

**NATIONAL  
POLICE  
FEDERATION**



**FEDERATION  
DE LA POLICE  
NATIONALE**

# **MEMBERS' RIGHTS AND RESPONSIBILITIES**

## **QUICK REFERENCE HANDBOOK**

### **PART IX WHISTLEBLOWING AND PROTECTION FROM REPRISALS: RCMP MEMBERS AND THE *PUBLIC SERVANTS DISCLOSURE PROTECTION ACT***

#### **Chapter 1: The *PSDPA*: Purposes, Protections, Offences**

The mission of the National Police Federation is  
to provide strong, professional, fair and progressive representation  
to promote and enhance the rights of RCMP members.

**The National Police Federation  
encourages all members to be aware of their  
rights and responsibilities, particularly when their pay is at stake.**

***The information in this handbook does not constitute legal advice.  
Members who wish to make a disclosure of wrongdoing or file a complaint  
of reprisal under the Public Servants Disclosure Protection Act (PSDPA)  
are advised to consult a lawyer.***

While every effort has been made to ensure accuracy, in the event of any discrepancies or errors, the relevant provisions of the *RCMP Act*, applicable federal statutes, the *RCMP Regulations, 2014*, *Commissioner's Standing Orders*, and RCMP policies govern.

#### **PURPOSES OF THE PUBLIC SERVANTS DISCLOSURE PROTECTION ACT (PSDPA)**

With respect to the RCMP and its members, the purposes of the *PSDPA* are to (see *Canada (Attorney General) v Canada (Public Sector Integrity Commissioner)*, 2016 FC 886, at paras 78-83 and 105-107):

- create the Office of the Public Sector Integrity Commissioner (PSIC), and the Public Servants Disclosure Protection Tribunal (Tribunal);
- ensure that Canadians are protected by a lawful, transparent, and uncorrupted RCMP;
- enable members to bring to light wrongdoings in the RCMP, without fear of reprisal;
- achieve an appropriate balance between a member's duty of loyalty to the RCMP and their *Charter* right to freedom of expression;
- establish effective procedures to enable RCMP members to make disclosures of wrongdoings;
- deal with serious threats to the integrity of the RCMP;
- address wrongdoings of an order of magnitude that could shake public confidence if not reported and corrected;
- ensure that the public has access to any findings of wrongdoing in the RCMP;
- prevent recurrence by bringing past wrongdoings to light and putting corrections in place; and
- denounce and punish wrongdoings and, ultimately, build public confidence in the integrity of the RCMP and its members.

## WRONGDOINGS DISCLOSABLE UNDER THE *PSDPA*

The *PSDPA* applies to the following types of wrongdoings in or relating to the RCMP (*PSDPA*, s. 8):

- a **contravention of any Act** of Parliament or of the legislature of a province, **or of any regulations** made under any such Act, other than a contravention of section 19 of the *PSDPA*;
- a **misuse of public funds or a public asset**;
- a **gross mismanagement** in the RCMP;
- an **act or omission that creates a substantial and specific danger** to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of a member;
- a **serious breach of the Treasury Board's Values and Ethics Code for the Public Sector** (TB Code);
- a **serious breach of the RCMP Code of Conduct**; and
- **knowingly directing or counselling a person to commit any of the above wrongdoings.**

## CONSEQUENCES OF A FINDING OF WRONGDOING

If a member is found to have committed a wrongdoing, they may be subject to ***both*** any penalty provided for by law ***and*** appropriate disciplinary action, up to and including dismissal (*PSDPA*, s. 9).

## REPRISALS PROHIBITED BY THE *PSDPA*

A reprisal **means any of the following measures** taken against a member because the member made a protected disclosure, or has, in good faith, cooperated in an investigation into a disclosure of wrongdoing or an investigation commenced by the PSIC into another wrongdoing (*PSDPA*, s. 2(1), 42.1(1)):

- a conduct measure;
- a demotion;
- a discharge;
- a dismissal;
- any measure that adversely affects the member's employment or working conditions; or
- a threat to take any of the above measures.

### **Person / Member Who Has Taken or Directed a Reprisal**

Every reference in the *PSDPA* to a person who has taken a reprisal **includes** a person / member who has **directed** the reprisal to be taken (*PSDPA*, s. 2(2)).

### **DIRECTING OR TAKING A REPRISAL IS A STATUTORY OFFENCE**

If a member makes a disclosure of wrongdoing under the *PSDPA*, or cooperates in a *PSDPA* investigation, **no person shall** (*PSDPA*, s. 19):

- **take any reprisal** against the member; **or**
- **direct that a reprisal be taken** against the member.

#### **Maximum Punishments** (*PSDPA*, s. 42.3)

**Indictable:** fine of **\$10,000.00**, or not more than **2 years' imprisonment**, or **both**.

**Summary Conviction:** fine of **\$5,000.00**, or not more than **6 months' imprisonment**, or **both**.

### **THWARTING A PSDPA PROCESS IS A STATUTORY OFFENCE**

- **to knowingly make a false or misleading oral or written statement** in disclosing a wrongdoing, or in the course of a wrongdoing investigation, or a reprisal investigation (*PSDPA*, s 40);
- **to wilfully obstruct** the Senior Officer for Disclosure, the PSIC, or any delegate acting on their behalf, **in the performance of their duties under the PSDPA** (*PSDPA*, s. 41); or
- **to, knowing that a document or thing is likely relevant** to a wrongdoing investigation or a reprisal investigation (*PSDPA*, s. 42):
  - **destroy, mutilate or alter** the document or thing;
  - **falsify** the document or make a false document;
  - **conceal** the document or thing; or
  - **direct, counsel, or cause**, in any manner, any person to do anything mentioned above, **or propose, in any manner, to any person that they do any of the above**.

#### **Maximum Punishments** (*PSDPA*, s. 42.3)

**Indictable:** fine of **\$10,000**, or not more than **2 years' imprisonment**, or **both**.

**Summary Conviction:** fine of **\$5,000**, or not more than **6 months' imprisonment**, or **both**.

## **MEMBERS MAY BE TEMPORARILY RE-ASSIGNED IF INVOLVED IN A DISCLOSURE OF WRONGDOING OR A REPRISAL COMPLAINT**

### **Commissioner of the RCMP May Temporarily Re-Assign an Involved Member**

The Commissioner of the RCMP may temporarily re-assign other duties to a member who is involved in a disclosure of wrongdoing or a reprisal complaint if the Commissioner believes on reasonable grounds that (*PSDPA*, s. 51.1(1)):

- the member's involvement has become known in the workplace; or
- the temporary assignment is necessary to maintain the effective operation of the workplace.

