

Safety, Licensing Appeals and  
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**Ontario Civilian Police Commission**

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Tribunaux de la sécurité, des appels en  
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December 18, 2017

Via Email: [Lloyd.Ferguson@hamilton.ca](mailto:Lloyd.Ferguson@hamilton.ca)

Dear Mr. Ferguson,

I write to advise you that the Ontario Civilian Police Commission has received information that you may have violated the Code of Conduct for Police Services Board Members<sup>1</sup>. Based on the information received, Linda Lamoureux, the Executive Chair of the Commission, has initiated an investigation under section 25 of the *Police Services Act*. Section 14 of the Code of Conduct requires that you step down from your duties as Chair and as a member of the Police Services Board for the duration of the investigation and, if required, any hearing.

The investigations relates to an appearance you made on the "Bill Kelly Show" on CHML 900 on June 19, 2017. You discussed a case where an officer was facing discipline proceedings in relation to an interaction with a City Councilor. In your discussion of the case, you noted that the officer was "charged for doing his job".

Police discipline proceedings are operational matters. On its face, this appears to be a statement that presumes the outcome of the case. The integrity of the discipline process is important to public confidence in the oversight of policing and any statement that could undermine that process could violate the Code of Conduct.

In particular, the Commission is concerned that your comments may constitute a violation of the following sections:

**Section 2:** Board members shall not interfere with the police force's operational decisions and responsibilities or with the day-to-day operation of the police force, including the recruitment and promotion of police officers

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<sup>1</sup> O/Reg.421/97: Members of Police Services Boards – Code of Conduct

**Section 8:** Board members shall uphold the letter and spirit of the Code of Conduct set out in this Regulation and shall discharge their duties in a manner that will inspire public confidence in the abilities and integrity of the Board.

Also of concern to the Commission are a series of statements you made on the "Bill Kelly Show" on June 14 and June 19 in relation to the practice of carding and your views on whether the legislation has made the City of Hamilton safer. It was not clear whether you were making these comments in your personal capacity or as the Chair of the Police Services Board. The Board is responsible for providing policy oversight for the Hamilton Police Service. This would include ensuring that Police Services are complying with the terms of new legislation or regulations. Your comments in June suggested that you had concerns about the impact of the policy on public safety

In particular, the Commission is concerned that your comments may constitute a violation of the following sections:

**Section 5:** No board member shall purport to speak on behalf of the board unless he or she is authorized by the board to do so. O. Reg. 421/97, s. 5.

**Section 6:** A board member who expresses disagreement with a decision of the board shall make it clear that he or she is expressing a personal opinion. O. Reg. 421/97, s. 6.

**Section 8:** Board members shall uphold the letter and spirit of the Code of Conduct set out in this Regulation and shall discharge their duties in a manner that will inspire public confidence in the abilities and integrity of the Board.

The requirement that you step down is not discretionary and it does not indicate any finding of wrongdoing on the part of the Commission. It is an automatic requirement of any section 25 investigation. I recognize the inconvenience that this might cause you and the Board. The Commission is available to meet you on December 19, 2017 at 10:00 a.m. at the Sheraton Hamilton Hotel. As with all matters, we will work to ensure the investigation proceeds as quickly as possible. I can be reached at [benson.cowan@ontario.ca](mailto:benson.cowan@ontario.ca) or 416-326-2455.

I have copied Madeleine Levy, the current Vice-Chair of the Board, Lois Morin, the Board's administrator, and Lynda Bordeleau, the Board's counsel on this letter to ensure that the Board is aware of the current restrictions on your ability to participate in any Board activity until the Commission's Section 25 process is complete. I have also notified the complainant in this matter that an investigation has been initiated. The Commission does not impose any restrictions on communicating the reasons for the investigations or in providing copies of this letter to the other members of the Board or to the public. That is a question for the Board to decide. If contacted, the Commission will only confirm that there is an investigation but will not provide any details.

Regards,



Benson Cowan

Counsel to the Ontario Civilian Police Commission

- C. Madeleine Levy, Vice-Chair, Hamilton Police Services Board
- Lois Morin, Board Secretary, Hamilton Police Services Board
- Lynda Bordeleau, Counsel, Perley-Robertson, Hill & McDougal, Counsel to the Hamilton Police Services Board.