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# **Disclosure of Criminal Charges – Supplementary Code to the Code of Conduct and Ethics**

## **Privacy Impact Assessment**

**September 2003**

**Prepared by:  
Human Resource Policy and Consulting  
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**In consultation with:  
Information and Privacy Office  
Alberta Human Resources and Employment**



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## EXECUTIVE SUMMARY

The Code of Conduct and Ethics (*the Code*) provides a framework by which employees can gauge their own activities. The range and complexity of government activities is such that it is not possible to produce a detailed and complete list of all conflict of interest situations. The intent of the Supplementary Code for the reporting of criminal charges is to provide additional specific guidance to employees. Criminal charges are defined to include charges under the Criminal Code and/or the Controlled Drugs and Substances Act.

*The Code* and the Supplementary Code applies to all employees in the Government of Alberta public service. Employees are also subject to any other statutes relating to their actions. Employees are defined in *the Code* to include “individuals appointed pursuant to the Public Service Act, Senior Officials, wage staff and persons employed on a contractual basis”. Employees must report any criminal charges to the Deputy Head or designated official identified by the ministries. Benefits derived from employees reporting of criminal charges include the ability to assure Albertans that the employer, on behalf of the Provincial Government has been duly diligent in the management of the workforce.

The Personnel Administration Office is charged with the responsibility for maintaining and updating *the Code* and coordinating the development of related human resource programs and activities across the various ministries, on behalf of the Government of Alberta. The *Public Service Act* recognizes that the Government of Alberta is one employer, even though the ministries that make up the Government of Alberta are separate public bodies under the FOIP Act. For the purpose of this Privacy Impact Assessment, public bodies will be referred to as ministries. The Human Resources Branch in each ministry is responsible for the reporting and follow-up processes.

Every Ministry, Board, Commission, or other entity under the *Public Service Act* is subject to *the Code* and is responsible for ensuring the protection of any personal information collected, used, disclosed and handled in the course of administering *the Code*.

Personal information that is collected through this process will only be used for purposes outlined. It will be handled in a manner that respects the sensitivity of the information provided by employees and their privacy concerns.

Should the information provided by the employee identify issues of concern or conflict of interest to the ministry, employees will be given the opportunity to provide additional clarifying information.

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## 1.0 DESCRIPTION OF THE REPORTING OF CRIMINAL CHARGES

The “Reporting of Criminal Charges”\*is a Supplementary Code (see [section 1.6, Figure 1](#)) to the Code of Conduct and Ethics for the Public Service of Alberta (see [Appendix 1](#)). This Supplementary Code and its implementation are the focus of this Privacy Impact Assessment (PIA) Report.

Under the *Public Service Act*, the issuing of a Supplementary Code is a department responsibility (see [Appendix 1](#), section 3). For the reporting of criminal charges, the Deputy Minister’s Committee requested that the Public Service Commissioner and the Deputy Minister of Alberta Justice coordinate the implementation of the Supplementary Code across the Government of Alberta. This PIA Report has been done on behalf of all the ministries subject to *the Code*.

\*Note: Criminal charges are defined to include the Criminal Code and/or the Controlled Drugs and Substances Act.

### 1.1 Responsible Ministries

The Personnel Administration Office (PAO) is responsible, on behalf of the Government of Alberta, for developing, implementing and updating *the Code*. Any questions regarding the interpretation or application of *the Code* are to be directed to the Public Service Commissioner or designate, or in the case of a Deputy Head or Senior Official, to Executive Council.

PAO’s coordinating role is to ensure that the ministries have an understanding of the Supplementary Code and are aware of the process and supporting activities.

Every Ministry, Board, Commission, or other entity governed by the *Public Service Act* (referred to as public bodies in accordance to the FOIP Act) is subject to *the Code* and is responsible for ensuring the protection of any personal information collected, used, disclosed and handled in the course of administering *the Code* and Supplementary Codes.

### 1.2 Responsible Business Areas

Human Resource Policy and Consulting in PAO is responsible for coordinating the development of a Supplementary Code by each ministry and associated

advisory processes. The Human Resources Branch in each ministry is responsible for the administration, reporting and follow-up processes.

### 1.3 Contact Person

For the purposes of this PIA, the following official can respond to questions about the information collected and how the information is handled:

Executive Director  
Human Resource Policy and Consulting  
Personnel Administration Office  
6<sup>th</sup> Floor, Peace Hills Trust Tower, 10011 - 109 Street  
Edmonton, Alberta T5J 3S8  
Phone: (780) 408-8400

### 1.4 Background

#### 1.4.1 The Code of Conduct and Ethics

The range and complexity of government activities is such that it is not possible to produce a detailed and complete list of all conflict of interest situations. The Code of Conduct and Ethics, as a regulation under the *Public Service Act*, provides a framework by which employees can gauge their own activities (see *Appendix 1*). *The Code* also provide guidelines for ministries in interpreting whether their employees' activities are acceptable. *The Code* is not intended to be exhaustive and if other questions arise, they should be settled in accordance with the general philosophy and principles of *the Code*.

*The Code* applies to all persons employed by the Government of Alberta. Employees are defined in *the Code* to include "individuals appointed pursuant to the Public Service Act, Senior Officials, wage staff and persons employed on a contractual basis". Employees are subject to *the Code* as well as any other statutes relating to their actions. *The Code* is in addition to any statute guiding the actions of employees and to any supplementary code.

