

Subject: Public-interest criminal allegation and request for independent referral — EPS intervention in the Nina Napope / Ashley Rattlesnake prosecution

The Honourable Mickey Amery
Minister of Justice and Attorney General of Alberta

The Honourable Mike Ellis
Minister of Public Safety and Emergency Services

Dear Ministers,

I write to submit a public-interest criminal allegation and to request that this matter be received, independently reviewed, and referred through whatever lawful statutory mechanism permits to a competent external police service or other independent investigative body for criminal investigation.

This submission concerns the Edmonton Police Service's public intervention in the Ashley Rattlesnake / Nina Napope homicide prosecution in September 2025, including the public effort to prevent a proposed manslaughter plea from proceeding and the stated intention to release significant investigative information if the matter concluded as proposed. On the publicly available record, and in light of the subsequent judicial criticism of that intervention, I respectfully submit that this matter raises a serious and credible question of attempted obstruction of justice contrary to section 139(2) of the *Criminal Code*.

I am not asking your offices to determine guilt, innocence, or charge approval. I am asking that this matter be addressed independently, and outside any process controlled by the Edmonton Police Service or by agencies whose involvement would create a reasonable appearance concern. In my respectful view, Edmonton Police Service cannot investigate its own Chief in these circumstances. I also ask that neither Calgary Police Service nor the RCMP be selected for this matter, as I believe their involvement would create an unnecessary appearance issue in the context of Alberta police leadership networks and the sensitivity of the allegation.

In my respectful submission, the public record discloses sufficient information to justify an independent criminal investigation and, at minimum, supports the view that there is a prima facie basis for investigation and sufficient objective information to assess whether reasonable and probable grounds exist to believe an offence has been committed. The issue is not simply whether the conduct was improper or ill-judged. The issue is whether a senior police official, through a public intervention directed at a live prosecution, intentionally attempted to pressure, influence, or distort the course of justice.

The seriousness of the matter is amplified by the institutional context. Prosecutorial independence is fundamental to the administration of justice. Where a police chief publicly attempts to reverse or disrupt a plea resolution and couples that effort with a threatened release of investigative information, the matter raises a rule-of-law concern that should not be left to informal handling, internal review, or purely administrative response. Public confidence requires visible independence.

Accordingly, I respectfully request that your offices:

1. receive this submission as a public-interest criminal allegation and referral request.
2. cause this matter to be independently reviewed and referred, through whatever statutory mechanism is available, to a competent external police service or other lawful investigative body for criminal investigation.
3. ensure the immediate preservation of all relevant records, including letters, drafts, internal emails, text messages, briefing notes, legal memoranda, communications strategy materials, and communications between EPS and Alberta Justice or Crown officials; and
4. if your offices take the position that this matter cannot be received, assessed, or routed on the basis of information submitted by a person who is not a victim or eyewitness, or that some other body has exclusive

carriage of the matter, please provide that position in writing, together with the specific statutory basis relied upon and confirmation of what steps, if any, have been taken to forward this submission to the proper authority.

This is a serious request. It is made because the public record already discloses a threatened release of investigative material tied to a live prosecution, a public effort by police leadership to alter a plea outcome, and subsequent judicial remarks suggesting that the conduct may have crossed the line into an attempt to subvert justice. In those circumstances, an independent criminal investigation is warranted in the public interest.

I would appreciate written confirmation of receipt and advice as to the steps taken in response.

Yours truly,

Neil LeMay

Appendix A – Supporting Case Law

1. Criminal Code, s. 139(2): attempted obstruction is the core offence

Section 139(2) makes it an offence to **intentionally attempt in any manner** to obstruct, pervert, or defeat the course of justice. The wording is broad and is not limited to the specific examples listed elsewhere in s. 139.

2. R. v. Barros, 2011 SCC 51: success is not required

The Supreme Court of Canada confirmed that obstruction under s. 139 is complete on proof of an **attempt**; the Crown does not need to show that the administration of justice was actually derailed or that the accused succeeded. This is important because, on your theory, it is the attempted pressure on a live prosecution that matters, not whether the plea was ultimately stopped.

3. R. v. Barros (R.), 2010 ABCA 116: pressure tied to disclosure can amount to obstruction

The Alberta Court of Appeal is the strongest authority for your fact pattern. In the passages surfaced in the public case summary, the Court held that undermining a protected justice process can “prima facie amount[] to obstruction,” that investigative steps can themselves amount to an attempt, and that **“using the information, once found, to pressure the Crown to stay charges is also arguably obstruction.”** The same summary states that the Court treated a conditional threat to release information unless a prosecution was halted as conduct capable of proving the mens rea for obstruction. Although the Supreme Court later varied the Alberta judgment in part, the Alberta reasoning remains highly relevant to the legal theory you are advancing.

4. R. v. Wijesinha, 1995 CanLII 67 (SCC): the “course of justice” includes more than the courtroom

The Supreme Court held that **an attempt to mislead an investigation** into facts that could give rise to proceedings can amount to an attempt to pervert the course of justice. This helps because it shows that obstruction is not confined to conduct inside a courtroom or at the moment of adjudication; the offence reaches earlier and broader interference with justice processes.

5. Krieger v. Law Society of Alberta, 2002 SCC 65, and R. v. Anderson, 2014 SCC 41: prosecutorial discretion is independent

These cases are not obstruction prosecutions, but they are important constitutional backdrop. The Supreme Court described prosecutorial decisions within delegated authority as **not subject to interference by other arms of government**. In your context, that supports the proposition that public police pressure directed at changing a live plea resolution is especially serious because it presses against the institutional independence of the prosecution function.

6. R. v. Beaudry, 2007 SCC 5: police officers can commit obstruction through misuse of official authority

Beaudry confirms that a police officer is not insulated from obstruction liability merely because the conduct occurs in the course of police work. The case involved a municipal police officer who stood convicted of obstruction of justice, which is useful for the general proposition that the offence can apply to police misuse of official power, not only to civilian witness tampering or lying.

Why these authorities matter together

Taken together, these authorities support a coherent investigative theory:

- **s. 139(2)** is broad and attempt-based,
- **Barros** provides the closest doctrinal analogue where threatened disclosure of information was linked to pressure on a prosecution,
- **Wijesinha** shows the offence extends beyond the trial proper,
- **Krieger** and **Anderson** explain why interference with prosecutorial decision-making is institutionally serious;
- and **Beaudry** confirms that police status is no defence in principle.

References

Criminal Code, R.S.C. 1985, c. C-46, s. 139. <https://laws-lois.justice.gc.ca/eng/acts/c-46/section-139.html>

Anderson, *R. v.*, 2014 SCC 41 (CanLII). <https://www.canlii.org/en/ca/scc/doc/2014/2014scc41/2014scc41.html>

Barros, *R. v.*, 2011 SCC 51 (CanLII). <https://www.canlii.org/en/ca/scc/doc/2011/2011scc51/2011scc51.html>

Barros (*R.*), *R. v.*, 2010 ABCA 116. <https://ca.vlex.com/vid/r-v-barros-r-680666721>

Beaudry, *R. v.*, 2007 SCC 5 (CanLII). <https://www.canlii.org/t/1qbk6>

Krieger v. Law Society of Alberta, 2002 SCC 65 (CanLII). <https://www.canlii.org/t/51rs>

Wijesinha, *R. v.*, 1995 CanLII 67 (SCC). <https://www.canlii.org/en/ca/scc/doc/1995/1995canlii67/1995canlii67.html>