Alberta Justice and Solicitor Genera

IAPro™ Alberta Mode Companion Document with Standardized Pick Lists and Police Complaint Terminology For use: Statutory and *Police Act*/PSR Complaints and Incidents of Citizen Contact VERSION: Release 2014 February 25

IAPro Change Working Group (IAPro users):

Calgary Police Service, Professional Standards Section
Edmonton Police Service, Professional Standards Branch (Current Committee Team Lead)
Edmonton Police Commission, Public Complaint Director
Calgary Police Commission, Public Complaint Director
Medicine Hat Police Service, Professional Standards Section
Provincial Public Complaint Director, Law Enforcement and Oversight Branch (Public Security Division)

I. STANDARDIZED INCIDENT TYPES:

a. **Statutory Complaint** – the complaint category *Statutory* includes: a Criminal Complaint consisting of any act by a police officer that may constitute an offense under the *Criminal Code* or *Controlled Drugs and Substances Act*. A Statutory Complaint may be generated by way of a Citizen Contact, or a PA/PSR Complaint by a complainant or the police service;

b. **Complaint (*Police Act* / Police Service Regulation)** – a "Complaint" as defined in Section 42 and as per Part 5 of the *Police Act* is a complaint as to the conduct of a member that may contravene the regulations governing the discipline or performance of duty of police officers; a *Complaint* includes a complaint under s.44 of the Act 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, an on-line complaint submitted on the website of a police service or police commission. A Complaint may be lodged by a complainant as described in Section 42.

(Note: The sufficiency or quality of the alleged misconduct or alleged deficiency in service or policy need not be proven in whole or in part prior to a matter being classified as a Complaint.)

i. **Criteria required to satisfy a Complaint (*PA/PSR)* classification:**

1. Complainant name in full;
2. Complainant contact information or that of Agent if applicable;
3. Date of incident giving rise to alleged misconduct *IF KNOWN*;
4. Description of incident giving rise;
5. Identification of involved police officers *IF KNOWN*;

6. Information as to the policy or service deficit complained of.

ii. ***For a PA/PSR complaint to proceed effectively to resolution or investigation the complainant must provide****:*

1. *Any other information requested by the chief of police; AND*
2. *Any other information prescribed by Regulation.*

Received Date: the Received Date is the date the Complaint is first received by the chief of police or designate, or the public complaint director (includes Regional and Provincial Public Complaint Directors) or the police commission. In the case of a Citizen Contact that becomes a Complaint, the Received Date is the date the criteria for Complaint designation are met. For the purposes of ensuring proper application of legislated time limitation provisions in the *Police Act* and Police Service Regulation, the Received Date shall be recorded on all written versions of the Complaint and recorded in the electronic database. Complaints are considered made the date they are received.

c. **Citizen Contact** – a *Citizen Contact* is 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 a concern consisting of an actual allegation under the PSR or an offense under the Parliament of Canada or Legislature of Alberta. A Citizen Contact may also consist of a matter that is pure inquiry or assistance-based. A *Citizen Contact* may become a Complaint or a Statutory Complaint.

Received Date: the Received Date is the date the Citizen Contact is first received by the police service or police commission. For the purposes of ensuring proper application of legislated time limitation provisions in the *Police Act* and Police Service Regulation, the Received Date shall be recorded on all written and recorded versions of the Citizen Contact and recorded in the electronic database.

Companion Document Complaint Terms: Standardized complaint terms form the classification pick lists within the IAPro Software Case Management Application and ensure consistent reporting by all police services.

I. ALLEGATIONS (CONDUCT): Note: One (1) Allegation to (1) Subject Officer – Allegations may not be shared

Referring: PSR 5(2):

(a) Breach of Confidence:

- **a(i) Breach**: Divulge Confidential Information
- **a(ii) Breach:** Improper Notice of Warrant/Summons
- **a(iii) Breach:** Unauthorized Communication w. Media
- **a(iv)(A) Breach:** Unauthorized Disclosure of Records of the Police Service to Non Police
- **a(iv)(B) Breach:** Disclosure of Records of the Police Service to Unauthorized Police Personnel
- **a(v) Breach:** Sign/Circulate a Petition/Statement

(b) Consumption or Use of Liquor or Drugs:

- **b(i) Liquor/Drug:** Consume Liquor on Duty
- **b(ii) Liquor/Drug:** Consume/Use Prohibited Drugs
- **b(iii) Liquor/Drug:** Report Unfit for Duty
- **b(iv) Liquor/Drug:** Purchase Liquor on Duty

