



Edmonton Police Service

Committed to Policing Excellence



Professional Standards Branch 2010 Annual Report

March 2011



Message from the Acting Chief

It is my pleasure to present the Professional Standards Branch Annual Report for 2010.

In 2010 the Professional Standards Branch identified its values as *Courage, Integrity, Truth and Honour*. These terms reflect not only the core values of the EPS, but also symbolize the commitment of the Branch and the organization to the ideal of a Police Service that can be respected by all those it polices. Integrity is sometimes described as “doing the right thing when no-one is looking”. Professional Standards Branch helps to ensure that even when no one is looking, the members of the EPS are working to achieve the standards of professional conduct and service the community expects of them.

Following the introduction of a new reporting format in 2009, the EPS has continued to develop and deepen its understanding of what concerns members of the community about the performance and conduct of our organization and its members. We strongly believe that by understanding what causes these concerns, we can most effectively address them.

As we did in last year’s report, we have described what steps we have taken as an organization to address particular trends or patterns of community concern. These efforts appear to be showing early signs of success, with the number of public complaints down by fourteen percent in 2010.

This report is presented as a means of demonstrating the efforts and commitment made by the Edmonton Police Service to providing the most professional policing service possible to the citizens of Edmonton. I hope you find it useful and enlightening.

Sincerely,

David Korol

Acting Chief of Police



Joint EPS / EPC Vision:

A safe, vibrant city, achieved in partnership through innovative, responsive community policing

We strive to provide the citizens of Edmonton with a citizen-centered Police Service that is a model of efficiency and effectiveness in reducing crime and victimization.

We Value:

- Integrity
- Accountability
- Respect
- Innovation
- Community
- Courage

"Dedicated to Protect, Proud to Serve"



Professional Standards Branch Mission:

Our mission is to resolve complaints with pride, professionalism and investigative excellence. We work to deserve the respect, trust and confidence of all those we serve and support.

We Value:

- Truth
- Integrity
- Courage
- Honour

Introduction from Professional Standard Branch

2010 was a year of transformational change for the Professional Standards Branch. The year started with a change of command, with Inspector Mark Neufeld returning to the EPS following a secondment to the Provincial Government. Inspector Neufeld was involved in the implementation of the Alberta Serious Incident Response Team (ASIRT) concept, and had been supervising the Northern Alberta investigative team.

Under Inspector Neufeld's leadership, the Branch has begun to move towards a more civilianized model. A number of key positions were converted from sworn police officer positions to non-sworn civilian investigator positions, including the hiring of a new civilian Investigative Supervisor and Intake Manager. Additionally, a Legal Advisor with previous experience as a crown prosecutor was hired to provide additional management and oversight. Civilian members, particularly at the management level, bring a new perspective and contribute to the objectivity that is so necessary in the work of the Branch.

PSB Internal Audit

In June 2010, the Branch was audited as part of the wider EPS Audit Plan. The objective of the audit was to assess the effectiveness and efficiency of the public complaints process being managed by PSB. This audit evaluated the complaints process from receipt to disposition to ensure compliance with legislation, policy and procedure. The audit did not explicitly consider the quality of the investigations conducted or of any associated disciplinary processes; rather it focused on how the process was being managed.

The audit identified a need to strengthen PSB orientation and training processes to ensure new employees were properly prepared and supported in their roles. The audit also identified several opportunities to strengthen various administrative and investigative processes in use by PSB. Using the findings of

the audit as a guide, the management and staff of the Branch have taken a number of positive steps towards addressing these issues.

The most significant findings from the Audit process were around the stability and experience of the PSB work force. The high level of turn-over across the Branch's staffing profile, along with difficulties in attracting qualified internal candidates to the area, has had an ongoing impact on the Branch's ability to achieve its goals. The civilianization of some functions is seen as one way to improve the internal stability of the Branch's staffing.

Strategic Consultation and Planning

On the heels of the audit, PSB management initiated an extensive strategic planning process designed to identify priorities and focus the efforts of the Branch. The process began with internal Branch conversation and reflection, before expanding outwards to include consultations with other areas of the EPS. Following the internal consultation, various external stakeholders were also approached for input. This included the Edmonton Police Commission (EPC), the Edmonton Police Association (EPA), the Alberta Federation of Police Associations (AFPA), the Criminal Trial Lawyers Association (CTLA), Alberta Justice, and partners from the Solicitor General and Public Security Ministry.

This extensive process was both helpful and enlightening, and provided significant insight into the many ways the work of the Branch impacts upon its stakeholders. As a result of this process, the Branch developed updated Mission and Values statements:

Mission:

Our mission is to resolve complaints with pride, professionalism and investigative excellence. We work to deserve the respect, trust and confidence of all those we serve and support.

PSB Values:*Truth, Integrity, Courage, Honor*

The consultation process also resulted in the identification of five strategic priorities for the Branch for 2011-2013. These were used to develop a comprehensive business plan for 2011. The priorities were identified as:

- **Investigative Excellence:** To carry out thorough, objective and timely investigations into complaints.
- **Talent Management:** To attract, develop and retain high quality and committed personnel in all roles in order to achieve and demonstrate investigative and administrative excellence.
- **Process Innovation:** To standardize and streamline appropriate PSB processes in order to demonstrate enhanced efficiency, accountability, and outstanding case management.
- **Marketing:** To increase awareness and understanding of professional standards and the mission of the Professional Standards Branch.
- **Customer Service:** To respond quickly, consistently and professionally to the needs and concerns of our clients and constituents throughout all phases of the complaint investigation / resolution process.

The strategic planning process also helped to identify several additional structural changes that would be necessary to achieve the Branch's objectives. In November 2010 a restructuring proposal was delivered to the organization that outlined changes that had significant potential to enhance the way the Branch does business.

The recommended changes included:

1. The creation of a civilian Executive Director for the Branch;
2. Reorganization of the intake function including the addition of an Alternative Dispute Resolution Coordinator;
3. An expedited move toward electronic case management and file storage;
and
4. The creation of an internal review panel to enlarge the organizational conversation around both specific complaints and associated issues such as policy, training, and employee wellness.

The proposal has been accepted in principle. Several of the recommendations are being held in abeyance pending the appointment of a substantive Chief of Police.

Other Significant Projects

Standardization of Professional Standards Reporting: In 2009 and 2010 Professional Standards Branch worked with the Provincial Government, other Alberta police services, and their respective police commissions to develop a standardized vocabulary to describe police complaints and discipline.

The Province has indicated that as part of the wider Alberta Police Integrated Information Initiative (API3), all Alberta police agencies will be expected to use the IAPro complaints management system. By developing standardized terminology for use in this system, the ability to accurately assess and compare provincial professional standards statistics will be significantly enhanced. This project was finalized in December 2010, and PSB is now working to incorporate these standards into its day to day business operations beginning January 1, 2011.

Revisions to the Police Act and Regulations: During 2010 the Province initiated the process to amend the Alberta *Police Act* and *Police Service Regulation*. PSB worked cooperatively with the Edmonton Police Commission and other provincial stakeholders to provide input on the proposed changes. The changes are linked to the *Police Amendment Act (Bill 27)* which has not yet been proclaimed as law.

The intent of the proposed changes is to encourage the use of alternative dispute resolution processes where this is appropriate, and to speed up the overall process where investigations, hearings and appeals are necessary. The Branch looks forward to the changes coming into effect early in 2011. Once the law is proclaimed, PSB will monitor the impacts closely and respond as required to ensure the most effective and efficient internal processes are used to support these changes.

2010 Western Canadian Professional Standards Conference: In May, 2010, the branch had the privilege of hosting the Western Canadian Professional Standards Conference. Approximately 100 delegates from various police and oversight agencies across Canada attended our city to hear presentations regarding various topics, as well as case studies highlighting significant investigations involving police misconduct. PSB was able to bring in keynote speakers from the Los Angeles and Miami-Dade Police Departments to present to the delegates. Reviews from delegates were very positive regarding the program, the hospitality and our city. We are extremely proud of the work done by the staff of our branch in planning, organizing, and hosting this important event.

Summary

2010 was a year of significant change and challenge; however, the members of the Branch continued to diligently apply themselves to their core business – the maintenance and protection of the public trust. All members of the Branch (sworn and non-sworn) take this responsibility very seriously, and will continue to work hard to meet the significant expectations of the Edmonton community in the coming year.

