
To: All Municipal Police Chief Constables
Chief Officer – Metro Vancouver Transit Police (MVTP)
Chief Officer – Stl’atl’imx Tribal Police Service
Chief Officer – Combined Special Enforcement Units (CFSEU-BC) / Organized
Crime Agency (OCA-BC)

And to: All Professional Standards Officers
All BC Municipal Police Boards

From: Police Complaint Commissioner

Date: September 9, 2019 (Reissued March 2023) – **Revised: January 15, 2024**

Re: **Guideline on Service or Policy Complaints (Division 5 of the *Police Act*)**

PURPOSE

This Guideline confirms the processes relating to receiving and handling service or policy complaints. Section 177(2)(a) of the *Police Act* provides the Police Complaint Commissioner with the authority to create binding statutory guidelines to be followed by those receiving and handling service or policy complaints. This statutory Guideline is intended to provide guidance to police departments and police boards with respect to the processing of service or policy complaints pursuant to Division 5 of the *Police Act*.

RELEVANT LEGISLATION

This Guideline has been developed in accordance with existing relevant legislation and best practices. Part 11, Division 5 of the *Police Act* sets out the provisions regarding service or policy complaints, and section 28 establishes responsibilities for municipal police boards. Specifically, the process described aligns with sections 168, 169, 171, 172, and 173 of the *Police Act*.

In addition to the above noted sections of the *Police Act*, section 177 grants additional responsibilities and powers to the Police Complaint Commissioner, including the discretion to make recommendations:

- to police boards to examine and reconsider any policies or procedures that may have been a factor in conduct that was a subject of a complaint or investigation under Part 11, and

- that the Director of Police Services exercise one or more functions in relation to a service or policy complaint, pursuant to sections 40, 42 or 44 of the *Police Act*.

ROLE OF POLICE BOARDS - Part 11, *Police Act*

While the general roles and responsibilities of police boards are outlined in Part 5 of the *Police Act*, police boards also have statutory responsibilities pursuant to Part 11 of the *Police Act*. These responsibilities include the receiving and handling of service or policy complaints pursuant to Division 5 of the *Police Act*, and the chair of the board's responsibility of sitting as a Discipline Authority in relation to investigations initiated pursuant to Division 3 or 6 of the *Police Act* involving the Chief or Deputy Chief. Furthermore, police boards have a general responsibility to prevent neglect and abuse by its municipal constables pursuant to section 28 of the *Police Act*.

Service or policy complaints can serve as an opportunity for the police board to examine systemic or organizational concerns from the public in a manner that is transparent and affords discussion on issues that may impact public confidence in policing. As service or policy complaints can often intersect with complex social-policy matters, police boards may wish to seek external expertise when needed. The OPCC reviews all service or policy complaints and may make recommendations directly to police boards on matters of policy and procedure, aimed at preventing misconduct. The OPCC publishes an annual report that includes all recommendations made and any responses from police boards.

The OPCC has a general responsibility to inform, advise, and assist parties under the *Police Act*, and this includes police boards. The OPCC can be contacted directly by the board to answer general questions, procedural questions as it relates to service or policy complaints, or to seek clarity about recommendations.

This Guideline is intended to support police departments and police boards in managing their responsibilities, while efficiently processing service or policy complaints as outlined in Division 5 of the *Police Act*.

PROCESS - RECEIVING SERVICE OR POLICY COMPLAINTS

Pursuant to section 168(1) of the *Police Act*, any person may make a service or policy complaint about:

- The general direction and management or operation of a municipal police department¹,
or
- The inadequacy or inappropriateness of any of the following relating to a municipal police department:
 - Staffing;
 - Resource allocation;

¹ Please note, the definition of "municipal police department" within the *Police Act* extends to all agencies with members who fall under OPCC jurisdiction.

- Training programs or resources;
- Standing orders or policies;
- Ability to respond to requests for assistance; or
- Internal procedures.

Pursuant to section 168(2) of the *Police Act*, a service or policy complaint may be made directly to the Police Complaint Commissioner, or directly to a member of a municipal police department who has been assigned to receive and register complaints, a designated individual pursuant to section 168(2)(b)(ii) of the *Police Act*, or the chair of a municipal police board.

Complaint received directly by the Office of the Police Complaint Commissioner (OPCC)

If the OPCC receives a service or policy complaint, that complaint will be forwarded to both the relevant chief constable and police board for processing. The Police Complaint Commissioner does not have the discretion to determine the admissibility of that complaint or assess its merits. The OPCC will review the complaint to ensure it meets the *prima facie* criteria of a service or policy complaint as defined in the *Police Act*.

Upon receipt, if it is unclear whether a complaint is intended as a service or policy complaint or a complaint about the conduct of a municipal police member², the OPCC will contact the person who made the complaint to seek clarification. If necessary, the OPCC may also provide necessary information and/or assistance.

Complaint received directly by an assigned member, designated individual, or chair of a police board

Section 169 outlines the responsibilities of police boards in receiving a complaint. Assigned members, designated individuals, or chairs of police boards that receive service or policy complaints must do the following:

- Record the complaint and the date and time of its receipt,
- Provide the person making the complaint with written acknowledgment of its receipt, and
- Forward a copy of the complaint, or, if the complaint was not made in writing, a copy of the record of complaint to:
 - the Chief Constable of the municipal police department concerned,
 - the board of that municipal police department, and
 - the Police Complaint Commissioner.

