

Policy Name:	COMPLAINTS AND PROFESSIONAL STANDARDS		
Policy #:	AD 2.2	Last Updated:	2021-06-01
Issued By:	SUPPORT SERVICES BUREAU	Approved By:	SURREY POLICE BOARD
Administrator:		Review Frequency:	AS REQUIRED

RELATED POLICIES

OP 2.4 IIO Notification

AD 2.3 Conflict of Interest

AD 2.4 Internal Discipline

AD 2.6 Professional Deportment

AD 5.7 Human Rights and Respectful Workplace

1. PURPOSE

1.1. To ensure the Surrey Police Service (SPS) maintains public confidence and trust by upholding SPS values of integrity, honour, respect, courage, compassion, and inclusive. SPS members are committed to being honest, ethical in their decision-making, and to being held accountable for their actions. The SPS Professional Standards Section (PSS) is responsible for investigating public complaints and concerns about the actions of individual SPS members. The objective is to resolve complaints as fairly and inclusively as possible within the requirements of the *Police Act*.

2. SCOPE

2.1. All Members must comply with the requirements of Part 11 (Misconduct, Complaints, Investigations, Discipline and Proceedings) of the *Police Act*.

2.2. This policy applies to all SPS Members and civilian Employees.

3. POLICY

3.1. The public has the right to complain about the actions and conduct of SPS Members and to raise questions or concerns about police conduct.

- 3.2. The SPS will adopt a rapid response approach to promote informal resolution of matters with persons with questions or concerns and formal Complainants, where appropriate.
- 3.3. The SPS and its Members embrace the following Fundamental Principles as set out in the [British Columbia Police Code of Ethics](#):
- i. Democracy and the rule of law
 - ii. Justice and equality
 - iii. Protection of life and property
 - iv. Safeguarding the public trust
 - v. The police are the public and the public are the police
 - vi. The principles of the Constitution of Canada
 - vii. The rights enshrined in the *Canadian Charter of Rights and Freedoms*
- 3.4. Complaints received pertaining to a Member's or former Member's conduct will be processed and investigated according to the provisions of the *Police Act* and SPS policy, where applicable, provided that in the event of any inconsistency between the policies and the *Police Act*, the *Police Act* will govern.
- 3.5. Members will be held accountable for any misconduct as defined in s. 77 of the *Police Act* including, but not limited to:
- i. "abuse of authority", which is oppressive conduct towards a member of the public, including, without limitation:
 - a. intentionally or recklessly making an arrest without good and sufficient cause,
 - b. in the performance, or purported performance, of duties, intentionally or recklessly using unnecessary force on any person, or detaining or searching any person without good and sufficient cause, or
 - c. when on duty, or off duty but in uniform, using profane, abusive or insulting language to any person including, without limitation, language that tends to demean or show disrespect to the person on the basis of that person's race, colour, ancestry, place of origin, political belief, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or economic and social status.
 - ii. "accessory to Misconduct", which is knowingly being an accessory to any conduct set out in this subsection, including, without limitation, aiding, abetting, counselling or being an accessory after the fact.
 - iii. "corrupt practice", which is:
 - a. without lawful excuse, failing to make a prompt and true return of, or misappropriating, any money or property received in the performance of duties as a Member,
 - b. agreeing or allowing to be under a pecuniary or other obligation to any person in a manner that would likely be seen to affect the Member's ability to properly perform the duties of a Member,
 - c. using or attempting to use one's position as a Member for personal gain or other purposes unrelated to the proper performance of duties as a Member, or

