to acquire an understanding of and consider the uniqueness of these events in the context of the history, traditions, culture and claims of the occupiers or protestors;
2. Every police service's procedures on policing Aboriginal occupations and protests should require:
 - a) the development of a communications strategy that includes:
 - i. the mandate, functions and reporting relationships of the police officers involved;
 - ii. identifying police procedures and protocols;

- iii. how important messages are to be conveyed to communities participating in the protest and those affected by the protest;
 - iv. the technical aspects of how the police would communicate with occupiers;
 - v. the identity of specific persons, other than police agency members, who could effectively communicate with occupiers;
 - vi. how community information should be conveyed regarding significant Aboriginal occupations and protests, and how these incidents are policed;
 - vii. information on restoring police relationships with Aboriginal and non-Aboriginal communities affected by an Aboriginal occupation or protest directly or indirectly.
- b) the communications strategy to be provided to any involved First Nations police officers, First Nations police services, Aboriginal mediators, protestors, occupiers and the public during an Aboriginal occupation or protest.

Please note the general principles in this guideline could apply to the policing of occupations and protests that involve other identified groups and not solely Aboriginal occupations and protests.