Inspector Mark Neufeld
Officer in Charge,
Professional Standards Branch

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Abbreviations

| | |
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| ASIRT | Alberta Serious Incident Response Team |
| CFS | Calls for Service |
| EPC | Edmonton Police Commission |
| EPS | Edmonton Police Service |
| CPB | Community Policing Bureau |
| LERB | Law Enforcement Review Board |
| PSB | Professional Standards Branch |
| PSR | Police Service Regulation |
| SCSB | Specialized Community Support Bureau |

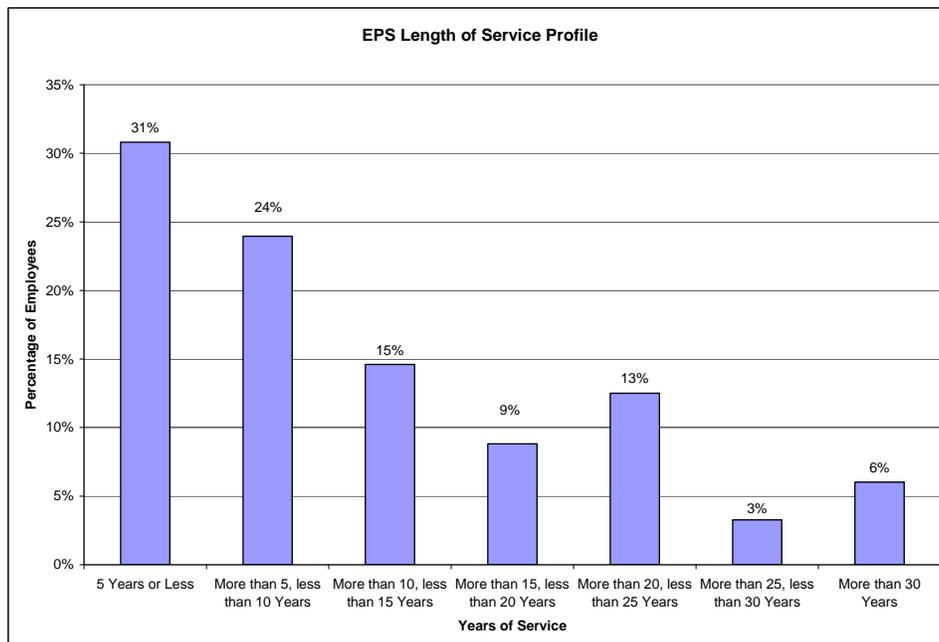
1. The EPS and the Community

| The EPS | | The City of Edmonton | |
|---------------------|----------------|-------------------------|--------------|
| Employees: | 2,165.5 | Land area: | 683.9 sq km |
| Sworn: | 1588 | City Population: | 782,439 |
| Non-Sworn: | 539 | Male: | 50.4 percent |
| Temporary / Other | 38.5 | Female: | 49.6 percent |
| Male: | 66 percent | Aboriginal: | 5.2 percent |
| Female: | 34 percent | Black: | 2.6 percent |
| Aboriginal: | 3.3 percent | Chinese: | 6.2 percent |
| Black: | 1.7 percent | East Indian: | 5.2 percent |
| Chinese: | 2.3 percent | | |
| East Indian: | 1.8 percent | | |

1.1 EPS Years of Service Demographics

The following graph shows the breakdown of EPS employees by length of service. Just under one-third of all employees have less than five years experience with the EPS, with 55% having less than ten years experience.

Figure 1: Length of Service Profile



2. Civilian Oversight of the Disciplinary Process

The actions and activities of Police Commissions and Police Services in Alberta are governed by the *Alberta Police Act* (R.S.A 2000, Chapter P-17). Standards of service and conduct expected of sworn members of the Province's Police Services are described in the *Police Service Regulation* (PSR).¹ Where a Police Commission is established, the *Police Act* requires the Commission to maintain oversight of the public complaints made against the Police Service and its members.

2.1 Edmonton Police Commission

The Edmonton Police Commission (EPC) maintains oversight of the public complaint process as it relates to the EPS. The EPC is committed to:²

1. Promoting a complaints process that is fair, equitable and transparent for all parties to the complaint;
2. Monitoring the complaints process; and
3. Receiving complaints, including third-party and anonymous complaints, and addressing the complaints or directing them to the Chief of Police as laid out in Section 43(1)(2) of the *Police Act*.

The EPC has appointed a Public Complaints Director who is responsible for managing these commitments. The *Police Act* outlines who is responsible for addressing public complaints at different steps in the process. Dependent on the type of complaint made, the Chief of Police may have the initial responsibility for reviewing or investigating the matter.

¹ The sworn members of the Royal Canadian Mounted Police are subject to the provisions of the *RCMP Act* rather than *Alberta Police Act*.

² Edmonton Police Commission, *Public Complaints Director*, <http://www.edmontonpolicecommission.com/content.php?typeID=2&pageID=17&tertID=9> (accessed 04 March 2011)

When the complaint relates to the policies or services of the EPS, the initial responsibility for investigating the complaint rests with the Chief. If the complainant disagrees with any decision made, they have the right to appeal that decision to the EPC.³

Upon receiving an appeal, the Public Complaints Director provides the Commission with a description of the appeal, along with any relevant information provided by any of the parties as well as the relevant case law. The Commission may then choose to make a decision on the appeal based on the submissions made by the parties, or it may conduct hearings as it sees fit to determine the appropriate outcome.

If the complaint relates to the Chief of Police, then the Commission will assume responsibility for the investigation process. This could include requesting support from other Provincial policing agencies to ensure that an impartial investigation is conducted.

Dependent on the type of complaint, and particularly where the complaint relates to the conduct of a Police Officer, the parties may also be able to file an appeal through the Law Enforcement Review Board.

2.2 Law Enforcement Review Board

The Law Enforcement Review Board (LERB) is an independent quasi-judicial body established under section nine of the *Police Act* (R.S.A. 2000, Chapter P-17). The Board consists of private citizens who are appointed by the Lieutenant Governor, and operates under the authority of the Solicitor General. The

³ Edmonton Police Commission, *Service and Policy Appeals and Public Complaints*, <http://www.edmontonpolicecommission.com/content.php?typeID=2&pageID=17&tertID=11> (accessed 04 March 2011)

members represent a broad range of experience in the community, with the Board chair being required to be an active member of the Alberta Law Society.⁴

The principal activity of the board is to hear appeals from both citizens and police officers separate and apart from the Police Service involved. The principal objective of the Board is to provide independent and impartial review. At the request of the Minister, the Board may also investigate any matter relating to policing. Once the Board has made a decision about an appeal, it is binding. The only further appeal that can be made is to the Court of Appeal and only then if the board made a legal error in its decision.

During 2010, two significant Court of Appeal rulings were issued relating to the actions of the LERB. The Newton (*Newton v. Criminal Trial Lawyer's Association, 2010 ABCA 399*) and Pelech (*Pelech v. Law Enforcement Review Board, 2010 ABCA 400*) cases (both involving EPS members) struck down rulings issued by the LERB. The Court found that the LERB had applied an incorrect standard of review in both cases, and in doing so had erred in law.

More significantly, these two cases provided the LERB with clear direction on the exercise of its authority under the *Police Act*. The Court found that the LERB did not have the power or obligation to conduct *de novo* hearings in every appeal it heard, which had previously been its standard practice. It is likely that this finding could significantly expedite the LERB process, improving the timeliness of complaint resolution for all parties.

⁴ Solicitor General and Public Security, *Law Enforcement Review Board*, https://www.solgps.alberta.ca/boards_commissions/law_enforcement_review_board/Pages/default.aspx (accessed 04 March 2011)

During 2010, the LERB reached decisions on thirteen (13) appeals relating to the EPS. Nine (9) of the appeals were dismissed, two (2) were allowed in total, and two (2) were allowed in part. These thirteen appeals related to files opened over a number of years; they do not all relate to complaints made or investigated during 2010.⁵



⁵ Solicitor General and Public Security, *Index of 2010 LERB Decisions*, https://www.solgps.alberta.ca/boards_commissions/law_enforcement_review_board/LERB%20Decision%20Documents/2010/INDEX%20OF%202010%20LERB%20DECISIONS.pdf (accessed 28 February 2011). During 2010 the LERB heard a further eight (8) preliminary applications on matters relating to the EPS and its members. These applications were not appeals in their own right, rather steps in the appeal hearing process.

3. The Public Complaint Process

The Edmonton Police Service (EPS) strives to achieve three strategic objectives through its partnership with the local community. These objectives are the reduction of crime and victimization, the provision of a citizen-centred service, and being a model of efficiency and effectiveness.

The following activities and approaches help the EPS achieve these strategic objectives:

- Community consultations and the receipt of information from the community via a variety of means;
- Continuous assessment and analysis of information and intelligence for the purpose of problem identification;
- Partnership development and engagement in problem solving;
- A focus on prevention;
- Response, investigation and enforcement; and
- Inclusive involvement of all members

Reflecting the expectations of the community it serves, the EPS requires high standards of performance and conduct from its members (both sworn and non-sworn). Being responsive to community concerns means more than just addressing local crime and disorder issues. It also means the EPS has an obligation to address those situations where a member of the community is not satisfied with their interaction with the Edmonton Police Service.

As part of this commitment, the EPS also places a high value on the integrity of individual members. If an employee is observed by another member acting in an inappropriate way (either because it is potentially criminal, or may constitute misconduct), there is an expectation that they will act to stop that conduct, and then report it.

Alongside the individual responsibility of members, the EPS also has a responsibility to support its employees in making ethical decisions and demonstrating the highest level of conduct. This responsibility includes ensuring employees are adequately trained and prepared to make effective and lawful decisions, and are able to articulate the decisions they make to others.

3.1 Proactive Strategies for Preventing Complaints

The most effective way to address complaints is to prevent them from occurring. This can be achieved through training, supervision, coaching and mentoring. One of the specific strategies utilized by the EPS to support positive behaviour and conduct is the *Early Intervention Program*.

