**{{ date }}**

**Minister of Justice and Solicitor General**

Office of the Minister, Justice and Solicitor General

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Edmonton, AB T5K 2B6

Fax: (780) 422-6621

Email: [ministryofjustice@gov.ab.ca](mailto:ministryofjustice@gov.ab.ca)

**Ministry of Justice and Solicitor General's Provincial Public Complaints Director**

Email: [PPCD@gov.ab.ca](mailto:PPCD@gov.ab.ca)

**Chief Constable, Office of the Chief**

Westwinds Campus East Building 5111 47 St NE

Calgary, AB T3J 3R2

Fax: 403-265-9870

Email: [cps@calgarypolice.ca](mailto:cps@calgarypolice.ca)

**Calgary Police Service, Professional Standards Section**

#811 Westwinds Campus East Building 5111 47 St NE

Calgary, AB T3J 3R2

Fax: 403-265-9870

Email: [PSS@calgarypolice.ca](mailto:PSS@calgarypolice.ca)

**Calgary Police Commission Public Complaint Director**

Suite 650, 615 Macleod Tr. SE Calgary, AB T2G 4T8

Fax: 403-261-4605

Email: [cpcpcd@calgarypolicecommission.ca](mailto:cpcpcd@calgarypolicecommission.ca)

**Dear Minister of Justice, Provincial Public Complaints Director, Chief of Calgary Police, Calgary Police Service, and Calgary Police Commission,**

**RE: FORMAL COMPLAINT- POLICE MISCONDUCT**

This is a formal complaint under the *Police Act* relating to the conduct of member(s) of the

Calgary Police Service.

This matter is of a serious nature, and attention is required to resolve the issue at hand.

{%p if not user\_is\_unqualified %}

POTENTIAL BREACH(ES)

Based on what happened on {{ date\_of\_incident }}, the following portion of the *Alberta Police Regulations* may have been breached:

**5(1)** A police officer shall not engage in any action that constitutes one or more of the following:

{%p for item in breaches %}

**{{ item }}**

{%p endfor %}

{%p if serious\_accident %}

**This complaint also involves a serious injury and/or is sensitive in nature and therefore the Chief must notify the Director of Law Enforcement in accordance with s. 46.1 of the *Police Act*.**