#### 1.4.2 Intent of the Supplementary Code – Reporting of Criminal Charges

Under the authority of the *Public Service Act*:

**23(2)** *Each department head may issue a supplementary code of conduct and ethics respecting matters of concern to the department head's department.*

Each ministry has specific Acts/Regulations that their employees who, by virtue of their responsibilities, must adhere to. Ministries have the authority to issue a supplementary code. For example, the *Forest Act* is specific to Alberta Sustainable Resource Development and would apply to employees who are classified as a Forest Officer or Forester.

The increased expectations of the public for accountability have led the Deputy Minister's Committee, in consultation with the Public Service Commissioner, to establish a more rigorous internal process that involves the need for individuals to disclose any criminal charges, or other areas of potential conflict. The intent of the Supplementary Code is to ensure that all ministries subject to *the Code* apply the minimum standard of employee obligation for the reporting of criminal charges (see [Figure 1](#) in section 1.6).

The Supplementary Code incorporates the requirement for an employee to disclose charge(s) against him/her of an offence under the Criminal Code of Canada and/or the Controlled Drugs and Substances Act. Once informed by the employee, it will be necessary for the ministry to determine if the employee, by the presence of a charge, has created a real or perceived conflict of interest which impacts the ministry's interests and/or has seriously compromised the employee's ability to continue to perform their role within the ministry.

The factors that will be considered when assessing the degree that an employee's criminal charge(s) affect their employment in the ministry include:

- the nature of the charge(s);
- the connection the charge(s) have to the ministry's business interests;
- the specific duties required by the employee's job;
- the role the employee plays in the ministry;
- the extent to which the charge(s) impedes the employee's ability to perform his/her duties satisfactorily;
- whether the fact that the employee has been charged affects the credibility of the ministry's programs and services.

### 1.4.3 Role of the Personnel Administration Office

PAO is the corporate human resources arm of the Government of Alberta. In this role, PAO works with Government of Alberta organizations to achieve cross-ministry human resource goals. Note: Government of Alberta organizations include every Ministry, Board, Commission, and any other entity subject to the *Public Service Act*, and in this report, are referred to as "ministries".

As previously indicated, the Deputy Minister's Committee identified a need to have employees report criminal charges, and required the Public Service Commissioner and the Deputy Minister of Alberta Justice coordinate the

implementation of the Supplementary Code to occur across the Government of Alberta. The purpose of taking a government-wide approach is to:

- Provide guidance in the day-to-day administration of government human resources
- Provide a framework that encourages consistency and continuity in the administration of government human resources
- Provide degrees of flexibility to ministries in addressing human resources issues

## 1.5 Current Situation

Section 7 of *the Code* requires employees “to disclose to their Deputy Head or designate any situation involving them which is a conflict or an apparent conflict of interest”.

Section 7 by itself does not provide sufficient direction to ensure that a standard of employee obligation for the reporting of criminal charges is established. The implementation of the Supplementary Code – Disclosure of Criminal Charges as a supplement to *the Code* is intended to address this issue.

Prior to this Supplementary Code being issued by ministries, only two ministries, Alberta Justice and Alberta Solicitor General required employees, through a supplementary code, to report criminal charges.

## 1.6 Scope of the Supplementary Code – Reporting of Criminal Charges

*Figure 1* on the next page is the Supplementary Code that took effect February 1, 2003. The Supplementary Code applies to criminal charges arising from an employee’s conduct while on duty as well as off duty from their job with the Government of Alberta.

## Figure 1

### Disclosure of Criminal Charges

<p>Code of Conduct: Section 7 – Disclosure Supplementary Code</p> <p><b>Disclosure of Criminal Charges</b></p> <ol style="list-style-type: none"><li>1. In this policy statement “offence” means an offence created under the Criminal Code of Canada and/or the Controlled Drugs &amp; Substances Act.</li><li>2. If an employee is charged with an offence arising from the employee’s conduct while on duty and/or off duty, the employee shall immediately report such charge to his/her Deputy Head or designate.</li><li>3. A Deputy Head may issue supplementary departmental instructions which modify but do not detract from matters dealt with in this code, provided that the supplemental instructions are not more permissive than this code.</li><li>4. Any subsequent use and disclosure of information provided to the employer pursuant to this code or any supplementary departmental code will be subject to the privacy provisions of Part 2 of the <i>Freedom of Information and Protection of Privacy Act</i>.</li></ol>
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*Figure 2* outlines the process to be followed when an employee reports a criminal charge.

Employees are to report all criminal charges to the Deputy Head or designated official. The Deputy Head or designated official may request clarifying information from the employee. The Deputy Head or designated official may choose to meet with the employee to assess the circumstances to determine if the information disclosed creates an impact on the employee’s ability to perform their role within the ministry.

If it can clearly be assessed that the criminal charges do not impact on the ministry’s interests, the Deputy Head or designated official confirms this in writing to the employee and no further action is taken (see [Appendix 2](#)).

