



TRANSIT POLICE

INDEPENDENT INVESTIGATIONS OFFICE

Effective Date: November 26, 2012

Revised Date: September 23, 2022

Reviewed Date:

Review Frequency: 2 Years

Office of Primary Responsibility: Deputy Chief Officer Operations

TABLE OF CONTENTS (with Quick Links)¹

POLICY	1
Definitions.....	1
Authority	5
General.....	5
PROCEDURES	6
Critical Incident Notification through the Chain of Command.....	6
Off-Duty Critical Incident	6
Notification to IIO.....	7
Designation of Liaison Officer	7
Responsibilities of Liaison Officer	7
Scene Security	9
Preservation and Seizure of Evidence	10
Canvassing for Witnesses and Videotape Evidence.....	11
Continued Assistance After the IIO Arrival at the Scene.....	12
Concurrent Investigations by the Transit Police	12
Involved Officers.....	13
Witness Officers	14
Subject Officers.....	15
Media Relations regarding IIO Investigations.....	16
Next-of-Kin and Coroner Notification	16
Providing the IIO with Access to Transit Police Records	17
Key References.....	18

POLICY

[Also refer to Transit Police Policy Chapters: [AC140 – Complaints](#) and Use of Force chapters [OH010](#) – [OH060](#), and [OH080](#)]

Definitions

Chief Civilian Director (“CCD”) – The Chief Civilian Director of the IIO, who is the person in charge of the IIO.

Chief Officer – The Transit Police Chief Officer or delegate.

Critical Incident – For the purpose of this policy, refers to incidents requiring immediate IIO notification by a police agency, including whenever on-duty² Officers attend or become aware of:

¹ Use **CTRL + HOME** to return to the Table of Contents from anywhere in this document.

² It is considered settled case law in British Columbia (*Love v. Saanich (District), R. v. Crimeni*) that “on duty” includes police officers who are off-duty (i.e., not during their prescribed working hours) but who put themselves “on-duty” by exercising the powers of the office of constable. For further information on this issue, see the discussion

- (1) Any incident where there is a reasonable belief that the presence, action, inaction or decision of an Officer (as defined in this policy) may have been a contributing factor in
 - a. the death of any person, including any in-custody death;
 - b. a life-threatening injury to any person;
 - c. an injury to any person that may cause disfigurement (permanent change in appearance), if there were no medical intervention;
 - d. an injury to any person that may cause permanent and substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ, if there were no medical intervention; or
- (2) Any incident involving the discharge of a firearm by an on-duty Officer where there is a reasonable belief that any person (including any Officer) may have been injured.³

NOTE: *The IIO has asked that police agencies do not notify the IIO of on-duty Medical Incidents [see definition for Medical Incident on page 4].*

Concurrent Investigation – An investigation that is separate and distinct from, but concerns the same incident as, an IIO investigation, and that is occurring at the same time as the IIO Investigation. A Concurrent Investigation could be any of the following:

- (1) An investigation into a person who is suspected of committing an offence in the course of, or otherwise related to, the incident that the IIO is investigating, including a person who was seriously harmed or died in the incident, resulting in the IIO Investigation;
- (2) A Disciplinary Investigation into an Involved Officer for allegations of misconduct arising in the course of the incident; or
- (3) An internal investigation, audit, or review for the purpose of assessing police tactics, practices, equipment, training, supervision, or other administrative or operational issue of a general nature arising from the incident.

CISM – Critical Incident Stress Management.

Designated Constables – The Transit Police Officers appointed by the Police Board under s. 4.1 of the *Police Act*.

Director – Police Services – The Director of Police Services, Ministry of Public Safety and Solicitor General.

FOIPPA – The B.C. *Freedom of Information and Protection of Privacy Act*, R.S.B.C. 1996, chapter 165, as amended from time to time.

Forensic Data – As defined in the IIO MOU, includes but is not limited to E-mails, text messages and other data from cellular telephones, video recorders, mobile data terminals, vehicle data recording devices, and computers.⁴

paper titled, [Off-Duty Police Conduct](#) by Paul Ceyskens, prepared for the Office of the Police Complaint Commission (June 2000).

³ Definition based on s. 2.1 of the IIO Guidelines, Part 2 – Notification of the IIO, which sets out the criteria for when the IIO must be notified.

⁴ Definition provided in s. 1.1 of IIO MOU and s. 1.1 of IIO Guidelines.

IIO – The Independent Investigations Office of British Columbia established pursuant to s. 38.02 of the *Police Act*.

IIO Guidelines – The document entitled “[Guidelines and Expectations with respect to the Conduct of IIO Investigations](#)”, dated September 10, 2020, established by the IIO, that is supplemental to the MOU and contains additional protocols for IIO Investigations.

IIO MOU – The “[Memorandum of Understanding Respecting Investigations](#)” dated for reference August 31, 2020 between the IIO and police agencies in British Columbia, that sets out agreed upon protocols for the conduct of IIO Investigations.

- (1) Where the IIO MOU provides insufficient guidance or conflicts with the *Police Act*, the *Police Act* will govern, and this policy will be interpreted accordingly.⁵

In-custody Death – A death of a person who was detained by or in the custody of a Member, or was in the custody of a police service.

Involved Officer – A Member involved in or present during an incident that is within the jurisdiction of the IIO and includes Subject Officers and Witness Officers.

Liaison Officer – For the purpose of this policy, the Transit Police Inspector Patrol Section (or in their absence the Duty Officer or other Member as delegated by the Inspector Patrol Section, the Deputy Chief Officer Operations or Chief Officer) acting as the liaison between Transit Police and the IIO for incidents that require notification to the IIO, incidents that the IIO has been notified of, and for IIO Investigations.

