

## 1. Public Complaints Process

The Alberta *Police Act* and the *Police Service Regulation* provide statutory authority and detail the requirements regarding the handling of formal complaints involving the police service or sworn police officers. Part 5 of the Alberta *Police Act* refers.

PSB is responsible for all complaints regarding the conduct of sworn members of the EPS with the exception of the Chief of Police. Responsibility for complaints against the Chief of Police rests with the EPC.

### 1.1 How Are Complaints Made?

When a member of the community or another EPS employee raises a concern about conduct or service levels, PSB opens a file. This allows the information to be accurately captured and ensures that every concern is tracked and monitored through to resolution.

When PSB receives notice of a complaint or concern, it is classified according to the following categories:

- **Complaint** – a complaint as to the conduct of a member that may contravene the regulations governing the discipline or performance of duty of police officers, or a complaint related to the policies of and services provided by a police service. A Complaint may take the form of a written complaint, an e-mail complaint or an online complaint submitted on the website of a police service or police commission. Complaints may be further classified as “External” or “Internal” complaints, depending on whether they were brought forward by a specific individual or initiated by the Chief of Police.
- **Statutory Complaint** – a criminal complaint consisting of any act by a police officer that may constitute an offence under the *Criminal Code* or *Controlled Drugs and Substances Act*. A Statutory Complaint also includes a complaint consisting of any act by a police officer that may contravene an Act of the Legislature of Alberta.
- **Citizen Contact** – an initial contact that may be either verbal or written from a member of the public to the police service or police commission. A Citizen Contact may take the form of an informal concern consisting of an actual allegation under the PSR or an offence under the Parliament of Canada or the Legislature of Alberta. A

Citizen Contact may also consist of a matter that is purely inquiry- or assistance-based.

- **EPS Matter** – internally generated files dealt with by PSB without invoking the *Police Act* and/or files that are brought to the attention of PSB for tracking purposes only.

In order for a complaint to be classified in either of the first two categories (i.e., Complaint or Statutory Complaint), the correspondence must meet a set of criteria specified in section 42.1 of the *Police Act*. Specifically, a complaint must be made in writing and must include the following information:

- a) The full name of the complainant;
- b) The complainant's contact information, including the complainant's
  - i. Address,
  - ii. Telephone number,
  - iii. Cellular telephone number, if available, and
  - iv. Electronic mail address, if available;
- c) If the complaint is made by an agent of the complainant, the agent's full name and contact information;
- d) If the complaint is in respect of the conduct of a police officer,
  - i. The date of the alleged conduct, if known,
  - ii. The identification of the police officer, if known, and
  - iii. A description of the incident that gave rise to the alleged conduct;
- e) If the complaint is in respect of a policy or service of a police service, sufficient information to identify the policy or service complained of;
- f) Any other information requested by the Chief of Police, the officer in charge of a police service, the Public Complaint Director, the Regional Public Complaint Director, or the Provincial Public Complaint Director
- g) Any other information prescribed in the regulations.

If an inquiry is not made in writing or does not meet the criteria list above, it will be classified in one of the latter two categories (i.e., Citizen Contact or EPS Matter). These are considered informal files as they do not meet the threshold of a complaint in terms of the *Police Act*. As such, they are not subject to formal investigation following the standards described in the *Police Act* and *Police Service Regulation*.

**Table 1: PSB File Types**

	Investigation initiated by the Chief of Police	Investigation initiated by a member of the public or EPS member other than the Chief
Complaint made in writing, and meets the criteria set out in s. 42.1 of the <i>PA</i>	<b>Complaint – Internal</b>	<b>Complaint – External</b>
<i>Chief of Police directs a criminal investigation</i>	<b>Statutory Complaint</b> ( <i>in addition to either above Complaint</i> )	
Complaint is made verbally or does not meet the criteria set out in s. 42.1 of the <i>PA</i>	<b>EPS Matter</b>	<b>Citizen Contact</b>

## 1.2 How Are Complaints Resolved?

Files that are classified as informal (i.e., Citizen Contact and EPS Matter files) can be resolved through a variety of methods. These resolutions can include:

- resolving the concern or inquiry through discussion with a PSB investigator
- requesting that a supervisor speak with the officer about the concern or inquiry
- referring the complainant to contact other parts of the EPS or other City of Edmonton departments, or referring the complainant to submit a formal letter of complaint
- resolution through other means
- if PSB evaluators are unable to contact the complainant, the concern or inquiry may be considered “abandoned”
- storing the comments or event for tracking purposes only

When a file is classified as a Complaint, prior to commencing a formal investigation, the Chief (where appropriate) offers an alternative dispute resolution (ADR) process to both the complainant and the police officer who is the subject of the complaint. If a complaint cannot be resolved through ADR, or where the complainant requests that a formal investigation be commenced immediately, PSB will conduct that investigation. Under certain circumstances (described in section 46.1 of the *Police Act*), the investigation may be conducted by another police service or by the Alberta Serious Incident Response Team (ASIRT) instead of by the EPS.

If both the complainant and the subject officer are agreeable to ADR, the complaint may be concluded through a number of methods, including informal discussion with PSB, a supervisory review, mediation or facilitated discussion. PSB employs a dedicated ADR Coordinator, who

facilitates the process in all complaints where ADR has been deemed appropriate and is agreed upon.

If ADR is not appropriate or is not agreed upon by both the complainant and the subject officer, the complaint proceeds to a formal investigation. Once PSB concludes its investigation, it submits a report to the Chief of Police. The Chief of Police then reviews the findings and may:

1. Direct that no further action be taken if there is no reasonable prospect of establishing the facts necessary to obtain a conviction at a disciplinary hearing;
2. In the case of minor contraventions,
  - a. dismiss the matter, impose an Official Warning, or take any other appropriate action pursuant to section 19(1)(a) of the *PSR*;
  - b. enter into an agreement with the subject officer to impose discipline ranging from a reprimand to suspension without pay for up to 80 hours, pursuant to section 19(1)(b) of the *PSR*; or
3. Direct that a disciplinary hearing be conducted.

Where an investigation has established that an offence against an Act of Parliament (such as the *Criminal Code*) or the Legislature of Alberta may have occurred, the Inspector in charge of PSB refers the file to Alberta Justice for opinion. A Crown prosecutor from outside Edmonton is tasked to review the file. The assigned prosecutor provides an opinion to the Chief of Police on whether charges should be laid based on the evidence presented. This ensures that an independent and impartial evaluation of the facts is undertaken and helps to preserve the integrity of the investigative process.

**Figure 1: Schematic File Flow**

<p><b><u>Informal Concern/Inquiry</u></b> (Citizen Contact or EPS Matter) <i>Inquiry/Concern is made verbally or does not meet the criteria set out in s. 42.1 of the PA</i></p>	<p><b><u>Formal Complaint</u></b> (Complaint – Internal, Complaint – External, Statutory Complaint) <i>Complaint made in writing and meets the criteria set out in s. 42.1 of the PA</i></p>
<p><b><u>Resolutions</u></b></p> <ul style="list-style-type: none"> <li>- Resolved through informal discussion with PSB</li> <li>- Resolved through supervisory review</li> <li>- Referred to other areas of EPS or other agencies</li> <li>- Resolved</li> <li>- Abandoned</li> <li>- Tracking for information only</li> </ul>	<p><b><u>Alternative Dispute Resolutions</u></b></p> <ul style="list-style-type: none"> <li>- Resolved through informal discussion with PSB investigators</li> <li>- Resolved through supervisory review</li> <li>- Mediation</li> <li>- Facilitated Discussion</li> </ul>
	<p><b><u>Formal Resolutions</u></b></p> <ul style="list-style-type: none"> <li>- Dismissal of Complaint (e.g., Loss of Jurisdiction, Time-barred, Frivolous / Vexatious / Bad Faith)</li> <li>- Withdrawn</li> <li>- No Reasonable Prospect (no further action)</li> <li>- Minor Contravention (Official Warning or Agreed Discipline)</li> <li>- Reasonable Prospect (Disciplinary Hearing)</li> </ul>
	<p><b><u>Disciplinary Hearing</u></b> Allegations deemed as Proven or Not Proven</p>
	<p><b><u>LERB</u></b> Complainants have the right to appeal either the Chief's disposition or the result of the Disciplinary Hearing. Subject officers have the right to appeal misconduct(s) proven at a Disciplinary Hearing.</p>