{%p endif %}

{%p endif %}

FACTS

{%p if before\_police\_involved %}

**This is what happened before the incident:**

{{ before\_police\_involved }}

{%p endif %}

{%p if beforeString %}

**This is how the police became involved:**

{{ beforeString }}

{%p endif %}

{%p if duringString %}

**This is what happened during the incident:**

{{ duringString }}

{%p endif %}

{%p if afterString%}

**This is what happened after the incident:**

{{ afterString }}

{%p endif %}

{%p if additional\_infoString %}

**This is additional info about the incident:**

{{ additional\_infoString }}

{%p endif %}

{%p if any\_witnesses == “Yes, there were witnesses” and witness\_details %}

**These are some witnesses related to my complaint:**

{{ witness\_details }}

{%p endif %}

{%p if names\_and\_identifiers %}

**These are the names and badge numbers of officers that were involved or that I was in contact with:**

{{ names\_and\_identifiers }}

{%p endif %}

{%p if not user\_is\_unqualified %}

**Here are specifics related to the potential breaches of law/regulations listed above:**

{%p for item in answers %}

{{ item }}

{%p endfor %}

{%p endif %}

{%p if not user\_is\_unqualified %}

CASE LAW REGARDING POTENTIAL MISCONDUCT IDENTIFIED

{%p endif %}

{%p if sectionA %}

**Section 5(1)(a)**

Section 5(1)(a) governs unlawful disclosures of information and breaches of a person’s privacy. Police are given ready access to a significant amount of highly sensitive and confidential information and therefore must ensure they exercise their authority to use and disclose this information lawfully. Examples of breaches of confidence may include, but are not limited to, (1) disclosing information to a third-party about criminal history or suspected criminal activity (***Best v Pearce***, 2009 CanLII 94176 (AB LERB), ***Saunder v Cst. M. Elliot (No. 2564)***, 2012 CanLII 104693 (AB LERB), ***CH v Brodeur***, 2013 CanLII 69156 (AB LERB), ***GH v Edmonton (Police Service)***, 2018 ABLERB 029), (2) disseminating information about internal EPS matters to third-parties including the media (***EPS Officer AB v Chief of Police***, 2013 CanLII 74399 (AB LERB), ***Fermaniuk v Edmonton (Police Service)***, 2014 ABLERB 52), or (3) disclosing information to a third- party about a person’s whereabouts, contact information, or other personal details without authorization (***DC v Mortensen***, 2013 CanLII 60846).

{%p endif %}

{%p if sectionB %}

**Section 5(1)(b)**

Section 5(1)(b) relates to scenarios where an officer consumes alcohol on duty, is impaired by alcohol or non-prescribed drugs on duty (such as marijuana), or consumes an illegal drug on or off duty. Examples of breaches of s. 5(1)(b) may include the following, without limitation, (1) consuming alcohol or lawful recreational drugs while on duty, (2) consuming alcohol or lawful recreational drugs while off duty to the point of impairment, and then attending work while still impaired, and/or (3) consuming illegal drugs at any time, whether the officer is on or off duty.

{%p endif %}

{%p if sectionC %}

**Section 5(1)(c)**

Section 5(1)(c) governs corrupt practice and involves misconduct where an officer abuses their position to benefit themselves or others. Examples of corrupt practice may include, without limitation, (1) using their position as a police officer to gather information from third- party sources for the purposes of benefitting the officer personally (***Fingers v Calgary (Police Service)***, 2005 CanLII 92637 (AB LERB)), (2) using their position as a police officer to obtain gifts, discounts, or other similar benefits (***Hoover (Re)***, 2012 CanLII 104624 (AB LERB)), (3) using their position as a police officer to benefit someone else, for example, lying to persons in authority about another person’s criminal conduct for the purposes of protecting the person from liability (***Kube (Re)***, 2013 CanLII 96217 (AB LERB)), (4) using their position as a police officer, and using police equipment, to stalk or harass an individual (***Phillips v Lethbridge (Police Service)***, 2021 ABLERB 003), or (5) using police information databases to query information relating to personal matters.5

{%p endif %}

{%p if sectionD %}

**Section 5(1)(d)**

Section 5(1)(d) governs deceit. Deceit occurs where an officer makes or signs a false, misleading or inaccurate statement or entry in an official document or record, or if the officer makes or signs a false, misleading or inaccurate statement pertaining to the officer’s duties. Deceit may also occur if the officer destroys, mutilates, or conceals an official document or record, or alters or erases an entry in an official document or record.

Examples of deceit may include, without limitation, (1) entering false or misleading information in police notes, reports, search warrant documents, or any other police record about events occurring in the context of a police investigation (***Quaidoo v Edmonton (Police Service)***, 2014 ABLERB 51, ***MF et al v Edmonton (Police Service)***, 2016 ABLERB 18), (2) making false or misleading statements about the behaviour of a subject to justify unlawful use of force against that subject (***Quaidoo v Edmonton (Police Service)***, 2014 ABLERB 51), (3) lying or misleading investigators in an internal affairs investigation (***Berube v Chief of Police***, 2013 CanLII 78547 (AB LERB)), (4) fraudulently claiming expenses and/or overtime pay (***MacDonald v Camrose (Police Service)***, 2014 ABLERB 55)), (5) giving false or misleading evidence in legal proceedings (***M.C. v Calgary (Police Service)*,** 2015 ABLERB 5), (6) lying or misrepresenting an officer’s authority to arrest or charge an individual (***MF et al v Edmonton (Police Service)*,** 2016 ABLERB 18, ***Shah v Edmonton (Police Service)***, 2019 ABLERB 17), and (7) generally, destroying, damaging, concealing, altering, or erasing an official document or record, such as a police report, police notes, or any other official police document or record.

