Northumberland OPP Detachment Board Policy

CSPA Complaints Procedures

Policy No: 2024-13

Effective Date: April 1, 2024

Rescinds all other Policies and Procedures relating to this subject.

Whenever reference is made to "Detachment Commander" ("DC"), the term is intended to include the Ontario Provincial Police ("OPP") more generally to the extent the actual responsibility/authority relating to the establishment of policies, procedures and processes lies at more senior levels within OPP management or as otherwise may be required under the *Community Safety and Policing Act, 2019* and regulations (collectively the "CSPA").

1. Policy Statement

NOTE: Public Complaints against police service members are dealt with separately (from Board/Board member related CSPA s.106/s.107 complaints) by the Complaints Director under CSPA Parts VIII – X (see below).

1.1. The Board desires to summarize the CSPA complaints provisions in this policy.

2. Statutory Authority or References

2.1. See below

3. Purpose

3.1. To establish a policy summarizing the CSPA complaints provisions and to establish procedures with respect to the Board's receipt of information on public complaints and the disposition of complaints under CSPA Parts VII-X.

4. Scope

4.1. This Policy will apply to Board Members and the Executive Assistant in the conduct of their duties.

5. Definitions

5.1. As defined herein.

6. Policy Guidelines

Complaints to Inspector General (Part VII)

6.1. Part VII CSPA complaints (complaints under CSPA s.106 and s.107 and disclosures of misconduct under CSPA s.185) are handled by the Inspector General of Policing[1].

Section 106 Complaints About the Board

6.2. Ss.106 (1) provides that any person, other than a prescribed person, who believes that a member of an OPP detachment board, has committed misconduct may make a complaint to the Inspector General in accordance with the regulations, if any.

6.3. Under ss. 106(2) the Inspector General may refuse to investigate such complaint made (or a complaint from the Complaints Director below) if the Inspector General is of the opinion that the complaint is frivolous, vexatious or

[1] Replacing the Ontario Civilian Police Commission (OCPC) subject to transition provisions of CSPA s.216

made in bad faith or that dealing with the complaint is not, in the circumstances, in the public interest according to criteria set out in ss.106(3) and shall so inform the complainant.[2]

6.4. However, if there appear to be grounds to believe that the member has committed misconduct, under ss.106(5) the Inspector General must investigate the matter, inform the complainant about the investigation and keep the complainant apprised of the steps taken to resolve the complaint.

6.5. Under ss.106(6) if there do not appear to be grounds to continue an investigation, the Inspector General must inform the complainant and take no further action.

6.6. The Inspector General may charge the costs of an investigation to the detachment board.

Section 107 Complaints About the Police Service

6.7. Where Inspector General Receives Complaint

(a) Under ss.107(1) any person, other than a prescribed person, may make a complaint to the Inspector General in accordance with the regulations, if any, regarding:
  (i) the adequacy and effectiveness of policing provided under the CSPA or regulations;
  (ii) a failure of an OPP detachment board to comply with the CSPA or regulations, other than misconduct, including a systemic failure; or
  (iii) the policies of an OPP detachment board or the Minister.

(b) Under ss.107(2)-(5) there are similar provisions as those in ss.106(2)-(5).

(c) Under ss.107(6) if the complaint does not relate to the matters referred to in clause (f)(i) or (ii) above, or if there do not appear to be grounds to investigate those matters, and if the complaint relates to the policies or procedures referred to in clause (f)(iii) above, the Inspector General must, forward the complaint to the Minister and to the Board if the complaint relates to the Board's procedures and so inform the complainant.

6.8. Where Board Receives Complaint Directly

(a) Ss.107(7) provides that where the Board, as an OPP detachment board, directly receives a complaint under ss.107(6) the Board must review the complaint as it relates to its policies or procedures, report back to the Inspector General within the prescribed time and to the Minister about any steps taken in response to the complaint.

6.9. Complaints Relating to Minister's Policies or Commissioner Procedures

(a) Under ss.107(8) the Minister must review any complaint regarding the Minister's policies or the procedures established by the Commissioner and report back to the Inspector General within the time specified by the Inspector General, if any, about any steps taken in response to the complaint.

(b) The Minister must also review any complaint received under (f)(iii) above for the purpose of considering whether changes are required regarding training or the requirements established under the CSPA or the regulations.

(c) As under ss.107(10) if there do not appear to be grounds to investigate the matter, or to investigate it further, and the complaint does not relate to the policies or procedures referred to in clause (f)(iii)), the Inspector General must inform the complainant and take no further action.

Forwarding s.106/107 Complaints

6.10. Under s.108 if a person who may make a complaint under s.106 or s.107 to the Inspector General instead makes the complaint to any of the Minister, the Complaints Director, an OPP detachment board (note paragraph (i) above) or any other listed or prescribed person or entity, the recipient must forward the complaint to the Inspector General, inform the person who made the complaint that the complaint has been forwarded, and provide the complainant with information about the role of the Inspector General.