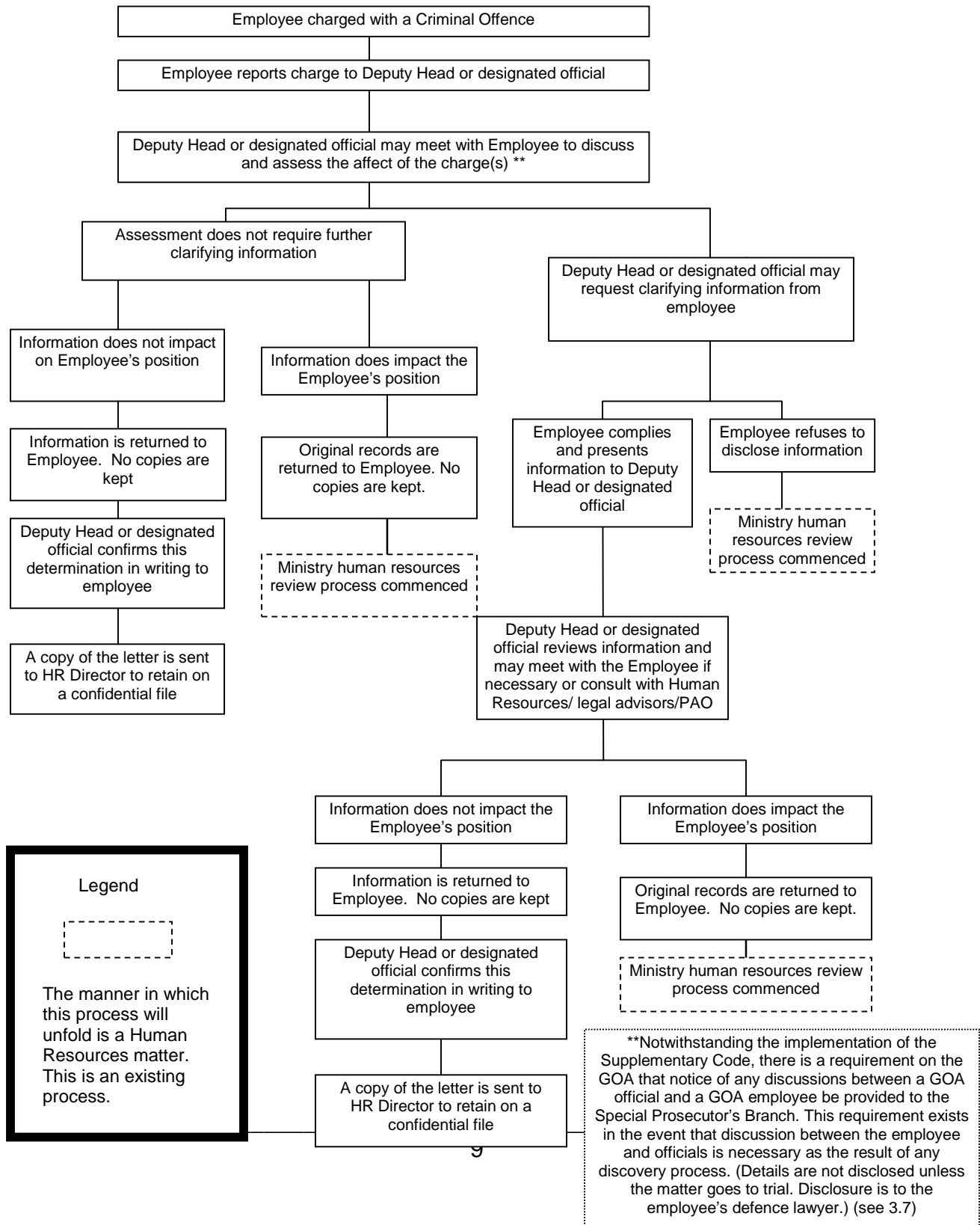
In those situations where it has been determined that the employee’s criminal charges impact their ability to perform their role within the ministry resulting in a conflict of interest, the recourse open to the employee includes the right to seek a



review of the decision (See [Appendix 1](#) – section 20, Review Process). The process undertaken when it has been determined that there is an impact on the employee's responsibilities is a ministry's human resources matter, and is outside the scope of this PIA Report.

The disposition of the criminal charges laid by police is a separate action and is not linked with the employer's investigation. The disposition of the charge by the court may result in subsequent review of the employment situation.

**Figure 2**  
Reporting of Criminal Charges Process



## **1.7 Benefits**

Benefits derived from employees reporting of criminal charges include the ability to assure Albertans that the employer, on behalf of the Provincial Government appropriately manage areas of potential conflict of interest or apparent conflict of interest. A comprehensive approach requires that the employer be duly diligent in ensuring on an ongoing basis that there is no potential risk arising from maintaining the job duties and/or employment of an individual who faces criminal charges at the same level of responsibility or employment in the Public Service.

The Supplementary Code gives ministries the ability to assess whether their employees' charges affect their employment responsibilities.

## **1.8 Timing**

The Supplementary Code came into effect on February 1, 2003.

