



## TRANSIT POLICE

# INTERNAL DISCIPLINE RULES

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Office of Primary Responsibility: Deputy Chief Officer - Administrative Services

## POLICY

The Transit Police has established rules and procedures regarding the determination of and notification to the Office of the Police Complaint Commissioner (“OPCC”) of internal disciplinary matters and their subsequent processing and investigation. This policy ensures that the Transit Police complies with requirements of the *Police Act* and the OPCC.

[See also Transit Police policy [AC140 – Complaints](#)]

## Definitions

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

Discipline – Includes, but is not restricted to, those provisions as set out in s. 126 of the *Police Act* and the *Designated Policing and Law Enforcement Units Complaints Regulation*, B.C. Reg. 230/2022, including revocation of appointment.

Employer – TransLink Security Management Limited, a subsidiary of the South Coast British Columbia Transportation Authority.

Internal Discipline Authority – Means:

1. In relation to an internal discipline matter concerning the conduct or deportment of a Member who is a Designated Constable or Designated Law Enforcement Officer, the Chief Officer or a delegate of the Chief Officer if the Chief Officer makes such delegation pursuant to s. 176 of the *Police Act*; and
2. in relation to an internal discipline matter concerning the conduct or deportment of a Member who is the Chief Officer or a Deputy Chief Officer, the Chair of the Police Board.

Internal Discipline Matter – A matter concerning the conduct or deportment of a Member that is not the subject of an admissible complaint or an investigation under Division 3 [Process Respecting Alleged Misconduct] of the *Police Act*; and does not directly involve or affect the public.

Member – Designated Constables (all ranks), Deputy Chief Officers, the Chief Officer and Designated Law Enforcement Officers of the Transit Police.

OPCC – Office of the Police Complaint Commissioner.

Police Act – The BC *Police Act* [RSBC 1996], c. 367, and the regulations thereto, including the *Designated Policing and Law Enforcement Units Complaints Regulation*, B.C. Reg. 230/2022, as amended from time to time.

Police Board – The South Coast British Columbia Transportation Authority Police Service Designated Policing Unit Board. For the purpose of this policy, also to mean the South Coast British Columbia Transportation Authority Police Service Designated Law Enforcement Unit Board in relation to Members who are Designated Law Enforcement Officers.

Transit Police – The South Coast British Columbia Transportation Authority Police Service (Designated Policing Unit and Designated Law Enforcement Unit).

### **Authority**

1. The Police Board is responsible for the appointment of persons considered suitable as Members. The Police Board may revoke such appointments, suspend such appointments, attach conditions to such appointments, as well as make decisions as concerning the discontinuance of pay and allowances of Members (pursuant to the *Designated Policing and Law Enforcement Units Complaints Regulation*).
2. Transit Police Internal Discipline Rules comply with the *Police Act* and, in the event of any inconsistency between these rules and the *Police Act*, the *Police Act* will govern.

### **General**

3. Transit Police Internal Discipline Rules apply to Internal Discipline Matters as per sections 76(1) and 174 to 176 of the *Police Act*. These rules also apply to matters of discipline, suitability and competence which are brought to the attention of the Internal Discipline Authority in the absence of a specific complaint.
4. Transit Police Internal Discipline Rules are not applicable to routine matters of employer/employee relations including, but not limited to, the documentation of performance issues.

### **PROCEDURES**

5. If a matter comes to the attention of the Internal Discipline Authority that may fall within the definition of an Internal Discipline Matter, the Internal Discipline Authority will presumptively deal with the matter as a disciplinary breach of trust, and notify and seek direction from the OPCC in relation to the matter. If the Internal Discipline Authority believes that the matter is an Internal Discipline Matter, the Internal Discipline Authority will request the OPCC's permission that the matter be handled as such.
6. Assuming that the OPCC agrees that the matter be handled as an Internal Discipline Matter under Part 11, Division 6 of the *Police Act*, the Internal Discipline Authority will order an investigation be undertaken into the matter.

### Internal Discipline Investigation

7. If the Internal Discipline Authority considers that the matter to be investigated is of a minor nature, the Internal Discipline Authority may assign the Member's supervisor to conduct the investigation. In all other cases, the Internal Discipline Authority will assign an investigator, with the appropriate knowledge, skills and abilities for the specific matter, who is:
  - (1) Equal to or higher in rank than the Member and a person not involved in the matter being investigated; or
  - (2) A civilian (internal or external to the Transit Police) and not a person involved in the matter being investigated.

