



Type of law:
CIVIL LAW

A 2020 Alberta Guide to the Law

How to Initiate a Complaint Against the Edmonton Police Service and Security Guards



COPYRIGHT & DISCLAIMER

GENERAL

All information is provided for general knowledge purposes only and is not meant as a replacement for professional legal advice. If you have a personal legal question that requires legal advice, please consult a lawyer.

COPYRIGHT

Copyright **2020**, Student Legal Services of Edmonton. All rights reserved. Copying any material, in whole or in part, is prohibited unless prior consent has been obtained. Some material may be subject to copyright from an outside source and thus there may be different restrictions on the reproduction of this material.

LIMITATION OF LIABILITY

Student Legal Services of Edmonton is not liable for any loss or damage caused by an individual's reliance on information or material obtained from Student Legal Services of Edmonton. By accessing the information, individuals agree that any usage is at their own risk.

INFORMATION AND OPINIONS

In some instances, information obtained by Student Legal Services may have been provided by outside sources. Even with the high standards set by Student Legal Services of Edmonton, we accept no responsibility for the accuracy and reliability of the material. Opinions and Information provided by third parties does not represent that of Student Legal Services of Edmonton.

IMAGES

Icons made by Freepik from www.flaticon.com.

Infographics sourced from Piktochart from www.piktochart.com.

How to initiate a complaint against:

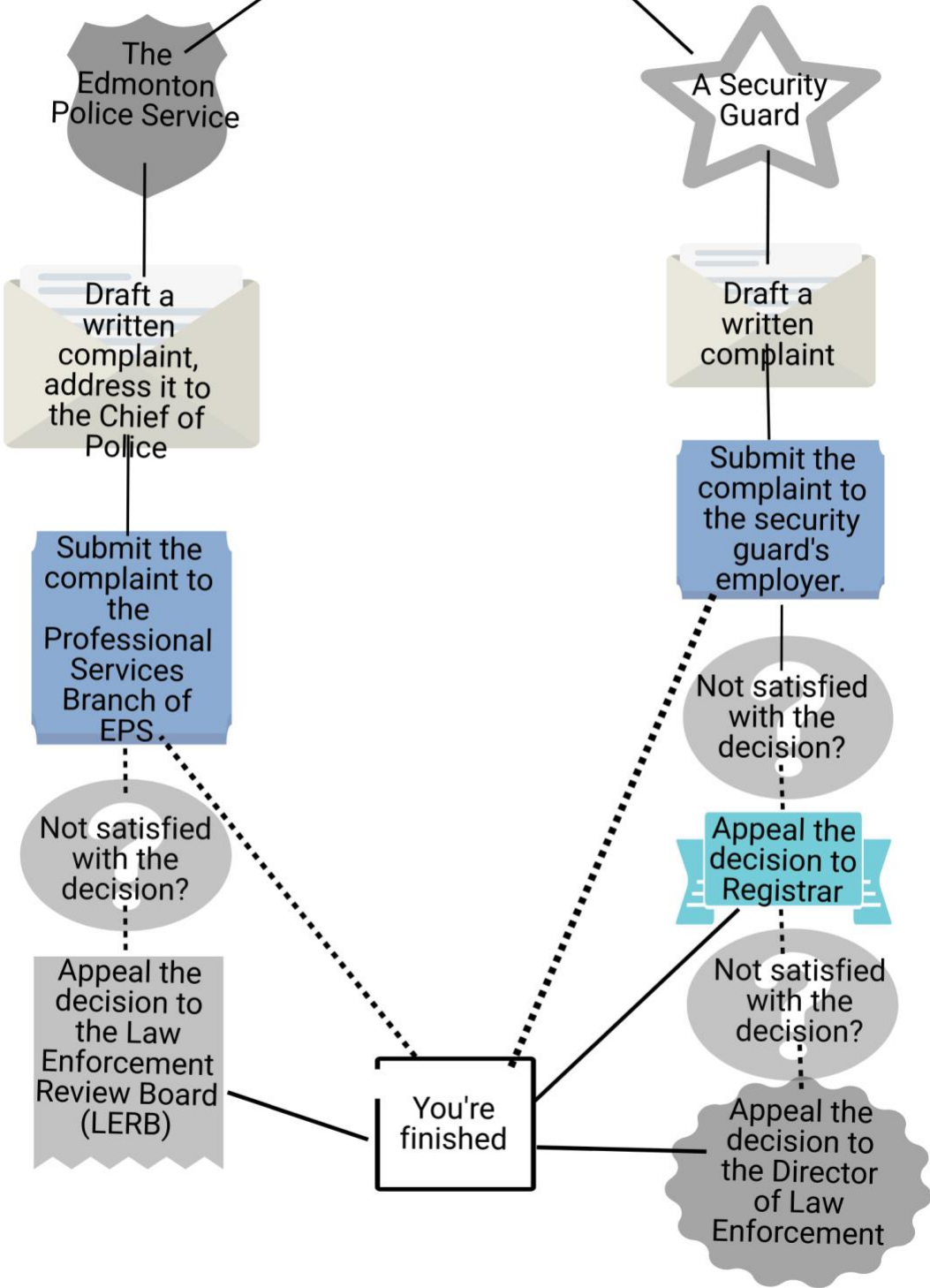


Table of Contents

Before you Start	5
Starting a Complaint.....	5
Who can make a Complaint?.....	5
Informal Complaint.....	6
Formal Complaint	6
The Investigation	7
After the Investigation.....	7
Appeals	8
Laying a Private Information	9
Security Guards	9
Civil Suits.....	11
WHO CAN I CALL FOR MORE HELP OR INFORMATION?	12
Legal Resources	12
Other Resources	13

Before you Start

If you are thinking about launching a public complaint against the police, it is important to write down detailed notes of the incident as soon as possible after it happens. The complaint process often takes a long time to come to a resolution, and detailed notes can help your memory when your testimony is necessary long after the incident. Be sure to provide all the circumstances of the incident, including who was involved, what happened, where the incident occurred and when (date and time) it took place. Any witnesses to the incident should also be contacted to provide detailed statements in writing. Witness statements should be taken individually, while the other witnesses are not present.

It is essential that all the information in the statement is true and as accurate as possible.

Note: Making a false report to the police is illegal.

If there were any injuries as a result of the incident, you or the person who was injured should visit a doctor immediately after the incident. Take clear pictures of any injuries as soon as possible for evidence. If the incident occurred outside of a nightclub, bar, or inside an establishment with closed-circuit video recording, make the complaint immediately, point out that video evidence exists and ask that they take steps to save it. It is often the case that closed-circuit video cameras only store a limited number of days before auto deleting, which means it is extremely important to ask the owner of the location and Police to preserve the evidence as soon as possible. You should also take photographs of the location of the incident, including pictures of where the camera exists. It is usually easier to obtain evidence as soon as possible to avoid for example camera footage being deleted, or someone's memory fades.

According to s. 43(11) of the *Police Act*, a complaint must be made within one year. This limitation period does not apply to any incident involving conduct that breached a law or regulation other than the *Police Act*, such as the *Criminal Code of Canada*. So, if the complaint has claimed criminal misconduct, the 1-year limitation does not apply.

Starting a Complaint

Who can make a Complaint?

The *Police Act* dictates who can make a complaint, which includes:

- The person directly involved in the incident which the complaint regarding the officer's conduct arose from
- An agent of the person directly involved in the incident which the complaint arose from.

- A person who witnessed the conduct complained of
- A person in a personal relationship with the individual who was directly involved in the incident from which the complaint arose AND has suffered damage or loss because of the conduct complained of.

Informal Complaint

The alternative dispute resolution process, or 'informal complaint,' may be able to resolve some concerns about the Edmonton Police Service (EPS). To find out if your concern can be resolved this way contact the Professional Standards Branch of EPS at (780) 421-2676 or complete the online PSB Complaint Form.

The Professional Standards Branch may request further information from a complainant in order to begin the resolution process for the informal complaint.

Formal Complaint

A formal complaint against the police must be outlined in writing, signed and addressed to the Chief of Police and delivered to any police station in the City of Edmonton or the Police Commission Office.

