



City of Toronto
Traffic Agent Unit

Traffic Agent
Special Constable
Complaints Investigation Procedure

Unit Complaints Coordinator:

James Chandler

Program Manager Traffic Agent Unit

Geoffrey Lau

Created:

November 16, 2020

Version:

1.0

Table of Contents

Complaints Investigation Procedure for Traffic Agents	3
Schedule "A" – Traffic Agent Complaints Process	7
Schedule "B" – Complaints – Who and What	10
Who a Complaint or Concern Can be About	10
Who Can Submit a Complaint or Concern	10
Individuals Who Can Make a Complaint are Limited to the Following:	11
Schedule "C" – Submit a Complaint or Concern	12
Ways to Submit a Complaint or Concern	12
What Should Be Included in a Complaint	13
Signing the Form	13
Schedule "D" – Local Resolution	14
Schedule "E" – Screening Complaints	16
Keeping Participants Informed	17
Schedule "F" – Investigating a Complaint	18
Service Investigations	18
UCC Investigations	18
Investigation Timelines	18
Investigative Reports	18
Schedule "G" – Informal Resolution	20
Participation in Informal Resolution	20
Examples of Informal Resolutions	21
Schedule "H" – Outcomes	22
Making a Determination	22
Reasonable Grounds	22
Unsubstantiated Complaints	22
Substantiated Complaints	22
Schedule "I" – Withdrawing a Complaint	23
Schedule "J" – Trend Analysis / Early Intervention – Officer Conduct	24
Appendix	25

Complaints Investigation Procedure for Traffic Agents

This procedure shall apply to any Complaint or Concern received by the City of Toronto with respect to:

- (a) The conduct of a Traffic Agent,
- (b) Policies of, or services provided by, the Traffic Agent Program.

The classification of all allegations of misconduct shall be made by Toronto Police Service (the "Service"). Complaints that are categorized as "major" will in most cases be investigated by the Service. The Service shall determine whether complaints that have been classified as "minor" will be investigated by the City of Toronto or by the Service. For investigations undertaken by the Service, the policies and procedures of the Service shall apply. This procedure shall be subject to the requirements as set out in the Agreement between Toronto Police Services Board and the City of Toronto, dated February 6, 2020.

This policy shall only apply to Complaints and Concerns received by the City of Toronto.

1. The following definitions shall apply to this Complaints Procedure:
 - (a) "*Agreement*" shall mean the agreement entered into between the Toronto Police Services Board and City of Toronto, dated TBD, 2019, setting out the requirements relating to the appointment or persons employed by the City of Toronto as special constables in accordance with section 53 of the *Police Services Act*.
 - (b) "*Complaint*" means an allegation from an individual intended to be processed accordingly through this Complaints Procedures.
 - (c) "*Complainant*" is the person who has made a Complaint or Concern.
 - (d) "*Concern*" means, information received by the Unit Complaints Coordinator about an issue that has not yet been recorded and/or received as a Complaint and is of a less serious nature.
 - (e) "*Respondent Officer*" means the individual member of the TAU who is alleged to have been involved in misconduct.
 - (f) "*Schedules*" means the following Schedules to this Complaints Procedure
 - i. Schedule "A" – Traffic Agent Complaints Process
 - ii. Schedule "B" – Complaints – Who and What
 - iii. Schedule "C" – Submit a Complaint or Concern
 - iv. Schedule "D" – Local Resolution
 - v. Schedule "E" – Screening Complaints
 - vi. Schedule "F" – Investigating a Complaint
 - vii. Schedule "G" – Informal Resolution

- viii. Schedule “H” – Outcomes
- ix. Schedule “I” – Withdrawing a Complaint
- x. Schedule “J” – Trend Analysis – Officer Conduct

- (g) “*Service*” shall mean the Toronto Police Service.
 - (h) “*Traffic Agent*” means a person employed by the City of Toronto who has been appointed by the Toronto Police Services Board, and approved by the Minister, as a special constable in accordance with section 53 of the *Police Services Act* or the New Legislation upon its coming into force, with powers and duties as set out in the appointment and in the Agreement.
 - (i) “*City*” shall mean the City of Toronto.
 - (j) “*City of Toronto Traffic Agent Program*” means the program established by the City to: (a) ensure compliance with the terms of the Agreement, (b) govern the appointment process of a City Traffic Agent, and (c) monitor the on-going conduct of Traffic Agents, and (d) assist in the movement of traffic on City Highways and ensure the safe and orderly flow of traffic on City Highways.
 - (k) “*Unit Complaints Coordinator*” or “*UCC*” is a designated Complaint Coordinator employed by the City of Toronto, independent of the Traffic Agent Unit (“TAU”), who has been trained by the Toronto Police Service’s Professional Standards Unit.
 - (l) “*Traffic Agent Unit*” or “*TAU*” is the branch of the City’s Transportation Services Division that employs Traffic Agents and is responsible for the delivery of active traffic management under the City’s Congestion Management Plan as well as enforcement of various City By-laws under the Provincial Offences Act.
2. All Complaints and Concerns that are received by the City shall be managed by the UCC in accordance with this Complaints Procedure.
 3. Every Complaint or Concern received by the UCC shall be processed according to the steps as outlined in Schedule A until the matter is resolved. This includes possible resolutions (as applicable) at various stages including Local and Informal Resolutions as outlined in Schedules D and G respectively.
 4. All Complaints involving the conduct of a Traffic Agent shall be forwarded to the UCC.
 5. All Complaints and Concerns received by the UCC will be categorized into alleged breaches of the TAU Code of Conduct as outlined in Schedule B.
 6. An individual may file a Complaint or Concern to the City by utilizing the methods as outlined in Schedule C.
 7. Every Complaint received will be screened (if applicable) according to the procedures as outlined in Schedule E.

