



EDMONTON POLICE SERVICE



REPORT TO THE EDMONTON POLICE COMMISSION

DATE: 2010 March 30

SUBJECT: Posting Disciplinary Hearings on Website

RECOMMENDATION

That this report be accepted as information.

INTRODUCTION

The Edmonton Police Commission has requested information regarding the posting of disciplinary decisions in particular with respect to the Alberta Court of Queen's Bench Decision in Action #080 11713.

BACKGROUND

In approximately 2007 the Edmonton Police Service (EPS) started making most disciplinary decisions available to the public by posting them on its external internet website. Unless there are overriding privacy considerations, the entire disciplinary decisions are posted including the police officers' names, charges and outcome whether or not charges were proven. The Hearing Officer writes his decisions with a view to addressing any privacy concerns by using witness initials etc. and decisions written by other presiding officers are vetted by the FOIPP Unit prior to release to the public.

The *Police Act* does not require the posting of this information. The reasons that the EPS Executive decided to post the decisions, including when charges are not proven, were for transparency and education.

The Calgary Police Service (CPS) received a request from the media for some of their disciplinary decisions. CPS refused to release the decisions and the media asked for an Inquiry by the Office of the Information and Privacy Commissioner (OIPC). The OIPC found that the decisions should be disclosed because it is desirable to subject both the conduct of individual officers and the disciplinary process itself to public scrutiny. It ordered the CPS to release the decisions vetting out only third party information.

The CPS applied to the Court of Queen's Bench for judicial review of the OIPC's decision. The Court stated that:

- there is a quantum difference between access to hearings and access to decisions.
- a one answer fits all approach is not reasonable.

The Court ordered the following:

- Decisions related to charges under the Police Service Regulation do not have to be disclosed. The Court stated that no added public scrutiny is desirable and the police officer's right to privacy remains. Where a federal or provincial offence is not involved, the reputational damage is unfair and serves no public interest.
- Decisions following upon a conviction for a Criminal Code offence are disclosable. The disclosure can be limited to the nature of the charge, name, rank and the sanction imposed.
- Decisions following upon a conviction for a provincial offence are disclosable. Disclosure would be restricted to nature of the charge, name, rank and the sanction imposed.
- Even when decisions are released, severing of personal information is required to protect the privacy interests of third parties.

CONCLUSION

It is recommended that the following changes in process be undertaken to comply with the rationale of the Court's decision:

1. The current practice of posting all disciplinary decisions on the website, internal and external, be stopped and the decisions removed.
2. Any requests for disciplinary decisions and exhibits be referred to the FOIPP Unit that will process the requests in accordance with the Court's decision.
3. Professional Standards Branch continues to release information regarding upcoming hearings but the information be restricted to the charges, place and time of the hearing. The members' names would not be released.

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Approved by: 
Chief of Police

Date: 15 April 2010