

## **GUIDE TO FILING COMPLAINTS AGAINST POLICE IN BRITISH COLUMBIA<sup>i</sup>**

- If you have a complaint against the police in BC, **it is your right** to say what happened and be listened to.
- **Anyone**, including a non-citizen, who has a concern about the *conduct or actions of a police officer* OR the *services provided by a police department* **may make a complaint**.
- You **do not** need to be directly involved in the incident to make a complaint. A complaint may be as a witness to an incident, or on behalf of someone else.
- In BC, there are **two different police complaint processes**. Which process you will need to follow depends on whether your complaint is (1) against a municipal department OR officer, or (2) against an RCMP officer.

### **(1) Complaints Against Municipal Police<sup>ii</sup>**

Your complaint is against municipal police if it is about any of the following police agencies or one of its members:

- Abbotsford
- BCCFSEU - Combined Forces Special Enforcement Unit (formerly the BC Organized Crime Agency)
- Central Saanich
- Delta
- Kitasoo Xaixais Police
- Nelson
- New Westminster
- Oak Bay
- Port Moody
- Saanich
- SCBCTAPS (Skytrain Constables)
- Stl'at'imx Tribal Police
- Vancouver
- Victoria (also serves Esquimalt)
- West Vancouver

Most other areas of BC are policed by the RCMP. There is a separate process for complaints against RCMP members (See: “(2) Complaints Against RCMP”).

### **STEP 1: Making a Complaint**

In BC, the police investigate complaints against the police. The Office of the Police Complaint Commissioner (OPCC) oversees the handling of complaints against municipal police to ensure complaints are handled fairly and impartially and are thoroughly investigated by the police. The BC *Police Act<sup>iii</sup>* sets out how to make a complaint against a municipal police force.

If you have a complaint about an officer that is a member of one of these police departments, or against the police agency itself, *put it in writing*, on the approved form, called “Form 1 - Record of Complaint”<sup>iv</sup>. Forms are available through your local municipal police department, or directly from the OPCC, at:

Vancouver:  
320 – 1111 Melville Street  
Vancouver, BC  
Phone: (604) 660 - 2385  
Fax: (604) 660 – 1223

Victoria:  
3<sup>rd</sup> Floor, 756 Fort Street  
PO Box 9895 Stn Prov Govt  
Victoria, BC V8W 9T8  
Phone: (250) 356 – 7458  
Fax: (250) 356 - 6503

Elsewhere in BC, you can reach the Office by calling Enquiry BC at: 1.800.663.7867. Forms are also available on the OPCC website at: [www.opcc.bc.ca](http://www.opcc.bc.ca)<sup>v</sup>.

Whether you make your complaint at the OPCC or at the police department, the person receiving your complaint has a duty to provide you with any information you may require in making your complaint, including assistance in filling out Form 1.

After filling out the complaint form, you may submit it by mail, fax, or deliver it in person to the police department involved or to the OPCC.

You have *one year* after the incident to file the complaint. You may hire a lawyer to represent you, however you do not have to. If you change your mind, your complaint may be withdrawn at any time.

**Once your complaint has been filed, *one of three things will happen*:**

*1. Informal Settlement*

In some situations, the police will try to informally settle a complaint through phone calls or meetings, or with the assistance of a professional mediator.

*2. Investigation*

If your complaint is not informally settled or dismissed, the police have a duty to investigate your complaint and provide you detailed information about their investigation.

*3. Dismissal*

If there is insufficient evidence, or the incident happened more than one year ago, the police may dismiss your complaint after a preliminary investigation. If this occurs, you can apply to the Police Complaint Commissioner for a Public Hearing to review of the police decision (see “STEP 3: Public Hearing”).

## **STEP 2: Investigation of the Complaint**

If your complaint is not informally dismissed or settled, a full and thorough investigation is to be conducted. You should receive the first report within 45 days of the start of the investigation, followed by updates every 30 days. The investigation *must be completed within 6 months* from when you filed the Form 1 (unless an extension has been granted by the Police Complaint Commissioner).

In most cases, your complaint is investigated by the Internal Affairs/Professional Standards Branch of the police department involved. In some cases, however, another police department is asked to investigate.

Once the investigation is complete, you will receive a summary report with a brief factual account of the incident, the steps taken during the investigation and the decision of the police department regarding corrective or disciplinary procedures, if necessary.

