

	Abbotsford Police Department Policy and Procedure	
	Administration	Conduct
	I.C.100	Public Trust Complaints, Ordered Investigations, and Internal Discipline Investigations – Municipal Constables and Special Municipal Constables

PREAMBLE

The Office of the Police Complaint Commissioner (“OPCC”) is generally responsible for overseeing Misconduct Complaints and Ordered Investigations, and for monitoring Internal Discipline investigations and the administration of discipline as it relates to the actions of municipal constables and special municipal constables in British Columbia.

PURPOSE

- (1) To document the required actions of the Abbotsford Police Department (“AbbyPD”) regarding the investigation and resolution of complaints made against Members, allegations of Member Misconduct, and Internal Discipline Matters.
- (2) To comply with s.175 of the *Police Act*, requiring the establishment of procedures to deal with Internal Discipline Matters and taking disciplinary or corrective measure in respect of them.

DEFINITIONS

- (3) **Complaint of Alleged Misconduct (“Complaint”)** – a complaint of alleged Misconduct deemed to be admissible by the OPCC.
- (4) **DA** – has the same meaning as “discipline authority” in s.76(1) of Part 11 Division 1 of the *Police Act*.
- (5) **Internal DA** – has the same meaning as “internal discipline authority” in s.174 of Part 11 Division 6 of the *Police Act*.

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- (6) **Internal Discipline Matter** – a matter concerning the conduct or department of a Member that:
- (a) is not the subject of a Complaint or an Ordered Investigation under Part 11 Division 3 of the *Police Act [Process Respecting Alleged Misconduct]*; and
 - (b) does not directly involve or affect the public; but
 - (c) which may result in discipline being imposed on the Member.
- (7) **Member** - for the purposes of this policy and procedure, an AbbyPD employee, volunteer or contractor with municipal constable or special municipal constable status.
- (8) **Misconduct** – has the same meaning as “misconduct” as defined in s. 77 of the *Police Act*.
- (9) **Ordered Investigation** – a formal investigation ordered by the OPCC into the conduct of a Member:
- (a) who, at the time of the conduct was a Member of a municipal police department; and
 - (b) that would, if substantiated, constitute Misconduct.
- (10) **Respondent Member** - for the purposes of this policy and procedure, a Member who is the subject of a Complaint, a Misconduct matter or an Internal Discipline Matter.

POLICY

- (11) All complaints and investigations concerning the conduct of Members will be handled in a manner which ensures the integrity of the AbbyPD. They will be conducted in compliance with all relevant legislation¹ and the terms of collective agreements, as applicable.

PROCEDURE

- (12) Supervisors are empowered to manage performance management issues of subordinates. A supervisor who believes that a member has committed an act

¹ Continuation of Policing Standards D6.1.1 and D6.1.2

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that may constitute Misconduct, and that is not a performance management issue, must notify their OIC or Director of the circumstances.

- (13) An OIC or Director who believes that a Member may have committed Misconduct, that is not a performance management issue, and who believes that an investigation must be commenced, must advise the AbbyPD's Professional Standards Section (PSS). PSS will ensure that the OPCC is notified of the circumstances.
- (14) Generally, Misconduct and Internal Discipline Matter investigations are conducted by PSS, Human Resources ("HR"), or another investigator internal to AbbyPD. In some cases, the AbbyPD may request, or the OPCC may direct, that another police department or other external investigator conduct an investigation. AbbyPD PSS will assist external investigators as required.
- (15) If the DA or the Internal DA (as applicable) determines that discipline is an appropriate outcome to a Misconduct or Internal Discipline Matter investigation, disciplinary measures available include:
- Advice as to future conduct
 - Verbal reprimand
 - Written reprimand
 - Require participation in a specified program or activity
 - Undertake counselling or treatment
 - Undertake training or re-training
 - Work under close supervision
 - Transfer/reassignment
 - Suspension without pay (up to 30 days)
 - Reduction in rank
 - Dismissal
- (16) During an investigation of a matter, the Member may be reassigned or transferred, or suspended, with or without pay, pursuant to s.110 of the *Police Act* (for Misconduct investigations) or pursuant to s. 175 (6) of the *Police Act* (for Internal Discipline investigations).
- (17) Records pertaining to investigations are maintained and stored in a secure area to protect the confidentiality of all reports and documents related to the investigation.² Access is limited as noted in policy I.B.200 Employee Records.

² Continuation of Policing Standards D6.2.2

- (18) Where a member of the public wishes to file a complaint against an AbbyPD Member, the employee to whom the complaint is reported will immediately refer the complainant to an on-duty police supervisor or acting police supervisor. On-duty supervisors or acting supervisors are designated to receive and register complaints under the *Police Act*. The supervisor will accept a completed OPCC Complaint Form from the complainant, providing assistance with its completion as required. The supervisor will acknowledge receipt of the complaint on the form and will forward the form to PSS. Alternatively, Complainants may be directed to the Online Complaint Submission process on the OPCC's website at <http://www.opcc.bc.ca/make-a-complaint/> if they prefer to submit a complaint in that manner. Complainants may also be directed to PSS personnel to assist them in filing a complaint.

