

let us help you



A step-by-step guide to the
municipal police complaints process

OPCC

OFFICE OF THE
POLICE COMPLAINT
COMMISSIONER



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What is the Office of the Police Complaint Commissioner?

The Office of the Police Complaint Commissioner (OPCC) provides an accessible way for the public to voice their concerns about the conduct of any municipal police officer or department to an independent body.















The Office of the Police Complaint Commissioner's role in the police complaint process begins once a

complaint is received and continues until a final determination is made. We are responsible for closely monitoring the process to ensure that it is fair to all involved and that the most appropriate conclusion is reached.

The OPCC operates completely independent of police, government agencies and political parties.

Jurisdiction

The Office of the Police Complaint Commissioner oversees the handling of complaints involving the following police departments:

 Abbotsford	 Port Moody
 Central Saanich	 Saanich
 Delta	 South Coast British Columbia Transportation Authority Police Service (SCBCTAPS)
 Nelson	 Stl'atl'imx
 New Westminster	 Vancouver
 Oak Bay	 Victoria
 Organized Crime Agency of British Columbia	 West Vancouver

Complaints involving the RCMP should be directed to:
The Civilian Review and Complaints Commission for the RCMP
National Intake Office
PO Box 88689
Surrey, BC V3W 0X1
Tel: 604.501.4080 or Toll-Free at 1.800.665.6878
www.crc-cctp.gc.ca

Who can make a complaint?



- ✓ Anyone who is directly affected by, or who directly witnesses conduct by a police officer that causes them concern may file a complaint.
- ✓ A complaint can be filed by a person acting on behalf of someone who consents to its being made or is, because of age or a mental or physical

condition, incapable of giving consent.

- ✓ A third party who is not involved but still has concerns.
- ✓ Anyone who has a concern that a police department has not provided a proper service or has a complaint about a policy of a police department may file a complaint.

What is a complaint?



Misconduct Complaint

If you think that a police officer has behaved incorrectly or unfairly, you have the right to make a complaint.

Expectations about the behaviour of police officers are defined under section 77(1) of the *Police Act*. These expectations include requirements such as to: act with honesty and integrity, fairness and impartiality; treat members of the public with respect; not abuse their powers and authority; act in a manner that does not discredit or undermine public confidence in the police service.

If you feel that someone working for the police has not met these standards, you can make a misconduct complaint.

Service or Policy Complaint

Complaints about the overall policies or procedures of a police force are referred to as “service or policy” complaints. These can include complaints about the policy of a police force, or general policing standards in your local area.

How can I make a complaint?



There are several ways to access the municipal police complaint process:

- ✓ on-line through our website;
- ✓ by facsimile;
- ✓ over the phone on our toll free line;
- ✓ in person at our office in Victoria; or
- ✓ at any municipal police department. Police must assist members of the public who

attend their department to file a complaint.

To file a complaint on-line, please visit our website at www.opcc.bc.ca

In person, our office is located at 947 Fort Street, Victoria, BC.

Telephone:	250.356.7458
Toll Free:	1.877.999.8707
Fax:	250.356.6503
Email:	info@opcc.bc.ca



What happens with a misconduct complaint?

When the Office of the Police Complaint Commissioner (OPCC) receives a complaint, we must determine whether or not it is admissible in accordance with the *Police Act*.

To be an admissible complaint the complaint must contain allegations of police misconduct as defined under the *Police Act*; not be frivolous or vexatious; and the incident must have occurred within 12 months of the filing of the complaint.

If the complaint does not contain sufficient detail our office may contact the complainant or the police department to obtain further information to assist us in our decision.

After our review, the complainant and police agency will receive a letter from our office informing them of our decision.

Once a complaint has been accepted by our office it may be resolved in one of three ways:

- ✓ Complaint Resolution;
- ✓ Mediation; or
- ✓ Formal Investigation and a decision.

It is the OPCC's responsibility to ensure a complaint reaches the appropriate resolution.



Complaint Resolutions

Complaint Resolution

Complaint Resolutions involve the assistance of a facilitator; usually a trained senior member of the police department. Complaint Resolution is suitable for less serious allegations of misconduct.

A complaint can only be informally resolved if both the complainant and the officer consent to the procedure.

The proposed resolution must be agreed to in writing and include the specific terms of the proposed resolution.

The Police Complaint Commissioner will review the proposed agreement and consider if the public interest is best served by such a resolution.

Mediation

Generally, complaints that are suitable for mediation are those that are less serious in nature but contain more complicated issues than those complaints that are suitable for complaint resolution; and where the dynamics between the parties require the assistance of a professional mediator to reach a settlement.

Before mediation can be arranged, the Police Complaint Commissioner will review the complaint and determine whether the public interest would be best served by mediation. If the complaint is approved, the mediation process begins.

The mediator is impartial and trained to help parties settle conflict collaboratively, but has no decision-making power.

It is important to note that the mediation process is confidential, this includes all communications and the final resolution reached.



Formal Investigations

The formal investigation process is reserved for the most serious complaints or those that cannot be resolved in any other manner.

During the investigation an analyst with the Office of the Police Complaint Commissioner will be assigned to oversee the investigation as it unfolds. The analyst is available at any time to provide advice. The Police Complaint Commissioner may direct investigative steps be taken.

Police Act investigations are to be completed within 6 months and both the complainant and police member will be provided periodic reports advising on the progress of the investigation.

Once an investigation is completed, the Final Investigation Report is submitted to the Office of the Police Complaint Commissioner for evaluation. If any shortcomings are detected in the investigation the Police Complaint Commissioner may reject the report and direct further investigational steps. In some cases, The Police Complaint Commissioner may order the matter to be re-investigated by another agency.

Once the investigation report meets with the approval of both the Discipline Authority and the OPCC the Discipline Authority will render his/her decision with reasons, in writing. The complainant and the member will be provided a copy of the Discipline Authority's decision and the Final Investigation Report.

What if I disagree?



The complainant may request a review of the file if they disagree with the Discipline Authority's decision to not substantiate an allegation or if they disagree with the results of a discipline proceeding.

A member may also request further investigation after receiving the Final Investigation Report, or a review if they disagree with the outcome of a discipline proceeding.

The OPCC reviews every investigation and decision to ensure the integrity of the process and that the decisions are impartial and fair. If the Commissioner disagrees with a decision, there are three avenues of adjudicative review the Commissioner may choose:

- ✓ Appoint a retired judge to review the Final Investigation Report. If the retired judge's finding is that the allegation is not substantiated, the matter is final and conclusive (s.117);
- ✓ Following a discipline proceeding, arrange for a Review on the Record. A retired judge is appointed to conduct a "paper review" of the entire matter and deliver a decision and, if substantiated, the corrective and/or disciplinary measures to be imposed. A retired judge's decision following a review on the record is final and conclusive and may only be appealed on an issue of law (s.141);
- ✓ Following a discipline proceeding, arrange for a Public Hearing. A retired judge is appointed to sit as the adjudicator and review the evidence, hear sworn testimony and arrive at a decision. Public Hearings are open to the public and an adjudicator's decision is final and conclusive and may only be appealed on an issue of law (s.143).

All decisions, deemed final & conclusive under the *Police Act*, may still be subject to judicial review.

What happens with a service or policy complaint?



Service or Policy complaints are the responsibility of the department's police board. The board must advise the OPCC and the complainant of the results; including what course of action if any was taken and must provide a summary of the results of any investigation or study.

The Police Complaint Commissioner cannot require a board to take any particular course of action regarding a Service or Policy complaint, but may make recommendations to the Board.