This program's mandate is:

"The early identification and notification of potentially damaging patterns of behavior; providing members and supervisors assistance throughout to ensure individual and organizational success."

This program uses information contained in various databases to identify emerging patterns of behaviour that may indicate the potential for future problems. This proactive strategy allows the organization to use non-disciplinary means to correct behaviour before there is a need to implement a more formal process.

This approach allows the EPS to identify and implement training and coaching strategies specific to the needs of the individual. This is particularly important as the organization consolidates its skill base following a rapid period of expansion.⁶ This approach can also help identify organizational training and development strategies that might be required to address common trends and deficiencies.

⁶ As shown in Figure 1, nearly a third (31%) of the organization's employees have less than five years experience as an EPS member.

3.2 The Role of Professional Standards Branch

If a complaint is received about a sworn member of the EPS, the *Police Act* requires that a prompt and thorough investigation be conducted. Complaints may be received from members of the public, or from other EPS employees. Internally generated complaints have historically accounted for about fifteen percent of all complaints investigated.

When a complaint cannot be resolved through alternate dispute resolution, or where the complainant requests that a formal investigation be commenced immediately, Professional Standards Branch will conduct that investigation. Under certain circumstances (described in Section 46.1 of the *Police Act*) the investigation may be conducted by another Police Service, or by the Alberta Serious Incident Response Team (ASIRT) instead of by the EPS.

Once Professional Standards Branch has concluded its investigation, it submits a report to the Chief of Police. If the complaint relates to a question of conduct, the report will classify the outcome of the investigation using one of the following criteria:

1. Resolved through Professional Standards Branch;
2. Resolved through Supervisory Review;
3. Withdrawn by Complainant;
4. Reasonable prospect of establishing the facts necessary to obtain a conviction at a disciplinary hearing;
5. No reasonable prospect of establishing the facts necessary to obtain a conviction at a disciplinary hearing;
6. Loss of Jurisdiction – the member is no longer employed by the EPS, the EPC has declined to grant continued jurisdiction to impose discipline, or the complaint is made outside the statutory limits;
7. Exonerated – The facts underlying the complaint have been proven, however the actions of the member were justifiable given all the circumstances of the matter; and

8. Other – The aforementioned dispositions are not applicable, such as when a complainant refuses to co-operate and the file cannot proceed on the information already known.

In the case of conduct investigations, the Chief of Police will then review the findings and direct that:

1. No further action be taken if disciplinary action is not supported;
2. Dismiss the matter or impose an Official Warning pursuant to Section 19(1)(a) of the *PSR*;
3. Enter into an agreement with the subject officer to impose discipline ranging from a reprimand to suspension without pay for up to 20 hours pursuant to Section 19(1)(b) of the *PSR*; or
4. Direct that a disciplinary hearing be conducted.

Where an investigation has established a reasonable suspicion that offending against an Act of Parliament (such as the Criminal Code) has occurred, the Inspector in charge of Professional Standards Branch will refer the file to the Senior Crown Prosecutor for evaluation and direction. Typically, a Crown Prosecutor from outside Edmonton (and occasionally outside the Province) will be tasked to review the file. The assigned prosecutor will provide an opinion to the Chief of Police on whether charges should be laid based on the evidence presented. This ensures that an independent and impartial evaluation of the facts is undertaken, and helps to preserve the integrity of the investigative process.

3.3 The Role of the Hearing Officer

Under section 47(1) of the *Police Act*, a Police Officer appointed to conduct a hearing has the same power as the Court of Queen's Bench for the trial of civil actions. In those cases referred to a hearing by the Chief of Police, the Hearing Officer is considered the tribunal of first instance. This Hearing Officer will hear evidence and submissions relating to alleged breaches of the *Police Act* or *Police Service Regulation*. If (on the balance of probabilities) the allegations are proven,

the Hearing Officer has the ability to impose penalties up to and including dismissal from the Police Service. Penalties levied in Alberta have included reprimands, suspensions without pay, and dismissal.



4. Professional Standards Files Generated in 2010

During 2010, the Edmonton Police Service dispatched officers to 134,749 calls for service. EPS members made 34,875 arrests, including those remanded in custody and those released via various forms of judicial undertaking or process.⁷ As a result of these calls, along with a multitude of other interactions with the community, 1058 enquires were made to Professional Standards Branch regarding the service or conduct of the organization or its members during 2010.

When a member of the community or another EPS employee raises a concern about conduct or service levels, the Professional Standards Branch will open a file. This allows the information to be accurately captured, and ensures that every concern can be tracked and monitored through to resolution.

Of the 1058 files opened by PSB in 2010, 903 related to concerns raised by members of the public. The remaining 155 concerns (15%) came from EPS members. While a file is opened for each concern, it may contain a number of components or allegations within it. Equally, not all concerns will result in a formal complaint being generated. Of the 1058 files opened in 2010, 250 (24%) were classified as being complaints under the criteria provided in the *Police Act*.

The following table provides some context for these numbers. Calls for service are described as a function of the population of the City of Edmonton in 2009 (population: 782,439).⁸ Arrests and complaints are described as a function of the number of calls for service.

⁷ This compares to 31,977 arrests made during 2009.

⁸ This is the official figure from the last Municipal Census. *2009 Municipal Census Results* http://www.edmonton.ca/city_government/documents/Summary_Report_of_All_Questions_Edmonton.pdf (accessed 04 March 2011). The next Municipal Census is scheduled for April 2012.

Table 1: 2010 Calls for Service, Arrests, Files and Complaints

| Category | Total Number | Rate |
|--------------------------|--------------|------------------------------------|
| Calls for Service | 134,479 | 1,722 per 10,000 population |
| Arrests Made | 34,875 | 2,593 per 10,000 calls for service |
| PSB Files Opened | 1058 | 78.5 per 10,000 calls for service |
| Complaint files | 250 | 18.6 per 10,000 calls for service |
| Criminal Complaint Files | 15 | 1.1 per 10,000 calls for service |

As was the case in 2009, less than 0.19% of all calls for service dispatched to first responders in 2010 resulted in a formal complaint being made. It is important to remember that many additional contacts occur between Police members and the community than are captured as the initial response to a call for service. As such, if we considered the complaint rate to be a function of all interactions (recorded and non-recorded), the rate of formal complaints is likely to be much lower than 0.19%.

If we compare the total number of files generated over the last four years, we can see that there has been a relatively steady relationship between the number of calls for service and the number of files opened. Following a slight decrease in the rate in 2008, the 2009 and 2010 rates are generally comparable with the 2007 results.

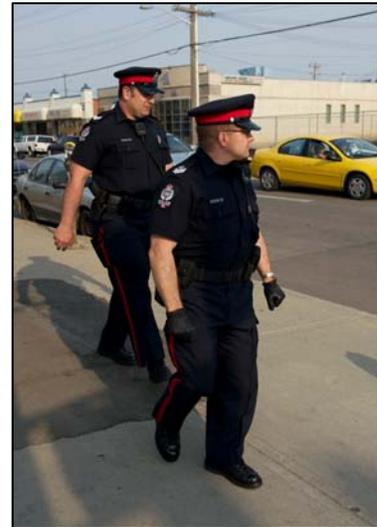
Table 2: Four-Year Comparison of File Rates as a Function of CFS

| Category | 2007 | 2008 | 2009 | 2010 |
|-----------------------------------|---------|---------|---------|---------|
| Dispatched Calls for Service | 146,968 | 141,514 | 136,791 | 134,749 |
| Total PSB Files Opened | 1,120 | 999 | 1,054 | 1,058 |
| Rate per 10,000 calls for service | 76 | 71 | 77 | 79 |

4.1 Types of Files Opened

Once a file is opened, it is initially categorized using one of the following definitions:

- **Criminal Investigation** - An written allegation of criminal misconduct committed by a police officer.
- **Complaint of Conduct** – A written allegation of misconduct committed by a police officer contrary to the *Police Service Regulation*.
- **Complaints of Service** – A written complaint about the policies of the police service or the service provided by the EPS.
- **Citizen Concerns** – A complaint of policy/service or an allegation of a minor misconduct that is not received in writing as required by the *Police Act*, that, had it been received in writing could have been categorized as a complaint of conduct or service under the *Police Act*. This would include the alleged misconduct of a non-sworn member that if proven, would constitute a breach of the City of Edmonton Code of Conduct.
- **EPS Concerns** – An internally generated allegation that is dealt with by Professional Standards Branch without invoking the *Police Act*.
- **Information Only** - A complaint or concern that if proven, would not constitute misconduct as described in the Police Service Regulation. This also includes matters that due to their substance cannot be categorized under the *Police Act* without a written complaint. Information Only files can also consist of citizen inquiries and risk management files that *do not* constitute a complaint, but provide important information to the organization and are therefore worthy of capture.