### **Involved Members Who May Be Temporarily Re-Assigned**

The members involved in a disclosure of wrongdoing or a reprisal complaint, and who may be temporarily re-assigned by the Commissioner of the RCMP are (*PSDPA*, s. 51.1(2) and (5)):

- the member who **made the disclosure** (with that member's written consent);
- every member who **is the subject of a disclosure of wrongdoing** (no consent required);
- the member who **filed the reprisal complaint** (with that member's written consent);
- every member **alleged to have taken the reprisal** to which the complaint relates (no consent required);
- every member **alleged to have directed that the reprisal be taken** (no consent required);
- every member who **is a witness or potential witness in an investigation**, if any, relating to the disclosure of wrongdoing (with that member's written consent); and
- every member who **is a witness in any proceeding dealing with a reprisal complaint** (with that member's written consent).

### **Temporary Re-Assignment Deemed Not To Be a Reprisal or a Disciplinary Action**

If a discloser, a complainant, or a witness provides written consent for the re-assignment, the re-assignment is deemed **not to be a reprisal** (*PSDPA*, s. 51.1(5)).

If a member who is alleged to have committed a wrongdoing or to have taken a reprisal is re-assigned, the re-assignment is deemed **not to be a disciplinary action** (*PSDPA*, s. 51.1(6)).

### **Duration of Temporary Re-Assignment: Up to 3 Months, Renewable**

The re-assignment may be for a period of up to three months, but the Commissioner of the RCMP may renew the re-assignment one or more times **if** the Commissioner believes that the conditions giving rise to the re-assignment continue to exist (*PSDPA*, s. 51.1(3)).

### **Duties During Temporary Re-Assignment**

A temporary re-assignment will normally be within the RCMP, and the duties assigned **must be comparable** to the member's normal duties (*PSDPA*, s. 51.1(4)).

A member **may be temporarily re-assigned to duties in another portion of the public sector** *if* (*PSDPA*, s. 51.1(7)):

- **both the member and the chief executive of that other portion of the public sector consent** to the re-assignment; **and**
- **the duties are comparable** to the member's normal duties.

If the member consents, the assignment is deemed not to be a reprisal or a disciplinary action.

## **POSSIBLE ACCESS TO FREE LEGAL ADVICE FOR PSDPA PROCEEDINGS**

### **Eligibility**

If a member / former member satisfies the PSIC that they do not have other access to free legal advice, the PSIC may provide the member / former member with access to legal advice if the member (*PSDPA*, s. 25.1(1) to (3)):

- **is considering making a disclosure** of wrongdoing, **and** the PSIC is of the opinion that the act or omission being disclosed **likely constitutes a wrongdoing and that the disclosure is likely to lead to an investigation**;
- **has made a disclosure** of wrongdoing under the *PSDPA*;
- **is or has been involved in any investigation** conducted by the RCMP's Senior Officer for Disclosure or by the PSIC's office;
- **is considering making a complaint of reprisal**; or
- **is or has been involved in a proceeding** under the *PSDPA* regarding an alleged reprisal.

**The PSIC may either pay for legal advice** provided or to be provided to the member; **or provide access to legal advice through legal counsel employed in the PSIC's office** (*PSDPA*, s. 25.1(4) to (9)).

### **Maximum Amounts Payable / Values of Legal Services Provided**

The maximum amount payable to a member, or the maximum value of the time spent by PSIC legal counsel, may not exceed **\$1,500** or, **if in the PSIC's opinion there are exceptional circumstances, \$3,000** (*PSDPA*, s. 25.1(4) and (5)).

## ABBREVIATIONS AND REFERENCES

<i>Charter</i>	<i>Canadian Charter of Rights and Freedoms</i> , Part I of the <i>Constitution Act, 1982</i> , being Schedule B to the <i>Canada Act 1982 (UK), 1982</i> , c 11. (online: <a href="https://laws-lois.justice.gc.ca/eng/Const/page-15.html">https://laws-lois.justice.gc.ca/eng/Const/page-15.html</a> )
<i>Code of Conduct</i>	<i>Code of Conduct of the Royal Canadian Mounted Police</i> , Schedule to the <i>Royal Canadian Mounted Police Regulations, 2014</i> . (online: <a href="https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-281/page-6.html#h-30">https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-281/page-6.html#h-30</a> )
<i>PSDPA</i>	<i>Public Servants Disclosure Protection Act</i> , SC 2005, c 46 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/p-31.9/">https://laws-lois.justice.gc.ca/eng/acts/p-31.9/</a> )
PSIC	Public Sector Integrity Commissioner (website: <a href="https://www.psic-ispc.gc.ca">https://www.psic-ispc.gc.ca</a> )
TB Code	Treasury Board's Values and Ethics Code for the Public Sector (online: <a href="https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049">https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049</a> )
Tribunal	Public Servants Disclosure Protection Tribunal (website: <a href="https://www.psdpt-tpfd.gc.ca/home-en.html">https://www.psdpt-tpfd.gc.ca/home-en.html</a> )

The National Police Federation gratefully acknowledges  
Jill Gunn, LL.B., LL.M., Barrister and Solicitor, for compiling this Handbook.

**NATIONAL  
POLICE  
FEDERATION**



**FEDERATION  
DE LA POLICE  
NATIONALE**

# **MEMBERS' RIGHTS AND RESPONSIBILITIES**

## **QUICK REFERENCE HANDBOOK**

### **PART IX WHISTLEBLOWING AND PROTECTION FROM REPRISALS: RCMP MEMBERS AND THE *PUBLIC SERVANTS DISCLOSURE PROTECTION ACT***

#### **Chapter 2: Disclosing a Wrongdoing**

The mission of the National Police Federation is to provide strong, professional, fair and progressive representation to promote and enhance the rights of RCMP members.



**The National Police Federation  
encourages all members to be aware of their  
rights and responsibilities, particularly when their pay is at stake.**

***The information in this handbook does not constitute legal advice.  
Members who wish to make a disclosure of wrongdoing under the Public  
Servants Disclosure Protection Act (PSDPA) are advised to consult a  
lawyer.***

While every effort has been made to ensure accuracy, in the event of any discrepancies or errors, the relevant provisions of the *RCMP Act*, applicable federal statutes, the *RCMP Regulations, 2014*, *Commissioner's Standing Orders*, and RCMP policies govern.

