



REPORT TO THE POLICE SERVICES BOARD

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Date of Report: January 18th,
2019

Subject: By-Law Administration of the Complaints
System

Decision
Report:

RECOMMENDATION:

That the Board receives for information the review of investigations conducted by the Professional Standards Unit from January 1st to December 31st, 2018.

Signed: 

Date: 19 FEB 19

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 overseen by the Office of the Independent Police Review Director (OIPRD). Public Complaints can be mailed, 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 reasons/definitions for screening out complaints are included in Appendix A. For the complaints that are screened in, the OIPRD can choose to retain complaints for investigation or other forms of resolution, they may assign other police services to investigate, or they can direct the Durham Regional Police Service (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 generated by the Professional Standards Unit (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 may uncover sufficient evidence of misconduct as established by the *Police Services Act*. They may arise from a prior internal investigation. Chief's Complaints are initiated by order of the Chief of Police and sworn members are compelled to participate in the investigation conducted by PSU.

A statistical review of complaints generated in 2018 indicates that the most frequent type of complaints were officer conduct complaints with allegations of Discreditable Conduct and Neglect of Duty.

Public Complaints

In 2018, there were 109 public complaints filed with the OIPRD about the conduct, services, or policies of the DRPS. This increased substantially (35.8%) from the 81 filed in 2017. The OIPRD directed one additional complaint about a member of the Peterborough Police Service to DRPS for investigation (that complaint was substantiated) for a total of 110 complaints.

Of the 110 Public Complaints assigned to DRPS, 49 were addressed by the OIPRD. 46 complaints were screened out by the OIPRD and closed for a variety of reasons including; frivolous, not in public interest, not within statutory time limits, or could be dealt with by other legislation. One complaint was resolved by local resolution. (Please see Appendix "A" for definitions). Of the remaining two complaints that were retained for investigation by the OIPRD, one was deemed unsubstantiated and one is still pending. The OIPRD also directed two complaints against members of the DRPS to the OPP for investigation. The outcomes of these investigations are still pending.

The remaining 58 public complaints were forwarded to DRPS for investigation which is an increase from the 36 public complaints that were investigated by DRPS in 2017.

46 of the public complaints investigated by Professional Standards have been resolved; seven were closed by Customer Service Resolution (CSR), two were closed by Local Resolution, two were substantiated, 18 were deemed unsubstantiated and 17 were withdrawn by the complainants. 12 public complaints are still in the investigative stages.

Internal/Chief's Complaints

In 2018 the PSU investigated 43 Internal Complaints. This represents a 48% increase from 29 Internal Complaints investigated during 2017.

Of the 43 Internal Complaints, 14 rose to the level of a Chief's Complaint and six met the threshold at the onset for a Chief's Complaint, for a total of 20 Chief's Complaints in 2018. This number remains the same as the number of Chief's Complaints from 2017 (20).

As of December 31, 2018, there were five officers suspended from duty, one dating back to 2012.

PUBLIC COMPLAINTS

Type of Public Complaint		
Year	Jan – Dec 2017	Jan – Dec 2018
Conduct	80	103
Not about Conduct or Service	0	1
Policy	0	1
Service Provided	1	5
Total	81	110

Public Complaints Screened Out by OIPRD		
	Jan –Dec 2017	Jan –Dec 2018
Not about the Conduct or Services or Policies of Police	1	3
Over 6 Months	1	2
Frivolous, Vexatious, Bad Faith	5	11
More Appropriately Dealt with by Another Act or Law	5	3
Third Party	0	1
Not in Public Interest	20	25
Withdrawn before Screening	3	1
TOTAL	35	46
Public Complaints Retained by OIPRD		
	Jan –Dec 2017	Jan –Dec 2018
Substantiated	0	0
Unsubstantiated	2	1
Withdrawn	1	0
Informal Discipline	1	0
Formal Discipline	0	0
Pending	5	1
TOTAL	9	2
Public Complaints Investigated by Other Service		
	Jan –Dec 2017	Jan –Dec 2018
Allegation		
Deceit	1	0
Discreditable Conduct	0	1
Neglect of Duty	0	1
Disposition		
Substantiated	0	0
Unsubstantiated	0	0
Pending	1	2
Request for Review	0	0

INVESTIGATIONS CONDUCTED BY THE DRPS PROFESSIONAL STANDARDS UNIT

<i>*Asterisk below denote there can be more than 1 allegation per complaint</i>				
ALLEGATIONS	Public Complaints		Chief's Complaints	
	Jan-Dec 2017	Jan-Dec 2018	Jan-Dec 2017	Jan-Dec 2018
Breach of Confidentiality/Trust	1	3	6*	0
Corrupt Practice	0	0	0	1
Deceit	0	0	2	1
Discreditable Conduct	23*	63*	16	16*
Impaired	0	0	0	1
Indecent Act	0	0	0	1
Insubordination	0	0	0	2*
Neglect of Duty	6	26*	0	13*
Proceeds of Crime	0	0	3*	0
Property Obtained by Crime	0	0	1*	0
Service/Policy Complaint	1	5	0	0
Sexual Assault	0	0	0	1
Theft Under	0	1	2*	0
Trafficking	0	0	4*	0
Unnecessary Arrest/Unnecessary Exercise of Authority	8	13	0	0
Weapons Dangerous	0	0	3*	0
DISPOSITIONS	Public Complaints		Chief's Complaints	
	Jan-Dec 2017	Jan-Dec 2018	Jan-Dec 2017	Jan-Dec 2018
Customer Service Resolution (CSR)	1	7	0	0
Local Resolution	1	2	0	0
Substantiated – Formal Discipline	0	1 (Peterborough Police Service)	1	4
Substantiated – Informal Discipline	0	1	5	1
No Further Action	0	0	2	0
Pending	8	12	9	12
Recommendations Made	0	1	0	0
Substantiated	1	0	3	0
Unsubstantiated	12	18	0	3
Withdrawn	13	17	0	0
TOTAL	36	59	20	20
Number of Local Complaints to the Board	0	0	0	0
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