If you disagree with the decision, you may apply to the Police Complaint Commissioner for a Public Hearing to review the police decision.

## **STEP 3: Review of Decision**

If you disagree with a police department's dismissal of your complaint at the preliminary stage, or its decision following an investigation, you may apply to the Police Complaint Commissioner to hold a Public Hearing to review of the decision. The Commissioner is an Officer of the BC Legislature, and is independent of police, government and political parties.

In deciding whether to hold a hearing, the Commissioner considers the following:

- i. Seriousness of the complaint;
- ii. Seriousness of the harm suffered;
- iii. Whether a public hearing is needed to discover the truth;
- iv. If the police made a mistake when they investigated the complaint; and
- v. Whether a public hearing is needed to preserve or restore public confidence in the police and the complaint process.

Your request for a hearing will be either approved or denied. The Commissioner may also ask the Solicitor General to order a broader public inquiry under the *Inquiry Act*.

## **(2) Complaints Against the RCMP<sup>vi</sup>**

The RCMP has an independent complaints process. The OPCC has no jurisdiction over the RCMP. Complaints about the conduct of RCMP members are handled by the

Commission for Public Complaints (CPC) Against the RCMP,<sup>vii</sup> an independent federal agency that is not part of the RCMP.

## **STEP 1: Making a Complaint**

If you have concerns about the conduct of an RCMP member, you may make a complaint *by phone* OR *in writing*. After you contact the CPC, a member of the CPC staff will help you decide whether you want to lodge a formal complaint or take advantage of other options that may be available to you such as alternate dispute resolution.

### **By Phone:**

To make a complaint by phone, contact the Commission for Public Complaints at 604.501.4080. If you are calling from outside Vancouver, the Commission's toll-free number is 1-800-665-6878, and its TTY toll-free number is 1-866-432-5837. The Commission office is open Monday to Friday from 08:00 to 04:00.

### **In Writing:**

To complain in writing, you can use the form on the Commission website ([www.cpc-cpp.gc.ca](http://www.cpc-cpp.gc.ca)). The form may be completed online and e-mailed to [complaints@cpc-cpp.gc.ca](mailto:complaints@cpc-cpp.gc.ca).

Or you can print the Complaint Form<sup>viii</sup> and send it by fax to: 604-501-4095. You can also mail the completed form, or your own letter with details of your complaint, to the Commission, at:

RCMP Public Complaints Commission  
National Intake Office  
7337 137 Street  
Suite 102  
Surrey, BC V3W 1A4

You should make your complaint as soon as possible, while the incident is still fresh in your mind and evidence is still available.

### **Once your complaint has been filed, *one of three things will happen:***

#### *1. Informal Disposition*

In some cases, the RCMP will try to resolve your complaint informally. You can also request an informal resolution, in which case a Commission analyst will try to help you and the RCMP agree on a solution. Informal disposition requires your consent and the consent of the RCMP member involved. If both parties consent, the RCMP will make a formal summary of the complaint and the solution, then ask you to sign it.

## 2. *Investigation*

If your complaint is not resolved through the RCMP's informal process, the RCMP will conduct a formal investigation into your complaint and will report the results to you, the RCMP member and the Commission.

## 3. *Dismissal*

In some circumstances, the RCMP may dismiss your complaint without investigation. The RCMP has the right to refuse to investigate complaints in the following situations:

- 1) if the complaint is considered trivial, frivolous, or vexatious;
- 2) if it can be better dealt with under another Act of Parliament; or
- 3) if the RCMP deems that an investigation is not necessary under the circumstances.

If the RCMP refuses to investigate your complaint, you can ask the CPC to conduct a review.

### **STEP 2: Investigation of a Complaint**

If your complaint is not resolved through the RCMP's informal process, the RCMP will acknowledge receipt of your complaint in writing. Following this, you will receive reports on a regular basis to inform you of the status of the RCMP's investigation.

Once the investigation is complete, you will receive a "Letter of Disposition". This letter will summarize the results of the RCMP investigation and tell you what action, if any, the RCMP has or will be taking to address your complaint.

If you are not satisfied with the way the RCMP handled your complaint, you can ask the Commission for an independent civilian review of your complaint.

