



## REPORT TO THE POLICE SERVICES BOARD

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Date of Report: June 21<sup>st</sup>,  
2018

Subject: By-Law Administration of the Complaints  
System

Decision Report

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### RECOMMENDATION:

That the Board receives for information the review of investigations conducted by the Professional Standards Unit from January 1<sup>st</sup> to June 21<sup>st</sup>, 2018.

Signed: 

Date: June 28, 2018

Chief of Police

### Professional Standards Unit

This report provides a review of investigations involving Public Complaints, Internal Complaints, and Chief's Complaints.

Public complaints are generated by the public through the Office of the Independent Police Review Director (OIPRD) and subsequently investigated by the Professional Standards Unit (PSU). Public complaints can be filed at any Division but may also be generated electronically by way of the OIPRD website and then directed to the Service for investigation. Occasionally the OIPRD will retain complaints for investigation or other forms of resolution, and may assign other services to investigate. Public complaint investigations are bound by specific legislative timelines. Some investigations are expedited through the cooperation of the officer and complainant, resulting in either a withdrawal or a Customer Service Resolution as a form of mediation. More common is the fact that public complaints require investigation, which has proven to be quite time consuming, requiring months to complete as evidenced in lengthy concluding investigative reports.

Internal complaints are investigated by PSU in response to potential misconduct by members of the Service. Information used to generate an internal complaint can originate from any source, but usually comes from a member of the Service or a member of the public. Civilian members can also be the focus of an internal investigation and may be subject to discipline as detailed in Service directive AO-09-004 *Civilian Discipline Process*.

Chief's Complaints are investigations into the conduct of sworn members that uncover sufficient evidence of misconduct as established by the *Police Services Act*. Although Chief's Complaints may arise from an internal investigation, most investigations are initiated by order of the Chief of Police to address matters of alleged misconduct. Sworn members are thus compelled to participate in an interview conducted by PSU in furtherance of an investigation of alleged misconduct.

A statistical review of complaints generated to date in 2018 confirms that the most frequent type of complaint investigated by PSU is Discreditable Conduct (or perceived Discreditable Conduct) by DRPS officers; Neglect of Duty is the second most frequent type of complaint.

### **Public Complaints**

As of June 21st, 2018 there were fifty (50) complaints about the conduct, services or policies of the DRPS. This is up minimally from the forty-two (42) generated for the same period in 2017.

Of the fifty (50) Public Complaints, eighteen (18) were addressed by the OIPRD, and were screened out and closed for a variety of reasons including: frivolous, not in public interest, not within time limits, or could be dealt with by other legislation.

Of the remaining thirty-two (32) complaints, two (2) were retained by the OIPRD for investigation and are still in the investigative stages.

The remaining thirty (30) complaints were forwarded to the Professional Standards Unit for investigation. Of the thirty (30) public complaints investigated by Professional Standards, one (1) was deemed unsubstantiated, six (6) were withdrawn by the complainants, two (2) were closed by customer service resolution, two (2) were closed by local resolution, one (1) service complaint had recommendations put forward, and seventeen (17) are still in the investigative stages.

Furthermore, one (1) complaint was directed to Toronto Police Service to conduct an investigation which is still pending. *"Section 26.5(1) of the Police Service Act as listed under RULE 7 of The Office of the Independent Police Review Director Rules and Procedures gives the 'Director' the authority to appoint any person considered necessary to conduct a Part V investigation."*

### **Internal/Chief's Complaints**

As of June 21<sup>st</sup>, 2018 the PSU investigated twenty-two (22) Internal Complaints. This represents an increase from the thirteen (13) Internal Complaints at this time last year.

Of the twenty-two (22) Internal Complaints, seven (7) rose to the level of a Chief's Complaint and six (6) met the threshold at the onset for a Chief's Complaint, for a total of thirteen (13) Chief's Complaints. This represents a small increase from the ten (10) Chief's Complaints at this time in 2017.

As of **June 21<sup>st</sup>, 2018** there are six (6) officers suspended from duty, one dating back to 2012. This is a slight increase from the four (4) that were suspended this time last year.



### Public Complaints

| Type of Public Complaint             |                |                |
|--------------------------------------|----------------|----------------|
| Year                                 | Jan – Jun 2017 | Jan – Jun 2018 |
| Breach of Confidence                 | 4              | 3              |
| Discreditable Conduct                | 23             | 32             |
| Neglect of Duty                      | 7              | 9              |
| Policy/service                       | 0              | 3              |
| Unlawful or Unnecessary Use of Force | 8              | 3              |
| <b>Total</b>                         | <b>42</b>      | <b>50</b>      |