8. Every Complaint that is assigned to the UCC for investigation shall be managed as outlined in Schedule F.
9. When it becomes known that a Traffic Agent is the subject of a Complaint, he or she, shall be notified, forthwith, of the fact that he/she is the subject of a Complaint, unless such notification would jeopardize an investigation.
10. Complaint investigations must be conducted in a thorough, fair and impartial manner and be expeditiously resolved. Complaints shall be investigated on the merit and substance of the evidence and shall not involve inquiry into the background of the Complainant for the sole purpose of undermining the credibility of the Complainant.
11. At any time, whether before, during or after completion of the UCC's investigation of a Complaint, or before the making of any findings on the Complaint investigation, the Toronto Police Services Board may, in its sole discretion, request the Service to undertake an investigation of the Complaint. If the Toronto Police Services Board requests an investigation by the Service, the Complainant shall be immediately notified.
12. In addition to any findings of misconduct following a Complaint investigation, the City shall immediately forward to the Service, for the Service's review and action, any information the City receives or has in its possession concerning misconduct or alleged misconduct, including a breach of any provision of the Agreement whether allegedly committed before or after the date of his or her appointment as a Traffic Agent, occurring up to one year prior to the date of his or appointment as a Traffic Agent pursuant to the Agreement and from the date of execution of the Agreement forward, which has not resulted in a Complaints investigation by either the Service or the City.
13. Findings for Complaint investigations will be made as outlined in Schedule H.
14. The Complainant shall be kept advised of the outcome of the investigation of the Complaint as outlined in Schedule H.
15. In cases in which the City investigated a Complaint, or was to investigate a Complaint, a Complainant may after the City has completed its investigation, or should have completed its investigation based on the timelines set out in this policy, request a review of whether the City properly followed this Complaints Procedure. Any such request for a review shall be made to Ombudsman Toronto (www.ombudstoronto.ca).
16. If at any point in time a Complainant wishes to withdraw their Complaint after it has been submitted, the procedures to be followed are outlined in Schedule I.
17. The UCC shall conduct regular reviews of Complaints and Concerns to identify possible trends and for the purposes of early intervention as outlined in Schedule J.
18. Appropriate penalties and/or discipline shall be the responsibility of the Chief of the TEU.

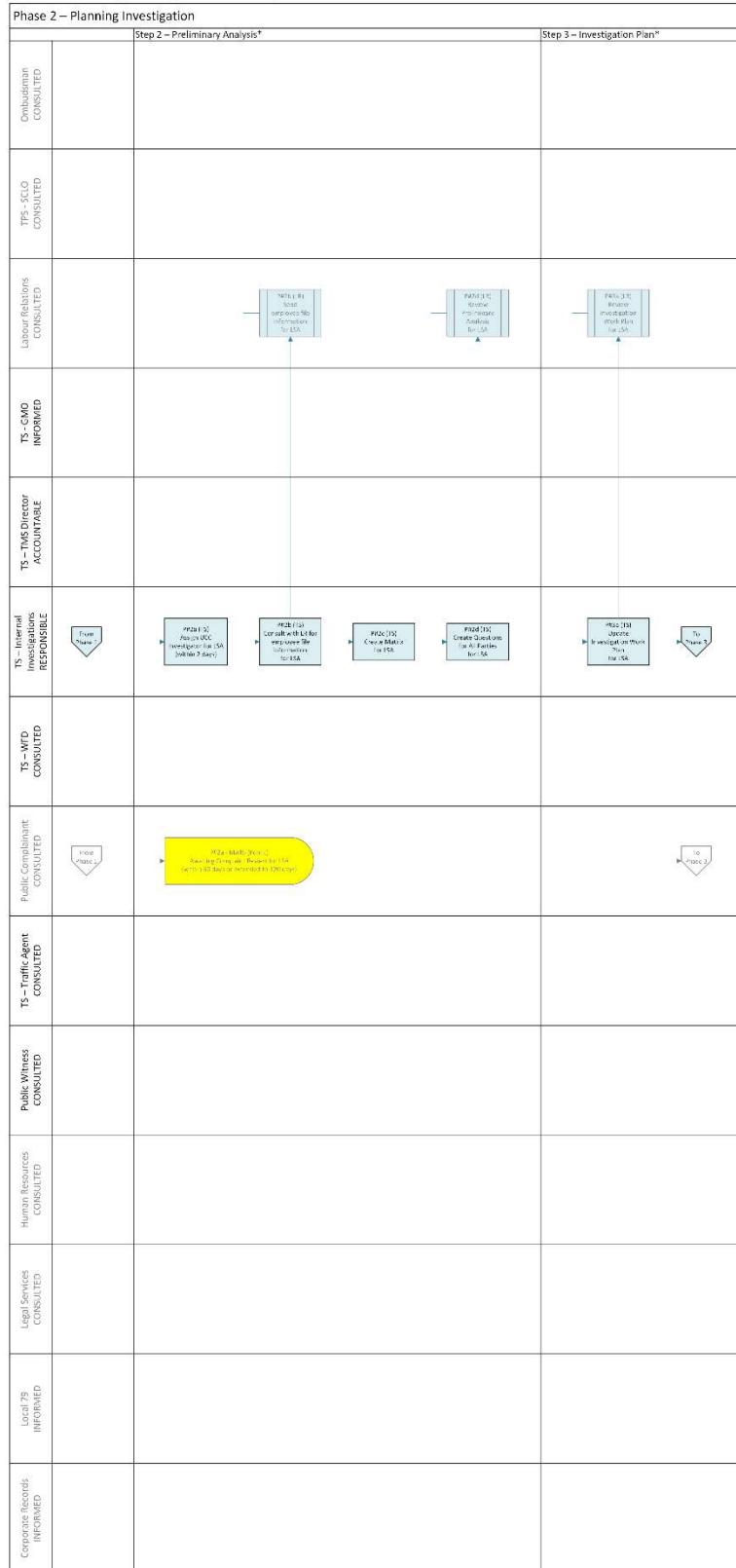
19. A document prepared in the course of the UCC's duties under this Complaints Procedure, including any document prepared by a member of a police service, or an investigator performing duties at the direction of the UCC is considered confidential and shall not be used for any other purpose without written consent of the UCC.

