

November 19, 2025

Mr. Prabhu Rajan
Police Complaint Commissioner
Office of the Police Complaint Commissioner
PO Box 9895, Stn Prov Govt
Victoria, BC V8W 9T8

RE: OPCC Jurisdiction Over Bylaw Enforcement Officers – Request for Confirmation or Notice of Judicial Review

Dear Commissioner Rajan:

I submit that the Office of the Police Complaint Commissioner (OPCC) currently possesses both statutory authority and constitutional mandate to investigate complaints regarding bylaw enforcement officers appointed under section 36 of the *Police Act*¹. I respectfully request confirmation that the OPCC will accept jurisdiction over such complaints. Absent such confirmation within **15 days**, I will proceed with an application for judicial review to compel recognition of this jurisdiction.

I. BYLAW OFFICERS OPERATE UNDER MANDATORY POLICE COMMAND

Section 36(3) of the *Police Act* creates mandatory police command authority: "A bylaw enforcement officer must, under the direction of the chief constable or officer in charge of the detachment of police operating in the municipality, perform the functions and duties, and has the powers, privileges and responsibilities respecting the enforcement of municipal bylaws..."² This is not optional coordination, it establishes the same command relationship between chief constables and bylaw officers as exists with municipal constables.

The *Police Act* integrates bylaw officers into police accountability structures throughout its provisions: vicarious liability (s. 20(1)(a)),³ legal cost protection (s. 22),⁴ and police board appointment authority (s. 36(1)).⁵ BC courts have confirmed bylaw officers are peace officers when executing duties.⁶

II. BYLAW OFFICERS POSSESS GREATER SEARCH POWERS THAN SWORN POLICE

Critically, bylaw enforcement officers possess statutory authority to enter private dwellings without consent and without a warrant under circumstances where sworn police officers require judicial authorization. Section 16(5)(e) of the *Community Charter* permits entry into private dwellings "for a purpose referred to in subsection (6)(a) in relation to regulations, prohibitions or requirements applicable to the place that is being entered."⁷

Section 16(6)(a) authorizes entry "to inspect and determine whether all regulations, prohibitions and requirements are being met."⁸ Combined, these provisions permit warrantless entry into private dwellings to enforce bylaws applicable to the dwelling itself—an authority exceeding sworn police powers. Police generally require consent or judicial warrant to enter dwelling-houses absent exigent circumstances.⁹

Officers exercising search powers exceeding those of sworn police cannot logically be exempt from the oversight applied to sworn officers. Greater power demands greater accountability.

III. THE OPCC ALREADY HAS JURISDICTION

A. Purposive Interpretation

While Part 11 defines "member" as "a municipal constable, deputy chief constable or chief constable,"¹⁰ statutory interpretation requires reading provisions "in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament."¹¹

Part 11's manifest purpose is civilian oversight of persons exercising police powers affecting the public. When officers:

1. operate under chief constable direction;
2. exercise powers specified by police boards;
3. possess search authorities exceeding sworn officers; and
4. are integrated into police liability frameworks,

they are functionally indistinguishable from "members" for oversight purposes. Section 36 officers are not administrative employees, they are peace officers operating under police command with extraordinary powers.

The Supreme Court's direction in *Rizzo & Rizzo Shoes* is particularly instructive: courts must interpret benefits-conferring legislation broadly and resolve doubt in favour of claimants.¹² The OPCC oversight framework is precisely such legislation, designed to protect the public from police misconduct. An overly restrictive interpretation excluding bylaw officers, who wield comparable or greater powers, would be inconsistent with the scheme and purpose of the *Police Act*.

B. Constitutional Imperative

Section 7 of the *Charter* requires that deprivations of liberty comply with principles of fundamental justice.¹³ Bylaw officers routinely make decisions affecting liberty, issuing tickets with financial penalties, entering private property without consent, initiating prosecutions. Independent civilian oversight is essential to fundamental justice when state actors wield such powers.¹⁴

The OPCC exists to fulfill this constitutional imperative. Excluding officers who exercise comparable or greater enforcement powers under police command creates an accountability gap fundamentally at odds with Charter principles and undermines public confidence in police oversight.