## **2.0 PERSONAL INFORMATION COLLECTED, USED AND DISCLOSED**

### **2.1 Personal Information Collected**

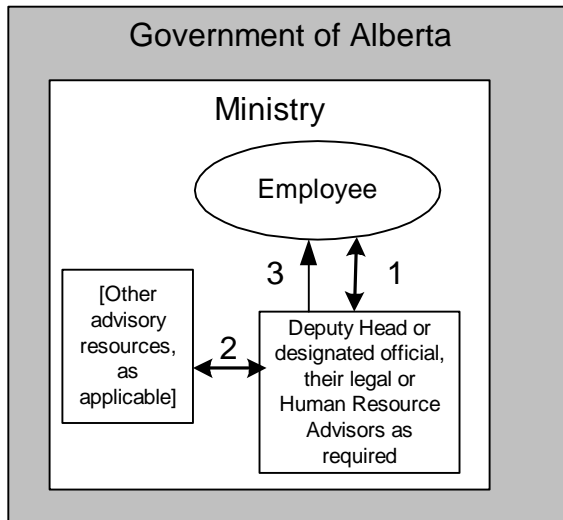
When the employee receives written notification to appear in Court in answer to criminal charges or has been arrested and is in custody awaiting appearance to face charges, he/she must report this to the Deputy Head or designated official.

The wording in the Supplementary Code on Criminal Disclosure does not require that an employee disclose detailed circumstances surrounding the charge. Given this, the Deputy Head or designated official may be required to assess the impact of the criminal charge on the ministry's business interests without more detailed information.

### **2.2 Information Flows**

[Figure 2](#) in section 1.6 describes the reporting and follow-up process. The information flows resulting from the process is shown in *Figure 3* on the next page.

**Figure 3**  
**Information Flows**



### Reporting of Criminal Charges - Information Flow

1. The employee reports the criminal charge to the Deputy Head or designated official. The Deputy Head or designated official may meet with the employee to discuss the particulars of the charge and assess the impact of the charge(s). The Deputy Head or designated official may request additional information to the degree that is necessary to determine if the information disclosed creates an impact on the employee's ability to perform their role within the Ministry.
2. The Deputy Head or designated official may consult with other advisory resources regarding the information (see assessment factors listed in [Section 1.4.2](#)).
3. The Deputy Head or designated official confirms the results of their assessment of the information, in writing, to the employee.

If the information does not impact the employee's position all information provided by the employee is returned to the employee.

If the information does impact the employee's position, the Deputy Head or designated official after consulting with other advisory resources regarding the information, will commence a ministry human resources review process. The manner in which this process will unfold (including the handling of information) is a human resources matter that is outside the scope of the Supplementary Code.

## 2.3 Information Users

### 2.3.1 Role of the Individual Ministry

A Deputy Head may designate an official(s) to receive employee information under the Supplementary Code of Conduct and Ethics. When such designation is made, it is the ministry's responsibility to communicate to employees, the name(s) of designated official(s) who can receive the information. The Deputy Head and designated official(s) may call upon the assistance of their Human Resource Director/Advisors to assess the relevance of the criminal charges to the employee's position responsibilities using the factors such as those listed in [Section 1.4.2](#).

### 2.3.2 Role of the Personnel Administration Office

The Personnel Administration Office provides a corporate framework that is to be delivered by ministries under the *Public Service Act* to:

- 6(1)(a)** *advise the Minister respecting personnel policies, regulations and procedures;*
- 6(1)(c)** *advise and assist departments in the conduct of departmental personnel activities*

Through training and communication initiatives, PAO ensures that the ministries have an understanding of the Supplementary Code and are aware of the process for handling situations reported by employees.

The Labour Relations Unit within PAO is responsible to provide labour relations consulting advice to all ministries in the Government of Alberta. In this role, the Labour Relations Unit may become the Human Resource Advisor providing expert advice.

## 3.0 PROTECTION OF PERSONAL INFORMATION ANALYSIS

### 3.1 Authority to Collect Personal Information

Section 33 of the *FOIP Act* requires that public bodies have authority to collect personal information. Section 33, (a) and (c) of the *FOIP Act* applies to the Supplementary Code.

- 33** *No personal information may be collected by or for a public body unless*
- (a)** *the collection of that information is expressly authorized by an enactment of Alberta or Canada.*
  - (c)** *the collection of that information relates directly to and is necessary for an operating program or activity of the public body.*

The legal authority to collect personal information under the Supplementary Code – Disclosure of Criminal Charges is authorized by sections 8(2) and 23 of *Public Service Act* and section 7 of *the Code*, a Regulation under the *Public Service Act*.

#### 3.1.1 Public Service Act

Section 8(2) of the *Public Service Act* provides for the delegation of powers and duties under the Act from a department head to a deputy head.

- 8(2)** *For the purposes of this Act, a deputy head has the powers and may perform the duties of the deputy head's department head.*

Section 23(1) of the *Public Service Act* establishes the Government of Alberta's authority to make regulations respecting a code of conduct and ethics for the public service.

- 23(1)** *The Lieutenant Governor in Council may make regulations respecting a code of conduct and ethics for the public service and a system of disclosure of financial information by employees holding positions designated in the regulations.*

Section 23(2) enables each department head to implement a supplementary code.

**23(2)** *Each department head may issue a supplementary code of conduct and ethics respecting matters of concern to the department head's department.*

A supplementary code that provides additional direction, issued by a deputy head as described in section 23(2), will have the force and effect of an enactment as identified in section 33(a) of the *FOIP Act*.

### 3.1.2 Code of Conduct and Ethics

Section 23(1) of the *Public Service Act* establishes the Lieutenant Governor in Council's authority to make regulations respecting a code of conduct and ethics for the public service. *The Code's* legal status is a *Regulation*<sup>1</sup> under the *Public Service Act*.

Section 7 of *the Code* requires employees "to disclose to their Deputy Head or designate any situation involving them which is a conflict or an apparent conflict of interest".