The Internal Discipline Authority may assign an investigator from another police force.

8. The investigator will advise the Member in writing that an investigation has been commenced unless the Internal Discipline Authority determines that notice may hinder the investigation.
9. Once notice is provided, a Member who is covered by a collective agreement may request that a union representative be present at interview(s) with the Member during the investigative process.
10. The investigator must provide the Member with a reasonable opportunity to respond to the allegation(s) prior to the completion of the investigation.
11. Upon completion of the investigation, the investigator will provide an investigation report to the Internal Discipline Authority which may include recommendations concerning corrective, disciplinary measures or other actions to be taken by the Internal Discipline Authority.
12. The investigator will also be required to comply with any reporting expectations issued within Information Bulletins from the OPCC.

### Discipline Authority Actions

13. After the Internal Discipline Authority has determined that the investigation report is complete, the Internal Discipline Authority will make a copy of the investigation report available to the Member. Portions of the investigation report may be redacted as permissible and required under the *Freedom of Information and Protection of Privacy Act* ("FOIPPA").
14. If the Internal Discipline Authority is considering imposing corrective, disciplinary measures or other action in relation to the Member, the Internal Discipline Authority will provide the Member with a reasonable opportunity to respond to the information and recommendations made in the investigation report.
15. After reviewing the completed investigation report and any response provided by the Member, the Internal Discipline Authority will determine whether corrective and/or

disciplinary measures should be imposed and what other decisions, if any, will be made concerning the Member.

### **Application of the Freedom of Information and Protection of Privacy Act to Internal Discipline Matters**

16. All Internal Discipline Matters are initiated, investigated and concluded pursuant to Part 11, Division 6, of the *Police Act*. Accordingly, s. 182 of the *Police Act* applies to all related information.

### **Collective Agreement**

17. The following provisions, ss. 18 to 23, apply to Members who are covered by a collective agreement.
18. If the Member is covered by a collective agreement, the provisions of the collective agreement will apply to that Member, but only to the extent such provisions do not conflict with the *Police Act*.
19. The Transit Police internal discipline process will be governed by the *Police Act*, the collective agreement, the provisions of the *Labour Relations Code* of British Columbia and the jurisprudence thereunder, and the principles expressed and implied in arbitral case law in the Province of British Columbia.
20. Suspensions during the course of an investigation:
  - (1) If, during the investigation of a matter, the Internal Discipline Authority forms the opinion that the Member's appointment may be revoked, the Internal Discipline Authority may suspend the Member;
  - (2) The Internal Discipline Authority will determine whether the suspension will be with or without pay; and
  - (3) The Internal Discipline Authority may terminate the suspension at any time.
21. The Internal Discipline Authority will notify the union representing the Member that one of their Members has been disciplined or a change in the Member's appointment status has been implemented under these rules.

### **Grievances re Members Covered by a Collective Agreement**

22. The union representing a Member controls the filing and conduct of the grievance and arbitration process pursuant to the relevant collective agreement insofar as the grievor is concerned.
23. The appeal of any arbitration will be governed by the appropriate provisions of the *Labour Relations Code*.

**McNeil Consideration**

24. If discipline is imposed on the Member as a result of the Internal Discipline Matter, Members will refer to Transit Police policy chapter AC200 – McNeil and comply with applicable disclosure requirements within the policy [pursuant to *R. v. McNeil* (“McNeil”)].

**Service Record of Discipline**

25. After a finding of misconduct in an Internal Discipline Matter, the Transit Police will follow Transit Police policy chapter AC110 – Service Record of Discipline regarding creating of a record of any discipline and or corrective measures imposed on the Member, and any expungement provisions applicable to the record.

**Guidelines**

26. The Chief Officer may establish Transit Police business guidelines to assist in staff understanding and implementing these Transit Police Internal Discipline Rules.

**Key References:**

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

Collective Agreement

*Designated Policing and Law Enforcement Units Complaints Regulation*, B.C. Reg. 230/2022

*Labour Relations Code* of British Columbia

Office of the Police Complaint Commissioner Information Bulletin #12 – Amended, July 6, 2016

*West Vancouver Police Department v. British Columbia (Information and Privacy Commissioner)*, 2016 BCSC 934