

NORTH BAY POLICE SERVICES BOARD

BY-LAW #02/98

PUBLIC COMPLAINTS AGAINST POLICE

PUBLIC COMPLAINTS

INDEX

	PAGE
1. General.....	(ii)
2. Definitions.....	(iii)
3. Preliminary Processing Issues.....	(iv)
4. Complaint Withdrawals	(vi)
5. Policy And Service Complaints	(vii)
6. Conduct Complaints.....	(xii)
7. Conduct Complaints — Chief or Deputy Chief	(xii)
8. Board Reports	(xvii)

PUBLIC COMPLAINTS

PREAMBLE

WHEREAS Section 31 of the Police Services Act, R.S.O. 1990, c. P.15 and amendments thereto, sets out the responsibilities of a police services board.

And **WHEREAS** Section 31(1)(c) of the said Act provides that police services boards shall establish policies for the effective management of the police force.

And **WHEREAS** Section 31(1)(e) of the said Act requires that police services boards direct the Chief of Police and monitor his or her performance.

And **WHEREAS** Section 31(6) of the said Act authorizes police services boards to make, by By-Law, rules for the effective management of the police force.

And **WHEREAS** Part V of the said Act, as amended by Bill 105, sets out obligations of police services boards and police forces relative to Public Complaints.

And **WHEREAS** the North Bay Police Services Board has considered the provisions of Part V in the context of its responsibilities under Section 31 of the said Act and recognizes and adheres to the principle that fair, open, prompt, thorough and efficient response to Public Complaints is a cornerstone to establishing and maintaining a positive community-police relationship.

The North Bay Police Services Board hereby enacts this By-Law to ensure that the response to Public Complaints by the Board and the North Bay Police Force adheres to the principles set out above.

ARTICLE 1: GENERAL

1. The short title of this By-Law is "The Public Complaints By-Law of the North Bay Police Services Board".
2. This By-Law relates to Public Complaints as defined in the Police Services Act, and does not address internal complaints regarding misconduct other than those made by the Chief of Police of the North Bay Police Force.
3. The Chair of the Police Services Board and the Chief of Police shall ensure compliance with the Board's and the Force's Freedom of Information Act policy and procedures, as well as the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. M.56, throughout the Public Complaints process.

4. Any reference in this By-Law to forms shall mean the forms appended to this By-Law, and the content of the forms shall be considered to form part of the content of this By-Law.
5. Service of any forms or other documents required to be served pursuant to this By-Law may be made in accordance with the provisions of s. 77 of the Police Services Act.

ARTICLE 2: DEFINITIONS

1. For the purposes of this By-Law, the following definitions shall apply:

ACT shall mean the Police Services Act, R.S.O. 1990, c. P.15 and amendments thereto.

ARTICLE shall mean an Article or Subarticle of this By-Law.

BOARD shall mean the North Bay Police Services Board.

BOARD CHAIR shall mean the Chair of the North Bay Police Services Board.

CHIEF shall mean the Chief of Police of the North Bay Police Force.

COMMISSION shall mean the Ontario Civilian Commission on Police Services.

COMPLAINANT shall mean a member of the public, as defined in the Police Services Act, who makes a complaint in accordance with the provisions of the Act.

CONDUCT COMPLAINT shall mean a complaint made pursuant to s. 56(1) or (2) of the Act determined pursuant to s. 59(1) to relate to the conduct of a police officer.

DEPUTY CHIEF shall mean the Deputy Chief of Police of the North Bay Police Force.

FORCE shall mean the North Bay Police Force.

MEMBER shall mean a Sworn Member of the North Bay Police Force.

POLICY COMPLAINT shall mean a complaint made pursuant to s. 56(1) of the Act determined to relate to the policies of or services provided by the Force pursuant to s. 59(1).

PROFESSIONAL STANDARDS OFFICER shall mean a Member who has been appointed by the Chief as a Professional Standards Officer, or any other Member who has been authorized by the Chief to perform duties of the Chief under Part V of the Act pursuant to s. 76(2).

PROSECUTOR shall mean a legal counsel designated as a prosecutor pursuant to s. 65(10) of the Act.

PUBLIC COMPLAINT shall mean a complaint made by a member of the public, in written form and signed by the complainant, concerning the policies of or service provided by the Force, or concerning the conduct of a Sworn Member of the Force, and which is dealt with pursuant to Part V of the Act.