Section 3 of *the Code* describes the Department (Ministry), Executive Council and PAO responsibilities for administering *the Code*. Department responsibilities include:

- the responsibility to "administer *the Code* for their department, and will issue instructions as necessary for implementation of *the Code*" [s.3(1)]; and,
- the authority to "issue supplementary departmental instructions which modify but do not detract from matters dealt with in this Code, provided that the supplemental instructions are not more permissive than this Code" [s.3(2)].

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<sup>1</sup> **Interpretation Act**

Section 1 (1)(c)(i) further defines a regulation. "Regulation" means a regulation, order, rule, form, tariff of costs or fees, proclamation, bylaw or resolution enacted (i) in the execution of a power conferred by or under the authority of an Act.



### 3.1.3 Supplementary Code

The implementation of the Supplementary Code – Disclosure of Criminal Charges is intended to provide additional direction to employees regarding the disclosure of criminal charges, as per section 23(2) of the *Public Service Act*.

### 3.1.4 Government Organization Act

Section 8(1), (2) of the *Government Organization Act* supports the Minister to operate a program which the Minister considers to be desirable, and to collect information relating to any matter under his/her administration.

- 8.(1) *A Minister may establish or operate any programs and services the Minister considers desirable in order to carry out matters under the Minister's administration.*
- 8.(2) *A Minister may institute inquiries into and collect information and statistics relating to any matter under the Minister's administration.*

In addition, the Deputy Head under Sections 8(1) of the *Public Service Act* has the responsibility to oversee the conduct of their employees.

- 8(1) *Subject to the general direction of the department head, the deputy head*
  - (a) *shall oversee and control the attendance, conduct and work performance of the employees in the deputy head's department,*

## 3.2 Manner of Collection of Personal Information

The intent of section 34 of the *FOIP Act* is to ensure that an individual is aware of the type of personal information being used to make a decision concerning him or her. Section 34(1) establishes direct collection as the primary method for obtaining personal information. The same section also authorizes indirect collection of personal information with the informed consent of the individual.

- 34(1) *A public body must collect personal information directly from the individual the information is about unless*
  - (a) *another method of collection is authorized by*
    - (i) *that individual*

Under the process established for the Supplementary Code, the employee initiates the disclosure to the Deputy Head or designated official. If the employee is requested by the Deputy Head or designated official to provide confirming information or documentation or other information that the employee may already possess (requested only to the degree necessary to better assess the potential impact of the charge on the employee's position), it is the employee's responsibility to provide this information. Under the *FOIP Act*, this is a direct collection of personal information in accordance with s. 34(1).

### **3.3 Accuracy and Retention**

#### **3.3.1 Accuracy**

The information/document that is provided by the employee will be assessed by the Deputy Head or designated official to determine if the criminal charge affects the employee's responsibilities. As noted in section 3.2 above, the employee provides information about the criminal charge. It is the employee's responsibility to make every reasonable effort to ensure that the information obtained is accurate and complete before it is disclosed to the Deputy Head or designated official.

#### **3.3.2 Records Retention**

Information/documentation received from the employee will be reviewed and assessed by the ministry. All original documentation submitted by the employee is returned to the employee. No copies are kept of those documents. If it can clearly be assessed that the criminal charges do not impact on the ministry's interests, the Deputy Head or designated official confirms this in writing to the employee and no further action is taken (see *Appendix 2*).

A copy of the confirmation letter will be retained in an "Employee Relations – Criminal Charges" file. The file will be created and housed by the Human Resources Director in order to limit access. These records will be retained for a three-year period from the date the file is inactive. The confirmation letter will be purged and destroyed in accordance with the *Administrative Records Disposition Authority*.

If a ministry human resources process is initiated, records will be filed and retained in accordance with the record management processes in place for such reviews.

### **3.4 Right to Request Correction of Personal Information**

Each ministry will afford the employee the opportunity to provide further information or documentation that may result in a correction or annotation to the information. This will be identified to the employee should the need arise.

### **3.5 Protection of Personal Information**

The creation of records resulting from the reporting of a criminal charge is kept to a minimum. See [Section 3.3.2](#) for a description of the record retention practices that will apply.

Records resulting from the reporting of a criminal charge(s) that impact on an employee's position are considered sensitive. These records are stored in secure areas, and further restricted, for example via locked file cabinets, to the few ministry staff involved with the record (See [Section 2.3](#)). The Deputy Head and designated officials who the ministry has identified to meet with employees on the reporting of criminal charges are the only individuals with direct access to any records that result.

The Deputy Head and designated officials may call upon the assistance of their Human Resource Director/Advisors to assess the relevance of the criminal charges to the employee's position responsibilities using the factors listed in [Section 1.4.2](#).

### **3.6 Use of Personal Information**

Information that is received and reviewed is only to be used for assessing the impact of the criminal charge on the employee's position.

The existence of a criminal charge will not automatically result in discipline of the employee. The relationship between the criminal charge rests with the nature of the charge and the connection it has to the ministry's business interests, the specific duties required by the employee's position, the seriousness of the charge, the role the employee has in the organization, the extent to which the charge impedes the employee to perform his/her duties satisfactorily and whether the fact that the employee has been charged affects the credibility of the ministry's programs and services.

The ministry in consultation with legal and/or human resource advisors will make a determination of the consequences of any decision regarding that relationship.

