

EDMONTON POLICE SERVICE PUBLIC COMPLAINTS INVESTIGATION PROCESS

The goal of the Edmonton Police Service is to ensure that all complaints with respect to the conduct of EPS members or the policies and services provided by the service are handled in a timely, professional and responsible manner by Professional Standards Branch (“PSB”).

As part of that goal, the following overview of the complaint process has been prepared. This overview is intended to provide the public with information about the public complaints process, identify the roles and responsibilities of the various individuals involved and provide information about the timelines associated with the process.

Any citizen wishing to make a public complaint plays a significant role in the investigation process. To the extent possible, detailed particulars of the circumstances giving rise to the public complaint should be clearly articulated in writing. Towards this end the *Police Act* requires that all public complaints with respect to a police service or a police officer be in writing and signed by the citizen where practicable. The written letter of complaint must also include full contact information for the citizen, mailing address and phone number.

The citizen should provide, as part of their complaint, as much evidence as is reasonably possible (including names and contact information of independent witnesses) to support the concerns being raised in the public complaint. Providing this information will greatly assist the timely and thorough investigation of the complaint.

The citizen should also be prepared to cooperate with and be an active participant in the complaints investigation process by participating in an initial telephone or in person interview and any follow-up interviews which may be required. The purpose of the interview is to determine that facts and circumstances that give rise to the complaint, to ensure that they articulate their specific concern(s) and to ensure that the investigator fully understands the desired outcome of the complaint. The citizen should also be prepared to respond to queries from the PSB in a timely manner and to be available to the PSB during the course of the investigation.

Although not all encompassing, the process which follows deals, firstly, with email and telephone communications which are received by the PSB and how these are dealt with by the PSB. The process then describes in detail the complaints investigation process as it relates to written communications which are received by the PSB.

(A) Email and Telephone Communications to PSB

Where a citizen's initial contact with the PSB is by way of telephone or e-mail, the citizen will be directed to an Intake Investigator. The Intake Investigator will:

1. Determine the nature of the matter in issue. Towards this end, the Intake Investigator will, within five (5) business days of PSB receiving the telephone call or email communication, attempt to contact the citizen in order to obtain as detailed particulars as possible regarding the subject matter of the telephone call or email.
2. Determine what the citizen expects or wishes to achieve by way of an outcome.
3. Determine whether the matter is suitable for immediate resolution or if the citizen wishes the matter to be dealt with as a formal complaint under Part 5 of the Act or if it is in the public interest that the matter be dealt with as a formal complaint under the Act.
4. Where the matter can be and is resolved immediately without invoking Part 5 of the Act, the Intake Investigator will:
 - a. Send a notification via e-mail with all of the required information as is necessary and practicable in the circumstances. Where the matter relates to the actions of a police officer, the Intake Investigator will forward the e-mail to the subject officer's immediate supervisor for his/her review as needed;
 - b. Submit the completed file to the Intake Manager for review. The Intake Manager will review the matter and determine if any further investigative steps are required.
5. Where the matter cannot be resolved immediately or should be formally investigated under Part 5 of the Act, the Intake Investigator will advise the citizen that in order to initiate a public complaint under Part 5 of the Act, the complaint must be in writing and **must** meet the following criteria:
 - (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.

6. An email communication to the PSB may, in the appropriate circumstances, constitute a public complaint under the Act. In this case, where the matter cannot be resolved immediately or should be investigated under Part 5 of the Act, the email communication will be dealt with as a Written Communication to PSB.

(B) Written Communications to PSB

Written Communications from the Public

Correspondence from public complainants shall be signed where practicable and set out the substance of the events and circumstances of the complaint in as much detail as possible. In order to facilitate a timely investigation, the Police Act requires that the citizen include their contact information. If the citizen does not have a permanent residence or address to receive correspondence, the citizen can provide an alternate mailing address providing they provide PSB with written authorization to do so. Alternatively, the citizen may also receive correspondence by way of an email.

Written Communications from Counsel

As part of their professional obligations, counsel shall assist their clients in the timely and thorough investigation of their complaint by PSB. Further, Counsel will ensure that the correspondence specifies the allegation(s) against each of the involved officer(s) in as much detail as possible. This shall include the specific actions that are attributed to each of the involved officers.

