

Alberta Association of Police Governance May 01, 2010

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Law Enforcement Framework

Ensuring Accountability to Albertans.....

Strategic Direction

- *The police public complaint process will be effective and efficient*

Police Complaint and Disciplinary Process Discussion Paper

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- **The Issue**
- The Challenges
- The Goals of the Discussion Paper

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Scenario 1: LERB 008-2009 CTLA v. Abbottan appeal by the CTLA

Short facts:

- Complaint filed by CTLA in **October of 2000**
- Complaint decision issued by Chief **April 4, 2002**
- Appeal #1 filed with LERB by Appellant **July 17, 2002**
- Appeal #1 hearing commenced **February 2005**
- Appellant Van Eck passes away **April 2005**
- LERB loses quorum and the appeal must be re-commenced
- Appeal recommenced **January 22, 2009**
- Written decision issued **February 17, 2009**

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Scenario 2: Complaint of R. Taylor v. Cst. M Cochlin and subsequent appeals of R. Taylor [LERB 005-2006] and Cst. M. Cochlin (EPS) Withdrawn

Short facts:

- Impugned conduct (alleged assault/UUEA) - **June 16, 2002**
- Public Complaint filed by R. Taylor **April 30, 2003**
- Crown response on assault allegation NO CHARGE **December 1, 2003**
- Decision of the Chief of Police **January 15, 2004**
- Appeal filed by Appellant Taylor with LERB **February 13, 2004**
- LERB Decision **April 6, 2006**
- Chief of Police directs Disciplinary Hearing **June 27, 2006**
- EPS conducts Disciplinary Hearing in 3 parts – concludes **September 27, 2006**
- EPS Disciplinary Decision issued **October 17 2006**
- Cst. Cochlin appeals the Desciplinary Decision to the **LERB October 2006**
- Official Warning is expunged from Cst. Cochlin's record 3 years later **September 2009**
- LERB appeal is withdrawn by Constable (now Sergeant Cochlin) **January 2010.**

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Ensuring Accountability to Albertans.....

- The Issue
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- **The Goals of the Discussion Paper**

Law Enforcement Framework

Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

1. Law Enforcement Review Board (LERB)

Overarching Goal: minimize delays and make the process
more efficient

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

1. Law Enforcement Review Board (LERB):

IDENTIFIED INEFFICIENCIES:

- Current process allows the possibility of multiple (back and forth) appearances at LERB for the same matter of complaint.
- There is no authority for the Board to review or pre-screen an appeal prior to a hearing to determine merit.
- Currently no provisions exist for mandatory mediation and the ability to avoid full disclosure and full formal hearing where this is unnecessary.
- Currently no provisions exist for the Board to address mischaracterization of complaints of conduct as complaints of Service.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

Law Enforcement Review Board (LERB cont'd):

IDENTIFIED INEFFICIENCIES:

- During an appeal, additional respondents or complaints come to light. These can be pre-empted by the 1 Year Time Limitation provisions.
- Currently the Board has no jurisdiction over a police member who has retired or resigned.
- Currently lengthy delays are caused by unrepresented appellants who lack capacity to represent themselves.
- Currently the Board has no authority to take action when a party becomes belligerent or abusive during a hearing.
- Currently the Board may only dismiss an appeal by considering it abandoned often after numerous requests and delays.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

Law Enforcement Review Board (LERB cont'd):

IDENTIFIED INEFFICIENCY:

- Currently there are instances of lengthy delays between the conclusion of proceedings and the issuance of written decisions by the Board.

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Summary of the Police Complaint and Disciplinary Process Discussion Paper

1. Police Services and Commissions Term of Commission Member

RATIONALE FOR CHANGE:

Public Agencies Governance Framework (2008) suggests maximum term for a member not exceed 10 years. Current maximum is 6 years for commission/committee members.

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Ensuring Accountability to Albertans.....

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2. Police Services and Commissions: Public Complaint Director

RATIONALE FOR CHANGE:

Public perception of and faith in the police complaint investigation process is critical. Potential for bias (either real or perceived) exists with former police members appointed to the role of public complaint director.

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Summary of the Police Complaint and Disciplinary Process Discussion Paper

3. Police Services and Commissions: Public Complaint Director

RATIONALE FOR CHANGE:

The use of ADR in a credible and appropriate manner early on in the complaint resolution process is lacking.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

4. Police Services and Commissions: Public Complaint Director

RATIONALE FOR CHANGE:

Public complaint director role stipulated to monitor complaint investigations. Uncertainty exists as to whether this means contemporaneously or post investigative. The role of public complaint director in ADR processes is indistinct.