In addition, boards must provide the person making the complaint with any required assistance. Implementing processes that effectively reduce or eliminate barriers to participation helps promote equitable access to the complaints process for all individuals, regardless of language, disability, culture, mental health, or other complex social factors. This assistance also

² Please note, pursuant to Part 11 of the *Police Act*, the definition of “member” extends to all current and former members who, at the time of the conduct of concern, were members of a police agency that falls under OPCC jurisdiction.

includes ensuring the person who made the complaint can make an informed decision about whether to file a service or policy complaint or a registered complaint, pursuant to Divisions 3 and 5 of the *Police Act*.

Please refer to OPCC *Information Bulletin 13 – Receiving & Handling of Complaints & Questions/Concerns*, which provides additional advice regarding general principles for accessibility to the complaint process as it relates to receiving and handling complaints.

The record of the complaint is to be completed and forwarded using the OPCC *Complaint Form*³.

PROCESS – RESPONDING TO SERVICE OR POLICY COMPLAINTS

Pursuant to section 171 of the *Police Act*, police boards must respond to all service or policy complaints received. Upon receipt of a service or policy complaint, the police board must **promptly** do one or more of the options set out in section 171(1) of the *Police Act*.

Within **20 business days** of initiating a chosen response(s), the board must communicate this course of action to the person making the complaint, the Director of Police Services, and the Police Complaint Commissioner. Of note, this initial communication does not limit the board's ability to initiate any alternative course(s) of action at a later date.

If the board does not choose to initiate an investigation into a service and policy complaint pursuant to section 171(1)(c) of the *Police Act*, the Police Complaint Commissioner may recommend the board initiate an investigation pursuant to section 171(2) of the *Police Act*.

The board's response to a service or policy complaint is not intended to replicate or supplant investigations involving individual police misconduct that may be investigated pursuant to Division 3 or 6 of the *Police Act*. The scope of any investigation or study should be limited to the service or policy issue contained in the complaint. Additional guidance regarding the actions a board may take respecting service or policy complaints, as articulated in section 171(1)(a)-(e) of the *Police Act*, is as follows:

Section 171(1)(a) – Request a Chief Constable to investigate and report on the complaint

- The board can refer the complaint to the relevant municipal police department for investigation.

Section 171(1)(b)-(c) – Initiate a study or investigation concerning the complaint

- The board can seek the services of an independent contractor to complete this study or investigation.

³ The OPCC *Complaint Form* can be filled out and submitted [online](#), and a [PDF version](#) can also be forwarded via email to info@opcc.bc.ca.

Section 171(1)(d) – Dismiss the complaint with reasons

- If the board determines no other action is required to address the complaint, the board can dismiss the complaint; reasons for this decision must be provided.
- A complaint should not be categorized as “dismissed with reasons” if the board has undertaken an action to respond to the complaint.
 - *E.g., if the board refers the complaint back to the municipal police department for review, assessment or investigation so that it may report back to the board, the complaint should be categorized pursuant to section 171(1)(a) of the Police Act.*

Section 171(1)(e) – Take any other course of action the board considers necessary to respond adequately to the complaint

- The board’s response to a service or policy complaint is not confined to requesting the municipal police department initiate an investigation or study; the board may decide on any other course of action that would adequately respond to the complaint.

The OPCC notes that boards and committees have a responsibility to keep minutes of meetings, hearings and records of inquiries pursuant to section 71 of the *Police Act*, and that pursuant to section 69, the meetings and hearings of the board or committee must be open to the public, unless specific exemptions apply. For clarity, this requirement is inclusive of all meetings and discussions concerning service or policy complaints held by the board or any committee of the board.

PROCESS – CONCLUDING SERVICE OR POLICY COMPLAINTS

To maintain public trust in the administration of the police complaint process, it is important for responses to service or policy complaints to be completed in a timely manner. The OPCC may contact the board requesting status updates respecting outstanding responses to service or policy complaints or recommendations made by the OPCC.

To conclude a service or policy complaint, pursuant to section 172(1) of the *Police Act*, the police board must send a decision to the person who made the complaint, the Director of Police Services, and the Police Complaint Commissioner. This decision includes:

- an explanation for the board’s action(s) under section 171 of the Act, and
- if applicable, a detailed summary of the results of any investigation or study undertaken.

The board’s decision should thoroughly describe the action(s) undertaken, the results, and what, if any, changes are being made to staffing, resource allocation, training, policies or procedures as a result. If the board determines that no changes are necessary after an investigation, study or report, a detailed explanation should also be provided.

Upon receipt of the board’s decision, if dissatisfied with the board’s actions or results, the person who made the complaint has **20 business days** to request a review by the Police

Complaint Commissioner. It is therefore important for the board to confirm the person who made the complaint received its decision.

Whether or not a request for review is received, the Police Complaint Commissioner has **40 business days** to review the board's decision and may exercise one of the authorities granted by section 173(1) of the *Police Act*. Any recommendations that the Police Complaint Commissioner makes to the board or the director must be published in the OPCC's annual report. The Police Complaint Commissioner may also comment on the responses received from the board.

Original Signed By:

Police Complaint Commissioner