



OFFICE OF THE INDEPENDENT  
POLICE REVIEW DIRECTOR

# Rules of Procedure

July 7, 2016

**Complaints made under Part V of the  
Police Services Act, R.S.O. 1990, c. P.15**



Ontario

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# OFFICE OF THE INDEPENDENT POLICE REVIEW DIRECTOR

## RULES OF PROCEDURE

Disponible en français

### INTRODUCTION

Pursuant to section 56 of the Police Services Act, the Independent Police Review Director has the authority to make rules to govern its practices and procedures.

### RULE 1 DEFINITIONS

In these Rules:

“Act” means the Ontario Police Services Act

“board” means a municipal police services board

“business day” means any day that is not a holiday and not a Saturday

“chief of police” means a municipal chief of police or the Commissioner of the Ontario Provincial Police and includes an acting chief of police

“complaint” means a complaint made by a member of the public to the Independent Police Review Director under Part V of the Act about the conduct of a police officer or about the policies or services provided by a police service

“complainant” means the member of the public who makes a complaint to the Independent Police Review Director under Part V of the Act about the conduct of a police officer or about the policies or services provided by a police service

“deputy chief of police” means a municipal deputy chief of police or a deputy commissioner of the Ontario Provincial Police

“Director” means the Independent Police Review Director

“document” includes:

- (i) forms, correspondence, memoranda, files, books of account, agreements, reports, charts, graphs or any other written or pictorial communication
- (ii) a sound recording, videotape, photograph, map, plan, survey or like thing
- (iii) information recorded or stored by means of any device, including electronic or computer files

“holiday” means “holiday” as defined in section 88 of the Legislation Act

“local resolution” means “local complaints process” as defined by O. Reg. 263/09

“OIPRD” means the Office of the Independent Police Review Director and includes the Independent Police Review Director and any employees appointed to carry out the functions of the Independent Police Review Director further to section 26.1 of the Act

“party” includes a complainant and the respondent officer(s), or, in the case of a complaint against the chief or deputy chief of police, the chief or deputy chief

“Registrar” means the Registrar of the OIPRD and includes his or her designate

“respondent officer” means the police officer who is the subject of a complaint made by a member of the public under Part V of the Act, and may include a chief of police, deputy chief of police, Commissioner of the Ontario Provincial Police or deputy commissioner of the Ontario Provincial Police

“review” means a request that the Director conduct a review pursuant to his or her powers under section 71 of the Act

“youth” means a person who is under the age of eighteen years

## **RULE 2            GENERAL MATTERS**

### **Application and Interpretation of Rules**

- 2.1 These Rules apply to the processing of all complaints under Part V of the Act and will be liberally interpreted and applied by the Director to facilitate an accessible process and to ensure the fair, just and expeditious handling of complaints made by members of the public under this Act.
- 2.2 The Director may issue guidelines or practice directives at any time as the Director deems necessary to carry out his or her functions under the Act, or in regards to the OIPRD’s practices and procedures. Where any of these guidelines conflicts with the Rules, the Rules shall apply.

- 2.3 The Director may exercise any of his or her powers under these Rules on his or her own initiative or at the request of a party.
- 2.4 Where any of these Rules conflicts with any statute or regulation, the provisions of the statute or regulation shall apply.
- 2.5 The Director may, upon such terms as he or she considers advisable, extend or abridge the time periods set out in these Rules.
- 2.6 If these Rules do not provide for a matter of procedure, the Director may do whatever is necessary and permitted by law to enable him or her to carry out any of his or her functions, powers or duties under the Act.
- 2.7 A technical defect or irregularity is not a breach of these Rules. Where a party or other person fails to comply with these Rules, the Director may relieve against the failure to comply, with or without terms, as the Director considers appropriate in accordance with Rule 2.1.
- 2.8 The Director may vary or waive the application of these Rules at any time at her or his own initiative or on the request of a party, with or without terms, as the Director considers appropriate in accordance with Rule 2.1. These Rules may be modified to comply with accessibility standards required under the Accessibility for Ontarians with Disabilities Act (AODA).

### **Accommodation**

- 2.9 A party who is entitled to accommodation pursuant to the Human Rights Code or the Accessibility for Ontarians with Disabilities Act must notify the OIPRD as soon as possible if accommodation is sought.