Medical Incident – Per [IIO Policy 5015 “Medical Incident Notification”](#), dated December 2, 2016, an incident in which a Member provides immediate medical care to a person (e.g., administering cardiopulmonary resuscitation (“CPR”), naloxone, or another life-saving measure), and the person suffers Serious Harm or death in the course of the incident, provided that:

- (1) No force was used by any Member prior to, or after, the administration of CPR, naloxone, or other life-saving measure;
- (2) The person was not being detained by a Member, and was not otherwise in Transit Police custody, at the time of the incident; and
- (3) The incident did not involve a motor-vehicle collision involving a Member or a police pursuit.

For clarity, if a Member used force on the person before, during, or after the immediate medical care was provided, or if the person was detained or in custody at the time of the immediate medical care, or if the incident involved a motor vehicle collision or police pursuit, then that incident does NOT qualify as a Medical Incident, and the IIO must be notified under this Policy if Serious Harm or death occurs.

⁵ The non-derogation terms in both the IIO MOU (Part 22) and IIO Guidelines (Part 13) confirm the supremacy of the *Police Act* (and its associated regulations and standards), the *South Coast British Columbia Transportation Authority Act* (and its associate regulations), and the *Freedom of Information and Protection of Privacy Act* in interpreting the provisions of the IIO MOU and Guidelines.

Member – For the purpose of this policy, includes a Designated Constable (all ranks), Deputy Chief Officer and the Chief Officer of the Transit Police.

MMS – Acronym for Multimedia Messaging Service which is a means of sending messages that include multimedia content over a cellular network.⁶

Officer – For the purpose of this policy, is a Member as defined within this policy (see definition for “Member” noted above).

OPCC – The Office of the Police Complaint Commissioner.

Operational Debriefing – A meeting or discussion with Involved Officers about a Critical Incident for operational purposes (e.g., to understand and assess police tactics, supervision, and/or communications, how the Critical Incident unfolded, and/or the actions of Involved Officer(s)), but does NOT include a CISM defusing.

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

PRIME – The “Police Records Information Management Environment”, which is the digital information management system by which police across British Columbia create, store, and share police incident reports, reports to Crown counsel and other police and crime related information.

Reportable Injury – As defined in subsection 76(1) of the *Police Act*, any of the following: “an injury caused by discharge of a firearm; an injury requiring emergency care by a medical practitioner or nurse practitioner and, transfer to a hospital; or any injury described by s. 184(2)(c) of the *Police Act*.”

Serious Harm – As defined in subsection 76(1) of the *Police Act*, “injury that may result in death, may cause serious disfigurement, or, may cause substantial loss or impairment of mobility of the body as a whole or of the function of any limb or organ”.

SMS – Acronym for Short Message Service and refers to a text messaging service component of most telephone, internet and mobile device systems.⁷

Subject Officer – A Member whose presence, action or decision, whether on or off duty, is reasonably believed to have been a significant contributing causal factor in the Serious Harm or death of any person.⁸

Transit Police – The South Coast British Columbia Transportation Authority Police Service, also operating under the name of Metro Vancouver Transit Police.

Transit Police Professional Association (“TPPA”) – The bargaining agent representing unionized Transit Police Members and civilian support staff.

Witness Officer – A Member who an IIO investigator has reason to believe can provide material evidence with respect to an incident under investigation, and who is not a Subject Officer with respect to that investigation.⁹

⁶ Definition provided in s. 1.1 of IIO MOU and s. 1.1 of IIO Guidelines.

⁷ Definition provided in s. 1.1 of IIO MOU and s. 1.1 of IIO Guidelines.

⁸ Definition provided in s. 1.1 of IIO Guidelines.

⁹ Definition provided in s. 1.1 of IIO Guidelines.

Authority

1. As Police Officers, Members are authorized by law to use force in the lawful execution of their duties.
2. Members are required to comply with requirements of the *Police Act*, regulations and standards thereto, all as amended from time to time.

General

3. In the course of their duties, Members are subject to many levels of accountability. Under the *Police Act*, Members' actions are subject to possible criminal investigation as well as disciplinary investigation. The *Police Act* provides authority to the IIO to conduct investigations into the conduct of a Member that may lead to charges against the Member under the *Criminal Code of Canada* ("*Criminal Code*"), or other federal or provincial statutes. The IIO jurisdiction is different to that of the OPCC which oversees the citizen complaint and disciplinary processes.
4. Pursuant to the *Police Act*, the IIO has jurisdiction to investigate the following:
 - (1) Any incident where it appears that:
 - a. A person may have died or suffered serious harm as a result of the actions or inactions¹⁰ of a Member, whether on or off duty, or
 - b. A Member, whether on or off duty, may have contravened a prescribed provision of the *Criminal Code* or of another federal or provincial enactment; and
 - (2) Whether that incident is reported to the IIO by the Transit Police, another police agency or the OPCC, any other alleged act, or alleged omission of an act by a Member where the BC Minister of Public Safety and Solicitor General or Director – Police Services orders that an investigation be conducted by the IIO.
5. BC policing agencies have specific obligations and timelines regarding Critical Incidents. The Transit Police is required to immediately notify the IIO whenever on-duty officers attend or become aware of a Critical Incident as defined in this policy.¹¹
6. The IIO has entered into a Memorandum of Understanding ("IIO MOU") with all policing agencies within British Columbia, including the Transit Police, which establishes procedures for the IIO investigation process of Critical Incidents. Accordingly, the Transit Police will no longer investigate such incidents, unless the IIO declines jurisdiction over the incident.
7. Members will comply with IIO requirements under the *Police Act* and the IIO MOU (and associated IIO Guidelines and directives), including the duty to cooperate fully with the CCD and IIO Investigator in respect of the exercise of powers or performance of duties under the *Police Act* by the CCD and IIO Investigators.
8. When the IIO becomes involved in an investigation, Members will still be required to comply with [Transit Police Policy AC140 – Complaints](#) regarding incidents involving death, Serious

¹⁰ IIO MOU Preamble s. C and s. 2.1(a) IIO Guidelines.

