



Policy Name:	IIO NOTIFICATION		
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RELATED POLICIES

OP 2.1 Use of Force

AD 2.2 Complaints / Professional Standards

1. PURPOSE

1.1. To provide the conditions and processes in which Members of the Surrey Police Service (SPS) shall notify the Independent Investigations Office of British Columbia (IIO) and the procedures for Members to follow involving IIO investigations.

2. SCOPE

2.1. This policy applies to all SPS Members.

3. POLICY

3.1. The IIO is a civilian-led police oversight agency responsible for conducting investigations into incidents of death or Serious Harm that may have been the result of the actions or inactions of an SPS Member, whether on or off duty

3.2. In the course of their duties, Members are subject to many levels of accountability. Under the *Police Act*, Members' actions are subject to possible criminal investigation as well as disciplinary investigation. The *Police Act* provides authority to the IIO to conduct investigations into the conduct of a Member that may lead to charges against the Member under the *Criminal Code* or other federal or provincial statutes.

3.3. Pursuant to the *Police Act*, the IIO has jurisdiction to investigate the following:

- i. any incident where it appears that:
 - a. a person may have died or suffered Serious Harm as a result of the actions of a Member, whether on or off duty, or
 - b. a Member, whether on or off duty, may have contravened a prescribed provision of the *Criminal Code* or of another federal or provincial statute; and
 - ii. whether that incident is reported to the IIO by the SPS, another police agency or the OPCC, any other alleged act, or alleged omission of an act by a Member where the Director, Police Services orders that an investigation be conducted by the IIO.
- 3.4. In all incidents where it appears that a person may have suffered Serious Harm or died as a result of the actions of a Member, the SPS will immediately notify the IIO.
- 3.5. The Chief Constable or designate will immediately report to the Police Complaint Commissioner (PCC) incidents where a person dies, suffers Serious Harm or a Reportable Injury:
- i. while in the custody or care of a Member, or
 - ii. as a result of the operations of the SPS.
- 3.6. The Chief Constable or designate will immediately report to the PCC incidents where a person dies, suffers Serious Harm or a Reportable Injury which could be seen to be the result of:
- i. the conduct of any Member, or
 - ii. the operations of the SPS.
- 3.7. The SPS will support the IIO Chief Civilian Director (CCD), IIO investigators and the PCC carrying out their powers and performing their duties.
- 3.8. Members will comply with IIO requirements under the *Police Act* and the IIO MOU, including the duty to cooperate fully with the CCD and IIO Investigator in respect of the exercise of powers or performance of duties under the *Police Act* by the CCD and IIO Investigators.

4. PROCEDURE

- 4.1. Incidents of Reportable Injury, Serious Harm or death, involving a Member, are required to be reported, in compliance with the *Police Act*, to the IIO to allow for investigation, and to the PCC for monitoring.
- 4.2. If a Member suspects that a person may have died or suffered Serious Harm as a result of his or her own actions or the actions of another officer, the following reporting must occur as soon as practicable:

- i. the Member must notify their Supervisor;
- ii. the Supervisor must notify the Duty Officer;
- iii. the Duty Officer must notify the Professional Standards Section (“PSS”) Inspector; and
- iv. the Duty Officer must notify the IIO Liaison Officer, Deputy Chief and Chief Constable.

4.3. In the event of a death, the Duty Officer must also ensure the Coroner’s Office is notified if the death occurred while detained by or in the custody of an officer, or in a custodial facility; or as a result, directly or indirectly, of actions of an officer performed in the course of their duty.

IIO Liaison Officer

4.4. The Chief Constable will designate an IIO Liaison Officer to immediately notify the IIO upon becoming aware of any on-duty or off-duty incident that may fall within the jurisdiction of the IIO.

4.5. The Chief Constable shall notify the CCD of the designated position of the IIO Liaison Officer and shall immediately notify the CCD of any subsequent changes to the designated position.

4.6. Prior to being designated an IIO Liaison Officer, the Member will be required to receive training on obligations within the IIO MOU and the *Police Act*.

4.7. The IIO Liaison Officer will notify the IIO, in accordance with Section 38.09(1) of the *Police Act*, where an on-duty Member attends:

- i. any incident, including an in-custody death, where there is a reasonable belief that the presence, action or decision of an on-duty or off-duty Member may have resulted or been a contributing factor in causing Serious Harm to, or the death of any person; or
- ii. any discharge of a firearm by an on-duty Member where there is reasonable grounds to believe that any person (including a Member) may have been injured.