## **MAKING A PROTECTED DISCLOSURE OF WRONGDOING**

### **Methods of Whistleblowing that Provide Statutory Protection for the Disclosure**

To make a **protected disclosure** of wrongdoing, a member must make the disclosure **in good faith and** (*PSDPA*, s. 2(1)):

- in accordance with the *PSDPA*;
- in the course of a parliamentary proceeding;
- in the course of a procedure established under any Act of Parliament other than the *PSDPA*; or
- when lawfully required to do so.

## **WHISTLEBLOWING IN ACCORDANCE WITH THE PSDPA**

### **To Whom a Member May Disclose**

A member may make a protected *PSDPA* disclosure to (*PSDPA*, s. 12, 13):

- their **immediate supervisor**;
- the **RCMP Senior Officer for Disclosure** (currently, the Professional Responsibility Officer (PRO)); or
- the **Public Sector Integrity Commissioner (PSIC)**, directly.

### **Information a Member May Disclose**

A member may disclose to their immediate supervisor, to the PRO, or to the PSIC, **any information that the member believes could show** that (*PSDPA*, s. 12, 13):

- a wrongdoing has been committed;
- a wrongdoing is about to be committed; or
- the member has been asked to commit a wrongdoing.

However, the member (*PSDPA*, s. 15.1):

- **must not provide** any more information than is reasonably necessary to make the disclosure; and
- **must follow** established procedures or practices for the secure handling, storage, transportation, and transmission of information or documents.

### **MEMBERS CANNOT DISCLOSE SPECIAL OPERATIONAL INFORMATION**

In making any disclosure of wrongdoing, whether internally or to the PSIC, a member **cannot disclose any information that is special operational information** within the meaning of s. 8(1) of the *Security of Information Act* (*PSDPA*, s. 17).

### **INTERNAL DISCLOSURES AND INVESTIGATIONS UNDER THE PSDPA**

#### **What to Expect of the RCMP Senior Officer for Disclosure / PRO**

If a member makes a disclosure internally, the member can expect the RCMP Senior Officer for Disclosure / PRO to (TB Code, Appendix):

- **help promote** a positive environment for disclosing wrongdoing;
- **provide information, advice and guidance** to members regarding the RCMP's internal disclosure procedures, including:
  - the making of disclosures,
  - the conduct of investigations into disclosures, and
  - the handling of disclosures made to supervisors;
- **deal with disclosures of wrongdoing made by members;**
- **receive, record, and review** disclosures to establish whether there are sufficient grounds for further action under the *PSDPA*;
- **manage investigations** into disclosures, including determining whether to deal with a disclosure under the *PSDPA*, initiate an investigation, or cease an investigation;

- **notify the member(s) who made a disclosure, in writing, of the outcome** of any review and/or investigation into the disclosure, and of the status of actions taken on the disclosure, as appropriate;
- **report the findings** of investigations, as well as any systemic problems that may give rise to wrongdoing, directly to **the Commissioner of the RCMP**, with recommendations for corrective action, if any; and
- **support the Commissioner of the RCMP** in meeting the requirements of the *PSDPA*.

### **RCMP Publication of Information and Members' Rights to Confidentiality**

If wrongdoing is found as a result of a member's disclosure to their immediate supervisor or the PRO, the **Commissioner of the RCMP must promptly provide**, in accordance with federal laws, **public access to information** that (*PSDPA*, s. 11):

- describes the wrongdoing;
- sets out the recommendations, if any, made to the Commissioner of the RCMP; and
- sets out the corrective action, if any, taken by the Commissioner of the RCMP, or the reasons why no corrective action was taken.

The Commissioner **may include information** that could identify the wrongdoer **only if** identification is necessary to adequately describe the wrongdoing. **Otherwise**, the Commissioner of the RCMP **must protect the identity of persons involved** in the disclosure process, including:

- the member(s) who made the disclosure;
- witnesses; and
- the member(s) alleged to be responsible for wrongdoings.

### **PUBLIC DISCLOSURES THAT ARE JUSTIFIED AND PROTECTED UNDER THE *PSDPA***

A disclosure that a member may make to their immediate supervisor, to the PRO, or to the PSIC, **may be made to the public if** (*PSDPA*, s. 16(1) and (1.1)):

- the disclosure of the information is **not subject to any federal statutory restriction**;
- **there is insufficient time** to make the disclosure either internally or to the PSIC; **and**
- **the member believes on reasonable grounds that the subject-matter of the disclosure** is an act or omission that **constitutes**:
  - **a serious offence** under a federal or provincial Act; or
  - **an imminent risk of a substantial and specific danger to the life, health and safety of persons, or the environment.**

## DISCLOSURES TO THE PSIC

### **Information a Member Cannot Disclose to the PSIC, and that the PSIC Cannot Compel**

A member cannot disclose to the PSIC, the PSIC cannot request, and if disclosed or obtained in an investigation, the PSIC cannot use (*PSDPA*, s. 13(2), 30, 33(2); *Canada Evidence Act*, s. 39(1)):

- **a confidence of the Queen's Privy Council of Canada**, the disclosure of which is objected to by a minister of the Crown or the Clerk of the Privy Council; or
- **any information that is subject to solicitor-client privilege.**

### **Right to Confidentiality / Protection of Identity**

**The PSIC has a duty** to ensure the confidentiality of information collected and, subject to any other Act of Parliament, **to protect, to the extent possible and in accordance with the law**, the identity of persons involved in the disclosure process, including persons making disclosures, witnesses, and persons alleged to be responsible for wrongdoings (*PSDPA*, s. 22(e) and (f)).

## WHEN THE PSIC MAY OR MUST REFUSE TO DEAL WITH A MEMBER'S DISCLOSURE

The PSIC **may refuse to deal with** a disclosure for valid reasons, including (*PSDPA*, s. 24(1)):

- if the subject-matter has been adequately dealt with, or is not sufficiently important;
- if the disclosure was not made in good faith; or
- if the length of time that has elapsed since the subject-matter arose is such that dealing with it would serve no useful purpose.

The PSIC **cannot deal with** a member's disclosure or commence an investigation if the same subject-matter is being dealt with (*PSDPA*, s. 23(1) and (2)):

- by a person or body acting in a non-law enforcement capacity under another Act of Parliament, **including under s. 20.2 or Part IV of the *RCMP Act*, and**
- **in a way that will** fulfill the PSIC's role and the purposes of the *PSDPA*: to **uncover past wrongdoings, bring them to light in public, and put corrections in place so as to prevent recurrences** (see *Canada (Attorney General) v Canada (PSIC)*, 2016 FC 886).