PUBLIC COMPLAINTS COMMITTEE shall mean a Committee appointed by the Board pursuant to s. 61(9) of the Act to review Policy Complaints and make recommendations to the Board concerning those Policy Complaints.

PUBLIC COMPLAINTS FORM shall mean the form approved for use by the Commission pursuant to s. 57(3) of the Act.

SECTION (and "s") shall mean a section of the Police Services Act.

ARTICLE 3: PRELIMINARY PROCESSING ISSUES

1. The Chief shall develop a procedure to ensure that Public Complaints are processed in accordance with the provisions of this By-Law and the Police Services Act.
2. The Chief shall:
 - (a) designate one or more Members as Professional Standards Officers,
 - (b) ensure that Public Complaint forms are available to the public in the front lobby of police headquarters,
 - (c) ensure that the public information pamphlet adopted by the Commission is available to the public in the front lobby of police headquarters,
 - (d) develop a procedure to ensure that all complaints, when received by any Member of the Force, are delivered immediately to the Office of the Chief of Police or a person designated by the Chief to receive complaints,
 - (e) ensure that all Members are aware of such procedure and the availability of the said forms and pamphlets, and
 - (f) ensure that all Members receive training in respect of the provisions of Part V of the Act generally and ss. 56(1) and 57(2) specifically.

3. The Chief shall ensure the development and use of any forms which are not provided for in this By-Law, and which are necessary to facilitate the Public Complaints process and to ensure proper notification in accordance with the requirements of the Act.
4. The Chief shall arrange for the preliminary processing of Public Complaints in accordance with the requirements of the Police Services Act. In particular, upon receipt of Public Complaints, he/she shall ensure that each complaint is reviewed to determine,
 - (a) the date the complaint was made, pursuant to s. 57(6),
 - (b) whether it is written, signed, and delivered in accordance with s. 57(2),
 - (c) whether it is made by a person described in s. 57(7),
 - (d) whether the complaint is a Conduct Complaint or a Policy Complaint pursuant to s. 59(1),
 - (e) whether the facts upon which the complaint is based occurred more than six months before the day of the complaint, pursuant to s. 59(4),
 - (f) whether the complaint is frivolous or vexatious, or is made in bad faith, pursuant to s. 59(3), and
 - (g) whether the complainant is directly affected by the policy, service or conduct that is the subject of the complaint pursuant to s. 59(5).
5. The provisions of Article 3(4)(e), (f) and (g) do not apply to Conduct Complaints concerning the Chief or the Deputy Chief.
6. The Chief shall ensure that the Public Complaints procedure of the Force includes at least the following provisions:
 - (a) In the event that a complaint is found to be defective for any reason described in Article 3(4)(b) or (c) above, the complainant shall be notified of the deficiency and of the right to resubmit the complaint once the requirements of s. 57(2) are met.
 - (b) The complainant shall be notified of the determination made pursuant to Article 3(4)(d) above, in accordance with the requirements of ss. 59(2) and 59(7).
 - (c) In the event that the decision is made not to deal with a complaint for any of the reasons described in Article 3(4)(e) or (f) above, the complainant

shall be notified in accordance with the requirements of ss. 59(6) and 59(7).

- (d) If it is determined that a complainant was not directly affected by the policy, service or conduct that is the subject of the complaint pursuant to Article 3(4)(g), the complaint shall not be dealt with, and the complainant shall be notified in accordance with the requirements of ss. 59(6) and 59(7).
- (e) Subject to the proviso contained in s. 56(7), notice of each Conduct Complaint shall be given forthwith to the Member who is the subject of the complaint, by delivering to the Member a copy of the complaint and a copy of any notification to the complainant relating to:
 - (i) classification of the complaint as a Conduct Complaint, or
 - (ii) a decision not to deal with the complaint for any reason.
- (f) In the event that a complainant requests, pursuant to s. 72, that the Commission review a determination, the following documents shall be filed with the Commission:
 - (i) a copy of the complaint,
 - (ii) a copy of the relevant form or forms forwarded to the complainant, and
 - (iii) any other documentation or information that was considered in making this determination.

7. The Chief shall ensure that all directions from the Commission pursuant to ss. 72 or 73 are complied with forthwith in accordance with the Act and this By-Law.

