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WOODSTOCK POLICE FORCE POLICY:

Please note this policy is mandatory. All police officers (full and part time) employed by the Woodstock Police Force are required to adhere to the content and direction outlined in this policy.

Publication Date	22 April 2020
Review Date	20 April 2020
Related Legislation	N/A
Related Policies, Procedures, Guidelines	SCC Decision in R vs. McNeil 2009 SCC3
Replaces	N/A
Administrative Manual - Section	TBD
Policy Agency	Woodstock Police Force
Chief of Police	G. Forward
Key Word(s)	Disclosure – Misconduct - McNeil
Last Revision	April 2020
Approved By	G. Forward, Chief of Police



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1. Purpose of Policy	The purpose of this directive is to ensure that the Woodstock Police Force (herein after referred to as WPF) complies with the Supreme Court of Canada decision in <i>R. v. McNeil – 2009 SCC3</i>. It is the policy of WPF to produce timely disclosure of Police Officer “Misconduct” records pursuant to <i>R. v. McNeil</i>.
2. Definitions	For the purposes of this directive, the following definitions shall apply: a. Misconduct – Is defined as anything categorized under the disclosure criteria as outlined in Appendix “A” of this policy (page 14). b. McNeil Officer – Refers to any WPF Police Officer having “Misconduct” as set out in <i>R. v. McNeil</i> and section “4” of this policy. c. McNeil Package – Refers to “McNeil Officer” information that is disclosed to the Crown by WPF. Retention periods for McNeil Packages are indefinite. d. First Party Record – Is any information held by WPF and the



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	Crown where the “Misconduct” is either related to the investigation, or the finding of “Misconduct” could reasonably impact the case of the accused and shall be disclosed to the defence. e. Third Party Record Production – Is the production of disciplinary and investigational information in the possession of WPF that does not fall within the scope of “First Party Record” disclosure, but may be ordered to be disclosed through an O’Connor application for the production of “Third Party Record(s)”. f. Process of Objection – Refers to a specific or general disclosure objection brought forward by a “McNeil Officer” to WPF. WPF shall facilitate a meeting for the “McNeil Officer” so that the Crown may hear the objection. It is understood that the <u>Crown will have the final decision regarding disclosure</u> and shall update WPF as to the objection outcome. O I/C shall forthwith notify the associated “McNeil Officer(s)” of the Crown’s decision. g. Officer in Charge (O I/C) - The senior ranking member or their designate within the WPF.
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Procedure	
3. General Information	The Supreme Court of Canada concluded findings of serious misconduct by police officers in the investigation against the accused fall within the scope of disclosure to the Crown where the conduct is either related to the investigation or a finding of misconduct could reasonably impact on the case against the accused (<i>R. v. McNeil</i>). 2. The Supreme Court of Canada also directed that while the roles of the police and Crown are separate and distinct, the police have a duty to participate in the disclosure process and are obligated to disclose to the Crown all records of police misconduct regardless of the relevance the misconduct may have in the case against the accused. 3. This enables the Crown to act as “gate-keeper” for all records of “Misconduct” that go beyond the primary disclosure obligation to establish what “Misconduct” has relevance to a case and will therefore be disclosed to the defence (<i>R. v. Stinchcombe</i> -1991).



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	4. As per the Memorandum dated the 21st Sept 2009, from Marian Fortune-Stone, Q.C., A/Chief Federal Prosecutor, Public Prosecution Service of Canada – Atlantic Regional Office, the principles of (R. v. McNeil - 2009 SCC3) apply to all Law Enforcement Agencies, which require WPF to comply with the obligations set out in McNeil.
4. Disclosure Criteria	1. An officer shall be designated as a “McNeil Officer” if involved in “Misconduct” categorized under the following criteria: a. Any conviction, plea of guilt, finding of guilt, or outstanding/pending charge under the Criminal Code, or the Controlled Drugs and Substances Act, or any other Federal Statute for which a pardon, or absolute discharge has not been granted; b. Any conviction, plea of guilt or finding of guilt where the conditions of a conditional discharge were not met or have not yet been met; c. Any instance where the WPF Chief of Police (or designate) has <u>sustained</u> a complaint following a



