



TRANSIT POLICE

SERVICE RECORDS OF DISCIPLINE – SWORN MEMBERS

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POLICY

The Transit Police has established standardized procedures for the creation, maintaining, and expungement of Service Records of Discipline so that Members and Former Members are treated fairly and consistently with respect to discipline records, while ensuring that the Transit Police complies with requirements of the *Police Act*.

[See also policy chapters: [AC140 – Complaints](#), [AC130 – Internal Discipline Rules](#), and [AC160 – Professional Standards](#)]

Definitions

(Terms and definitions in this policy have the same meaning as in the *Police Act*.)

Admissible Complaint – A complaint about the conduct of a Member that is determined by the PCC to be admissible based on the criteria set out in Part 11 of the *Police Act*.

Chief Officer – The Transit Police Chief Officer or delegate.

Deputy Chief Officer – The Transit Police Deputy Chief Officer who is in charge of the Professional Standards Unit of the Transit Police or in their absence, another Transit Police Deputy Chief Officer assigned the responsibility for administering this policy.

Designated Constables – The Transit Police police officers appointed by the Police Board.

Disciplinary Matters – Public Trust Matters and Internal Discipline Matters, collectively.

Former Member – Any Member appointed to the Transit Police who has resigned or retired from the Transit Police or is for any other reason no longer a Member of the Transit Police.

Internal Discipline Matter – A matter concerning the conduct or deportment of a Member that is not the subject of an Admissible Complaint or investigation under Part 11, Division 3 (Process Respecting Alleged Misconduct) of the *Police Act*, and does not directly involve or affect the public.

Member – A Designated Constable, the Chief Officer or a Deputy Chief Officer of the Transit Police.

Operative Period – The period of time during which a Public Trust Matter or an Internal Discipline Matter remains recorded on a Member’s or Former Member’s Service Record.

PCC – Police Complaint Commissioner.

PSU – Professional Standards Unit of the Transit Police.

Police Act – The BC *Police Act* [RSBC 1996], c. 367, and the regulations thereto, including the *South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulation*, all as amended from time to time.

Police Board – The South Coast British Columbia Transportation Authority Police Board.

Public Trust Complaint – A complaint about the conduct of a Member or Former Member that has been found to be admissible under Division 3 of Part 11 of the *Police Act*.

Public Trust Investigation – An investigation into the conduct of a Member that has been ordered by the PCC under Division 3 of Part 11 of the *Police Act*.

Public Trust Matters – Public Trust Complaints and Public Trust Investigations collectively.

Service Record – With respect to each Member and Former Member, the “Service Record of Discipline”, which is the record of Public Trust Matters and Internal Discipline Matters that is maintained by the Transit Police in accordance with the *Police Act* and this policy.

Transit Police – The South Coast British Columbia Transportation Authority Police Service.

Authority

1. The Transit Police is required to meet the obligations imposed by the *Police Act* for the creation and maintenance of Service Records for all Members and Former Members. In the event of and to the extent that there is any conflict between the provisions of this policy and the law, the law will supersede the policy.

General

2. The Inspector – Support Services will be responsible for the maintenance of the Transit Police Service Records and will ensure compliance with this policy.
3. The Transit Police will maintain a Service Record for each Member and Former Member in accordance with the requirements of the *Police Act* and this policy. The Service Record will be comprised of a chart that sets out the required information for all un-expunged Disciplinary Matters, together with copies of any documents specified by the *Police Act* and this policy that provide details and context to the Disciplinary Matters listed on the chart.

PROCEDURES

4. With respect to Service Records, the Transit Police will:
 - (1) keep them in a secure location under the custody and control of the PSU, or as otherwise determined by the Deputy Chief Officer – Administrative Services;
 - (2) keep them separate from the Members' or Former Members' personnel files;
 - (3) ensure that they are maintained and updated as specified in the *Police Act* and this policy; and
 - (4) notify a Member or Former Member in writing each and every time that that Member or Former Member's Service Record is updated or altered by either the addition of a new Disciplinary Matter recorded there or the expungement of any information or records listed within the Service Record.