### **3.7 Disclosure of Personal Information**

Information is disclosed only to the authorized users involved in assessing the impact on the employee's position and follow-up processes. The authorized users would be the Deputy Head and designated officials, who may include the human resource directors/advisors, legal advisors and the PAO labour relations consultants.

Notice will be provided to the Special Prosecutions Branch that a discussion has taken place between the Deputy or designate (both of whom are deemed "an Official of the Crown") and the employee. This process is required as there is an obligation on the crown that wherever an employee has entered into discussions with an official of the crown relative to criminal charges that the employee faces, full disclosure of the discussions should occur with the employee's counsel should the matter proceed to trial. This process is separate from and irrespective of the Criminal Charges Reporting, but is acknowledged here as existent. It should also be noted that no further information is disclosed unless the matter proceeds to trial, and that disclosure is only to the employee's counsel.

### **3.8 Disclosure for Research or Statistical Purposes**

It is not anticipated that personal information would be disclosed for research or statistical purposes. However, given that there is discretion within the *FOIP Act* to disclose information for research and statistical purposes, any request for information will have to be reviewed by the respective ministry in consultation with PAO.

## 4.0 POTENTIAL PRIVACY IMPACTS

### 4.1 Potential Privacy Impacts

Records resulting from the reporting of a criminal charge are considered sensitive. These records are stored in secured areas. Access is restricted to the few ministry staff involved with the record (see [Section 3.5](#) for a complete description of how personal information is protected).

Records of the disclosure may form evidence in the human resources review process. Potential disciplinary proceedings that could arise from the reporting of criminal charges are a separate human resources matter for which there are already established review processes.

### 4.1 Conclusion

The range and complexity of government activities is such that it is not possible to produce a detailed and complete list of all conflict of interest situations. *The Code* provides a framework by which employees can gauge their own activities. The intent of the Supplementary Code for the reporting of criminal charges is to provide additional specific guidance to employees.

Should the information provided by the employee identify issues of concern or conflict of interest to the ministry, employees will be given the opportunity to provide additional clarifying information. The Supplementary Code does not override any existing human resources review processes including the employee's rights in those processes.

Just as the Supplementary Code places an obligation on employees to report criminal charges, the *FOIP Act* places an obligation on ministries to protect this sensitive information. The procedures established to implement the Supplementary Code include the collection of a minimal amount of information; the creation of records only in limited circumstances and limited access to records where they are created.

## 5.0 APPENDIX 1:

### 5.1 Code of Conduct and Ethics for the Public Service of Alberta

#### Preamble

The people of Alberta have a right to a public service which is conducted with impartiality and integrity. It is this special obligation to Albertans that demands that there not be, nor seem to be, any conflict between the private interests of employees and their duty to the public.

At the same time, it is recognized that employees should enjoy the same rights in their private dealings as any other citizens unless it can be demonstrated that a restriction is essential to the public interest.

#### Part 1 Definitions

1. For purposes of this Code, unless the context otherwise requires,
  - (a) "Code" means this Code of Conduct and Ethics for the Public Service of Alberta, as amended from time to time;
  - (b) "employee" includes individuals appointed pursuant to the Public Service Act, Senior Officials, wage staff and persons employed on a contractual basis;
  - (c) "minor child" refers to a child under the age of majority;
  - (d) the "private interest" of an employee does not include an interest;
    - (i) in a matter that is of general application, or
    - (ii) that affects a person as one of a broad class of the public, or
    - (iii) that affects the compensation or benefits of an employee, or
    - (iv) an interest that is trivial;
  - (e) "relative" includes spouse, children, step-children, legal dependents, parents, siblings, in-laws, grandparents, grandchildren, nieces, nephews, aunts, uncles and first cousins;
  - (f) "Senior Official" means an individual appointed pursuant to O.C. 107/2000, as amended from time to time, and whose appointment is made pursuant to the Public Service Act;
  - (g) "spouse" includes a party to a relationship between a man and a woman who are living together on a bona fide domestic basis but does not include a spouse who is living apart from the employee if the employee and spouse have separated pursuant to a written separation agreement or if their support obligations and family property have been dealt with by a court order; and
  - (h) "supervise" means to directly supervise or exercise influence over the assignment of duties, performance evaluation or related responsibilities of an employee

#### Part 2 Application

##### 2. General

- (1) This Code applies to all employees. A Deputy Head has the authority in exceptional circumstances to exempt a personal services contract employee from application of *the Code*.

- (2) This Code is in addition to any statute pertaining to the actions of employees and to any instructions issued by the Government or a department head to Deputy Heads or Senior Officials.
- (3) Conflicts between the private interests of employees and their duty to the public not specially addressed in this Code must be dealt with according to the principles and intent of *the Code*.

### **Part 3**

#### **Administration of the Code**

##### **3. Department Responsibility**

- (1) The Deputy Head will administer *the Code* for their department, and will issue instructions as necessary for implementation of *the Code*.
- (2) The Deputy Head may issue supplementary departmental instructions which modify but do not detract from matters dealt with in this Code, provided that the supplemental instructions are not more permissive than this Code.
- (3) The Deputy Head or designate will promote *the Code* and any supplemental Codes on a regular basis to ensure that employees are aware of their obligations.

##### **4. Executive Council Responsibility**

Executive Council will administer this Code with respect to Deputy Heads and Senior Officials.

