



TRANSIT POLICE

COMPLAINTS

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Office of Primary Responsibility: Deputy Chief Officer Support Services

POLICY

[See also: AC110 – Service of Record of Discipline for Sworn Members, AC130 – Internal Discipline Rules, AC160 – Professional Standards, AC200 – McNeil Disclosure Policy]

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

Definitions

Chief Officer – The Transit Police Chief Officer or delegate.

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 Division 3 of Part 11 of the *Police Act*, and does not directly involve or affect the public.

JPD – Jurisdictional Police.

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

OPCC – Office of the Police Complaint Commissioner.

PCC – The Police Complaint Commissioner.

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.

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 or Former 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.

Reportable Incident – A police incident involving death, Serious Harm (as defined in s. 76 of the *Police Act*) or Reportable Injuries (as defined in s. 76 of the *Police Act*) that meets the requirements set out in s. 89 of the *Police Act*.

Team Commander – An accredited individual who has ultimate authority, responsibility, and accountability for an assigned Major Case Management team, its resources (human and physical) and its mandate.

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

Watch Commander – The Transit Police Supervisor in charge of the Transit Police daily operations or delegate.

Authority

1. The Transit Police must comply with requirements of Part 11 (Misconduct, Complaints, Investigations, Discipline and Proceedings) of the *Police Act*.

General

2. Conduct complaints regarding the Transit Police and/or its Members or Former Members will be processed and investigated according to provisions of the *Police Act*, Transit Police policy and TransLink policy, where applicable, provided that in the event of any inconsistency between those policies and the *Police Act*, the *Police Act* will govern.
3. Criminal complaints regarding any Transit Police staff (civilians or Members) will, via the chain of command, be brought to the attention of the Chief Officer. Investigations will be under the command of the JPD.
 1. In cases where the criminal allegations and/or charges are against a Member or Former Member, the Transit Police Professional Standards Unit (PSU) will be notified by the Chief Officer. Where appropriate, the PSU will notify the OPCC Commissioner of criminal charges against a Member or Former Member.
4. At any time there is a criminal allegation or an allegation of serious misconduct against a Member, the Chief Officer must consider provisions of s. 110 of the *Police Act* concerning suspension or re-assignment of the Member.

NOTE: Refer also to related provisions in the Transit Police Operations Regulation.

5. S. 89 of the *Police Act* requires the Chief Officer to report to the OPCC when any of the following Reportable Incidents occur:
 1. a person dies or suffers serious harm or a reportable injury while in the custody or care of a Member or as a result of the operations of the Transit Police; or

2. a person dies or suffers Serious Harm or a Reportable Injury and the death, Serious Harm or Reportable Injury could be seen to be the result of the conduct of any Member or the operations of the Transit Police.

NOTE: Under s. 5.2 of this policy, the injury or death could occur due to the actions of a member of another police department, but the involvement of Transit Police Members in the incident still requires that it be reported in accordance with this policy. S. 5 of this policy does not apply when only a Member is injured; the term "person", as interpreted for use in this section, does not include a police officer. The injury or death does not have to be as a result of a use of force situation as, for example, it could occur in a police involved motor vehicle incident, or while a suspect was attempting to flee police.

6. The Chief Officer may delegate his or her authority as the Discipline Authority according to the provisions found in s. 134 of the *Police Act* (for Public Trust Complaints) and s. 176 of the *Police Act* (for Internal Discipline Matters).
7. It is the duty of all Transit Police staff to bring to the attention of a supervisor, knowledge of improper conduct or practice and any situation that may adversely affect the reputation and public trust of the Transit Police. As used here, the term "improper conduct or practice" means any illegal, fraudulent, dishonest, negligent or otherwise unethical action by a Transit Police staff (civilians or Members).
8. Transit Police staff may consult with the PSU regarding complaints and the complaint process.

Duty to Cooperate

9. Members will comply with their duty under s. 178 of the *Police Act* to cooperate in the PCC's exercise of powers or performance of duties under the *Police Act* and with any deputy police complaint commissioner or other employee of the PCC who is acting on behalf of the PCC.
10. Members will fully cooperate with an investigating officer conducting an investigation under Part 11 of the *Police Act*, including complying with requests under s. 101(2) & (3) of the *Police Act*.

Offence to Hinder, Delay, Obstruct or Interfere With Investigating Officer

11. In accordance with s. 106 of the *Police Act*, Transit Police staff (civilians and Members) must not knowingly hinder, delay, obstruct or interfere with an investigating officer acting under Part 11 of the *Police Act*, and must not, in relation to a complaint or an investigation under Part 11 of the *Police Act*, provide to the PCC or an investigating officer information that the person knows to be false or misleading.

