



ALBERTA LAW ENFORCEMENT REVIEW BOARD

Practice Direction 2017-01

APPEAL RECORD PRODUCTION & WRITTEN SUBMISSIONS

Effective Date: January 1, 2017

This practice direction governs the production by police services of the record of proceedings for appeals to the Law Enforcement Review Board. The Board's Appeal Policies and Procedures prevail over this direction to the extent of any conflict or inconsistency between them.

EFFECTIVE DATE

This direction takes effect on January 1, 2017. This practice direction cancels Practice Direction 2015-01 and replaces it.

DEFINITIONS

1. In this direction, the following definitions apply:

(a) "PDF" means Portable Document File format, in a state that is readable using Adobe Reader version 10.0 or higher;

(b) "record" means:

(i) in an appeal from a decision of a chief not to direct a disciplinary hearing, all of the recorded information that was considered by the chief, or was available to the chief for consideration, in making the decision, including all investigation reports, statements, audio and digital recordings, and correspondence relating to the matter;

(ii) in an appeal from a decision of a presiding officer where a disciplinary hearing was held, the transcript of the hearing, all exhibits entered into evidence in the hearing, any written arguments submitted to the presiding officer and the decision of the presiding officer.

but, for clarity, nothing in this definition prevents the Board from determining in an appeal that the record includes things other than those mentioned here.

2. Unless the Board otherwise directs, the police service is not required to include in a record copies of notices given to the complainant under s 45(7) of the *Police Act*.

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3. If a term used in this direction is not defined here, it has the meaning given in the Board’s Appeal Policies and Procedures, the *Police Act* or the *Police Service Regulation*, as the case may be.

DELIVERY OF THE RECORD

Time for delivery of the record

4. The Board will give notice of an appeal to the police service promptly after the Board receives the appeal notice.
5. Within 14 days after receipt of notice from the Board, the police service must deliver the record to the Board and to each other participant.
6. The police service may apply to the Board if it needs more time because of the volume of the record, to redact information from the record, or if exigent circumstances exist. The Board in its discretion may extend the time for delivery without hearing from other participants.

Format and organization of the record

7. Unless otherwise directed by the Board, the police service must produce the record as directed in sections 8 through 12.
8. The record must be produced in electronic form, in PDF.
9. Each page of the record must be numbered, with page numbers clearly marked on each page in increasing numerical sequence beginning with page one.
10. Each document within the record must be separated by a PDF tab or bookmark.
11. The record must include, at the beginning, a table of contents that names each document, states the document’s date, states the number of the page within the record on which that document begins, and provides a tab or bookmark for the document. The page numbering for the record must not include the table of contents, which is to be numbered separately. If the police service needs clarification in a given case, the Board office will assist.
12. The PDF record must be searchable by words or other terms.

How the record is to be delivered

13. Unless otherwise directed by the Board, the police service must deliver the record in the manner directed in sections 14 through 16.

14. The police service must deliver the record to the Board as an attachment to an email addressed to lerb@gov.ab.ca (and not to any other email address). The email subject line must state “APPEAL RECORD SUBMISSION” in upper case letters, followed by the name of the police service, the appellant’s name, and then any police service file number.
15. The PDF emailed to the Board must be protected by a password established by the Board and communicated to the police service for delivery of records by that police service. The Board will change passwords from time to time and advise the police service. If a police service has not been able, despite reasonable efforts to do so, to successfully deliver the record to the Board by email, it may instead deliver the record to the Board on a password-protected CD or DVD.
16. The police service must deliver a copy of the record to each of the other participants concurrently with delivery of the record to the Board. The police service may deliver those other copies by email or on a CD or DVD. While the Board recommends the use of passwords, it is up to the police service to decide whether to use passwords when delivering the record to the other participants. If a participant who is not represented asks, the police service must deliver the record using the method the participant asked for.

SUBMISSIONS

17. Sections 18 through 24 apply to written submissions made to the Board, whether for an application, adjournment application or appeal hearing.

Time for delivery of submissions

18. Written submissions must be delivered at the times the Board directs in writing in each appeal.

Format, style and length

19. Submissions must be typewritten, but the Board may permit a participant who is not represented to make submissions that are hand-written, although these must be legible.
20. Submissions should be spaced at 1.5 lines between each line of text.
21. Each page must be numbered and each paragraph must be numbered.
22. The Board expects submissions to be succinct and encourages the use of plain language. The Board may direct limits on the length of submissions in a particular appeal.
23. Submissions and authorities must be submitted as separate documents.

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24. Only the leading court or other authorities should be cited and reproduced. Long quotations from sources should be avoided.

How submissions are to be delivered

25. Sections 8, 9, 12, 14 and 16 apply, with the necessary changes, to submissions.

BOARD'S DISCRETION TO VARY

26. For clarity, nothing in this practice direction constrains the Board's discretion in any appeal to vary any aspect of this practice direction for reasons of procedural fairness, natural justice or administrative efficiency. Among other things, the Board may relieve a participant who is not represented from compliance with any aspect of this practice direction.

27. The Board will review this direction, and revise it as it considers necessary, from time to time.

Edmonton, Alberta

January 1, 2017

David Loukidelis QC
Chair, Law Enforcement Review Board