ARTICLE 4: COMPLAINT WITHDRAWALS

- 1. The Chief shall ensure that the Public Complaints procedure of the Force includes at least the following provisions with respect to withdrawal of complaints:
 - (a) Every withdrawal of a complaint shall be reviewed to ensure compliance with s. 57(4), and any withdrawal which does not comply with that section shall be returned to the complainant with a letter setting out the provisions of the section, and explaining that the withdrawal may be refiled at any time.

- (b) In the event that a complaint is withdrawn by a complainant as provided in s. 56(3), a determination shall be made as to whether to request a meeting with the complainant for the purpose of determining:
 - (i) the reasons the complaint was withdrawn,
 - (ii) whether the Force should continue to deal with the complaint pursuant to s. 56(5), and
 - (iii) if a hearing has commenced, whether consent to the withdrawal of the complaint pursuant to s. 56(3) ought to be given.
- (c) The provisions of Article 4(1)(b) above shall not apply to complaints not acted upon pursuant to ss. 59(3), (4) or (5), and the relevant review provisions of s. 72.

ARTICLE 5: POLICY AND SERVICE COMPLAINTS

1. This Article relates to Policy Complaints.
2. The Chief shall develop a written procedure to ensure compliance with the provisions of s. 61, and shall provide a copy of such procedure to the Board.
3. A complainant who has made a Policy Complaint shall be notified of the disposition of the complaint in accordance with the requirements of ss. 61(3) and 61(4).
4. Any extension of the time limit for notice of disposition referred to in Article 5(3) shall be made in accordance with the requirements of s. 61(5).
5. The Board may appoint a Public Complaints Committee consisting of not fewer than three Board members, at the first meeting in January of each year, for the purpose of reviewing Public Complaints about the policies of or services provided by the Force, pursuant to a request for review made by a complainant under s. 61(7).
6. The provisions of Articles 5(7) to 5(18) and 5(30) to 5(32) inclusive apply if the Board has appointed a Public Complaints Committee.
7. The Public Complaints Committee shall notify the Chief in writing that it has received a request for a review pursuant to s. 61(7) immediately upon receipt of such request, and shall request from the Chief the report set out in Article 5(8) below.

8. In respect of every Policy Complaint, the Chief shall submit a written report to the Public Complaints Committee in accordance with s. 61(2), which report shall include at least the following information and/or documentation:
 - (a) a copy of the complaint,
 - (b) a copy of the relevant forms provided to the complainant with proof of service,
 - (c) in the event that the deeming provisions in s. 61(6) have been invoked, the reasons therefor, and
 - (d) in the event that a request for review is filed, or in the event of a request by the Public Complaints Committee, any other documentation or information that was considered in making any findings in respect of the complaint.
9. The report required pursuant to Article 5(8) above shall be filed with the Public Complaints Committee within 20 days from the earlier of:
 - (a) the date the complainant files a request for review pursuant to s. 61(7), and
 - (b) the expiry of the time for filing such request for review.
10. The Public Complaints Committee shall, within 30 days of receiving the request for review pursuant to s. 61(7):
 - (a) review the report of the Chief made pursuant to Article 5(8) above, and
 - (b) make a written report to the Board with recommendations concerning the disposition of the complaint, including a recommendation as to whether or not to hold a public meeting.
11. The Public Complaints Committee may extend the time limit set in Article 5(10) above, upon giving notice in Form A to the complainant, the Chief and the Board.
12. If requested by the Board, the Public Complaints Committee shall provide to the Board all documentation and information considered by the Committee in making its recommendation.
13. The Public Complaints Committee shall consider whether to obtain legal advice in respect of any aspect of the complaint which is the subject of the review.