4.8. When an on-duty or off-duty Member from another police agency is involved in a Critical Incident (as defined in Appendix A) in the City of Surrey, the attending on-duty Members shall notify the Duty Officer through a Supervisor. The Duty Officer shall notify the Liaison Officer, who will report the incident to the IIO and to the Involved Member’s employer.

4.9. The IIO Liaison Officer must attend the scene, if the IIO attends to conduct an investigation. As part of their duties, the IIO Liaison Officer shall:

- i. ensure that all Involved Members are advised not to communicate directly or indirectly with other Involved Members;
- ii. submit a “Scene and Safety Report” and, as soon as practicable, provide the report to the IIO investigator at the scene;
- iii. canvass and record conflicts of interest and potential appearances of conflict of interest between Involved Members and other Members who attend the scene;
- iv. provide a written summary to the IIO Investigator;
- v. at the request of the IIO, arrange for the canvassing of witnesses and video-recordings;

- vi. ensure that any interview of a person as a suspect in jeopardy proceeds before any interview of the same person as a witness without jeopardy. Make reasonable efforts to ensure that civilian police staff and volunteers are available for IIO interviews;
- vii. arrange for the provision of interview rooms and recording equipment for the IIO upon their request; and
- viii. facilitate the disclosure of relevant documentation as agreed to in any Memorandum of Understanding with the IIO and required by the IIO to complete their investigation, including:
 - a. operational and investigative records, documentation of policy and procedures and officer training records;
 - b. any records required by Crown Counsel; and
 - c. maintaining a record of the transmission, transfer and receipt of records and information to and from the IIO.

4.10. In accordance with s.38.09 *Police Act*, a Member must report any incident where it appears that another Member, from any police agency and whether on or off-duty, may have contravened a prescribed provision of the *Criminal Code* or other federal or provincial statutes.

4.11. A Supervisor receiving a report of an apparent contravention of a prescribed provision, must notify the Liaison Officer, through the chain of command and, upon being notified, the Liaison Officer must immediately notify the IIO.

4.12. In accordance with s.38.10 *Police Act*, the Liaison Officer must ensure that the IIO is immediately notified of any investigation into the conduct of an officer under Part 11 of the *Police Act* (Misconduct, Complaints, Investigations, Discipline and Proceedings), if there is evidence that the Member may have, whether on or off duty:

- i. caused the death of a person;
- ii. caused a person Serious Harm; or
- iii. contravened a prescribed provision of the *Criminal Code* or a prescribed provision of another federal or provincial statute.

Reportable Injuries - Reporting and Notification

4.13. When an incident involving a Reportable Injury occurs:

- i. the Involved Member shall immediately notify their Supervisor of the incident and include:
 - a. the incident number,
 - b. a brief synopsis of the event, and
 - c. the nature of the injury;
- ii. the Supervisor shall immediately notify the Duty Officer of the incident;
- iii. the Supervisor shall ensure that the Professional Standards Section (PSS) is notified; and
- iv. the Inspector i/c PSS, or delegate shall:
 - a. the notify the PCC of the Reportable Injury, the next business day, and
 - b. maintain a record of Reportable Injury notifications made to the PCC.

Police Complaint Commissioner Reporting – Death or Serious Harm

- 4.14. Section 89 of the *Police Act* requires the Inspector i/c PSS to immediately report to the PCC, incidents of death or Serious Harm involving an SPS Member. Within a reasonable time, the Chief Constable or delegate must notify the Surrey Police Board.
- 4.15. If the IIO asserts jurisdiction and investigates, the PCC may suspend an investigation under the *Police Act*, until conclusion of the IIO investigation, at which time the investigation will then be conducted by an external agency.