The person making the complaint must provide their full name, address, phone number, and email address (if available). The complainant must clearly outline their concerns and issues in their written complaint. Only concerns and issues provided in the written complaint are investigated. The complainant should include the date, time, location and a detailed description of the incident that led to the complaint. A detailed description of the incident would include the names of any witnesses, and information identifying the police officer involved (name or Reg. Number), if known. The police have discretion in laying charges and the Professional Standards Branch will not intervene in this process.

Legal assistance may be helpful in drafting a written complaint. Consider speaking with a lawyer when preparing your written complaint.

Where to send a complaint:

By Mail:

Chief of Police
Police Headquarters
9620-103A Ave.
Edmonton, AB T5H 0H7

By Phone:

780-421-2676

Online (Complaint Form provided to be filled in by the complainant):

<https://www.edmontonpolice.ca/AboutEPS/EPSEOrganizationGovernance/ProfessionalStandards/PSBComplaintForm.aspx>

Note that a complaint about a police officer is not the appropriate place to voice disagreement to a charge, this is better suited in Court.

The Investigation

After submitting the complaint, an investigator with the Professional Standards Branch of the Edmonton Police Service (PSB) will contact the complainant within 30 days and may conduct an interview. The investigator will collect any important information relevant to the investigation. Relevant information can include: video or audio recordings, forensic evidence, police reports, and they may wish to conduct an interview with the complainant. Legal assistance may be helpful in the interview process, and the complainant may have their legal advisor (lawyer or agent) present at the interview to address any issue that may come up.

The complainant is not involved in every aspect of the investigation. After collecting the necessary information, the investigator will conduct internal meetings to determine the direction of the investigation. Depending on the nature of the complaint, the officer may have to submit either a written complaint or a may be ordered to participate in an interview.

During the investigation of the complaint, the Chief of Police must inform the complainant in writing of the progress of the investigation every 45 days.

After the Investigation

Once the investigator has collected all of the relevant information, they provide their recommendations and materials to the Chief of Police. The Chief of Police then makes a determination. If the offence is minor, the Chief of Police may dismiss the matter altogether, issue a warning to the officer, or take other action that they choose is appropriate. However, if the offence is more severe, the Chief of Police may reprimand the officer, order forfeiture of overtime hours, or suspend them without pay. The decision will be made available to both the officer and complainant. The complainant should be informed if there is a right to appeal.

Appeals

If the complaint ends up being dismissed without the Chief of Police finding any violation, the complainant has 30 days to appeal to the Law Enforcement Review Board (LERB). The LERB is a tribunal, appointed by the Solicitor General, that is independent of any police service and aims to provide fair hearings. The Board has the power to call witnesses and hear evidence under oath.

To appeal the decision of the Chief of Police, the complainant must send a letter to the Board Secretary. This letter should include the following:

- Your name and contact information, including address, phone number, and email (if available)
- The name and contact information of your lawyer (if applicable)
- Date, time, and description of the incident that gave rise to the complaint
- Identification of the officer complained of (if known)
- Reasons for why you disagree with the decision and find it unreasonable.

AND can be either delivered in person or sent by mail, email, or fax:

Law Enforcement Review Board
c/o Board Secretary
1502, 10025 102A Avenue
Edmonton, Alberta T5J 2Z2
Email: lerb@gov.ab.ca
Fax: 780-422-4782

The Board will acknowledge that they have received your appeal, with a letter, usually within one week of submitting it. Within 30 days of receiving your appeal the Board must review it along with the information that EPS used to make the initial decision regarding your complaint.

The LERB will review the file and may do one of the following:

- Determine that there will be no further hearings on the matter.
 - If this happens, the Board will ask for written submissions for each party and make their determination that way.
- Deny the appeal if the Board feels that an appeal request is frivolous (without merit).
- Determine that an additional hearing is needed.
 - At a hearing, it is possible for the complainant to bring additional evidence as long as

they apply to the Board and get approval. This happens only in appropriate circumstances. If a complainant is able to bring additional evidence, it is their responsibility to present this evidence to the Board.