In the event that one or more of these conditions are not met, the Intake Manager shall request clarification from Counsel in writing by registered mail. One written request will be made to counsel for clarification. In the absence of a response within 14 days, the matter shall be referred to the Inspector i/c PSB for determination of status.

Counsel must also be aware that PSB will seek to interview their client in as timely a manner as possible to ensure that all of the issues of concern are identified at the outset of the investigation. Counsel shall arrange a mutually convenient interview date with their client and PSB in order to facilitate this interview. In the event that counsel does not consent to the interview of their client, counsel shall notify PSB of their decision at the outset.

All Written Communications

All complainants are encouraged to submit their letters of complaint as soon as possible after the events in question. Delays in the submission of letters of complaint may result in the loss of potential evidence due to the passage of time and can also result in difficulties in locating witnesses or other evidence that may assist in determining the validity of the concerns brought forward by the complainant.

All written communications received by PSB will be classified by the Intake Manager. The Intake Manager shall initially determine the nature of the investigation based upon the available information along with the facts and circumstances of the incident in question.

All complaints with respect to the Chief of Police will be forwarded to the Chair of the Edmonton Police Commission as per the provisions of the *Police Act*.

The Inspector i/c PSB, under formal direction from the Chief of Police, shall determine the type and scope of investigation based solely upon the events in question.

The Intake Manager shall send the complainant (and Counsel where applicable) an Initial Contact Letter by registered mail within seven (7) days of the receipt of the complaint. PSB will include a copy of this Complaints Investigations Process with the initial contact letter.

The Intake Manager will ensure that the complaint is opened for investigation and will then assign the matter to an Intake Investigator. The Intake Investigator will:

1. Review all of the available information and attempt to contact the citizen who initiated the written communication in order to obtain details regarding the subject matter of the communication.
2. Determine what the citizen expects or wishes to achieve by way of an outcome.
3. Determine if:
 - a. the matter is suitable for immediate resolution;
 - b. the matter is suitable for some form of alternative dispute resolution process without invoking Part 5 of the Act and the citizen is willing to proceed on this basis; or
 - c. the citizen wishes the matter to be dealt with as a complaint under Part 5 of the Act or if it is in the public interest that the matter be dealt with as a complaint under the Act.

Alternative Dispute Resolution

4. Where the matter can be resolved immediately without invoking Part 5 of the Act, the Intake Investigator will:
 - a. update the file with the details of the agreed upon resolution and any other additional information which may be necessary or appropriate in the circumstances; and forward the file to the Intake Manager for conclusion.
5. Where the matter cannot be resolved immediately but is suitable for some form of alternative dispute resolution process without invoking Part 5 of the Act and the citizen is willing to proceed on this basis, the Intake Investigator will forward the file to the Alternative Dispute Coordinator who will initiate and oversee the process in an effort to bring about a resolve. No resolution will be finalized without the final approval of the Intake Manager in order to ensure that the resolve is appropriate having regarded all of the circumstances. Where the Intake Manager deems it appropriate and/or necessary, they will seek the input of the Inspector prior to approving the proposed resolution. Complaints may be resolved at any time during the course of the investigation providing that the proposed resolution is acceptable to the complainant and to PSB.

For more information about the Alternative Dispute Resolution Process please refer to:

<http://www.edmontonpolice.ca/AboutEPS/EPSEOrganizationGovernance/ProfessionalStandards/ADRProcess.aspx>

Formal Investigation

6. Where the citizen wishes the matter to be dealt with as a formal investigation under Part 5 of the Act or where it is in the public interest that the matter be dealt with as a complaint under the *Police Act*, the PSB Investigator will deal with the matter (hereinafter referred to as the “complaint”) in accordance with the procedures hereinafter provided. (The citizen who initiated the complaint will hereinafter be referred to as the “complainant.”)
7. The *Police Act* provides that a public complaint must be dismissed if it is made more than one (1) year after the events upon which the complaint is based occurred, or when the complainant first knew or ought to have known that the conduct complaint of had occurred.
8. In cases where the complaint is received by EPS more than one (1) year after the events upon which the complaint is based occurred, the Edmonton Police Commission will be notified in writing by the Chief of Police, as soon as is reasonably practicable that the matter (or portion as the case may be) has been dismissed subject to the time limits set out in the Act for the making of complaints. Upon such notification being sent out there will be no further investigation of the alleged misconduct under the Regulation.
9. The investigation into any alleged criminal misconduct will continue as there is no statute of limitations for criminal offences.
10. The EPC will review the decision of the Chief of Police and if the EPC concurs, will notify the complainant and subject officer(s) of the disposition of the complaint or portion of the complaint as the case may be.
11. Further to proceeding, the *Police Service Regulations* stipulates that the Chief cannot charge the Subject Officer with any misconduct under the *Police Act* at any time after six months from the day a complaint is made in accordance to section 43 of the Act. Cognizant of the six (6) month time limitations, the PSB investigator will seek an Extension Request to the Edmonton Police Commission if more time is required to investigate the