14. In deciding whether to hold a public meeting pursuant to s. 61(10), the Public Complaints Committee and the Board shall consider at least the following:
 - (a) whether the complaint, if found to be substantiated, raises present, past or potential issues concerning law enforcement and crime prevention in the municipality,
 - (b) whether public input could reasonably be required to effectively deal with the complaint, and
 - (c) whether it is in the public interest to hold such a public meeting.
15. Notice of a public meeting to be held pursuant to s. 61(10) may be given by publication in a newspaper or newspapers that, in the opinion of the Board, is of sufficiently general circulation in the municipality so as to give to the public reasonable notice of such meeting. The notice shall include at least the following information:
 - (a) a summary of the nature of the complaint,
 - (b) the time and place of the meeting,
 - (c) the address for filing of written submissions,
 - (d) the deadline for filing of such written submissions, and
 - (e) the procedure to be followed if a member of the public wishes to make oral submissions, including a time limit in respect of the oral submissions.
16. The Board shall dispose of the complaint and notify the complainant and the Chief of such disposition pursuant to s. 61(8) within 30 days from the receipt of the Public Complaints Committee's report by serving a completed Form B on the complainant and the Chief.
17. For the purposes of Article 5(16) above, disposition of the complaint includes a decision to hold a public meeting pursuant to s. 61(10).
18. The Board may extend the time described in Article 5(16) above by giving written notice to the Chief and the complainant in Form C.
19. The provisions of Articles 5(20) to 5(32) inclusive apply if the Board has not appointed a Public Complaints Committee.
20. The Board shall notify the Chief in writing that it has received a request for a review pursuant to s. 61(7) immediately upon receipt of such request, and shall request from the

Chief the report set out in Article 5(21) below.

21. In respect of every Policy Complaint, the Chief shall submit a written report to the Board in accordance with s. 61(2), which report shall include at least the following information and/or documentation:
 - (a) a copy of the complaint,
 - (b) a copy of the relevant forms provided to the complainant with proof of service,
 - (c) in the event that the deeming provisions in s. 61(6) have been invoked, the reasons therefor, and
 - (d) in the event that a request for review is filed, or in the event of a request by the Board, any other documentation or information that was considered in making any findings in respect of the complaint.
22. The report required pursuant to Article 5(21) above shall be filed with the Board within 20 days from the earlier of:
 - (a) the date the complainant files a request for review pursuant to s. 61(7), and
 - (b) the expiry of the time for filing such request for review.
23. The Board shall, within 30 days of receiving the request for review pursuant to s. 61(7), or at the next available regularly scheduled Board meeting, decide whether to hold a public meeting pursuant to s. 61(10) and, prior to making such decision, shall consider at least the factors set out in Article 5(14) above.
24. The Board may extend the time limit set in Article 5(23) above, upon giving notice in Form D to the complainant and the Chief.
25. The Board shall consider whether to obtain legal advice in respect of any aspect of the complaint which is the subject of the review.
26. Notice of a public meeting to be held pursuant to s. 61(10) may be given by publication in a newspaper or newspapers that, in the opinion of the Board, are of sufficiently general circulation in the municipality so as to give to the public reasonable notice of such meeting. The notice shall include at least the information set out in Article 5(15) above.
27. The Board shall dispose of the complaint and notify the complainant and the Chief of such

disposition pursuant to s. 61(8) within 60 days of receipt of the request for review, or such other reasonable time as the Board may in its sole discretion decide, by serving on the complainant and the Chief a completed Form B.

28. For the purposes of Article 5(27) above, disposition of the complaint includes a decision to hold a public meeting pursuant to s. 61(10).
29. The Board may extend the time described in Article 5(27) above by giving written notice to the Chief and the complainant in Form E.
30. Subject to Articles 5(31) and 5(32), and to s. 35(4), the Board or the Public Complaints Committee as the case may be, shall deal with all issues relating to the complaint in the public portion of Board or Public Complaints Committee meetings, or at a public meeting called for the purpose of considering the complaint.
31. Subject to Article 5(32), the Board or Public Complaints Committee may decided to deal with all or part of a complaint in camera, or may decide not to disclose publicly the name or any other information of the complainant, if:
 - (a) the complainant is a minor, and
 - (b) after consultation with the complainant, and according to the facts alleged in the complaint, it is determined that the complainant is a victim of a criminal offence against the person and disclosure of the facts of the complaint would not be in the interests of the complainant.
32. In the event that a complainant is a victim of a sexual assault or other similar crime according to the facts upon which the complaint is based, the Board or Public Complaints Committee shall not deal in public with any portion of the complaint involving the said victim, unless the victim so consents.

ARTICLE 6: CONDUCT COMPLAINTS

1. This Article relates to Conduct Complaints, except for Conduct Complaints relating to the Chief or the Deputy Chief.
2. The Chief shall develop a written procedure relating to Conduct Complaints, to ensure compliance with the provisions of ss. 58, 64, and 68 and shall provide a copy of such procedure to the Board.