POLICE ACT INVESTIGATIONS

Misconduct Complaints

- (19) Misconduct Complaints (also known as "Public Trust Complaints") are complaints about a Member's conduct or actions that affect any member of the public.
- (20) When in receipt of a complaint or information regarding the deportment of a Member, PSS will assess whether the OPCC will be contacted to determine if the matter should be investigated as a Misconduct matter or as an Internal Discipline Matter. If PSS is unsure as to the correct classification of the issue, the OPCC may be consulted for guidance; the OPCC will then assess whether a complaint is admissible as a Misconduct Complaint.
- (21) Depending on the circumstances, a Misconduct Complaint may be resolved through:
- a formal investigation;
 - a complaint resolution process;
 - withdrawal of the complaint;
 - discontinuation of the complaint; or
 - mediation.

Ordered Investigations

- (22) Regardless of whether a complaint is made or registered under s.78 of the *Police Act*, the OPCC may initiate an Ordered Investigation if it becomes aware of Member conduct which, if substantiated, would constitute Misconduct.

Member Duty to Cooperate

- (23) In compliance with s. 101 of the *Police Act*, a Member must cooperate fully with an investigating officer conducting a *Police Act* investigation, including, if directed, answering questions and providing a written statement in respect of matters relevant to the investigation.
- (24) Unless the DA grants an extension under paragraph (25), the Member must comply with any request under paragraph (23) within 5 business days after it is made.
- (25) If satisfied that special circumstances exist, the DA may extend the period within which the Member must comply with a request under paragraph (23).

INTERNAL DISCIPLINE

- (26) The rules in this section do not apply to routine matters of employer-employee relations, including documentation of the performance of an employee and interviews with employees to discuss performance issues, where it is not anticipated that discipline will result.
- (27) The Internal DA has the authority to determine any Internal Discipline Matter.
- (28) All matters which may result in discipline must be documented and PSS notified. PSS will assess the nature of the Internal Discipline Matter and its potential resolution and will determine whether notification to the Internal DA and the OPCC is required. If the OPCC is advised and it concurs with the file's classification, an investigator will be assigned to the file (usually but not always a PSS investigator) and an investigation will commence.
- (a) Internal Discipline Matters related to Respectful Workplace investigations will be managed and coordinated by HR, in compliance with both this policy and procedure and policy I.B.060 Respectful Workplace.

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- (29) The investigator will advise the Respondent Member in writing that an investigation has commenced, unless the Internal DA determines that notice may hinder the investigation. Due attention must be paid to any collective agreement or employment contract.
- (30) A Member may have a trade union representative or legal counsel present during investigative interviews.
- (31) The investigator will provide a Respondent Member with a reasonable opportunity to respond to the allegation prior to the completion of the investigation.
- (32) The Member is required to obey all lawful directives to provide a statement.
- (33) At the conclusion of the investigation, the investigator will provide an Internal Investigation Report to the Internal DA, and the Internal DA will render an Internal Discipline Decision.
- (34) The Internal DA will make a summary of the Internal Investigation Report and the Internal Discipline Decision available to the Member. The Internal DA will consider the *Freedom of Information and Protection of Privacy Act* ("FOIPPA") when determining what information will be disclosed in the summary.
- (35) PSS will provide the OPCC with:
 - (b) the Internal Investigation Report prepared by the investigator;
 - (c) the final decision reached by the Internal DA, the Board or the arbitrator;
and
 - (d) any disciplinary or corrective measures imposed.
- (36) At the request of the OPCC, the Internal DA will provide any additional information or records respecting an Internal Discipline Matter that are in the possession or control of the AbbyPD, subject to any relevant privilege or non-disclosure provisions of FOIPPA.
- (37) A Member subject to a collective agreement with AbbyPD may grieve any internal discipline imposed. Grievances will be administered by HR.

SERVICE OR POLICY COMPLAINTS

- (38) Service or policy complaints are those regarding the quality of AbbyPD's service to the community or regarding its operating policies. Service or policy complaints will be handled in compliance with Part 11 Division 5 of the *Police Act* [Process Respecting Department Service and Policy Complaints]. Service or policy complaints are the responsibility of the Abbotsford Police Board.

QUESTIONS OR CONCERNS

- (39) If a member of the public has a question or concern about an AbbyPD Member's conduct but does not wish to file a registered complaint with the OPCC, they may contact AbbyPD directly. An on-duty supervisor or acting supervisor will accept questions or concerns from the public. The Member who receives the question or concern will record it on the OPCC Questions and Concerns form and forward it to PSS. Alternatively, the Member may contact PSS with details of the question or concern, and PSS will complete the form.
- (40) PSS will process questions and concerns in accordance with s.85 of the *Police Act* and OPCC Guideline: Receiving & Handling of Questions or Concerns.

COMPLAINTS MADE BY ABBYPD EMPLOYEES

- (41) Employees will file complaints regarding Members with their immediate supervisor. The immediate supervisor will refer such complaints to the Director of Human Resources ("HR Director").
- (42) Paragraph (41) notwithstanding, an employee may make a complaint of alleged police Misconduct directly to PSS or to the OPCC.
- (43) If the nature of the complaint meets or has the potential to meet the definitions of either "Internal Discipline Matter" or "Misconduct", the HR Director will immediately refer the matter to the Deputy Chief Constable Administration and to PSS for investigation and OPCC notification.
- (44) Complaints not meeting or not having the potential to meet the definitions of either "Internal Discipline Matter" or "Misconduct" (e.g. performance or interpersonal issues), will be addressed by the HR Director.

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- (45) A Member may not make a complaint under Part 11 Division 5 of the Police Act [Process Respecting Department Service and Policy Complaints] if the subject of the complaint is one to which the grievance procedure under the Member's collective agreement applies.