The PSIC **must refuse to deal with** a disclosure or commence an investigation if the PSIC is of the opinion that **the subject-matter** of the disclosure or the investigation (*PSDPA*, s. 24(2) and (2.1)):

- **relates solely to a decision that was made in the exercise of an adjudicative function** under an Act of Parliament;

- **relates solely to a decision of the Commissioner of the RCMP under Part IV of the *RCMP Act***; or
- is within the jurisdiction of the Conflict of Interest and Ethics Commissioner under the *Conflict of Interest Act*.

#### **Member's Right to Notice if PSIC Refuses to Deal with Member's Disclosure**

If the PSIC refuses to deal with a member's disclosure of wrongdoing or to commence an investigation, the PSIC must inform the member and give reasons for the refusal (*PSDPA*, s. 24(3)).

## **PSIC INVESTIGATIONS INTO DISCLOSURES OF WRONGDOING**

#### **Right to Procedural Fairness and Natural Justice for All Involved Members**

The PSIC must ensure that the right to procedural fairness and natural justice of all persons involved in investigations is respected, including persons making disclosures, witnesses, and persons alleged to be responsible for wrongdoings (*PSDPA*, s. 22(d)).

#### **No Absolute Right to Notice of an Investigation into Wrongdoing Within the RCMP**

When commencing an investigation into an allegation of wrongdoing in the RCMP, the **PSIC** (*PSDPA*, s. 27(1) and (2)):

- **must notify the Commissioner of the RCMP** and provide the substance of the disclosure being investigated;
- **may notify any other person the PSIC considers appropriate**, including every person whose acts or omissions are called into question by the disclosure being investigated, and inform that person of the substance of the disclosure being investigated.

#### **Members Must Provide the PSIC / Investigators Access During Investigation**

If the PSIC requests, and **despite any restriction** created by or under any other Act of Parliament **on the disclosure of information**, the Commissioner of the RCMP and all members must provide the PSIC or the investigator with any facilities, assistance, information and access to their respective offices that the PSIC may require (*PSDPA*, s. 28(1) and (2)).

Before entering any RCMP premises to exercise powers of a commissioner of inquiry, the PSIC must notify the Commissioner of the RCMP (*PSDPA*, s. 29(3)).

### **Right to Representation if Member is Issued a Subpoena, Summons or Other Request**

If the PSIC issues a subpoena, summons, or other request to a member, the PSIC must allow the member to be assisted or represented by counsel or any person (*PSDPA*, s. 29(2)).

### **Limited Right Against Self-Incrimination for Compelled Statements** (*PSDPA*, s. 32)

No member is excused from cooperating with the PSIC / investigator on the grounds that any information given by the member may tend to incriminate the member or subject them to any proceeding or penalty.

However, any information given by the member, or any evidence derived from it, **cannot be used or received to incriminate the member in any criminal proceeding against the member, other than a prosecution under section 132 or 136 of the *Criminal Code*.**

### **INSUFFICIENT PROTECTIONS FOR A MEMBER'S COMPELLED STATEMENTS**

**CAUTION: An incriminating member's statement that was compelled in a PSIC investigation is only protected in criminal proceedings and is not protected from subsequent use in any civil or administrative proceeding, including a *Code of Conduct* proceeding against the member.**

### **No Right to a Hearing, But Right to an Opportunity to Respond if May Be Negatively Affected**

The PSIC is not required to hold a hearing, and no person is entitled to be heard by the PSIC.

However, ***if*** at any time during an investigation it appears to the PSIC that there may be sufficient grounds to make a report or recommendation that **may adversely affect a member, before completing the investigation, the PSIC must take every reasonable measure to give that member a full and ample opportunity to** (*PSDPA*, s. 26(3)):

- answer any allegation; and
- be assisted or represented by counsel or another person.

### **If PSIC Suspects Contravention of Any Act – Remits Matter to the Attorney General**

If the PSIC has reasonable grounds to suspect that information obtained in the course of an investigation that relates to the RCMP may be used in the investigation or prosecution of an alleged contravention of any federal or provincial Act, the PSIC may, in addition to or in lieu of continuing the investigation, remit the information, at that point in time, to the Attorney General of Canada (*PSDPA*, s. 35).

### **Right to a Report of the PSIC's Findings**

After reviewing the results of an investigation, the **PSIC must report their findings to the member(s) who made the disclosure(s) and to the RCMP Commissioner** (*PSDPA*, s. 22(g)).

## JUDICIAL REVIEW OF PSIC'S FINDINGS

The member who made the disclosure is deemed to be directly affected by the PSIC's findings that there was no wrongdoing, and may seek judicial review of those findings (*PSDPA*, s. 51.2(1)(a); *Federal Courts Act*, 18.1(1)).

### ABBREVIATIONS AND REFERENCES

<i>Canada Evidence Act</i>	<i>Canada Evidence Act</i> , RSC, 1985, c C-5 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/c-5/">https://laws-lois.justice.gc.ca/eng/acts/c-5/</a> )
<i>Code of Conduct</i>	<i>Code of Conduct of the Royal Canadian Mounted Police</i> , Schedule to the <i>Royal Canadian Mounted Police Regulations, 2014</i> . (online: <a href="https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-281/page-6.html#h-30">https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-281/page-6.html#h-30</a> )
<i>Conflict of Interest Act</i>	<i>Conflict of Interest Act</i> , SC 2006, c 9, s. 2 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/c-36.65/">https://laws-lois.justice.gc.ca/eng/acts/c-36.65/</a> )
<i>Criminal Code</i>	<i>Criminal Code</i> , RSC, 1985, c C-46 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/C-46/index.html">https://laws-lois.justice.gc.ca/eng/acts/C-46/index.html</a> )
<i>Federal Courts Act</i>	<i>Federal Courts Act</i> , RSC 1985, c F-7 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/F-7">https://laws-lois.justice.gc.ca/eng/acts/F-7</a> )
PRO	Professional Responsibility Officer
<i>PSDPA</i>	<i>Public Servants Disclosure Protection Act</i> , SC 2005, c 46 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/p-31.9/">https://laws-lois.justice.gc.ca/eng/acts/p-31.9/</a> )
PSIC	Public Sector Integrity Commissioner (website: <a href="https://www.psic-ispcc.gc.ca/">https://www.psic-ispcc.gc.ca/</a> )
<i>RCMP Act</i>	<i>Royal Canadian Mounted Police Act</i> , RSC 1985, c R-10, as amended on November 28, 2014, by the <i>Enhancing Royal Canadian Mounted Police Accountability Act</i> , SC 2013, c 18. (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/R-10/index.html">https://laws-lois.justice.gc.ca/eng/acts/R-10/index.html</a> )
<i>Security of Information Act</i>	<i>Security of Information Act</i> , RSC, 1985, c O-5 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/o-5/">https://laws-lois.justice.gc.ca/eng/acts/o-5/</a> )
TB Code	Treasury Board's Values and Ethics Code for the Public Sector (online: <a href="https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049">https://www.tbs-sct.gc.ca/pol/doc-eng.aspx?id=25049</a> )

The National Police Federation gratefully acknowledges  
Jill Gunn, LL.B., LL.M., Barrister and Solicitor, for compiling this Handbook.