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	Code of Conduct and Department investigation; d. Any finding of conduct or disciplinary measures under the WPF Code of Conduct and Department Policy; e. Any finding of guilt or conviction for an offence under a Provincial (not including minor traffic or other minor regulatory infractions) or Federal Statute where the conviction may be reasonably seen to impugn the Officer’s honesty or integrity. 2. The O I/C or designate of the “McNeil Officer” is responsible for coordinating disclosure to the Crown meeting this criterion.
5. Officer in Charge	1. The O I/C (or designate) shall create, maintain and update on a bi-annual basis, “McNeil Packages” of their Officers for Crown disclosure. “McNeil Packages” will be comprised of information solely outlined under Appendix “B” of this policy. Updates or revisions shall include changes resulting from; a. A previously disclosed allegation or pending issue of



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	“Misconduct” that has reached an outcome of guilt; b. In any case where the allegation or pending issue of “Misconduct” in which the officer in question has been cleared; and 2. In any matter outlined in this policy, the O I/C (or designate) shall update the “McNeil Package” records information as required. The O I/C (or designate) will also ensure that any “McNeil Package” already disclosed to the Crown or the Courts that require updating are retrieved and destroyed. The updated version of the “McNeil Package” will then be substituted as soon as possible. 3. The O I/C (or designate) shall also: a. Notify, in writing, any Officer who has been designated as a “McNeil Officer” and complete and record their known discipline history on a McNeil Officer Offence Record Form (Appendix “B”), as soon as reasonably practicable. b. Provide the Officer opportunity to present representations to the Crown regarding the application of R. v. McNeil to their discipline
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	records. Any representation with the Crown will be facilitated by the O I/C (or designate). c. Respond to inquiries made by the Crown regarding the existence of a disciplinary record not captured by this policy and notify the Crown if such a record exists by providing details of the nature of that record. If there is a dispute concerning the requirement to disclose a discipline record, the O I/C (or designate) shall advise the Crown that the record may be disclosed pursuant to a “Third Party Record Production” order (R. v. O’Connor – 1995). d. Ensure that all charge files are reviewed and any submitted that include “McNeil Officers” contain relevant and factual McNeil information for disclosure to the Crown.
6. Police Officer	1. Any Officer who has an allegation pending, a finding, or a conviction of “Misconduct” as set forth in this policy shall ensure it is forthwith disclosed, by completion of a McNeil Officer Information Update Form (Appendix “A”).



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	2. In the event an Officer is charged criminally by an outside agency for off-duty conduct, the Officer shall immediately notify the O I/C (or designate) and their immediate supervisor in writing. The O I/C (or designate) shall coordinate updated disclosure requirements forthwith. 3. Any Officer designated as an “McNeil Officer” shall: a. Review their “McNeil Package” to ensure accuracy and completeness of the disclosure; b. Report immediately any inconsistencies or concerns regarding the accuracy of the information following receipt of their “McNeil Package” documentation from the O I/C or designate; c. If inconsistencies cannot be resolved between the “McNeil Officer” and the O I/C or designate, a “Process of Objection” as defined in section 2(f) of this policy may be followed through by the Officer completing the bottom section of the McNeil Officer Offence Record Form (Appendix “B”);
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	d. Following a satisfactory review, the “McNeil Officer” shall acknowledge confirmation that the discipline history is complete and accurate with an original signature on the McNeil Officer Offence Record Form; e. Retain a copy of the “McNeil Package” and forward the original back to the O I/C (or designate) within five (5) business days of receiving the discipline history documentation.
7. McNeil Query	1. All Police Officers of WPF shall be queried through CPIC (Canadian Police Information Center), JIS (Justice Information System) and Personnel Records to determine “R vs. McNeil” related misconduct information. Queries will continue on a case-by-case and yearly basis, as triggered through charge files submitted by “McNeil Officers.” 2. The query shall be conducted as required by the Crown and this policy and shall be the responsibility of the O I/C or designate.