Schedule “A” – Traffic Agent Complaints Process

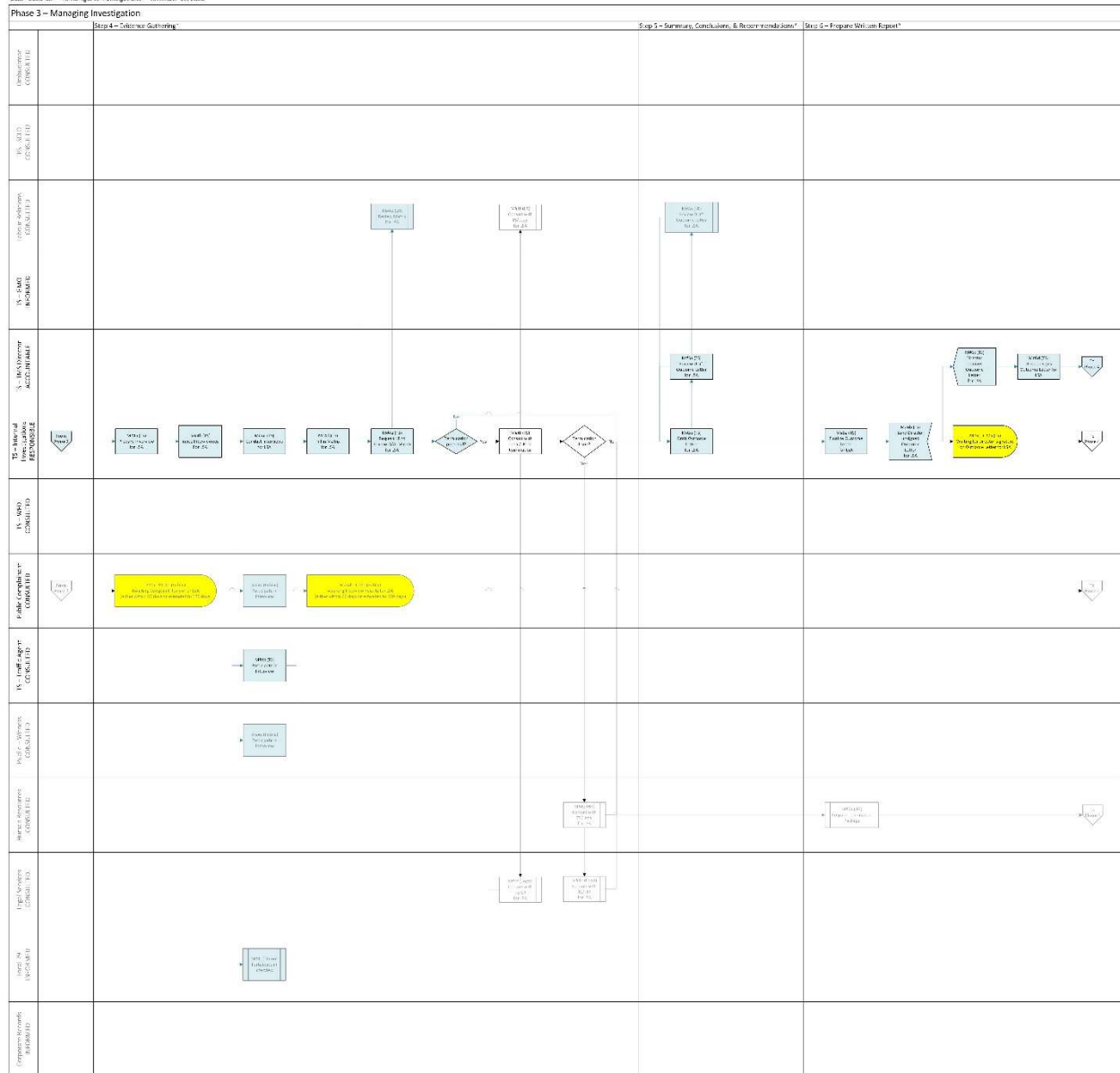
CCBP#2020-08 – Traffic Agents Investigations – November 10, 2020

[illegible]

Legend: LSA = Less Serious Allegation, SA = Serious Allegation



Legend: LSA = Less Serious Allegation, SA = Serious Allegation



Legend: LSA = Less Serious Allegation, SA = Serious Allegation

Schedule "B" – Complaints – Who and What

The UCC accepts complaints about:

- Conduct of a Traffic Agent
- Policies of, or services provided by, the Traffic Agent Program

This Complaints Procedure deals specifically with Complaints and Information about a Complaint related to:

- (a) The conduct of a Traffic Agent,
- (b) Policies of, or services provided by, the Traffic Agent Program.

The TAU has a Code of Conduct that all members must follow that includes, but is not limited to the following:

- To lead through a positive attitude
- Be professional by demonstrating respect and fairness
- Be honourable, trustworthy and strive to do what is right
- Work together with all members of the community to achieve goals
- Accept responsibility and be accountable for actions taken
- Be conscientious, responsible and dependable in his or her dealings with those served

The Code of Conduct identifies the following 10 acts as potential matters for investigation and possible corrective action/discipline:

- Discreditable conduct
- Insubordination
- Neglect of duty
- Deceit
- Breach of confidence
- Corrupt practice
- Unlawful or unnecessary exercise of authority
- Damage to clothing or equipment
- Consumption of drugs or alcohol in a manner prejudicial to duty □ Misrepresentation

The Traffic Agent Code of Conduct can be found in the Appendix of this document.

Who a Complaint or Concern Can be About

The UCC can only deal with Complaints or Concerns about the conduct of a Traffic Agent, and policies of, or services provided by, the Traffic Agent Program. **This Complaints Procedure deals specifically with Complaints and Concerns related to the conduct of a Traffic Agent and policies of, or services provided by, the Traffic Agent Program.**

Who Can Submit a Complaint or Concern

Any member of the public or internal member of the City (excluding TAU members), including the UCC themselves are able to file a Complaint or Concern.

In order to ensure a fair process for both parties, anonymous Complaints or Concerns are not accepted.

In the absence of a Complainant, if evidence of Traffic Agent misconduct is received from an anonymous source, the UCC has the discretion and ability to file his/her own Complaint.

Individuals Who Can Make a Complaint are Limited to the Following:

- A person at whom the conduct was directed
- A person who was present and witnessed the conduct
- A person in a personal relationship with a person at whom the conduct was directed AND suffered loss, damage, distress, danger or inconvenience
- A person who has knowledge, possession or control of anything that is compelling evidence

Schedule "C" – Submit a Complaint or Concern

Ways to Submit a Complaint or Concern

There are several ways to file a Complaint or Concern.

Complaints or Concerns can be filed with the UCC, any member of the TAU or through the City of Toronto Transportation Services Division. Any City employee who receives a Complaint shall forward it to the UCC as soon as practicable.

Any member of the TAU who receives a Concern has the ability to solve, explain, clear up or settle a matter considered to be "less serious" directly with the Complainant. The only matters eligible for this option are the same as those outlined as eligible for local resolutions in Schedule "D".

When a Complaint or Concern is received by the UCC the Complainant will be provided with an acknowledgement. All Complaints and Concerns are tracked by the UCC and include an assigned number and the name of the Complainant.