**NATIONAL  
POLICE  
FEDERATION**



**FEDERATION  
DE LA POLICE  
NATIONALE**

# **MEMBERS' RIGHTS AND RESPONSIBILITIES**

## **QUICK REFERENCE HANDBOOK**

### **PART IX WHISTLEBLOWING AND PROTECTION FROM REPRISALS: RCMP MEMBERS AND THE *PUBLIC SERVANTS DISCLOSURE PROTECTION ACT***

#### **Chapter 3: Complaints Relating to Reprisals**

The mission of the National Police Federation is  
to provide strong, professional, fair and progressive representation  
to promote and enhance the rights of RCMP members.



**The National Police Federation  
encourages all members to be aware of their  
rights and responsibilities, particularly when their pay is at stake.**

***The information in this handbook does not constitute legal advice.  
Members who wish to file a complaint under the Public Servants Disclosure  
Protection Act (PSDPA) relating to a reprisal for their whistleblowing, are  
advised to consult a lawyer.***

While every effort has been made to ensure accuracy, in the event of any discrepancies or errors, the relevant provisions of the *RCMP Act*, applicable federal statutes, the *RCMP Regulations, 2014*, *Commissioner's Standing Orders*, and RCMP policies govern.

### **LIMITS ON RCMP MEMBERS' RIGHTS TO FILE COMPLAINTS FOR CERTAIN REPRISALS**

A member / former member of the RCMP cannot file a reprisal complaint in relation to any action taken under s. 20.2 of the *RCMP Act* (see below), or any matter that is the subject of a *Code of Conduct* investigation or proceeding under Part IV of the *RCMP Act*, unless (PSDPA, s. 19.1(5)):

- the member / former member has exhausted every procedure available under the *RCMP Act* for dealing with the action or matter; and
- the complaint is filed within 60 days after those internal procedures have been exhausted.

Actions taken under s. 20.2 of the *RCMP Act* include:

- requiring a member to undergo a medical examination or an assessment by a qualified person specified by the Commissioner of the RCMP;
- discharging or demoting a member for unsatisfactory performance;
- discharging or demoting a member for reasons other than a contravention of the *Code of Conduct*; and
- discharging a member for the promotion of economy and efficiency in the Force.

## **FILING A COMPLAINT RELATING TO A REPRISAL**

(If s. 20.2 or Part IV processes have not been initiated, or have been exhausted)

### **Member / Former Member Must Have Reasonable Grounds for Believing a Reprisal Was Taken**

A member / former member, or a person designated by the member or former member, may file a complaint with the PSIC if the member or former member has reasonable grounds for believing that a reprisal has been taken against them (*PSDPA*, s. 19.1(1)).

### **Member / Former Member Must File Complaint Within 60 Days**

A complaint must be filed **no later than 60 days** after the day on which the complainant knew, or in the PSIC's opinion ought to have known, that the reprisal was taken (*PSDPA*, s. 19.1(2)).

### **PSIC May Extend the 60-Day Time Limit**

If the PSIC feels that it is appropriate in the circumstances of the complaint, the complaint may be filed late (*PSDPA*, s. 19.1(3)).

### **Filing a Complaint Precludes Member / Former Member from Commencing Another Procedure**

**If a member / former member files a reprisal complaint with the PSIC**, unless and until the PSIC notifies the member / former member of a decision to not deal with the complaint, the member / former member **cannot commence, in respect of the alleged reprisal** (*PSDPA*, s. 19.1(4), 19.4(4)(a)):

- any procedure under the *RCMP Act* (eg: a harassment complaint or a grievance);
- any procedure under any other Act of Parliament (eg: a human rights complaint); or
- any procedure under a collective agreement.

### **Right to a Timely Decision on Whether the PSIC Will Deal with the Complaint**

The PSIC must decide whether to deal with a member's / former member's complaint **within 15 days after the complaint is filed** (*PSDPA*, s. 19.4(1)).

## WHEN PSIC MAY OR MUST REFUSE TO DEAL WITH A MEMBER'S COMPLAINT

### PSIC's Discretion to Refuse a Member's Complaint

The PSIC may refuse to deal with a member's / former member's complaint if the PSIC is of the opinion that (*PSDPA*, s. 19.3(1)):

- the subject-matter of the complaint **has been adequately dealt with, or could more appropriately be dealt with**, according to a procedure provided for under:
  - the *RCMP Act*, including the procedures under Part IV or the procedures for any action taken under s. 20.2 of the *RCMP Act*;
  - any other Act of Parliament; or
  - a collective agreement; or
- the complaint is **beyond the jurisdiction of the PSIC**; or
- The complaint was **not made in good faith**.

### PSIC Cannot Deal with a Member's Complaint if Another Entity Is Dealing with the Subject-Matter

The PSIC **cannot deal with** a member's / former member's complaint **if a person or body is dealing with the subject-matter of the complaint in a non-law enforcement capacity** (*PSDPA*, s. 19.3(2) and (3)):

- under the *RCMP Act*;
- under any other Act of Parliament; or
- under a collective agreement.

### If a Member Seeks Judicial Review of a Related RCMP Decision, the PSIC Loses Jurisdiction

If a member / former member files an application for **judicial review of a decision relating to any action taken under s. 20.2 of the RCMP Act, or any decision made under Part IV of the RCMP Act**, the PSIC ceases to have jurisdiction to deal with the member's / former member's related *PSDPA* complaint (*PSDPA*, s. 19.3(4)).

## IF THE PSIC DECIDES NOT TO DEAL WITH THE COMPLAINT

### Right to Reasons

If the PSIC decides not to deal with a member's / former member's complaint, the PSIC must provide the member / former member with written notice of the decision, including reasons for the decision (*PSDPA*, s. 14.4(3)).

### **Right to Commence Another Procedure**

If a member / former member receives written notice that the PSIC will not be dealing with their complaint, provided that the complaint was not made in bad faith (*PSDPA*, s. 19.4(4) and (5)):

- the member / former member is **no longer precluded from commencing another procedure** under the *RCMP Act*, under any other Act of Parliament, or under a collective agreement; and
- **the period of time** that the PSIC took to issue a decision **is not to be included in the calculation of any time limit** within which the member / former member must commence the other procedure.