(c) Corrupt Practice:

- **c(i) Corrupt Practice:** Fail to Account/Return $ or Prop.
- **c(ii) Corrupt Practice:** Solicit or Receive Gift or Favour
- **c(iii) Corrupt Practice:** Engage in Inappropriate Contract
- **c(iv) Corrupt Practice:** Use Position for Advantage

(d) Deceit:

- **d(i) Deceit:** Utter/Sign False Statement (Willful or Negligent) in an Official Document/Record
- **d(ii) Deceit:** Willful or Negligent False Statement Re: Official Duties
- **d(iii)(A) Deceit:** Destroy/Conceal Records w. no lawful excuse
- **d(iii)(B) Deceit:** Alter or Erase Records w. no lawful excuse

(e) Discreditable Conduct:

- **e(i)(A) Discreditable:** Contravene Act Parliament

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• **e(i)(B) Discreditable:** Contravene Act Legislature AB • **e(i)(C) Discreditable:** Contravene Regulation of AB • **e(ii) Discreditable:** Oppressive/Tyrannical Behaviour • **e(iii) Discreditable:** Profane/Abusive Language • **e(iv) Discreditable:** Make False Complaint • **e(v) Discreditable:** Withhold/Suppress Complaint • **e(vi) Discreditable:** Accessory to Discreditable Conduct • **e(vii) Discreditable:** Differentially Apply Law • **e(viii) Discreditable**: Discredit the Reputation of the Service
(f) Improper Use of Firearms: • **f(i) Use of Firearm:** Possess Non-Issue Firearm • **f(ii) Use of Firearm:** Fail to Report Firearm Discharge • **f(iii) Use of Firearm:** Fail to Exercise Sound Judgment/Restraint
(g) Insubordination: • **g(i) Insubordination:** By Word or By Action • **g(ii) Insubordination:** Breach Policy/Order/Directive
(h) Neglect of Duty: • **h(i) Neglect Duty:** Fail to Promptly/Diligently Perform Duty • **h(ii) Neglect Duty:** Fail to Work in Accordance w. Orders • **h(iii) Neglect Duty:** Permit Prisoner Escape • **h(iv) Neglect Duty:** Fail to Report Offender Whereabouts • **h(v) Neglect Duty:** Fail in Duty to Report Matter • **h(vi) Neglect Duty:** Fail to Report Knowledge of Offense • **h(vii) Neglect Duty:** Fail to Disclose Evidence
(i) Unlawful/Unnecessary Exercise Authority • **i(i) UUEA:** Unlawful/Unnecessary Exercise Authority • **i(ii) UUEA:** Inappropriate Use of Force

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II. ALLEGATIONS (POLICY/SERVICE):

- Failure to Provide Adequate Service or Deficient Policy (*Police Act* – Section 44)

CHARGE ALLEGATIONS (CRIMINAL OR OTHER PROVINCIAL STATUTE):

The following list of Criminal Allegations consists of the most commonly occurring.

- Assault (CCC 266)
- Assault - CBH (CCC 267)
- Assault - with Weapon (CCC 267)
- Assault – Aggravated (CCC 268)
- Break and Enter (CCC 348)
- Careless Use of Firearm (CCC 86)
- Criminal Harassment (CCC 264(1))
- Forcible Confinement (Kidnapping) (CCC 279)
- Fraud (CCC 380)
- Impaired Driving (CCC 253)
- Mischief (CCC 430)
- Obstruction of Justice (CCC 139)
- Perjury (CCC 131)
- Sexual Assault (CCC 271)
- Sexual Assault w. Weapon or CBH (CCC 272)
- Theft (CCC 322)
- Utter Threats (CCC 264.1)
- Other (specify)