Complaints can be submitted online at www.toronto.ca whereas Concerns can be submitted by contacting the UCC through the following:

- By phone at 416-396-4858

By email at TA-Complaints@toronto.ca A Complaint submitted through the Traffic Agent website is required before the Complaint process can begin as it provides clear allegations that can be examined.

If one has a disability that prevents them from submitting a written Complaint or they would like assistance when completing the Complaint form the UCC shall make every effort possible to assist them.

- It is recommended the Complainant contact the UCC to request assistance in preparing a written Complaint (if required) as the UCC has access to interpreters and/or the ability to meet with a Complainant to obtain a verbatim statement.

The UCC has the discretion and ability to file his/her own Complaint if a Complainant refuses to provide a written Complaint, refuses to sign their Complaint or if the Complaint is anonymous.

One does not need a lawyer to file a Complaint, but a lawyer or legal clinic may provide advice and assistance in preparing a Complaint submission.

What Should Be Included in a Complaint

All of the questions that are contained within the Complaint form should be answered including the Complainant's full name, date of birth, address and contact particulars (email and phone). The following information should also be included:

Who? Which TAU member(s), service or policy is your Complaint about?

Where? Where did the incident(s) occur?

When? What date(s) and time(s) did the incident(s) take place?

What? Please describe in detail what happened.

Signing the Form

A signature ensures the Complainant acknowledges the information provided is true and correct. In order for the UCC to process a Complaint it is strongly recommended the Complainant sign the Complaint form (wet signature or digitally).

Schedule "D" – Local Resolution

A Local Resolution occurs when a Complainant and member of the TAU or UCC mutually come to an agreement about the steps that will be used to resolve the Concern. This resolution does not require a formal investigation of the allegations to be completed.

A Local Resolution allows the UCC or member of the TAU to solve, explain, clear up or settle the Concern directly with the Complainant. One must agree to participate in a Local Resolution to resolve their Concern in lieu of submitting a Complaint with the UCC.

The only matters eligible for local resolution are matters dealing with:

- Personal property, other than money or a weapon
- Failure to treat or protect a person equally
- The use of profane language
- Acting in a disorderly or discreditable manner (i.e. rude/impolite behaviour)
- Neglect of duty
- Failure to work in accordance with orders
- Failure to report a matter
- Omitting to make any necessary entry in a record
- Improper dress or appearance
- Conspiring and abetting the misconduct listed above

There are many different ways of dealing with Concerns using a Local Resolution. Some examples include:

- Obtaining the Complainant's version of events and sharing them with the Respondent Agent's Supervisor and/or the TAU Program Manager. The Supervisor or the UCC would then meet with the Respondent Agent to advise him/her of how his/her actions made the Complainant feel. The Respondent Agent would then provide his/her version of events. The idea being that if a Respondent Agent was unaware of the impact his/her behavior had on an individual, they could adjust his/her behavior for future interactions and potentially minimize any undesired outcomes. A letter from the UCC to the Complainant would follow at the conclusion of the Local Resolution, explaining the agreed upon action.
- Providing information face-to-face, over the phone or in a written manner.
- Individual communication between the Complainant and the Respondent Agent through the person dealing with the Local Resolution.
- Creating an opportunity for a face-to-face meeting that would include the Respondent Agent, the Complainant and the person facilitating the resolution process. The Respondent Agent(s) and the Complainant, both would need to agree to a face-to-face meeting before this would take place.

A Complainant should be prepared to:

- Provide his/her full name and contact information
- Tell the UCC exactly what happened
- Explain what they feel would be an appropriate resolution
- Agree to the Local Resolution, acknowledging that the Concern will be considered resolved if the agreed upon steps are taken

The UCC is required to:

- Listen to the Complainant
- Explain what actions may be taken
- Explain what cannot be done during this process, ensuring the Complainant understands the limitations of the Local Resolution process
- Confirm the process with the Complainant, including who will deal with the Concern and what the resolution will be
- Update and complete the UCC case tracking as required

The Complainant will be notified by the UCC once the Local Resolution process is complete. When the agreed upon Local Resolution has been completed, the Concern is considered resolved and closed. The Complainant shall not submit a further or new Complaint or Concern about the same set of facts.

The issue must be resolved within 45 days of the date that the Local Resolution is agreed upon. If the Local Resolution is not completed within 45 days, the UCC must advise the Complainant an extension will be required and the reason behind the request for extension. If the Local Resolution remains incomplete after the time extension, the Complainant will have the option to opt-out of the Local Resolution process and submit a Complaint to the UCC.

Note: Any Complaint received by the UCC will be recorded for statistical purposes as a Concern if the matter is resolved using a Local Resolution.

Schedule "E" – Screening Complaints

When a Complaint is received, the UCC shall conduct a preliminary review of the Complaint to ensure the form is complete and contains all the necessary information.

In cases where additional information is required the UCC will contact the Complainant to gather additional information. If the UCC is not able to obtain the information required in order to conduct a proper investigation, as determined by the UCC and the Service, the Complaint may not proceed further.

Complaints submitted in writing that are not on the prescribed form will be considered a Complaint if that is the intention of the Complainant – provided that all required information is included. A written Complaint is required before the Complaint process can begin as it provides clear allegations that can be examined.

If one has a disability that prevents them from submitting a written Complaint or they would like assistance when completing the Complaint form the UCC shall make every effort possible to assist them.

- It is recommended the Complainant contact the UCC to request assistance in preparing a written Complaint (if required) as the UCC has access to interpreters and/or the ability to meet with a Complainant to obtain a verbatim statement.

The UCC has the discretion and ability to file his/her own Complaint if a Complainant refuses to provide a written Complaint, refuses to sign their Complaint or if the Complaint is anonymous.

The UCC shall read the Complaint to make certain that it falls under his/her area of responsibility. If the Complaint meets the requirements, the UCC assesses it to determine its type - policy, service or conduct Complaint.

Unless a Local Resolution is an option yet to be explored, the UCC shall immediately forward the Complaint to the Service's Special Constable Liaison Office on the prescribed form for classification and referral. The Service shall classify the Complaint as "major" or "minor" and determine if the Complaint will be investigated by the Service or assigned to the City to investigate. In most cases, Complaints that are classified as "major" will be investigated by the Service. The City shall not investigate any Complaints against a Traffic Agent without approval from the Service's Professional Standards Unit. Upon receiving a Complaint concerning the City of Toronto Traffic Agent Program, the Service shall investigate the Complaint.