### **STEP 3: Review of Decision**

If you request a review of the RCMP's decision not to investigate or its handling of your complaint, you can ask the Commission to conduct a review. Review requests can be made:

- By e-mail: [reviews@cpc-cpp.gc.ca](mailto:reviews@cpc-cpp.gc.ca)
- By telephone: 1-800-267-6637
- By completing the printable version of the Request for Review, available on the CPC website at: [www.cpc-cpp.gc.ca](http://www.cpc-cpp.gc.ca), and sending it by fax to: 613-952-8045, or by mail to:

Bag Service 1722, Station B  
Ottawa, Ontario  
K1P 0B3

In conducting a review, the Commission will look over the RCMP's investigation report. The Commission may also conduct further investigation, or request the RCMP investigate your complaint further.

If the Commission is satisfied with the RCMP's handling of your complaint following this review, the Commission will send a report of its reasons to you, the RCMP Commissioner and the Minister of Public Safety Canada (the Minister).

If the Commission is NOT satisfied with the RCMP's handling of your complaint following this review, it will send an interim report noting its concerns to the RCMP Commissioner and the Minister. On receipt of this report, the RCMP Commissioner will either inform the Minister and the Commission Chair of what action it will take in response, or explain why no further action is warranted. A final report of the Commission's response and recommendations will be sent to you, the RCMP member involved, the RCMP Commissioner and the Minister.

At any stage of the process, the Commission Chair can institute an investigation or a public hearing where it is deemed to be in the public interest. If a public hearing is held, a report will be issued which may include recommendations on how to correct deficiencies or improve operations that led to the complaint. This report will be sent to you and any other people involved, the RCMP Commissioner and the Minister. The RCMP Commissioner is required to respond to this report, and then a final report will be issued by the Chair.

## **ALTERNATIVES TO FILING A COMPLAINT WITH THE OPCC OR THE CPC<sup>ix</sup>**

### **1. Lawsuit Against the Police**

If an RCMP or municipal police officer violated your rights, caused you property damage, or injured you, you can sue to officer's employer in civil court. In this situation, you should seek legal advice as soon as possible, as there may be a time limit for filing the suit.

### **2. Criminal Charges**

If you say that an RCMP or municipal police officer has broken the law or committed a crime, the police will investigate. The result of this investigation may go to the Regional Crown Counsel (RCC) to determine whether to charge the officer with a crime.

If the RCC decides not to charge the officer, or the police don't send a report to the RCC, you may also go to a Justice of the Peace and request that the officer be charged.

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<sup>i</sup> This is intended for information only, not legal advice. If you require need legal advice, you should speak to a lawyer. For the name of a lawyer to consult, call Lawyer Referral at 1.800.663.1919. If you cannot afford a lawyer, free legal information and advice may be available by calling LawLINE at 1.866.577.2525, or the Law Centre at 250.385.1221.

<sup>ii</sup> Based on information gathered from the OPCC website at: <http://www.opcc.bc.ca/Making%20A%20Complaint/Making%20a%20%20Complaint.htm> and the BC CBA's website at: [http://www.cba.org/bc/public\\_media/criminal/221.aspx](http://www.cba.org/bc/public_media/criminal/221.aspx).

<sup>iii</sup> [http://www.bclaws.ca/Recon/document/freeside/--%20P%20--/Police%20Act%20%20RSBC%201996%20%20c.%20367/00\\_96367\\_01.xml](http://www.bclaws.ca/Recon/document/freeside/--%20P%20--/Police%20Act%20%20RSBC%201996%20%20c.%20367/00_96367_01.xml)

<sup>iv</sup> <http://www.opcc.bc.ca/Making%20A%20Complaint/Making%20a%20%20Complaint.htm>

<sup>v</sup> <http://www.opcc.bc.ca/>

<sup>vi</sup> Based on information gathered from the RCMP CPC's website at: <http://www.cpc-cpp.gc.ca/srv/mac/cf-fp-eng.aspx> and the BC CBA's website at: [http://www.cba.org/bc/public\\_media/criminal/220.aspx](http://www.cba.org/bc/public_media/criminal/220.aspx).

<sup>vii</sup> <http://www.cpc-cpp.gc.ca/>

<sup>viii</sup> <http://www.cpc-cpp.gc.ca/srv/mac/cf-fp-eng.aspx>

<sup>ix</sup> Based on information gathered from the BC CBA's website at: [http://www.cba.org/bc/public\\_media/criminal/220.aspx](http://www.cba.org/bc/public_media/criminal/220.aspx) and [http://www.cba.org/bc/public\\_media/criminal/221.aspx](http://www.cba.org/bc/public_media/criminal/221.aspx).