II. CHARGE ALLEGATIONS (PROVINCIAL STATUTORY)

- **Currently not specified**

III. FINDINGS: (To mean the finding as per each allegation per each Subject Officer)

PSR Allegations

- Dismissed–1 Year s.43(11)
- Dismissed-Extension Not Granted

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- Dismissed–Frivolous/Vexatious/Bad Faith s.43(7)
- Dismissed-Failure to Participate s.43
- Dismissed-Failure to Participate-At Hearing s.47
- Dismissed-Loss of Jurisdiction-Member Resigned/Retired
- Dismissed–At Hearing :Loss Jurisdiction
- Dismissed-No Hearing PSR 19(1)(a)(i)
- Sustained–At Hearing
- Sustained– No Hearing
- Not Sustained–At Hearing
- Not Sustained–No Hearing – MUST BE REMOVED – REPLACE WITH: below
- Dismissed-No Hearing-No Reasonable Prospect
- Resolved Informally-DR Informal Discussion among parties incl. PS (Professional Standards)
- Resolved Informally-DR Facilitated Discussion
- Resolved Informally–DR Supervisor Intervention
- Resolved Informally-DR Third Party Conciliation
- Resolved Informally–DR Public Complaint Director
- Resolved Informally-DR Peace Maker or Restorative Conference
- Resolved Informally–DR Professional Mediation
- Withdrawn by Complainant
- Withdrawn by Service-At Hearing
- Withdrawn by Service-No Hearing
- Abandoned (Citizen Contact)

Statutory or Criminal Allegations – Findings as to Charge (Charge Disposition in IAPro)

- Charged
  ☐ Conviction ☐ Acquittal ☐ Discharge ☐ Stay ☐ Other ☐ Alternative Measures
- ☐ Not Charged Withdrawn move behind stay

V. DISPOSITION: (To mean "decision" on complaint)

- Dismissed–1 Year s.43(11)
- Dismissed-Extension Not Granted
- Dismissed–Frivolous/Vexatious/Bad Faith s.43(7)

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- Dismissed-Failure to Participate s.43
- Dismissed-Failure to Participate-At Hearing s.47
- Dismissed-Loss of Jurisdiction-Member Resigned/Retired
- Dismissed–At Hearing : Loss of Jurisdiction
- Dismissed-No Hearing PSR 19(1)(a)(i)
- Sustained in Part-At Hearing
- Sustained in Part–No Hearing
- Sustained-At Hearing
- Sustained-No Hearing
- Not Sustained-At Hearing
- Not Sustained-No Hearing THIS MUST BE REMOVED and replaced with the line below:
- Dismissed-No Hearing-No Reasonable Prospect
- Resolved Informally-DR Informal Discussion among parties incl. Professional Standards (PS)
- Resolved Informally-DR Facilitated Discussion
- Resolved Informally–DR Supervisor Intervention
- Resolved Informally-DR Third Party Conciliation
- Resolved Informally–DR Public Complaint Director
- Resolved Informally-DR Peace Maker or Restorative Conference
- Resolved Informally–DR Professional Mediation
- Withdrawn by Complainant
- Withdrawn by Service-At Hearing
- Withdrawn by Service-No Hearing
- Charged
- Not Charged
- Abandoned (Citizen Contact)
- Not a Police Matter (Citizen Contact)
- Resolved (Citizen Contact)
- Referred (Citizen Contact)

DR means "Dispute Resolution"

VI. ACTIONS TAKEN

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Penalty on Contravention

- Reprimand (5 Year) – PSR s 17(1)
- Treatment or Rehabilitation Program specific to contravention of s 5(2)(b) – PSR s 17(1)
- Forfeiture of Hours OT (40 hrs max) – PSR s 17(1)
- Suspension from duty WITHOUT pay (80 hrs max) – PSR s 17(1)
- Reduction of seniority within rank – PSR s 17(1)
- Reduction in rank – PSR s 17(1)
- Dismissal from the Service – PSR s 17(1)
- Resignation permitted – PSR s 17(2)

Minor Contravention

- Dismissal of Matter– PSR s 19(1)
- Official Warning (1 Year)-PSR s 19(1)
- Official Warning (2 Year)-PSR s 19(1)
- Official Warning (3 Year)-PSR s 19(1)
- Other Action considered appropriate
- Agreed Suspension from duty WITHOUT pay (80 hrs max) (1 Year) – PSR s 19(1)
- Agreed Suspension from duty WITHOUT pay (80 hrs max) (2 Year) – PSR s 19(1)
- Agreed Suspension from duty WITHOUT pay (80 hrs max) (3 Year) – PSR s 19(1)
- Agreed Reprimand (1 Year)-PSR s 19(1)
- Agreed Reprimand (2 Year)-PSR s 19(1)
- Agreed Reprimand (3 Year)-PSR s 19(1)
- Agreed Forfeiture of OT hours (1 Year) (40 max)-PSR s 19(1)
- Agreed Forfeiture of OT hours (2 Year) (40 max)-PSR s 19(1)
- Agreed Forfeiture of OT hours (3 Year) (40 max)-PSR s 19(1)

Corrective Action (inadditional to above prnalty)