### **JUDICIAL REVIEW OF PSIC'S DECISION TO REFUSE TO DEAL WITH A COMPLAINT**

The member / former member who filed the complaint is deemed to be directly affected by the PSIC's decision, and may seek judicial review of the decision (*PSDPA*, s. 51.2(1)(b); *Federal Courts Act*, s. 18.1(1)).

**IF THE PSIC DECIDES TO DEAL WITH THE COMPLAINT,  
NO CONDUCT PROCEEDINGS AGAINST THOSE  
ALLEGED TO HAVE DIRECTED OR TAKEN THE REPRISAL**

### **Rights to Notice**

If the PSIC decides to deal with a complaint, the PSIC must send written notice of the decision to (*PSDPA*, s. 19.4(2)):

- the member / former member who filed the complaint; and
- the person in the RCMP who has the authority to take disciplinary action against each person/member who participated in the taking of a measure that is alleged to constitute a reprisal.

### **Period of No Disciplinary Action Against Members Alleged to Have Directed or Taken a Reprisal**

If **no Code of Conduct action has already been taken** against a member for their alleged role in a reprisal, **no such action may be taken from the day on which the PSIC sends the written notice, until the earliest of** (*PSDPA*, s. 19.5, 20.4(1)):

- the day on which the complaint is **withdrawn or dismissed**;
- the day on which the **PSIC applies** to the Public Servants Disclosure Protection Tribunal (Tribunal) **for an order of a remedy in favour of the complainant**; and
- if the PSIC applies to the Tribunal for both an order of a remedy in favour of the complainant and an order for disciplinary action against any person(s) or member(s) whom the PSIC has identified as being those who took the reprisal, the day on which **the Tribunal determines that the complainant was not subject to the alleged reprisal**.

### **Period of No Disciplinary Action Not Included in Calculating RCMP Act's One-Year Time Limits**

If there is a period during which a Part IV *Code of Conduct* action cannot be taken against a member alleged to have taken a reprisal, that period of time **cannot be included in the calculation of either one-year time limit within which a conduct authority may** (*PSDPA*, s. 19.5(4) and (5)):

- **impose conduct measures** (see *RCMP Act*, s. 42(2)); or
- **initiate a conduct hearing** (see *RCMP Act*, s. 41(2)).

### **PSIC's Decision to Deal with a Complaint Suspends Related Code of Conduct Proceedings**

If, at the time the PSIC sends written notice of a decision to deal with the complaint, **Code of Conduct action has already been taken against a subject member for their participation in an alleged reprisal** (*PSDPA*, s. 19.6(1) and (3)):

- the Commissioner of the RCMP **must** take the steps necessary to **put the subject member back into the situation the subject member was in before** the *Code of Conduct* action was implemented; **and**
- **the implementation of conduct measures, and the commencement or continuation of any conduct process is suspended** for a period time that begins on the day on which the PSIC sends the notice, and ends on the earliest of:
  - the day on which the complaint is **withdrawn or dismissed**;
  - the day on which the **PSIC applies** to the Tribunal **for an order of a remedy in favour of the complainant**;
  - if the PSIC applies to the Tribunal for both an order of a remedy in favour of the complainant and an order for disciplinary action against any person(s) or member(s) whom the PSIC has identified as being those who took the reprisal, the day on which **the Tribunal determines that the complainant was not subject to the alleged reprisal**; and
  - the day on which the **disciplinary action is taken** as a result of a settlement approved by the PSIC or an order of the Tribunal.

## SETTLEMENT OF A REPRISAL COMPLAINT

At any time during the course of an investigation, the investigator may recommend that the PSIC appoint a conciliator to attempt a settlement of the complaint (*PSDPA*, s. 20(1)).

### **Right to Confidentiality of Information Provided to Conciliator**

Any information received by a conciliator in the course of settlement discussions is **confidential** and **cannot be disclosed** without the consent of the person who gave the information (*PSDPA*, s. 20(4)).

The **conciliator cannot be a witness** at a hearing before the Tribunal (*PSDPA*, s. 21.2(2)).

### **Agreement Required to Settle the Issue of the Remedy to Be Provided to the Complainant**

Any settlement relating to the remedy to be provided to the complainant **must be agreed to by the complainant and the person with the authority to implement the remedy** (*PSDPA*, s. 20.1(1)) (see *possible remedies, below*).

### **Agreement Required to Settle the Issue of the Disciplinary Action to be Taken**

Any settlement relating to the disciplinary action / conduct measures, if any, to be imposed on a member who took an alleged reprisal **must be agreed to by that member and the conduct authority** who has jurisdiction to impose the agreed-upon conduct measure(s) (*PSDPA*, s. 20.1(2)).

### **Settlement Agreement for Conduct Measures Cancels Prior RCMP-Imposed Conduct Measures**

Despite Part IV of the *RCMP Act*, any disciplinary action / imposition of conduct measures as a result of a PSIC-approved settlement agreement cancels any prior RCMP-imposed disciplinary action / conduct measures (*PSDPA*, s. 19.6(4) and (5)).

### **Terms of Settlement Must Be Referred to the PSIC** (*PSDPA*, s. 20.2)

The terms of any settlement agreement **must be referred to the PSIC for approval or rejection**.

After approving or rejecting the terms of a settlement, the PSIC **must**:

- **certify the terms** as either approved or rejected, and
- **notify the parties** to the settlement of the approval or rejection.

### **If PSIC Approves Settlement Terms for the Complainant's Remedy, Complaint Is Dismissed** (*PSDPA*, s. 20.2(2)).

### **Enforcing a PSIC-Approved Settlement Agreement**

The PSIC or a member who is a party to a settlement may, on application to the Federal Court, have the terms of a PSIC-approved settlement agreement made an order of the Federal Court (*PSDPA*, s. 20.2(4); see Part 12 of the *Federal Courts Rules*).

## **INVESTIGATIONS INTO REPRISAL COMPLAINTS**

### **Notices of Investigation**

When commencing an investigation into an allegation that a member took a reprisal, the investigator (*PSDPA*, s. 19.8):

- **must notify the Commissioner of the RCMP** and inform the Commissioner of the substance of the complaint; and
- **may notify any other person the investigator considers appropriate, including every person whose conduct is called into question** by the complaint, and inform the person of the substance of the complaint.

**Investigations to Be Conducted as Informally and Expeditiously as Possible** (*PSDPA*, s. 19.7(2))

### **Right to Procedural Fairness and Natural Justice**

The PSIC must ensure that the right to procedural fairness and natural justice of all persons involved in investigations is respected (*PSDPA*, s. 22(d)).

