

CHAPTER ONE: GOVERNANCE AND ADMINISTRATION

Table GA-8 – Policy Number: GA-8 – Policy Name: Legal Services

GA-8 LEGAL SERVICES	
LEGISLATIVE REFERENCE / AUTHORITY	<i>Police Services Act</i> , sections 37
DATE APPROVED	1996 (as part of FAP Manual)
DATE REVIEWED	2007, 2010, 2013, 2015, 2017
DATES AMENDED	24 September 2007, 01 November 2010, 26 October 2015, 27 February 2017
DATE TO BE REVIEWED	2020
REPORTING REQUIREMENT	Quarterly reporting to Board

LEGISLATIVE REFERENCE / AUTHORITY

Section 37 of the *Police Services Act* states that a board shall establish its own rules and procedures in performing its duties under the *Act*. This policy provides direction with regard to the provision of legal services required by the Board, including delegations of responsibility.

BOARD POLICY

SECTION 1 - LITIGATION

1.1 GENERAL AUTHORITY

.1 The Board

As a normal consequence of its operations and the exercise of its responsibilities, the Board is involved in litigation both as Plaintiff and Defendant before the Courts and various administrative tribunals. The Board has overriding authority to commence, manage and settle all legal matters involving the Ottawa Police Service. For administrative and other reasons, the Board has delegated its authority over a variety of legal matters as set out in this policy.

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.2 Board Solicitor

The Board Solicitor has general authority to supervise the defence, prosecution and conduct of all matters or actions brought by or against the Board, subject to such instructions as may be issued by the Board from time to time. In the conduct of such litigation, the Board Solicitor is to use the most efficient combination of staff and external legal services as required to represent and defend the interests of the Board in each issue at hand.

.3 Chief of Police

The Board Solicitor shall advise the Chief of Police of the defence, prosecution, conduct, or settlement of any matter or action brought by or against the Board, and ensure the Chief of Police has an opportunity to provide input for consideration should he/she wish. Similarly, the Chief of Police shall advise the Board Solicitor of any action brought to his/her attention.

.4 Disagreement

Notwithstanding any other provision, when consultation between the Board Solicitor and Chief of Police is warranted and such consultation does not result in agreement on the course of action to be taken, the matter shall be referred to the Board for resolution.

.5 Option

Notwithstanding any delegation of authority in this policy, the Board Solicitor may seek direction from the Board in any situation in which the Board Solicitor feels it is appropriate or desirable to do so.

1.2 SMALL CLAIMS COURT

The Small Claims Court exercises jurisdiction over minor claims subject to a maximum amount, which is currently \$25,000. The Board Solicitor shall have authority to commence, defend, settle and abandon all matters within the jurisdiction of the Small Claims Court.

1.3 ONTARIO COURT OF JUSTICE

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The Ontario Court of Justice, formerly the Ontario Court (Provincial Division), is the forum for the prosecution of by-law offences as well as offences governed by the *Provincial Offences Act*. The Board Solicitor shall have authority to commence, defend, settle and abandon all matters within the jurisdiction of the Ontario Court of Justice.

1.4 SUPERIOR COURT OF JUSTICE

The Superior Court of Justice, formerly the Ontario Court (General Division), is generally the Trial Court or Court of first instance and includes two branches, Divisional Court and Small Claims Court. The jurisdiction of the Small Claims Court is described in subsection 1.2. The Divisional Court considers matters of appeal and judicial review.

Proceedings in the Superior Court of Justice are initiated either by Statement of Claim or by way of Application.

The Board Solicitor is authorized to conduct the defence of all actions and to take such steps, including all interim proceedings, as may be considered necessary or proper.

The Board Solicitor, in consultation with the Chief of Police, is authorized to commence and prosecute all actions for damages and other relief when the amount at issue is expected to be less than \$250,000.00 and to take such steps, including all interim proceedings, as may be considered necessary or proper.

The approval of the Board is required to commence all other actions in the Superior Court of Justice.

1.5 FEDERAL COURT

All legal matters to be commenced in the Federal Court shall be approved by the Board.

1.6 RELATED MATTERS

In exercising the authority granted by this chapter, the Board Solicitor shall have authority to:

.1 Payment of Expenses

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Authorize the payment of all expenses related to the conduct of any action or matter and the payment of any costs awarded against the Board.

.2 Execution of Documents

Execute all documents required to conduct any action, or conclude the settlement of any action or matter.

.3 Enforcement of Judicial Rulings

Take all steps required to enforce orders, decisions, awards and judgements.

1.7 EXCEPTIONAL CIRCUMSTANCES

Where time constraints or other circumstances will not allow for the required authority granting procedures to be followed with respect to any legal matter, the Board Solicitor shall have the authority to take the appropriate action and report such action to the Board at the earliest opportunity.

SECTION 2 - SETTLEMENTS

2.1 SMALL CLAIMS COURT

The Board Solicitor shall have authority to settle or abandon all Small Claims Court actions.

2.2 ALL OTHER COURTS

.1 Board Solicitor

The Board Solicitor, in consultation with the Chief of Police, shall have authority to settle any action where the amount to be paid to or paid by the Board does not exceed \$250,000.

.2 The Board

Subject to subsection 2.2.1, the Board shall approve the settlement of all actions and claims.

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SECTION 3 - UNCOLLECTIBLE AMOUNTS

- 3.1 Where, in the opinion of the Board Solicitor, a claim cannot be supported by legal principles, the Board Solicitor shall have the authority to abandon and write off the claim.
- 3.2 Where the Board Solicitor deems an amount or claim to be uncollectible, in whole or in part, and the amount or claim or part thereof, exclusive of interest, does not exceed the amount stated in subsection 2.2.1, the Board Solicitor shall have authority to abandon and write off the claim.

SECTION 4 - APPEALS

4.1 SMALL CLAIMS COURT

The Board Solicitor shall have authority to appeal decisions of the Small Claims Court and Ontario Court of Justice.

4.2 ALL OTHER COURTS

.1 The Board

The Board shall authorize all appeals or applications for judicial review of decisions of all courts other than those specified in subsection 4.1.

.2 Board Solicitor

Defence of appeals or applications for judicial review do not require the approval of the Board; however, they shall be reported to the Board for information.

SECTION 5 - ADMINISTRATIVE TRIBUNALS

5.1 JURISDICTION

This section applies to hearings before the Ontario Labour Relations Board, Ontario Civilian Police Commission, Coroner's Inquests and other administrative tribunals. Arbitration matters are also included.

5.2 AUTHORITY

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The Board Solicitor shall have authority to make applications, conduct hearings, represent the Board's interests and take objection to all matters brought before administrative tribunals.

5.3 APPEALS

The Board Solicitor shall have the authority to appeal any decision of an administrative tribunal where the appeal lies to another administrative tribunal. The Board Solicitor shall have the authority to commence judicial review of decisions of administrative tribunals that relate to labour relations. The Board shall authorize all other appeals or applications for judicial review of the decisions of administrative tribunals.

SECTION 6 - REPORTING TO THE BOARD

- 6.1 The Board Solicitor shall submit a report to the Board on a quarterly basis that includes statistical information and a concise analysis of trends on:
- .1 positive and negative variances against the approved budget;
 - .2 all claims or actions filed against the Board including how many have been filed, how many are outstanding, how many have been settled, the nature of them (categorized by type), and the cost of settlements;
 - .3 the number, cost and outcome of all appeals and applications for judicial review;
 - .4 requests for legal indemnification and payment of legal indemnification accounts;
 - .5 any issues of significance the Board should be advised of.