- d. using or attempting to use any equipment or facilities of a municipal police department, or any other police force or law enforcement agency, for purposes unrelated to the performance of duties as a Member;
- iv. "damage to police property", which is:
 - a. intentionally or recklessly misusing, losing or damaging any police property, or any property that is in police custody or the care of which has been entrusted to the Member in the performance of duties as a Member, or
 - b. without lawful excuse, failing to report any loss or destruction of, or any damage to, any property referred to above, however caused.
- v. "damage to property of others", which is:
 - a. when on duty, or off duty but in uniform, intentionally or recklessly damaging any property belonging to a member of the public, or
 - b. without lawful excuse, failing to report any such damage, however caused.
- vi. "deceit", which is any of the following:
 - a. in the capacity of a Member, making or procuring the making of any oral or written statement, or any entry in an official document or record that, to the Member's knowledge, is false or misleading;
 - b. doing any of the following with an intent to deceive any person:
 - 1. destroying, mutilating or concealing all or any part of an official record;
 - 2. altering or erasing, or adding to, any entry in an official record; or
 - 3. attempting to do any of the things described above.
- vii. "discourtesy", which is failing to behave with courtesy due in the circumstances towards a member of the public in the performance of duties as a Member.
- viii. "discreditable conduct", which is, when on or off duty, conducting oneself in a manner that the Member knows, or ought to know, would be likely to bring discredit on the municipal police department, including, without limitation, doing any of the following:
 - a. acting in a disorderly manner that is prejudicial to the maintenance of discipline in the SPS;
 - b. contravening a provision of this Act or a regulation, rule or guideline made under this Act;
 - c. without lawful excuse, failing to report to a peace officer whose duty it is to receive the report, or to a Crown Counsel, any information or evidence, either for or against any prisoner or defendant, that is material to an alleged offence under an enactment of British Columbia or Canada;
 - d. "improper disclosure of information", which is intentionally or recklessly disclosing, or attempting to disclose, information that is acquired by the Member in the performance of duties as a Member, or removing or copying, or attempting to remove or copy, a record of a municipal police department or any other police force or law enforcement agency.
- ix. "improper off-duty conduct", which is, when off duty, asserting or purporting to assert authority as a Member, an officer or a Member of the Royal Canadian Mounted Police and conducting oneself in a manner that would constitute a disciplinary breach of trust if the Member were on duty as a Member.

- x. "improper use or care of firearms", which is failing to use or care for a firearm in accordance with standards or requirements established by law.
- xi. "misuse of intoxicants", which is:
 - a. owing to the effects of intoxicating liquor or any drug, or any combination of them, being unfit for duty when on duty or reporting for duty, or
 - b. without proper authority, making use of or accepting from any other person intoxicating liquor when on duty or when off duty but in uniform in a public place.
- xii. "neglect of duty", which is neglecting, without good or sufficient cause, to do any of the following:
 - a. properly account for money or property received in one's capacity as a Member;
 - b. promptly and diligently do anything that it is one's duty as a Member to do;
 - c. promptly and diligently obey a lawful order of a supervisor.

3.6. It is not a disciplinary breach of public trust for a Member to engage in conduct that is necessary in the proper performance of authorized police work.

4. PROCEDURE

4.1. Where a person contacts the SPS by any means (e.g., telephone, email, mail, in person) with a question/concern or about the filing of a complaint regarding the conduct of any Member or former Member, any civilian Employee, or the SPS, the SPS Member or civilian Employee receiving the complaint will refer the person during business hours to the Professional Standards Section (PSS).

4.2. Where a person contacts a Member regarding filing a complaint on weekends or evenings, the Member shall notify an NCO.

4.3. Sections 4.1 and 4.2 above do not prevent a Member or NCO from attempting to informally resolve the person's complaint at the time it is received. Complaints may be addressed in this first instance, however, the NCO shall document the following:

- i. Record date and time complaint received,
- ii. Obtain contact information for the Complainant and any witness information,
- iii. Details of the complaint and the Complainant's wishes, and
- iv. Confirm advice has been provided to the Complainant regarding the complaint process, including referral to the Office of the Police Complaint Commissioner (OPCC) and PSS.

4.4. If a Member or NCO is unable to informally resolve a complaint during a weekend or evening hours, the NCO will notify the Duty Officer.

4.5. All SPS staff (civilian Employees and Members) must notify a Supervisor of their knowledge of Improper Conduct or Practice and any situation that may adversely affect the reputation and public trust of the SPS.

Professional Standards / Duty Officer

4.6. When PSS or the Duty Officer receives a complaint, the person will be informed of the methods by which the complaint or concerns can be filed, including:

- i. directly to the OPCC by accessing the website at www.opcc.bc.ca, or
- ii. by calling the OPCC toll-free at 1-877-999-8707.

4.7. When receiving a complaint, PSS or the Duty Officer must comply with requirements of s. 80 of the *Police Act* (i.e., making record of complaint information and providing of assistance to Complainant).

4.8. In accordance with OPCC guidelines, PSS or the Duty Officer must tell the person that their complaint may be designated as “registered complaint” or a “question or concern” and must provide information about the differences to assist the person in making a choice, including the following:

- i. By completing the Complaint Form, the Complainant is entitled to various rights under the *Police Act*, including:
 - a. participating in a mediation session or informal resolution;
 - b. being kept informed of the progress of the investigation;
 - c. receiving a concluding report;
 - d. being given the opportunity to make a submission on what they feel are appropriate disciplinary or corrective measures; and
 - e. if not satisfied with the outcome, the ability to appeal the decision.
- ii. Pursuant to the *Police Act*, a record is to be made for both registered complaints and for reports of question/concern, and both types of submissions are reviewed by the OPCC.