Further to the above, during the review process, a Complaint made by a member of the public alleging misconduct on the part of Traffic Agent may not be investigated if it is the opinion of the Service, one or more of the following applies:

- Complaint could be more appropriately dealt with, in whole or in part, under any other Act and/or policy
- Complaint is frivolous, vexatious, made in bad faith or lacks an air of reality
- having regard to all the circumstances, dealing with the Complaint is not in the public interest
- Complaint was made over six months after the incident and:

- the Complainant is not a minor or a person with a disability within the meaning of the Accessibility for Ontarians with Disabilities Act, 2005
- The Complainant is not or was not the subject of criminal proceedings with respect to the events underlying the Complaint
- It is not in the public interest for the Complaint to be dealt with

If the Complaint is screened out by the Service, the UCC shall notify the Complainant in writing of the Service's decision, with the appropriate reasons.

Keeping Participants Informed

The UCC shall forward a redacted version of any Complaint received to the Respondent Agent, Supervisor of the Respondent Agent and TAU Program Manager. The Complainant's identity and/or personal particulars are only included if they are relevant to the Complaint.

The UCC will track every Complaint whether they are investigating the matter or if investigated by a police service. The Complainant has the right to request periodic updates from the UCC. The Complainant will be advised on the process of dealing with a Complaint, what action may be taken and how decisions will be made. The UCC will provide the Complainant with updates by mail, email, telephone or other means available to communicate with the Complainant.

The UCC office hours are Monday to Friday 8:00 am to 4:00 pm (excluding holidays). Information received will only be reviewed and responded to during these hours. If a Complaint or Concern is received after office hours, every effort will be made to process the information on the next business day or as soon as practicable.

Schedule "F" – Investigating a Complaint

Service Investigations

When the Service investigates a Complaint, the UCC will assist the Service in any way required.

UCC Investigations

Every Complaint returned to the City for investigation shall be investigated and reported on, in writing to the Service's Professional Standards Unit within 60 days from the date the Complaint was assigned to the City.

The UCC does not conduct criminal investigations.

Investigation Timelines

Investigations by the UCC are to be completed within 60 days from the date the Service assigns the City the investigation. Complex investigations may take longer and as a result, time extensions may be required. Time extensions may also be requested to ensure timelines align with complaints submitted through other processes (i.e. Human Rights Complaints).

If the Complaint investigation is not able to be completed within 60 days, the City shall notify the Service, in writing, before the 60 day investigation period has expired and set out the additional time required to complete the investigation. The Complainant shall be advised of any extension requirements.

The UCC has clear guidelines and expectations about the process for investigations which have been established by the Service. These standards have been developed to ensure that there is a consistent approach to every Complaint investigation.

The UCC will advise the Complainant and Respondent:

- How the Complaint will be investigated
- What cooperation is required from the Complainant
- Union Representation (for all parties)
- How a decision will be reached
- What action will be taken at the end of the investigation

Investigative Reports

Investigative reports are standardized. Investigative reports include:

- A summary of the Complaint
- A summary of statements from those involved, including the Complainant, Respondent Officer and Civilian and Officer Witnesses
- References to any information referred to or relied upon
- A description of the actual investigation
- Reference to the alleged specific Code of Conduct violation(s) as determined through investigation
- An analysis and conclusion as to whether there are reasonable grounds to substantiate misconduct under the TAU Code of Conduct

- If discipline is warranted, a discipline letter will follow investigative report

Schedule "G" – Informal Resolution

Prior to an investigation commencing or during an investigation, the UCC may recommend or advise the Complainant that Informal Resolution is an available option to explore. An Informal Resolution may be attempted at any time after a Complaint been assigned for investigation to the UCC by the Service however; the Complainant, Respondent Agent and TAU Program Manager must agree to participate in the process.

The Service must be made aware of and agree to the use of any proposed Informal Resolutions as a resolution option.

The decision to recommend Informal Resolution depends on the circumstances of each case. Some examples of conduct that may be suitable (depending on specifics of the allegations) for Informal Resolution include:

- Discreditable conduct that does not involve a breach of trust
- Incivility, including allegations of unfair or biased treatment or rude or profane language
- Damage to clothing or property
- Unlawful or unnecessary exercise of authority
- Excessive "use of force" that does not result in serious injury

Some examples of conduct that may not be suitable for Informal Resolution include:

- Deceit
- Corruption
- Breach of confidence
- Unlawful or unnecessary exercise of authority that results in serious injury
- Incidents involving weapons in a manner that is inconsistent with TEU training
- Conduct that would support a criminal charge
- A history of similar investigated Complaints involving the same Respondent Officer

The Service must be made aware of and agree to the use of any proposed Informal Resolutions as a resolution option.

Participation in Informal Resolution

The UCC shall facilitate any Informal Resolution.

If a Complainant, Respondent Agent or the TAU Program Manager agree to participate in an Informal Resolution but then wish to withdraw from the process, they may do so at any time, provided that there has been no agreed upon resolution.

Once a Complainant, Respondent Agent and the TAU Program Manager have agreed to a proposed Informal Resolution, they have 12 days to withdraw from the process. The party wishing to opt out of the Informal Resolution process must notify the UCC (preferably in writing) within the 12 days.

When an Informal Resolution is signed and accepted by all parties, the file is considered closed for case management purposes. For an Informal Resolution to be considered complete, the agreed upon resolution must have been carried out. For example, if training is part of the

resolution, the training must have been completed for the Informal Resolution to be satisfied. The UCC requires the Respondent Agent and the TAU Program Manager to commit to a timeline and immediately report any noncompliance to the UCC. The UCC shall monitor Informal Resolutions to ensure all resolutions are properly carried out.

It is expected that an Informal Resolution will be completed, if possible and unless otherwise stated, within 45 days of the agreed upon resolution. If the resolution is expected to take longer than 45 days to implement, this will be made clear to all parties at the onset.

If the Informal Resolution is not completed within the allocated time frame, the UCC must advise the Complainant that an extension is required and the reason behind the extension. If the Informal Resolution remains incomplete after the time extension, the Complainant has the option to demand the Informal Resolution be dismissed and a full investigation be completed. This option does not apply if the failure to complete the resolution is a result of Complainant's own actions or inactions.

The Complainant will be notified by the UCC once the Informal Resolution is complete. When the Informal Resolution has been completed, the Complaint is considered resolved and closed. The Complainant shall not submit a further or new Complaint or Concern about the same set of facts.

