



## Brantford Police Services Board

# **Policy #18-02** **Legal Indemnification for Auxiliary Members**

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### **Description**

That it is the policy of the Brantford Police Services Board, pursuant to section 91 of the Community Safety & Policing Act, 2019, that it may, with the Solicitor General's approval, appoint Auxiliary Members of the Service from time to time;

And further that Auxiliary Members of the Service have the authority of a police officer if he or she is accompanied or supervised by a police officer and is authorized to perform police duties by the Chief of Police;

And further that the Chief of Police may authorize an Auxiliary Member to perform police duties only in special circumstances, including an emergency, that the police officers of the Service are not sufficiently numerous to deal with;

And further that Auxiliary Members may therefore be deployed in situations which could result in civil or criminal liability for such members and the Board wishes to provide for legal indemnification in certain circumstances;

Now therefore the Brantford Police Services Board enacts the following policy:

1. Auxiliary Members are eligible for legal indemnification in respect of civil actions or proceedings arising out of any act or omission occurring in the attempted performance, or performance, in good faith of their duties as an Auxiliary Member.
  - a) Subject to the provisions of this policy, such legal indemnification shall be facilitated by the Board by providing counsel for the defence or representation of the Auxiliary Member in such action or proceeding.
  - a) An Auxiliary Member may instead retain their own legal counsel for the defence or representation in such action or proceeding and request indemnification of necessary and reasonable legal costs but only where the Board has determined that there is a conflict or it would otherwise be inappropriate to lead the defence or representation of such Member.

2. Where an Auxiliary Member is designated as a witness officer in an investigation conducted by the Special Investigations Unit ("SIU") or the Office of the Independent Police Review Director ("OIPRD"), the Board may provide such Member with legal representation in the manner and to the extent it determines reasonable in the circumstances.
3. Where an Auxiliary Member is charged with and finally acquitted of an offence under the Criminal Code or the Community Safety & Policing Act, 2019 because of any act or omission occurring in the attempted performance, or performance, in good faith of their duties as an Auxiliary Member, such Member shall be indemnified by the Board for the necessary and reasonable legal costs incurred in defence of such charges. The Auxiliary Member's legal counsel may receive payment from the Board for a retainer in respect of interim legal costs incurred in the defence of such charges to a maximum of \$3,000.
4. Where an Auxiliary Member is the subject of an investigation in a matter which may result in charges being laid against such Member under the Criminal Code or the Police Services Act because of any act or omission in the attempted performance, or the performance of, in good faith of their duties as an Auxiliary Member, such Auxiliary Member's legal counsel may receive payment from the Board for a retainer in respect of interim legal costs incurred in the investigation phase to a maximum of \$2,000.
5. As a condition precedent to the Board making payments in respect of legal indemnification, including any retainer, the Auxiliary Member must agree in writing to repay the Board if the Member is not finally acquitted of all charges or whose acts or omissions were found to be not in good faith.
6. The Board shall not reimburse an Auxiliary Member under this policy unless it has approved the selection of legal counsel retained by such Member as well as determined that the legal costs were both necessary and reasonable.
7. For the purposes of this policy, an Auxiliary Member shall not be deemed to be "finally acquitted" if as a result of charges laid they are subsequently found guilty of, or plead guilty to, other charges arising out of the same incident or incidents. For proceedings directed by a third party under the Community Safety & Policing Act, 2019 such Member is "finally acquitted" where the alleged misconduct is not proven at such inquiry and the finding is not altered or reversed by a court of competent jurisdiction.
8. Notwithstanding any mandatory provisions of this policy, the Board may refuse indemnification otherwise authorized where the Board, acting reasonably, determines that the actions of the Auxiliary Member from which the charges arose amounted to a gross dereliction of duty or deliberate abuse of powers as an Auxiliary Officer.

#### Schedule A

#### Obligation to Repay Legal Indemnification

As an Auxiliary Member of the Brantford Police Services Board to whom legal indemnification has been offered, I, (insert name) hereby irrevocably agree, as a condition precedent to receiving such indemnification, to:

1. provide the Board with sufficient information for it to assess and approve the selection of counsel where I am afforded that option;
2. provide the Board with sufficient information regarding the description of legal services provided, as a well as a breakdown of legal costs for it to assess reasonableness and necessity, such information to be provided on a monthly basis or as otherwise directed by the Board;
3. repay the legal indemnification provided by the Board in the event the Board determines I am ineligible for such indemnification pursuant to its discretion and/or the requirements set out in the Policy;
4. where repayment is required, such payment will be made in full by me within 90 days of such demand, or on such other repayment scheduled as the Board may agree, failing which such sum is a debt recoverable by the Board together with the costs incurred in securing judgement and repayment.

Signed in Brantford on (insert date).

I hereby affirm my acceptance of legal indemnification from the Board on the terms and conditions set out in this agreement and covering Policy.

Signature line

## **Legislative Reference**

Board Policy / Community Safety & Policing Act, 2019

## **Passed / Reviewed and/or Updated**

Passed: June 21, 2018

Reviewed/Updated: September 2024