



BY-LAW NO. 458-2024

A BY-LAW RESPECTING SEARCH AND SEIZURE

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 O. Reg. 392/23: Adequate and Effective Policing (General) prescribes standards for adequacy and effectiveness of police services;
- 1.4 AND WHEREAS the Board has deemed it appropriate and consistent with the principles set out in Section 1 of the CSPA, with its objectives and priorities determined pursuant to Sections 37 and 38 of the CSPA to establish policies with respect of search of premises and search of persons;
- 1.5 AND WHEREAS Part LE-011 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing the Chief and police service relative to search of premises;
- 1.6 AND WHEREAS Part LE-012 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix B, contains guidelines directing the Chief and police service relative to search of persons.

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 “Manual” means the Policing Standards Manual published by the Ministry of the Solicitor General;

2.5 "Member" means a member of the Niagara Regional Police Service;

2.6 "Service" means the Niagara Regional Police Service.

3. BOARD POLICY

3.1 The Board recognizes that issues relating to search and seizure are of paramount importance in the investigation and prosecution of criminal offences, and it is therefore the policy of this Board that such issues be dealt with in a professional and thorough manner, and in accordance with procedures established by the Chief as directed in this By-law.

4. DIRECTION TO THE CHIEF

4.1 SEARCH OF THE PREMISES

4.1.1 The Chief shall establish procedures on search of premises that require compliance by Members with the legal, constitutional and caselaw requirements relating to search of the premises and in accordance with Appendix A.

4.2 SEARCH OF PERSONS

4.2.1 The Chief shall establish procedures on search of persons that comply with Appendix A and address:

- (a) the compliance by Members of the Service with the legal, constitutional and caselaw requirements relating to when and how searches of the persons are to be undertaken;
- (b) the circumstances in which an officer may undertake a search of person;
- (c) frisk/field searches;
- (d) strip/complete searches;
- (e) body cavity searches;
- (f) consent searches;
- (g) supervision of searches of persons; and
- (h) the documentation of searches of persons.

4.3 TRAINING

4.3.1 The Chief shall ensure that Members are kept informed of changes in the law relating to search and seizure.

5. REPORT TO THE BOARD

5.1 Chief shall make a written report to the Board in each year. The report shall include:

- (a) a summary of the written procedures regarding search and seizure; and
- (b) confirmation of compliance with the procedures regarding search and seizure.

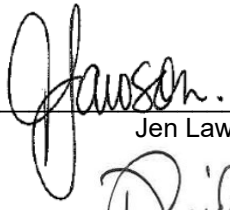
6. IMPLEMENTATION

6.1 By-law No. 203-2000 and 204-2000, 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.

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

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICE BOARD



Jen Lawson, Chair



Deb Reid, Executive Director

Attachments (2)

Legislative/Regulatory Requirements

Section 29 of the Police Adequacy Standards Regulation requires a police services board to have a policy on search of premises. In addition, section 13(1)(i) requires the Chief of Police to establish procedures and processes in respect of search of premises.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to search of premises that the Chief of Police will:

- a) establish procedures on search of premises that require the compliance by members of the police service with the legal, constitutional and case law requirements relating to the search of premises; and
- b) ensure that officers and other members as appropriate are kept informed of changes in the law relating to search of premises.

Police Service Guidelines

- Procedures**
1. Every police service's procedures on search of premises should:
 - a) require an officer to comply with legal, constitutional and case law requirements for undertaking a search of premise, as well as for vehicle /conveyance searches and the contents found within;
 - b) address the procedures for:
 - i) obtaining and executing search warrants; and
 - ii) undertaking a consent search;
 - c) provide that an officer shall not use a Coroner's warrant as a means of obtaining evidence in respect to a criminal act;
 - d) require that before conducting a search of a dwelling, the officer in possession of the search warrant will, where practicable and unless safety or operational requirements clearly dictate otherwise, indicate the reason for their attendance and request that the door be opened;
 - e) require that sufficient personnel be deployed to control the search and to provide adequate security;
 - f) require that seized evidence be collected, handled, packaged, marked, recorded, transported and stored in accordance with the police service's procedures for the collection, preservation and control of evidence and property;
 - g) require that all searches be conducted in accordance with the police service's procedures on communicable diseases;



- h) require that the results of any search be fully documented; and
- i) require that the search of a person found within a premise be conducted in accordance with the police service's procedures on the search of the person.

Information 2. Every Chief of Police should ensure that officers and other members as appropriate are kept informed of changes in the law relating to search of premises.



Legislative/Regulatory Requirements

Section 29 of the Police Adequacy Standards Regulation requires a police services board to have a policy on search of persons. In addition, section 13(1)(h) requires the Chief of Police to establish procedures and processes in respect of the search of persons.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to the search of persons that the Chief of Police will:

- a) establish procedures that address:
 - i) the compliance by members of the police service with the legal, constitutional and case law requirements relating to when and how searches of persons are to be undertaken;
 - ii) the circumstances in which an officer may undertake a search of person;
 - iii) frisk/field searches;
 - iv) strip/complete searches;
 - v) body cavity searches;
 - vi) consent searches;
 - vii) the supervision of searches of persons; and
 - viii) the documentation of searches of persons; and
- b) ensure that officers and other members as appropriate are kept informed of changes in the law relating to the search of persons.

Police Service Guidelines

- Procedures**
1. Every police service's procedures on the search of persons should:
 - a) require an officer when undertaking a search of person to comply with legal, constitutional and case law requirements;
 - b) address the circumstances in which an officer may undertake a search of person;
 - c) set out the procedures for undertaking:
 - i) frisk/field searches;
 - ii) strip/complete searches, including:
 - the circumstances under which a strip/complete search may be conducted;
 - the circumstances when a strip/complete search must be reported;
 - the circumstances, if any, where the permission of a supervisor must be obtained before a strip/complete search is conducted;
 - a requirement against conducting a strip/complete search while any person is present who is not a member of a police service, or whose attendance is



- not appropriate or required in the circumstances, unless safety requirements dictate otherwise;
- that a search be conducted by a member of the same gender as the person to be searched, unless safety requirements dictate otherwise;
- that a search be conducted in a place in which the privacy of the person can be reasonably assured, unless safety requirements dictate otherwise;
- that the person be encouraged to remove their own clothing, unless safety requirements or destruction of evidence issues dictate otherwise; and
- that the search be conducted in a manner which avoids unnecessary body contact;
- iii) body cavity searches, including:
 - that such searches be conducted in private by a qualified medical practitioner and other medical staff as required, and in the presence of a member of the police service of the same gender as the person to be searched; and
 - operational responsibility for authorizing such a search; and
- iv) consent searches;
- d) address the search of a young person and a person with a disability which affects communication or comprehension; and
- e) require that the results of all searches be documented.

Information 2. Every Chief of Police should ensure that the members who may perform search of persons are kept informed of changes in the law with respect to the search of persons.

