



**BY-LAW NO. 203/204 - 2000**

**A BY-LAW RESPECTING  
SEARCH & SEIZURE  
(LE-011, LE-012)**

**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 13(1)(h) and 13(1)(i) of O. Reg. 3/99 require the Chief of Police to establish procedures and processes in respect of search of premises and search of persons;
- 1.5 AND whereas section 29 of O. Reg. 3/99 requires a police services board to establish policies with respect of search of premises and search of persons;
- 1.6 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;
- 1.7 AND whereas Part LE-012 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 persons.

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                    *"Search and Seizure"* means search of the person and search of the premises;
- 2.7                    *"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:

- i. 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;
- 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. supervision of searches of persons; and
- viii. 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 The Chief shall make a written report to the Board on or before August 30 of 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**

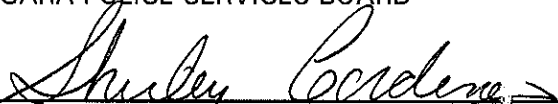
6.1 This By-law shall come into force upon the date of its passage.

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


ENACTED AND PASSED this 30th day of November, 2000.

THE REGIONAL MUNICIPALITY OF NIAGARA POLICE SERVICES BOARD

Chairperson

  
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Vice Chairperson

  
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## 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.