4.9. Upon receipt of a registered complaint (or a potentially registered complaint determined through the question/concern process), PSS will open a file and investigate the matter in accordance with provisions of the *Police Act*. PSS will provide background information to the OPCC, as requested, to assist the OPCC in determining admissibility of a registered complaint.

4.10. The Inspector I/C PSS will tell a Member when the OPCC orders an investigation. The Employee Services Section and the Member’s managing Inspector will also receive written notification that an investigation is being conducted. PSS will explain the process to the Respondent Member and tell the Member that he/she may contact a union representative for guidance.

4.11. Peer support will be provided to those who are subject to investigation under the *Police Act*.

Duty to Cooperate

4.12. All Members shall comply with their duty to cooperate under s. 178 of the *Police Act* in the Police Complaint Commissioner’s (PCC) exercise of powers or performance of duties under the *Police Act* and/or any employee acting on behalf of the PCC.

4.13. Members must comply with direction by PSS Member(s) investigating Public Trust Complaints designated under the *Police Act*, including complying with requests under ss. 101(2) and (3) of the

Police Act. A Member must cooperate fully with an investigating Member conducting an investigation under Part 11. This includes, but not limited to:

- i. answer questions in respect of matters relevant to the investigation and attend at a place specified by the investigating Member to answer those questions;
- ii. provide the investigating Member with a written statement in respect of matters relevant to the investigation;
- iii. maintain confidentiality with respect to any aspect of an investigation.

4.14. Unless the SPS Discipline Authority grants an extension, the Member must comply with any request to provide a written statement within five (5) business days after it is made.

4.15. Surrey Police Service staff (Civilian employees and Members) must not knowingly hinder, delay, obstruct or interfere with an Investigating Member acting under Part 11 of the *Police Act* and must not, in relation to a complaint or an investigation under Part 11 of the *Police Act*, provide to the PCC or an investigating Member information that the person knows to be false or misleading.

Criminal Complaint

4.16. Criminal complaints regarding any SPS staff (Civilians or Members) will, via the chain of command, be brought to the attention of the Chief Constable. Investigations may be directed to the command of an external police force, depending on the circumstances and/or severity. The Chief Constable or designate will notify the OPCC of criminal allegations and/or charges against a Member or former Member.

4.17. The criminal investigation will take precedence over any *Police Act* investigation. In the meantime, the PSS will notify the OPCC of the matter and circumstances surrounding the charge(s) and open a PSS investigation file.

4.18. Where allegations could result in charges under the *Criminal Code*, do not attempt to informally resolve these matters.

4.19. In cases where a Member is under a criminal investigation, but charges have not been forwarded, or it has been determined that charges are not warranted, PSS will conduct a *Police Act* investigation, as directed by the OPCC.

4.20. The Chief Constable or designate must consider provisions of s. 110 of the *Police Act* concerning suspension or re-assignment of the Member when a criminal allegation or an allegation of serious Misconduct against a Member is under investigation.

Reportable Incidents

4.21. Pursuant to s. 89 of the *Police Act* and Notification Guidelines of the OPCC, the Chief Constable or designate (Duty Officer) must immediately report to the OPCC:

- i. when any person dies or suffers Serious Harm or a Reportable Injury
 - a. while in the custody or care of a Member of the municipal police department, or
 - b. as a result of the operations of that municipal police department, or
- ii. a person dies or suffers Serious Harm or a Reportable Injury and the death, Serious Harm or Reportable Injury could be seen to be the result of:

- a. the conduct of any Member of the municipal police department, or
- b. the operations of that municipal police department.
- iii. The *Police Act* defines “Reportable Injury” as: “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”.
- iv. The *Police Act* defines “Serious Harm” as: an 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.”

4.22. The SPS is not required to notify the OPCC in cases where the death or Serious Harm has occurred and the Member has acted in good faith by providing reasonable and prudent assistance to others in an emergency, so long as there has been no preceding use of force by police. Emergency situations may include assistance to persons experiencing medical distress (e.g., drug overdose or in need of resuscitation); assistance to persons experiencing emotional distress who pose a risk to their safety (e.g., suicide prevention); and assistance to persons facing physical danger or peril.

4.23. If there is uncertainty in terms of the nature or seriousness of the injury, or in terms of the causation requirement or circumstantial requirement, the SPS must notify the OPCC for direction and guidance in the matter.

4.24. In the event an injury or death occur due to the actions of a Member of another police department, but occurs in the SPS’ jurisdiction, must still be reported to the OPCC by PSS or the Duty Officer.

