



TRANSIT POLICE LEGAL SERVICES

Effective Date: May 26, 2011

Revised Date: June 21, 2013

Reviewed Date:

Review Frequency: As Required

Office of Primary Responsibility: Labour Relations Legal Counsel

POLICY

Definitions

Chief Officer – The Transit Police Chief Officer or delegate.

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

General Legal Advice – Means external legal advice to be obtained by the Transit Police on a broad range of issues related to the operations of the Transit Police. This includes legal advice to be obtained on new or revised Transit Police or Police Board Policies and Procedures, but excludes Legal Advice for Police Act Complaint Matters.

Legal Advice for Police Act Complaint Matters – Means external legal services to be obtained by the Transit Police in relation to conduct complaints made under the *Police Act*, such as mediation, pre-hearing conferences, investigation, discipline hearing and public hearing.

Member – A Transit Police police officer appointed by the Police Board.

Police Act – The BC *Police Act*, RSBC 1996, c. 367, and the regulations thereto, including the Transit Police Operations Regulation, all as amended from time to time.

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

SCBCTA – The South Coast British Columbia Transportation Authority commonly referred to as “TransLink”.

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

Transit Police Personnel – Sworn police officers and civilians who work for the Transit Police.

TSML – The TransLink Security Management Limited, a subsidiary of the South Coast British Columbia Transportation Authority and legal entity/employer for the Transit Police.

Authorities

BC Police Act
Collective Agreement

General

1. The Transit Police requires legal advice, from time to time, on matters related to its operations. The TransLink Legal Department provides in-house legal services to TransLink and its subsidiaries and manages the retainer of external legal counsel on behalf of TransLink.

Under the *Act* in British Columbia, Members may be subject to complaints regarding their conduct and the Transit Police is obligated to receive complaints under the *Act*, and must follow the process set out in the *Police Act* for resolving such complaints. Conduct complaints under the *Police Act* may progress through different stages or proceedings, such as mediation, full investigation, pre-hearing conference, discipline hearing, or public hearing.

Members (exempt and union) are protected and indemnified by the TSML from civil actions, criminal prosecution, or conduct complaints arising from the good faith performance or attempted performance of their duties, to the extent and subject to the limitations provided in the *Police Act*, the Collective Agreement, and applicable insurance policies.

2. The Transit Police engagement of legal services will comply with the approval requirements of the Police Board and TransLink.
3. The Transit Police will follow the procedures outlined within this Policy Chapter for engagement of and payment of legal services, unless otherwise so determined in consultation with the Police Board and TransLink.

PROCEDURES

General Legal Advice

4. If the Transit Police requires legal advice, the Transit Police will consult with a member of TransLink's Legal Department (acting on behalf of the TSML) to determine whether advice can be provided in-house or whether external legal assistance should be obtained.
5. If agreement is reached that General Legal Advice should be sought, the Transit Police will complete TransLink's "Legal External Requisition Form". All such requests will be forwarded to the Chief Officer for review and approval. The Chief Officer will request Police Board approval for General Legal Advice and advise the Police Board of the estimated costs involved. Once Police Board approval is received, the Chief Officer will submit the request to TransLink's Legal Department for approval. Once approved, TransLink's Legal Department will open a Legal File to track the costs associated with that file and approve invoices for payment, up to the estimated legal costs figure.

6. Once a Legal File has been opened, if the Transit Police anticipates that the actual legal costs will exceed the estimated costs for the file, the responsible Transit Police person will complete TransLink's "Request for Increase in Estimated Costs" form. All such requests will be forwarded to the Chief Officer for review and approval. The Chief Officer will request Police Board approval. Once Police Board approval is received, the Chief Officer will submit the request to TransLink's Legal Department for approval. Once approved, TransLink's Legal Department will increase the estimated legal costs associated with that Legal File.
7. Costs associated with General Legal Advice will be borne by TransLink, provided (a) TransLink Legal Department approval is obtained prior to the external lawyer being retained, and (b) TransLink Legal Department approval is obtained for increases in estimated costs prior to the additional costs being incurred.

Legal Advice for Police Act Complaint Matters

8. The Transit Police requests for Legal Advice for *Police Act* Complaint Matters will be forwarded to the Chief Officer for review and approval, subject to any requirement for Police Board approval. The Chief Officer will consult with the Police Board (or their designate) on these types of the Transit Police requirements and advise the Police Board of the costs involved. Where required by the Police Board, approval will be sought prior to retaining legal counsel or when legal costs exceed the allocated budget.
9. Costs associated with Legal Advice for *Police Act* Complaint Matters will be borne by the Transit Police.
10. The Police Board will receive quarterly (or such frequency as otherwise so determined by the Police Board) reports of complaint matters for information purposes and will be consulted by the Chief Officer on any new requests for Legal Advice for *Police Act* Complaint Matters.

Liability and Indemnification of Police Officers

11. Legal advice for, and coverage for legal costs incurred by, Members for civil actions, criminal prosecution, or conduct arising from the good faith performance or attempted performance of their duties will be handled in accordance with the applicable provisions of the *Police Act*, Collective Agreement, and insurance policies.
12. The Chief Officer will keep the Police Board regularly informed regarding indemnification of Members.