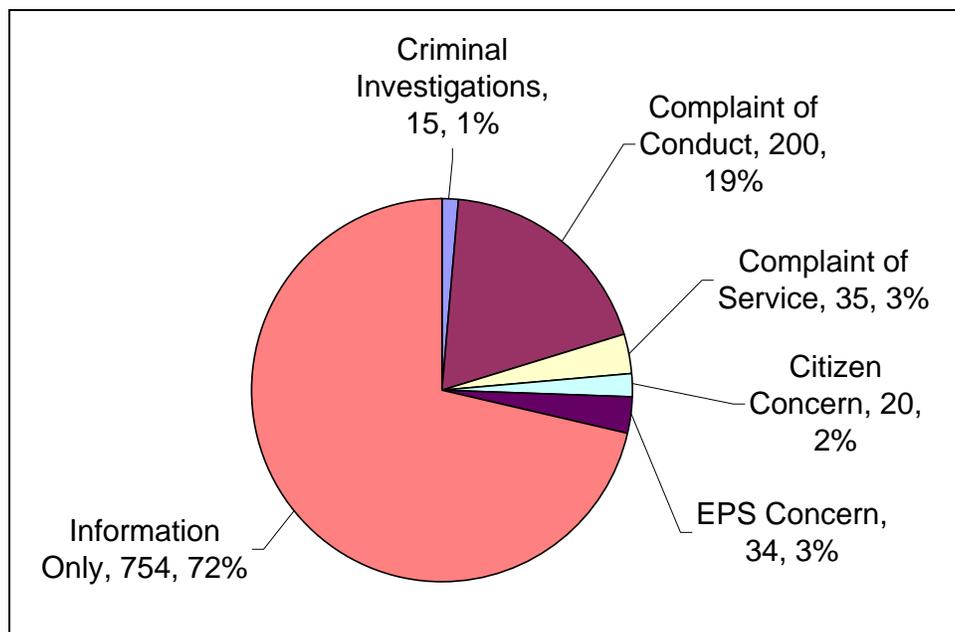
The first three categories meet the thresholds of a complaint in terms of the *Police Act*. As such, they are subject to formal investigation following the standards described in the *Police Act* and *Police Service Regulation*. The

remaining three categories do not represent complaints as described by the Act, but still provide the EPS with useful information about its performance.

As a file progresses, the initial classification may be amended as additional information becomes available, or if the circumstances of the file change. If additional information tends to indicate a file should be seen as a complaint under the *Police Act*, PSB will reclassify it accordingly.

During 2010, "Information Only" files constituted seventy-two percent (72%) of the 1,058 files opened. The distribution of files is presented below:

Figure 2: Distribution of PSB Files by Type during 2010



In terms of the total number of files opened by Professional Standards Branch in 2010, 215 (20%) related to either criminal or conduct allegations against specific members. This represents a similar level of complaints compared to 2009, with slightly less than 0.16% of all calls for service resulting in a criminal or conduct complaint.

Comparing the distribution of PSB files over the previous four years, the changing pattern of file types that was first reported in last years PSB Annual Report has continued.

Table 3: Categorization of Files, 2007 – 2010

| Type of File | Number of Files Opened During 2007 | | Number of Files Opened During 2008 | | Number of Files Opened During 2009 ⁹ | | Number of Files Opened During 2010 | |
|-------------------------|------------------------------------|-----|------------------------------------|-----|---|-----|------------------------------------|-----|
| Criminal Investigations | 23 | 2% | 24 | 2% | 17 | 2% | 15 | 1% |
| Complaint of Conduct | 121 | 11% | 140 | 14% | 195 | 18% | 200 | 19% |
| Complaint of Service | 78 | 7% | 67 | 7% | 62 | 6% | 35 | 3% |
| Citizen Concerns | 67 | 6% | 16 | 2% | 17 | 2% | 20 | 2% |
| EPS Concerns | 59 | 5% | 27 | 3% | 28 | 3% | 34 | 3% |
| Information Only | 772 | 69% | 725 | 73% | 735 | 70% | 754 | 72% |
| Total | 1120 | | 999 | | 1054 | | 1058 | |

The increase in “Complaints of Conduct” files is again the most obvious trend, with a year-over-year rise being reported. Detailed analysis of this trend is provided in section 5.2, along with an explanation of how this trend is being addressed.

Less obvious is the decrease in “Citizen Concerns” and “EPS Concerns”. This decrease can most likely be explained by the use of a more robust classification system, which ensures that files are appropriately addressed under one of the other classification categories, in this case most likely the misconduct category. It appears that these two categories have reached a plateau, accounting for five percent of all files for the past three years.

⁹ The numbers reported here are slightly different to those reported in the same table in the 2009 PSB Annual Report. This difference is caused by changes in classification as the files continued to be investigated. The new criminal investigations total for 2009 (which was reported as 13 in last years report) includes five files which were initially classified as complaints of conduct, and one file that was initially classified as information only.

4.2 Categories of Files Opened During 2010

During 2009, Professional Standards Branch began to change the way in which it captured data about the specific causes of concerns. This process was seen as a way of assisting the organization to better identify specific trends of behaviour or conduct that contributed to concerns or complaints. This process continued during 2010, with additional sub-classifications being developed that allowed investigators to better characterize each file.

The following table shows the Category and Sub-Category level classification of the 1058 files opened in 2010. This table does not distinguish between the *type* of file (Criminal, Conduct, Information Only etc), as its purpose is simply to provide insight into the *contributing causes*. By understanding what is driving these concerns and complaints, the EPS can more effectively respond and address those causes – and in doing so, reduce their risk of recurrence.

Table 4: Classification of Files during 2010

| Classification | Sub-Classification | Total Files (All Types) |
|------------------|---------------------------------|----------------------------|
| Customer Service | Communication | 8 |
| | Delayed Response Time | 5 |
| | Delayed Response Time (Service) | 2 |
| | Dissatisfied with Service | 22 |
| | Dissatisfied with Ticket/Charge | 6 |
| | Failed to Explain Charge | 3 |
| | Inappropriate Police Response | 12 |
| | Lack of Police Response | 20 |
| | Policy Complaint | 6 |
| | Refusal to Lay Charges | 14 |
| | (Not Further Classified) | 68 |
| Driving | Cell Phone or Texting | 5 |
| | Dangerous/Rules of Road | 12 |
| | Emergency Equipment | 1 |
| | Rules of Road | 6 |
| | Speed | 4 |
| | Vehicle Collision | 4 |
| | (Not Further Classified) | 16 |

| Classification | Sub-Classification | Total Files (All Types) |
|----------------------------------|-----------------------------------|------------------------------------|
| Inquiry | Complaint Process | 10 |
| | Contact Police | 8 |
| | File Status/Number | 14 |
| | Policy or Process | 35 |
| | Reason for Ticket/Charge | 12 |
| | (Not Further Classified) | 4 |
| Investigation / Notes / Court | Deficient Court Testimony/Perjury | 2 |
| | Fail to Submit Report | 2 |
| | Failed to Attend Court | 27 |
| | Incomplete Investigation | 29 |
| | Incomplete Notes | 1 |
| | Neglect of Duty | 27 |
| | (Not Further Classified) | 1 |
| Legal | Charter of Rights | 2 |
| | Divulge Confidential Information | 5 |
| | FOIP | 6 |
| | Lawful Presence | 9 |
| | Obstruction of Justice | 1 |
| | Police Information System | 4 |
| | Seizure of Property/Vehicle | 8 |
| | Unlawful Arrest | 5 |
| | (Not Further Classified) | 12 |
| Other | Comments/Opinion | 38 |
| | Inquiry Only | 56 |
| | Mental Health / PACT | 16 |
| | Risk Management | 34 |
| | Unresponsive Complainant | 93 |
| | (Not Further Classified) | 80 |
| Professionalism | Deceit | 16 |
| | Dress & Deportment | 1 |
| | Fail to Give Badge/Number | 7 |
| | Gender or Racial Bias | 6 |
| | Harassment | 25 |
| | Insubordination | 13 |
| | Lack of Empathy | 20 |
| | Parting Comments | 13 |
| | Rudeness | 65 |
| | Sexual Inference/Comments | 2 |
| | Swearing | 4 |
| | (Not Further Classified) | 10 |

| Classification | Sub-Classification | Total Files (All Types) |
|--------------------------|-----------------------------------|------------------------------------|
| Supervision | Failure to Act | 2 |
| | Preferential Treatment | 1 |
| | Tyrannical/Bullying | 3 |
| | Workplace Harassment | 2 |
| Theft/Fraud | Evidence | 1 |
| | Money | 1 |
| Use of Force | Canine | 3 |
| | CED | 3 |
| | Deficient Tactical Considerations | 4 |
| | Firearm | 10 |
| | Handcuffing | 26 |
| | Physical Contact | 59 |
| | (Not Further Classified) | 3 |
| Not Classified Elsewhere | (Not Further Classified) | 3 |
| Grand Total | | 1058 |

Within a number of the classification headings, some files are shown as “Not Further Classified”. These files relate to concerns or complaints where there were multiple contributing factors, or where it was not possible to identify the exact sub-classification. A number of the “Not Further Classified” files pre-dated the introduction of the new sub-headings, and may not have been updated at this time.

This classification, like the categorization of the file, is subject to review and may change as additional information comes to hand. The table shows only the principal cause of the file being opened; however, it is recognized that some files may include a number of elements or allegations that are not necessarily shown here.

