

13 – 18 Alternative Measures for Reporting Discreditable Conduct

New Amended Reviewed – No Amendments

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Rationale

The Toronto Police Service (Service) recognizes that it is in the public interest to foster and maintain confidence in the honesty and integrity of the Service and its members. In order to achieve that goal, s. 1.3 of the Service Standards of Conduct (Standards of Conduct) directs members to report acts of discreditable conduct which may be criminal in nature, lie entirely within the realm of employee misconduct, or both. Further, s. 1.4 of the Standards of Conduct prohibits any acts of reprisal against any member who, in good faith, reports a breach of Service or Legislative Governance or an act of misconduct.

The Service also recognizes there may be circumstances which require alternative measures for reporting discreditable conduct. Therefore, the Service has adopted measures to encourage and assist individuals in reporting discreditable acts.

Governing Authorities

Case Law R. v Leipert [1997], Supreme Court of Canada

Provincial Municipal Freedom of Information and Protection of Privacy Act
Police Services Act
Police Services Act, O. Reg. 123/98, Code of Conduct

Associated Service Governance

Number	Name
1.3	Standards of Conduct – Contravention of Service or Legislative Governance and/or Misconduct
1.4	Standards of Conduct – Reprisal
04–28	Crime Stoppers
13–02	Complaint Intake
13–03	Complaint Management
13–09	Civilian Discipline Process

Forms

Number	Name	Authorization Level
TPS 909	Anonymous Disclosure – Intake Report	PRS – Investigative Unit

Definitions

Misconduct means any conduct that is contrary to or a breach of any Legislative or Service Governance or the *Police Services Act (PSA)*.

Service Governance includes

- Police Services Board Policies and *By-laws*
- Toronto Police Service Collective Agreements
- Standards of Conduct
- Service Governance Definitions
- Policy & Procedures Manual
- Routine Orders
- specialized manuals issued by the Chief of Police
- unit operating procedures issued by their Unit Commander
- CPIC messages
- directions from a superior

Procedure

General

A major component of the Alternative Measures for Reporting Discreditable Conduct Program is maintaining, as far as may be fairly achieved, the confidentiality of individuals, who in good faith, report criminal activity or misconduct, and ensuring that these individuals will not suffer retaliation, harassment, victimization or any other form of reprisal.

The intake process and actions described in this Procedure are not intended to replace the legislated criteria established in the *PSA*, or the steps outlined for internal complaints in the Conduct Chapter of Policy & Procedures Manual. Rather, this Procedure is intended to supplement the foregoing and provide an avenue for members who want a degree of anonymity and protection in relation to the information they may possess. To this end, the Service has introduced an “anonymous disclosure” system to receive and investigate internal matters.

Information received will be considered as protected disclosure, except as outlined below. In order to be qualified as protected, the information must show or pertain to a member of the Service engaging or intending to engage in activities that would constitute criminal behaviour or misconduct.

Exceptions

Professional Standards (PRS) – Investigative Unit may decline to investigate or may discontinue the investigation of any matter raised by a disclosure if it is deemed to be frivolous or vexatious.

A disclosure that is made with the motive of avoiding dismissal or other disciplinary action, or that is false and/or misleading or is made out of malice does not qualify for protected disclosure.

Liability of Co-conspirators

A member cannot avoid liability, if also involved in the criminal behaviour, by reporting the criminal behaviour or misconduct of another member. Therefore, a member cannot expect amnesty in return for making a report solely or substantially with the motive of avoiding penalty or disciplinary action.

Investigative Responsibility

Investigation of incidents containing a protected disclosure shall be exclusively assigned to members of the PRS – Investigative Unit.

No member of the Service who receives, or to whom a protected disclosure is entrusted, shall disclose information that might identify or tend to identify a person who made the disclosure unless directed by a court order. Any request for disclosure of the information contained in the TPS 909 shall immediately be directed to the attention of the Unit Commander – Legal Services.

Protections

Members shall not photocopy the TPS 909 or remove it from the unit file, unless directed by court order.

PRS – Investigative Unit investigators hold a supervisory rank and therefore a member utilizing the alternative measures process shall be deemed to be in compliance with s. 1.3 of the Standards of Conduct and not subject to any disciplinary action in regards to the information they possess.

A member who takes action against another member in reprisal for making a protected disclosure will be subject to disciplinary action, up to and including dismissal and may be subject to a criminal charge.

A member, who wilfully makes any false statement to, or misleads or attempts to mislead PRS – Investigative Unit investigators involved in a protected disclosure investigation will be subject to discipline, up to and including dismissal and may be subject to a criminal charge.

Conduct issues arising from a reprisal or false and/or misleading disclosure are not suitable for unit level discipline.

Anonymous Disclosure

Intake

The PRS – Investigative Unit will receive information anonymously and to assist in this regard have established a dedicated telephone line. (The number for this service is 416-343-7090).

Confidentiality

The names (if known), or any personal identifiers of the member making an anonymous disclosure are not to be transposed onto/into any other document or recording device. No efforts will be undertaken to contact or identify the anonymous source of the information.

Reference, where needed in any subsequent report, document or record, to the original caller or tipster shall be referred to as the “anonymous police informant”.

Before considering the use of the anonymous complaint system, members should be cautioned that the Service cannot guarantee total anonymity from outside sources. In particular, the courts may supersede any privilege extended by Command to the members. However, the Crime Stoppers Program can claim privilege from disclosing information based on a Supreme Court of Canada decision. Essentially, *the R. v*

Leipert [1997], Supreme Court of Canada ruling determined that information stemming from a Crime Stopper source is to be treated as originating from a "confidential police informant."

Member

1. When reporting information pertaining to an act of misconduct by another member, may report the information to the PRS – Investigative Unit by any means.

NOTE: *For the convenience of members, the PRS – Investigative Unit has set up a dedicated telephone line to receive anonymous disclosures. Members attending the PRS – Investigative Unit in person must stipulate at the outset of any disclosure, their desire to initiate the protected disclosure provisions.*

Members are cautioned that use of the anonymous complaints system prohibits the member from having the opportunity of testifying against a perpetrator, or from obtaining any further information about the status of the complaint.

Investigator/Case Manager – Professional Standards – Investigative Unit

2. When assigned to investigate or manage a case that involves the anonymous complaint system, in addition to those duties specified in Procedures 13–02 and 13–03 shall
 - ensure the completed TPS 909 is not photocopied
 - ensure the completed TPS 909 is placed in the unit file
 - refer to the information source in any subsequent reports, documents or records as the “anonymous police informant”

Unit Commander – Professional Standards – Investigative Unit

3. When in command of the PRS – Investigative Unit shall ensure compliance with Item 2.
4. In order to maintain the confidentiality of anonymous police informants and provide an efficient source management system shall ensure
 - staffing is sufficient and available to receive telephone complaints between 0800 and 1600 hours each business day
 - ensure a separate unit file is maintained for all completed TPS 909 reports
5. In order to effectively operate the complaint process shall ensure a unit-specific policy is established to address disclosure requests and/or prosecutorial responsibilities in relation to anonymous disclosures.

NOTE: *The PRS – Investigative Unit shall maintain a statistical record of all complaints received and outcomes thereof. However, no names or personal identifiers of the source shall be kept in this statistical log.*