1. A person who contravenes s. 106(1) or (2) of the *Police Act* commits an offence.

PROCEDURES

Processing of Complaints

Who Can Make a Complaint and How Complaints Are Made

12. A complaint concerning the conduct of a Member or Former Member that is alleged to constitute misconduct may be made in accordance with Division 3 of Part 11 of the *Police Act*.

Filing of Complaint

13. Where the public contacts the Transit Police by any means about the filing of a complaint regarding the conduct of any Member or Former Member, the Transit Police staff (civilian or Member) receiving the complaint will refer the complainant to the Watch Commander.
14. The Watch Commander will inform the complainant of the methods by which the complainant may file a complaint including:
1. directly to the OPCC by accessing the website at www.opcc.bc.ca (the Complaint Form can also be found on this website); or
 2. by calling the OPCC toll-free at 1-877-999-8707; or
 3. by attending the Transit Police facility at 307 Columbia Street, New Westminster, and speaking to the Watch Commander.
15. The Watch Commander will obtain enough information from the complainant to determine if the complaint is against:
1. a Designated Constable (includes all ranks other than chief or deputy chief);
 2. the Chief Officer or a Deputy Chief Officer;
 3. the Transit Police (service or policy complaint); or
 4. an employee of another TransLink operating company (e.g., station attendants, Transit Security).

NOTE: Complaints involving an employee of another TransLink operating company will be forwarded, as appropriate, to the respective TransLink operating company.

16. When receiving a complaint the Watch Commander must comply with requirements of s. 80 of the *Police Act*.
17. In accordance with guidelines issued March 2010 by the PCC pursuant to ss. 177(2)(a) and (b) of the *Police Act*, the Watch Commander must advise the complainant that their complaint may be designated as “registered” or “non-registered” and must provide information about the differences to assist the complainant in making a choice, including the following:

1. By completing the Complaint Form, the complainant is entitled to various rights under the *Police Act*, including:
 - a. participating in a mediation session or informal resolution;
 - b. being kept informed of the progress of the investigation;
 - c. receiving a concluding report;
 - d. being given the opportunity to make a submission on what they feel are appropriate disciplinary or corrective measures; and
 - e. if not satisfied with the outcome, the ability to appeal the decision.
2. If a party simply wants the police to know about a concern and does not wish to participate in a formal process, they may report their concerns as a non-registered complaint. Depending on the information that is supplied, the complaint may or may not result in an investigation. If the complaint is non-registered, the complainant does not have the same rights as a formal registered complaint.
3. Pursuant to the *Police Act*, all complaints, registered or non-registered, are recorded and reviewed by the OPCC.

Registered Complaint

18. Upon receipt of the registered complaint, the Watch Commander will:

1. create a General Occurrence (GO) file on PRIME;
2. code the GO as Assist Public/Unwanted Guest (do not use UCR codes for complaints against department/member, civil complaints), and on the TEXT Subject line, enter "Public Inquiry";

NOTE: The name/PIN of the Member(s) involved in the complaint is not to be included on the GO report.

3. obtain the complainant's details;
4. enter any GOs or Violation Ticket numbers in the Related screen;
5. ensure video is requested (where applicable) for investigative purposes and that the request is recorded in the GO; and
6. depending on the nature of the complaint, advise the PSU by sending the PSU an electronic message notifying the PSU of the complaint and the related GO.

19. Upon receipt of a registered complaint, the Watch Commander will forward the complaint by mail or electronically to the OPCC, or may request the assistance of the PSU administrative support staff with submission to the OPCC.

20. The PSU will provide background information to the OPCC, as requested, to assist the OPCC in determining admissibility of a registered complaint.

21. When notified by the OPCC of a registered complaint, the PSU will open a PSU investigation file and investigate the matter in accordance with provisions of the *Police Act*.

Non Registered Complaint

22. Upon receipt of a non-registered complaint, the Watch Commander will:

1. create a General Occurrence (GO) file on PRIME;
2. code the GO as Assist Public/Unwanted Guest (do not use UCR codes for complaints against department/member, civil complaints), and on the TEXT Subject line, enter "Public Inquiry";

NOTE: The name/PIN of the Member(s) involved in the complaint is not to be included on the GO report.

3. obtain the complainant's details;
4. enter any GOs or Violation Ticket numbers in the Related screen;
5. ensure video is requested (where applicable) for investigative purposes and that the request is recorded in the GO;
6. seek informal resolution in accordance with s. 157 of the *Police Act*;
7. retain all documentation of the complaint and informal resolution (as required by Div. 4 of the *Police Act*); and
8. forward a copy of the complete complaint and informal resolution information to the PSU for records and OPCC audit purpose, in accordance with the *Police Act*.