4.3 Criminal Allegations

Complaints alleging criminal conduct are the most significant that a Police Officer can face. Historically, the majority of criminal complaints related to the use of force. The *Criminal Code of Canada* allows Police Officers to use force if it is

necessary to carry out their lawful duties. However, the *Criminal Code* also makes it a criminal offence if the level of force used is not reasonable and necessary under the circumstances in which it is used.

In 2010, Professional Standards Branch was directed by the Chief of Police to investigate fifteen (15) criminal investigation complaints. These complaints included thirty-six (36) specific allegations of criminal offending. As in previous years, assault allegations dominated the complaints. During 2010 EPS members laid seven (7) criminal complaints, while members of the public made eight (8) complaints. The following table provides a comparison to the criminal allegations investigated in 2009.¹⁰

Table 5: Comparison of Criminal Allegations

| Type of Criminal Allegation | 2009 | 2010 | Total Change (+/-) |
|--|-----------|-----------|--------------------|
| Assault | 12 | 14 | 2 |
| Assault causing Bodily Harm | 2 | 5 | 3 |
| Assault with a Weapon | 1 | 1 | 0 |
| Break & Enter | 1 | 0 | -1 |
| Careless Storage of Firearms | 0 | 0 | 0 |
| Conspiracy to Commit Breach of Trust | 2 | 0 | -2 |
| Criminal Negligence causing Bodily Harm | 0 | 1 | 1 |
| Forcible Confinement (Kidnapping) | 3 | 0 | -3 |
| Improper Use of Firearms | 0 | 0 | 0 |
| Mischief | 0 | 9 | 9 |
| Misconduct of an Officer Executing Process | 1 | 0 | -1 |
| Obstruction of Justice | 8 | 0 | -8 |
| Perjury | 6 | 2 | -4 |
| Personation | 1 | 0 | -1 |
| Point Firearm | 0 | 1 | 1 |
| Theft | 2 | 1 | -1 |
| Utter Threats | 2 | 2 | 0 |
| Total Criminal Allegations | 41 | 36 | -5 |
| Total Criminal Complaints | 17 | 15 | -2 |

¹⁰ As per previous comments, the total number of criminal allegations and complaints recorded here is different to those provided in the 2009 PSB Annual Report. These changes reflect decisions on file classification made since the production of that report.

4.4 Complaint of Conduct Allegations

Allegations relating to conduct under the *Police Act* are often included as part of a criminal investigation. The total number of conduct allegations reported here are drawn from the 215 files opened pertaining to complaints made against members of the EPS under the *Criminal Code* or the *Police Act*. In total, these 215 complaints contained 558 conduct-related allegations. The data presented below provides a breakdown of the type and number of *Police Act* conduct allegations received by the EPS in 2010, compared to 2008 and 2009.¹¹

Table 6: Complaint of Conduct and Criminal Allegations over 2008-2010

| Complaint of Conduct Allegations | 2008 | 2009 | 2010 |
|---|-------------|-------------|-------------|
| Breach of Confidence | 12 | 18 | 4 |
| Consumption | 0 | 0 | 0 |
| Corrupt Practice | 2 | 4 | 3 |
| Deceit | 32 | 32 | 26 |
| Discreditable Conduct | 127 | 214 | 165 |
| <i>Biased Policing</i> ¹² | 3 | 2 | 4 |
| Improper Use of Firearms | 3 | 10 | 21 |
| Insubordination | 54 | 106 | 77 |
| Neglect of Duty | 99 | 98 | 67 |
| Unlawful or Unnecessary Exercise of Authority | 214 | 292 | 191 |
| Total Conduct Allegations | 546 | 776 | 558 |
| Total Complaints of Conduct and Criminal Investigation Files | 164 | 212 | 215 |

Section five of this report provides a more detailed analysis of the trends identified in relation to criminal investigations and complaints of conduct. It also identifies the steps that the EPS has taken to address these concerns.

¹¹ As per previous comments, the total number of allegations and complaints recorded here is different to those provided in the 2009 PSB Annual Report. These changes reflect decisions on file classification made since the production of that report.

¹² "Biased Policing" is a sub-classification of discreditable conduct, but is reported separately here in line with the reporting requirements of CALEA accreditation standard 1.2.9(d).

5. Trend Analysis and Response Strategies

The previous section identified a number of key pieces of data and trends relating to the files opened by PSB during 2010. This section of the report will expand on that data, and provide a deeper understanding of what it means in terms of improving the performance of the Edmonton Police Service. It also provides details on those organizational initiatives already underway to address these trends, and support the target of reducing public complaints by 5% in 2011.¹³

5.1 Distribution of Professional Standards Files

In order to develop effective intervention and prevention strategies that best assist members in avoiding conduct that could lead to concerns or complaints, it was important for the EPS to analyse which groups were most likely to be the subject of a Professional Standards Branch file.

5.1.1 Who is generating the files?

Earlier in the report, the demographic profile of the EPS was provided. Following a five-year period of unprecedented growth, the EPS has now entered a period of staffing consolidation and skills development. Thirty-one percent of EPS police officers have less than five years experience with the organization, while fifty-five percent have less than ten years experience.

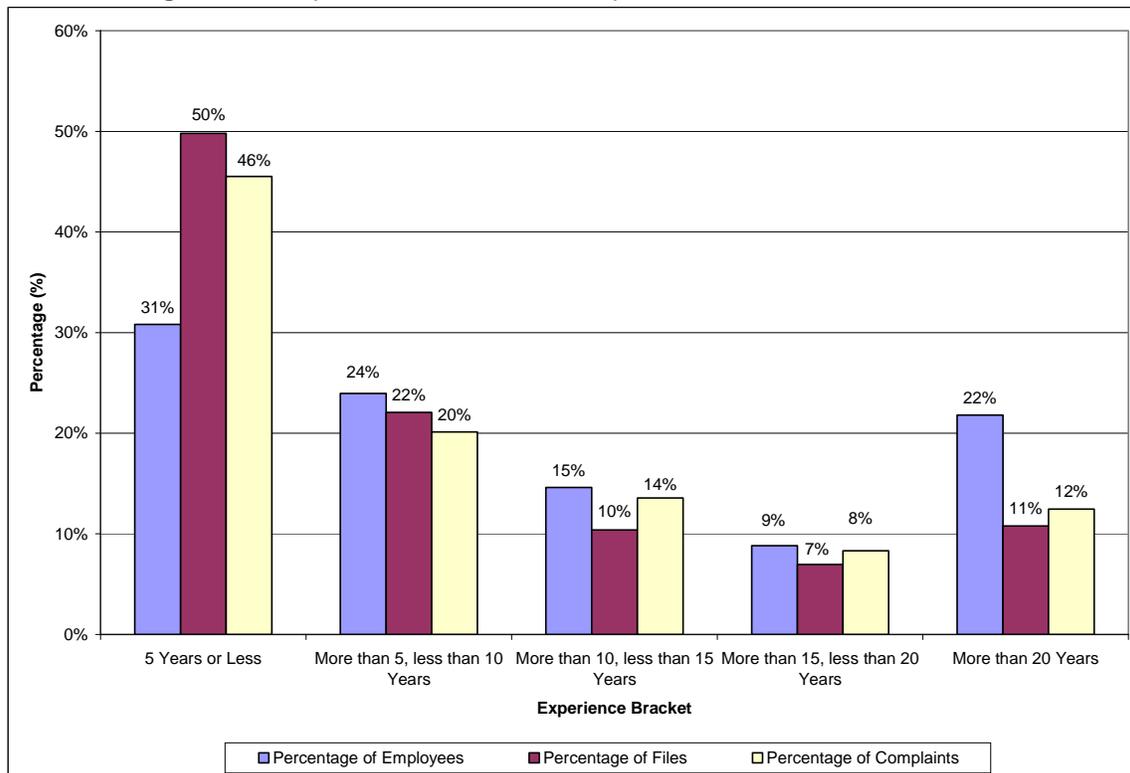
Like any skilled profession, the development of the necessary skills and competencies to be fully effective as a Police Officer can take a number of years. The rapid expansion in the number of EPS members, accompanied by a simultaneous loss of experienced officers through retirement, has resulted in the EPS having a relatively inexperienced workforce. Given the complex and constantly evolving nature of policing, the ability to develop and maintain skills is a constant challenge for all police agencies. Where members have not have had

¹³ The EPS has committed to reducing the number of public complaints by 5% over the levels seen in 2010. (Initiative 3 of the *2011 Edmonton Police Service Annual Policing Plan*)

an opportunity to fully develop the technical skills they require, there is a greater risk that they will not meet the standards expected of them by the community. In these cases, the community may bring these concerns to the attention of the EPS.

The following graph shows the percentage of the EPS sworn work force in each experience bracket (as previously shown in Figure 1) compared to the percentage of files (and subsequent complaints) generated by that same experience bracket.

Figure 3: Comparison of Work Force Experience vs. PSB Files Generated



5.1.1.1 Members with Less than 10 years Experience

Less experienced officers (under ten years of total service) account for seventy-two percent (72%) of all PSB files. Members with less than five years service account for fifty percent (50%) of all PSB files opened. This is likely to be partially a function of their experience and skill level, and partially a function of the type of

role those officers typically play within the organization. Generally speaking, more junior officers tend to be employed within one of the five patrol divisions of the Community Policing Bureau (CPB).

