



**BY-LAW NO. 313 – 2011
A BY-LAW RESPECTING
SEXUAL ASSAULT INVESTIGATION
(LE-034)**

1 PREAMBLE

- 1.1 WHEREAS subsection 31(1) of the *Police Services Act* provides that a Board is responsible for the provision of police services and for law enforcement and crime prevention in the municipality and shall:
- b. generally determine after consultation with the Chief of Police, objectives and priorities with respect to police service in the municipality;
 - c. establish priorities for the effective management of the police service, and
 - e. direct the Chief of Police and monitor his or her performance;
- 1.2 AND whereas subsection 31(6) of the *Police Services Act* provides that the Board may, by by-law, make rules for the effective management of the police service;
- 1.3 AND whereas O. Reg. 3/99 prescribes standards for adequacy and effectiveness of police services;
- 1.4 AND whereas subsection 12(1)(r) of O. Reg. 3/99 requires the Chief of Police to develop and maintain procedures on and processes for undertaking and managing investigations into sexual assault occurrences;
- 1.5 AND whereas Section 29 of O. Reg. 3/99 requires the police services board to have a policy on investigations into sexual assault occurrences;
- 1.6 AND whereas Part LE-034 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing the Chief and the Board relative to the police response to sexual assault occurrences;
- 1.7 AND whereas it is the purpose of this By-law to ensure that the service has a policy in place which aims to reduce violence against women by encouraging an effective and consistent response to sexual assault complaints.

NOW THEREFORE THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD ENACTS AS FOLLOWS:

2 DEFINITIONS

- 2.1 “Act” means *Police Services Act*, R.S.O. 1990, c.P.15, as amended;
- 2.2 “Board” means the Regional Municipality of Niagara Police Services 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 “Ministry” means the Ministry of the Solicitor General;
- 2.7 “Service” means the Niagara Regional Police Service.

3 BOARD POLICY

- 3.1 The Board recognizes that matters of sexual assault are serious in nature, and it is therefore the policy of this Board that investigations into such matters 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 shall develop and implement written procedures with respect to the investigation of and laying of charges in sexual assault cases. These procedures shall be in accordance with Appendix A and shall:
- a. require that investigations be undertaken in accordance with the Service’s Criminal Investigation Management Plan;
 - b. require compliance with the procedures set out in the Ministry’s designated Ontario Major Case Management Manual;
 - c. address communications and dispatch, initial response and investigations relating to sexual assaults; and
 - d. address community notification.
- 4.1.2 The Chief shall develop and implement a written procedure to monitor and evaluate all responses to complaints of sexual assaults to ensure compliance with the said procedures by Members.

4.2 PROTOCOL

The Chief shall ensure the police service, where possible, establish multi-agency protocols with hospitals and agencies, including local Crown Attorney’s, sexual assault treatment centres, sexual assault/rape crisis centres and victim services to ensure a co-ordinated and effective response to victims of sexual assaults.

4.3 TRAINING

- 4.3.1 The Chief shall ensure that Members involved in the investigation of sexual assaults receive the appropriate Ministry accredited training in dealing with sexual assault occurrences and that these Members have the requisite knowledge, skills and abilities to investigate sexual assault offences.
- 4.3.2 The Chief shall ensure that the Skills Development and Learning Plan is consistent with Appendix A for members performing this function.

4.4 *VICTIMS*

4.4.1 The Chief shall form a committee with local hospitals and agencies which provide services to victims of sexual assault in order to ensure a coordinated and effective response to victims of sexual assault.

4.4.2 The Chief shall develop and implement a written procedure to ensure that the needs of victims of sexual assault crimes are accommodated.

5 *REPORT TO THE BOARD*

5.1 The Chief shall make a written report to the Board on or before August 30 of each year in respect of the investigation of sexual assault occurrences. This report will contain:

- a. a summary of the written procedures concerning sexual assault investigations, including changes since the date of the last report;
- b. confirmation that the procedures are in compliance with the Ministry's designated Ontario Major Case Management manual;
- c. the status of Service compliance with the said procedures;
- d. a summary of the training given to Members with respect to sexual assault;
- e. a summary of the steps taken by the Service to monitor and evaluate response to sexual assault occurrences; and
- f. a summary of the issues dealt with by the Sexual Assault Committee.

6 *IMPLEMENTATION*

6.1 By-law No. 226-2000 and all other By-laws, and sections of By-laws inconsistent with the provisions of this By-law are hereby repealed.