Content of the Service Record

5. A Member or Former Member's Service Record must contain the following records, subject to expungement as laid out in this policy:
 - (1) for each Public Trust Complaint, a record of each complaint, provided that the complaint is determined by the PCC to be admissible, and a copy of the Notice of Admissible Complaint from the PCC.
 - (2) for each Public Trust Investigation, a record of that investigation, and a copy of the PCC order that initiated the investigation;
 - (3) a record of any Disciplinary or Corrective Measures imposed on the Member or Former Member arising out of Disciplinary Matters, including any Disciplinary or Corrective Measures that are:
 - a. accepted by the Member or Former Member in informal resolution or mediation;
 - b. accepted by the Member or Former Member in a Prehearing Conference;
 - c. imposed after a finding of misconduct in a Discipline Proceeding; or
 - d. imposed by adjudicator after a Review on the Record or a Public Hearing;
 - (4) for each Public Trust Complaint, a record of each complaint against the Member or Former Member that is withdrawn by the complainant under s. 94 of the *Police Act*, noting whether the PCC has ordered or continued an investigation into the matter under that section;
 - (5) for each Public Trust Investigation initiated in respect of the Member or Former Member, or each complaint against the Member or Former Member, a record in respect of which the PCC issues a direction under s. 109(1) of the *Police Act*;

- (6) for any Public Trust Matters with respect to a Member or Former Member, the following records and documents:
- a. a record of any Discipline Authority decision to the effect that the allegations do not constitute misconduct, where that decision is final and conclusive (e.g., where the PCC does not order a review under s. 117 of the *Police Act*) pursuant to the provisions of the *Police Act*;
 - b. a record of every resolution coming out of any Prehearing Conference that is final and conclusive pursuant to the provisions of the *Police Act*;
 - c. where a discipline proceeding was held, a record of every finding or determination coming out of the discipline proceeding that is final and conclusive pursuant to the provisions of the *Police Act*:
 - i. the Form 3 – Findings of the Discipline Authority;
 - ii. the Form 4 – Discipline Disposition Record; and
 - iii. the PCC’s confirmation letter; and
 - d. a record of any decision(s) made by an Adjudicator in a Review on the Record or a Public Hearing, including a copy of their decision document(s);
- (7) for every Internal Discipline Matter involving the Member, the following:
- a. notice of an internal investigation;
 - b. a record of any discipline and other measures imposed on the Member after a finding of misconduct;
 - c. a record of any grievances and arbitrations filed with respect to the discipline and/or other measures imposed; and
 - d. a record of the outcome of any grievance and/or arbitrations that arise with respect to that Internal Discipline Matter.

Maintenance of the Service Record

6. A new entry will be made into a Member or Former Member’s Service Record each time the Transit Police:
- (1) receives a Notice from the PCC of a new Public Trust Complaint;
 - (2) receives an Order from the PCC for a new Public Trust Investigation; and
 - (3) completes an investigation into an Internal Discipline Matter and concludes that discipline is warranted.
7. The new entry will include the required details as indicated in this policy together with the required documents. The Service Record will be updated promptly to include the required entries and documents as laid out in this policy as soon as possible after each subsequent step in the process is completed.
8. If Disciplinary or Corrective Measures are imposed upon a Member or Former Member and include treatment, counseling, training, or some other program, the Service Record will be updated to indicate when that counseling, treatment, training or other program was completed.

Disclosure of a Service Record

9. Subject to ss. 10 and 11 of this policy, a Member or Former Member's Service Record may be disclosed only as follows:
 - (1) to that Member or Former Member;
 - (2) in relation to a Public Trust Matter or Internal Discipline Matter, to the relevant discipline authorities, prehearing conference authorities and/or investigator(s) for that matter;
 - (3) to the Chief Officer, and to the Chief Constable of another police department with which the Member or Former Member was employed at the time of the alleged misconduct, if any;
 - (4) to the Chair of the Police Board;
 - (5) to the PCC;
 - (6) to any adjudicator appointed with respect to a Public Trust Matter;
 - (7) to any arbitrator appointed with respect to an Internal Discipline Matter;
 - (8) for the purpose of applying s. 128 of the *Police Act*, to the entity that employs the Member or Former Member;
 - (9) to a senior officer or police board for another police force (including RCMP) or law enforcement agency, but only upon their written request and only if the Member or Former Member is seeking employment with that other police force or law enforcement agency; and
 - (10) to Crown Counsel in relation to a "McNeil" request and in accordance with the McNeil disclosure standards set out in Transit Police policy chapter [AC200 – McNeil](#).
10. Disclosure of a Member's or Former Member's Service Record to anyone other than those individuals listed in s. 9 of this policy requires both:
 - (1) authorization by the Chief Officer; and
 - (2) written consent of the Member or Former Member.
11. Notwithstanding ss.9 and 10 of this policy, a Member's Service Record can be used for non-disciplinary purposes, including consideration for promotion, transfer and re-assignment with the Transit Police, and can be disclosed internally for those purposes.