### **Calculation of Time and Service of Documents**

- 2.10 Except where these Rules or the Act otherwise provides, where a direction of the Director or a Rule refers to a number of days, the reference is to calendar days.
- 2.11 Where an action is required to be taken within a specified number of days, the days are counted by excluding the first day and including the last day.
- 2.12 When the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.
- 2.13 Service of documents other than a complaint is deemed to be effective:

- (i) by personal service: on the day of delivery if received by 5:00 p.m., or on the next business day, if received after that time
- (ii) by mail: on the fifth day after the day of mailing
- (iii) by fax: on the next business day
- (iv) by courier: on the second day after the document was given to the courier
- (v) by email: on the next business day

### **Communications with the OIPRD and other Parties**

- 2.14 The OIPRD provides services in French and English.
- 2.15 Any party who requires the assistance of an interpreter in filing a complaint in a language other than French or English must arrange for an interpreter.
- 2.16 Every police service shall copy the OIPRD on all correspondence to the complainant.
- 2.17 A party and a party's agent must notify the OIPRD, in writing, of any change in their contact information as soon as possible.

### **Representatives**

- 2.18 A complainant may be self-represented, or assisted by an agent designated by the complainant at any stage of the complaint process, except at a disciplinary hearing. Any adult can act as an agent but the complainant is required to indicate on the OIPRD complaint form that he or she wishes to be represented by that agent. If the complainant decides to be represented by an agent subsequent to the filing of the complaint, the complainant must provide the Registrar and the relevant police service with the contact information for that agent. The OIPRD will copy the complainant and the agent on all correspondence relating to the complaint.
- 2.19 An agent who ceases to represent a party in a complaint shall notify the Registrar and the relevant police service in writing immediately. The agent shall provide the OIPRD with current contact information for the complainant.
- 2.20 An agent who is not a member of the Law Society of Upper Canada and who ceases to represent the complainant is required to return any documentation in their possession in relation to the complaint to the complainant.

### **RULE 3        FORMS**

- 3.1    The OIPRD may establish forms for use in its proceedings. In these Rules, where a form is referred to by name, the reference is to the form with that name as described in the List of Forms in the Appendix to these Rules. The forms are not part of these Rules.

### **RULE 4        INTAKE PROCESS FOR COMPLAINTS**

- 4.1    Any member of the public, subject to the exclusions defined in section 58 (2) of the Act, may make a complaint with the OIPRD. The complaint may be about the conduct of a police officer or police officers or the policies or services provided by a police service.
- 4.2    The complaint must be made on the OIPRD complaint form (Making a complaint about the police). A complainant must provide the information requested in every section of the complaint form and must sign the form. The OIPRD will not accept anonymous complaints.
- 4.3    For greater clarity, a complaint is deemed to be made on:
- (i)    the date on which it is electronically submitted to the OIPRD
  - (ii)   the date on which it is mailed or couriered to either the OIPRD, a police service or a police services board
  - (iii)  the date on which it is faxed to either the OIPRD, a police service or a police services board
  - (iv)  the date on which it is submitted in person to either the OIPRD, a police service or a police services board
- 4.4    A complaint may be made online, by mail, fax, or in person at the OIPRD or at any police service.
- 4.5    The OIPRD will acknowledge the receipt of the complaint within two business days of the date that the complaint is received.
- 4.6    Members of the public who require assistance in completing a complaint may contact the OIPRD for information. Information provided by the OIPRD to assist in the processing of a complaint is solely provided to assist the complainant in making a complaint and is not legal advice.
- 4.7    The OIPRD may screen out a complaint if the complainant does not respond to contact from the OIPRD after reasonable efforts have been made to reach the complainant.

## **Display of Information about the Complaints Process at Police Service Facilities**

- 4.8 Police services are required to post or display information about the public complaints process in an area that is readily accessible to the public and in the form provided by the OIPRD. Information about the complaints process will be provided by the OIPRD to police services and may be in the form of posters, brochures or other documents. The information to be posted or displayed will include contact information for the OIPRD.
- 4.9 Police services that maintain a publicly accessible website are required to post information about the public complaints process, including a link to the OIPRD website.
- 4.10 Subject to O. Reg 263/09 (local complaints), when approached by a member of the public who wishes to complain about the conduct, service or policy of the police, police services must also provide information to the member of the public about his or her rights to make a complaint pursuant to Part V of the Act and give the complainant any publication or information respecting Part V complaints that the OIPRD provides for that purpose.

