

**Guidelines and Directives 001 –  
Guideline for Reviewing Complaints**

Effective Date: April 1, 2024

## **Preamble**

Pursuant to the Law Enforcement Complaints Agency (LECA) *Rules of Procedure*, the Complaints Director (Complaints Director) may issue guidelines at any time as the Complaints Director deems necessary to carry out his/her/their functions under the Act, or in regard to the LECA's practices and procedures. Where any guideline conflicts with the Rules or the Act/Regulation, the Rules and the Act/Regulation shall apply.

## **Purpose of Guideline**

- Section 163 of the *Community Safety and Policing Act (CSPA)* allows the Complaints Director to postpone the commencement of the investigation of a matter which is the subject of an investigation of an offence under a law of Canada, a province or a territory (offence), or the prosecution of such an offence.
- Section 153 of the CSPA and Rule 10.10 of the LECA *Rules of Procedure* sets out the criteria for the Complaints Director in determining whether to screen a complaint in for investigation, including:
  - i. the number or pattern of complainants or related complaints involved
  - ii. the seriousness of the complaint, including the seriousness of the harm alleged
  - iii. if the matter involves vulnerable individuals or communities
  - iv. if the alleged misconduct undermines the principles of policing, disregards fundamental rights and freedoms, or the key duties of a police officer
  - v. if the matter or conduct engages a local or broader concern about a particular issue
  - vi. whether there are issues of systemic importance or broader public interest at stake
  - vii. the likelihood of interfering with or compromising the integrity of other proceedings; and
  - viii. maintaining the effectiveness and timeliness of the complaints process.

- Determining the public interest will always involve a consideration of the circumstances of a complaint and a balancing of the relevant interests.
- Based on a review of past complaints, the Director has determined that it is generally not in the public interest to deal with complaints when there are ongoing criminal and/or Special Investigation Unit investigations or related court proceedings, or proceedings before courts or tribunals, because there is a risk that investigating the matter simultaneously would interfere with or compromise the investigation or related court proceeding, and that postponing the matter until the completion of the investigation or related proceeding would result in too great a delay to make LECA's investigation feasible.
- Indefinite suspension or postponement of files may result in frustration for complainants who had the reasonable expectation that their complaints would be dealt with promptly, and unnecessarily allocate the LECA's resources to monitoring other investigations or related proceedings, rather than investigating complaints.
- This Guideline, without limiting the Complaints Director's discretion under the CSPA, sets out how the Complaints Director reviews complaints which are or become the subject of an investigation of an offence; the prosecution of such an offence; or a related court proceedings ("other proceedings").

### **Review of a complaint involving a related investigation of an offence**

1. If a complaint received by LECA becomes the subject of an investigation of an offence, the Complaints Director may take one of the following steps:
  - a. Send the matter for an investigation
  - b. Refuse to deal with the complaint under section 158 of the CSPA and invite the complainant to resubmit the complaint at the conclusion of the investigation
  - c. Consult with a Crown Attorney or prosecutor
    - i. If the Crown Attorney or prosecutor advise to do so, postpone the commencement of the investigation, for as long as is necessary in the Crown Attorney or prosecutor's opinion,
    - ii. If the Crown Attorney or prosecutor does not advise to postpone the commencement of the investigation, refer the matter for investigation, unless otherwise determined not to be in the public

interest.

### **Review of a complaint involving a related proceeding or prosecution of an Offence**

2. If a complaint received by LECA becomes the subject of a prosecution of an offence, the Complaints Director may refuse to deal with a complaint for not being in the public interest under s. 158 of the CSPA.
3. If a complaint received by LECA becomes the subject of a prosecution of an offence and the Complaints Director determines that a complaint may proceed to an investigation, the Complaints Director shall consult with the Crown Attorney or the Prosecutor.
4. Upon consultation under section 3, if the Crown Attorney or the Prosecutor advises to do so, the Complaints Director may postpone the commencement of the investigation or refuse to deal with it under section 158 of the CSPA.
5. If the Crown Attorney or prosecutor does not advise to postpone the commencement of the investigation, the Director may send the matter for an investigation.

### **3. References**

LECA Rules of Procedure

Community Safety and Policing Act, 2019, S.O. 2019, c. 1, Sched. 1