



NIAGARA REGIONAL POLICE SERVICE

Police Services Board Report

PUBLIC AGENDA

Subject: Annual Report – Arrest
January 1, 2020 – December 31, 2020

Report To: Chair and Members, Niagara Police Services Board

Report Date: 2021-03-04

Recommendation(s)

That the Niagara Police Services Board receives this report for information.

Key Facts

- The purpose of this report is to advise the Board that the Service is in compliance with By-law 197-2000 - Arrest
- The Chief is required to make a written annual report to the Board with respect to Arrests.
- This report will provide a summary of requirements to ensure the Service is in compliance with the By-law.

Financial Considerations

Not Applicable

Analysis

The Police Services Act - Ontario Regulation 3/99 Adequacy and Effectiveness of Police Service - section 29 requires a Police Services Board to have a policy on arrest. In addition to the requirements of the Police Services Board, section 13 (1) (j) requires the Chief of Police to establish procedures and processes in respect of arrest.

In order to meet the requirements of Provincial Adequacy Standards Regulations, the Regional Municipality of Niagara - Police Services Board enacted By-Law No. 197 - 2000 which contains provisions requiring the Chief of Police to report specific information in order to ensure compliance with the legislative guidelines.

This report is submitted to the Board pursuant to By-Law No. 197 – 2000 with subsequent reports annually to continue the reporting process.

By-Law No. 197 - 2000

By-Law No. 197 – 2000, a By-Law respecting arrest details the requirements of Provincial Adequacy Standard Regulation LE-005 - Arrest and specifies as follows:

- The Chief shall establish procedures on arrest that require compliance by Members with legal, constitutional and case law relating to arrest and detention.
- The Chief shall ensure that the procedures on arrest include a procedure for search and seizure incidental to arrest.
- The Chief shall ensure that Police Officers and Members, as appropriate, are kept informed of changes in the law relating to arrest and detention.
- 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 arrest; and
 - b) confirmation of compliance with procedures regarding arrest and detention.

In order to demonstrate compliance with legislative/regulatory requirements, operational procedures regarding Arrest are found in General Order - 100.09 - Powers of Arrest. This Order provides specific detail on the authorization and requirements placed on Officers by the Charter of Rights and Freedoms, Criminal Code, Youth Criminal Justice Act, Common Law, Case Law, and various Provincial and Federal Statutes upon the arrest of individual(s). This Order was drafted and approved to comply with By-Law No. 197-2000 and Provincial Adequacy Standards Regulation LE-005 Arrest and reflects current Legislative, Constitutional, and Case Law authorities.

To ensure that this information remains current, this Order is reviewed on a bi-annual basis and was last modified on October 25, 2016 with the deletion of Section 3.25 (d).

The Order further describes circumstances when officers may conduct a search incident to the arrest and what items may be searched for. These searches include those conducted at the scene and/or when subject(s) are detained in custody.

It is the policy of the Service to require that all arrests comply with Legal, Constitutional and Case Law requirements. The arrest of persons is primarily performed by frontline officers. A standard by which the Service is able to measure its adherence to the Order is through judicial review. As noted in previous reports, consultation with the Niagara Crown Attorney revealed no concerns related to Charter of Rights infringements by Niagara Officers during arrests, this has been confirmed through the Staff Sergeant in charge of the 1 District Detective Services. This would indicate that Officers have complied with legislative procedures in relation to arrest and as such withstood scrutiny by the courts. Further, the limited challenges to arrest during the criminal process and/or through civil actions from defendants provide a basis of measurement for gauging the effectiveness of this policy.

The success achieved in matters relating to arrests can in part be attributed to the Service's ongoing emphasis on training as well as training bulletins. Issues surrounding powers of arrest and search incident to arrest are often part of the curriculum in training courses offered by the Service. To ensure adherence to established guidelines during arrest, training bulletins and annual training offer opportunities for a review of emerging legal issues associated to arrest and searches incident to arrest.

In addition to the training aspects associated to arrest, the Niagara Regional Police Service has posted detainee rights to counsel in all prisoner booking areas. The rights to counsel have been posted in both official languages.

Alternatives Reviewed

Not Applicable.

Relationship to Police Service/Board Strategic Priorities

To maintain compliance with Police Services Board By-Law 197-2000 Arrest.

Relevant Policy Considerations

Provincial Adequacy Standard Regulation LE-005 – Arrest
By Law 197-2000 Arrest

Other Pertinent Reports

102-2020 – Annual Report – Arrest - January 1 to December 31, 2019

This report was prepared by Bill Harris, Staff Sergeant, 1 District Detective Office in consultation with Shawn Dowd, Inspector, 1 District, and reviewed by Marco Giannico, Superintendent, District Operations and recommended by Brett Flynn, Deputy Chief of Police, Operational Services.



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Chief of Police

Appendices

Not Applicable