



REPORT TO THE POLICE SERVICES BOARD


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Date of Report: June 25th,
2020

Subject: By-Law Administration of the Complaints
System

RECOMMENDATION:

That the Board receives for information the review of investigations conducted by the Professional Standards Unit from January 1st to June 25th, 2020.

Signed: 
Chief of Police

Date: 17 Jul 20

OVERVIEW

This report provides a review of investigations involving public complaints, internal complaints, and Chief's complaints. The public complaints system in Ontario is administered by the Office of the Independent Police Review Director (OIPRD). Public complaints can be mailed to the OIPRD, filed at any police station, or filed electronically on the OIPRD website. The OIPRD decides which complaints will be investigated through a screening process. The OIPRD's categories for screening out complaints are defined in Appendix A.

For the complaints that are screened in, the OIPRD can choose to either retain the complaints for investigation or other forms of resolution, assign the complaint to a third party police service to investigate, or direct the DRPS to investigate through the Professional Standards Unit (PSU). Public complaint investigations are bound by specific legislative timelines: conduct complaints are due in 120 days and policy complaints are due in 60 days.

Internal complaints are initiated by the PSU in response to instances of 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 of the Service can also be the focus of an internal complaint investigation and may be subject to discipline as detailed in DRPS Directive AO-09-004: Civilian Discipline Process.

Finally, Chief's complaints are investigations into the conduct of sworn members that may uncover sufficient evidence of misconduct pursuant to the *Police Services Act*. They may arise from an internal complaint investigation. Chief's Complaints are initiated by order of the Chief of Police and, as with public complaints, sworn members are compelled to participate in the investigation.

As of this writing, the number of substantiated complaints in 2020 is very low (two public complaints and two internal / Chief's complaints). As such, there are no discernable trends on which to base a meaningful analysis with respect to the frequency, nature, and substance of the complaints received, or to offer an opinion with respect to training. As indicated below, there are several complaints that are still under investigation. As such, analysis of trends will again be considered in the next report.

PUBLIC COMPLAINTS

As of June 25th, 2020 the OIPRD received 61 public complaints with respect to the conduct of either DRPS officers or DRPS services, or policies. This represented a 19.60 percent increase from the 51 complaints received in 2019 at this time.

Of the 61 public complaints involving DRPS officers, conduct, services or policies, 61 were addressed by the OIPRD as follows:

- 32 were screened out by the OIPRD and closed based on the criteria outlined in Appendix "A",
- Two were retained for investigation by the OIPRD: 1 was unsubstantiated, and 1 is still under investigation

The remaining 27 public complaints were assigned to DRPS PSU for investigation, down from the 29 that were assigned this time last year. 12 of those public complaints have been resolved as follows:

- Three were closed by way of Informal Resolution Agreement,
- One was deemed unsubstantiated, and
- 8 were withdrawn by the complainants.

The remaining 15 public complaints are still under investigation.

A review of public complaints generated in 2020 so far indicated that the most frequent type of complaints involved officer conduct with allegations of Discreditable Conduct and Unnecessary Arrest/Unnecessary Exercise of Authority, which is consistent with last year's report.

INTERNAL/CHIEF'S COMPLAINTS

As of June 25th, 2020 the PSU investigated 18 internal complaints. This represented a 21.73 percent decrease from the 23 investigated in 2019.

Of the 18 internal complaints, 3 rose to the level of a Chief's Complaint and 3 met the threshold at the onset for a total of 6 Chief's Complaints being investigated by PSU. This represents a 25 percent decrease from the 8 Chief's Complaints being investigated at this time in 2019.

Of the 21 internal/Chief's complaints, 12 have been closed as follows:

- 6 were closed no further action,
- 5 were substantiated, and
- One was reclassified as a Public Complaint.

The remaining 9 internal/Chief's Complaints are still under investigation as of this writing.

A review of internal/Chief's complaints generated in 2020 indicated that the most frequent type of complaints were about officer conduct with allegations of Discreditable Conduct, which reflects the same situation as this time last year.