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	3. The query will be reviewed by the O I/C (or designate) for comparison to the master file. 4. Queries shall be conducted every 6 months (January and July each year) by WPF Admin Staff as directed by O I/C or designate.
8. The Crown	1. The Crown shall review any information regarding Police Officer misconduct provided by WPF and shall disclose McNeil information in accordance with the Public Prosecutions Operations Manual. 2. A McNeil Information Confirmation Check Sheet to Crown (Appendix C) shall serve notice to the Crown that <u>McNeil information does or does not exist</u> for the investigating officer(s) associated to the file (to be completed by Quality Reader or designate for each file).
9. Related Documentation	a. McNeil Officer Information Update Form (Appendix A). b. McNeil Officer Offence Record Form (Appendix B). c. McNeil Information Confirmation Check Sheet to Crown (Appendix C).



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	d. <i>R. v. McNeil</i>, [2009] SCC 3 e. <i>R. v. Stinchcombe</i>, [1991] 3 S.C.R. f. <i>R. v. O'Connor</i>, [1995] 4 S.C.R. g. <i>R v. Perreault</i>, [2010] ABPC 104 h. <i>New Brunswick Police Act and Regulations</i>. h. <i>Criminal Records Act</i>.
10. Signature - Approval	_____. Gary J. Forward, Chief of Police Woodstock Police Force 822 Main Street, Woodstock - NB
Date of Approval →	1 May 2020



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Appendix “A” - Confidential

Woodstock Police Force Section “A” - McNeil Officer Information Update Form

Any Officer who has an allegation pending, a finding, or a conviction of “Misconduct” as set out in the McNeil Officer Misconduct Disclosure Policy, shall ensure the updated information is disclosed by completing this form.

1. Offence File Number (if applicable):
2. Accused Surname:
3. Officer’s Name:
Regimental/Badge Number:
4. Accused in custody (yes or no):
5. This is an update to a previously submitted **McNeil Officer Information Update Form** related to this case (yes or no):

I am providing this update because:

1. It is first “party disclosure” (yes or no):
2. My Disciplinary record has changed (yes or no):
3. My involvement in the investigation to above has changed (yes or no):

Please answer as either 1. Yes – 2. No – 3. Unsure:

a. Any conviction, plea of guilt, finding of guilt, or outstanding/pending charge under the *Criminal Code*, or the *Controlled Drugs and Substances Act*, or any other Federal Statute for which a pardon, or absolute discharge has not been Granted:



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- b. Any conviction, plea of guilt or finding of guilt where the conditions of a conditional discharge were not met or have not yet been met:
- c. Any finding of conduct or disciplinary measures under the WPF Code of Conduct and Department Policy:
- d. Any instance where the Chief of WPF has sustained a complaint following a Code of Conduct and Department investigation:
- e. Any finding of guilt or conviction for an offence under a Provincial (not including minor traffic or other minor regulatory infractions) or Federal Statute where the conviction may be reasonably seen to impugn the officer’s honesty or integrity:

I am aware that I have a continuing obligation to provide up-to-date information should circumstances change, by completing an additional **McNeil Officer Information Update Form** and submitting it to the Officer in Charge or their designate.

Member Signature: _____

Date: _____(yyyy/mm/dd)



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Appendix "B" - CONFIDENTIAL

Woodstock Police Force McNeil Officer Offence Record Form

1. Date:
2. Officer's name:
Badge Number:
3. Officer date of conviction or allegation:
4. Applicable charge(s):
5. Disciplinary, corrective measures or findings:
6. To Crown Prosecutor (synopsis):
7. Officer in Charge or Designate:

Officer signature: _____. Date: _____.

NOTE: This part to be removed by the Crown Prosecutor prior to disclosure (process of objection).

Officer Privacy Interest(s) – Officer's reason(s) that Conduct Report should not be disclosed (**Important: Please articulate why you believe that a conduct report should not be disclosed on a separate Word document and then attach to this form**).



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Appendix “C” – CONFIDENTIAL

Woodstock Police Force

McNeil Information Confirmation Check Sheet to Crown

McNeil Information Confirmation Check Sheet shall be disclosed by Chief/Quality Reader, or designate, as part of any charge file prior to dissemination to Crown.

File Number	Officer(s) Name	McNeil Info (Yes)	McNeil Info (No)	Reader Initials