complaint. The Extension Request includes a summary of the complaint, steps taken on the investigation, steps yet to be taken in the investigation, and the reason for needing a time extension. In most cases an extension request is granted by the Edmonton Police Commission. In cases where the Edmonton Police Commission has not granted the extension request, the complainant will be informed in writing that the Chief no longer has jurisdiction to discipline the Subject Officer and the file will be concluded.

12. A public complaint will be dealt with and investigated in accordance with the process which is described in the paragraphs which follow.
13. Where the complaint relates to the actions of one or more police officers, the PSB Investigator will, within thirty (30) days of being assigned the complaint, provide the subject officer(s) with written notice of the substance of the complaint which will include a copy of the written letter of complaint. The Inspector i/c PSB may postpone the time for notifying the subject officer(s) if, in his or her opinion, such postponement is necessary in order to ensure that any investigation that is being or may be carried out in respect of the complaint is not adversely affected or otherwise hindered.
14. The PSB Investigator will initiate the collection of any evidence or information that may be required through internal systems such as police reports, video or voice recordings, forensic evidence and electronic records, for inclusion in the investigation.
15. Where the complainant is not represented by legal counsel in connection with the complaint, the PSB Investigator may, throughout the investigation process, communicate verbally, by email or in writing, directly with the complainant.
16. Where the complainant is represented by legal counsel in connection with the complaint, the PSB Investigator will direct all verbal communications to the complainant's legal counsel. All written communications or emails will be directed to the complainant's legal counsel
17. If required, the PSB Investigator will attempt to schedule an interview with the complainant (the "initial interview") within thirty (30) days of having been assigned the complaint. The interview may take place in person, or over the phone.
18. If an interview is required, attempts by the PSB Investigator to schedule the initial interview shall be made by telephone or email, or in writing, in accordance with the procedures set out below:

- a. in the first instance, the PSB Investigator will attempt to contact the complainant (or his legal counsel as the case may be) by telephone or email for the purpose of scheduling the initial interview.
 - b. if the PSB Investigator is unable to schedule the initial interview by telephone or email, the PSB Investigator will send out a written request for an interview. The Written Request shall advise the complainant (or legal counsel as the case may be), that they have 30 days from the date the letter is posted to schedule and attend an interview. If the complainant cannot attend an interview in the specified time frame the complainant is required to contact the PSB Investigator within fourteen (14) days from the date of posting of the Written Request with an explanation as to why they are unavailable;
 - c. in the event the PSB Investigator is not contacted by the complainant (or legal counsel as the case may be) within the time limits set out in the First Written Request, the PSB Investigator will send out a final attempt to contact letter requesting that they be contacted within fourteen (14) days from the date of posting of the Final Written Request for an interview.
 - d. the Final Written Request shall further advise the complainant (and legal counsel if applicable) that if the PSB Investigator is not contacted within the time limits set out in First Written Request, the investigation into the complaint will continue without the complainant's active participation in the complaint investigation process. Further to that, the complainant will be advised that their complaint may be concluded as a loss of jurisdiction in the event the Edmonton Police Commission does not grant the PSB Investigator more time to investigate beyond six (6) months.
19. The failure or refusal of a complainant to cooperate with the PSB or failure to make him or herself available for an interview may be a factor the Commission takes into account when considering whether or not to grant a time extension.
 20. Following the expiration of the time period set out in the Final Written Request, the PSB Investigator will conduct a case conference meeting with the Investigative Manager and the Inspector i/c PSB (if appropriate), for the purpose of reviewing the complaint and determining the direction and scope of the investigation. The PSB Case Conference will identify all applicable investigative tasks to ensure that all the clarified allegations contained in the letter of complaint are properly investigated. This case

conference will also address the sequence and scope of the investigation, with respect to witness interviews and gathering or determining the availability of other records.