5.1.1.2 PSB Files Within CPB

CPB officers provide the first-line response to the majority of calls for service. As such, the number of interactions they will have with the public tends to be higher than those officers employed within other areas of the Service. The following table shows the number of files generated by the patrol divisions, and as a function of the calls for service that each division was dispatched in 2010.

Table 7: Distribution of PSB Files across CPB Divisions

| Types of File | Downtown | Northeast | Southeast | Southwest | West | Total |
|---|-----------------|------------------|------------------|------------------|-------------|--------------|
| Criminal Investigation | 3 | 3 | 0 | 2 | 0 | 8 |
| Complaint of Conduct | 45 | 23 | 16 | 18 | 27 | 129 |
| Complaint of Service | 7 | 3 | 2 | 2 | 1 | 15 |
| Citizen Concern | 6 | 0 | 1 | 1 | 4 | 12 |
| EPS Concern | 9 | 5 | 2 | 3 | 9 | 28 |
| Information Only | 73 | 71 | 45 | 56 | 63 | 308 |
| Total Files | 143 | 105 | 66 | 82 | 104 | 500 |
| Calls for service in 2010 | 33,072 | 31,404 | 20,616 | 23,604 | 26,053 | 134,749 |
| Average PSB files per 10,000 Calls For Service | 44 | 34 | 32 | 35 | 40 | 37 |

5.1.1.3 PSB Files Within SCSB and Other Areas

Files that are not generated within the CPB divisions are typically generated by the specialized units within Specialized Community Support Bureau (SCSB) that have high interaction with the public. These include areas within Operational Support Division such as Traffic Section, Canine/Flight Operations Section, Tactical Section and Police Dispatch 911 Section. Table 8 (below) shows the number of files generated by each division within SCSB and other areas of the EPS. Fourteen files were generated by the Corporate Services Bureau; this total is included in the "Other" column in Table 8, along with files generated by areas such as PSB, the Office of Strategy Management, Recruits, and the Chief of Police. However, there are some files which cannot be defined as having been

generated by any particular division or area; these files can include Complaint of Service files where the complaint is about policy or services provided by the EPS generally, and many Information Only files. The majority of “unspecified” Information Only files (71%) are classified in either the “Other” category, which includes subcategories such as “Unresponsive Complainant” and “Comments/Opinion”, or the “Inquiry” category (see section 4.2 of this report for more information about classifications).

Table 8: Distribution of PSB Files across SCSB Divisions and Other Bureaus

| Types of File | Specialized Community Support | | | Other | Unspecified | Total |
|------------------------|----------------------------------|------------------------------|------------------------------------|-------|-------------|-------|
| | Criminal Investigations Division | Operational Support Division | Specialized Investigation Division | | | |
| Criminal Investigation | 0 | 2 | 1 | 4 | 0 | 7 |
| Complaint of Conduct | 5 | 21 | 12 | 26 | 7 | 71 |
| Complaint of Service | 3 | 6 | 2 | 1 | 8 | 20 |
| Citizen Concern | 2 | 1 | 0 | 1 | 4 | 8 |
| EPS Concern | 0 | 1 | 1 | 2 | 2 | 6 |
| Information Only | 13 | 37 | 15 | 23 | 358 | 446 |
| Total Files | 23 | 68 | 31 | 57 | 379 | 558 |

5.1.1.4 Members with More than 10 years Experience

When we consider the distribution of files and complaints at Figure 3, a different pattern starts to emerge for members with more than ten years experience with the EPS. Beyond ten years experience, it is more likely that the PSB file will be classified as a complaint under the *Police Act*. This would tend to suggest that these files contain more serious allegations, however there may be other contributing factors.

Members with more than ten years experience are more likely to hold either a supervisory position (i.e. sergeants, staff sergeants) or be employed in a specialized role such as a detective. These types of roles can introduce additional causes of complaints, including allegations around failure of supervision or failure to conduct adequate investigations.

Sergeants are responsible for the conduct of their squads, and as such, they can be the subject of complaints from both internal and external sources if the complainant feels they have not discharged their supervisory duties effectively. Detectives in specialized roles can be subject to a complaint of conduct if it is felt that they have not adequately investigated a file, or pursued all necessary investigative avenues. Given the complexity of many specialized investigations, the balancing act between file completeness, resources and workload is one that requires continual assessment and judgment.

5.1.2 What is the EPS doing about it?

The EPS has a duty to provide the citizens of Edmonton with the best possible quality of service, irrespective of the experience of the responding officer. To ensure that the best possible outcome is delivered to the public, the EPS has undertaken the following activities to improve the quality of its service delivery:

- **Enhanced recruit training:** Recruits continue to receive instruction by members of PSB. This training reinforces other learning related to ethical decision making, organizational values and customer service. It serves to inform the recruits of the types of behaviours that are commonly seen in PSB files, and provides them with the opportunity to learn from the experience of others. This training is also provided to the Police Training Officers (PTO) who mentor and evaluate the recruits during the second block of their training, ensuring that consistent messaging and behavioural modeling occurs.
- **Reasonable Officer Response program:** The EPS has developed a “Reasonable Officer Response” (ROR) model that provides a framework for the use of force by all officers. This framework includes both practical and administrative guidelines to officers, and includes responsibilities for review and oversight by supervisory staff.

This training ensures that officers are able to make good decisions about the use of force, and are able to clearly articulate those reasons in writing. This articulation process also provides officers with the opportunity to clearly explain



what is happening to the members of the public they are interacting with.

Enhanced note taking also provides better evidence for any subsequent judicial process and reduces the likelihood that key information is missed or overlooked. To ensure that the best notes and police reports are maintained, the EPS has instituted mandatory supervisory reviews of all use of force incidents. These reviews occur every time specified levels of force are applied, including the deployment of certain tactical equipment such as Conducted Energy Weapons (CEW). This ensures the timely review of incidents, and provides the opportunity for immediate feedback to members.

- **Investigative Skills Education Program:** The Investigative Skills Education Program (ISEP) delivers specific learning outcomes against the technical competencies required of members. It is a five level program that ensures that base skills taught during recruit training are further developed throughout an officer's career. The ISEP model builds individual investigative skills over time, in turn providing officers with the confidence and knowledge to take on more challenging roles. A Leadership Skills Education Program (LSEP) is also under development as a means of

ensuring that supervisors are able to effectively supervise and lead their staff.

5.2 Trends in File Types

In the 2009 PSB Annual Report, it was identified that the number of complaints of conduct had increased every year since 2007. This trend continued through 2010 (see Figure 3 above). While this trend is partially explained by an improved classification process, with fewer files being categorized as “Citizen Concerns” or “EPS Concerns”, other contributing factors for this increase are considered below.

5.2.1 Why are Complaints of Conduct Increasing?

The number of complaints of conduct have increased year over year since 2007. Complaints of conduct represented eighteen percent (18%) of all complaints received, with 195 files opened during 2009. The data in Table 6 provides the organization with a high-level understanding of what was driving complaints of conduct. However, this categorization did not necessarily provide the ability to identify (and then address) the root causes of these complaints.

As mentioned earlier, PSB changed the way it categorized the principal causes of concerns and complaints part way through 2009. Additional amendments to this classification system were brought in during 2010 as a means of further improving the organizations knowledge of what was driving complaints of conduct.

In Table 4, the classification and sub-classifications used to describe all 1058 PSB files opened in 2010 was presented. The following table uses those same classifications and sub-classifications to identify only the top ten causes of complaints of conduct during 2010.¹⁴

¹⁴ This list utilized both complaints of conduct and criminal investigation allegations for the reasons outlined in section 4.4

Table 9: Top 10 Causes of Complaints of Conduct in 2010

| Rank | Classification | Sub-Classification | Total Complaints of Conduct |
|------|---------------------------|--------------------------|-----------------------------|
| 1 | Use of Force | Physical Contact | 28 |
| 2 | Investigation/Notes/Court | Neglect of Duty | 18 |
| 3 | Professionalism | Rudeness | 14 |
| 4= | Professionalism | Insubordination | 13 |
| 4= | Professionalism | Deceit | 13 |
| 6 | Use of Force | Handcuffing | 12 |
| 7 | Professionalism | Harassment | 10 |
| 8 | Use of Force | Firearm | 9 |
| 9= | Professionalism | Parting Comments | 8 |
| 9= | Investigation/Notes/Court | Incomplete Investigation | 8 |

“Use of Force – Physical Contact” was the single most common cause for a complaint of conduct in 2010. This classification was also the most common cause for complaints of conduct in 2009. The *“Use of Force”* sub-classifications *“Firearm”* and *“Handcuffing”* also appear on the 2010 list. Neither sub-classification appeared on the 2009 top-ten list.

As was reported in the 2009 PSB Annual Report, *“Professionalism”* classifications again account for five of the top ten causes. Changes were made to the sub-classification definitions in 2010 to allow for more effective identification of complaint patterns, particularly around issues of professionalism. Two of the sub-classifications shown in Table related to the use of language by members, namely *“Rudeness”* and *“Parting Comments”*.