4.25. The OPCC may direct an investigation according to provisions of s. 134 of the *Police Act* (for Public Trust Complaints) and s. 176 of the *Police Act* (for Internal Discipline Matters). The Chief Constable may delegate Disciplinary Authority for these investigations.

4.26. Reportable injuries to a person that are attributable to the actions of SPS Members must immediately be reported to the OPCC in accordance with s. 89 of the *Police Act*.

4.27. Serious Harm to a person that is attributable to the actions of SPS Members must be immediately reported to the Independent Investigations Office (IIO). “Serious Harm” is defined as an injury that may result in death, may cause serious disfigurement, or may cause substantial loss or impairment of mobility of the body (see OP 1.3 IIO Notification).

Service or Policy Complaint

4.28. In accordance with the *Police Act* s. 168, a complaint may also be made to the PCC against the general management and direction of the SPS or the inadequacy or inappropriateness of any of the following regarding the SPS:

- i. its staffing or resource allocation;
- ii. its training programs or resources;
- iii. its standing orders or policies;
- iv. its ability to respond to requests for assistance;
- v. its internal procedures

- 4.29. The Surrey Police Board is responsible for the processing of Service or Policy Complaints, and any subsequent investigation. The Chief Constable may direct SPS Civilian employees and Members to assist the Board as deemed necessary.
- 4.30. Immediately upon a Service or Policy Complaint being made, the Surrey Police Board receives a copy of such complaint and processes such complaint in accordance with the complaints process outlined in Part 11 of the *Police Act*.
- 4.31. Surrey Police Board must notify the Complainant and the OPCC regarding the course of action being taken within twenty (20) business days.
- 4.32. At least quarterly, the Surrey Police Board through the Chief Constable or a committee designated by the Chief Constable, receives and reviews Service or Policy Complaints and investigation reports (including the status of any active investigations, actions taken, and other relevant information).
- 4.33. At least annually, the Surrey Police Board shall review the process for responding to service or policy complaints together with the Chief Constable and Executive Director and makes any adjustments or amendments as necessary.

Complaints Against Chief Constable / Deputy Chief Constables

- 4.34. Conduct complaints against the Chief Constable and Deputy Chief Constables may consist of a Public Trust Complaint (a complaint alleging a breach of professional conduct regulation and any internal code of conduct for SPS's employees) or an internal discipline complaint (a complaint relating to the acts or omissions of a person that affects the relationship between the Member, as employee, and SPS, as the employer).
- 4.35. Pursuant to the *Police Act*, the Surrey Police Board Chair is the Discipline Authority for all conduct complaints made against the Chief Constable or a Deputy Chief Constable, and processes such complaints in accordance with the complaints process outlined in Part 11 of the *Police Act*.
- 4.36. In processing any conduct complaints against the Chief Constable or Deputy Chief Constables, the Surrey Police Board Chair may retain the services of legal counsel as a resource.
- 4.37. The Surrey Police Board Chair will seek the approval of the Board, and ultimately the Office of the Police Complaint Commissioner, prior to concluding any investigation or imposing any discipline in connection with such conduct complaint.

Informal Resolution

- 4.38. Resolving a complaint may be achieved through informal means, mediation, or formal investigation, which is followed by a Discipline Authority who determines if there is evidence of Misconduct and, if appropriate, what discipline or corrective measures should be imposed.
- 4.39. The OPCC may deem the complaint suitable for informal complaint resolution. The Inspector I/C PSS will assign a Member of the Alternate Response Unit to facilitate resolution of the complaint.
- 4.40. The OPCC will review the resolution process and accept the resolution or may notify the Inspector I/C PSS and further order an investigation.

Internal Discipline

- 4.41. If a matter comes to the attention of PSS that is an Internal Discipline Matter, PSS 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.
- 4.42. If the OPCC advises that the matter be handled as an Internal Discipline Matter under Part 11, Division 6 of the *Police Act*, the Inspector I/C PSS will order an investigation be undertaken into the matter.
- 4.43. If the Inspector I/C PSS considers that the matter to be investigated is of a minor nature, the Member's Supervisor may be assigned to conduct the investigation. In all other cases, the Inspector I/C PSS will assign an investigator, with the appropriate knowledge, skills and abilities for the specific matter, who is equal to or higher in rank than the Member and a person not involved in the matter being investigated.
- 4.44. The investigator will notify the Member in writing that an investigation has been commenced unless the Inspector I/C PSS determines that notice could reasonably be expected to harm the investigation.
- 4.45. 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.
- 4.46. The investigator must provide the Member with a reasonable opportunity to respond to the allegation(s) prior to the completion of the investigation.
- 4.47. Upon completion of the investigation, the investigator will provide an investigation report to the Inspector I/C PSS which may include recommendations concerning corrective, disciplinary measures or other actions to be taken by the Discipline Authority.
- 4.48. After the Discipline Authority has determined that the investigation report is complete, the Discipline Authority will make a copy of the investigation report available to the Member.
- 4.49. If the Discipline Authority is considering imposing corrective, disciplinary measures or other action in relation to the Member, the Discipline Authority will provide the Member with a reasonable opportunity to respond to the information and recommendations made in the investigation report.
- 4.50. After reviewing the completed investigation report and any response provided by the Member, the 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.
- 4.51. 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.
- 4.52. 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*.