##### **5. Personnel Administration Office Responsibility**

Any questions regarding the interpretation or application of this Code are to be directed to the Public Service Commissioner or designate.

### **Part 4**

#### **Employee Responsibilities Under The Code**

##### **General Employee Responsibilities**

##### **6. Impartiality**

Employees are expected in all regards to conduct their duties with impartiality.

##### **7. Disclosure**

Employees are required to disclose to their Deputy Head or designate any situation involving them which is a conflict or an apparent conflict of interest.

##### **8. Furthering Private Interests**

- (1) Employees are in conflict of interest and in violation of this Code if they:
  - (a) take part in a decision in the course of carrying out their duties, knowing that the decision might further a private interest of the employee, their spouse or minor child, or
  - (b) use their public role to influence or seek to influence a Government decision which could further a private interest of the employee, their spouse or minor child, or
  - (c) use or communicate information not available to the general public that was gained by the employee in the course of carrying out their duties, to further or seek to further a private interest of the employee, their spouse or minor child.

## Specific Employee Responsibilities

### 9. Dealings with Others

- (1) Employees who exercise regulatory, inspection or other discretionary authority over others shall disqualify themselves from dealing with anyone with whom the relationship between them may bring the employee's impartiality into question, with respect to those functions. In situations where this would impair service delivery, employees must advise the Deputy Head or designate of the details before exercising their authority. Once the Deputy Head or designate has been notified the employee shall only exercise their authority in accordance with instructions received. In emergency situations the employee shall act impartially and notify the Deputy Head or designate immediately after exercising their authority.
- (2) Relatives of an employee may work in the same Branch, Division, Institution or Department provided there is no opportunity to exercise favouritism and no conflict of interest exists for the employees involved. An employee may not supervise a relative unless there are extenuating circumstances and the Deputy Head or designate approves an exemption from this section of *the Code*.
- (3) In the staffing process, selection panel members shall disqualify themselves from competitions where applicants include relatives or other individuals where the continued participation of the panel member could raise a question as to their impartiality. When recruiting wage staff or persons to special employment programs, the selection shall also be done impartially in accordance with section 6 of *the Code*.
- (4) Employees shall, so far as it is known to them, disclose and discuss with the Deputy Head or designate situations which may be or may appear to be conflicts of interest under this section.

### 10. Outside Employment

- (1) Employees may take supplementary employment including self employment unless such employment:
  - (a) causes an actual or apparent conflict of interest, or
  - (b) is performed in such a way as to appear to be an official act, or to represent a Government opinion or policy, or
  - (c) interferes through telephone calls, or otherwise, with regular duties, or
  - (d) involves the use of Government premises, equipment or supplies, unless such use is otherwise authorized.
- (2) Prior to accepting any supplementary employment where it appears or where they believe that a conflict of interest might arise, employees are required to notify the Deputy Head or designate in writing about the nature of such supplementary employment.
- (3) Employees shall not accept additional compensation for duties which they perform in the course of their public service employment.
- (4) Employees shall not allow the performance of their official duties to be influenced by offers of future employment or the anticipation of offers of employment.

### 11. Teaching

Employees may with the consent of their Deputy Head or designate, teach courses at institutions for a fee during normal working hours provided that (a) acceptable arrangements can be made for the employee to perform all regular duties, and (b) course preparation and marking is done on the employee's own time, and (c) no other conflict arises. Where the teaching duties infringe upon normal duties, the Deputy Head



or designate may deny the request or may require that all or part of the fee received be paid to the Provincial Treasurer.

## **12. Volunteer Activities**

Employees are encouraged to participate in volunteer activities however the restrictions as listed in section 10(1) also apply to volunteer activity. Employees who are actively associated on a volunteer basis with any organization shall disclose to the Deputy Head or designate their interest in such an organization where a conflict of interest may arise. Such employees shall disqualify themselves from participating in any Government decision which could impact the organization.

## **13. Investment and Management of Private Assets**

- (1) Where an actual or proposed business or financial interest of an employee, or of the employee's spouse or minor children is affected, appears to be affected or may be affected by actions taken or decisions made in which the employee participates in the course of their employment, the employee shall disclose the business or financial interest to the Deputy Head or designate.
- (2) If an actual or apparent conflict of interest situation exists under this section, the Deputy Head or designate shall determine the method of resolution of the situation. Options for resolution include requiring the use of a blind trust, divestment of the asset, or employment action ranging from transferring the employee to termination of employment.
- (3) The Deputy Head or designate may require financial disclosure of employees in specific positions where, in the opinion of the Deputy Head or designate, conflict could likely occur.
- (4) Information which is disclosed to the Deputy Head or designate under this section shall be maintained on a confidential basis by the Deputy Head or designate.

## **14. Acceptance of Gifts**

- (1) Employees shall not accept fees, gifts or other benefits that are connected directly or indirectly with the performance of their public service duties, from any individual, organization or corporation, other than:
  - (a) the normal exchange of gifts between friends;
  - (b) the normal exchange of hospitality between persons doing business together;
  - (c) tokens exchanged as part of protocol;
  - (d) the normal presentation of gifts to persons participating in public functions.