### **Members Must Provide Assistance, Information, Access to Investigators**

If the investigator requests, the Commissioner of the RCMP and all members must provide the investigator with any facilities, assistance, information, and access to their respective offices that the investigator may require (*PSDPA*, s. 19.9(1)).

If the investigator is unable to complete an investigation due to insufficient cooperation, they must report so to the PSIC (*PSDPA*, s. 19.9(2), 20.3).

### **Investigator's Report to the PSIC**

As soon as possible after completing the investigation, the investigator must submit a report of their findings to the PSIC (*PSDPA*, s. 20.3).

## **PSIC'S DECISION AFTER RECEIVING INVESTIGATION REPORT: DISMISS THE COMPLAINT, OR APPLY TO THE TRIBUNAL FOR A DETERMINATION**

### **Right to Notice of PSIC's Decision of Whether to Make an Application to the Tribunal**

Whether the PSIC dismisses a reprisal complaint, or makes an application to the Tribunal for a determination of whether or not a reprisal was taken, the PSIC must notify (*PSDPA*, s. 20.6):

- the member / former member complainant;
- the RCMP;

- the person(s) / member(s) identified in the investigator's report as being those who may have taken the alleged reprisal; and
- the person(s) / conduct authority(ies) with the authority to take disciplinary action / impose conduct measures against the person(s) / member(s) who may have taken the alleged reprisal.

## **JUDICIAL REVIEW OF PSIC'S DECISION TO DISMISS A COMPLAINT**

The member / former member who filed the complaint is deemed to be directly affected by the PSIC's decision, and may seek judicial review of the decision (*PSDPA*, s. 51.2(1)(b); *Federal Courts Act*, 18.1(1)).

### **ABBREVIATIONS AND REFERENCES**

<i>Code of Conduct</i>	<i>Code of Conduct of the Royal Canadian Mounted Police</i> , Schedule to the <i>Royal Canadian Mounted Police Regulations, 2014</i> . (online: <a href="https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-281/page-6.html#h-30">https://laws-lois.justice.gc.ca/eng/regulations/SOR-2014-281/page-6.html#h-30</a> )
<i>Federal Courts Act</i>	<i>Federal Courts Act</i> , RSC 1985, c F-7 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/F-7">https://laws-lois.justice.gc.ca/eng/acts/F-7</a> )
<i>Federal Courts Rules</i>	<i>Federal Courts Rules</i> (SOR/98-106) (online: <a href="https://laws-lois.justice.gc.ca/eng/regulations/SOR-98-106/index.html">https://laws-lois.justice.gc.ca/eng/regulations/SOR-98-106/index.html</a> )
PRO	Professional Responsibility Officer
<i>PSDPA</i>	<i>Public Servants Disclosure Protection Act</i> , SC 2005, c 46 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/p-31.9/">https://laws-lois.justice.gc.ca/eng/acts/p-31.9/</a> )
PSIC	Public Sector Integrity Commissioner (website: <a href="https://www.psic-ispcc.gc.ca/">https://www.psic-ispcc.gc.ca/</a> )
Tribunal	Public Servants Disclosure Protection Tribunal (website: <a href="https://www.psdpt-tpfd.gc.ca/home-en.html">https://www.psdpt-tpfd.gc.ca/home-en.html</a> )
<i>RCMP Act</i>	<i>Royal Canadian Mounted Police Act</i> , RSC 1985, c R-10, as amended on November 28, 2014, by the <i>Enhancing Royal Canadian Mounted Police Accountability Act</i> , SC 2013, c 18. (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/R-10/index.html">https://laws-lois.justice.gc.ca/eng/acts/R-10/index.html</a> )

The National Police Federation gratefully acknowledges  
Jill Gunn, LL.B., LL.M., Barrister and Solicitor, for compiling this Handbook.



**NATIONAL  
POLICE  
FEDERATION**



**FEDERATION  
DE LA POLICE  
NATIONALE**

# **MEMBERS' RIGHTS AND RESPONSIBILITIES**

## **QUICK REFERENCE HANDBOOK**

### **PART IX WHISTLEBLOWING AND PROTECTION FROM REPRISALS: RCMP MEMBERS AND THE *PUBLIC SERVANTS DISCLOSURE PROTECTION ACT***

#### **Chapter 4: Hearings Before the Public Servants Disclosure Protection Tribunal**

**The mission of the National Police Federation is  
to provide strong, professional, fair and progressive representation  
to promote and enhance the rights of RCMP members.**

**The National Police Federation  
encourages all members to be aware of their  
rights and responsibilities, particularly when their pay is at stake.**

***The information in this handbook does not constitute legal advice.  
Members who may be involved in a hearing before the  
Public Servants Disclosure Protection Tribunal (the Tribunal)  
are advised to consult a lawyer.***

While every effort has been made to ensure accuracy, in the event of any discrepancies or errors, the relevant provisions of the *RCMP Act*, applicable federal statutes, the *RCMP Regulations, 2014*, *Commissioner's Standing Orders*, and RCMP policies govern.

## **TRIBUNAL HEARINGS AND DETERMINATIONS**

### **PSIC Must Represent the Public Interest, Not the Member's**

Having regard to the nature of the complaint, the Office of the Public Sector Integrity Commissioner (PSIC) **must** adopt the position that, in their opinion, is in the public interest (*PSDPA*, s. 21.6(2)).

### **Member's Participatory Rights**

**Every party** to a hearing, including a complainant member or a member who took a reprisal against a complainant, **must be given a full and ample opportunity to participate** at any proceeding before the Tribunal, including, but not limited to (*PSDPA*, s. 21.6(1)):

- by appearing at any hearing;
- by presenting evidence; and
- by making representations.

### **Member's Right to Be Represented**

**Every member who is a party** at any proceeding before the Tribunal has the **right to be assisted or represented by counsel or any person** (*PSDPA*, s. 21.6(1)).

### **Member May Request Private Hearing**

**At the request of any party**, the hearing may be held *in camera* if that party establishes that the circumstances of the case require it (*PSDPA*, s. 21.3).

### **Witness Members May Request Witness Fees**

Any member summoned to attend a hearing is entitled, **at the discretion of the Tribunal**, to receive the same fees and allowances as those paid to persons summoned to attend before the Federal Court (*PSDPA*, s. 21.2(3); see *Federal Courts Rules*, s. 43 and *Tariff A*).