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Summary of the Police Complaint and Disciplinary Process Discussion Paper

1. Complaints and Discipline: Format for Complaints

RATIONALE FOR CHANGE:

Present language articulating requirements for filing a public complaint – “in writing and signed where practicable” are not consistent with modern forms of electronic communication.

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Summary of the Police Complaint and Disciplinary Process Discussion Paper

2. Complaints and Discipline: Third Party Complaints

RATIONALE FOR CHANGE:

Public complainants should be entitled to make use of an agent but often unaffected third party complaints amount to a misuse of the process.

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Summary of the Police Complaint and Disciplinary Process Discussion Paper

3. Complaints and Discipline: Time Limitation Provisions

RATIONALE FOR CHANGE:

The requirement for the Chief of Police to dismiss a complaint filed that is greater than 1 year from the date of the events on which it is based does not consider extenuating circumstances. There is no appeal of a dismissal of this type.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

4. Complaints and Discipline: Informal Resolution

RATIONALE FOR CHANGE:

**Informal resolution is a viable means of resolving a complaint.
Informal resolution is underutilized.**

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

5. Complaints and Discipline: Internal Disciplinary Hearing Officer

RATIONALE FOR CHANGE:

Provincial Hearing Officer (PHO) model consisting of a roster of PHOs provides neutrality, decreases concerns of bias and provides greater flexibility and consistency.

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Summary of the Police Complaint and Disciplinary Process Discussion Paper

1. Alberta Serious Incident Reponse Team (ASIRT): Charge Authority

RATIONALE FOR CHANGE:

ASIRT cannot charge an officer without a Crown review. This is inconsistent with current charging procedures under the Criminal Code of Canada.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

2. Alberta Serious Incident Reponse Team (ASIRT): Self Initiation Authority

RATIONALE FOR CHANGE:

A member of the public or a police officer cannot report alleged criminal offenses to ASIRT or to the Director of Law Enforcement.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

3. Alberta Serious Incident Reponse Team (ASIRT): Recognition of the Military Police (in Alberta)

RATIONALE FOR CHANGE:

The Military Police serving within Alberta are not recognized as a “police service” in Alberta under the *Police Act*.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

6. Complaints and Discipline Report of Complaints (s.52)

RATIONALE FOR CHANGE:

The provincial initiative to standardize complaint terminology and the electronic database by which complaints are managed in Alberta has necessitated reporting requirements be broadened.

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Ensuring Accountability to Albertans.....

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1. Police Service Regulation Disciplinary / Corrective Matrix

RATIONALE FOR CHANGE:

The 2005/2006 review of the PSR led the Department and stakeholders to explore the notion of a Disciplinary Corrective Matrix.

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Ensuring Accountability to Albertans.....

Summary of the Police Complaint and Disciplinary Process Discussion Paper

2. Police Service Regulation

Definition of “Serious” Offense/Default

RATIONALE FOR CHANGE:

To determine appropriateness for use of informal resolution (ADR) a distinction must be made between a “less serious” and “serious offense”.

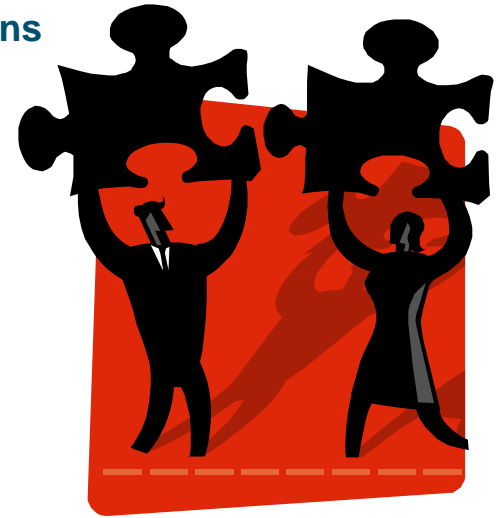
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The Public Complaint Director

As part of a police commission or policing committee, the public complaint director provides an important connecting piece in the oversight process providing:

- Local presence for placement of concerns
- Neutrality
- Communication
- Liaison
- Critical Thinker
- Guardian of the Process



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The Public Complaint Director

An enhanced role for public complaint directors will necessitate policy changes within police commissions, committees and the police services to which these bodies provide governance.



Thank You