



BY-LAW NO. 449-2024

**A BY-LAW RESPECTING
INFORMANTS AND AGENTS**

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 6 (1) 4 vi of O. Reg. 392/23: Adequate and Effective Policing (General) prescribes that a Chief of Police shall establish procedures and processes with respect to informants and agents;
- 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 that it has a policy on informants and agents;
- 1.5 AND WHEREAS Part LE-015 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing police services relative to informants and agents.

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 informants and agents form an important part of investigative policing and of prosecution of criminal offences, and it is therefore the policy of this Board that issues involving informants and agents 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 PROCEDURES

4.1.1 The Chief shall develop procedures and processes relating to the use and management of paid informants and agents.

4.2 SOURCE OF FUNDS

4.2.1 The policy referred to in 4.1 shall include that any payment to an informant be made pursuant to the By-law Respecting the Administration, Limitations and Guidelines of the Special Fund.

4.3 IN-CUSTODY INFORMANTS

4.3.1 The Chief shall establish procedures and processes on the use of in-custody informants that are consistent with the procedures set out in the Ministry's designated Ontario Major Case Management Manual.

4.4 The procedures established above shall be in accordance with Appendix A and subsection 6 (1) 4 xii of O. Reg. 392/23: Adequate and Effective Policing (General).

5. REPORT TO THE BOARD

5.1 Chief shall make a written report to the Board each year in respect of informants and agents. The report shall include:

- (a) the status of the implementation of the written procedures regarding informants and agents;
- (b) confirmation of compliance with the provisions of the procedures regarding informants and agents; and
- (c) on an anonymous basis, a summary of payments made to informants.


6. IMPLEMENTATION

6.1 By-law No. 207-2000 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

Attachment (1)

Legislative/Regulatory Requirements

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

For the purposes of this requirement, informant means a “paid” informant of the police service.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to paid informants and agents that the Chief of Police will:

- a) establish procedures and processes relating to the use and management of paid informants and agents; and
- b) establish procedures on the use of in-custody informants that are consistent with the procedures set out in the Ministry’s designated *Ontario Major Case Management Manual*.

Police Service Guidelines

- Program* 1. Every police service should designate one officer as responsible for the overall management of the police service’s paid informant and agent program.
- Procedures* 2. Every police service’s procedures and processes on paid informants should:
- a) indicate that a paid informant will become an agent of the police service, if carrying out any direction or task requested by a police officer;
 - b) indicate that a paid informant is an asset of the police service;
 - c) designate one or more officers to be responsible for approving and reviewing the use of paid informants;
 - d) require the inclusion of all paid informants in a master file that is maintained and kept secure by an officer assigned this responsibility;
 - e) require that the content of paid informant files are to include, at minimum:
 - i) biographical and background information;
 - ii) criminal history, if any;
 - iii) parole or probation conditions, if any;
 - iv) code name or number;
 - v) possible motives for participation;

- vi) information on the reliability of information provided by a paid informant;
 - vii) risk assessment (based upon the potential for harm to the paid informant, harm to the police officer involved and harm to the community); and
 - viii) payment receipts;
- f) require the documentation of every contact/communication with the paid informant;
 - g) require the maintenance and periodic review of a paid informant's file;
 - h) require that paid informant files and related codes shall be kept secured, and access to the files limited;
 - i) require the identity of paid informants to be protected, consistent with case law on informer privilege, including the use of separate notebooks for every paid informant;
 - j) promote the verification and corroboration of information supplied by a paid informant prior to action being taken on it; and
 - k) require that the Crown be consulted in circumstances:
 - i) where legal proceedings are to commence where a paid informant is involved with the subject matter of the case; or
 - ii) where a paid informant has been charged with a criminal offence.
3. Every police service should establish procedures on the use of in-custody informers that are consistent with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*.
4. Every police service's procedures and processes relating to the use of agents should:
- a) require that reasonable steps be taken to evaluate the reliability of a potential agent, including the validity of previous information, and possible motivations for participation, prior to considering utilizing the services of an individual in an agent capacity;
 - b) require that a Witness Protection Liaison Officer complete a background assessment on a potential agent, prior to an agreement being formed;
 - c) require that a potential agent be advised of the conditions of their involvement, including disclosure of their identity and possibility of becoming a compellable witness;
 - d) require a contractual arrangement (Letter of Agreement) between the agent and the Chief of Police or designate;
 - e) require that all communications with an agent are fully documented;
 - f) require that illicit drug purchases by an agent be in accordance with Sec. 55 of the *Controlled Drugs and Substances Act*;
 - g) require that officers address the security of an agent during an investigation;
 - h) require additional protective measures, where the identity of an agent is revealed, inadvertently, through disclosure or in testimony, including introducing an agent into a witness protection program, where necessary; and

- i) require officers to consult with the Crown in circumstances where an agent is suspected of committing an offence, or has been charged with a criminal offence.