## **Complaints Made at Police Stations: Local Complaints**

- 4.11 Where a member of the public makes a local complaint at a police station, the service shall provide the complainant with information regarding the local complaints process (Local Resolution) pursuant to O. Reg. 263/09, and about the public complaints process.
- 4.12 Where the complainant chooses to proceed by way of Local Resolution, the chief of police must determine if the matter is appropriate for Local Resolution.
- 4.13 If the chief of police determines that it is not appropriate for Local Resolution, having regard to the criteria set out in section 3(4) of O. Reg. 263/09, the police service shall take all necessary steps to ensure that the respondent officer(s) and potential witnesses are not directly or indirectly provided with information concerning the complaint until the Director makes a direction in accordance with its powers under section 61(5) of the Act.

### **Complaints Made at Police Stations: Formal Complaints**

- 4.14 Where a member of the public makes a complaint in writing at a police station (to which the Local Resolution process does not apply), the police service must forward the complaint form to the OIPRD within three business days.
- 4.15 The police service shall take all necessary steps to ensure that the respondent officer(s) and potential witnesses are not directly or indirectly provided with information concerning the complaint until the Director makes a direction in accordance with its powers under section 61(5) of the Act.

### **Complaints Made Directly to the Board**

- 4.15 Where a member of the public makes a complaint in writing to which Part V of the Act applies directly to the board, the board shall forward the complaint to the OIPRD within three business days. The board shall take no action to deal with the complaint and shall not provide notice of the complaint to the chief of police or any other officer.
- 4.16 For the purpose of section 60(2) of the Act, a complaint is deemed to be made on the date that it is made directly to the board.

## **RULE 5 POLICE LIAISON OFFICERS**

- 5.1 The police liaison officer of a police service or his or her designate shall be responsible for responding to any requests and directions made by the Director or his or her staff.

## **RULE 6 SCREENING OF COMPLAINTS**

- 6.1 Upon receipt of a complaint, the Director will determine whether the complaint relates to the conduct of a police officer or to the services or policies of a police service.
- 6.2 When more information is required to screen the complaint or assign it for investigation, the OIPRD will request such other information as required from either the complainant or the police service. The police liaison officer may be required to supply the OIPRD with information to assist in screening or assigning the complaint for investigation.

- 6.3 The police liaison officer shall supply the additional information within 10 days of the OIPRD's request. This request for information constitutes part of the screening function exercised by the Director under section 60 of the Act and does not constitute notice of a complaint within the meaning of section 62 of the Act. The police liaison officer shall take all necessary steps to ensure that the respondent officer(s) and potential witnesses are not directly or indirectly provided with information concerning the complaint until the Director makes a decision in accordance with his or her powers under section 61(5) of the Act.
- 6.4 In determining whether or not to deal with a complaint, the Director will have regard to the public interest. Public interest will always involve a balancing of interests and a broad range of considerations. Some of the factors which the Director may consider will include:
- (i) the effect of a decision to deal or not to deal with a complaint on public confidence in the accountability and integrity of the complaints system
  - (ii) the number of complainants involved
  - (iii) the seriousness of the complaint, including the seriousness of the harm alleged
  - (iv) whether the complaint relates to an incident or event that has already been the subject of an earlier complaint
  - (v) whether there are issues of systemic importance or broader public interest at stake
  - (vi) the likelihood of interfering with or compromising other proceedings
  - (vii) whether another venue, body or law can more appropriately address the substance of the complaint
- 6.5 It is not in the public interest to screen in a complaint that does not, on its face, disclose a breach of the Act or the Code of Conduct.

## **RULE 7 REFERRAL OR RETENTION OF CONDUCT COMPLAINTS**

- 7.1 In exercising his or her discretion whether to refer or retain a complaint, the Director may have regard to all considerations that he or she deems relevant, including the following:
- (i) the nature of the allegations that form the subject of the complaint
  - (ii) whether the complaint raises issues of systemic importance or deals with issues that are sensitive in nature
  - (iii) the capacity of the police service to conduct a full investigation, having regard to the size of the service, resources available, competing demands and anticipated complexity or length of the investigation