¹¹ IIO Guidelines s. 2.1 sets out the criteria for when the IIO must be notified.

Harm and reportable injuries and Transit Police use of force policies (OH010 to OH060, and OH080), including provisions on the Use of Force Report.

PROCEDURES

Critical Incident Notification through the Chain of Command

9. To advance Critical Incident notification through the chain of command and be satisfied that the IIO is notified of Critical Incidents¹², Members involved in, responding to, or otherwise becoming aware of a Critical Incident (on-duty and off-duty), will immediately report the Critical Incident to their Supervisor.
 - (1) In the event of a Critical Incident occurring off-duty, or in the absence of their immediate Supervisor, the Member will immediately report the incident to the Watch Commander on duty.
10. In the event of a Critical Incident, notification will occur through the chain of command as follows:
 - (1) Upon becoming aware of a Critical Incident, the Supervisor will immediately notify by personal contact the Watch Commander (or Transit Police Supervisor-in-charge).
 - (2) Upon becoming aware of a Critical Incident, the Watch Commander (or Transit Police Supervisor-in-charge) will immediately notify by personal contact the Inspector Patrol Section (or Duty Officer when the Inspector is unavailable);
 - a. The Watch Commander will include the incident in the Shift Report and ensure that a copy of the shift report is forwarded to the [REDACTED]
 - (3) The Inspector Patrol Section (or Duty Officer when the Inspector is unavailable) will ensure that the IIO, Inspector Professional Standards (or delegate), Deputy Chief Officers and Chief Officer are notified and may direct resources to attend the scene until the IIO directs otherwise;
 - (4) The Inspector Professional Standards (or delegate) will notify the OPCC of the incident.

[Also refer to [Transit Police SOP55 – Notification of Sensitive Issues](#)]

Off-Duty Critical Incident

11. To ensure that the IIO is notified of off-duty incidents within its jurisdiction, police officers (including Transit Police Members) who become/are involved in an off-duty Critical Incident, will immediately identify themselves as police officers to the on-duty officers attending the incident. Off-duty officers who identify themselves as police officers, in compliance with this direction, are deemed to not be in violation of s. 77(3)(c)(iii) of the *Police Act* where a corrupt practice

¹² IIO Guidelines s. 2.2 requires an Officer who is involved in a Critical Incident to “take steps to satisfy himself that the IIO has been notified”. [**NOTE: This is a direct quote from the IIO MOU and Guidelines, which do not use gender-neutral terms*]. By notifying their Supervisor (or Watch Commander in the absence of the Supervisor), the Member can be satisfied that the notification to the IIO will advance through the chain of command.

includes using or attempting to use one's position as a police officer for personal gain or other purposes unrelated to the proper performance of duties as a police officer.¹³

Notification to IIO

12. Unless otherwise so determined by the Chief Officer, the Inspector Patrol Section (or Duty Officer when the Inspector is unavailable) is assigned as the Transit Police designate for notification to the IIO and will be responsible for the immediate notification to the [REDACTED] upon recognition that any on-duty or off-duty incident is within the criteria of a Critical Incident.

NOTE: This is separate from the Transit Police requirement to notify the OPCC whenever there has been a "reportable injury" as defined in section 76(1) of the Police Act. The Inspector Professional Standards (or delegate) continues to be the Chief Officer designate for advising the OPCC as required for Part 11 of the Police Act. [Refer to [Transit Police Policy AC140 – Complaints.](#)]

13. In the event that the IIO declines to investigate any Critical Incident of which they have been notified by the Transit Police, the Inspector Patrol Section (or Duty Officer when the Inspector is unavailable) will notify, via e-mail, the Deputy Chief Officer Operations of the details of the incident (e.g., general occurrence number and date and time of notification to the IIO) and the contact information of the IIO Investigator.
14. In the event that the PSU becomes aware of an incident within the IIO jurisdiction and PSU is not aware of the IIO having been notified, then the Inspector Professional Standards (or delegate) will immediately advise the Inspector Patrol Section (or Duty Officer when the Inspector is unavailable) about the incident so that IIO notification can occur.

Designation of Liaison Officer

15. When the IIO determines that an incident is within their mandate, the Inspector Patrol Section (or Duty Officer when the Inspector is unavailable) will either assume the IIO Liaison Officer role or promptly designate an IIO Liaison Officer to the incident. The Liaison Officer will not be an Involved Officer.
16. If the Duty Officer assumes the role of Liaison Officer in the absence of the Inspector Patrol Section, the Inspector Patrol Section will resume the role of Liaison Officer upon return to duty.
17. The Member designated as the Liaison Officer will be of sufficient rank and authority to fulfill the role¹⁴.

