

**KINGSTON POLICE SERVICES BOARD  
BY-LAW 06-69  
A BY-LAW TO OUTLINE RESPONSIBILITIES UNDER THE  
*MUNICIPAL FREEDOM OF INFORMATION  
AND PROTECTION OF PRIVACY ACT*  
AND FOR THE MANAGEMENT OF POLICE RECORDS**

**November 16, 2006**

**A BY-LAW TO OUTLINE RESPONSIBILITIES UNDER THE  
MUNICIPAL FREEDOM OF INFORMATION  
AND PROTECTION OF PRIVACY ACT  
AND FOR THE MANAGEMENT OF BOARD AND POLICE RECORDS**

WHEREAS section 3(2) of the *Municipal Freedom of Information and Protection of Privacy Act* (MFIPPA) states that the members elected or appointed to a board, commission, or other body that is an institution other than a municipality may designate in writing from among themselves an individual or a committee of the body to act as head of the institution for the purposes of the Act;

AND WHEREAS section 49(1) of the *Municipal Freedom of Information and Protection of Privacy Act* states that the head designated pursuant to section 3(2) may in writing delegate a power or duty granted or vested in the head to an officer or officers of the institution or another institution subject to such limitations, restrictions, conditions, and requirements as the head may set out in the delegation;

AND WHEREAS sections 254 and 255 of the *Municipal Act* speak to the requirement for a police services board to retain and preserve records and establish retention periods regarding the destruction of any such records, with the exception of records directly related to any law enforcement activity with respect to a person or body;

AND WHEREAS the Kingston Police Services Board wishes to update the appointment of the head and the delegations of authority under the *Municipal Freedom of Information and Protection of Privacy Act*, as well as the rules governing the destruction of records of the Kingston Police Services Board and the Kingston Police, as defined in Resolution 90-101 and Board By-Law No. 7 (1990) as amended;

NOW THEREFORE the Kingston Police Services Board enacts as follows.

**1. INTERPRETATION**

1. In this by-law:

- (a) “Board” means the Kingston Police Services Board, the governing authority for the police service of the city of Kingston;
- (b) “Chair” means the member elected as Chair of the Board by its members pursuant to section 28(1) of the *Police Services Act*;
- (c) “Chief” means the Chief of the Kingston Police;
- (d) “Deputy Chief” means the Deputy Chief of the Kingston Police;
- (e) “Senior officer” includes those persons holding the rank of inspector or higher, excluding the Chief of Police and Deputy Chief of Police;

- (f) “Coordinator” includes the Record Systems Manager and any person designated as the Freedom of Information and Privacy Coordinator for the Kingston Police, as well as any person acting as the alternate Freedom of Information and Privacy Coordinator from time to time;
- (g) “record” means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes
  - (1) correspondence, memorandum, book, plan, map, drawing, diagram, pictorial or graphic work, photograph, film, microfilm, sound recording, videotape, machine-readable record, and any other documentary material, regardless of physical form or characteristics, and any copy thereof; and
  - (2) any record that is capable of being produced from a machine-readable record under the control of the Kingston Police Services Board or the Kingston Police by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the Board or the Kingston Police;
- (h) “working papers” refer to rough notes and preliminary drafts, calculations, audio and video tapes, etc. used in the preparation of other records; and
- (i) “archival records” are those having historical or noteworthy value after their administrative or operational value expires.

## **2. MFIPPA**

### **2.1. General**

1. In accordance with section 3(2) of the *Municipal Freedom of Information and Protection of Privacy Act*, the Board may designate in writing an individual or a committee of the Board to act as head of the institution for the purposes of the Act. The Act also states that, if no head is designated, the members elected or appointed to the body are deemed responsible.

2. In accordance with section 49(1) of the *Municipal Freedom of Information and Protection of Privacy Act*, the powers or duties of the designated head for the Kingston Police Services Board may be delegated to an officer or officers of the Kingston Police.

3. The responsibilities of the head are:

- (a) deciding on the disclosure of records and responding to access requests;
- (b) determining the method of disclosing records;
- (c) responding to requests for correction of personal information;
- (d) calculating and collecting fees;

- (e) preparing and making available descriptions of the general types of records and personal information banks maintained;
- (f) administering the privacy protection provisions of the Act;
- (g) defending decisions made at any appeals;
- (h) establishing the format of and filing an annual report with the Information and Privacy Commissioner as required;
- (i) considering representations from third parties who may be affected by disclosure of records; and
- (j) adhering to time limits and notification requirements.

## 2.2. Appointment of Head

1. The Chair of the Kingston Police Services Board is designated as Head for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act*.

## 2.3. Delegation of Authority

1. Pursuant to section 49(1) of the *Municipal Freedom of Information and Protection of Privacy Act*, the powers and duties under the Act as set out in the following table are hereby delegated to the incumbents of the positions indicated, including officers or employees who may be appointed from time to time in a permanent or acting capacity to such positions.