{%p endif %}

{%p if sectionE %}

**Section 5(1)(e)**

Section 5(1)(e) governs any conduct that could discredit the police service. Discreditable conduct may arise in the following situations, without limitation, (1) where police use language or gestures that are disrespectful, inflammatory, profane, threatening, or generally unprofessional (***Czapp v Cst. S. Zeilie***, 2011 CanLII 102080 (AB LERB), ***Goree v Park***, 2013 CanLII 27268 (AB LERB), ***EF v Lethbridge (Police Service)***, 2017 ABLERB 24 (CanLII)), (2) where police contravene Federal or Provincial laws, for example, driving while intoxicated, driving while prohibited, harassment, assault, and generally any conduct that is criminal or in breach of the law, (3) where police discriminate against any member of the public due to race (***EF v Lethbridge (Police Service)***, 2017 ABLERB 24 (CanLII)),

(4) where an officer assists another officer in committing any misconduct (***Phillips v Lethbridge (Police Service)***, 2021 ABLERB 003), (5) where an officer relies on inappropriate myths and stereotypes to dismiss an allegation of sexual assault (***BA v Edmonton (Police Service)***, 2021 ABLERB 10 (CanLII)), (6) where an officer pursues an intimate relationship with a complainant, suspect, witness, or accused in a criminal matter, (7) where an officer engages in sexual activity on duty, and (8) where an officer makes inappropriate posts on social media.

{%p endif %}

{%p if sectionF %}

**Section 5(1)(f)**

Section 5(1)(f) governs misconduct by officers relating to possession and use of firearms. Breaches of s. 5(1)(f) may arise in the following scenarios, without limitation, (1) where an officer, in the course of their duties, points a firearm at an individual when it is unnecessary to do so (***Persaud v Sgt. D. Hunter (No. 2030)***, 2011 CanLII 102117 (AB LERB), ***Yousif v Hamel***, 2014 CanLII 13817 (AB LERB)), (2) where an officer uses a firearm to shoot, or shoot at, an individual where it is unnecessary to do so (***Steele v Edmonton (Police Service)***, 2015 ABLERB 28), (3) where an officer discharges his/her firearm by accident, (4) improper storage of a firearm, (5) improper handling of a firearm, (6) purchasing a firearm without proper documentation, and (7) while on duty, possessing a firearm that is not issued by the police service.

{%p endif %}

{%p if sectionG %}

**Section 5(1)(g)**

Section 5(1)(g) governs insubordination. Generally, there are two scenarios where insubordination may occur. The first is where a police officer is insubordinate to a superior police officer by refusing to follow a direction or order of the superior officer (***Fingers v Calgary (Police Service)***, 2005 CanLII 92637 (AB LERB), ***Tait v Chief of Police, Blood Tribe Police Service***, 2013 CanLII 69158 (AB LERB)). The second is where a police officer breaches a policy, directive, or lawful order of the police service (***R.F. v Wasylyshen***, 2010 CanLII 102195 (AB LERB), ***Engel v Cst. S. Zeilie (No. 2017)***, 2011 CanLII 102103 (AB LERB), ***Moffat v Edmonton (Police Service)***, 2019 ABLERB 29).