## **15. Political Activity**

- (1) There is no restriction upon participation in political activity by employees except that:
  - (a) They must not participate directly in soliciting contributions.
  - (b) Senior Officials and those employees who occupy positions in the executive manager classes of the management compensation plan may not seek nomination as a candidate in a federal or provincial election, nor hold office in a political party or constituency association. They may become candidates in a municipal election with the prior approval of their Deputy Head or Executive Council as appropriate, who will consider the general principles of *the Code* when reviewing such a request.
  - (c) Employees who run as candidates in a provincial or federal election must take a leave of absence without pay commencing on the day after the writ for the election is issued or on the day that their candidacy is publicly announced,

whichever is later. The restriction of soliciting contributions shall not apply to such employees once the leave of absence commences.

- (2) Employees who are elected to federal or provincial office shall resign their employment effective the day of the election.
- (3) Employees who seek election and are not elected, are entitled to return to the same or similar employment, effective the day after the election.
- (4) Employees who are candidates for municipal office shall, if elected, be subject to the provisions of this Code regarding outside employment.

#### **16. Public Statements**

- (1) Employees who speak or write publicly shall ensure that they do not release information in contravention of the oath of office set out in section 20 of the Public Service Act.
- (2) The responsibility for maintaining the confidentiality of information or documents includes the responsibility for ensuring that such information or documents are not directly or indirectly made available to unauthorized persons.
- (3) Employees must adhere to the requirements of the Freedom of Information and Protection of Privacy Act.

#### **17. Trade Knowledge and Intellectual Property**

- (1) Any product or technology developed by employees in the course of their employment with the Government of Alberta is the property of the Government of Alberta.
- (2) An employee shall not sell, trade, market or distribute any such product or technology unless otherwise authorized by the Deputy Head or designate.

## **Part 5 Crown Lands, Minerals and Resources**

#### **18. Dealings in Crown Land**

- (1) For the purposes of Section 24 of the Public Service Act:
  - (a) In all cases other than described in section 19, an employee is authorized to bid on or, provided Deputy Head approval is obtained under section 18(1)(b), to acquire an estate or interest in Crown land if:
    - (i) the employee has obtained the prior approval of the employee's Deputy Head or designate, and
    - (ii) the employee has disclosed that they are an employee and the details of their employment.
  - (b) The Deputy Head or designate of the department granting the interest shall review and may approve the transaction only if:
    - (i) it is consistent with departmental and government objectives, and
    - (ii) the terms of the transaction are fair and reasonable, and
    - (iii) no conflict of interest exists.
- (2) If an employee has obtained an estate or interest in Crown land in compliance with *the Code*, the employee may renew that estate or interest without obtaining approval from the Deputy Head or designate of the department whose Minister is responsible for the administration of the land.
- (3) Where an employee owns or has an estate or interest in land being purchased by the Crown,

- (a) the employee shall declare their employment status to the Deputy Head or designate of the department involved in the transaction, and
- (b) the Deputy Head or designate of that department shall review and may approve the transaction.

#### **19. Acquiring Permits or Licenses for Crown Minerals or Resources**

- (1) For the purposes of section 24 of the Public Service Act, an employee is authorized to do one or more of the following:
  - (a) acquire a local timber permit or an interest in a local timber permit under the Forests Act, where the permit or interest is acquired for the employee's own use and not:
    - (i) for commercial purpose, or
    - (ii) for the purpose of re-selling timber;
  - (b) acquire a license to conduct placer mining under the Metallic and Industrial Minerals Regulation (Alta. Reg.66/93 as amended);
  - (c) acquire a permit or an estate or interest in a permit to recover exposed ammonite shell under the Ammonite Shell Regulation (Alta.Reg.59/89 as amended);
- (2) For the purposes of section 24 of the Public Service Act, an employee is authorized to acquire a registered fur management license under the Wildlife Act, except that an employee under the administration of the Minister of Environmental Protection shall have the prior approval of their Deputy Head or designate, in order to acquire such a license.

## **Part 6 Review Process**

#### **20. Review of Decision**

- (1) An employee may apply to the Ethics Commissioner for a review of a ruling of a conflict of interest by a Deputy Head, (or in the case of Senior Officials a ruling by Executive Council) under this Code or a supplementary code issued by a department.
- (2) The Ethics Commissioner will be asked to investigate and provide a recommendation to the Minister of the relevant department.
- (3) Where the Ethics Commissioner is unable to act, the Minister will determine an alternate appeal mechanism in consultation with the Public Service Commissioner.

## **Part 7 Penalties and Consequences**

#### **21. Penalties and Consequences**

- (1) Employees who do not comply with any provisions of this Code may be subject to disciplinary action, up to and including dismissal.

## 6.0 APPENDIX 2

### 6.1 Draft Letter

(From Deputy Head Or Designated Official To Employee When Criminal Charges Do Not Affect Employee's Employment)

Dear

Thank you for providing information to me on (date) in accordance with the Supplementary Code related to the disclosure of criminal charges.

The information you disclosed does not impact on your role and responsibilities as a (Employee Job Title) \_\_\_\_\_ in the (Name of Unit and/or Branch name) \_\_\_\_\_.

I would like to express my appreciation that you brought the matter to my attention. A copy of this letter will be sent to the Human Resources Director who will retain the letter on an Employee Relations Criminal Charges file. The letter will be retained for a three year period and disposed of in accordance with the Administrative Records Disposition Authority.

Yours truly,

Deputy Head or  
Designated Official

Cc: Human Resources Director  
Director, Special Prosecutor's Office,  
Ministry of Justice