### 1.3 Disciplinary Hearing Process

Under section 47(1) of the *Police Act*, a police officer appointed to conduct a hearing has the same power as the Court of Queen's Bench for the trial of civil actions. In cases referred to a hearing by the Chief of Police, the Hearing Officer is considered the tribunal of first instance. The Hearing Officer hears evidence and submissions relating to alleged breaches of the *Police Act* or *Police Service Regulation*. If, on a balance of probabilities, the allegations are proven, the Hearing Officer has the ability to impose penalties up to and including dismissal from the police service. Penalties levied in Alberta have included reprimands, suspensions without pay, and

dismissal. More details on the penalties applied by the EPS can be found in section 4.5 of this report.

## 1.4 Civilian Oversight of PSB

The actions and activities of police commissions and police services in Alberta are governed by the Alberta *Police Act* (R.S.A. 2000, Chapter P-17). Standards of service and conduct expected of sworn members of the province's police services are described in the *Police Service Regulation* (PSR).<sup>1</sup> Where a police commission is established, the *Police Act* requires the commission to maintain oversight of the public complaints made against the police service and its members.

### 1.4.1 Edmonton Police Commission

The Edmonton Police Commission (EPC) maintains oversight of the public complaint process as it relates to the EPS. The EPC is committed to:<sup>2</sup>

1. Promoting a complaints process that is fair, equitable, and transparent for all parties to the complaint;
2. Monitoring the complaints process; and
3. Receiving complaints, including third-party and anonymous complaints, and addressing the complaints or directing them to the Chief of Police as laid out in section 43(1)(2) of the *Police Act*.

In order to give effect to these objectives, the Commission has delegated its authority under the *Police Act* (section 28.1) to its Executive Director. The Executive Director has designated a person to operate in the capacity of Public Complaint Director, who acts on behalf of, and under the supervision of the Executive Director.

When the complaint relates to the policies or services of the EPS, the initial responsibility for investigating the complaint rests with the Chief. If the complainant disagrees with any decision made, they have the right to appeal that decision to the EPC.<sup>3</sup>

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<sup>1</sup> The sworn members of the Royal Canadian Mounted Police are subject to the provisions of the *RCMP Act* rather than the Alberta *Police Act*.

<sup>2</sup> Edmonton Police Commission, *Public Complaints Director*, <http://www.edmontonpolicecommission.com/about/policies-procedures/policy-handbook/public-complaint-director/> (accessed 20 February 2014).

If the complaint relates to the Chief of Police, the EPC will assume responsibility for the investigative process. If, after reviewing the complaint, the EPC is of the opinion that the actions of the Chief of Police may constitute an offence under an *Act of Parliament of Canada* or the *Legislature of Alberta* or a contravention of the regulations governing the discipline or the performance of duty of the police officers, the Chair of the EPC shall request the Minister of Justice and Solicitor General to request or direct another police service to investigate the complaint.

#### **1.4.2 Law Enforcement Review Board**

The Law Enforcement Review Board (LERB) is an independent quasi-judicial body established under section 9 of the *Police Act*. The Board consists of private citizens appointed by the Lieutenant Governor and operates under the authority of the Solicitor General. The members represent a broad range of experience in the community, and the Board chair is required to be an active member of the Alberta Law Society.

The principal activity of the Board is to hear appeals from both citizens and police officers separate and apart from the police service involved. The principal objective of the Board is to provide independent and impartial review. At the request of the Minister, the Board may also investigate any matter relating to policing. Once the Board has made a decision about an appeal, the decision is binding. The only further avenue of appeal is with leave to the Court of Appeal, and an appeal is permitted only if the Board made a legal error in its decision.<sup>4</sup>

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<sup>3</sup> Alberta *Police Act* (R.S.A. 2000, Chapter P-17), s. 44(3).

<sup>4</sup> Alberta Justice and Solicitor General, *Law Enforcement Review Board*, [https://www.solgps.alberta.ca/boards\\_commissions/law\\_enforcement\\_review\\_board/Pages/default.aspx](https://www.solgps.alberta.ca/boards_commissions/law_enforcement_review_board/Pages/default.aspx) (retrieved 20 February 2014)