

Guidelines and Directives 009

**Notifications of Misconduct from
Inspector General**

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/her/their 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 *Special Investigations Unit Act (SIU Act)* 2019, S.O. 2019, c. 1, Sched. 5 create 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.
- Under subsection 120(2) and 189 (2) of the CSPA if the IG becomes aware of a complaint or issue respecting the conduct of a person against whom a complaint may be brought under Part X of the CSPA and that the conduct may constitute misconduct, he or she shall notify the Complaints Director.
- Under subsection 107(1)(b) of the CSPA if the IG becomes aware of a misconduct complaint regarding a chief of police that relates to individualized misconduct of the chief of police rather than misconduct that is operational, policy or service in nature, the IG shall notify the Complaints Director.
- This Guideline sets out when and how the IG should notify the Complaints Director, and what details it should provide to assist the Complaints Director in determining what is in the public interest, including an investigation by LECA, a notification under

CSPA, a systemic review, or Notice of Inquiry and Examination under LECA Rules of Procedure,

E-Notification

1. In accordance with Rule 14.9 of LECA Rules of Procedure, all notifications of potential misconduct must be provided to the Complaints Director through e-Notification available online.
2. The e-Notification should provide adequate information to the Complaints Director to allow him to determine whether it would be in the public interest to initiate an investigation. This information includes, but is not limited to, the nature of misconduct, time, date and location of the incident, the identity of the officer or the special constable subject of the notification, and the affected person.
3. In accordance with Rule 14.10, the IG shall respond to Complaints Director's inquiries or provide any additional information required, 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 the CSPA.
5. The IG is only responsible for notifying the Complaints Director of potential misconduct that comes to his or her attention during an inspection or from a member of the police service or a special constable under section 185 of the Act or under section 107(1)(b).
6. The IG should ONLY notify the Complaints Director of misconduct by individuals who fall under the jurisdiction of LECA, including sworn police officers, special constables of Niagara Parks Commission and the Peace Officers of the Legislative Protective Service.
7. The IG shall not notify the Complaints Director of potential misconduct by an officer or special constable who the IG knows has been retired, terminated, or resigned from the police service.

8. The IG shall not notify the Complaints Director of any potential misconduct that took place prior to April 1, 2024, as those incidents would fall outside the framework of the CSPA.
9. The IG should not notify the Complaints Director of internal employment related grievances or complaints made by members of the same service against members of the same service unless they directly involve a member of the public.
10. The IG shall not notify LECA of any deficiencies in the training or the broader policies or procedures of a police service.
11. The IG is not required to notify the Complaints Director of violations of the *Charter of Rights and Freedom* or the *Human Rights Code* when they do not involve any misconduct and do not directly affect a member of the public.
12. The IG is not required to notify the Complaints Director of administrative failures, management, or operational errors that may not rise to the level of misconduct or do not directly involve a member of the public.
13. 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.
14. The IG is not required to notify the Complaints Director of potential misconduct if the IG is aware 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.
15. If the IG receives a complaint from a member of the public about a potential misconduct by a police officer or special constable, the IG should forward that complaint to LECA in accordance with section 155 of the CSPA, inform the person who made the complaint that the complaint has been forwarded, and provide the person with information about the role of the Complaints Director.

Timing of Notification

16. The IG should notify the Complaints Director of misconduct within 7 days after becoming aware of a potential misconduct.
17. The notification can be further delayed in the following circumstances at the discretion of the IG:
 - a. Notification may interfere with a parallel ongoing criminal investigation or proceeding.
 - b. Notification may interfere with an immediate or ongoing law enforcement response.
 - 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.
18. 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 IG may delay providing notification to the Complaints Director, when charges have been laid and until the completion of the related criminal proceedings.