6.11. The complaint of a person that is forwarded to the Inspector General under s.108 is deemed for the purposes of the CSPA to have been made by the person directly to the Inspector General.

Complaints by Minister

[2] Is there a requirement that the Board or Board member be notified?

6.12. For greater certainty, under s.109 the Minister may make a complaint under s.106 or s.107.

6.13. If the Minister makes a complaint under section 106 or 107, the Inspector General may decline to act on it and shall provide the Minister with written reasons for that decision.

Impact of Investigation on Board Member

6.14. Under s.122 the Inspector General may direct a member of an OPP detachment board to decline to exercise their powers or perform their duties as a member of the board from the period that begins at the outset of an investigation into the member's conduct under Part VII and ends on the earlier of:

(a) the day the member receives notice from the Inspector General that no further action will be taken in respect of the investigation; and

(b) the day the Inspector General exercises a power (makes a decision) under s.124 as a result of the investigation.

If Not Enough Members

6.15. If the application of paragraph 6.14 above results in the Board not having enough members able to exercise their powers or perform their duties in order to constitute a quorum, the Inspector General may appoint the number of persons necessary to constitute a quorum, who shall act in the place of the members who are unable to exercise their powers or perform their duties.

6.16. The Inspector General shall specify in any appointment made under paragraph 6.15 that the appointee may only exercise such powers or perform such duties as are necessary for the effective operation of the Board during the investigation and, for such purpose, may:

(a) specify the powers or duties the appointee may or may not exercise or perform; and

(b) cancel an appointment made under paragraph 6.15 as soon as the period described in paragraph 6.14 ends.

Results of Inspection

6.17. s.123-129 set out the orders the Inspector General can make with respect to investigated complaints, including dismissal, sanctions and prosecution.

Law Enforcement Complaints Agency and Public Complaints (Parts VIII-X)

6.18. CSPA Part VIII establishes the Law Enforcement Complaints Agency[3] headed by the Complaints Director appointed under CSPA s.131 to deal with public complaints made to the Complaints Director against police service members under CSPA Part X and to implement programs and services to assist members of the public in making such complaints. Before commencing any complaint review/investigation the Complaints Director must notify the Inspector General. The Complaints Director must publish an annual report posted on the internet.

Public Complaints to Complaints Director[4]

6.19. CSPA Part VIII establishes the Law Enforcement Complaints Agency[5] headed by the Complaints Director appointed under CSPA s.131 to deal with public complaints made to the Complaints Director against police service members under CSPA Part X (see paragraph 6.20 below) and to implement programs and services to assist members of the public in making such complaints. Before commencing any complaint review/investigation the Complaints Director must notify the Inspector General. The Complaints Director must publish an annual report posted on the internet.

6.20. CSPA Part X deals with public complaints made to the Complaints Director against police service members identified under CSPA Part X s.152 (police officers, special constables employed by the Niagara Parks Commission and peace officers in the Legislative Protective Service).

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[3] Formerly known as the Ontario Independent Police Review Director (OIPRD) subject to transition provisions of CSPA s.216

[4] NOTE: Public Complaints against police service members are dealt with separately (from CSPA s.106/s.107 complaints) by the Complaints Director under CSPA Parts VIII – X.

[5] Formerly known as the Ontario Independent Police Review Director (OIPRD) subject to transition provisions of CSPA s.216

6.21. Under CSPA s.155, if, rather than making the complaint to the Complaints Director, a complaint is received directly by the Board, the Commissioner or police service member, the complaint must be forwarded to the Complaints Director. Under CSPA s.174 the Complaints Director must notify the Inspector General of any matter referred to under CSPA ss.106(1) or ss.107(1) that is raised in a complaint or during an investigation under Part X.

6.22. As an OPP detachment board, the Board is not the main adjudicator of any of these complaints, although it may become involved in the investigations by the Inspector General or Complaints Director and may be asked to review a CSPA s.107(6) complaint under PSA s.107(7) if the complaint is received directly. While the Board can make complaints to the Inspector General under Part VII, it cannot make complaints to the Complaints Director under Part X relating to its own police service.

6.23. The Board is not normally involved directly in Part X complaints other than forwarding such complaints to the Complaints Director under CSPA s.155 if the Board receives the complaint directly.

Ontario Police Arbitration and Adjudication Commission

CSPA Part IX establishes the Ontario Police Arbitration and Adjudication Commission[6] to facilitate the maintenance of one or more registers of arbitrators available for appointment to conduct arbitrations under CSPA Part XIII and hold hearings elsewhere under the CSPA. See also O. Reg. 403/23.

7. Review and Revision History

Revision Date	Description of Changes
April 1, 2024	Reflect new CSPA

Approved and ratified by the Board effective April 1, 2024.

John Davison

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Chair

Lou Rinaldi

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Vice-Chair

[6] Formerly known as the Ontario Police Arbitration Commission (OPAC) subject to transition provisions of CSPA s.216