3. In making a request for Board approval to refer an investigation to another police force pursuant to s. 64(2), the Chief shall make a written report to the Board recommending such referral, and shall provide reasons and an estimate of the cost, including a statement as to whether the cost is budgeted.
4. In the event that a Conduct Complaint involves allegations of criminal misconduct by a Member, or allegations of s. 74 misconduct of such a serious nature that, if proven, are likely to call into question the integrity of the Police Force:
 - (a) the Chief shall forthwith make a confidential written report to the Board in respect of the complaint,
 - (b) the Chief shall provide regular update reports to the Board, in writing, until the matter is finally concluded, and
 - (c) the Board shall receive the said reports for information purposes, and shall not take action in respect of the reports except for consultation and advice to the Chief if the Chief so requests.

ARTICLE 7: CONDUCT COMPLAINTS -- CHIEF OR DEPUTY CHIEF

1. This Article relates to Conduct Complaints concerning the Chief or the Deputy Chief, and any reference to a subject officer in this Article shall mean the officer (Chief or Deputy Chief) whose conduct is the subject of the complaint.
2. The Chief shall ensure that all complaints concerning the conduct of the Chief or Deputy Chief are delivered to the Board within 3 days of the determination that the complaint is a Conduct Complaint relating to the Chief or Deputy Chief.
3. The Board shall maintain a master file in respect of each complaint received pursuant to this Article.
4. The Board shall begin its review within the times set out in ss. 65(1) and (2).
5. The Board shall, within 14 days of commencing the review of the complaint, consider at a confidential meeting:
 - (a) whether the facts upon which the complaint is based occurred more than six months before the day of the complaint, pursuant to s. 65(4),
 - (b) whether the complaint is frivolous or vexatious, or is made in bad faith, pursuant to s. 65(3), and

- (c) whether the complainant was directly affected by the conduct that is the subject of the complaint, pursuant to s. 65(5).
6. In the event that the Board decides not to deal with a complaint for any of the reasons described in Article 7(5)(a) or (b) above, the Board shall serve notice forthwith on the complainant and the subject officer in a completed Form F.
 7. In the event that the Board decides that the complainant was not directly affected by the conduct that is the subject of the complaint as set out in Article 7(5)(c) above, the Board shall not deal with the complaint, and shall serve notice forthwith on the complainant and the subject officer in a completed Form F.
 8. In the course of its review of a complaint under this Article, **NEITHER THE BOARD, NOR ANY INDIVIDUAL BOARD MEMBER, SHALL** receive or consider any other information or documentation from the subject officer, the complainant or any other persons or Members who may have knowledge of the circumstances of the complaint and who may be required to give evidence at any hearing held pursuant to s. 65(9).
 9. At any time before or during the Board's review of a complaint under this Article, but in any event before the complaint has been referred to the Commission for an external investigation, if the conduct appears to be obviously conduct that is not of a serious nature pursuant to s. 58(2), the Board may resolve the matter informally upon the written consent of the subject officer and the complainant in Form G.
 10. If, at the conclusion of the Board's review, the Board is of the opinion that the conduct may constitute an offence under a law of Canada or of a province or territory, or misconduct as defined in s. 74, or unsatisfactory work performance, the matter shall be referred to the Commission for the purposes of an external investigation, in accordance with s. 65(6).
 11. At the conclusion of an external investigation conducted pursuant to Article 7(10), and upon receipt of the written report from the external chief assigned by the commission to investigate the complaint, the Board shall act in accordance with articles 7(12) to 7(15) inclusive.
 12. If the external chief reports to the Board that the complaint is unsubstantiated, the Board shall serve on the complainant and the subject officer a completed Form H.
 13. If the external chief reports to the Board that the subject officer's conduct constitutes misconduct or unsatisfactory work performance, the Board shall, if it considers the conduct to be not of a serious nature, proceed in accordance with ss. 65(13) through (18) inclusive, and the following:

- (a) If the Board decides to proceed with the informal resolution process pursuant to s. 65(13), the Board shall serve a notice in Form J on the complainant and the subject officer.
 - (b) The matter shall not be resolved informally pursuant to s. 65(13) unless the subject officer and the complainant consent in writing to the proposed resolution in Form G.
 - (c) The Board may, on consent of the subject officer and the complainant, retain an independent mediator to assist in the informal resolution process.
 - (d) If the Board is unable to obtain the consent of both the subject officer and the complainant as required in Article 7(13)(b):
 - (i) the Board shall provide the subject officer with the information required in s. 65(17.1), and give him or her an opportunity to reply orally or in writing,
 - (ii) the Board may impose a penalty or take action described in s. 65(17.2), or permitted by s. 65(19),
 - (iii) the Board Chair shall ensure compliance with s. 65(18) relating to any entries in the subject officer's employment record, and
 - (iv) if the subject officer refuses to accept the penalty imposed or the action taken, the Board shall not impose a penalty or take any other action or cause any entry to be made in the subject officer's employment record, but shall act in accordance with Articles 7(14) to 7(28) inclusive.
14. If the external chief reports to the Board that the subject officer's conduct constitutes misconduct or unsatisfactory work performance and the Board does not proceed as set out in Article 7(13), the Board shall decide whether to refer the matter to the Commission or to hold a hearing, pursuant to s. 65(9). In making this decision, the Board shall consider at least the following factors:
- (a) the nature of the complaint,
 - (b) considering the nature and duration of the relationship between the Board and Chief (or Deputy Chief), whether members of the public including the complainant or the Chief (or Deputy Chief) might reasonably perceive bias, and
 - (c) whether it is in the public interest to hold such a hearing or to refer the matter to the Commission.

15. If the external chief reports to the Board that the subject officer is suspected of or charged with an offence under the laws of Canada, or a province or a territory, or is suspected of misconduct as defined in s. 74, the Board shall consider whether to invoke the suspension provisions of s. 67.
16. If, pursuant to Article 7(14), the Board decides to refer the matter to the Commission, it shall:
 - (a) give notice in Form K to the subject officer and the complainant,
 - (b) give written notice to the Commission of its decision, without reasons, together with a copy of the complaint, but shall not provide any other documentation or information to the Commission except as may be requested by the Commission, and
 - (c) if it receives direction from the Commission to take action under s. 68 in accordance with s. 65(12), the Board shall take such action and serve a Notice of Penalty in Form L upon all parties.
17. If, pursuant to Article 7(14), the Board decides to hold a hearing, the Board shall act in accordance with articles 7(18) to 7(28) inclusive.
18. The Board shall designate legal counsel as prosecutor pursuant to s. 65(10) and in accordance with the following:
 - (a) prior to the retention of legal counsel as prosecutor, the Board shall obtain from such counsel a schedule of his or her fees showing hourly and per diem rates to be charged, and shall request that the Commission obtain the same information from its legal counsel or agent and provide that information to the Board, and
 - (b) the prosecutor shall be appointed only after receipt and review of the information required by Article 7(18)(a).
19. The Board shall give notice to the parties in the following manner:
 - (a) notice of the decision to hold a hearing and of the first hearing date shall be given to the subject officer and the complainant in Form K,
 - (b) if the notice required in Article 7(19)(a) is not given within six months from the date the complaint was received by the Board, the Board shall consider the provisions of s. 69(18) before deciding whether to give such notice and proceed with a hearing, and

- (c) notice of any other dates set for the hearing shall be given to the complainant in Form M.
- 20. The Board shall direct that the designated prosecutor make full disclosure to the subject officer and the complainant.
- 21. The Board shall direct that the Board Chair arrange for a hearing room and a court reporter to record all evidence taken and submissions made at any hearing dates before the Board.
- 22. The Board shall retain legal counsel for advice to the Board.
- 23. In the event that a Crown Attorney has been consulted with respect to the complaint, the Board shall follow the direction of the Crown as to whether to proceed with the hearing into all or part of the complaint pursuant to ss. 69(15) and (16).
- 24. The hearing shall be held within a reasonable time.
- 25. The hearing shall be held before the Board as a whole, and shall be conducted in accordance with s. 69 of the Police Services Act, and the provisions of the Statutory Powers Procedure Act, R.S.O. 1990, c. S.22.
- 26. Prior to the commencement of the hearing, each Board member shall review s. 69 of the Police Services Act and the provisions of the Statutory Powers Procedure Act, and the Board shall consider whether to obtain legal advice and direction concerning procedures to be followed at the hearing, and shall communicate the nature and substance of such advice to all parties prior to the commencement of the hearing so that they may make submissions as to the law.
- 27. Any hearing held by the Board pursuant to s. 65(9) shall be public, but all prior and preliminary matters dealing with the complaint shall be dealt with in confidential portions of Board meetings, unless the Board is of the view that the provisions of s. 35(4) do not apply to the particular circumstances of the complaint.
- 28. If, on conclusion of the hearing, the Board finds that misconduct or unsatisfactory work performance is proven on clear and convincing evidence, the Board shall:
 - (a) prior to imposing any penalty, adjourn the matter for a reasonable time to deal with the issue of penalty pursuant to s. 68,
 - (b) prior to imposing any penalty, hear and consider submissions and evidence from all of the parties, or their counsel and, in the event of a proposed demotion or dismissal, consider whether or not to seek legal advice on the terms specified in s. 69(14),

