BY-LAW NO. 447-2024

A BY-LAW RESPECTING HATE/BIAS MOTIVATED CRIMES AND HATE PROPAGANDA OFFENCES

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: Adequacy and Effective Policing (General) prescribes standards for adequacy and effectiveness of police services;

1.4 AND WHEREAS Section 15 of O. Reg. 395/23: Investigations requires that at least one member of a team primarily responsible for investigating hate crimes;

1.5 AND WHEREAS the Board deems it appropriate that the Chief of Police develops and maintains procedures on and processes for undertaking and managing investigations into hate propaganda offences and hate/bias motivated crimes;

1.6 AND WHEREAS Parts LE-007 and LE-008 of the Policing Standards Manual (2000), a copy of which is attached hereto as Appendix A, contains guidelines directing the Board, the Chief and Members relative to hate propaganda offences and hate/bias motivated crimes.

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 *"Hate/Bias Motivated Crimes"* means a criminal offence committed against a person or property that is based solely or partly upon the victim's race, religion, nationality, ethnic origin, sexual orientation or disability;

2.5 *"Hate Propaganda Offences"* means:

(a) any offence that promotes or advocates genocide;
(b) any statement that is made in a public place that incites hatred against an identifiable group that is likely to lead to a breach of the peace; and
(c) any statement, other than in private conversation, that willfully promotes hatred against an identifiable group;

2.6 *"Manual"* means the Policing Standards Manual published by the Ministry of the Solicitor General;

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

2.8 *"Service"* means the Niagara Regional Police Service.

3. BOARD POLICY

3.1 The Board is concerned over the occurrence of hate propaganda offences and hate/bias motivated crimes in the community and the impact on victims, groups and the wellbeing of the community.

3.2 The Board recognizes that the investigation of complaints of hate propaganda offences and hate/bias motivated crimes is a priority for the Police Service.

3.3 The Board believes that the Police Service must commit to assuming a leadership role in coordinating policing community responses to hate propaganda offences and hate/bias motivated crimes.

3.4 The Board believes that the Police Service must commit to keeping the community appropriately informed on the occurrence of hate propaganda offences and hate/bias motivated crimes and the status of the police investigation into such occurrences.

3.5 It is therefore the policy of this Board that investigations into such matters be conducted professionally and thoroughly, and in accordance with the 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 for the investigation of Hate Propaganda Offences and Hate/Bias Motivated Crimes in accordance with the guidelines set out in the Manual, and amendments thereto.

4.2 MONITORING

4.2.1 The Chief shall develop and implement written procedures to monitor all responses to complaints of Hate Propaganda Offences and/or Hate/Bias Motivated Crimes to ensure compliance with the said procedures.

4.3 INFORMATION TO THE COMMUNITY

4.3.1 The Chief shall ensure that community organizations, school boards, victims' organizations, social service agencies, and the media are aware that the Service has developed written procedures for the investigation of Hate Propaganda Offences and Hate/Bias Motivated Crimes.

4.4 COMMUNITY PLAN

4.4.1 The Chief shall ensure that the Services works, where possible, with community organizations, school boards, victims' organizations and social service agencies to prevent the repetition of Hate Propaganda Offences and hate/Bias Motivated Crimes and to counter the activities of organized hate groups in the community.

4.5 TRAINING

4.5.1 The Chief shall ensure that all Members are advised of this By-law and further that all Members are advised of the written procedures of the Service for the investigation of Hate Propaganda Offences and Hate/Bias Motivated Crimes.

4.5.2 The Chief shall ensure that Members involved in the investigation of Hate Propaganda Offences and Hate/Bias Motivated Crimes have the requisite knowledge, skills and abilities, and that at least one member of a team primarily responsible for investigating Hate/Bias Motivated Crimes and Hate Propaganda Offences completes prescribed training.

