

## REPORT TO THE POLICE SERVICES BOARD

---



Author: Chief Paul Martin #818

Date of Report: February 5, 2020

Subject: By-Law Administration of the Complaints System

Information Report

---

### RECOMMENDATION:

That the Board receives for information the review of investigations conducted by the Professional Standards Unit from January 1st to December 31st, 2019.

Signed: \_\_\_\_\_  
Chief of Police

Date: \_\_\_\_\_

### 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 2019 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, this will again be considered in the next report.

## PUBLIC COMPLAINTS

In 2019, the OIPRD received 118 public complaints with respect to the conduct of either DRPS officers or DRPS services, or policies. This represented an 8.25 percent increase from the 109 complaints received in 2018. The OIPRD also directed the Service to investigate one additional conduct complaint involving a member of the Toronto Police Service, for a total number of 119.

Of the 118 public complaints involving DRPS officers, conduct, services or policies, 61 were addressed by the OIPRD as follows:

- 57 were screened out by the OIPRD and closed based on the criteria outlined in Appendix "A".
- Two were retained for investigation by the OIPRD and were deemed unsubstantiated.
- Two were assigned to third-party police services for investigations and, at the time of writing, were still under investigation.

The remaining 58 public complaints were assigned to DRPS PSU for investigation, the same number as in 2018. 45 of those public complaints have been resolved as follows:

- One was resolved by way of Customer Service Resolution (CSR),
- Three were closed by way of Informal Resolution Agreement,
- One was closed by Local Resolution,
- One was substantiated as misconduct,
- 16 were deemed unsubstantiated, and
- 23 were withdrawn by the complainants.

The remaining 13 public complaints are still under investigation.

A review of complaints generated in 2019 indicated that the most frequent type of complaints involved officer conduct with allegations of Discreditable Conduct and Unnecessary Arrest/Unnecessary Exercise of Authority.

## INTERNAL/CHIEF'S COMPLAINTS

In 2019, the PSU investigated 37 internal complaints. This represented a 14 percent decrease from the 43 investigated in 2018.

Of the 37 internal complaints, 22 met the threshold for Chief's Complaints. This represented a 10 percent increase from the 20 in 2018.

## Public

A review of complaints generated in 2019 indicated that the most frequent type of complaints were officer conduct complaints with allegations of Discreditable Conduct and Neglect of Duty.

Of the 37 internal / Chief's complaints, two have been substantiated after investigation. However, 17 remain under investigation as of this writing.

As of December 31, 2019, there were four officers suspended from duty, one dating back to 2012.

## PUBLIC COMPLAINTS

### TYPE OF PUBLIC COMPLAINT

Type	Jan-Dec 2018	Jan-Dec 2019
Conduct	103	113 (1 Toronto PS)
Policy	1	3
Service Provided	5	3
Not about Conduct or Service	1	0
<b>TOTAL</b>	<b>110</b>	<b>119</b>

### PUBLIC COMPLAINTS SCREENED OUT BY THE OIPRD

Reason	Jan-Dec 2018	Jan-Dec 2019
Not about Conduct or Service	3	4
Over 6 Months	2	6
Frivolous, Vexatious, Bad Faith	11	10
More Appropriately Dealt with by Another Act or Law	3	7
Third Party	1	1
Not in Public Interest	25	26
Withdrawn before Screening	1	3
<b>TOTAL</b>	<b>46</b>	<b>57</b>

Public

PUBLIC COMPLAINTS RETAINED BY THE OIPRD

DISPOSITION	Jan-Dec 2018	Jan-Dec 2019
Substantiated	0	0
Unsubstantiated	1	2
Withdrawn	0	0
Informal Discipline	0	0
Formal Discipline	0	0
Pending	1	0
<b>TOTAL</b>	<b>2</b>	<b>2</b>

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - ALLEGATION

ALLEGATION	Jan-Dec 2018	Jan-Dec 2019
Discreditable Conduct	1	0
Neglect of Duty	1	1
Unlawful or Unnecessary Exercise of Authority	0	1
<b>TOTAL</b>	<b>2</b>	<b>2</b>

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - DISPOSITION

DISPOSITION	Jan-Dec 2018	Jan-Dec 2019
Substantiated	0	0
Unsubstantiated	0	0
Pending	2	2
Request for Review	0	0

PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – ALLEGATION

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

Allegations	Jan-Dec 2018	Jan-Dec 2019
Breach of Confidentiality	3	1
Deceit	0	1
Discreditable Conduct	63*	33
Insubordination	0	0
Neglect of Duty	26*	9*
Service/Policy Complaint	5	5
Unnecessary Arrest/Unnecessary Exercise of Authority	13	11

## PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – DISPOSITION

DISPOSITIONS	Jan-Dec 2018	Jan-Dec 2019
Customer Service Resolution (CSR)	7	1
Informal Resolution Agreement	0	3
Local Resolution	2	1
Substantiated – Formal Discipline	1 (Peterborough Police Service)	0
Substantiated – Informal Discipline	1	1
Pending	12	13 (1 Toronto PS)
Recommendations Made	1	0
Unsubstantiated	18	16
Withdrawn	17	23
<b>TOTAL</b>	<b>58</b>	<b>58</b>

## INTERNAL / CHIEF'S COMPLAINTS

## INTERNAL / CHIEF'S COMPLAINTS – ALLEGATIONS

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

Allegations	Jan-Dec 2018	Jan-Dec 2019
Assault	0	1
Breach of Confidentiality	0	1
Corrupt Practice	1	1
Deceit	1	4*
Discreditable Conduct	16*	53*
Impaired	1	0
Indecent Act	1	0
Insubordinations	2*	5*
Neglect of Duty	13*	8*
Sexual Assault	1	0

## INTERNAL / CHIEF'S COMPLAINTS - DISPOSITIONS

<b>DISPOSITIONS</b>	<b>Jan-Dec 2018</b>	<b>Jan-Dec 2019</b>
<b>Substantiated – Formal Discipline</b>	4	0
<b>Substantiated – Informal Discipline</b>	1	2
<b>Pending</b>	12	17
<b>Public Complaint</b>	0	1
<b>Sine Die</b>	0	1
<b>Unsubstantiated</b>	3	1
<b>TOTAL</b>	<b>20</b>	<b>22</b>

## 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