Examples of Informal Resolutions

Informal Resolutions may include any set of conditions which are agreed upon by all involved parties (i.e. the Service, Complainant, Respondent Officer and the Chief of the TEU) that if completed would satisfy all involved parties that the matter has been addressed. With an Informal Resolution, depending on the timing of the resolution, there may be no investigation and/or the investigation will cease at the time the resolution is signed and accepted by all parties.

Examples of Informal Resolutions include:

- Review and modification to an existing policy
- Apology from one party to the other
- Additional training for the Respondent Agent
- Bringing the Complainant and the Respondent Agent together to hear each other's concerns

Schedule "H" – Outcomes

Making a Determination

For Complaint investigations the UCC shall use reasonable grounds as the burden of proof to determine whether a Complaint is found to be substantiated or unsubstantiated.

Reasonable Grounds

The Service or UCC Investigator must have reasonable grounds to believe that misconduct occurred in order for a Complaint to be substantiated. Reasonable grounds is defined as a set of facts or circumstances that would satisfy an ordinary, cautious and prudent person that there is reason to believe (that misconduct occurred), which goes beyond mere suspicion. This belief must be more than an opinion of misconduct and must be objectively based on factual evidence.

Unsubstantiated Complaints

Complaints may be found to be unsubstantiated if there are no reasonable grounds to conclude a violation of the TAU Code of Conduct occurred. The Complaint is then considered closed. If the Complainant wishes, a request for a review to ensure the UCC properly followed this Complaints Procedure, a request to review can be made to Ombudsman Toronto (www.ombudstoronto.ca).

Substantiated Complaints

Complaints may be found to be substantiated (balance of probability) if there are reasonable grounds to conclude a violation of the TAU Code of Conduct occurred. The TAU Program Manager is responsible for the administration of any discipline or corrective action that may be warranted as a result of the investigative findings.

Whether a Complaint is found to be substantiated or unsubstantiated a copy of the investigative report shall be sent to the Complainant, Respondent and the TAU Program Manager. The TAU Program Manager is responsible for providing a copy of the report to the Respondent Agent.

Schedule "I" – Withdrawing a Complaint

A Complaint may be withdrawn by the Complainant at any time during the process.

To withdraw a Complaint a Complainant shall provide written notice to the UCC (accommodation will be made in cases where the Complainant is unable to provide written notice). When the UCC receives the notification to withdraw, the UCC will accept the withdrawal and notify the Service, the Respondent Agent and the TAU Program Manager.

The Service, Toronto Police Services Board, UCC or the TAU Program Manager have the option to continue with an internal investigation. In these cases the Complainant would no longer be entitled to receive any information regarding the status or outcome of the investigation. If the investigation continues the relevant party who requested the continuation will be recorded as the new Complainant.

Schedule "J" – Trend Analysis / Early Intervention – Officer Conduct

For the purposes of identifying trends and taking proactive steps to address any known possible Traffic Agent issues that could lead to further Complaints or Concerns, the UCC shall conduct quarterly reviews (every three months) of the number of conduct Complaints and Concerns received in relation to individual Traffic Agents. This information may be used by TAU management to assist the officer in avoiding future Complaints. This information sharing is not for disciplinary purposes.

All data entered into the UCC case tracking program will be subject to review for trend analysis/early intervention purposes. Should a Traffic Agent be involved in three or more incidents that have a similar trend/theme within the previous 12 month period then an early intervention notice shall be prepared by the UCC and shared with the TAU Program Manager and the respective Supervisor.

Any notice prepared by the UCC may include, but is not limited to: information about the three Complaints or Concerns that caused the UCC to identify a trend, a timeline of alleged misconduct, comparison to co-workers, average number of complaints per officer, comparison to work hours and quantity of output.

The purpose of this information sharing is to assist the TAU in managing their employees effectively and curbing the number of Complaints or Concerns a particular officer may receive. Any action taken to address any concerns shall be at the discretion of TAU management. Some methods in how the TAU may use this information include, but are not limited to: no action, heightened monitoring, reassignment, offer EFAP, work schedule adjustment, additional training, etc.

Appendix

City of Toronto Transportation Services Traffic Agent

Code of Conduct

TRANSPORTATION SERVICES MISSION STATEMENT:

Build and maintain a resilient transportation network so that people connect with the places, activities and communities they value.

Keep people moving safely in our diverse and changing city.

Five core values have been established as follows which form the basis of the Transportation Services Traffic Agent Code of Conduct:

A. **Professionalism** – A Traffic Agent shall be professional by demonstrating fairness and respect toward all members of the community;

B. **Integrity** – A Traffic Agent shall at all times be honourable, trustworthy and strive to do what is right;

C. **Teamwork** – A Traffic Agent shall work together within their division with City employees and members of various communities to achieve divisional goals;

D. **Accountability** – A Traffic Agent shall accept responsibility for their actions and be accountable for those actions within Transportation Services, the City of Toronto, and the communities they serve; and

E. **Reliability** – A Traffic Agent shall be conscientious, responsible and dependable in their dealings with other Transportation Services employees, City staff and the communities they serve.

1. In this Code of Conduct,

"Agreement" means the Agreement between the Toronto Police Services Board and the City setting out the requirements relating to the appointment of persons employed by the City as special constables in accordance with section 53 of the PSA and the New Legislation upon its coming into force.

"City" means the City of Toronto.

"District" means a Service district.

"Emergency" means a situation that poses an immediate or imminent risk to the life or the health of an individual and may or may not involve acts of violence. An emergency may include criminal offences in progress if there is a likelihood that, if the commission of the offence continues, harm to an individual is foreseeable.

"Highway" means a common and public highway, street, avenue, parkway, driveway, square, place, bridge, viaduct or trestle, any part of which is intended for or used by the general public for the passage of vehicles and includes the area between the lateral property lines thereof.

"Ministry" means the Ministry of the Solicitor General or any successor ministry.

"Ministry Handbook" means the Ministry's publication (published under the then Ministry of Public Safety and Security) entitled *Special Constables: A Practitioner's Handbook*.

"New Legislation" means the legislation that will replace the *Police Services Act*. On March 26, 2019, the Ontario Government's Comprehensive Ontario *Police Services Act*, 2019, or Bill 68, received royal assent. Bill 68 amends policing legislation in the province including the *Police Services Act* which will eventually be replaced by the new *Community Safety and Policing Act*, 2019. The New Legislation will alter the appointment, regulation and/or complaint procedures with respect to special constables and is expected to come into force at some point in the future.

