



PUBLIC

To: South Coast British Columbia Transportation Authority Police Service Designated Policing Unit Board ("Police Board")

From: Taryn Barton, Police Board Secretary
South Coast British Columbia Transportation Authority Police Service Designated Policing Unit ("Transit Police")

Date: January 24, 2024

Subject: Service or Policy Complaint Process [Police Board Report No. 2024-11]

INFORMATION REPORT

PURPOSE

To inform the Police Board about the Service or Policy Complaint process as outlined in the Police Board Governance Manual as well as provide some preliminary information to assist the Police Board with context related to the complaint.

BACKGROUND

Process

With the receipt of a new Service or Policy Complaint (OPCC File NO. 2023-25128), this report provides the Police Board with the Police Board's Complaint Policy process contained in Section E8 of the Governance Manual (see attached [Appendix "A"](#)).

Pursuant to Section 171(1) of the *Police Act*, the Police Board is required to address promptly the service or policy complaint by doing one or more of the following:

- a. Request that the Chief Officer investigate and report on the complaint;
- b. Initiate a study concerning the complaint;
- c. Initiate an investigation into the complaint;
- d. Dismiss the complaint with reasons;
- e. Take any other action that the Board considers necessary to respond adequately to the complaint.



Nature of Complaint and Preliminary Information

In an effort to assist the Police Board with context related to this particular Service or Policy Complaint, the following preliminary information has been provided to the Police Board Chair from Transit Police's Senior Legal Counsel and is being shared with the Police Board:

- The complaint, dated December 24, 2023, involves:
 - (1) the legal question of whether Transit Police Officers have the authority to enforce Section 79 of the *Motor Vehicle Act* ("MVA") given the language of that section; and
 - (2) whether Transit Police Officers could exercise such authority outside of their primary jurisdiction, the "Transportation Service Region."
- Section 79 of the *MVA* involves the power of police to arrest a driver, including when the vehicle is uninsured or the driver is prohibited from driving. The complainant has NOT been the subject of enforcement under Section 79 of the *MVA* by Transit Police Officers;
- Transit Police earlier (December 19, 2023) received the same query from the Police Services Branch of the Ministry of the Solicitor General and Public Safety regarding Transit Police Officers' authority to enforce Section 79 of the *MVA*;
- Transit Police Officers do have the authority to enforce Section 79 of the *MVA*. This authority resides in the statutory language of the *Police Act* of BC, Sections 4.1 and 5;
- With respect to geographical jurisdiction, Transit Police Officers are authorized to exercise their police powers outside the Transportation Service Region in exigent circumstances, which would apply in the enforcement of Section 79 of the *MVA*. This was communicated by Transit Police's Senior Legal Counsel to the Police Services Branch and no further information has been requested.

E8: COMPLAINTS

Service and Policy Complaints

In accordance with Part 11: Division 5 of the *Police Act*, the Police Board is responsible for taking action to respond to complaints about the services or policies of the Metro Vancouver Transit Police (“Transit Police”). Pursuant to s. 168(1) of the *Police Act*, service or policy complaints are complaints made about:

- a. The general direction, management, or operation of the Transit Police; or
- b. About the inadequacy or inappropriateness of Transit Police’s:
 - Staffing or resource allocation;
 - Training programs or resources;
 - Standing orders of policies;
 - Ability to respond to requests for assistance; or
 - Internal procedures.

Service or policy complaints may be made at any time directly to the Police Complaint Commissioner (“PCC”) (or any person designated by the Commissioner), to the Police Board Chair, or to any Transit Police Officer on duty who is assigned to receive and register such complaints.

The Police Board is required to address promptly the service or policy complaint by doing one or more of the following (per s. 171(1) of the *Police Act*):

- a. Request that the Chief Officer investigate and report on the complaint;
- b. Initiative a study concerning the complaint;
- c. Initiate an investigation into the complaint;
- d. Dismiss the complaint with reasons;
- e. Take any other action that the Board considers necessary to respond adequately to the complaint.

Pursuant to BC Provincial Policing Standard 6.1.1(21), the Police Board is required to give consideration of whether the complaint includes allegations of discriminatory policies or practices when determining which course of action is appropriate under s. 171(1), including at a minimum whether to refer the matter to the Chief Officer (section “a” above) for investigation or for a study or investigation to be initiated (section “b” or “c” above).

If the Police Board does initiate a study or investigation, it will consider and determine whether it has the expertise and resources to conduct the same or to seek professional assistance from within the Transit Police or through resources independent of the Transit Police. Whenever independent professional assistance is required, the Police Board will ensure that it is formally regulated (e.g., through a services contract and accounts for any assistance possible required by the Transit Police, review and control of working and final records, contract monitoring, and other contract risk considerations).

Further, in determining whether to request the Chief Officer to investigate and report on a matter, or in determining the scope of any Transit Police assistance needed in relation to a Police Board initiated study, investigation or other course of action, the Police Board will consider whether a conflict of interest or perceived conflict of interest may exist. In seeking to make such an assessment, the Police Board may wish to obtain external assessment of advice.

Once the Police Board has determined the course of action to be taken, it is required within 20 business days (per s. 171(3) of the *Police Act*) to send acknowledgement correspondence to the complainant, the Director Police Services and the PCC outlining that course of action. *[NOTE: The Police Board may also be required to provide the PCC with a status report(s) regarding the progress of an investigation or a study concerning the service or policy complaint, and the PCC must forward a copy of any received status reports to the person who made the complaint.]*

The Police Board may choose to appoint a Service and Complaint Committee or ad hoc committee, assign a standing committee (i.e. Governance Committee), or have the Police Board as a whole review the complaint and determine the course of action, as well as monitor the status of the course of action. Where a Service and Policy Committee, ad hoc committee or standing

committee is appointed, they will provide recommendation(s) to the Police Board on the course of action to be taken as well as provide updates. Following Police Board subsequent receipt of information and recommendations arising from the course of action, and their determination on the matter, an explanation of the Police Board's actions taken and if applicable, a detailed summary of any investigation or study undertaken, will be sent to the complainant, the Director of Police Services and the PCC. *[NOTE: An appointed committee described above does not have the authority to determine whether or not sufficient action has been taken in order to conclude the service and policy complaint. Such complaints will only be concluded via a Police Board resolution, as determined by the Police Board as a whole.]*

The Police Board will make public its concluding decision, with the exception of matters covered by s. 69 of the *Police Act*, privileged legal counsel, or relevant sections of the *Freedom of Information and Protection of Privacy Act*.

The Police Board will maintain a record of all received service and policy complaints, and ensure that such records and associated documentation is securely retained, consistent with the *Police Act* and *Freedom of Information and Protection of Privacy Act*.

Conduct Complaints against the Chief Officer or the Deputy Chief Officer

Pursuant to Article 4(2) of the Metro Vancouver Transit Police *Operations Regulation*, the Discipline Authority in relation to the Chief Officer and the Deputy Chief Officer is the Police Board or a panel of one or members of the Police designated by the board for that purpose.

The Police Board's processing of a registered public trust or internal discipline complaint against the Chief Officer or Deputy Chief Officer, and issuance of any disciplinary or corrective measures, shall be in accordance with Part 11 of the *Police Act* and the Metro Vancouver Transit Police *Operations Regulation* and the Metro Vancouver Transit Police Policy Manual

Conduct Complaints against other members of the Metro Vancouver Transit Police

While the Police Board receives quarterly reports on the conduct complaints made against members of the Metro Vancouver Transit Police, other than the Chief Officer or a Deputy Chief Officer, the Police Board has no authority over such complaints.