- (c) impose any of the penalties and/or take any action described in ss. 68(2) and 68(5),
- (d) give notice of any such penalty imposed, or action taken, to the complainant and the subject officer in Form N, pursuant to ss.68(7) and (8), and
- (e) cause an entry to be made in the subject officer's employment record pursuant to s. 68(9).

ARTICLE 8: BOARD REPORTS

1. The Chief shall make written Public Complaints reports to the Board and the Commission in June and December of each year, in accordance with Articles 8(3) to 8(7) inclusive.
2. The Board shall deliver the December report to the Commission each year.
3. A report made pursuant to Article 8(1) shall provide cumulative year-to-date information, and shall include comparative data for the same time period in the immediately preceding calendar year.
4. A report made pursuant to Article 8(1) shall include the following information in respect of Policy Complaints:
 - (a) the total number of Policy Complaints made,
 - (b) the number of Policy Complaints concerning which the Chief took no action,
 - (c) the number of Policy Complaints concerning which the Chief took action, and a summary of the action taken,
 - (d) the number of requests for review made to the Board,
 - (e) the number of requests for review made to the Board concerning which the Board took action, a summary of the action taken, and the Force response to the Board action,
 - (f) the average time to complete the complaint process from the date a complaint is received to the date it is disposed of, and
 - (g) the number of time extensions made in respect of the complaints.
5. A report made pursuant to Article 8(1) shall include the following information in respect of

Conduct Complaints, except for those complaints against the Chief or the Deputy Chief:

- (a) the number of Conduct Complaints made,
 - (b) the number of referrals to other police forces pursuant to s. 64(2), (4) or (5), and an estimate of the cost of such referrals,
 - (c) the number of complaints determined to be unsubstantiated pursuant to s. 64(6), or not acted upon pursuant to ss. 59(3), (4) or (5),
 - (d) the number of reviews requested pursuant to s. 64(6) or 59(6), and the results of those reviews,
 - (e) the number of hearings held pursuant to s. 64(7) and the findings pursuant to s. 64(10),
 - (f) the number of complaints dealt with informally pursuant to ss. 58(1) or 64(11),
 - (g) the number of complaints resolved or dealt with pursuant to s. 64(15),
 - (h) a summary of the penalties imposed pursuant to s. 68(1) or (5),
 - (i) the number of outstanding complaints at the end of the reporting period,
 - (j) the average time to complete the complaint process from the date a complaint is received to the date it is disposed of,
 - (k) the number of time extensions made in respect of the complaints, and
 - (l) the number of appeals pursuant to s. 70, and the results.
6. A report made pursuant to Article 8(1) shall include an analysis of the frequency, nature and substance of Policy and Conduct Complaints (excluding complaints against the Chief and Deputy Chief), and the opinion of the Chief as to whether such frequency, nature and substance of the complaints requires some form of remedial or other training, or additional resources to process the complaints, with particulars and estimated costings of the training or additional resources required.
7. A report made pursuant to Article 8(1) shall include a statement of the costs of Professional Standards activities for the period in question.

READ a 1st time the 12th day of May, 1998.

READ a 2nd time the 12th day of May, 1998.

READ a 3rd time and ENACTED AND PASSED the 12th day of May, 1998.

Judy Celentano, Secretary

Colin Vezina, Chairman