

**Guidelines and Directives 008**

**CSPA Notifications from Police  
Services Boards**

Effective Date: April 1, 2024

**Preamble**

Pursuant to 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 functions under the Act, or in regard to 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**

- The *Community Safety and Policing Act (CSPA)* 2019, S.O. 2019, c. 1, Sched. 1 and the O. Reg. 406/23: DISCIPLINE (Regulation) creates a framework whereby the Ministry of the Solicitor General (Minister), police services boards, Special Investigations Unit (SIU), the Inspector General of Policing (IG), Chiefs of Police and the Ontario Provincial Police Commissioner (Commissioner) are obligated to notify the Complaints Director of potential misconduct.
- Subsection 197 (2) of the CSPA and the Regulation requires that the Boards notify the Complaints Director if they become aware that a chief of police or deputy chief of police of a police service maintained by the board may have engaged in misconduct that involves, impacts, or relates to a member or members of the public.
- The purpose of this Guideline is to provide the Boards with guidance with respect to issuing a notification to the Complaints Director to comply with CSPA.
- This Guideline sets out when and how the Boards should notify the Complaints Director, and what details they should provide to assist the Complaints Director in determining what is in the public interest, including an investigation by LECA, a Notice of Inquiry and Examination under the LECA Rules of Procedure, a systemic review, or a notification pursuant to CSPA.

## **e-Notification**

1. In accordance with Rule 14.3 of LECA Rules of Procedure, all notifications of potential misconduct should be provided to the Complaints Director through e-Notification available online.
  
2. To assist the Complaints Director in determining whether it is in the public interest to initiate an investigation or take any other action, the Boards should advise the Complaints Director of the following in the e-Notification:
  - a. If the matter involves sensitive information.
  - b. Matter involves a court finding
  - c. If the matter is time sensitive.
  - d. If the matter involves youth records.
  - e. If the matter involves a Confidential Informant.
  - f. If the matter involves a whistleblower.
  - g. Matter has already been dealt with internally
  - h. Discipline has been imposed related to the incident
  - i. The board has any existing Directives or Protocols that address and respond to the nature of the potential misconduct
  - j. The board has already developed a plan of action for dealing with the potential misconduct
  - k. Previous findings of misconduct which show a pattern of similar potential misconduct
  - l. Matter engages questions about the integrity of the police service as a whole or the board
  - m. The board have any conflicts of interest or other challenges in reviewing and/or investigating the matter
  - n. The board foresees any impediments to the Complaints Director investigating the matter
  - o. There is any gap in policy or training relevant to the potential misconduct
  - p. If the matter has been the subject of a resolution between the chief or deputy chief and a member of the public
  - q. Any other public interest consideration
  
3. In accordance with Rule 14.4 of LECA Rules of Procedure, the Boards should respond to any additional inquiries or provide any additional information required by the Complaints Director, within the prescribed timeframe, to assist the Complaints

Director in determining whether it is in the public interest to initiate an investigation or take any other action regarding a notification.

### **Types of conduct that may be reported**

4. Notifications should be provided to the Complaints Director in accordance with subsections 197 (2) of the CSPA and the Regulation.
5. The Boards are only responsible for notifying the Complaints Director if they become aware that the chief or a deputy chief of the police service that is maintained by the board may have committed misconduct.
6. The Boards are not responsible for notifying the Complaints Director of misconduct by officers other than a chief of police or deputy chief of police.
7. The Boards are not responsible for notifying the Complaints Director of misconduct by chiefs and deputy chiefs of other services.
8. The Boards should only notify the Complaints Director of conduct by the chief or deputy chief that the Board reasonably suspects may constitute misconduct and that the conduct was directed at or otherwise directly affected a member of the public who would be authorized to make a complaint about the conduct to the Complaints Director.
9. The Board should not notify the Complaints Director of internal employment related grievances or complaints made by members of the same service against their chief or deputy chief of police unless they directly involve a member of the public.
10. The Boards are not required to notify the Complaints Director of findings of violations of the Charter or the Human Rights Code, when they do not involve any misconduct by the chief or deputy chief, within the meaning of the Code of Conduct and do not directly affect a member of the public.
11. The Boards are not required to notify the Complaints Director of administrative failures, management, or operational errors by the chief or deputy chief that may not rise to the level of misconduct or do not directly involve a member of the public.
12. Complaints made by members of the public will be given priority over incoming notifications, including those from the Boards. Where the subject matter of a

notification is already the subject of an ongoing public complaint or investigation, the Complaints Director will consider the public complainant's rights under the complaints process. Such that, the notification will not supersede or negate the complaint.

13. The Boards are not required to notify the Complaints Director of potential misconduct by a chief or deputy chief where there is an active public complaint investigation, or a public complaint has been made to the Complaints Director about the same incident and alleging the very same misconduct.
14. The Boards are not required to notify the Complaints Director of potential misconduct by a chief or deputy chief that took place prior to April 1, 2024.

### **Timing of Notification**

15. The Boards should notify the Complaints Director of misconduct within 7 business days from when they become aware that the chief or deputy chiefs of their service may have committed misconduct. The notification can be further delayed in the following circumstances at the discretion of the Boards, where that:
  - a. It may interfere with an ongoing criminal investigation (including SIU investigation) or proceeding;
  - b. It may interfere with an immediate or ongoing law enforcement response; and/or
  - c. There is an imminent risk to the safety of the public or a member of the police service which would require an immediate a response
16. As criminal proceedings and investigations have primacy over other proceedings; and in light of the risk that a misconduct investigation may interfere with and/or be delayed by a criminal proceeding/investigation, the Boards may delay providing notification to the Complaints Director until the completion of the related criminal proceedings or investigations.

### **Preserving Evidence**

17. Upon becoming aware that a chief or deputy chief of the police service maintained by the board may have engaged in conduct that may constitute misconduct, the Boards should ensure that all the relevant evidence to the misconduct are preserved. For the purpose of this paragraph, the Boards are not required to engage

in any investigative step to gather evidence. The efforts should be limited to preserving the evidence already available to the Boards at the time of becoming aware of the misconduct.

### **No Investigation until Complaints Director makes a determination**

18. In accordance with section 208 of the CSPA, upon notifying the Complaints Director of potential misconduct in accordance with the Regulation, the Boards shall not (1) conduct an investigation into the matter; (2) impose a disciplinary measure; or (3) make an application for a hearing, until they receive a notification from the Director that:

- a. the Complaints Director will not cause an investigation of the matter to be conducted; or
- b. The Complaints Director will investigate the matter and
  - i. that the investigation will be discontinued; or
  - ii. that the Complaints Director does not have reasonable grounds to believe that the conduct of the chief or the deputy chief who was the subject of the investigation constitutes misconduct.

19. Paragraph 18 does not preclude any criminal investigation or law enforcement action that may be necessary for public safety.