| Public Complaints Screened Out by OIPRD                 |                |                       |
|---|----------------|-----------------------|
|   | Jan – Jun 2017 | Jan – Jun 2018        |
| Not about the Conduct or Services or Policies of Police | 0              | 2                     |
| Over 6 Months   | 1              | 1                     |
| Frivolous, Vexatious, Bad Faith                         | 3              | 3                     |
| Abandoned by Complainant                                | 1              | 1                     |
| More Appropriately Dealt with by Another Act or Law     | 1              | 3                     |
| No Jurisdiction   | 0              | 1                     |
| Not in Public Interest                                  | 8              | 7                     |
| <b>Total</b>  | <b>14</b>      | <b>18</b>             |
| Public Complaints Retained by OIPRD                     |                |                       |
|   | Jan – Jun 2017 | Jan – Jun 2018        |
| <b>Disposition</b>                                      |                |                       |
| Unsubstantiated   | 1              | 0                     |
| Pending   | 2              | 2                     |
| <b>Total</b>  | <b>3</b>       | <b>2</b>              |
| Public Complaints Investigated by Other Service         |                |                       |
|   | Jan – Jun 2017 | Jan – Jun 2018        |
| <b>Allegation</b>                                       |                |                       |
| N/A   | N/A            | Discreditable Conduct |
| <b>Disposition</b>                                      |                |                       |
| Unsubstantiated   | 0              | 0                     |
| Pending   | 0              | 1 (TPS*)              |

# **INVESTIGATIONS CONDUCTED BY THE DRPS PROFESSIONAL STANDARDS UNIT**

| <b>*Please note there can be more than 1 allegation per complaint*</b> |                   |              |                    |              |
|--|-------------------|--------------|--------------------|--------------|
|  | Public Complaints |              | Chief's Complaints |              |
|  | Jan-Jun 2017      | Jan-Jun 2018 | Jan-Jun 2017       | Jan-Jun 2018 |
| <b>Allegations</b>   |                   |              |                    |              |
| Breach of Confidentiality  | 1                 | 0            | 0                  | 0            |
| Corrupt Practice   | 0                 | 0            | 0                  | 1*           |
| Deceit   | 0                 | 0            | 1*                 | 1*           |
| Discreditable Conduct  | 17*               | 22*          | 10                 | 6*           |
| Insubordination  | 0                 | 0            | 0                  | 1*           |
| Neglect of Duty  | 1                 | 4            | 0                  | 10*          |
| Other (Damage to Clothing and/or Alcohol Consumption)                  | 0                 | 0            | 0                  | 0            |
| Policy/Service   | 0                 | 3            | 0                  | 0            |
| Unlawful or Unnecessary Exercise of Authority                          | 7                 | 2            | 0                  | 0            |
|  | Public Complaints |              | Chief's Complaints |              |
|  | Jan-Jun 2017      | Jan-Jun 2018 | Jan-Jun 2017       | Jan-Jun 2018 |
| <b>Dispositions</b>  |                   |              |                    |              |
| Customer Service Resolution  | 1                 | 2            | 0                  | 0            |
| Formal Discipline  | 0                 | 0            | 0                  | 3            |
| Informal Discipline  | 0                 | 0            | 3                  | 0            |
| Local Resolution   | 1                 | 2            | 0                  | 0            |
| Other  | 0                 | 1            | 0                  | 0            |
| Pending  | 16                | 18           | 7                  | 8            |
| Unsubstantiated  | 1                 | 1            | 0                  | 2            |
| Withdrawn  | 6                 | 6            | 0                  | 0            |
| <b>TOTAL</b>   |                   |              |                    |              |
| Number of Local Complaints to the Board                                | N/A               | N/A          | N/A                | N/A          |
| Number of Requests for Review made to Board                            | 0                 | 0            | 0                  | 0            |

## **Appendix "A"**

OIPRD Screen Out Information: The OIPRD has the legislative discretion to screen out complaints for reason, outlined under section 60 of the PSA:

### **Definitions**

**Bad faith:** Complaints where there is clear evidence that it was made for an improper purpose or with a hidden motive.

**Better dealt with under another act or law:** Complaints that should clearly be dealt with by another authority (e.g., a complaint about the validity of a traffic ticket for speeding).

**Frivolous:** A complaint that does not reveal any allegation of misconduct or breach of the Code of Conduct, or is trivial, or lacks substance or an air of reality.

**No jurisdiction under section 58:** The complaint is not about a policy, service, or the conduct of a police officer. The person listed in the complaint does not fall under the jurisdiction of the OIPRD; or the complainant is not someone who is permitted to make a complaint.

**Not in the public interest:** A broad range of factors are considered when the Director determines what may or may not be in the public interest. The Director may consider the nature of the misconduct alleged, whether the action appears to be a proper exercise of police discretion, the circumstances under which the conduct occurred, whether the conduct could bring the police service into disrepute, the effect of the decision to investigate a complaint, or not, on the public's confidence in the accountability and integrity of the complaints system, whether issues are of systemic importance and/or there is a broader public interest at stake. This list is not exhaustive.

**Over six months and other criteria:** The Director may decide not to deal with a complaint if it is made more than six months after the occurrence of the final incident cited in the complaint or when the incident was discovered by the complainant.

### **Informal Resolution**

Informal Resolution is a way to resolve less serious complaints and can be attempted at any time during the OIPRD complaint process. The complainant, the respondent officer and the police chief or OPP Commissioner must all agree. The decision to recommend Informal Resolution depends on the circumstances of each case. Some examples of conduct that may be suitable for Informal Resolution include:

Discreditable conduct that does not involve a breach of trust

- Incivility, including allegations of unfair or biased treatment or rude or profane language
- Damage to clothing or property



- Unlawful or unnecessary exercise of authority
- Excessive use of force that does not result in serious injury