- (iv) any particular challenges presented by the investigation which may require the exercise of the investigative powers as set out in sections 26.4 to 26.9 of the Act
- (v) any potential conflict of interest or risk of perception of conflict of interest if the complaint is investigated by a police service
- (vi) whether the matter involves more than one police service or cross-border issues
- (vii) whether the matter is the subject of an SIU investigation or parallel criminal proceeding
- (viii) whether the complaint raises issues of public interest
- (ix) whether the complaint relates to the chief of police, deputy chief of police or other senior officer, as described in section 114 of the Act
- (x) the geographic location where the complaint arose, having regard to the availability of investigators and accessibility of witnesses
- (xi) whether the respondent officer is one to whom the Interprovincial Policing Act, 2009 applies
- (xii) the public interest in ensuring that investigations of public complaints are thorough, independent and accountable

## **RULE 8        YOUTHS**

### **Youth Complaints Received by the OIPRD**

- 8.1 Where a complaint is made by a youth who is 15 years of age or younger, the OIPRD will attempt to contact the parent(s) or guardian(s) of youth complainants prior to dealing with the complaint and, wherever possible, allow a parent or guardian to act as agent for the youth. In appropriate circumstances, the OIPRD will provide the youth with information, including contact information for the Office of the Provincial Advocate for Children and Youth.
- 8.2 When a youth complainant reaches the age of 16, the OIPRD will inquire whether the youth wishes the OIPRD to continue to communicate through her or his parent/guardian/agent or to communicate directly with her or him.

### **Investigations Involving Youth Complainants or Witnesses**

- 8.3 All investigative reports, whether prepared by the OIPRD or a police service, shall omit the full name of any individual who was a youth at the time of the incident (either as a complainant or a witness). All reports shall omit personal information relating to an individual who was a youth at the time of the incident unless such information is required for the narrative. Initials or other less-specific identifiers are acceptable.

- 8.4 Prior to interviewing a youth, either as a complainant or a witness, the OIPRD or police investigator shall advise the youth that he or she may have the support of, be represented by, an adult during the interview.

## **RULE 9 INVESTIGATION OF CONDUCT COMPLAINTS**

### **Timelines, Monitoring and Reporting of Investigations**

- 9.1 The Director may direct the investigating police service to provide a report on the status of the investigation within 45 days of the commencement of the investigation and such further status reports as the Director deems necessary.
- 9.2 The Director may direct the chief of police to complete the investigation and report into the conduct of a police officer within 120 days of the date that the investigation is referred unless, upon application by the police service conducting the investigation, the Director grants one or more extensions, or upon receipt of the investigative report, the Director directs the chief of police to conduct further investigation.
- 9.3 The Director may direct the police service investigating a complaint to submit a written report on the results of the investigation in the manner and form prescribed by the OIPRD.
- 9.4 The investigative report shall not contain the name(s) of any complainant(s) who was a youth at the time of the incident or any civilian witness(es) except as may be provided in a confidential witness list.
- 9.5 During the course of an investigation the Director may direct the police service conducting the investigation to make available to the OIPRD the investigative file and any other document or thing, in the manner and form that the Director directs.

### **Notice to Respondent Officer**

- 9.6 If the Director decides to retain a complaint for investigation, the Director will advise the chief of police of the decision in writing and provide un-redacted and redacted copies of the complaint to the chief of police. The chief of police shall promptly provide written notice and the redacted copy of the complaint to the respondent officer(s) unless, in the chief of police's opinion, notice to the officer may prejudice the investigation. In such a case, the chief of police shall also notify the Director in writing of this decision.

- 9.7 If the Director decides to refer a complaint for investigation, the Director will advise the chief of police of the decision in writing. The chief of police shall, within seven days of the receipt of the complaint, identify and designate the respondent officers and shall notify the OIPRD of the designation. The chief of police shall promptly prepare and provide written notice and a redacted copy of the complaint to the respondent officer(s) unless, in the chief of police's opinion, notice to the officer may prejudice the investigation. In such a case, the chief of police shall also notify the Director in writing of this decision.
- 9.8 If, during the course of the investigation, the chief of police designates additional respondent officers or determines that previously designated respondent officers should no longer be so designated, the chief of police shall promptly inform the OIPRD.
- 9.9 The Director may also direct the chief of police to withhold notice in accordance with section 62(1) of the Act. In such cases, the Director will notify the chief of police in writing and the chief of police shall ensure that notice is not provided to the respondent officer(s) and potential witnesses are not directly or indirectly provided with information concerning the complaint.

### **Recording of Interviews**

- 9.10 OIPRD investigators may record interviews with an audio recorder. Subject to rule 2.8, the Director may, at the conclusion of the investigation, supply a copy of the audio recording to the interviewee, or his or her agent, upon a written request being made to the senior manager of investigations.