"Record" means any record of information, however recorded, whether in printed form, on film, by electronic means or otherwise, and includes correspondence, a memorandum, a book, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy of the record.

"Service" means the Toronto Police Service.

"Traffic Agent Group" means the Transportation Services Active Traffic Management Unit or any successor department or unit.

"Traffic Agent" means a person employed by the City who has been appointed by the Toronto Police Services Board, as it relates to the Agreement, and approved by the Solicitor General, as a special constable in accordance with s. 53 of the *Police Services Act*, with powers and duties as set out in the appointment.

"Traffic Agent Group Member" means any member/employee of the Traffic Agent Group.

2. A Traffic Agent shall meet all of the City's criteria for employment and the requirements of the Ministry Handbook, section 3; Selection of Special Constables.

3. A Traffic Agent shall comply with the applicable sections of the *Police Services Act* or the New Legislation, upon its coming into force, relating to the appointment of any City employee as a Traffic Agent, the applicable regulations thereunder, the City of Toronto Traffic Agent Code of Conduct, which sets out the roles and responsibilities of the Traffic Agent, and all policies, standards and procedures applicable to the duties, powers, and responsibilities of a Traffic Agent as provided to the City by the Toronto Police Services Board.

4. A Traffic Agent shall take oaths or affirmations of office and secrecy as required at the time of the Traffic Agent's appointment, prior to exercising their duties as special constables.

Scope of Powers

5. A Traffic Agent shall use the powers conferred on them for the administration and enforcement of City bylaws and while performing said duties within the City of Toronto.

6. In addition to the powers conferred on a Traffic Agent for the administration and enforcement of City bylaws, a Traffic Agent who is performing the normal duties of a Traffic Agent shall only have the powers of a police officer for the purposes of, and only as it relates to, sections 134 and 134.1 of the *Highway Traffic Act, R.S.O. 1990, c.H.8* as amended.

7. A Traffic Agent shall exercise their powers only on Highways under the jurisdiction of the City.

8. A Traffic Agent in the course of carrying out their duty shall comply with all provisions of the *Youth Criminal Justice Act* S.C. 2002 c.1 ("YCJA") when dealing with a young person within the meaning of the YCJA.

Training

9. A Traffic Agent shall be trained to standards prescribed by the Service, and as set out in the Ministry Handbook and the requirements of the Ministry and the Toronto Police College, in order to fulfil the duties, powers and responsibilities of a Traffic Agent. A Traffic Agent shall be trained in accordance with the requirements of the New Legislation upon its coming into force. A Traffic Agent shall remain trained in all components of his or her duties, powers and responsibilities in accordance with the training requirements.

Misconduct

10. A Traffic Agent commits misconduct if they engage in,

(a) **Discreditable Conduct**, in that they,

- (i) fail to treat or protect a person equally without discrimination with respect to services provided by the Traffic Agent Group based on any of the prohibited grounds as set out in section 1 of the *Ontario Human Rights Code*,
- (ii) engage in improper or oppressive conduct towards another employee,
- (iii) use profane, abusive or insulting language to any law enforcement officer or City of Toronto employee,
- (iv) use profane, abusive or insulting language or are otherwise uncivil to a member of the public,
- (v) wilfully or negligently make any false complaint or statement,
- (vi) assault any other person,
- (vii) withhold or suppress a complaint or report against a member of the Traffic Agent Group or about the policies of or services provided by the Traffic Agent Group of which they are a member,
- (viii) fail to report that they have been charged with a criminal offence,
- (ix) are guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction,
- (x) contravene any provision of the Agreement, or
- (xi) engage in any activity that brings the City or the Toronto Police Services Board into disrepute.

(b) **Insubordination**, in that they,

- (i) are insubordinate by word, act or demeanour, or
- (ii) without lawful excuse, disobey, omit or neglect to carry out any lawful order.

(c) **Neglect of Duty**, in that they,

- (i) without lawful excuse, neglect or omit promptly and diligently to perform a duty as a member of the Traffic Agent Group,
- (ii) fail to comply with any provision of the Agreement as it relates to the conduct and duties of a Traffic Agent,

- (iii) fail to work in accordance with orders, or leave an area, detachment, detail or other place of duty, without due permission or sufficient cause,
- (iv) fail to report a matter that it is their duty to report,
- (v) omit to make any necessary entry in a record,
- (vi) are absent without leave from or late for work, without reasonable excuse, or
- (vii) are improperly dressed, dirty or untidy in person, clothing or equipment while in uniform or performing special constable duties.

(d) **Deceit**, in that they,

- (i) knowingly make or sign a false statement in a record,
- (ii) knowingly submit a record that is misleading or false,
- (iii) wilfully or negligently provide a false, misleading or inaccurate statement,
- (iv) without lawful excuse, destroy a record or alter or erase an entry in a record, or
- (v) misrepresent, falsify or omit information at any point during the Traffic Agent application process, including answers on the preliminary background questionnaire and investigations, or during any subsequent investigation.

(e) **Breach of Confidence**, in that they,

- (i) divulge any matter which it is their duty to keep secret or confidential,
- (ii) give notice, directly or indirectly, to any person against whom any summons has been or is about to be issued, except in the lawful execution of the service of the summons,
- (iii) without proper authority, communicate to the media or to any unauthorized person on any matter connected with the Traffic Agent Group, the City, the Toronto Police Services Board or the Service,
- (iv) without proper authority, show to any person not a member of a police service or to any unauthorized member of any police service any record that is the property of that or another police service or the City, or
- (v) use a personal electronic device to photograph or record in any way any portion or element of an investigation without lawful direction.

(f) **Corrupt Practice**, in that they,

- (i) offer or take a bribe,
- (ii) directly or indirectly solicit or receive a gratuity or present without the consent of the manager of the Traffic Agent Group, or
- (iii) improperly use their position as a Traffic Agent for private advantage or for personal gain. Personal gain includes gain for themselves, any friend, family member or any other person.

(g) **Unlawful or Unnecessary Exercise of Authority**, in that they,

- (i) exercise any authority or power of a police officer not granted to them as special constables under the terms of the Agreement, or
- (ii) exercise any power conferred for the enforcement of the Criminal Code for the sole purpose of looking for evidence of a criminal offence under any Act or regulation.