4.6 The procedures referred to above shall be in accordance with Appendix A.

5. REPORT TO THE BOARD

5.1 The Chief shall make a written report to the Board each year in respect of the investigation of Hate Propaganda Offences and Hate/Bias Motivated Crimes. The report shall include:

(a) a summary of the written procedures concerning the investigation of Hate Propaganda Offences and Hate/Bias Motivated Crimes, including changes since the date of the last report;
(b) the status of Service compliance with the said procedures;
(c) confirmation that Members dealing with Hate Propaganda Offences and Hate/Bias Motivated Crimes have been trained in accordance with section 4.5; and
(d) a report on the Service's involvement in community organizations to prevent the repetition of Hate Propaganda Offences and Hate/Bias Motivated Crimes.

6. IMPLEMENTATION

6.1 By-law Nos. 199/200-2000, as amended, 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 (2)

Legislative/Regulatory Requirements

Section 29 of the Adequacy Standards Regulation requires a police services board to have a policy on investigations into hate/bias motivated crime.

In addition, section 12(1)(h) requires the Chief of Police to develop and maintain procedures on and processes for undertaking and managing investigations into hate/bias motivated crime.

Sample Board Policy

Board Policy #_____

It is the policy of the _____ Police Services Board with respect to undertaking and managing investigations into hate/bias motivated crime that the Chief of Police will:

a) ensure that community organizations, school boards, victims' organizations, social services agencies, and the media are informed about the police service's procedures for investigating hate/bias motivated crime;
b) ensure that the police service works, where possible, with community organizations, school boards, victims' organizations, and social service agencies to prevent the repetition of hate/bias motivated crime and to counter the activities of organized hate groups in the community;
c) develop and maintain procedures on and processes for undertaking and managing investigations into hate/bias motivated crime;
d) ensure that officers are provided with information on hate/bias motivated crime;
e) ensure that the police service works with other law enforcement and government agencies to respond to hate/bias motivated crime and the activities of organized hate groups; and
f) assess and report back to the board on the need for, cost and feasibility of establishing a dedicated unit to investigate hate/bias motivated crime.

Police Service Guidelines

Procedures

1. Every police service's procedures should provide that:
   a) officers are to respond to all criminal occurrences that are suspected to be hate/bias motivated;
   b) all evidence from a hate/bias crime scene is to be protected, gathered, and secured in accordance with the police service's procedures on the collection, preservation and control of evidence and property (including pamphlets, literature, and photographing graffiti and other symbols at the scene);

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c) all suspected hate/bias motivated criminal occurrences are to be investigated;
d) officers are to inform the intelligence unit/officer of all hate/bias motivated criminal occurrences, and the intelligence unit/officer (or dedicated hate/bias crime unit if established) is responsible for:
   i) ensuring that a records bank or database is kept of all information relevant to criminal occurrences that are motivated by hate/bias;
   ii) sharing appropriate information on the occurrence of hate/bias motivated crime with other police services and government agencies; and
   iii) providing specialized knowledge and support, as required, to the Crown prosecuting hate/bias motivated crime;
e) if a suspect is charged with a hate/bias motivated criminal occurrence, that the officer check if the suspect owns, possesses or has access to firearms, and if so, consider the powers available under the *Criminal Code* to search and seize the firearms;
f) the Chief or designated senior officer is to be notified of any hate/bias motivated criminal occurrence, and the Chief or designated senior officer will be responsible for:
   i) ensuring that appropriate resources are assigned to the investigation;
   ii) meeting with the victim or group affected to answer questions and inform them of the police service's activities to investigate the crime; and
   iii) ensuring the police service works, where possible, with community organizations, school boards, victim's associations and social services agencies to respond to the occurrence, and to counter the activities of organized hate groups in the community;
g) officers are to indicate on the occurrence report that the occurrence is a suspected hate/bias motivated crime;
h) officers are to highlight in the Crown Brief that the offence is hate/bias motivated; and
i) officers are to use the following definition of hate/bias motivated criminal occurrence:

   A criminal occurrence committed against a person or property which is motivated by hate/bias or prejudice based on race, national or ethnic origin, language, colour, religion, sex, age, mental or physical disability, sexual orientation, or any other similar factor.

