



BY-LAW NO. 418-2024

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

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 in the area for which it has policing responsibility as required by Section 10 of the *CSPA*;
- 1.2 AND WHEREAS Section 38 (1) of the said *CSPA*, provides, inter alia, that a Police Services Board shall establish policies respecting the administration of the police service;
- 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 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 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, the Niagara Region's Legal Department, other legal and professional advisors, directly or indirectly contracted by the Board, Chief, and/or the Niagara Region's Legal Department, 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 such civil actions 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; and provide 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 likely to involve a settlement to a third party or parties 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 or parties 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 and tracking of civil actions shall be vested in the appropriate police staff as designated by the Chief of Police;

- 5.1.2 The defence of such actions shall be undertaken by the Niagara Region's Legal Department, or if directed by the Region's liability insurer, external counsel;

- 5.1.3 That, if external counsel is retained by the Niagara Region's Legal Department 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;

- 5.1.4 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.

- 5.1.5 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 the Policy and Risk Management Unit 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. BOARD REPORTS ON INDIVIDUAL CLAIMS

- 6.1 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.
- 6.2 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. ANNUAL BOARD REPORT FROM CHIEF

- 7.1 The Chief shall make annual written confidential reports to the Board, in the first quarter of each year respecting the preceding year, 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 managed administratively;
 - (b) The parties to the action, the nature of the claim, (for example: excessive force, false arrest, negligence), the amount claimed, status of the action (for example: action at discovery stage, etc.);
 - (c) Information on each civil action resolved in the past year, including the manner of resolution (for example, trial, settlement, dismissal), damages paid, defense costs incurred, and costs paid to Plaintiff.

8. IMPLEMENTATION

- 8.1 By-law Nos. 323-2012 and 348-2014, and all other By-laws, sections of By-laws, and policies of the Board inconsistent with the provisions of this By-law are hereby repealed effective March 31, 2024.
- 8.2 This By-law shall come into force on April 1, 2024.
- 8.3 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 28th day of February, 2024.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD

A handwritten signature in cursive script that reads "Lawson." The signature is written in black ink and is positioned above a horizontal line.

Jen Lawson, Chair

A handwritten signature in cursive script that reads "Reid". The signature is written in black ink and is positioned above a horizontal line.

Deb Reid, Executive Director