{%p endif %}

{%p if sectionH %}

**Section 5(1)(h)**

Section 5(1)(h) governs misconduct where an officer is negligent in their duties. Breaches of s. 5(1)(h) may arise in a variety of circumstances. Examples of neglect of duty are, without limitation, (1) conducting a negligent investigation by failing to undertake reasonable investigative steps (***Babchishin and Keith v Edmonton (Police Service)***, 2021 ABLERB 14 (CanLII)), (2) failing to arrest and charge an individual where there are grounds to do so (***Meyer v Chief of Police of the Lethbridge Regional Police Service***, 2009 CanLII 94044 (AB LERB)), (3) failure to advise a person of the reasons for their arrest, and/or failure to advise a person of their right to a lawyer (***Lucas v Amschler***, 2009 CanLII 94031 (AB LERB), ***Kolson v Edmonton (Police Service)***, 2014 ABLERB 040),(4) failure to provide medical attention (***Williamson v Douglas***, 2008 CanLII 91552 (AB LERB), (5) failing to control a police service dog (***Pettersson v Edmonton (Police Service)***, 2014 ABLERB 024, (6) failing to report for scheduled duty (***Tait v Chief of Police, Blood Tribe Police Service***, 2013 CanLII 69158 (AB LERB), (7) failing to appear as a witness for trial or other legal proceeding when required to do so (***Lonsdale v Cst. M. Lay (No. 3264)***, 2011 CanLII 102072 (AB LERB), ***EPS Officer AB v Chief of Police,*** 2013 CanLII 74399 (AB LERB)), (8) failing to disclose relevant evidence in the context of a criminal prosecution (***Vuong and Shah v Edmonton (Police Service)***, 2019 ABLERB 22 (CanLII)), (9) failing to arrest persons who have outstanding warrants, (10) failing to report matters, for example, failure to report criminal conduct, failure to report seized property, and generally failure to report any matter which the officer has an obligation to report, and (11) failing to submit a warrant for a person’s arrest in a timely manner.

{%p endif %}

{%p if sectionI %}

**Section 5(1)(i)**

Section 5(1)(i) governs misconduct where an officer exceeds their authority, uses force when it is not necessary, or uses force that is excessive. Breaches of s. 5(1)(i) may arise in a variety of circumstances, however, common examples are as follows, (1) where an officer uses force when it is not necessary to do so, or if force is necessary, the officer uses too much force (***Hodelin v Lehaney (No. 3662)***, 2008 CanLII 91554 (AB LERB), ***Ferguson v Cst. R. Abbot (No. 1986)***, 2010 CanLII 102171 (AB LERB), ***Pringle v Constable T. Eltom (2091)***, 2010 CanLII 102175 (AB LERB), ***R.E. v Cst. C. Tagg (No. 2211)***, 2012 CanLII 104690 (AB LERB), ***Quaidoo v Edmonton (Police Service)*,** 2014 ABLERB 051), (2) where an officer conducts a search of a person (including strip searches), vehicle, or residence when it is not lawful to do so (***Williamson v Douglas,*** 2008 CanLII 91552 (AB LERB), ***R.E. v Cst. C. Tagg (No. 2211)***, 2012 CanLII 104690 (AB LERB), ***Vuong v Edmonton (Police Service)*,** 2019 ABLERB 13 (CanLII), ***Cardinal v Edmonton (Police Service)***, 2019 ABLERB 7 (CanLII)), (3) where an officer arrests or charges someone for an offence, or threatens to arrest or charge someone with an offence, when there are no grounds to do so (***Jackman v Edmonton (Police Service)*,** 2015 ABLERB 15 (CanLII), ***AZ v Lethbridge Regional (Police Service)***, 2015 ABLERB 26 (CanLII) ***Shah v Edmonton (Police Service)***, 2019 ABLERB 017), and (4) commanding an individual do something, or not do something, when there officer has no lawful authority to do so (***Cardinal v Edmonton (Police Service****)*, 2019 ABLERB 7 (CanLii), ***Shah v Edmonton (Police Service)***, 2019 ABLERB 017).

{%p endif %}

REQUEST FOR INVESTIGATION

After reviewing my complaint(s), I request you review the allegation(s) and weigh relevant

factors to determine if the complaint(s) constitutes a sensitive matter as per s. 46.1 of the *Police Act* and if you conclude the complaint(s) does, that you comply with the notification component of s. 46.1 of the *Police Act*.