Public Trust Complaint PSS - Ordered Investigation

- 4.53. The OPCC may deem a complaint admissible and order an investigation. The Inspector I/C PSS will review the complaint, assign a PSS Member to investigate, or request an external agency to investigate.
- 4.54. An ordered investigation shall be completed within six months from the date the investigation was initiated unless an extension has been granted by the PCC.
- 4.55. A progress report shall be submitted to the OPCC within 30 days of the ordered investigation and every subsequent 20 days thereafter.
- 4.56. The assigned investigator shall submit a Final Investigative Report (FIR) to the Disciplinary Authority. Upon review of the FIR the Discipline Authority may request further investigation or seek clarification from the investigating Member. The Disciplinary Authority has 10 business days to issue their decision.
- 4.57. Complainants may request a review on the record if dissatisfied with the Disciplinary Authority decision.
- 4.58. The Disciplinary Authority shall submit their decision and any recommendation made regarding disciplinary findings to the OPCC.
- 4.59. If the Respondent Member or the PCC does not agree with the Disciplinary Authority's decision, the Member or PCC may seek further appeal as per the *Police Act* Part 11, Division 3.

APPENDIX A: DEFINITIONS

“Chief Constable” means the Surrey Police Service Chief Constable or delegate.

“Complainant” means a person who makes and registers a complaint under s.78 *Police Act* or, a person acting on behalf of the complainant, a third-party complainant, or an appointed representative.

“Discipline Authority” means the Chief Constable or a delegate of the Chief Constable if it concerns the conduct of Members under the rank of Deputy Chief, and the Police Board Chair if it concerns the conduct of the Chief Constable or a Deputy Chief Constable. As set out in s.76 *Police Act*, in certain circumstances, the Discipline Authority may be a retired judge, a senior officer, or a senior officer from an external police agency.

“Disciplinary Matters” means Public Trust Matters and Internal Discipline Matters, collectively.

“Employee” means a sworn Member or Civilian Employee appointed by the Surrey Police Board.

“I/C” means “in charge of”

“IIO” means the Independent Investigations Office of British Columbia established pursuant to the *Police Act*.

“Internal Discipline Matter” means a matter concerning the conduct or deportment of a Member that is not the subject of an admissible complaint or investigation under Division 3 (Process Respecting Alleged Misconduct) of the *Police Act* and does not directly involve or affect the public.

“Improper Conduct or Practice” means any illegal, fraudulent, dishonest, negligent, or otherwise unethical action by Surrey Police Service staff (Civilians or Members).

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“NCO” means non-commissioned officer and includes the rank of Sergeant and Staff Sergeant or a Member acting in that role.

“Misconduct” means disciplinary breach of public trust committed by a member, as defined in s.77 *Police Act*.

“OPCC” means the Office of the Police Complaint Commissioner.

“PCC” means Police Complaint Commissioner appointed under the *Police Act*.

“PSS” means the Professional Standards Section of the Surrey Police Service.

“Public Trust Complaint” means a complaint about the conduct of a member or former member that has been found to be admissible under Division 3 of Part 11 *Police Act*.

“Public Trust Investigation” means an investigation into the conduct of a member or former member that has been ordered by the PCC under Division 3 of Part 11 *Police Act*.

“Reportable Incident” or “Reportable Injury” means as defined in 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) [regulations under Parts 9 and 11]” of the *Police Act*.

“Serious Harm” means 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.

“SPS” means the Surrey Police Service.

“Supervisor” means a Team Leader, Manager, Staff Sergeant, Sergeant, Inspector, Superintendent, Deputy Chief Constable, Chief Constable, and any other person acting in a Supervisory capacity who is accountable for a particular area or shift on behalf of the SPS.

APPENDIX B: REFERENCES

Police Act, R.S.B.C. 1996, c. 367

British Columbia *Provincial Policing Standards*

Criminal Code, R.S.C. 1985, c. C-46