- Debriefing-PSR s 17(3) REMOVE
- Directed Special Training s 17(3)
- Directed Professional Counseling s 17(3)
- Other Special Program s 17(3) REMVE

Process Related

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- Disciplinary Hearing
- Mediation
- DR Other
- DR Facilitated Discussion
- Relief from Duty
- Supervisor Intervention
- Appeal-Commission
- Appeal-Commission Allowed
- Appeal-Commission Dismissed
- Appeal-LERB
- Appeal-LERB Allowed
- Appeal-LERB Allowed in Part
- Appeal-LERB Dismissed
- Appeal-LERB Withdrawn

Collateral Issues Identified - deemed to be of significant importance for EI purposes and identifying systemic issues of non-performance

- Collateral Issue (Identify)
  - ☐ Note Taking ☐ Powers of Arrest ☐ Customer Service REMOVE

VIII. STATUS - Status represents the current state in which the complaint rests.

- Active
- Completed
- Forwarded-eg. Crown or Legal Review
- Suspended-eg. LERB or Other

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IV. COMPLAINT COMMON TERMINOLOGY:

These definitions:

- are for the purposes of this Companion Document and IAPro reporting only
- do affect how complaints are handled by a police service
- are to ensure consistent reporting by all police services

a. **"Action Taken"** means the discipline or penalty imposed or corrective/remedial measures undertaken in the circumstances forming part of the complaint disposition. "Action Taken" also includes a process related action such as "appealed" to the Commission or to the Law Enforcement Review Board as the case may be. For each finding there should be at minimum one corresponding Action Taken assigned in IAPro.

b. **"Allegation"** means an assertion or charge of a specified misconduct under the *Police Service Regulation* or a charge under the *Criminal Code of Canada* or other federal or provincial statute. The possible allegations for complaints are listed in the Allegation Section of this Companion Document and are consistent with the *Police Service Regulation*. Other Statutory or Criminal Allegations are contained in the Charge Section of this Companion Document. An Allegation must have a corresponding Finding in IAPro before the matter can be considered closed.

c. **"Dispute Resolution (DR)"** means a method or form of informal resolution of allegations comprising a Complaint. DR could take the following forms: dialogue among the parties to a complaint, supervisor intervention assisted by Professional Standards Section, conciliation assisted by Professional Standards Section or the Public Complaint Director, mediation or shuttle mediation conducted by an impartial third party independent of the police service or participation of the parties in restorative justice conference. Where appropriate, s. 43.1 of the *Police Act* requires the Chief or Commission to offer DR prior to the complaint proceeding to a formal investigation. Dispute Resolution processes require the consent of both the complainant(s) and subject officer(s).

d. **"Charge"** means a criminal charge under the *Criminal Code of Canada* or the *Controlled Drugs and Substances Act* or a regulatory charge under a provincial statute (eg. *Gaming Liquor Act* or *Traffic Safety Act*). Within IAPro, the Allegations field captures allegations that are non-criminal in nature and distinct from the Charges field which captures charges which are criminal or regulatory in nature so as to distinguish the proper characteristics and severity of each.

e. **"Collateral Issue"** means a supplementary matter identified, arising from a complaint, which may require additional corrective action by the police service. For example, "deficient or non-existent note taking" may form the basis of a more systemic problem often accompanying or sometimes giving rise to complaint allegations. Although it may not be a named allegation, an issue identified during the course of the complaint may require a form of attention or action by the police service (Insubordination - note taking deficiency).

f. **"Complainant"** means an individual who files a complaint that is: an individual at whom the conduct was directed (or an agent of this person); an individual who saw or heard the conduct or its effects as a result of being physically present at the time and place that the

conduct and/or its effects occurred; an individual who i) was in a personal relationship with an individual described previously at the time of the event and ii) suffered loss, damage, distress and danger or inconvenience as a result of the conduct; an individual retained by the complainant to act on their behalf.

g. .

(Note: The sufficiency or quality of the alleged misconduct or alleged deficiency in service or policy need not be proven in whole or in part prior to a matter being classified as a Complaint.)

h. **"Hearing"** means an administrative disciplinary proceeding typically open to the public, presided over by a hearing officer. The hearing officer accepts all relevant evidence and submissions for and against the cited police officer, and then decides if the allegations are sustained and what penalty or corrective action, if any, will be sought against the cited police officer.

i. **"Disposition"** means the decision on the collective allegations comprising the Complaint. The possible dispositions for complaints are listed in the Disposition Section of this Companion Document.

j. **"Finding"** means the *per allegation* pronouncement. Each allegation levied against a cited officer must have a corresponding Finding for reporting purposes. The possible findings for complaint allegations are enumerated in the Findings Section of this Companion Document.

k. **"Frivolous" / "Vexatious" / "Bad Faith"** is a possible finding on a particular complaint allegation or an overall complaint disposition.