The sub-classification *“Insubordination”* has a somewhat broader meaning under the *Police Act* than it might attract in general use. Section 5(g) of the *Police Service Regulation* defines insubordination as:

5(g) *“insubordination” consists of one or both of the following:*

- (i) being insubordinate to a superior police officer by word or action;*
- (ii) omitting or neglecting, without adequate reason, to carry out a lawful order, directive, rule or policy of the commission, the chief of police or other person who has the authority to issue or make that order, directive, rule or policy;*

While the first definition is consistent with the common language use of “insubordination”, the second may not be as well understood. In simple terms, any breach of a policy or a written directive by a police officer (because of either an act or an omission) can be treated as an act of insubordination. These types of complaints can be generated internally, or as the result of a public complaint where it becomes apparent that the alleged breach relates to a failure to abide by a written directive.

Dependent on the circumstances, the type of insubordination described in section 5(g)(ii) above could also be classified as *“Neglect of Duty”* or *“Incomplete Investigation”*. These sub-classifications appeared in both the 2009 and 2010 top ten list, and relate to the completeness of investigations and the articulation of lawful purpose. As was noted last year, failing to undertake a full and complete investigation, including the completion and submission of paperwork, weakens the judicial process and reduces the likelihood that offenders are held accountable for their actions. Being able to articulate the reasons for activities is a key responsibility of Police Officers, and applies equally to use-of-force situations as it does to routine investigations.



5.2.2 What is the EPS doing about it?

Increasing the professionalism of EPS members has been a key focus for the organization throughout 2009 and 2010, and will continue to be so in 2011.

- **Professionalism Committee:** In order to provide coordinated oversight of issues relating to professionalism, a Professionalism Committee was established under the direction of a Divisional Superintendent. This committee is tasked with providing input and direction to the organization on issues that promote professional conduct and ethical decision-making. This Committee helps to focus and retain the attention of the organization on the need to act in a professional and ethical manner at all times.

- **Reasonable Officer Response program:** As discussed earlier, this program provides a framework for the professional application of force, and the common language articulation of the reasons for that use of force. This framework uses a standard of 'objective reasonableness' and includes is based on officers understanding and articulation of their:
 1. Lawful and Professional Presence;
 2. Tactical Communications; and
 3. Tactical Considerations.

The supervisory review role was expanded during 2010. By introducing more diligence into the review process at an earlier stage, it is expected that supervisors will be able to identify and correct deficiencies in training, application and articulation at the time that force is used. Timely feedback is seen as an important factor in improving future performance, and ensuring that all members can comply with policy and procedure.

- **Disposition Review Panel Pilot:** In late 2010, the EPS commenced a six-month pilot scheme that brings together senior members of the organization, the EPC public complaints director, the EPA and Senior

Officers Association (SOA) to discuss professional standards matters. The review panel is designed to provide the Chief with recommendations relative to the disposition of complaints made under section 5 of the *Police Service Regulation*, as well as on other community concerns around EPS human resource management.

The review panel does not replace the decision-making ability of the Chief; rather it serves to provide the Chief with enhanced support and advice relative to specific issues. This is seen as means of improving the fairness and transparency of the process, and ensuring that senior members of the organization are engaged in the professional standards process. A similar review panel has been in place in the Calgary Police Service for some time, and the EPS pilot model has drawn from their experience. Following the conclusion of the pilot and the confirmation of the Chief of Police, the EPS will review the effectiveness and ongoing utility of the process.

5.3 Trends in File Resolution

During 2010, Professional Standards Branch concluded 1030 files. This included the resolution of 842 files opened during 2010, with the remainder of the files (188) being from previous years. The *Police Act* requires that complaints are investigated promptly and thoroughly. Fairness to all parties requires that these complaints also be investigated in as timely a fashion as possible. This ensures that the best evidence is available, and allows people to move on with their lives and careers without undue pressure or stress associated with a drawn-out investigative process.

It is anticipated that once the changes made to the *Police Act* in late 2010 come into effect the timeliness of the entire disciplinary process will improve. While the time taken to conduct a professional standards investigations is largely independent of any subsequent disciplinary hearing or appeal process, repeated

or drawn out processes can impact the availability of those PSB members required to prepare and testify at these proceedings.

5.3.1 How long does it take to investigate a file?

Because every PSB file contains different information and different allegations, it is almost impossible to accurately forecast how long each file will take to investigate. However, it is possible to get a general range for a particular type of file by analyzing past performance with similar file types. The following table shows the time taken in days to conclude all file types by Professional Standards Branch during 2010. The table also provides a comparison with the times taken to complete files in 2009.

Table 10: Time Taken to Conclude PSB Files

| | Files Opened & Concluded in 2010 | <i>Files Opened & Concluded in 2009</i> | All Files Concluded in 2010 | <i>All Files Concluded in 2009</i> |
|----------------------------------|----------------------------------|---|-----------------------------|------------------------------------|
| Average time to conclude (days) | 35 | 37 | 102 | 135 |
| 75% of files completed in (days) | 41 | 42 | 83 | 104 |
| 50% of files completed in (days) | 17 | 20 | 30 | 34 |
| 25% of files completed in (days) | 4 | 5 | 6 | 7 |

For all files opened and concluded during 2010, seventy-five percent (75%) were concluded within forty-one days. As the length of time taken to conclude a file is directly tied to its type and complexity, the use of the median time (how long it takes to complete half the files) gives the best approximation of how long most files will take to be resolved.¹⁵ For those files opened in 2010, half would typically

¹⁵ The average time to conclude a file can be heavily skewed by files that may take months (or in some cases years) to investigate. As removal of outlier data points is not appropriate in this case, the use of a skewed average would provide information that, while mathematically accurate, was not reflective of the majority of situations.

be concluded within seventeen days. This is three days faster than was reported for files opened and concluded in 2009.

If we consider all files concluded by Professional Standards Branch during 2010 the median time increases slightly to thirty days. This is four days faster than for those files concluded in 2009.

If we consider just complaint of conduct files opened and concluded in 2010, the median time to complete the investigation was 101 days – nearly three weeks faster than the 124 days it took in 2009. While some complaints of conduct still take a significant amount of time to investigate to conclusion, 75% of all the complaint of conduct files received and concluded in 2010 were completed within 171 days, or just under six months.

5.3.2 How are files being concluded?

Of the 1030 files concluded in 2010, 235 were complaints as defined under the *Police Act*, with the remaining 795 being other files. In thirteen files that related to minor contraventions of the Act, disciplinary action was completed either through the issuance of formal warnings, or through agreed resolutions that resulted in reprimands or suspension without pay. Seventeen files were heard at a disciplinary hearing, with fourteen files found to be proven in part or in whole. A break down of disciplinary outcomes is presented at Appendices B and C of this report.

5.3.3 What is being done to improve this process?

While there have been significant improvements achieved in the time taken to address concerns and complaints, the EPS and PSB recognize that there is always room for continued improvement.

- **Intake Evaluation Process:** The use of dedicated Intake Evaluators has significantly improved the ability of PSB to provide quality customer

service. These experienced evaluators can often resolve citizens' concerns and complaints over the phone or in person. This can be done by providing information on policing processes, or by providing a more detailed explanation of why certain events occurred.

Given the often fast-paced nature of frontline service delivery, which sees police officers moving rapidly from call to call, sometimes members do not have the opportunity to spend as much time as they would like explaining policing processes and outcomes with the individuals they meet. The PSB intake evaluators have more time to provide these explanations, and this is often sufficient to allay any concerns the community member may have.

- **Enhanced Use of Alternative Dispute Resolution:** More rigorous front - end assessment of correspondence helps PSB to identify complaints and concerns that are best resolved informally through some form of alternative dispute resolution. These types of complaints are no longer assigned to an investigator to deal with. They now remain within the Intake Section where they are managed forward to resolution. This allows our investigators to focus on only those matters that require formal investigation.
- **Review of Extension Requests:** Section seven of the *Police Service Regulation* outlines a number of statutory time limits that apply to the disciplinary investigation and hearing processes. Section 7(1) excludes the charging of officers where more than six months have passed from the date of a complaint being received.¹⁶ Given the need to conduct thorough and complete investigations, more complex files (particularly criminal and conduct complaints) can take longer than six months to conclude.

¹⁶ Section 43(11) of the *Police Act* requires that all complaints be made within one year of the date of the alleged events leading to the complaint having occurred. This section directs the Chief of Police or the Commission to dismiss any complaint received outside this timeframe.

By virtue of Section 7(4) of the *PSR*, the Commission may extend the six-month period if they feel that it is justified under the circumstances. However, in eleven instances during 2010 the EPC declined to allow an extension to the investigative period. In those cases where the extension was declined, this decision was often related to the inability to obtain access to either the complainant(s) or important witnesses.

As Justice Slatter noted at paragraph 39 in the case of *Pelech v. Law Enforcement Review Board* (2010 ABCA 400) “...the Chief is entitled to allocate his limited resources in a reasonable way. Simply because the investigation failed to turn over every stone does not make it unreasonable.” Where the actions of a complainant, their representatives or associated witnesses make it impossible to progress the investigation of a file (limiting the ability to “turn over every stone”), and where alternate avenues of investigation are not available or insufficient, the EPS is placed in a position where it must consider the utility of continuing the investigation. Such a decision is never taken lightly; however the interests of natural justice apply as equally to subject officers as they do to complainants. By providing some finality to the investigative process, the review process recognizes that all parties to a complaint have obligations under the Act.