Timeline for Making Complaint

23. A complaint must be made within the 12 month period beginning on the date of the conduct giving rise to the complaint, or within any extension period permitted by the PCC, all in accordance with the *Police Act*.

Processing of Service or Policy Complaint

24. As set out in s. 168 of the *Police Act*, a complaint may also be made to the PCC against the general direction and management or operation of the Transit Police, or the inadequacy or inappropriateness of any of the following in respect of the Transit Police:

1. staffing or resource allocation;
2. training programs or resources;
3. standing orders or policies;
4. ability to respond to requests for assistance; or
5. internal procedures;

provided that a Member may not make a service or policy complaint in respect of the Transit Police if the subject of the complaint is one to which the grievance procedure under the Member's collective agreement applies.

25. The service or policy complaint may be made by stating or delivering it directly to the OPCC, the Watch Commander ("assigned Member") on duty at the Transit Police, or the Police Board Chair. When receiving a Transit Police service or policy complaint, the receiving person (as identified above) must comply with the requirements set out in ss. 169 and 170, as applicable, of the *Police Act*.
26. Under the *Police Act*, the Police Board is responsible for the processing of service or policy complaints, and any subsequent investigation. Transit Police staff will assist the Police Board as appropriate and as so directed by the Chief Officer.

Reporting of Death, Serious Harm & Reportable Injury

27. A Member will immediately notify his or her supervisor of a Reportable Incident and provide the supervisor with: the incident number, a brief synopsis of the event, and the nature of the injury.
28. When notified of a Reportable Incident occurring, the supervisor will immediately notify the Watch Commander, who will ensure that the Inspector Operations is immediately advised.
29. Whenever an occurrence involving the use of violence or force takes place and Members are involved, the supervisor will secure all video of the event. Such video will, where applicable, include the access and egress to the transit station(s) of the respective participants.
30. The Inspector Operations of the Transit Police will ensure that the Chief Officer, PSU and other Transit Police Executive are advised as soon as practicable thereafter (and when the injury or incident is of a serious nature, immediately) and may call out the PSU Staff Sergeant(s) if required.
31. As set out in item 5 above, the Chief Officer must report to the OPCC all Reportable Incidents. Notwithstanding such requirement, the PSU will be responsible for notifying the OPCC of the Reportable Incident, unless otherwise so directed by the Chief Officer.
32. The PSU will maintain records of all notifications to the OPCC regarding Reportable Incidents.
33. The Inspector Operations will assume the role of Team Commander to direct the investigation until otherwise so determined by the Chief Officer or PCC (or Independent Investigative Office, if applicable) or an appointed external agency conducting the investigation.
 1. The Team Commander will be responsible for ensuring that all investigative steps are completed and, in consultation with any assigned investigative team, ensure that material is turned over to the external agency, where appointed.
34. For those Serious Harm and death files that will (pursuant to the *Police Act*) result in an automatic external investigation by an agency selected by the PCC, the Inspector

Operations, along with the PSU, will immediately take steps (initial investigation) to ensure that:

1. the scene is contained and important evidence is preserved;
 2. duty reports are submitted;
 3. any other first instance, investigative steps are taken; and
 4. that these efforts are thoroughly documented in accordance with usual protocols and best practices, and Transit Police policy.
35. A PSU Staff Sergeant will take on the role as the primary file coordinator, unless otherwise so determined by the Chief Officer or the appointed external agency conducting the investigation. The file coordinator will be responsible for ensuring that all investigative avenues are assigned and documented.

Subject Behaviour Officer Response Report

36. Where Members deployed use of force in the incident, the involved Members will be required to comply with the Subject Behaviour Officer Response Report (SBORR) reporting requirements set forth in Policy Chapter OH020 - Use of Force.
1. Members will be required to follow all other applicable provisions of OH020 – Use of Force as well as other applicable use of force related policies (i.e., OH010 – Firearms; OH030 – Conducted Energy Weapons; OH040 – Physical Control; OH050 – Oleoresin Capsicum (OC) Aerosol; OH060 – Impact Weapons).

Off-Duty

37. It is recognized that off-duty Members may occasionally encounter incidents that require them to take law enforcement action, beyond that which would normally be expected of a citizen. In these cases the Member is normally deemed to have been put “on-duty” due to the incident, and therefore, any death or injury meeting the criteria of a Reportable Injury that occurs during the incident must be reported to the OPCC.
38. When involved in an off-duty incident that results in a Reportable Incident, the Member will notify the Watch Commander immediately and will notify his or her supervisor upon return to work.
39. The Watch Commander will notify the Inspector Operations of the Transit Police of the incident as soon as practicable, or, when the injury or incident is of a serious nature, immediately. The Inspector Operations will take action in the same manner set forth in this policy for on-duty Members.