### **Representation during an Interview**

- 9.11 During an interview conducted by either the OIPRD or a police service, the person being interviewed may have the support of or be represented by an agent. The support person or the agent shall not unduly hinder or disrupt the interview.
- 9.12 No agent or counsel shall represent both a respondent officer and a witness officer.
- 9.13 Witness officers and respondent officers shall not consult with other witness officers or respondent officers in the preparation of statements or duty reports required in response to an investigation under Part V of the Act.

## **Informal Resolution**

- 9.14 Any party or the chief of police may request mediation services to facilitate an informal resolution.
- 9.15 Where Informal Resolution is proposed, the chief or police, the respondent officer and the complainant must each consent to the complaint being resolved by Informal Resolution.
- 9.16 An Informal Resolution Agreement form must inform the complainant and the respondent officer of the right to revoke their consent in writing within 12 business days as set out in section 66(8) and section 93(5) of the Act. The police service shall not implement any terms or conditions of the Informal Resolution until 12 business days from the date that parties signed the Informal Resolution Agreement, unless a written waiver of the 12 day time period has been received.
- 9.17 When a complainant signs an Informal Resolution form, the police service shall forthwith provide a copy of the form to the complainant. A copy of the final form, signed by all parties, shall thereafter be provided forthwith to the complainant, the respondent officer and to the Director within three business days.
- 9.18 Discussions that occur as part of an attempt at Informal Resolution shall not form part of any investigation or investigative record or any other proceedings. The Informal Resolution discussions shall not be recorded without the written consent of all parties.

## **Reporting of Investigations**

- 9.19 Once an investigation has been concluded, the chief of police shall, within 14 days provide, in addition to the investigative report, a decision letter to the respondent officer, the Director and the complainant specifying whether the matter was substantiated or unsubstantiated. Where substantiated, the letter shall clearly state whether the misconduct was found to be serious or less serious.
- (i) The letters with respect to investigations which have resulted in unsubstantiated findings of misconduct or findings of misconduct of a less serious nature must clearly advise the complainant of the right to make a request to the Director within 30 days to review the decision of the chief of police.
  - (ii) For matters substantiated as less serious, no discipline shall be imposed by a police service within 35 days of service of the

decision letter on the complainant, unless the complainant waives his or her right of review in writing.

- (iii) For matters substantiated as serious, the letters shall also explicitly state that the matter shall be proceeding to a disciplinary hearing and that the appropriate notices shall be sent out.

### **Reporting of Discipline**

- 9.20 For discipline arising out of a public complaint, the chief of police must notify the Director of any discipline imposed within 14 days of the imposition of the discipline.

## **RULE 10 OIPRD RETAINED INVESTIGATIONS**

- 10.1 When the Director has retained the investigation of a complaint pursuant to section 61(5)(c) or section 71(3)(d) of the Act, the chief of police shall, upon receipt of the request by the OIPRD, provide production of all evidence relevant to the complaint within 21 days.
- 10.2 At the conclusion of the OIPRD-retained investigation, in which misconduct of a serious nature has been substantiated, the Director may direct the chief of police as to the specific allegations and counts of misconduct to be included in the notice of hearing.
- 10.3 The Director may also direct that the chief of police appoint an outside prosecutor and/or an outside hearing officer.
- 10.4 Where a hearing is directed following the OIPRD's investigation, production of the OIPRD investigative brief will be provided to the chief of police's prosecutor. The OIPRD is not responsible for the transcription of audio-recorded interviews of any person interviewed for purposes of the investigation.

## **RULE 11 CHIEF'S HEARINGS AND NOTICES OF HEARING**

- 11.1 Where an investigation (referred or retained) results in a hearing, the parties to the hearing are the prosecutor, the respondent officer(s) and the complainant(s).

11.2 The prosecutor shall provide written or electronic notice of any appearance, pre-hearing conference, conference calls and hearing dates to the parties and to the Director.

11.3 The prosecutor or his or her delegate is responsible for vetting all production required for the hearing.

11.4 Where the Director has directed a hearing, the chief of police shall provide the Director with a copy of the notice of the hearing forthwith, once the respondent officer is served with the notice of hearing.

11.5 Where the Director has directed a hearing, the chief of police shall proceed with all counts as set out in the direction and shall not withdraw any counts without the written consent of the Director.

