



POLICY

Policy No. 26 – 108 – 22/03/21
Department: Council

PUBLIC COMPLAINTS PROCESS

OBJECTIVES

To establish process for how to deal with complaints against Peace Officers.

The competence of Nanton Municipal Enforcement Officers is established through accurate training, proper leadership, appropriate supervision, and prompt and applicable discipline. Public opinion and confidence in Nanton Municipal Enforcement is greatly influenced by the extent to which issues with officer conduct are managed and how corrective action is implemented.

Nanton Municipal Enforcement Officers are subject to authorities contained in the Peace Officer Act and Peace Officer (Ministerial) Regulation and officers should be familiar with these authorities.

The intent of this Standard Operating Procedure is to outline the review of complaints for Municipal Enforcement Officers in accordance with Part 2 of the Act, Section 16 and or 19 of the Act and Part 5 of the Peace Officer Ministerial Regulation.

AUTHORITY

Peace Officer Act and Peace Officer Ministerial Regulation

PROCEDURE

This procedure shall be followed by Community Peace Officers, Bylaw Enforcement Officers, and the CAO.

All complaints must be in written form. All complaints must be sealed and forwarded directly to the CAO.

The CAO may designate who will conduct an investigation.

The authorized employer must, within 30 days and in writing, acknowledge receipt of the complaint to the complainant.



The employer shall notify the Peace Officer involved of the complaint if appropriate. In circumstances where such notification may unduly have a negative impact on an internal investigation or place the complainant in an unfavourable position, the notification to the Peace Officer may be delayed for a period of time.

In the following general circumstances consideration must be given to delay informing the Peace Officer about a complaint when it may reasonably be suspected that:

The complainant may be placed in danger,

The complainant may face other inappropriate action by the Peace Officer should the Peace Officer be informed,

The notification may impede the gathering of evidence during an internal investigation conducted.

A reasonable likelihood exists that the complaint may lead to charges under federal or provincial legislation and that notification of the Peace Officer could impede any resulting police or other investigative agency investigation, or

Any other situation identified by the authorized employer or Director in which it may be appropriate to delay informing the Peace Officer about the complaint.

In any case where the authorized employer is uncertain as to the appropriateness of informing a Peace Officer about a complaint the Public Security Division should be contacted.

The CAO or Designate shall follow this form <https://www.alberta.ca/assets/documents/jsg-resolving-complaint-against-peace-officer.pdf> . (Copy of link in Appendix A)

The CAO or Designate shall determine if there is any possibility of a breach of law by the Peace Officer. They may consult with the RCMP to determine if those actions constitute a criminal action. Should it be determined that there is criminal activity the CAO or Designate shall stop their investigation immediately and request in writing that the RCMP conduct an investigation and advise the Employer of the outcome.

Should the findings by the RCMP indicate criminal activity they should follow due process. The CAO or Designate may at any time immediately suspend the Peace Officer with pay while the investigation is being carried out. The Employer shall not do any activity that may interfere with the criminal investigation and wait for the results of the investigation. With the finding of criminal activity, the Employer can continue with disciplinary process.

The employer must provide a report to the Director, as soon as the authorized employer becomes aware of it, about every incident, in which a Peace Officer, while carrying out the Peace Officer's duties may have:

- Used excessive force,
- Used a weapon or equipment prescribed by the regulations in circumstances referred to in the regulations,
- Been involved in an incident involving a weapon used by another person,
- Been involved in an incident involving serious injury to or the death of any person, or
- Been involved in any other circumstances referred to in the regulations,
- Any matter of a serious or sensitive nature related to the actions of a Peace Officer.

Should the findings by the RCMP indicate no criminal activity the Employer should start further investigation into the complaint.

The CAO or Designate shall investigate the allegations of the complaint by interviewing the complainant, any witnesses, the Peace Officer(s) involved if they so consent, and any other person who may have knowledge relevant to the occurrence and take statements.

Review any relevant documents in existence pertaining to the occurrence including, but not limited to:

- Occurrence reports
- Dispatch logs
- Peace officer notebook(s)
- Court reports
- Legal documents
- If applicable, in car video recordings

An employer may choose not to investigate a complaint if the authorized employer is of the opinion that the complaint falls into one of noted categories:

Frivolous: a complaint intended merely to harass or embarrass.

Vexatious: complaint that has no basis in fact or reason, with its purpose to bother, annoy, and embarrass the Peace Officer or authorized employer.

Bad Faith: filing the complaint with intentional dishonesty or with intent to mislead.

Reasons for not investigating complaints must be explained in written format to the complainant and advising them of the ability to appeal to the Director.

All complaints disposed through this section still must be reported to the Director on a monthly basis.

The Employer may do an Informal Resolution of Complaints. Authorized employers who choose to make use of the section must have an informal resolution process filed with the Director.

This section may also be used in those unforeseen circumstances where an investigation is not required based on an evaluation of the circumstances. This section does not alleviate the need for authorized employers to exercise effective management and due diligence in dismissing the complaint.

The CAO or Designate may meet with the Complainant and discuss the merits of the complaint.