## **FIRST HEARING – Remedies for Complainant Member(s) if They Suffered a Reprisal**

### **Purpose**

The Tribunal **must first determine** (*PSDPA*, s. 21.4(1), 21.5(1)):

- **whether the complainant was subjected to a reprisal;**
- **who took the reprisal;** whether the person(s) / member(s) identified by the PSIC are actually those who took the reprisal; **and**
- **if the complainant was subjected to a reprisal**, regardless of whether or not the reprisal was taken by the person(s) / member(s) identified by the PSIC, **the appropriate remedy to order for the complainant.**

### **Parties**

At the first hearing, the parties are (*PSDPA*, s. 21.4(2) and (3), 21.6(3)):

- the PSIC;
- the member / former member complainant;
- the employer; and
- **if** the Tribunal is of the opinion that they may be directly affected by a determination of the Tribunal, the person(s) / member(s) who were identified as being those who may have taken the alleged reprisal; **however**, the Tribunal may limit their participation in the first hearing.

### **Tribunal May Order RCMP Commissioner to Implement Remedies for the Member Complainant**

Despite provisions in the *RCMP Act* stating that decisions of the Commissioner of the RCMP are final and binding, the Tribunal may provide an appropriate remedy to a member complainant by ordering the Commissioner of the RCMP or delegate, to take all necessary steps to (*PSDPA*, s. 21.7(1) and (2)):

- **permit the member to return to their duties;**
- **reinstate the member;**
- **in lieu of reinstatement**, if, in the Tribunal's opinion, the relationship of trust between the parties cannot be restored, **pay compensation to the member;**

- **pay compensation** to the member in an amount not greater than the amount that, in the Tribunal's opinion, is **equivalent to the remuneration that would, but for the reprisal, have been paid to the member**;
- **rescind any measure or action, including any conduct measure, and pay compensation to the member** in an amount not greater than the amount that, in the Tribunal's opinion, is **equivalent to any financial or other penalty imposed** on the member;
- **pay** to the member an amount equal to any **expenses and any other financial losses incurred** by the member as a direct result of the reprisal; or
- compensate the member, by an amount of **not more than \$10,000, for any pain and suffering** that the complainant experienced as a result of the reprisal.

**Right to Timely, Written Reasons for Decisions Re: Reprisal and Remedy for Complainant, If Any**

The Tribunal **must** issue written reasons for these decisions **as soon as possible** (*PSDPA*, s. 21.5(3)).

**SECOND HEARING – Conduct Measures for Member(s) Responsible for the Reprisal**

**Tribunal May Order Conduct Measures to Be Imposed on Member(s)**

After determining that a reprisal had been taken and issuing its written reasons, the Tribunal **may** then make an order respecting the disciplinary action / conduct measures to be imposed against any person / member who was determined by the Tribunal to have taken the reprisal (*PSDPA*, s. 21.5(4)).

**Parties**

At a second hearing, the complainant member is not a party and does not have any participatory rights. Rather, the parties are:

- the PSIC;
- the person / member against whom the disciplinary action would be taken; and
- any person / member designated by the Tribunal to make submissions on behalf of the person / member who would be responsible for implementing the Tribunal's order for disciplinary action / conduct measures (*PSDPA*, s. 21.5(5)).

**Tribunal May Order Conduct Measures Against RCMP Member(s) Responsible for the Reprisal**

Despite Part IV of the *RCMP Act*, **the Tribunal may order the Governor in Council or the Commissioner of the RCMP to impose conduct measures specified by the Tribunal**, which are limited to any combination of the conduct measures available under the *RCMP Act* and the *Conduct CSOs* (*PSDPA*, s. 21.8(1), (5), (6) and (7); *RCMP Act*, s. 39.1(1), 45(4)(a) and (b); *Conduct CSOs*, s. 2(5), 3, 4, and 5).

### **Tribunal's Order for Conduct Measures Cancels Prior RCMP-Imposed Conduct Measures**

Despite Part IV of the *RCM Act*, the imposition of conduct measures ordered by the Tribunal cancels any conduct measures previously imposed by a conduct authority or conduct board (*PSDPA*, s. 19.6(4) and (5)).

## **JUDICIAL REVIEW OF TRIBUNAL'S DECISION**

A party to a proceeding before the Tribunal is deemed to be directly affected by the Tribunal's decision, and may seek judicial review of the decision (*PSDPA*, s. 51.2(1)(b); *Federal Courts Act*, 18.1(1)).

## **ENFORCING THE TRIBUNAL'S ORDER**

**Any member affected by any order of the Tribunal may request, in writing**, that the PSIC file a certified copy of the order (without the Tribunal's reasons for the order) in the Federal Court. Upon such a request, **the PSIC must file the Tribunal's order in the Federal Court unless**, in the PSIC's opinion (*PSDPA*, s. 21.9(1); see Part 12 of the *Federal Courts Rules*):

- there is no indication of a failure, nor a likelihood of a failure, to comply with the order; or
- there is good reason why the filing of the order in the Federal Court would serve no useful purpose.

## **ABBREVIATIONS AND REFERENCES**

<i>Conduct CSOs</i>	<i>Commissioner's Standing Orders (Conduct)</i> , (SOR 2014-291)
<i>Federal Courts Act</i>	<i>Federal Courts Act</i> , RSC 1985, c F-7 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/F-7">https://laws-lois.justice.gc.ca/eng/acts/F-7</a> )
<i>Federal Courts Rules</i>	<i>Federal Courts Rules</i> (SOR/98-106) (online: <a href="https://laws-lois.justice.gc.ca/eng/regulations/SOR-98-106/index.html">https://laws-lois.justice.gc.ca/eng/regulations/SOR-98-106/index.html</a> )
<i>PSDPA</i>	<i>Public Servants Disclosure Protection Act</i> , SC 2005, c 46 (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/p-31.9/">https://laws-lois.justice.gc.ca/eng/acts/p-31.9/</a> )
PSIC	Public Sector Integrity Commissioner (website: <a href="https://www.psic-ispc.gc.ca/">https://www.psic-ispc.gc.ca/</a> )
<i>RCMP Act</i>	<i>Royal Canadian Mounted Police Act</i> , RSC 1985, c R-10, as amended on November 28, 2014, by the <i>Enhancing Royal Canadian Mounted Police Accountability Act</i> , SC 2013, c 18. (online: <a href="https://laws-lois.justice.gc.ca/eng/acts/R-10/index.html">https://laws-lois.justice.gc.ca/eng/acts/R-10/index.html</a> )

The National Police Federation gratefully acknowledges  
Jill Gunn, LL.B., LL.M., Barrister and Solicitor, for compiling this Handbook.