Responsibilities of Liaison Officer

18. The Liaison Officer will be responsible for the following:
 - (1) As soon as practicable, making a preliminary identification of Members considered to be Involved Officers, for the purposes of fulfilling the initial and immediately required actions (as set out in this policy, IIO MOU, and IIO Guidelines) that must be undertaken, while

¹³ IIO MOU s. 8.3 and IIO Guidelines s. 3.5

¹⁴ IIO MOU s. 13.2 sets out the only requirements for the role of Liaison Officer as "sufficient rank and authority to fulfill the role".

awaiting the IIO's formal designation of Members as either Witness Officers or Subject Officers. This is with the understanding that the Liaison Officer's preliminary identification of Involved Officers may be different from and will be superseded by the IIO's formal designations of Witness Officers and Subject Officers;

- (2) Ensuring steps have been taken to secure the scene and assist with the preservation and seizure of evidence;
- (3) Canvassing for and recording of conflicts of interests and potential appearances of conflict of interests between Involved Officers and Members attending the scene, and when determining that conflicts of interest and/or potential appearances of conflicts of interest exist, provide a written summary of this information to the IIO Investigator upon their attendance at the scene;

NOTE: *As set out in the IIO MOU, conflicts of interest and potential appearances of conflicts of interest may include family relationships and other personal relationships between Involved Officer(s) and officers from a police service who attend the scene.*¹⁵

- (4) Ensuring that the following information is compiled for the scene and safety report and that this report is provided to the IIO Investigator upon their attendance:
 - a. A summary of the occurrence and the roles of all Involved Officers;
 - b. Details of any un-located subjects and other dangers;
 - c. Injuries to anyone;
 - d. Parameters and boundaries of the scene;
 - e. Status, location and identity of known witnesses (police and civilian);
 - f. Location of all evidence to be protected or collected, including but not limited to objects, documents, identification information, statements of witnesses, and Forensic Data; and
 - g. Names of any persons an Involved Officer has spoken to since the incident;¹⁶
- (5) Ensuring that all E-mail, MMS, group SMS or other text-based media communications between Involved Officers at or around the time of the incident under IIO investigation are preserved, and notifying the IIO in a timely manner of their existence. To this end, the Liaison Officer will:¹⁷
 - a. Direct all Involved Officers not to communicate their recollections or accounts of the incident directly or indirectly to any other officer, other than for the purposes listed in section 39 of this policy, until the IIO's investigation is concluded;¹⁸
 - b. Direct all Involved Officers to save any E-mail, MMS, group SMS or other text-based media communications that may have been shared between them at or around the time of the incident;
 - c. Direct all Involved Officers to inform the Liaison Officer of the existence of any such communications so that the Liaison Officer can report these to the IIO; and¹⁹
 - d. Document all of the above steps taken.²⁰

¹⁵ IIO MOU s. 10.3

¹⁶ IIO MOU s. 7.1 and IIO Guidelines s. 3.1

¹⁷ IIO MOU s. 8.4 and IIO Guidelines s. 3.6

¹⁸ IIO Guidelines s. 4.1

¹⁹ IIO MOU s. 8.4. [Note: this is a change from the 2013 IIO MOU which restricted an Involved Officer from communicating with "anyone"].

²⁰ IIO Guidelines s. 4.3.

- (6) Working with the IIO Investigator to schedule IIO interviews with Involved Officers;
 - (7) Ensuring that the Transit Police is providing the resources and assistance reasonably required by the IIO Investigator;
 - (8) Working with the IIO Investigator to resolve any issues regarding who is responsible for the costs of specialized scene examination or specialized follow-up investigations; and
 - (9) Ensuring that the Transit Police is complying with the terms of the IIO MOU (and associated IIO Guidelines and directives) and statutory obligations under the *Police Act*.
19. In the event of a disagreement or dispute between the Liaison Officer and the IIO Investigator over control of the scene of a Critical Incident, or the amount or type of assistance or resources to be provided to the IIO by the Transit Police, or any other matter, the Liaison Officer will consult with the Deputy Chief Officer Operations (or designate). If the disagreement or dispute cannot be resolved, the matter will be referred to Chief Officer (or designate) for resolution with the CCD (or designate).
20. The Liaison Officer (if other than the Inspector Patrol Section) will be responsible for notifying the Inspector Patrol Section (or the Deputy Chief Officer Operations if the Inspector is unavailable) as soon as practicable upon IIO attendance at an incident. This notification will include details of the incident (e.g., general occurrence number and date and time of notification to the IIO) and the contact information of the IIO Investigator.

Scene Security

21. The Transit Police will be responsible (as first responder) for the containment and preservation of any scene of a Critical Incident where the IIO becomes involved in the investigation. The Transit Police is required to take any lawful measures that appear to be necessary and expedient for the purpose of obtaining and preserving evidence related to that incident.
- (1) Pursuant to the [Transit Police MOU with Jurisdictional Police Departments](#), in the event that the Jurisdictional Police Department (“JPD”) arrives on scene and assumes command of the incident, pending arrival of the IIO Investigator, the Transit Police will assist with scene security as requested by the JPD.
22. The Watch Commander (or Liaison Officer if so delegated by Inspector Patrol Section) will take responsibility for scene security and evidence preservation, and where required may assign a Member to coordinate the securing of the incident scene and evidence preservation.
- (1) The assigned Member in charge of scene security and evidence preservation will, in consultation with the Watch Commander or the Liaison Officer (if so delegated by the Inspector Patrol Section), ensure that:
 - a. The scene is secured with police barrier tape;
 - b. The scene is secured at a reasonable distance to protect the complete scene and any physical evidence that may be present;
 - c. There is no unnecessary access to the scene;
 - d. A log is maintained of all individuals entering and of all observations made;²¹ and

²¹ IIO MOU s. 6.1 and IIO Guidelines s. 3.7.