Breaches of the Criminal Code

Members

40. In cases of criminal allegations involving Members, the matter must be brought to the attention of a supervisor and the Deputy Chief Officer Operations. The Chief Officer and PSU will be promptly advised by the Deputy Chief Officer Operations.
41. The Chief Officer will contact the JPD to conduct an investigation into the incident, if not already reported to the JPD. The JPD will have full control of the investigative process.
42. The criminal investigation will take precedence over any *Police Act* investigation. In the meantime, the PSU will:
 1. advise the OPCC of the matter and circumstances surrounding the charges;
 2. open a PRIME file (as applicable); and
 3. open a PSU investigation file.
43. Where allegations could result in charges under the *Criminal Code of Canada*, there must not be any attempts to informally resolve these matters.
44. Unless otherwise so determined by the Chief Officer, the PSU will act as liaison to the police agency conducting the investigation.
45. In cases where a Member is under a criminal investigation but charges have not been forwarded, or it has been determined that charges are not warranted, PSU will conduct a *Police Act* investigation, as so directed by the OPCC.

Civilian Staff

46. In cases of criminal allegations involving Transit Police civilian staff, the matter must be brought to the attention of a supervisor and to the Deputy Chief Officer Operations.
47. The Deputy Chief Officer Operations will advise the Chief Officer of the matter. The Chief Officer or delegate will contact the JPD to request it conduct an investigation into the incident, if not already reported to the JPD. The JPD will have full control of the investigative process.
48. The Chief Officer will appoint a liaison to the JPD (excludes PSU) on the matter and the Transit Police will assist with the investigation, as requested.
49. Upon termination of the investigation, the liaison officer will submit a report to the Chief Officer with a concise account of the circumstances of the criminal allegations, and a review on whether or not the staff person poses a security risk to the Transit Police.

Breaches of Provincial or Federal Statutes

50. In cases where a Member has allegedly breached a provincial or federal statute in Canada, the matter will be brought to the attention of the Member's supervisor and the Deputy Chief Officer Operations. The Member will comply with McNeil conduct disclosure requirements, as set forth in Policy Chapter AC200 – McNeil Disclosure Packages.

Public Complaint Against a Civilian Staff Person

51. A member of the public may lodge a complaint regarding the conduct of a Transit Police civilian staff person. The complainant may be directed to the staff person's immediate supervisor or the Watch Commander. The person receiving the complaint may try to informally resolve the issue unless the matter is of a serious or criminal nature.

52. The person receiving the complaint will notify the Deputy Chief Officer Support Services for further review. The Deputy Chief Officer Support Services may assign an investigator or send the matter to the staff person's direct supervisor or the Manager Human Resources for resolution.

53. The investigation report must include sufficient detail and a recommendation regarding the disposition of the complaint to be provided to the Deputy Chief Officer Support Services. The investigation should follow a similar process to that outlined in the Policy Chapter AC130 - Internal Discipline Rules, taking into account applicable TransLink policy (e.g., Respectful Workplace and Director and Employee Code of Conduct).

Records

Police Act Files

54. The Transit Police *Police Act* and complaint files will be maintained under the custody of the PSU and in a secure location, taking into account the sensitivity of the file.

55. Complaint files will not be retained in the Transit Police Central Records.

56. *Police Act* investigation files will be retained in accordance with the *Police Act*.

Service Records of Discipline Files

57. S. 180 of the *Police Act* requires the Transit Police to create a Service Record of Discipline for each Member or Former Member and to maintain such records in a secure area. For specific requirements around the records, including entry and expungement provisions, Members will refer to Policy Chapter AC110 – Service Records of Discipline for Sworn Members.

Key References

BC Police Act [RSBC 1996, Chapter 367] (As Amended November 11, 2011)

Collective Agreement

Office of the Police Complaint Commissioner letter to Chief Constables with Guideline on Receiving and Handling of Complaints [March 26, 2010]

Police Services Division letter to the Chief Officer re Bill 7 and March 31, 2010 consequential amendments to regulations [March 8, 2010]
TransLink Respectful Workplace Policy [2008]
TransLink Director and Employee Code of Conduct [2008]
Transit Police Policy Chapter: AC110 – Service of Record of Discipline for Sworn Members
Transit Police Policy Chapter: AC130 – Internal Discipline Rules
Transit Police Policy Chapter: AC160 – Professional Standards
Transit Police Policy Chapter: AC200 – McNeil Disclosure Policy
South Coast British Columbia Transportation Authority Police Service Operations Regulations [BC Reg. 484 2004]