



Justice Centre

for Constitutional Freedoms

August 7, 2020

VIA EMAIL, HARDCOPY TO FOLLOW

Investigative Services Team
Law Enforcement and Oversight Branch
Alberta Justice and Solicitor General
9th Floor, 10365-97 Street
Edmonton, Alberta T5J 3W7
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**RE: Formal Complaint Against Sheriff M.R. (1458) and Colleagues Regarding
Withdrawn Ticket No. 70137292R Issued to Cory Teichroew on May 10, 2020**

The following is a formal complaint submitted on behalf of Cory Teichroew against three Sheriffs, Sheriff M.R. (1458) and his two colleagues, whose names are unknown to Mr. Teichroew.

On Sunday, May 10, 2020, in breach of his constitutional rights, Mr. Teichroew was handcuffed and physically removed from the Legislature grounds, detained and ticketed by a group of three Sheriffs, lead by Sheriff M.R. (the “Complained Sheriffs”). The ticket issued to Mr. Teichroew has been withdrawn by the Crown.

On the afternoon of May 10, Mr. Teichroew and approximately 50 other individuals attended the Legislature grounds to rally and express their political views regarding recent actions of the provincial and federal governments. Approximately 20 Sheriffs and Edmonton Police officers were present.

Mr. Teichroew was peacefully and lawfully exercising his constitutionally-protected right to expression and peaceful assembly. Mr. Teichroew and those around him were at all material times adhering to the applicable order of the Chief Medical Officer of Health to maintain physical distancing in relation to other individuals.

During the rally, three teams of three Sheriffs each, including the Complained Sheriffs, moved among the attendees and targeted specific individuals for detentions and removal from the grounds. One of the individuals targeted was Mr. Teichroew. The Complained Sheriffs pointed at Mr. Teichroew and said “that one” as they approached him.

The Complained Sheriffs laid hands on and handcuffed Mr. Teichroew immediately upon reaching him, and compelled him to leave the legislature grounds.

The ticket given Mr. Teichroew states that he contravened section 73(1) of the *Public Health Act*, but section 73(1) merely states:

A person who contravenes this Act, the regulations, an order under section 62 or an order of a medical officer of health or physician under Part 3 is guilty of an offence.

The ticket did not state what order, regulation or section of the *Public Health Act* Mr. Teichroew contravened.

The Complained Sheriffs did not explain to Mr. Teichroew at the time he was handcuffed what was unlawful about his conduct, nor why he was being handcuffed and removed from the Legislature grounds. The handcuffing, physical removal from the Legislature grounds, detention and ticketing of Mr. Teichroew by the Complained Sheriffs was arbitrary, had no basis in law and was an abuse of power.

The conduct of the Complained Sheriffs was egregious and in breach of the Sheriffs Code of Conduct. A breach of the Code amounts to misconduct, and, as such, is deserving of formal discipline. The Sheriff's Branch Policy and Procedure Manual 2.3.2 Sheriffs Code of Conduct states that:

- 4(2)(i) "unlawful or unnecessary exercise of authority" consists of one or both of the following:
- (i) exercising his/her authority as a peace officer when it is unlawful or unnecessary to do so;
 - (ii) applying inappropriate force in circumstances in which force is used.

The actions of the Complained Sheriffs regarding Mr. Teichroew were unlawful. It was an interference with Mr. Teichroew's lawful exercise of his *Charter*-protected rights to peacefully assemble and freely express himself, in a manner that was not authorized by any relevant statute, to handcuff, remove from the Legislature grounds, detain and ticket him. At the time the Complained Sheriffs laid hands on Mr. Teichroew and handcuffed him, it was apparent to a reasonable person that he was not, and not about to, engage in any unlawful behaviour.

In *Committee for the Commonwealth of Canada v Canada*, the Supreme Court of Canada held that individuals have a *Charter* section 2(b) right to engage in the peaceful expression of opinion on government property, such as the Legislature grounds, the symbolic importance of which is self-

evident.¹ This is a right granted by the supreme law of the country, not a privilege conferred on citizens by police or by municipalities or provincial governments.

In *R v Behrens*,² some protestors at the Legislative Building at Queen's Park in Toronto were charged with trespassing under the *Trespass Act*. The primary issue before the court was whether the defendants' *Charter* rights to participate in a political demonstration on government property took precedence over the Speaker's common law right under the *Trespass Act*. The defendants' activities on that occasion were constitutionally protected and, as a result, the charges against the defendants could not stand.

The Complained Sheriffs' actions in handcuffing and unwarranted use of force to remove Mr. Teichroew from the Legislature grounds were also unnecessary. In addition to not contravening any relevant legislation or order, Mr. Teichroew was not engaged in any conduct that could reasonably be identified as dangerous to the health and safety of those around him or as a threat to property when he was apprehended by the Complained Sheriffs.

There was no reason to apply any degree of force in the situation, much less handcuffing. Mr. Teichroew was not attempting to flee, was not acting in a physically aggressive manner and did not have anything that could be used as a weapon. It was unreasonable for the Complained Sheriffs to handcuff and use physical force against Mr. Teichroew, who, at all material times, was conducting himself peacefully and lawfully exercising his constitutional rights. The use of force in the instant circumstances, handcuffing in particular, was degrading and a violation of Mr. Teichroew's physical liberty and bodily autonomy.

It is not lost on Mr. Teichroew that of the three individuals unlawfully removed from the Legislature grounds and ticketed on May 10, 2020, he was the only one of the three to be handcuffed and the only one that was visibly Aboriginal. In fact, it is troubling that Mr. Teichroew was targeted by Sheriffs at all. While it was apparent the other two individuals apprehended by Sheriffs were leaders of the rally, Mr. Teichroew was merely walking at the edge of the group of rally-goers, quietly observing the rally and listening to the speakers.

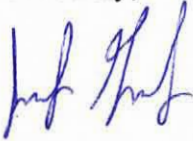
The infringement of Mr. Teichroew's constitutional right to free expression and peaceful assembly was not justified. Mr. Teichroew was not breaching any order, regulation or law. He was peaceful and expressing his views as a citizen of Canada and resident of Alberta. Law enforcement authority to remove and arrest rally attendees on the Legislature grounds must yield to the *Charter* rights of citizens who are peacefully expressing their views, except in the rare occasion interference with individual liberties is justified in the circumstances. Such circumstances did not exist on May 10, 2020 regarding the Complained Sheriffs handcuffing, forceful removal and ticketing of Cory Teichroew.

¹ [1991] 1 S.C.R. 139 at para 55.

² [2001] O.J. No. 245.

Mr. Teichroew requests this complaint be formally responded to. Enclosed is a video of the events described herein., as well as correspondence from the Crown confirming the withdrawal of the ticket issued to Mr. Teichroew.

Yours truly,

A handwritten signature in blue ink, appearing to read 'James Kitchen'.

Sgt. James Kitchen
Barrister and Solicitor
Counsel for Mr. Teichroew

Enclosures