## **RULE 12 POLICE SERVICES BOARD AND NOTICE OF HEARINGS**

12.1 Where a notice of hearing in relation to a matter cannot be served within six months of the date the matter was referred to the service, or retained by the Director, the chief of police shall apply to the board for a determination that the delay was reasonable, pursuant to section 83(17) of the Act.

12.2 Where an application is brought pursuant to section 83(17) of the Act, whether in relation to a referred or a retained investigation, the chief of police shall provide a copy of his or her report and any submissions to the board to: (i) the complainant(s) (ii) the respondent officer(s) and (iii) the Director. The chief of police shall also provide the board with a copy of the investigative report.

12.3 Upon receiving an application for an extension of time to serve a notice of a hearing pursuant to section 83(17) of the Act, the board shall forthwith notify:

- (i) the complainant(s)
- (ii) the respondent officer(s)
- (iii) the Director

of the request for an extension and the date upon which the matter will be heard by the board.

12.4 The board shall provide the following parties the opportunity to make submissions with respect to the extension application: (i) the chief of police; (ii) complainant(s); (iii) the respondent officer(s) and (iv) the

Director. The board shall forward to the Director, within three business days, the submissions of the complainant and the respondent officer(s).

- 12.5 In making its determination, the board shall consider the submissions of the parties in addition to the investigative report.
- 12.6 The board shall provide written reasons for its decision. Within seven days of the decision, the board shall provide a copy of those reasons to the chief of police, the respondent officer(s), the complainant and the Director.
- 12.7 Where the OIPRD investigation has substantiated misconduct against a chief following a board-directed investigation, and where the investigation has exceeded the six-month period prescribed in section 83(17), the Director shall have standing to bring the extension application before the board. The chief, as the respondent officer, is entitled to make submissions to the board as is the complainant.

### **RULE 13 DIRECTOR'S POWERS TO REVIEW**

- 13.1 Where an investigation was referred to a police service and a complainant has been notified that his or her complaint is unsubstantiated or substantiated but the misconduct was found to be not of a serious nature, the complainant may request the Director to review the decision of the chief of police.
- 13.2 Where the request for review is made within 30 days of the date on which the complainant received notification of the decision referred to above, the Director shall review the decision of the chief of police. Where the request for review is made more than 30 days after the date of receipt of the notification, the Director may review the decision of the chief of police.
- 13.3 A request for review shall be in writing and shall:
  - (i) state the reasons for requesting the review
  - (ii) specify the outcome requested
  - (iii) either attach all evidence which supports the request, or submit it no later than 14 days after submitting the request for review
  - (iv) provide the name of the agent preparing the request for review, if not the complainant
  - (v) provide contact information for the complainant and agent, if applicable
- 13.4 Upon receipt of a request for review, the OIPRD will notify the chief of police and provide a copy of the materials supplied in support of the review. Within 14 days of receiving the notice of review, the chief of police

shall provide the OIPRD with the complete investigative file, as well as any other document or thing requested by the OIPRD. Written submissions from the chief of police on the review, if any, must be submitted within this same 14-day time frame.

- 13.5 Upon completion of the review of a decision, the Director may,
- (i) confirm the decision
  - (ii) direct the chief of police to deal with the complaint as the Director specifies
  - (iii) assign the investigation of the complaint or the conduct of a hearing in respect of the complaint to a police force other than the police force to which the complaint relates
  - (iv) take over the investigation of the complaint
  - (v) take or require to be taken any other action with respect to the complaint that the Director considers necessary in the circumstances
- 13.6 If, at the completion of the review of a decision, the Director directs the chief of police to issue a notice of hearing, the chief of police shall not apply to the board pursuant to section 83(17) of the Act.

## **RULE 14 WITHDRAWAL OF COMPLAINTS**

### **Withdrawal of a Complaint Prior to the Commencement of a Hearing**

- 14.1 If a complainant chooses to withdraw a complaint prior to a hearing, the complainant must give written notice to the OIPRD in the form prescribed by the OIPRD (Withdrawal of a Public Complaint Against the Police). Where a complainant provides the withdrawal directly to the police service, the police service shall, within three business days of the receipt of the withdrawal, provide a copy of the withdrawal to the OIPRD.
- 14.2 The Director will review the withdrawal. If the Director has concerns with the withdrawal, the Director may direct the chief of police to take or require to be taken any other action that the Director considers necessary in the circumstances. Otherwise, the Director will accept the withdrawal and will promptly give notice of the withdrawal to the chief of police or the board or the Solicitor General in accordance with the requirements of the Act.