2. Every police service should ensure that its procedures includes the following information on how to recognize a hate/bias motivated criminal occurrence:

   Often no single factor will be sufficient to determine that a criminal occurrence is motivated by hate/bias. Various pieces of information will have to be assessed.

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Determining the motivation of a suspect can be difficult. Before an incident should be classified as a hate/bias motivated crime, police officers should consider the following:

- *if a suspect has been arrested, any statements made by the suspect that would indicate that the crime was motivated because of hate/bias toward the victim's group;*
- *the absence of any apparent motive for the offence;*
- *the use or display of any symbols, graffiti, oral comments, acts or gestures that are commonly associated with hate/bias towards the victim's group or are known to be used by organized hate groups (i.e. swastika);*
- *whether the offence coincided with a holiday, event or date of significance (religious, historical) to the victim's or suspect's group;*
- *the perception of the victim or victim's community of the motivation behind the offence;*
- *the perception of any witnesses to the offence;*
- *any historical animosity that exists between the victim's group and the suspect's group;*
- *whether the suspect has been previously been involved in similar incidents, or is a member of an organized hate group or an organization which is known for its hate/bias/animosity towards members of the victim's group;*
- *whether several occurrences have occurred in the community with victims from the same group and by a similar manner and means for each offence; and*
- *whether the offence occurred at the same time, or shortly after, a hate group was active in the community (i.e. distribution of hate literature).*

Legislative/Regulatory Requirements

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

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

Sample Board Policy

Board Policy #_____

It is the policy of the _____ Police Services Board with respect to undertaking and managing investigations into hate propaganda that the Chief of Police will:

a) ensure that community organizations, school boards, victims' organizations, social services agencies, and the media are informed about the police service's procedures for investigating hate propaganda occurrences;
b) ensure that the police service works, where possible, with community organizations, school boards, victims' organizations, and social service agencies to respond to hate propaganda occurrences and to counter the activities of organized hate groups in the community;
c) develop and maintain procedures that require that investigations into hate propaganda be undertaken and managed in accordance with the police service's criminal investigation management plan; and
d) if the police service has a dedicated unit to investigate hate/bias motivated crime, assign that unit the responsibility to investigate hate propaganda occurrences.

Police Service Guidelines

Procedures

1. Every police service's procedures should provide that:
   a) investigations into hate propaganda be undertaken and managed in accordance with the police services criminal investigation management plan;
   b) officers are to respond to all occurrences that are suspected to involve hate propaganda;
   c) all evidence relating to a hate propaganda occurrence is to be protected, gathered, and secured in accordance with the police service's procedures on the collection, preservation and control of evidence and property (including pamphlets, literature, and photographing graffiti and other symbols at the scene);
   d) all suspected hate propaganda occurrences are to be investigated;

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e) officers are to inform the intelligence unit/officer of all hate propaganda occurrences, and the intelligence unit/officer (or dedicated hate/bias crime unit if established) is responsible for:
   i) ensuring that a records bank or database is kept of all information relevant to hate propaganda occurrences;
   ii) sharing appropriate information on the occurrences with other police services and government agencies; and
   iii) providing specialized knowledge and support, as required, to the Crown prosecuting a hate propaganda occurrence;
f) if a suspect is charged with a hate propaganda occurrence, that the officer check if the suspect owns, possesses or has access to firearms, and if so, consider the powers available under the *Criminal Code* to search and seize the firearms;
g) the Chief or designated senior officer is to be notified of any hate propaganda occurrence, and the Chief or designated senior officer will be responsible for:
   i) ensuring that appropriate resources are assigned to the investigation;
   ii) meeting with the victim or group affected to answer questions and inform them of the police service's activities to investigate the occurrence; and
   iii) ensuring that the police service works, where possible, with community organizations, school boards, victims' organizations and social service agencies to respond to the occurrence and to counter the activities of organized hate groups in the community;
h) officers are to indicate on the occurrence report that the occurrence involves hate propaganda; and
i) officers are to consult the local Crown on hate propaganda occurrences to assess whether they fall within Sections 318 and 319(2) of the *Criminal Code*, and where appropriate, should seek the Attorney General's consent to lay a charge.

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