IIO investigations and Concurrent Investigations

- 4.16. Concurrent criminal investigations by the SPS and the IIO may be required related to incidents of death or Serious Harm involving an SPS Member.
- 4.17. If the incident is within the jurisdiction of the IIO, upon arriving at the scene of the incident, one or more IIO investigators are to take over and conduct the investigation of the incident.
- 4.18. If the IIO asserts jurisdiction over an incident, whether or not SPS is conducting a concurrent investigation, the Liaison Officer will liaise with the assigned IIO investigator.
- 4.19. The Liaison Officer shall inform the CCD or his designate of any concurrent investigations.
- 4.20. In circumstances where there are concurrent investigations, the IIO and the Department will determine which investigation has precedence and will co-operate with the ongoing investigations.
- 4.21. The Liaison Officer will consult with the IIO regarding the order of interviews and the conduct of interviews where concurrent investigations involve the same civilian witnesses.
- 4.22. In matters where there has been a death and the IIO has jurisdiction, the IIO investigator or designate shall conduct the notification of next-of-kin or the IIO may delegate the next-of-kin notification to the SPS to complete.
- 4.23. When the IIO asserts jurisdiction over a case, the IIO shall complete an investigation of any potential offence by a Member under any federal or provincial statute, so that the CCD may decide whether or not to make a report to Crown Counsel.
- 4.24. At the conclusion of an investigation conducted by the IIO, the principal stakeholders shall participate in a debriefing, the results of which will be communicated to the IIO for their consideration.

Crime Scenes

- 4.25. The Duty Officer or designate will direct Members to secure all scenes connected with a suspected or designated Critical Incident.

4.26. In cases under IIO jurisdiction, crime scene security will be under the direction of the IIO investigator, unless delegated to the SPS.

Designation of Subject Officers and Witness Officers

4.27. When an incident is within IIO jurisdiction, the IIO investigator shall designate all the Members involved in or present during the incident as either Subject Officers or Witness Officers and shall notify those Subject Officers and Witness Officers and the Liaison Officer of the designations and subsequently confirm those designations in writing.

4.28. In accordance with an IIO investigation, “Subject Officer” means:

- i. an on-duty officer whose presence, action, or decision is on reasonable grounds believed to have been a contributing factor in the death of any person, including in-custody deaths;
- ii. an on-duty officer who has discharged a firearm, where there are reasonable grounds to believe that any person (including a Member) may have been injured by that discharge;
- iii. an on-duty Member whose presence, action, or decision is on reasonable grounds believed to have resulted in Serious Harm to any person; or
- iv. an off-duty Member whose action is on reasonable grounds believed to have been a contributing factor in the death of any person, or on reasonable grounds is believed to have resulted in Serious Harm to any person.

4.29. In accordance with an IIO Investigation, “Witness Officer” means a Member involved in or present during the incident, who is not a Subject Officer.

4.30. If a Member’s designation has changed from Witness Officer to Subject Officer or vice versa, the IIO will immediately advise the Member, and will subsequently advise the Member and the SPS in writing.

4.31. To ensure that the IIO is notified of off-duty incidents within its jurisdiction, off-duty Members involved in a Critical Incident shall identify themselves as police officers, to on-duty Members who attend, and in doing so are not using their position for an improper purpose contrary to the *Police Act*.

Members to Submit Notes/Data to IIO Investigator

4.32. An IIO investigator shall advise a Member whether he or she is designated as a Witness Officer or a Subject Officer, when the IIO investigator is requesting any notes, reports or data from the Member.

4.33. Witness Officers shall, by the end of the shift during which an on-duty Critical Incident occurred, submit copies of their notes, reports, and data, to the IIO investigator, unless there are exceptional circumstances, as determined by the IIO investigator.

4.34. Subject Officers shall submit copies of any portions of their notes, reports, and data which indicate or record statements made to the Subject Officer by any witness.

Limits on Communication Among Members in IIO Investigations

4.35. Apart from notifying a Supervisor when reporting a use of force incident, to prevent contamination of evidence, Members involved in or present during an incident, which may fall within the jurisdiction of the IIO, shall not communicate their accounts or recollections of the incident directly or indirectly to anyone other than an IIO investigator, except for communication that is necessary for:

- i. public safety and obtaining medical care for injured persons;
- ii. the securing or identification of evidence;
- iii. the furtherance of concurrent investigations;
- iv. obtaining advice from legal counsel or a police association representative;
- v. obtaining health care for a Member; or
- vi. any other purpose that is agreed upon by the IIO investigator and the Liaison Officer.

4.36. Before the arrival of an IIO investigator at a scene, the Liaison Officer, Duty Officer, or Supervisor who was not involved in or present during the incident shall, as soon as practicable, direct all Involved Members not to communicate their accounts or recollections of the incident directly or indirectly to anyone other than an IIO investigator, except for communication that is necessary for:

- i. public safety and obtaining medical care for injured persons;
- ii. the securing or identification of evidence;
- iii. the furtherance of concurrent investigations; obtaining advice from legal counsel or a police association representative;
- iv. obtaining health care for a Member; or
- v. any other purpose that is agreed upon by the IIO investigator and the police service Liaison Officer.