### **Withdrawal of a Complaint after the Commencement of a Hearing**

- 14.3 If a complainant is seeking to withdraw a complaint after a hearing in respect of the complaint has commenced, the complainant shall notify the

prosecutor immediately. The prosecutor must then notify the respondent officer, the Director, the chief of police (in the case of a complaint about the conduct of a police officer other than the chief of police or deputy chief of police), or the board (in the case of a complaint against a chief of police or a deputy chief of police) or the Solicitor General (in the case of a complaint against the OPP Commissioner or deputy commissioner).

- 14.4 The Director, the chief of police (in the case of a complaint about the conduct of a police officer other than the chief of police or deputy chief of police), or the board (in the case of a complaint against a chief of police or a deputy chief of police) shall advise the prosecutor in writing whether consent is being provided to the withdrawal of the complaint. This written notice must be provided within seven days of being notified that the complainant is seeking to withdraw.

## **RULE 15 COMPLAINTS ABOUT CHIEFS OR DEPUTY CHIEFS**

- 15.1 Where the Director receives a complaint about the conduct of the chief of police or the deputy chief of police, the Director will screen the complaint in accordance with section 60 of the Act. The Director will then forward the complaint together with his or her screening decision to the board.
- 15.2 The board shall, within 14 days of the receipt of a complaint about the conduct of a chief of police or deputy chief of police, review the complaint and the Director's screening decision to determine whether the alleged conduct complained of may constitute an offence under a law of Canada or of a province or territory, or misconduct as defined by section 80 of the Act or unsatisfactory work performance and report its determination to the Director.
- 15.3 The board may make a written request to the Director for an extension of time in which to review a complaint about the conduct of a chief of police or deputy chief of police. The request will set out the reason for the need for the extension.
- 15.4 The board shall not invite, nor receive, submissions from any party other than the complainant during its review. The board shall not investigate the complaint during its review.
- 15.5 If, at the conclusion of its review the board disagrees with the Director's screening decision, the board shall, within seven days of the conclusion of its review, provide written reasons to the complainant, the chief of police or deputy chief of police and the Director.

## **RULE 16 REVIEW OF POLICY/SERVICE COMPLAINTS**

- 16.1 Upon receipt of a disposition with reasons from the chief of police with respect to a policy or service complaint, the complainant may request the board to review the disposition of the chief of police.
- 16.2 Where the request for review is made within 30 days of the date on which the complainant received the disposition, the board shall review the decision of the chief. Where the request for review is made more than 30 days after the date of receipt of the disposition, the board may review the decision of the chief.
- 16.3 The board shall endeavour to complete its review of the chief's disposition within 45 days of receipt of the disposition.
- 16.4 The Director will review all service and policy investigations and may direct the chief of police to take or require to be taken any action with respect to the complaint that the Director considers necessary in the circumstances.

## **RULE 17 RECONSIDERATIONS**

- 17.1 The Director may, at any time, correct a typographical error, error of calculation, misstatement, ambiguity, technical error or other similar error made in his or her decision or determination.
- 17.2 The Director may reconsider his or her decision when it is in the public interest to do so, and having regard to any relevant considerations including, but not limited to, the following:
- (i) the need to correct an error of fact or law, defect in procedure or improper application of its mandate or jurisdiction
  - (ii) there is new information which was not available at the time of the original decision that may have reasonably affected the outcome
  - (iii) the extent to which any party has relied on the original decision
  - (iv) the extent to which any party or person has been affected by the original decision
  - (v) the balancing of interests between the need for finality of decisions and the prejudice to all parties

## **RULE 18     POSTING OF HEARING DECISIONS**

- 18.1 The chief of police shall provide a copy of every decision made after a hearing held under subsection 66(3) or 68(5) of the Act to the Director.
- 18.2 The board shall provide a copy of every decision made by it after a hearing held under subsection 69(8) of the Act to the Director.
- 18.3 The OIPRD will post, on its website, the decisions received from both the chiefs of police and the police services boards.

## **APPENDIX LIST OF FORMS**

- Making a Complaint About the Police
- Local Resolution Agreement
- Informal Resolution Agreement
- Request for Review of a Public Complaint Against the Police
- Withdrawal of a Public Complaint Against the Police



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