SUSPENDED MEMBERS

As of June 25th, 2020 there are seven officers suspended from duty, one dating back to 2012.

PUBLIC COMPLAINTS

TYPE OF PUBLIC COMPLAINT

Type	Jan-Jun 2019	Jan-Jun 2020
Conduct	49	60
Policy	2	0
Service Provided	0	0
Not about Conduct or Service	0	1
TOTAL	51	61

PUBLIC COMPLAINTS SCREENED OUT BY THE OIPRD

Reason	Jan-Jun 2019	Jan-Jun 2020
Not about Conduct or Service	0	1
Over 6 Months	3	0
Frivolous, Vexatious, Bad Faith	4	8
More Appropriately Dealt with by Another Act or Law	1	1
Third Party	1	1
Not in Public Interest	11	20
Withdrawn before Screening	1	1
TOTAL	21	32

PUBLIC COMPLAINTS RETAINED BY THE OIPRD

DISPOSITION	Jan-Jun 2019	Jan-Jun 2020
Substantiated	0	0
Unsubstantiated	0	1
Withdrawn	0	0
Informal Discipline	0	0
Formal Discipline	0	0
Pending	1	1
TOTAL	1	2

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - ALLEGATION

ALLEGATION	Jan-Jun 2019	Jan-Jun 2020
Discreditable Conduct	0	0
Neglect of Duty	0	0
Unlawful or Unnecessary Exercise of Authority	0	0
TOTAL	0	0

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES- DISPOSITION

DISPOSITION	Jan-Jun 2019	Jan-Jun 2020
Substantiated	0	0
Unsubstantiated	0	0
Pending	0	0
Request for Review	0	1 (York Regional Police)

*PLEASE NOTE THE REQUEST FOR REVIEW DEPICTED WAS FOR A 2019 INVESTIGATION THAT WAS RECEIVED AFTER JUNE 2019

PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – ALLEGATION

Allegations	Jan-Jun 2019	Jan-Jun 2020
Assault		1
Breach of Confidentiality	1	1
Deceit	0	0
Discreditable Conduct	16	17*
Insubordination	0	0
Neglect of Duty	5	3
Service/Policy Complaint	2	0
Unlawful/Unnecessary Exercise of Authority	5	6

*PLEASE NOTE THAT COMPLAINTS OFTEN ALLEGE MORE THAN ONE CATEGORY OF MISCONDUCT

PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – DISPOSITION

DISPOSITIONS	Jan-Jun 2019	Jan-Jun 2020
Customer Service Resolution (CSR)	0	0
Informal Resolution Agreement	1	3
Local Resolution	1	0
Substantiated – Formal Discipline	0	0
Substantiated – Informal Discipline	0	0
Pending	18	15
Recommendations Made	0	0
Unsubstantiated	5	1
Withdrawn	4	8
TOTAL	29	27

CHIEF'S COMPLAINTS

CHIEF'S COMPLAINTS – ALLEGATIONS

Allegations	Jan-Jun 2019	Jan-Jun 2020
Breach of Confidentiality	0	0
Cause Disturbance	0	1*
Careless Use of a Firearm	0	1
Corrupt Practice	1	0
Deceit	2*	0
Discreditable Conduct	10*	11*
Insubordination	4*	1
Neglect of Duty	2*	0
Utter Threats	0	1
Workplace Harassment	0	1*

*PLEASE NOTE THAT COMPLAINTS OFTEN ALLEGE MORE THAN ONE CATEGORY OF MISCONDUCT

CHIEF'S COMPLAINTS - DISPOSITIONS

DISPOSITIONS	Jan-Jun 2019	Jan-Jun 2020
Substantiated – Formal Discipline	0	0
Substantiated – Informal Discipline	0	2
Pending	8	4
Public Complaint	0	0
Sine Die	0	0
Unsubstantiated	0	0
TOTAL	8	6

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 AND
- EXCESSIVE USE OF FORCE THAT DOES NOT RESULT IN SERIOUS INJURY