The CAO or Designate shall at a minimum maintain written notes of the meeting.

If the complainant is satisfied in the meeting the CAO or Designate shall provide a written notice that the complaint has been resolved to the complainant within 5 days.

If the Complainant is not satisfied the CAO or Designate shall continue with the formal complaint procedure.

All complaints resolved in the manner, pursuant to the act, must be reported to the Director on a monthly basis.

The Employer shall notify the complainant, the Peace Officer involved if appropriate, and Director as to the status of the investigation at least once every 45 days

Upon conclusion of the investigation the authorized employer must notify the complainant, the Peace Officer involved, and the Director of the disposition of the complaint.

The wording on the notification letter **MUST** include the following wordings as follows:

'the complaint is unfounded'. This means that on the basis of a thorough investigation no reasonable belief exists that the complaint has merit or basis

'the complaint is unsubstantiated'. This means that on the basis of a thorough investigation there is insufficient evidence to determine the facts of the complaint and that it may or may not have occurred.

'the complaint is found to have merit in whole or in part'. This means that on the basis of a thorough investigation that:

'in whole' a reasonable belief exists that the Peace Officer has engaged in misconduct in regards to the entirety of the complaint or;

'in part' a reasonable belief that the Peace Officer has engaged in misconduct in regards to a portion(s) of the complaint, but not in its entirety.

In the event a complaint is found to have merit in whole or in part the authorized employer must state that disciplinary action has been taken and it must be in accordance with the agency's disciplinary policy that has been filed with the Director.

The conclusion letter issued to the complaint **MUST** contain the following closing paragraph which communicates to the complainant that appeals of the decision reached by the authorized employer must be addressed to the Director.

PLEASE BE ADVISED YOU HAVE THE RIGHT TO APPEAL THESE FINDINGS TO THE DIRECTOR OF MUNICIPAL BYLAW ENFORCEMENT FOR THE PROVINCE OF ALBERTA PURSUANT TO SECTION 15(4) OF THE PEACE OFFICER ACT. AN APPEAL MUST BE IN WRITING AND INITIATED WITHIN 30 DAYS OF RECEIPT OF THIS DECISION, AND ANY DECISION REACHED BY THE DIRECTOR OF LAW ENFORCEMENT ON APPEAL IS FINAL.

Correspondence to the Director must be sent to: Director of Law Enforcement

10TH Floor, 10365 - 97 Street EDMONTON, Alberta T5J 3W7

A complainant may appeal a decision of an authorized employer within 30 days, in writing, to the Director. The Director is then required by the act to conduct a review of the circumstances and after consideration may:

- direct the authorized employer to take any action the Director considers appropriate.
- confirm, reverse or vary the authorized employer's disposition.

The decision of the Director under this review process is final and there are no avenues for appeal.

On a monthly basis the authorized employer must submit details of complaints made to the Public Security Division.

Approval



Mayor



Chief Administrative Officer (CAO)

Date

Date

Appendix A

HOW TO RESOLVE A COMPLAINT CONCERNING THE CONDUCT OF A PEACE OFFICER IN ALBERTA

PEACE OFFICERS (<i>Peace Officer Act</i> of Alberta) COMPLAINT & APPEAL PROCESS
The <i>Peace Officer Act</i> states that a complaint must be filed in writing to be considered a formal complaint.
COMPLAINT PROCEDURE
1. Address complaint to the head of the organization employing the peace officer. i.e. Chief Administrative Officer or equivalent of a municipality or agency.
2. Provide details Your complaint must be in writing, must contain the reasons for your complaint, and the details of the incident involved.
3. Informal resolution and mediation Prior to conducting a formal investigation, the agency may attempt to resolve the matter informally with the consent of you and the peace officer(s) involved.
4. Investigation of complaint Upon receipt of your complaint the agency will notify you, in writing and within 30 days, to acknowledge receipt of the complaint. They will then have it investigated. You may be interviewed and you may also be requested to provide further written information. You will be notified, in writing, every 45 days as to the progress of your complaint. When the investigation is completed, the agency will review it and decide what action, if any, will be taken. You will be advised, in writing, of the decision.
APPEAL PROCEDURE
1. Director of Law Enforcement – Public Security Division If you are not satisfied with the decision of the agency, you may appeal the decision to the Director of Law Enforcement within 30 days . Submit your appeal, in writing, stating the points in the findings with which you disagree and the reasons why. Address Appeal Correspondence to: Director of Law Enforcement 10th Floor, 10365 - 97 Street Edmonton, Alberta T5J 3W7. The Director of Law Enforcement, through the Public Security Peace Officer Program Manager or Program Auditors/Investigators, will contact you for further details, if required. A review of your appeal will be undertaken and you will be notified, in writing, every 45 days as to the progress of your appeal. When the review is complete you will be advised what action, if any, will be taken. You will be advised in writing. The decision of the Director of Law Enforcement under the <i>Peace Officer Act</i> appeal process is final.

For more information, please contact:
Policing Services, Standards and Evaluations

Handwritten signature