4.37. Reasonable steps, in consultation with the IIO investigator, shall be taken to ensure that all Involved Member do not discuss an incident with each other before they are interviewed by an IIO investigator.

IIO interview with Witness Officers

4.38. When requesting to interview a Member, and at the beginning of every interview, an IIO investigator shall advise the Member whether he or she is designated as a Witness Officer or a Subject Officer.

4.39. As directed by an IIO investigator, a Witness Officer shall participate in an interview with the investigator:

- i. before the end of the Witness Officer's shift;
- ii. within 24 hours of the Witness Officer being contacted by an IIO investigator; or
- iii. at any other time and on additional occasions.

4.40. During IIO interviews, Witness Officers shall answer the questions of IIO investigators.

4.41. IIO investigators shall determine the locations of interviews with Witness Officers.

4.42. An IIO investigator may request video-recording of an interview with a Witness Officer, and if the Member declines to be video-recorded, the Member's interview shall be audio-recorded. If the interview is only audio-recorded, the Witness Officer shall assist the IIO investigator in video-recording any places or things that are relevant to the investigation, but the Member himself or herself shall not be video-recorded (unless he or she consents), except that any physical demonstrations by the Member shall be video-recorded.

IIO Interview with Subject Officers

4.43. When requesting to interview a Subject Officer and at the beginning of every interview, an IIO investigator shall advise the Member that he or she is designated as a Subject Officer.

4.44. IIO investigators shall seek to conduct video-recorded interviews with Subject Officers. Subject Officers have the same rights and freedoms as every person in Canada and the benefit of all applicable law, including but not limited to the right to silence and the rights under s.10 of the *Canadian Charter of Rights and Freedoms*.

APPENDIX A: DEFINITIONS

“Critical Incident” means pursuant to the *Police Act* and the Memorandum of Understanding respecting IIO Investigations, whenever on-duty Members attend:

- i. any incident where there are reasonable grounds to believe that the presence, action, or decision of an on-duty Member:
 - a. may have been a contributing factor in the death of any person, including all in-custody deaths;
 - b. may have been a contributing factor in a life-threatening injury to any person;
 - c. may cause disfigurement (permanent change in appearance) if there were no medical intervention; or
 - d. may cause permanent loss or impairment of any function or mobility of the body, if there were no medical intervention;
- ii. any discharge of a firearm by an on-duty Member where there are reasonable grounds to believe that any person (including a police officer) may have been injured;
- iii. any incident where there are reasonable grounds to believe that the action of an off-duty officer
 - a. may have been a contributing factor in the death of any person;
 - b. may have been a contributing factor in a life-threatening injury to any person;
 - c. may cause disfigurement (permanent change in appearance), if there were no medical intervention;
 - d. may cause permanent loss or impairment of any function or mobility of the body, if there were no medical intervention.

“Director of Police Services” means British Columbia’s Director of Police Services referred to in section 39(1) *Police Act*.

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

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

“IIO Liaison Officer” means the Member designated by the Chief Constable as the point of contact with the IIO regarding an investigation.

“Involved Officer” (or “Involved Member”) means a Member involved in or present during an incident that is within the jurisdiction of the IIO and includes Subject Officers and Witness Officers.

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

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

“Reportable Injury” means as it is 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) of the *Police Act*.”

“Serious Harm” means as defined in the *Police Act*, “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.”

“Subject Officer” means:

- i. An on-duty Member whose presence, action, or decision is reasonably believed to have been a contributing factor in the death of any person, including in-custody deaths;
- ii. An on-duty Member who has discharged a firearm, where there are reasonable grounds to believe that any person (including a Member) may have been injured by that discharge;
- iii. An on-duty Member whose presence, action, or decision is on reasonable grounds believed to have resulted in injury requiring emergency care by a medical practitioner or nurse practitioner and also requiring transfer to a hospital or community medical facility, or
- iv. An off-duty Member whose action is on reasonable grounds believed to have been a contributing factor in the death of any person, or is on reasonable grounds believed to have resulted in injury requiring emergency care by a medical practitioner or nurse practitioner and also requiring transfer to a hospital or community medical facility.

“Supervisor” means Sergeant or Staff Sergeant, or Member acting in that role, having the responsibility for first level supervision of Employees under their direction.

“Witness Officer” means a Member involved in or present during the incident who is not a Subject Officer.

APPENDIX B: REFERENCES

Memorandum of Understanding Respecting Investigations Between the IIO and Municipal Police Departments, and others (August 31, 2020).

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