6. Compliments

Along with ensuring that the highest standards of professionalism and conduct are maintained by EPS members, Professional Standards Branch also receives a number of compliments on the performance of organizational members. In 2010, PSB received four hundred and fifty-six (456) compliments from members of the community. This is two hundred and six (206) more compliments than the 250 formal complaints investigated over the same period. This is exactly the same difference between compliments and formal complaints reported in 2009.

These compliments were received by three hundred and ninety-two (392) members, with one hundred and six (106) members receiving multiple compliments over the course of the year. Being able to pass these compliments on to the hard-working members of the EPS allows PSB and command teams to reinforce positive behaviours and conduct. It also serves to remind members that the citizens of Edmonton appreciate the efforts being made on their behalf. The following table describes the distribution of citizen-generated compliments.

Table 11: Citizen Compliments

| Division / Branch | Number of Compliments |
|------------------------------------|------------------------------|
| Downtown Division | 67 |
| Northeast Division | 55 |
| Southeast Division | 41 |
| Southwest Division | 37 |
| West Division | 54 |
| Specialized Investigation Division | 32 |
| Criminal Investigations Division | 22 |
| Operational Support Division | 58 |
| Other Areas | 26 |
| EPS - All or Unable to Classify | 64 |
| Total | 456 |

7. Additional Information

The following appendices provide supplementary statistics relating to investigation and disciplinary activities during 2010.

Appendix A provides a summary of those criminal investigation files that were resolved during 2010.

Appendix B provides a summary of the disciplinary hearings conducted by the EPS during 2010, including the penalties administered where the allegations were proven.

Appendix C provides a summary of other disciplinary measures applied during 2010.

Appendix D satisfies a Commission on Accreditation for Law Enforcement Agencies (CALEA) compliance standard (Standard 1.2.9(d)) relating to reporting of bias-based policing complaints.

Appendix E provides a summary of the number of notifications made to the Solicitor General and Public Security under s.46.1(1) of the *Police Act*.

Appendix 'A' – Resolution of Criminal Allegations

| Criminal Allegations Resolved in 2010 | | | | | | | | | |
|---------------------------------------|-----------------------|-----------------------------|-----------------|------------------|----------------------|-----------------------------|---------------------|---------------------|------------------------------|
| Year Files Opened | Total Number of Files | Total Number of Allegations | No Charges Laid | Charged - Guilty | Charged - Not Guilty | Charged - Still To Be Heard | Charged - Withdrawn | Charged - Dismissed | Charged - Proceedings Stayed |
| 2004 | 1 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2005 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2006 | 10 | 19 | 14 | 2 | 0 | 0 | 3 | 0 | 0 |
| 2007 | 5 | 7 | 6 | 0 | 0 | 0 | 0 | 1 | 0 |
| 2008 | 4 | 13 | 12 | 1 | 0 | 0 | 0 | 0 | 0 |
| 2009 | 6 | 10 | 8 | 1 | 0 | 0 | 1 | 0 | 0 |
| 2010 | 1 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total | 27 | 53 | 44 | 4 | 0 | 0 | 4 | 1 | 0 |

Appendix 'B' – Disposition of Disciplinary Hearings

| Disciplinary Hearings Concluded in 2010 | | | | | | |
|---|---------------------------------|-----------------------------|------------------|----------------------|---------------------|----------------------|
| Year Of Alleged Offence | Total Number of Members Charged | Total Number of Allegations | Charged - Proven | Charged - Not Proven | Charged - Withdrawn | Loss of Jurisdiction |
| 2004 | 2 | 6 | 2 | 4 | 0 | 0 |
| 2005 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2006 | 6 | 29 | 15 | 14 | 0 | 0 |
| 2007 | 2 | 10 | 9 | 0 | 1 | 0 |
| 2008 | 3 | 9 | 7 | 1 | 2 | 0 |
| 2009 | 1 | 2 | 1 | 1 | 0 | 0 |

| Disciplinary Hearings Penalties Imposed in 2010 | | | | | | | | |
|---|---------------------------------|-----------------------------|------------------|-----------|------------------------------------|-------------------|--------------------------------------|--|
| Year of Alleged Offence | Total Number of Members Charged | Total Number of Allegations | Charged - Proven | Reprimand | Reduction in Seniority within Rank | Reduction in Rank | Suspension without Pay (Total Hours) | Forfeiture of Accumulated Time (Total Hours) |
| 2004 | 2 | 6 | 2 | 0 | 0 | 0 | 20 | 0 |
| 2005 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 2006 | 6 | 29 | 15 | 1 | 0 | 0 | 80 | 40 |
| 2007 | 2 | 10 | 9 | 0 | 0 | 1 | 0 | 30 |
| 2008 | 3 | 9 | 7 | 1 | 1 | 0 | 35 | 0 |
| 2009 | 1 | 2 | 1 | 1 | 0 | 0 | 0 | 0 |

Notes:

- Hearings commenced in 2010 that were not concluded within that year are not included in this table.
- The totals for 2007 totals include one file with offences also occurring in 2008 and 2009.

Appendix 'C' - Other Disciplinary Measures

Two additional disciplinary measures were applied during 2010.

Official Warnings:

In 2010, five Official Warnings were issued to EPS members under the terms of Section 19(1)(a) of the *PSR*. All five of the Official Warnings were issued in relation to three files generated from public complaints. Two of the Official Warnings were for discreditable conduct, one was for neglect of duty and two were related to complaints of insubordination. This is a further decrease from 2009, and less than one third of the number of official warnings issued in 2008.

Agreed Resolution:

In 2008, the *Police Service Regulation* was amended to allow the use of an Agreed Resolution process for minor misconducts under section 19(1)(b). When an Agreed Resolution is contemplated as a means of resolving a complaint, both the Chief of Police and the subject officer must reach a mutually acceptable resolution. During 2010 ten files were concluded by way of an Agreed Resolution with the subject officers. Within these files, eighteen allegations were dealt with by way of agreement.

| Agreed Resolution Agreements Concluded in 2010 | | | | | |
|--|-----------------------|-----------------------------|-----------|--|----------------|
| Year Files Opened | Total Number of Files | Total Number of Allegations | Reprimand | Suspension without Pay / Forfeiture of Pay (Total Hours) | Other Measures |
| 2007 | 2 | 3 | 2 | 0 | 0 |
| 2008 | 2 | 3 | 3 | 0 | 0 |
| 2009 | 4 | 10 | 5 | 70 | 5 |
| 2010 | 2 | 2 | 0 | 5 | 3 |
| Total | 10 | 18 | 10 | 75 | 8 |

“Other measures” includes directed training and assessment requirements.

Appendix 'D' – Report on Bias-based Policing Complaints

Bias-based policing involves allegations that the interaction between police and individuals was based solely on the common traits of an identified group. This includes, but is not limited to, race, ethnic background, gender, sexual orientation, religion, economic status, age, cultural group, or any other identifiable group.

In 2010, PSB opened ten files where allegations or concerns were expressed about bias-based policing. Four complaint of conduct files were opened, along with five information only and one citizen concern file. The disposition of these files is shown below.

| File Type | Total No. of Files | Disposition of Files |
|----------------------|--------------------|--|
| Complaint of Conduct | 4 | <ul style="list-style-type: none"> - 1 x ongoing investigation - 1 x withdrawn by complainant - 1 x no reasonable prospect of establishing the facts necessary to obtain a conviction at a disciplinary hearing - 1 x time-barred under s.43(11) |
| Information Only | 5 | <ul style="list-style-type: none"> - 4 x informally resolved - 1 x abandoned by complainant |
| Citizen Concern | 1 | <ul style="list-style-type: none"> - 1 x informally resolved |

Appendix 'E' – Section 46.1(1) Notifications

The *Police Act* requires that the EPS notify the Minister when certain incidents occur, or when certain types of serious complaints are made. Section 46.1(1) of the *Act* states:

46.1(1) The chief of police shall as soon as practicable notify the commission and the Minister where

(a) an incident occurs involving serious injury to or the death of any person that may have resulted from the actions of a police officer, or

(b) a complaint is made alleging that

(i) serious injury to or the death of any person may have resulted from the actions of a police officer, or

(ii) there is any matter of a serious or sensitive nature related to the actions of a police officer.

The final determination on whether an incident or complaint requires reporting under s.46.1(1) has been delegated by the Minister to the Director of Law Enforcement under s.46.1(10) of the *Act*. Where an incident or complaint is deemed to be reportable by the Director of Law Enforcement, the Director can issue a direction to the EPS on the management of the investigation. This can include the direction that the investigation is to be turned over to another police agency or to ASIRT.

During 2010, the EPS made 24 notifications to the Minister under s.46.1(1). The Director determined that 19 notifications met the criteria laid out in the section, with a Confirmation and Direction notice being received in each case. In five further cases, the Director deemed that the incidents did not require notification under the *Act*.