I request this complaint be formally investigated in a reasonable, non-negligent, and unbiased manner.

If my complaint(s) will be investigated, please ensure any relevant disciplinary history for the subject officer(s) is considered.

{%p if anonymous == “To include my full name and contact information.” %}

Please contact me once a decision has been made regarding if an investigation will take place. If it is decided my complaint(s) will be investigated, if you require any further information to help you investigate my complaint(s), or if you wish to interview me as part of your investigative process, please contact me.

Yours Faithfully,

{{ user\_signature }}

{{ name }}

{{ user\_email }}

{{ user\_unitnum }}{{ user\_address }}, {{ user\_city }}, {{ user\_province }}

{{ user\_postalCode }}

{%p endif %}

{%p if anonymous != “Include my full name and contact information” %}

Yours Faithfully,

Anonymous

{%p endif %}

**NOTE: THIS FORM WAS AUTOMATICALLY GENERATED TO PROVIDE LEGAL INFORMATION TO THE COMPLAINANT TO INCREASE ACCESS TO JUSTICE. THE COMPLAINANT HAS RELEASED COMPLETE COMPLAINTS FOUNDATION, THE CITY OF CALGARY, AND THE CALGARY POLICE FROM ANY POTENTIAL LIABILITY OR CONSEQUENCE STEMMING FROM THIS SUBMISSION.**

INFORMATION ON PROCESS AFTER SUBMITTING FORMAL COMPLAINT

**What Happens Next**

Should this complaint be investigated, once the investigation is complete, the Chief will

determine whether there is a reasonable prospect of establishing the facts necessary for a

conviction under the Police Act and Police Service Regulations at a disciplinary hearing. In

performing this screening role, the Chief is entitled to consider, as a whole, all of the evidence that has been gathered by the investigation, both direct and circumstantial, and inculpatory and exculpatory. While a limited weighing of the evidence is appropriate, the Chief is not to determine if the charges are proven, or to compare reliability of parts of the evidence. In doing so, the Chief may consider various factors including but not limited to his experience as a police officer, his knowledge of the police service and its policies, and his general knowledge about policing standards. If my evidence is not corroborated by an independent witness, that alone should not preclude a finding that there is a reasonable prospect of establishing the facts necessary for a conviction (Conlin v Edmonton (City) Police Service, 2021 ABCA 287 from paragraphs 43-56).

If the complaint is investigated and the Chief finds there is a reasonable prospect of establishing the facts necessary for a conviction, and the Chief does not dispose of the complaint under s. 45(4) of the *Police Act*, the Chief shall direct a hearing occur into the charges under s. 45(3) of the *Police Act*. If the officer(s) is found guilty at a hearing, the Presiding Officer, who is the person who presides over the hearing, will hear arguments from the lawyer for the Chief and the lawyer for the officer(s) and then determine what is an appropriate sanction or discipline.

**Appealing Resolution of a Complaint**

If the complaint is investigated and the Chief does not direct charges, I have the right to appeal the Chief’s decision to the Law Enforcement Review Board under s. 48(2) of the Police Act. The Law Enforcement Review Board is an independent non-police body consisting of a chairperson and two members appointed by the provincial government. An appeal can challenge the Chief’s decision not to direct charges. To appeal, an individual must file a written notice with the Law Enforcement Review Board within 30 days of being advised of the Chief’s final decision. Once the appeal is filed, I understand the Law Enforcement Review Board will correspond with me to advise me of the appeal process and what is required of me throughout the process. A lawyer is not required to appeal, but I understand that if I am able, I may choose to hire a lawyer to represent me throughout the appeal process.

If the complaint is investigated and the Chief finds there is a reasonable prospect of establishing the facts necessary for a conviction, but finds the misconduct is “not of a serious nature” under s. 45(4) of the Police Act, the Chief may dispose of the complaints without a hearing. Section 45(4.1) of the *Police Act* makes this decision final and not appealable to the Law Enforcement Review Board.