

July 15, 2019

Mr. Bernie Corbett
Chair, Haldimand Police Services Board
P.O. Box 400
45 Munsee Street North
Cayuga, ON L0A 1E0

Dear Mr. Corbett:

Re: OIPRD Investigation – 2018 Dunnville PRIDE Incident

I am writing further to your correspondence of July 2, 2019, regarding the above noted matter.

I understand your frustration and displeasure as a result of learning about this complaint and the subsequent misconduct charges by way of media reports. I also appreciate the obvious tendency for a section 10 board view the detachment commander as a local police chief. Unfortunately, neither I nor my office are in a legal position to extend a “courtesy notification” when a detachment commander of a section 10 contract is the subject of a complaint.

By way of explanation, subsection 61(8) of the *Police Services Act* (“Act”) requires me to refer a complaint about a “chief” to his or her “board” to determine whether an investigation shall ensue. However, this subsection only applies to municipal police chiefs and municipal police service boards. Complaints alleging misconduct by an Ontario Provincial Police detachment commander, in a section 10 contract, are addressed exclusively under subsection 61(5) – in the same manner as any other police officer. Consequently, where misconduct is substantiated following an investigation, the matter must be referred to the Commissioner for a hearing or resolution, as applicable. The Act does not permit of any other course of action.

Additionally, subsection 26(9) of the Act prohibits me or anyone from my office from communicating any information obtained in the course of our duties to any person – the only exceptions being disclosure:

- that is necessary to administer the Act;
- to counsel for the officer(s) or complainant;
- as required for law enforcement purposes;
- with the consent of the person to whom the information relates.

There is simply no legal avenue by which I may share this type of information with you in these circumstances.

The Act requires me to share a copy of the investigative report with a complainant. Ironically, there are no restrictions on what a complainant may do with the information that he or she receives from us.

As you know, a section 10 board enjoys a variety of powers, including the right to monitor the performance of the detachment commander, and the right to receive regular reports from the detachment commander on his or her administration of the complaints system. One of the available interpretations is that the detachment commander is under a positive obligation to report to you when he or she is the subject of a complaint.

I am sorry that you and your Board learned of this important matter in this fashion. Unfortunately, the current Act prevents me from providing you with courtesy notifications in the future. I would encourage you to raise with the issue with the detachment commander and the Commissioner to explore a more satisfactory reporting structure.

Sincerely,



Sylvana Capogreco
Independent Police Review Director