



REPORT TO THE POLICE SERVICES BOARD

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Date of Report: February 2nd, 2018

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, 2017.

Signed: _____ Date: _____

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; they 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 commonly 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 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*. 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 2017 confirms that the most frequent type of complaint investigated by PSU is allegations of Discreditable Conduct, followed by complaints about Neglect of Duty.

Public Complaints

In 2017, there were 81 complaints about the conduct, services, or policies of the DRPS. This is down slightly from the 91 generated in 2016, a 9% reduction.

Of the 81 Public Complaints, 44 were addressed by the OIPRD; 35 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. (Please see Appendix "A" for definitions). Of the remaining nine (9) that required investigations by the OIPRD, one (1) was withdrawn, two (2) were deemed unsubstantiated, one (1) was dealt with by Informal Resolution Agreement (See Appendix "A") and five (5) are still in the investigative stages.

The remaining 36 complaints were forwarded to the Professional Standards Unit for investigation. Of the 36 public complaints investigated by Professional Standards, one (1) was closed by way of Customer Service Resolution (CSR), one (1) was closed by way of Local Resolution, one (1) was Substantiated, twelve (12) were deemed unsubstantiated, thirteen (13) were withdrawn by the complainants, eight (8) are still in the investigative stages and one (1) complaint was investigated by our office for Port Hope Police Service and was unsubstantiated. Of the 81 Public Complaints received by the Service only one complaint was substantiated and another two were dealt with by way of resolution. The nature and substance of the complaints are such that no trends exist therefore no remedial or other form of training is required for our general membership. Members of PSU continue to attend parades to educate our members on the complaint process. All new sworn members are provided with training on the complaint process as well.

Furthermore, one (1) complaint was directed to OPP 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

In 2017 the PSU investigated 29 Internal Complaints, down substantially from the 47 complaints investigated during 2016.

Of the 29 Internal Complaints, sixteen (16) rose to the level of a Chief's Complaint; four (4) additional complaints immediately met the threshold of a Chief's Complaint; for a total of twenty (20) Chief's Complaints. This represents a significant increase from the thirteen (13) Chief's Complaints in 2016.

As of December 31, 2017, there were six (6) officers suspended from duty; one dating back to 2012.

PUBLIC COMPLAINTS

Type of Public Complaint		
Year	Jan – Dec 2016	Jan – Dec 2017
Conduct	91	80
Not about Conduct or Service	0	0
Policy	0	0
Service Provided	0	1
Total	91	81

Public Complaints Screened Out by OIPRD		
	Jan –Dec 2016	Jan –Dec 2017
Not about the Conduct or Services or Policies of Police	1	1
Over 6 Months	3	1
Frivolous, Vexatious, Bad Faith	7	5
More Appropriately Dealt with by Another Act or Law	7	5
Not in Public Interest	18	20
Withdrawn before Screening	0	3
TOTAL	36	35
Public Complaints Retained by OIPRD		
	Jan –Dec 2016	Jan –Dec 2017
Substantiated	0	0
Unsubstantiated	4	2
Withdrawn	1	1
Informal Discipline	0	1
Formal Discipline	0	0
Pending	2	5
Other	0	0
TOTAL	7	9
Public Complaints Investigated by Other Service		
	Jan –Dec 2016	Jan –Dec 2017
Allegation		
Deceit	0	1
Neglect of Duty	1	0
Disposition		
Substantiated	1	0
Unsubstantiated	0	0
Pending	0	1
Request for Review	1 (Upheld)	0

INVESTIGATIONS CONDUCTED BY THE DRPS PROFESSIONAL STANDARDS UNIT

Please note there can be more than 1 allegation per complaint				
ALLEGATIONS	Public Complaints		Chief's Complaints	
	Jan-Dec 2016	Jan-Dec 2017	Jan-Dec 2016	Jan-Dec 2017
Breach of Confidentiality/Trust	2	1	0	6*
Deceit	0	0	2	2
Discreditable Conduct	30	23*	13	16
Insubordination	0	0	1	0
Neglect of Duty	9	6	3	0
Proceeds of Crime	0	0	0	3*
Property Obtained by Crime	0	0	0	1*
Theft Over	0	0	0	2*
Trafficking	0	0	0	4*
Unnecessary Arrest/Unnecessary Exercise of Authority	9	8	0	0
Weapons Dangerous	0	0	0	3*
DISPOSITIONS				
DISPOSITIONS	Public Complaints		Chief's Complaints	
	Jan-Dec 2016	Jan-Dec 2017	Jan-Dec 2016	Jan-Dec 2017
Customer Service Resolution (CSR)	4	1	0	0
Local Resolution	0	1	0	0
Formal Discipline	0	0	2	1
Informal Discipline	0	0	1	5
No Further Action	0	0	0	2
Pending	13	8	9	9
Substantiated	0	1	0	3
Unsubstantiated	12	12	1	0
Withdrawn	18	13	0	0
TOTAL	47	36	13	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