IV. THE CURRENT ACCOUNTABILITY GAP

Under current practice, complaints against bylaw enforcement officers fall into a jurisdictional void. The OPCC disclaims jurisdiction. Municipal complaint processes lack the independence, expertise, and procedural safeguards of the OPCC

framework.¹⁵ This gap is particularly concerning given bylaw enforcement often involves vulnerable populations and contentious disputes.

The public cannot distinguish between "municipal constables" and "bylaw enforcement officers" when both operate under chief constable command and exercise enforcement authority. The accountability framework must reflect functional reality, not employment classifications.

V. CONCLUSION AND REQUEST

The OPCC already possesses statutory authority and constitutional mandate to investigate complaints against bylaw enforcement officers. This jurisdiction flows from:

1. mandatory placement under chief constable direction;
2. exercise of search powers exceeding sworn police officers;
3. integration into police governance and liability frameworks; and
4. purposive interpretation of Part 11 aligned with constitutional objectives.

I respectfully request confirmation within **15 days** that the OPCC will accept jurisdiction over complaints concerning bylaw enforcement officers appointed under section 36 of the Police Act. Should the OPCC decline or fail to respond, I will proceed with an application for judicial review seeking a declaration that the OPCC has jurisdiction and a mandamus order compelling the OPCC to exercise that jurisdiction.

The principle is straightforward: officers who exercise coercive state powers under police direction must be subject to civilian oversight commensurate with the powers they wield. Section 36 officers wield extraordinary powers. They require extraordinary oversight.

Respectfully submitted,

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Cc

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ENDNOTES

- 1 *Police Act*, RSBC 1996, c 367.
- 2 *Ibid*, s 36(3).
- 3 *Ibid*, s 20(1)(a): "a municipality is liable for a tort that is committed by any of its municipal constables, special municipal constables, designated constables, enforcement officers, bylaw enforcement officers or employees of its municipal police board..."
- 4 *Ibid*, s 22(1).
- 5 *Ibid*, s 36(1).
- 6 *R v Turko* (2000), BCPC (unreported); *Woodward v Capital Regional District* (2005), BCSC (unreported); *R v Baksay*, 2009 BCPC 217. See also *Criminal Code*, RSC 1985, c C-46, s 2 (definition of "peace officer" includes "other person employed for the preservation or maintenance of the public peace").
- 7 *Community Charter*, SBC 2003, c 26, s 16(5)(e).
- 8 *Ibid*, s 16(6)(a).
- 9 *R v Feeney*, [1997] 2 SCR 13, 146 DLR (4th) 609 at para 45: "generally a warrant is required to make an arrest in a dwelling house." See also *Criminal Code*, *supra* note 6, ss 529-529.5 ("Feeney warrants").
- 10 *Police Act*, *supra* note 1, s 76(1).
- 11 *Rizzo & Rizzo Shoes Ltd (Re)*, [1998] 1 SCR 27 at 41, 154 DLR (4th) 193 (quoting E.A. Driedger, *Construction of Statutes* (2nd ed 1983) at 87).
- 12 *Ibid* at paras 24-27 (legislation intended to protect employees should be interpreted broadly; doubt resolved in favour of claimant; overly restrictive approach inconsistent with statutory scheme).
- 13 *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11, s 7.
- 14 See Krista Stelkia, "An Exploratory Study on Police Oversight in British Columbia" (2020) 8 SAGE Open 1 at 2-3 (discussing constitutional imperatives for civilian oversight of police powers).
- 15 See Office of the Ombudsperson, *Bylaw Enforcement: Best Practice Guide* (Victoria: BC Ombudsperson, 2015) (noting absence of independent oversight mechanisms for municipal bylaw enforcement).