- e. Weapons at the scene will not be moved, and firearms or other projectile weapons will not be unloaded, unless required to mitigate legitimate safety concerns, in which case all movements and actions taken will be fully and accurately documented, and video recorded where possible.²²
23. The assigned Member in charge of scene security and evidence preservation will ensure that the scene remains secured until the IIO Investigator attends the scene and thereafter turn control of the scene over to the IIO Investigator.
24. In the event that the IIO is delayed in arriving at the scene of the incident, the IIO Investigator may delegate control of the scene to the Transit Police for an extended period of time and may provide direction to the Liaison Officer via telephone regarding crime scene security and preservation of evidence.

Preservation and Seizure of Evidence

25. In consultation with the IIO Investigator and in accordance with the standards of normal police practice,²³ prior to the arrival of the IIO Investigator, the assigned Member in charge of scene security and evidence preservation, in consultation with the Liaison Officer, will assist the IIO by seizing all relevant evidence at the scene and maintaining the security and continuity of that evidence until it can be turned over to the IIO Investigator. This may include:
 - (1) Seizing a Member's uniform or other clothing and items, with due regard for the Member's safety, dignity and privacy [NOTE: *Personal property of an Officer is to be identified as such to the IIO Investigator to ensure that it is properly recorded and reported pursuant to section 489.1 of the Criminal Code*];
 - (2) Seizing any use of force weapons and equipment that were used, deployed or otherwise appear to be relevant to the investigation [NOTE: *This is subject to the IIO limitations on moving or unloading weapons at the scene of a Critical Incident as noted in s. 22(1)(e) of this policy*]²⁴;
 - (3) Securing any police vehicle;
 - (4) For all motor vehicle accident scenes, obtaining all evidence, gathered by lawful means, without delay and within statutory time limits, with respect to the possession or consumption of alcohol or drugs, to include breath or blood samples if impaired driving by a Member is suspected; and
 - (5) Seizing any other relevant evidence, including eyewitness accounts or other evidence from transient civilian witnesses that is perishable or may otherwise be lost before the arrival of IIO Investigator.²⁵
26. If it is determined that there are digital communications that may be relevant to the IIO Investigation, the Liaison Officer may seize a Member's Transit Police issued communication device, as well as a Member's own personal communication device to preserve evidence, if

²² IIO MOU s. 6.2 and IIO Guidelines s. 3.8.

²³ IIO MOU s. 8.2 and IIO Guidelines s. 3.4 state that police shall assist the IIO by seizing relevant evidence at the scene, "in consultation with the IIO investigator and in accordance with the standards of normal police practice".

²⁴ IIO MOU s. 6.2 and IIO Guidelines s. 3.8.

²⁵ IIO MOU s. 8.2 and IIO Guidelines s. 3.4.

necessary and if permitted by law in the circumstances. [NOTE: A Transit Police issued communication device is not considered a Member's personal property. As set out in [SOP61 Mobile Communication Devices](#), the communication device remains the property of Transit Police, and Members must return the device at any time when so instructed by the Transit Police].

- (1) Any digital communication device seized and held in the custody of Transit Police will be securely stored to protect against erasure or alteration of the stored digital communications or related data; and
 - (2) If the IIO Investigator determines that it is necessary to seize and search communication devices, the IIO Investigator will be required to respect constitutional safeguards for personal communications by obtaining and complying with appropriate judicial authorizations before Transit Police will turn over custody of, or allow the IIO to conduct an examination of, a personal communication device held by Transit Police.²⁶
27. Any evidence secured or seized at the scene will be processed in the same manner as required in Transit Police policy. The Liaison Officer will ensure that such evidence is turned over to the IIO as directed by the IIO Investigator.
 28. If not related to a Concurrent Investigation, evidence requested by the IIO through the Liaison Officer is not to be provided or disclosed to any Involved Officer, the Involved Officer's legal counsel or to a TPPA representative, without the IIO's consent.²⁷

Canvassing for Witnesses and Videotape Evidence

29. The IIO Investigator may, prior to arriving at the scene, request that the Transit Police canvass the area around the scene of the Critical Incident for witnesses and/or videotape evidence. The Liaison Officer will direct the assigned Member in charge of scene security and evidence preservation at the scene to carry out those requests, if reasonable.
30. If the Liaison Officer concludes that weather, lack of resources or extraordinary costs will prevent the Transit Police from complying with the IIO's request, the Liaison Officer will advise the IIO as soon as practicable.
31. Any disagreements or disputes regarding what resources the Transit Police may provide in order to comply with such requests will be resolved by the Liaison Officer.
32. In the event that a witness to the Critical Incident is located by Members, then Members will only obtain the name and contact information of the witness. The witness is not to be interviewed unless requested to do so through consultation with the IIO Investigator, if this evidence might otherwise be lost per subsection 25(5) of this policy.²⁸

²⁶ Members have a reasonable expectation of privacy in relation to their own personal communications devices and in relation to the data contained within the 'personal side' of their Transit Police issued work communication device.

²⁷ IIO MOU s. 13.4 [see also IIO Guidelines s. 8.9 and s. 44(3) of this policy regarding pre-interview disclosure of evidence to a Witness Officer].

²⁸ IIO MOU s. 8.2 and s. 10.1, and IIO Guidelines s. 3.4(e) state that police shall assist the IIO by seizing relevant evidence at the scene, "in consultation with the IIO investigator and in accordance with the standards of normal police practice". It includes "eyewitness accounts or other evidence from transient civilian witnesses that might otherwise be lost" before arrival of IIO.