6.2 This By-law shall come into force upon the date of its passage.

6.3 The Chief shall implement this By-law, where applicable, through general order.

ENACTED AND PASSED this 15th day of December, 2011.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

Signed Original on File
Board Chair

Signed Original on File
Executive Director

Legislative/Regulatory Requirements

Section 29 of the Adequacy Standards Regulation requires a police services board to have a policy on investigations into sexual assaults.

In addition, section 12(1)(r) requires the Chief of Police to develop and maintain procedures on and processes for undertaking and managing investigations into sexual assaults.

Sample Board Policy

Board Policy # _____

It is the policy of the _____ Police Services Board with respect to sexual assault investigations that the Chief of Police will:

- a) develop and maintain procedures that:
 - i) require that investigations be undertaken in accordance with the police service's criminal investigation management plan;
 - ii) require compliance with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*;
 - iii) address communications and dispatch, initial response and investigations relating to sexual assaults; and
 - iv) address community notification;
- b) work, where possible, with hospitals and agencies which provide services to victims of sexual assault, including Sexual Assault Treatment Centres, Sexual Assault/Rape Crisis Centres and Victim Services, as well as the local Crown, to ensure a co-ordinated and effective response to victims of sexual assaults; and
- c) address training for officers and other appropriate members on the response to sexual assault occurrences, including victims' assistance.

Police Service Guidelines

- Protocols*
1. Every Chief of Police should work, where possible, with hospitals and agencies which provide services to victims of sexual assault, including Sexual Assault Treatment Centres, Sexual Assault/Rape Crisis Centres and Victim Services, as well as the local Crown, to ensure a co-ordinated and effective response to victims of sexual assaults, including developing a local protocol that addresses:
 - a) practical assistance and support to victims;
 - b) the receipt of information from third party and anonymous sources;

- c) information sharing;
- d) training of members of the police service;
- e) concerns raised over practices and procedures;
- f) role and responsibilities of investigating officers;
- g) documentation of referrals;
- h) information to victims regarding their cases;
- i) the collection, preservation and transfer of medical/forensic evidence (including provisions to allow for a Sexual Assault Evidence Kit to be stored for up to six months when a victim chooses to attend the hospital to have the examination completed but chooses not to report the assault to the police at that time);
- j) the dissemination of Sexual Assault Evidence Kits; and
- k) community education.

- Procedures*
2. Every police service's procedures on sexual assaults should:
 - a) require that investigations be undertaken in accordance with the police service's criminal investigation management plan;
 - b) require compliance with the procedures set out in the Ministry's designated *Ontario Major Case Management Manual*;
 - c) address the notification of the community or members of the community who may be at risk in the event that suspected serial sexual assault offences or attempts are occurring;
 - d) address compliance with the *ViCLAS Regulation*;
 - e) address the role of communications and dispatch, including advising the complainant of precautions that should be taken in order to preserve any physical evidence;
 - f) address an officer's initial response to a sexual assault occurrence;
 - g) address the preliminary and detailed interviewing of the victim;
 - h) require minimizing the unnecessary repetition of the facts by the victim of the sexual assault to different police officers;
 - i) address the sharing of information with patrol officers on sexual assault occurrences, including suspect descriptions, where available;
 - j) address the collection and preservation of evidence relating to a sexual assault, including:
 - i) if the assault is reported within seventy-two hours, explaining to the victim the importance of attending a hospital (Sexual Assault Treatment Centre, where available) to retrieve medical/forensic evidence and/or to receive medical treatment to identify and treat any disease or injury or to provide reassurance that no enduring physical harm was inflicted; and
 - ii) the use of the Sexual Assault Evidence Kit;
 - k) address the safety and security of the victim upon completion of any medical/forensic examination;
 - l) set out the steps for obtaining third party records;

- m) address the linkages to other relevant procedures, including victims' assistance, bail and violent crime, criminal harassment, domestic violence occurrences, child abuse and neglect and preventing or responding to occurrences involving firearms;
- n) refer to relevant programs including the Provincial Strategy to protect children from sexual abuse and exploitation on the internet;
- o) address the fact that historical sexual assault/abuse cases should be governed by the same set of investigative standards as recent sexual assault/abuse cases;
- p) ensure officers involved in sexual assault cases continue to receive in-service support and supervision.

Training 3. Every Chief of Police should ensure that the police service's skills development and learning plan addresses the training for officers and other appropriate members on the response to sexual assault occurrences, including victims' assistance.

Monitoring and Supervision 4. Every police service should require supervisors to monitor, and ensure, compliance by members with the police service's procedures on sexual assault investigation.