21. Following the PSB Case Conference, the Investigative Manager will review the required Direction for Explanatory Report.
22. The Direction for Explanatory Report will:
 - a. provide the subject officer with a summary of any other allegations which may have been made by the complainant which are not included in the written complaint itself;
 - b. request that the subject officer either make him/herself available to be interviewed by the PSB Investigator or provide the PSB Investigator with a written response to the allegations contained in the complaint, within fourteen (14) days of having the Notice of Service Investigation served upon him or her;
 - c. direct the subject officer to deliver to the PSB Investigator in charge of the investigation of the complaint, copies of all notebooks and/or generated reports within the subject officer's possession or power within fourteen (14) days of having the Notice of Service Investigation served upon him or her.
23. The Direction for Explanatory Report requesting the subject officer to provide a written response to the allegations contained in the complaint will provide the subject officer with the following two (2) options:
 - a. the subject officer may choose to provide a voluntary explanatory report setting out his or her version of the subject matter of the complaint pursuant to section 10(2) of the Regulation;
 - b. the subject officer may choose not to provide a voluntary explanatory report in which case the request for a written response contained in the Direction for Explanatory Report will be deemed to be an order directing the subject officer to provide an explanatory report setting out his or her version of the subject matter of the complaint pursuant to section 10(3) of the Regulation. An explanatory statement given on this basis will be deemed to be an involuntary statement;
24. Alternately, depending upon the nature of the matter under investigation, the subject officer may be ordered to participate in an interview with the PSB Investigator pursuant to section 10.1 of the Regulation. This

determination shall be made by the Investigative Manager and/or the Inspector i/c PSB.

25. Unless the integrity and successful completion of the investigation requires that this step be postponed, the PSB Investigator will serve the subject officer with the Direction for Explanatory Report as soon as reasonably possible following the completion of the PSB Case Conference. PSB shall ensure that the Direction for Explanatory Report fully and accurately reflects all of the allegations so that the member is informed of his/her jeopardy and can properly respond to the allegations.
26. When the initial interview or the investigation process itself discloses possible criminal conduct in addition to allegations of misconduct under the Regulation, all subsequent interviews of all witnesses, other than the subject officer(s), will be conducted in a manner which will facilitate the contemporaneous investigation of all aspects of the complaint.
27. As part of the investigation process:
 - a. the PSB Investigator will attempt to establish and confirm all aspects of the complainant's allegations and concerns (**Clarification Stage**);
 - b. the PSB Investigator will, where appropriate and/or required, attempt to obtain from the complainant copies of all medical records, photographs, statements and any other evidence of any kind or nature which may be in any way relevant or relate to the matters raised in the complaint (**Collection Stage**);
 - c. the PSB Investigator will, if the circumstances of the complaint dictate, obtain statements from any civilian witnesses who may have information relevant to the subject matter of the complaint and, to the extent possible, the PSB Investigator may also conduct in-person interviews of these witnesses. Where the PSB Investigator determines that interviews of civilian witnesses are required, these interviews will be conducted in as timely a manner as possible so as to ensure that the investigation process is not unduly delayed or hindered (**Collection Stage**);
 - d. the PSB Investigator will attempt to identify and notify all witness officers and request/direct that the witness officer(s) deliver to the PSB Investigator, within fourteen (14) days of receiving the witness notification, a written statement relating to the matters raised in connection with the complaint together with copies of the witness

officers' notebooks or generated reports to the extent that such notebooks and/or reports relate to those matters raised in connection the complaint (**Subject Officer Stage**);