Authority Delegated		Delegation			
Section	Description	Chief	Deputy Chief	Senior Officer	Coordinator
4(1)(b)	Deeming frivolous or vexatious request	X	X	X	X
4(2)	Severability of record	X	X		X
5	Obligation to disclose [public interest]	X	X		
6	Draft by-laws, etc.	X			
7	Advice or recommendations	X	X	X	
8	Law enforcement	X	X	X	X
9	Relations with governments	X	X		X
10	Third party information	X	X		
11	Economic and other interests	X	X		
12	Solicitor–client privilege	X	X		
13	Danger to safety or health	X	X		
14	Personal privacy	X	X		X
15	Information soon to be published	X	X	X	X
16	Exemptions not to apply [compelling public interest]	X	X		
17(2)	Request [clarification]			X	X
18	Involvement of other institutions	X	X	X	X

Authority Delegated		Delegation			
Section	Description	Chief	Deputy Chief	Senior Officer	Coordinator
19	Notice by head [transferred requests]	X	X	X	X
20	Extension of time	X	X	X	X
21	Notice to affected person	X	X	X	X
22	Contents of notice of refusal	X	X	X	X
23	Copy of record	X	X	X	X
25	Information available for inspection				X
26	Annual report of head				X
29(2)	Notice to individual [manner of collection]			X	X
30	Retention of personal information				X
34	Personal information bank index				X
35	Inconsistent use or disclosure [personal information bank]				X
37(3)	Comprehensible form [requests under personal information bank]				X
38	Exemptions [requests under personal information bank]	X	X	X	X
41(6)	Examination on site	X	X		
45	Fees				X

### 3. MANAGEMENT OF BOARD RECORDS

1. Agendas, minutes, and relevant supporting materials for Board meetings shall be permanently retained. Signed copies of minutes, agreements, by-laws, and policies shall be permanently retained in original form; hard copies of other relevant supporting materials for Board meetings may be destroyed when no longer required, provided that they have been first converted to electronic format and saved in a secure location.
2. Signed copies of finalized collective agreements and memoranda of understanding with respect to labour negotiations shall be permanently retained.
3. Annual reports of the Kingston Police shall be permanently retained.
4. Applications made to the Board with respect to the filling of the positions of Chief of Police and Deputy Chief of Police shall be retained:
  - (a) with respect to successful candidates, permanently on such candidates' personnel file; or
  - (b) with respect to unsuccessful candidates, for a period of six months and then destroyed.

5. Archival or historical records shall be retained permanently. A record is of archival or historical value if it concerns:
- (a) the policies followed by the Kingston Police Services Board and the various reasons for their adoption;
  - (b) the organization and administrative history of the Kingston Police;
  - (c) a specific individual transaction that established a legal status of any kind;
  - (d) documents that may be presumed to have a general or continuing interest; and
  - (e) major changes concerning the issuing of clothing or equipment or the opening of new buildings.
6. Working papers may be destroyed when no longer required.
7. The method of destruction for official records shall be by means of shredding, burning, or erasure. Records shall not be disposed of by sale as waste or salvage.
8. Personal information shall be disposed of in accordance with regulations of the *Municipal Freedom of Information and Protection of Privacy Act* and in accordance with any directions or guidelines issued by the ministry responsible for the *Municipal Freedom of Information and Protection of Privacy Act*.

#### **4. MANAGEMENT OF POLICE RECORDS**

1. With respect to the management of Kingston Police records, the Chief of Police shall:
  - (a) establish procedures on records management, including the collection, security, retention, use, disclosure, and destruction of records in accordance with the requirements of appropriate legislation;
  - (b) comply with the procedures set out in the *Ontario Major Case Manual*; and
  - (c) establish procedures regarding CPIC that are consistent with the *CPIC Reference Manual* and related policies of the Ministry of Community Safety and Correctional Services.

#### **5. AMENDMENT AND REPEAL**

1. Resolution 90-101 of the Kingston Board of Commissioners of Police, passed on June 21, 1990, is repealed.
2. Kingston Police Services Board By-Law No. 7 (1990) as amended is repealed.
3. This by-law shall not be amended or repealed except by a majority of the whole Board.

4. No amendment or repeal of this by-law shall be considered at any meeting of the Board unless notice of the proposed amendment or repeal was given at a previous regular meeting of the Board, and the Board may not waive such notice.

**6. COMMENCEMENT AND TITLE**

1. This by-law comes into force and effect on the day that it is passed.

2. The short title of this by-law is the Kingston Police Services Board *Municipal Freedom of Information and Protection of Privacy Act* and Records Management By-Law.

ADOPTED AND PASSED by the Kingston Police Services Board this 16th day of November, 2006, as By-Law No. 06-69.