Continued Assistance after the IIO Arrival at the Scene

33. Once the IIO Investigator arrives on the scene, the assigned Member in charge of scene security and evidence preservation will, in consultation with the Liaison Officer, provide such assistance and resources as the IIO requires to process the scene and to conduct the initial investigation. If the Liaison Officer concludes that because of weather, delayed IIO arrival, lack of resources, or extraordinary costs, the Transit Police is unable to fulfill a request from the IIO, the Liaison Officer will advise the IIO Investigator as soon as practicable.
34. The Transit Police will be responsible for examining and processing the scene(s) of the incident subject to monitoring by the IIO Investigator. The Liaison Officer will liaise with the IIO Investigator if the IIO Investigator has directions to provide regarding the work of Members and be responsible for providing direction to facilitate requests from the IIO Investigator.
 - (1) The Transit Police will request JPD assistance where necessary, in accordance with the Transit Police and JPD protocols.
35. The Transit Police will provide interview rooms, recording equipment, exhibit storage facilities and other Transit Police facilities to the IIO upon request, provided such rooms and equipment are available.
 - (1) The Transit Police will request JPD assistance where necessary to fulfill IIO requests.

Concurrent Investigations by the Transit Police

36. In the event that the Transit Police is conducting its own Concurrent Investigation after a Critical Incident (e.g., criminal investigation into the actions of a suspect arising out of the Critical Incident, internal disciplinary investigation, PSU investigation or any other internal review of Members' actions) the following procedures will apply:
 - (1) The Liaison Officer will notify the IIO Investigator immediately of any Concurrent Investigation and provide the IIO Investigator with the contact information of the Primary Investigator and/or Team Commander²⁹ conducting the Concurrent Investigation; and
 - (2) The Liaison Officer, in consultation with the Primary Investigator of the Concurrent Investigation, will liaise with the IIO Investigator to determine which investigation will be given priority and which agency will control the scene and the evidence seized.
 - (3) The Liaison Officer, in consultation with the Primary Investigator of the Concurrent Investigation will liaise with the IIO to ensure that any exhibits in the custody of the IIO that are relevant to the Concurrent Investigation are preserved, as the IIO has discretion to dispose of exhibits in its custody.³⁰ This will include a mutually agreed upon determination of who will be responsible for submitting a Report to a Justice Form 5.2 for any seized items, and fulfilling the requirements pursuant to Sections 489 and 490 of the *Criminal Code* for further detention, forfeiture or return of the seized items, as required.

²⁹ Role titles per BC Provincial Policing Standards 5.2.2. "Command Triangle and Investigative Team for Major Case Management".

³⁰ IIO MOU s. 8.9.

37. If the IIO Investigator, in consultation with the Liaison Officer, determines that the Concurrent Investigation will have priority, the IIO Investigator may delegate control over the scene and evidence to the Transit Police. The Liaison Officer will ensure that such delegation is received in writing.
- (1) In such an event, the Member(s) conducting the Concurrent Investigation will take over control of the scene and the evidence; however, they will also preserve evidence that may be relevant to the IIO investigation in addition to the Concurrent Investigation and will liaise with the IIO Investigator for this purpose. This will include ensuring that a Report to a Justice Form 5.2 has been submitted for any seized items, and fulfilling the requirements pursuant to Sections 489 and 490 of the *Criminal Code* for further detention, forfeiture or return of the seized items, as required.
38. Where there is a Concurrent Investigation, the Liaison Officer, in consultation with the Primary Investigator and/or Team Commander of the Concurrent Investigation will consult with the IIO to determine the process with respect to the interview of witnesses. Where a person is a suspect in one investigation and a witness in another, there will be advance consultation between the Liaison Officer and the IIO before that person is interviewed by either.
- (1) The general principle that will apply in determining which interview should occur first is that the interview of a person in jeopardy will proceed before any interview of the same person as a witness takes place.

Involved Officers

39. Except for communication that is necessary for the purposes set out below in this section, Involved Officers are prohibited from discussing with any other Officer (directly or indirectly) their accounts or recollections of a Critical Incident under IIO investigation,³¹ until the IIO advises that its investigation is concluded.³²
- (1) Public safety and obtaining medical care for injured persons;
 - (2) Ensuring that evidence is identified and secured;
 - (3) Furtherance of a Concurrent Investigation [NOTE: *Where practicable, the Liaison Officer will consult with the IIO Investigator prior to conducting an urgent Operational Debriefing unless it must take place immediately to ensure public safety. In non-urgent circumstances, the Liaison Officer must obtain agreement of the IIO before proceeding with an Operational Debriefing prior to completion of Involved Officer interviews*];³³
 - (4) Obtaining advice from legal counsel or a TPPA representative;
 - (5) Obtaining healthcare for a Member, including care provided by a specially trained peer support officer (e.g., CISM defusing) or support from the family for a Member experiencing the effects of a traumatic event;³⁴

³¹ IIO Guidelines s. 4.1 and 4.3.

³² IIO Guidelines s. 4.4.

³³ IIO MOU s. 14.3 and 14.4.

³⁴ IIO MOU s. 14.6 sets out the IIO's commitment that the IIO will not require any notes or other documentation in relation to CISM conducted by a health care professional or trained peer support officer, nor will the IIO interview the

- (6) To assist the Liaison Officer in gathering evidence for the scene and safety report, pursuant to section 18 of this policy, to be compiled and provided to the IIO Investigator; and
 - (7) Any other purpose agreed upon by the IIO Investigator and the Liaison Officer.³⁵
40. Involved Officers will be notified as soon as practicable by the IIO Investigator whether they are a Witness Officer or a Subject Officer. This notification will be verbal, followed by written confirmation. Members will comply with the procedures that pertain to the designation assigned to them.
41. If the Member does not agree with the designation, the Member will advise the Liaison Officer. The Liaison Officer will work with the TPPA and the IIO Investigator to resolve any issues with the designation. Any disagreements or disputes regarding this designation will be referred by the Liaison Officer to the Chief Officer (or designate) if the Liaison Officer is unable to resolve them.