At any point, the complainant can abandon or withdraw the complaint. A legal advisor may be of assistance when deciding whether it is worthwhile to pursue the appeal, or if it will likely fail. A complainant may have legal representation at a Board hearing.

The decisions of the Board are issued in writing and posted on the Board website on the Canadian Legal Information Institute's (CanLII) website. All appeals are public unless the Board decides otherwise.

Laying a Private Information

Another course of action that a complainant may take is laying private information. To lay private information, the complainant must have reasonable suspicion that a criminal offence has occurred and present it before a judge or justice of the peace. After hearing the evidence presented by the complainant, the judge or justice of the peace may issue a summons to appear for the accused. The Attorney General (the Crown), will review the information, and decide whether the crown will proceed with the prosecution and take over a private prosecution. The crown can decide to take over the private prosecution and can either proceed with or stay the charges.

Laying private information can be done without launching a formal or informal complaint through the Edmonton Police Service.

Security Guards

The process for making a complaint against a security guard is set out in the *Security Services and Investigators Act* Part 4. A complainant should direct any accusations of criminal activity by security guards to the police.

To complain, a person must write a formal complaint to the security guard's employer within 90 days of the incident occurring. The complaint needs to be written and should include the details of the incident and the complainant's contact information. The employer must notify the complainant in writing that they have received the complaint within 30 days of receiving it. If the employer decides not to investigate or starts an investigation but then discontinues it, the employer must provide written reasons to the complainant within 90 days of receiving the complaint. If the employer does investigate, they must within 90 days provide the complainant with the outcome of the investigation and the reasons for it, and notify them of their right to have the employer's decision reviewed by the registrar, in writing.

If the complainant is not satisfied with the employer's decision or the employer did not provide a decision, they can request a review of the decision or complaint. Once the complaint has received the employer's decision, they have 30 days to make a request for review. This request must be written and sent by mail or email to:

Complaints Coordinator
Security Programs
Alberta Justice and Solicitor General
9th Floor, 10365 97 Street
Edmonton, Alberta T5J 3W7

Email: poprogram@gov.ab.ca

The request should indicate which points of the employer's decision the complainant disagrees with and reasons why they believe the employer was incorrect. If the registrar decides not to investigate or starts an investigation but then discontinues it, the registrar must notify and provide written reasons to the complainant within 90 days of receiving the complaint. If the registrar investigates the complaint it must provide the complainant with a decision and the reasons for the decision in writing.

If the complainant is not satisfied with the decision of the registrar, they can appeal again to the Director of Law enforcement. The complainant has 30 days to submit a written request for appeal after receiving notice of the decision of the registrar. Requests should be directed to:

Director of Law Enforcement
C/O Complaints Coordinator
Security Programs
Alberta Justice and Solicitor General
9th Floor, 10365 97 Street
Edmonton, Alberta T5J 3W7

Email: poprogram@gov.ab.ca

The Director of Law Enforcement must notify the complainant in writing of its decision to either change, reverse, or maintain the registrars decision within 30 days of receiving the complainant's appeal request. Although, the Director of Law Enforcement may take longer than 30 days to reach a decision, in which case you will be notified.

Civil Suits

If a person has suffered damage as a result of the actions of a police officer or security guard they may have grounds to file a civil claim. When suing a police officer for injury that occurred while the police officer was performing their duties, the individual will sue the Chief of Police. The Chief of Police is ultimately responsible for any wrong-doing on the part of a police officer (in legal terms, they are 'vicariously liable' for the actions of the police officer) while on duty, so the suit is brought against the Chief of Police.

For a civil suit it is important to keep in mind that there is a two-year limitation period to launch any civil action. Please review the *Limitations Act* and/or consult with a lawyer to determine when the two-year limitation period expires.