(h) **Damage to Clothing, Records, Property or Equipment**, in that they,

- (i) wilfully or carelessly cause loss or damage to any article of clothing or equipment, or to any record or other property of the Traffic Agent Group, or
- (ii) fail to report loss or damage, however caused, as soon as practicable.

(i) **Consuming Drugs or Alcohol in a Manner Prejudicial to Duty**, in that they,

- (i) violate the City's Substance Abuse Policy 2018 or any successor policy.

(j) **Misrepresentation**, in that they,

- (i) identify or represent themselves, in any way, to be a police officer or as an employee or member of the Service,
- (ii) wear a uniform that does not display "Special Constable",
- (iii) fail to carry photographic identification at all times while on duty that indicates their status as a Traffic Agent, or
- (iv) fail to provide their name and identification upon request.

11. A Traffic Agent shall notify their immediate supervisor, who will then notify the Toronto Police Services Board through the Service's Special Constable Liaison Office, upon becoming aware of the following:

- (a) being charged with a provincial offence, other than a violation of the Highway Traffic Act, for which no power of arrest is provided,
- (b) being suspected of, under investigation for, or charged with a criminal offence, or
- (c) being involved in an incident in which any of the following occurs: the death of a person or the serious injury of a person.

12. A Traffic Agent commits misconduct if they conspire, abet, or are knowingly an accessory to any misconduct or give counsel to commit any misconduct described in this Code of Conduct.

13. A Traffic Agent shall also comply with all other City corporate policies and procedures and any Transportation Services divisional policies and procedures, including but not limited to conditions of employment and conflict of interest. These corporate policies and procedures and divisional policies and procedures may be amended from time to time.

14. A Traffic Agent commits misconduct by violating this Code of Conduct and may be subject to action by the City which may include suspension and/or termination of special constable status by the Toronto Police Services Board. The City shall immediately forward to the Board, through the Service's Special Constable Liaison Office, for the Board's review and action, any information the City receives or has in its possession concerning misconduct or alleged misconduct, including a breach of any provision of any Agreement by a Traffic Agent whether allegedly committed before or after the date of their appointment as a Traffic Agent, occurring up to one year prior to the date of their appointment as a Traffic Agent with special constable status pursuant to the Agreement and from the date of execution of the Agreement forward, which has not resulted in a complaints investigation by either the Service or the City.

Response and Reporting Requirements

15. A Traffic Agent shall request Service attendance in circumstances which may relate to a criminal offence on or in the vicinity of a Highway, including all actual or potential occurrences of violence where an injury has occurred or is likely to occur. They shall:

- (a) contact the Service's Communications Services Unit and advise of the incident,
- (b) remain at the scene of the incident,
- (c) attend the Service District assigned to investigate the incident when requested to do so, and
- (d) not conduct any form of forensic work or photograph any evidence, individuals, or scenes relating to an incident to which the police have been called.

16. A Traffic Agent shall contact 911 immediately in circumstances considered to be an Emergency.

17. Where the circumstances are not considered to be an Emergency, the Traffic Agent shall contact the Service through the non-Emergency number of the Service's Communications Services Unit, remain at the scene of the incident, and a police officer will attend in priority sequence.

18. Where the circumstances are not considered to be an Emergency and a police officer is unable to attend, a Traffic Agent shall:

- (a) call the non-Emergency number of the Service's Communications Services Unit prior to the Traffic Agent leaving the area,
- (b) advise the call taker that the Traffic Agent is leaving and obtain an event number,
- (c) advise the call taker of the Traffic Agent's contact information to add to the call details, and
- (d) complete their notes, documenting their observations and interactions and attend the nearest police District to provide a copy of their notes.

19. A Traffic Agent, based on the reasonable judgement of a trained special constable, shall disengage from a situation that is a serious threat to personal and/or public safety and, where appropriate, they shall:

- (a) render assistance to the victim(s),
- (b) take precautions to ensure the safety of the members of the public,
- (c) advise the Service of the crime and ascertain if a police officer will be attending,
- (d) secure the area of the investigation to prevent any destruction of evidence and maintain the integrity of the crime scene,
- (e) identify witnesses, and
- (f) complete memobook notes detailing their involvement.

20. A Traffic Agent shall immediately submit their notes and attend at the involved police District to provide any other information to the assigned Service investigator where they come into possession of information relevant to incidents being investigated by the Service. Where the information is of an urgent nature, the Traffic Agent shall immediately contact the Service's Communications Services Unit.

21. A Traffic Agent shall complete a detailed Service Supplementary Report utilizing the current reporting process utilized by the Service for submission to the assigned Service

investigator in circumstances where they assisted Service personnel in the conduct of an investigation.

22. A Traffic Agent shall immediately advise the Service, and document in their memobook, the details whereby they come into possession of information relevant to incidents investigated by the Service.

Use of Force

23. A Traffic Agent shall submit a Use of Force – Form 1 to the Service in accordance with R.R.O. 1990, Reg. 926 (or any successor regulation under the New Legislation) through the Service's Special Constables Liaison Office on every occasion that "use of force" beyond physical control is exercised and which use of force has caused injury that requires medical attention in accordance with Service Procedure 15-01, Use of Force.

Media Communication

24. A Traffic Agent shall refrain from commenting to the media on any matter involving the exercise of Traffic Agent duties and obligations and shall direct all media requests to their manager. "Commenting to the media" includes conducting a news conference or giving an interview, issuing news releases and the use of social media such as blogs, social networking sites or any other similar platform.

Investigation

25. A Traffic Agent shall cooperate with the Service and the City where they are involved in an investigation.

Termination

26. In addition to any suspension and/or termination of special constable status, as a result of misconduct in accordance with Section 10 of this Code of Conduct, a Traffic Agent who commits misconduct by violating this Code of Conduct may be subject to City of Toronto disciplinary action up to and including dismissal from City of Toronto employment.

27. If any misrepresentation or omission is discovered to have been made in connection with any Traffic Agent's application, including answers supplied to the background investigations, the Traffic Agent may immediately be suspended or terminated subject to the requirements set out in subsection 53(6) and 53(8) of the *Police Services Act*, or any successor provisions, or any other procedural requirements of the New Legislation upon the New Legislation coming into force.

28. A Traffic Agent shall return their special constable identification when their status as a Traffic Agent has expired, been terminated or suspended, or when they are on an extended leave (greater than 90 days).