Witness Officers

42. A Member who has been identified as a Witness Officer has an obligation under the *Police Act* to fully cooperate with the IIO investigation. A Witness Officer also has the right to obtain advice from the TPPA.
43. Witness Officers will complete their notes, reports and data related to the incident under investigation, prior to consulting legal counsel³⁶, and submit these to the IIO Investigator prior to the end of their shift. In exceptional circumstances, the Liaison Officer will consult with the IIO Investigator and arrange an alternate timeframe for submitting the notes, reports and data.
44. If the IIO Investigator requests an interview with a Witness Officer, that Witness Officer will participate in an interview(s) on the date, time and location set by the IIO Investigator. The following also applies with respect to IIO interviews with Witness Officers:
- (1) The Witness Officer interview is to occur before the end of the Witness Officer's shift or within 24 hours of the Witness Officer being contacted by the IIO Investigator, or at any other time agreed by the IIO Investigator, and on any additional occasions as determined by the IIO Investigator.³⁷ The Liaison Officer will consult with the TPPA and the IIO Investigator to resolve any hardships that result from the interview(s) date, time, and location.
 - (2) A Witness Officer may be permitted by the IIO Investigator to have a TPPA representative or legal counsel attend the interview, unless it causes delay or otherwise compromises the conduct of the interview.³⁸

health care professional or trained peer support officer.

³⁵ IIO Guidelines 4.1.

³⁶ IIO Guidelines 7.1 and per decision in *Wood v. Schaeffer*, 2013 SCC 71.

³⁷ IIO Guidelines 8.1.

³⁸ IIO Guidelines 8.8 and 10.2.

- (3) Pre-interview disclosure of evidence to a Witness Officer will be at the sole discretion of the IIO but will generally include copies of notes and other records made contemporaneously by the Witness Officer.³⁹
45. If the IIO Investigator requests a written statement from a Witness Officer, that Witness Officer will comply within a timeframe agreed upon by the IIO Investigator and the Liaison Officer.
46. Pursuant to the IIO Guidelines Part 8, IIO interviews of Witness Officers (and Subject Officers who voluntarily participate in an interview) will be video and audio recorded at the discretion of the IIO Investigator, where practicable. The IIO will not transfer or release interview recordings to any other entity unless permitted or required to do so by law.⁴⁰
- (1) A Witness Officer who has concerns with their interview being video and/or audio recorded due to sensitivities given their role (such as an undercover operator or source handler), or for other specific reasons, will inform the Liaison Officer of their concerns.
- (2) The Liaison Officer will bring forward the Witness Officer's concerns to the attention of the IIO Investigator and request that the IIO Investigator take into account the identified concerns and/or particularly sensitive circumstances and exercise their discretion by:
- a. Conducting the interview without video and/or audio recording; or
 - b. Using digital editing to obscure the Witness Officer's face in the video recording.
47. Officers being interviewed and anyone attending the interview with them (including their TPPA representatives or their legal counsel) will not be permitted to record any part of the interview.⁴¹

Subject Officers

48. A Member who has been identified as a Subject Officer has an obligation under the *Police Act* to fully cooperate with the IIO investigation, subject to their rights under the *Canadian Charter of Rights and Freedoms*.
49. Subject Officers will submit to the IIO Investigator copies of any notes, reports, data or any other relevant information that records statements made to the Subject Officer by any witness⁴² to the incident prior to consulting legal counsel and prior to the end of their shift.⁴³ In exceptional circumstances, the Liaison Officer will consult with the IIO Investigator and arrange an alternate timeframe for submitting the notes and reports.
50. Subject Officers may voluntarily submit or make available to IIO investigators copies of their notes, reports and data⁴⁴; and Subject Officers may voluntarily participate in an interview with IIO investigators.⁴⁵

³⁹ IIO Guidelines 8.9.

⁴⁰ IIO Guidelines 8.7.

⁴¹ IIO Guidelines 8.10.

⁴² IIO Guidelines 7.4.

⁴³ IIO Guidelines 7.1.

⁴⁴ IIO Guidelines 7.3.

⁴⁵ IIO Guidelines 8.11.

Media Relations regarding IIO Investigations

51. In order to provide timely information to the public about an incident involving a Member, for which the IIO has been notified:
- (1) Transit Police may advise the media of the following limited information about the incident, while taking care not to represent as fact any information that has not been verified through investigation, or to release any information that may prejudice an investigation, including an IIO investigation:
 - a. That an incident has occurred;
 - b. The general nature and context of that call;
 - c. That the IIO has been notified of the incident and the reason for the IIO referral; and
 - d. With respect to the welfare of Involved Officers.⁴⁶
 - (2) The Transit Police Media Relations Officer will consult with the Liaison Officer prior to a media release or statement under subsection (1) above.
52. With the exception of the limited initial information that may be released by Transit Police as set out in s. 51 of this policy, thereafter, only the IIO may issue media statements or comment publicly regarding the IIO investigation related to the incident.
53. In the event that the Transit Police is conducting a Concurrent Investigation, the following steps will be followed prior to making any media statements concerning the Concurrent Investigation:
- (1) The Liaison Officer will give the IIO reasonable advance notice to review any proposed media statement in order to ensure that the Transit Police media statement will not inadvertently jeopardize the IIO investigation.
 - (2) Any IIO concerns regarding the proposed media statement will be considered and respected by Transit Police, prior to releasing the media statement.⁴⁷
54. The Liaison Officer will advise the IIO of any key fact (holdback) evidence relating to a Concurrent Investigation, if relevant to the investigation being conducted by the IIO, and document the name and contact information of the notified IIO Investigator.⁴⁸
55. Transit Police will continue to adhere to the media protocols with its JPD partners.