- e. the PSB Investigator will, if additional information is required from any one or more of the witness officers, schedule interviews with the witness officers or request that the witness officers provide written responses to specific questions/directions prepared by the PSB Investigator. The interviews, if any, of the witness officers will be conducted within fourteen (14) days of the PSB Investigator requesting the same and the written responses, if any, of the witness officers will be provided to the PSB Investigator within fourteen (14) days of the witness officers receiving the PSB Investigator's written request for the same (**Subject Officer Stage**);
 - f. the PSB Investigator will attempt to determine what further information or statements may be necessary in order to ensure that all the allegations made by the complainant in connection with the complaint have been thoroughly investigated and considered.
28. At the conclusion of the investigation, the PSB Investigator will prepare for the Investigative Manager an investigative report which summarizes and analyzes the evidence relating to each allegation contained within the complaint (**Report Stage**).
29. The Investigative Manager will review the completed investigative report and supporting material in order to determine if the investigation discloses conduct which may be either criminal in nature or which may constitute misconduct under the provisions of the Regulation. Based on his or her review, the Investigative Manager will make recommendations for the Inspector i/c PSB (**Investigative Review Stage**).
30. In the event there is cause to believe a criminal offence may have been committed, the Investigative Manager will review the same with the Inspector i/c PSB. If the Inspector i/c PSB agrees with the Investigative Manager's assessment, the Inspector i/c PSB will request PSB's Legal Counsel to review the file and provide an opinion on whether or not to forward the matter to the Calgary office of Alberta Justice for review and for an opinion as to whether Criminal charges are warranted in the circumstances.
31. Where a matter is referred to Alberta Justice for review and an opinion as to whether Criminal charges are warranted, the decision as to whether

Criminal charges will or will not be laid, will be made by the Chief of Police.

32. In the event the investigation does not provide cause that a criminal offence may have been committed but does disclose conduct which may constitute misconduct under the provisions of the Regulation, the Investigative Manager will review the same with the Inspector i/c PSB. The Inspector i/c PSB may accept, reject or modify any recommendation made by the Investigative Manager. The Inspector i/c PSB will in turn review the complaint, the investigation, and their recommendations with the Chief of Police who will in turn make a final disposition of the matter in accordance with the provisions of the Act and will notify the complainant, in writing, of his decision. The disposition letter from the Chief of Police will include any applicable appeal provisions and timelines (**Executive Review Stage**).

Disposition by the Chief

33. All complaints that meet the requirements under the Police Act must be disposed of by the Chief of Police in writing, unless the complainant has resolved their concern through the Alternative Dispute Resolution Program, or have withdrawn their complaint.
34. The Chief of Police has the following dispositions available when concluding a public complaint:
 - a. "No reasonable prospect of establishing the facts necessary to obtain a conviction at a Disciplinary Hearing." This means that the Chief of Police reviewed PSB's recommendations and made an assessment of the available evidence and determined that there was insufficient evidence for a Presiding Officer to convict the subject officer(s).
 - b. "Reasonable prospect of establishing the facts necessary to obtain a conviction at a Disciplinary Hearing." This means that based on the Chief of Police's assessment of the available evidence the Presiding Officer may have sufficient evidence to convict the subject officer(s).
35. The Chief of Police may also choose to dispose of the complaint under Section 19(1) of the Police Service Regulations. If the complaint is minor in nature, the Chief of Police may choose to:
 - a. dismiss the matter,
 - b. issue an official warning, or
 - c. take any other action that in the Chief deems appropriate

Or with the agreement of the subject officer, the Chief of Police may:

- a. issue a reprimand
 - b. order the forfeiture of hours of work accumulated through overtime
 - c. suspend the subject officer from duty without pay

36. Pursuant to section 48(2) of the Police Act, (Complaint of Conduct) the complainant has the right to appeal the determination of the Chief of Police's Decision to the Law Enforcement Review Board. The written notice of appeal must set out the grounds on which the appeal is based, and must be filed with the Law Enforcement Review Board, #1502 City Centre Place, 10025 – 102A Avenue NW, Edmonton, Alberta, T5J 2Z2, within thirty (30) days of the date upon which the complainant was advised of the determination of the complaint.

37. Pursuant to section 44(3) of the Police Act, (Complaint of Service) the complainant has the right to appeal the determination of the Chief of Police's Decision to the Edmonton Police Commission, #1802 Scotia Place, Tower Two; 10060 Jasper Avenue NW, Edmonton, Alberta, T5J 3R8. The appeal must be filed within thirty (30) days of the date upon which the complainant was advised of the determination of the complaint.