

GUIDELINE – INVESTIGATION PROCESS

Ethics investigation

If the Commissioner deems the situation to be in the public interest, within 40 days of receiving the complaint, he decides to hold an inquiry.

A complaint is of public interest when it involves, for example:

- death or serious injury to a person;
- a situation where public confidence may be seriously compromised;
- a criminal offence or a repeat offence.

He may also hold an inquiry in the following cases:

- when he deems it necessary following an unsuccessful conciliation;
- when he finds, or it is brought to his attention, that the conduct of a person subject to the Code of Ethics of Québec Police Officers is likely to constitute a derogatory act.

The Commissioner must, however, conduct an investigation in the following cases:

- at the request of the Minister of Public Security;
- when a complainant who has filed a complaint alleging discriminatory conduct by a person subject to the Code refuses conciliation;
- when the conciliation held in connection with a complaint alleging discriminatory conduct by a person subject to the Code fails.

Within 15 days of his decision, the Commissioner designates the investigator who will act in the case. This person must not belong or have belonged in the past to the police force under investigation.

Investigative powers of the Police Ethics Commissioner

Under the *Police Act*, all persons must cooperate with the Commissioner's investigation, except for the person under investigation. However, the subject of the investigation can make known his or her version of the facts by meeting with the Commissioner's investigator, and to answer any questions he or she may have.

The Commissioner's investigative powers also allow him to obtain all operational documents related to the complaint (e.g., event reports, 911 call recordings, administrative forms, video recordings of a detention, etc.), as well as any other document deemed relevant.

Conducting the investigation

During the investigation, the investigator takes care to gather documentary and testimonial evidence relevant to the investigation by contacting witnesses, police departments and any other person deemed relevant, including the complainant and the person under investigation.

When these persons meet with the investigator, they have the right to be accompanied by a person of their choice. However, the accompanying person must not be involved in the event complained of, as he or she may also be interviewed as a witness. This person may not intervene during the witness's statement-taking or comment on the investigation method.

The complainant

Upon receipt of the investigation order, the investigator contacts the complainant to arrange a meeting to obtain his or her version of events. During this meeting, the complainant recounts the events as accurately as possible. During the exchange, the complainant may ask the investigator questions about the ethical process.

Civilian witnesses

The investigator contacts all persons who may have witnessed the event reported in the complaint, to obtain their version of events. These people have a legal obligation to meet with the investigator.

If a witness refuses to cooperate and his or her testimony is deemed essential, the Commissioner may summon the witness to make a statement before him or her. In this case, the investigator contacts the witness to inform him or her that he or she will receive a summons to appear before the Commissioner by bailiff.

Police witnesses

The investigator contacts all police officers who may have witnessed the event reported in the complaint, or who may be able to provide information relevant to the investigation. These police witnesses have a legal obligation to provide a written and signed statement to the investigator.

The subject of a complaint

Once the subject of a complaint has been identified, he or she is informed of the investigation. The Director of Police Services is also informed.

However, if there is an ongoing criminal investigation concerning her, she will not be informed of the investigation until these legal proceedings have been completed. In this case, no police documents will be requested from the Police Department during this period.

Once informed of the investigation, the investigator will contact the subject of the complaint in order to:

- explain the ethical process;
- provide a summary of the complaint;
- summarize the elements the investigation is intended to clarify;
- inform the person that a document will be sent to him or her to determine whether he or she wishes to cooperate in the investigation.

The person who is the subject of a complaint may or may not meet with the investigator and cooperate with the Commissioner's investigation.

Terminating an investigation

The Commissioner may terminate an ongoing investigation if he deems that its continuation is unnecessary in the circumstances. The grounds for terminating an investigation are generally the complainant's failure to cooperate, his withdrawal or the absence of ethical misconduct revealed by the verifications carried out during the investigation.

When the Commissioner terminates an investigation, a written, reasoned decision is sent to the complainant, the subject of the investigation and the Commissioner's director.

The complainant is also informed of his or her right to have the decision reviewed by the Commissioner within 15 days of receiving the decision. In this case, the complainant must submit new facts or elements.

Submission of the investigation report

The investigator must submit his or her investigation report to the Commissioner within six months of the decision to hold an investigation. In exceptional circumstances, such as when it is necessary to await the outcome of legal proceedings, a criminal investigation or an independent inquiry before completing the investigation, the deadline may be extended by the Commissioner. In such cases, the complainant, the person under investigation and the Director of the investigation are notified in writing.

When the investigation is completed, the investigator prepares an investigation report. The complainant, the person under investigation and his or her manager receive a communication informing them that the investigation process has been completed.

After analyzing the investigation report, the Commissioner may, if he deems it necessary, request further investigation to obtain additional information or clarification.

October 25th, 2024