[Refer to [Transit Police Policy OM010 – Media Relations](#)]

Next-of-Kin and Coroner Notification

56. In an IIO investigation where a death has occurred, the IIO is responsible for notifying the Next-of-Kin (“NOK”) of the deceased. However, when an IIO Investigator is unable to perform an NOK notification, the IIO may request the Transit Police to complete the notification.

⁴⁶ IIO MOU s. 3.2.

⁴⁷ IIO MOU s. 3.5.

⁴⁸ IIO MOU s. 3.4.

57. In consideration of the Transit Police supplemental policing role and [Transit Police Policy OB080 - Sudden Death](#), when such a request has been made by the IIO, Members will contact the JPD to transfer the NOK request.

- (1) The Transit Police will only do a NOK notification when so requested by the JPD and in accordance with Transit Police policy.

58. The Transit Police will be responsible for notifying the Coroner when a death has occurred, in accordance with [Transit Police Policy OB080 – Sudden Death](#). The Coroner must be consulted before any disturbance of the body or scene.

Providing the IIO with Access to Transit Police Records

59. As part of an IIO investigation, the IIO investigator may request information/records from Transit Police, including the following:

- (1) PRIME reports related to an incident under IIO investigation;⁴⁹
- (2) Operational records including but not limited to:
 - a. Investigative records [NOTE: *This includes Operational Debriefing records but does not include notes or documentation related to CISM defusing*];⁵⁰
 - b. Business cell phone usage records (not including any data in which a Member has a reasonable expectation of privacy);
 - c. Police vehicle data recorder downloads;
 - d. Video recordings from Transit Police vehicles and facilities;
 - e. Records of text-based communications between Involved Officers at or around the time of an incident under IIO investigation;⁵¹ and
 - f. Dispatch and communications data and recordings;
- (3) Written policies and procedures, and any other directives or regulations of Transit Police;
- (4) Training records of Officers that an IIO investigator considers are relevant to an IIO investigation; and
- (5) Records from Concurrent Investigations, where relevant to the IIO investigation.⁵²

[NOTE: *For additional guidance, refer to the IIO MOU Part 15 and IIO Guidelines Part 11 regarding IIO Access to Police Records.*]

60. If the IIO obtains a production order or other judicial order for Transit Police information/records, the Liaison Officer will ensure that the records listed in that order are collected promptly and provided to the IIO according to the terms of the order.⁵³

⁴⁹ IIO MOU s. 15.3 and IIO Guidelines s. 11.2.

⁵⁰ IIO MOU s. 14.5 and s. 14.6.

⁵¹ IIO MOU s. 8.4 and IIO Guidelines s. 3.6.

⁵² IIO MOU s. 15.1 and IIO Guidelines s. 11.1.

⁵³ IIO MOU s. 8.4 and IIO Guidelines s. 3.6.

61. If the IIO requires any Transit Police information/records, and does not obtain a judicial authorization, the IIO may make a request in writing directly to the Liaison Officer.
62. Upon receipt of an IIO request for Transit Police information/records, the Liaison Officer will consult with the Deputy Chief Officer Operations or designate, and/or Transit Police Senior Legal Counsel to ensure that the information/records are redacted or not disclosed if any of the following conditions apply:
- (1) The information/records are subject to a claim of an applicable legal privilege (including but not limited to solicitor-client privilege, confidential informant privilege, or litigation privilege) or contain constitutionally protected material (e.g., statements from a Subject Officer included in scene reports, General Occurrence Reports, Use of Force Reports, etc.);
 - (2) Disclosure would violate a statute or constitute an offence; or
 - (3) Disclosure could reasonably be expected to do any of the other things described in subsection 15(1) of FOIPPA.⁵⁴
63. When required to provide the IIO with access to PRIME reports, the Liaison Officer will review the requested PRIME reports to identify any constitutionally protected material (such as a statement made by a Subject Officer) in the reports, and if any such material of concern is identified, the Liaison Officer will notify the IIO Chief of Investigations (not the assigned IIO investigator) and request to resolve these concerns by:⁵⁵
- (1) Obtaining permission from the IIO Chief of Investigations to redact the material of concern before providing the reports to the IIO investigative team; or
 - (2) Obtaining written confirmation from the IIO Chief of Investigations that the material of concern will be redacted from the PRIME reports by the IIO Chief of Investigations before the reports are provided to the IIO investigative team.
64. The Liaison Officer will coordinate with the Transit Police FOI Section to record and track IIO requests for information received from the IIO and responded to by Transit Police.

Key References

BC *Police Act* [RSBC 1996, Chapter 367]

BC Provincial Policing Standards

[Independent Investigations Office Policy 5015 “Medical Incident Notification” \[December 2, 2016\]](#)

[Memorandum of Understanding Respecting Investigations between Independent Investigation Office of BC \(IIO\) and Jurisdictional Police \[August 31, 2020\]](#)

[Guidelines and Expectations with Respect to the Conduct of IIO Investigations \[September 10, 2020\]](#)

[Memorandum of Understanding between Transit Police and Jurisdictional Police \[2020\]](#)

[Transit Police Policy OB080 – Sudden Death](#)

[Transit Police Policy OM010 – Media Relations](#)

⁵⁴ IIO MOU s. 15.4 and IIO Guidelines s. 11.3.

⁵⁵ IIO MOU s. 15.3 and IIO Guidelines s. 11.2