A person can initiate a civil suit with the help of a lawyer or by themselves. To initiate a civil claim a person must get the appropriate forms either from the courthouse (visit the civil counter on either the Queen's Bench or Provincial court side of the courthouse) or from the Alberta Courts website <https://albertacourts.ca>. Depending on how much a person wants to sue for or how much they are being sued for a person can file in either Alberta Provincial Court or the Alberta Court of Queen's Bench. Also, in the Court of Queen's Bench, individuals are forced to disclose all of their documents. However, in Provincial Court although it is assumed that individuals will provide each other with their documents, it is not as straightforward of a process to obtain the documents. You may need to bring Court Applications to force production of documents if the other party resists. Unlike the Court of Queen's Bench, the Provincial Court also does not have a mandated process to question the other party under oath prior to trial. As is the case with issues related to producing documents, you may need to bring an Application to force a party to be questioned prior to trial.

To initiate a civil claim a person would need to fill out the civil claim form and have the filing fee ready when the form is submitted. The filing fee will depend on the claim amount. The clerk can waive filing fees for people who are unable to pay, the form for waiving a filing fee is available at <https://www.alberta.ca/assets/documents/rcas-fee-waiver-application.pdf>. This form is also available through the court clerk.

Note: complaints against the police can take some time to complete, so a civil suit should be brought quickly even while a person is still preparing their complaint.

WHO CAN I CALL FOR MORE HELP OR INFORMATION?

Legal Resources

Edmonton Community Legal Centre (ECLC) Telus House, South Tower Second Floor, 10020 100 Street Edmonton, T5J 0N3	Website: www.eclc.ca Ph: 780-702-1725
---	---

Edmonton Community Legal Centre (ECLC) provides legal services for low-income Albertans in certain areas of family and civil law. These services include free legal information, referral, and legal education. ECLC may also be able to provide legal advice if you fall within their eligibility criteria. Much of their legal information can be found on their website, as well as the time, dates, and locations of their public legal education programs. Additionally, ECLC has a fee waiver program if your income and document fall within their guidelines.

Lawyer Referral Service	Toll Free Ph: 1-800-661-1095
--------------------------------	-------------------------------------

The Lawyer Referral Services can connect you with lawyers who can help with your issue. When you call, you will speak to an operator and you will describe the nature of your problem to them. The operator will then provide you with the contact information for up to three lawyers who may be able to assist you. When contacting these referred lawyers, make sure to let them know that you were given their information by the Lawyer Referral Service. The first half hour of your conversation with a referred lawyer will be a free consultation and brief advice session. **Note:** It is not intended for the lawyer to provide free work.

Legal Aid Society of Alberta Revillon Building Suite 600 – 10320 102 Avenue Edmonton, AB T5J 4A1	Toll Free Ph: 1-866-845-3425 Website: www.legalaid.ab.ca
--	---

The Legal Aid Society of Alberta functions to assist low-income Albertans with certain types of legal matters. Assistance is provided through information, referrals, advice, and/or representation, depending on what your matter is and which eligibility guidelines you meet.

Edmonton Resolution Support Services 8124, 8th Floor - John E Brownlee Building 10365 97 Street NW Edmonton, AB T5J 3W7	Ph: 780-415-0404
---	-------------------------

Edmonton Resolution Support Services provides various services to assist individuals dealing with a family or civil matter. They have numerous free services, such as Family Court Counsellors, Family Mediation, Child Protection and Intervention Mediation, Civil Mediation, and assistance on Court Forms and Orders.

Other Resources

Edmonton Police Commission Suite 1803 Scotia Place, Tower 2 10060 Jasper Avenue Edmonton, AB T5J 3R8	Ph: 780-474-7510 Web: www.edmontonpolicecommission.com E-Mail: info@edmontonpolicecommission.com Fax: 780-414-7511
Edmonton Police Service Headquarters – Chief of Police Police Headquarters 9620 103A Ave Edmonton, AB T5H 0H7	Ph: 780-474-7510 Web: https://www.edmontonpolice.ca
Law Enforcement Review Board 1502, 10025 102A Avenue Edmonton, Alberta T5J 2Z2	Ph: 780-422-9376 Email: lerb@gov.ab.ca Fax: 780-422-4782
Edmonton Police Service – Professional Standards Branch Professional Standards Branch Police Headquarters 9620 103A Ave Edmonton, AB T5H 0H7	Ph: 780-421-2676