

To: South Coast British Columbia Transportation Authority Police Board (Police Board)

From: Chief Officer Dave Jones
South Coast British Columbia Transportation Authority Police Service (Transit Police)

Date: August 19, 2020

Subject: Service and Policy Complaint - Transit Police PSU File 2020-05
OPCC File No. 2020-17637 [Police Board Report No. 2020-28]

RECOMMENDATIONS:

- A. *THAT the South Coast British Columbia Transportation Authority Police Board endorse Police Board Report No. 2020-28 from the Chief Officer regarding investigation of this Service and Policy Complaint (Transit Police PSU File No. 2020-05); and*
 - B. *THAT, pursuant to s. 172(1) of the Police Act, the South Coast British Columbia Transportation Authority Police Board notify the Complainant, Police Complaint Commissioner and Director of Police Services of the outcome of the investigation and course of action taken.*
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PURPOSE

To provide the Police Board with the report on the service and policy complaint matter and suggested recommendations.

INTRODUCTION

At the April 24, 2020 Police Board meeting, the Police Board received a letter from the Office of the Police Complaint Commissioner (“OPCC”), dated March 25, 2020, with referral of a Service and Policy complaint under s. 170 of the *Police Act*. The service and policy complaint was in relation to a January 21, 2020 complaint, namely Transit Police PSU file No. 2020-05. The individual who made the complainant will be referred to as the “Complainant” throughout this report.

The Police Board, pursuant to s. 171(1)(a) of the *Police Act*, requested the Chief Officer to investigate the response that the Complainant had received from the Transit Police – Professional Standards Unit and to review existing Transit Police policies to identify any gaps or recommended changes in policy. The investigative findings and arising course of action taken is outlined in this report.

REPORT OF THE CHIEF OFFICER

Initial Complaint Receipt and Investigation

On January 7, 2020, an email was received into a Transit Police Professional Standards Unit ("PSU") general email box, originating from the Transit Police website, from the Complainant saying:

"I am very upset of the officer who assign on Police File#20-433. misconduct the invesgation of this incident! unhappy with His Enforcement!"

This email was reviewed by a PSU Staff Sergeant (whose responsibility it is to review intake matters) for a potential of a *Neglect of Duty* by the constables that attended to the Complainant's complaint.

The PSU Staff Sergeant recorded the complaint and commenced to look into the matter by reviewing the General Occurrence (GO) file, in an effort to obtain details on what had transpired, as the Complaint's email did not disclose details.

The PSU Staff Sergeant carried out a preliminary review of the General Occurrence file and concluded that:

- A reasonable investigation was done by the responding Members;
- Complainant's complaint from the website was vague and without substance; and
- No misconduct was apparent or identified.

Under normal circumstances, the Staff Sergeant would make early contact with a complainant to acknowledge receipt of the complaint and perhaps obtain more details. However, in this case, this did not occur because of the Complainant's history for making false reports to police in order to get police response. (There is concern with calling or corresponding with the Complainant unnecessarily, as past experience has shown that it has caused the individual to escalate their behaviour.)

On January 11, 2020, the Complainant called into the Transit Police - Watch Commander's office and expressed displeasure with Transit Police; however, the Complainant also advised the Watch Commander that he would be dealing with the Office of the Police Complaint Commissioner ("OPCC") directly to advance his complaint. The PSU Staff Sergeant was notified of this development by the Watch Commander.

In the OPCC's letter of *Notification of Inadmissibility* to the Complainant (dated March 25, 2020), the OPCC arrived at the same conclusion.

Transit Police Policy

Transit Police policy AC140 – Complaints sets out how a complaint against a police Member is to be handled. This policy is consistent with the *Police Act* and OPCC practice guidelines, but neither the legislation or guidelines adequately address the unique circumstances seen in this particular case.

S. 85 of the *Police Act* requires that any ‘Question or Concern’, even though it might not constitute misconduct, be recorded by the police department. The OPCC has used the audit provision in s. 85 to also require police agencies to notify them on all ‘enquires’ that can be characterized as a ‘Question or Concern’. This process is particularized in OPCC Guideline #13.

The evidence shows that PSU staff did record this complaint and completed a detailed investigation log. In this instance, the OPCC was not notified as they normally are by PSU and within the 10-day guideline. This appears to be an oversight during a relatively busy time for PSU and a belief that the Complainant was pursuing his complaint with the OPCC directly. There was no evidence to suggest that the OPCC was deliberately not notified.

It was found in the policy review that Transit Police policy did not set out a specific timeline for the notification, as outlined in the OPCC guideline.

Findings and Course of Action

1. Timely notification to the OPCC did not take place in this matter. It was found that the gap in this instance appears to be isolated, stemming from a combination of case management workload and the challenges specific to this case.

ACTION:

The Inspector in charge of PSU reviewed how OPCC notifications are made and followed up with PSU staff to ensure full compliance going forward.

2. OPCC Guideline #13 states that a police agency must notify them of every Question or Concern within 10 business days of receipt. Transit Police policy simply required the OPCC to be notified but it didn’t specify the timeframe.

ACTION: The Inspector for PSU recommended that Transit Police policy chapter: AC140 – Complaints be amended to reflect the specific 10-day timeline that the OPCC has set.

Upon recommendation of the Chief Officer, on June 19, 2020, the Police Board approved amendment to Transit Police policy AC140 – Complaints to specify the OPCC 10-day notification timeline. Transit Police staff were informed of the amendment on July 16, 2020.

Chief Officer Dave Jones