- A complaint could be **Frivolous** if it exhibits one or more of the following qualities:
  - insufficient on its face;
  - lacks merit or substance;
  - lacks a factual basis;
  - is absent an air of reality;
  - lacking in proper seriousness; or
  - is without sufficient importance.
- A complaint could be **Vexatious** if it exhibits one or more of the following qualities:
  - is repetitious of one or more previous complaints that share the same theme and have previously been determined;
  - abuses or misuses the complaint process even if legally justified to do so.
- A complaint could be considered to be made in **Bad Faith** if it exhibits one or more of following qualities:
  - it is made dishonestly;
  - it is made for an improper purpose.

l. **.**

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m. **"Informal Resolution"** means a form of dispute resolution whereby the complainant and subject officer agree to attempt such other forms of resolution as specified under Dispute Resolution (DR). .. An Informal Resolution may be attempted at any time before or during a formal complaint investigation or at the Law Enforcement Review Board level. Merge formal semtence.

"Time Barred or Beyond the One Year Time Limitation" is a possible finding under Section 43(11) of the *Police Act* for complaints received more than one year from the date of the incident or one year from the time the complainant knew or ought to have known about the conduct complained of. The chief of police will make the determination as to whether the complaint is in time.

n. Minor Contravention – "Less Serious Misconduct" may ***generally*** consist of unintentional me. of professionalism to be dealt with proportionally via remedial or corrective measures. Complaints of Minor Misconduct are typically suitable for Informal Resolution via a method of Dispute Resolution. Minor Contravention matters are also commonly dealt with by the chief of police under the Regulation Section 19(1), where the decision and proposed sanction ascribed by the chief of police is final. ADD Section 19 wording – REMOVE the balance

V. DISPUTE RESOLUTION

c

These definitions are:

- for information purposes only
- not intended to affect how complaints are handled by a police service
- present to ensure consistent reporting by all police services

a. Adjudication is a term that can include decision making by a judge in a court, by an administrative tribunal or quasi-judicial tribunal, a specially appointed commission, or by an arbitrator. The parties present their case to the adjudicator (or tribunal, commission or arbitrator) whose role is to weigh the evidence and make a decision that is final, binding and enforceable. Disciplinary hearing and Law Enforcement Review Board proceedings are example of adjudication.

b. Arbitration (binding) differs from courts and quasi-judicial tribunals in a number of aspects. For example, many arbitrations are voluntary, in that both parties agree to submit the dispute to arbitration, and the parties often agree on the selection of the arbitrator and the procedural rules. Generally, rules of evidence and procedure are more relaxed than the rules of court. Arbitration can also be ordered by a court or be compelled by a statute. In such cases, the arbitrator is usually appointed by a judge or government official. An arbitrator has limited jurisdiction that is determined by the relevant arbitration agreement or statute.

c. Arbitration (non-binding) the disputing parties put their case before an impartial third party who renders an opinion or recommendation, which the parties may choose to accept or not. Thus, the process is adjudicative, or determinative, but not binding or enforceable.

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d. Conciliation is often used interchangeably with "mediation". The term, conciliation, generally refers to a process of dispute resolution in which "parties in dispute usually are not present in the same room. A conciliator communicates with each side separately, using a term referred to as "shuttle mediation". e. Facilitation is a process by which a third party helps to coordinate the activities of a group, acts as a process facilitator during meetings, or helps a group prevent or manage tension and move productively toward decisions. The facilitation role can be placed on a continuum from simple group coordination and meeting management to intensive multi-party dispute mediation. f. Negotiation is a process in which two or more participants attempt to reach a joint decision on matters of common concern in situations where they are in actual or potential disagreement or conflict. Negotiation may occur amongst the parties themselves or through an agent or lawyer appointed by each party. **g.** Mediation (sometimes referred to as assisted negotiation) is a collaborative process in which, typically, an impartial third party helps disputants resolve a dispute or plan a transaction. The mediator does not have the power to impose a binding solution. Mediators use a variety of processes. Some mediators use interest-based problem-solving approaches , while others incorporate more rights-based approaches. There are many different models of mediation.