Expungement of Disciplinary Records

12. Records referred to in s. 5 must be expunged from a Member's or Former Member's Service Record in accordance with the criteria set out in this policy and the *Police Act*.
13. With respect to any Public Trust Matter involving a Member or Former Member that is concluded as "unsubstantiated", automatic expungement will take place upon notification by the PCC that the Public Trust Matter is finally concluded as "unsubstantiated".
14. With respect to records in s. 5 of this policy involving a Member or Former Member that results in the Member or Former Member receiving one or more Disciplinary or Corrective Measures, expungement in the Service Record will take place in accordance with the following rules:
 - (1) the Operative Period is calculated from the date the Disciplinary or Corrective Measures are final and conclusive pursuant to the provisions of the *Police Act*;
 - (2) the duration of the Operative Period is dependent upon the Service Record being clear of any further Disciplinary Matters occurring during the Operative Period, as set out below;
 - a. where a subsequent Disciplinary Matter is recorded in the Member's or Former Member's Service Record during the Operative Period of a previous Disciplinary Matter(s), then the date for expungement of the record for the previous Disciplinary Matter(s) will temporarily halted;
 - b. upon conclusion of a subsequent Disciplinary Matter which is "unsubstantiated", the Operative Period for the previous Disciplinary Matter will be resumed and follow the original expungement date;
 - c. upon the conclusion of a subsequent Disciplinary Matter which is "substantiated," the Operative Period for the previous Disciplinary Matter(s) will be extended until the expiration of the Operative Period for the subsequent Disciplinary Matter; and
 - (3) the Operative Period for each Service Record entry will be re-started and the date for expungement will be re-calculated in this manner each time a new Disciplinary Matter is recorded on that Service Record during the Operative Period(s) of any existing Service Record entries.
15. The Operative Period is also dependent upon the level and seriousness of the Disciplinary or Corrective Measures that were imposed on the Member or Former Member. Where a Member or Former Member receives more than one Disciplinary or Corrective Measure for the Disciplinary Matter, the Operative Period for all of them will be calculated based on the most serious Disciplinary or Corrective Measure imposed with respect to that matter. The Operative Periods are as follows:
 - (1) two (2) years from the date on which the Disciplinary or Corrective Measures are final and conclusive pursuant to the provisions of the *Police Act* that resulted in the Member or Former Member receiving Disciplinary or Corrective Measures of nothing more than any of the following:

- a. advice as to future conduct;
 - b. verbal reprimand; or
 - c. written reprimand;
- (2) three (3) years from the date on which the Disciplinary or Corrective Measures are final and conclusive pursuant to the provisions of the *Police Act* that did not include revocation of appointment, suspension of appointment or the attachment of conditions to appointment, but did result in the Member or Former Member receiving Disciplinary or Corrective Measures of any of the following:
- a. one or more directions to work under close supervision;
 - b. one or more directions to undertake specialized training or retraining; or
 - c. one or more directions to undertake counseling or treatment; and
- (3) five (5) years from the date on which Disciplinary or Corrective Measures are final and conclusive pursuant to the provisions of the *Police Act* that did not include revocation of appointment, but did result in the Member or Former Member receiving Disciplinary or Corrective Measures of any of the following:
- a. suspension of appointment;
 - b. the attachment of conditions to the appointment.
16. An Admissible Complaint and any investigation initiated into the matter is irrelevant and not to be considered for the purposes of s. 14(1), (2) or (3) of this policy when the complaint is withdrawn by the complainant under s. 94 of the *Police Act* and the PCC does not order or continue the investigation into the matter under that section, or is a complaint in respect of which the PCC issues a direction under s. 109(1) [*power to discontinue investigation*] of the *Police Act*.
17. With respect to any Disciplinary Matter involving a Former Member that results in the Former Member receiving one or more Disciplinary or Corrective Measures, those Disciplinary or Corrective Measures will be recorded on the Service Record as set out in this policy; however, no expungement will take place.
18. When an expungement date is about to come due, PSU will notify the Member and obtain their written request to have the Record expunged. PSU will ensure that expungement occurs in accordance with the provisions of the *Police Act*.

Dispute Resolution

19. Any disputes as to the appropriate content on a Member's Service Record or the expungement of the disciplinary records in it will be dealt with through the grievance process set out in the collective agreement, or under the labour law process for those Members who are not in the union.

Key References

BC *Police Act* [RSBC 1996], c. 367
 Collective Agreement

South Coast British Columbia Transportation Authority Police Service Complaints and Operations Regulations [BC Reg. 484 2004 as amended December 7, 2016]