



## REPORT TO THE POLICE SERVICES BOARD

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Type of Report: Public

Title: By-Law Administration of the Complaints System

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### RECOMMENDATION:

That the Board receives for information the review of investigations conducted by the Professional Standards Unit from January 1st to June 20<sup>th</sup>, 2022.

### 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 2022 is very low. 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**

As of June 20<sup>th</sup>, 2022 the OIPRD received 59 public complaints with respect to the conduct of either DRPS officers or DRPS services, or policies. This represented a 26.25 percent decrease from the 80 complaints received at this time in 2021.

Of the 59 public complaints involving DRPS officers, conduct, services or policies, 35 were addressed by the OIPRD as follows:

- 28 were screened out by the OIPRD and closed based on the criteria outlined in Appendix “A”.
- Three were withdrawn before screening
- Four were screened out by the OIPRD “at this time” due to ongoing criminal investigations. Complainants are invited to resubmit their complaint to the OIPRD for consideration and screening at the conclusion of their criminal proceeding, and

The remaining 24 public complaints were assigned to DRPS PSU for investigation. This is a 47.82 percent decrease from the 46 that were assigned to PSU at this time in 2021.

14 of those public complaints have been resolved as follows:

- One was resolved by Early Resolution,
- Five were closed by way of Informal Resolution Agreement,
- Two were unsubstantiated, and
- Six were withdrawn by the complainants (after mediation with PSU investigators).

The remaining 10 public complaints are still under investigation.

A review of public complaints generated so far in 2022 indicated that the most frequent type of complaints involved officer conduct with allegations of:

- Discreditable Conduct – most common were allegations of officers being rude or insensitive (19), discriminatory in nature (7), voicing opinions regarding Freedom Convoy (5) and errors in report (5)
- Neglect of Duty – most common were allegations of officers not conducting a thorough investigation (16), not assisting member of the public (10) and arrested without cause (2)

## PUBLIC COMPLAINTS

### TYPE OF PUBLIC COMPLAINT

Type	Jan-Jun 2021	Jan-Jun 2022
Conduct	78	58
Policy	2	0
Service Provided	0	1
Not about Conduct or Service	0	0
<b>TOTAL</b>	<b>80</b>	<b>59</b>

### PUBLIC COMPLAINTS SCREENED OUT BY THE OIPRD

Reason	Jan-Jun 2021	Jan-Jun 2022
At This Time (pending Criminal Charges) New as of 2020	4	4
Not about Conduct or Service	0	0
Over 6 Months	2	0
Frivolous, Vexatious, Bad Faith	2	4
More Appropriately Dealt with by Another Act or Law	3	1
Third Party	4	4
Not in Public Interest	17	19
Withdrawn before Screening	1	3
<b>TOTAL</b>	<b>33</b>	<b>35</b>

### PUBLIC COMPLAINTS RETAINED BY THE OIPRD

DISPOSITION	Jan-Jun 2021	Jan-Jun 2022
Substantiated	0	0
Unsubstantiated	0	0
Withdrawn	0	0
Informal Discipline	0	0
Formal Discipline	0	0
Pending	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>

### PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - ALLEGATION

ALLEGATION	Jan-Jun 2021	Jan-Jun 2022
Discreditable Conduct	0	0
Neglect of Duty	1 (+ Discreditable Conduct x2)	0
Unlawful or Unnecessary Exercise of Authority	0	0
<b>TOTAL</b>	<b>1</b>	<b>0</b>

### PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - DISPOSITION

DISPOSITION	Jan-Jun 2021	Jan-Jun 2022
Substantiated	0	0
Unsubstantiated	0	0
Pending	1 (York Regional Police)	0
Request for Review	1 (York Regional Police)	0
<b>TOTAL</b>	<b>2</b>	<b>0</b>

**PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – ALLEGATION**

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

<b>Allegations</b>	<b>Jan-Jun 2021</b>	<b>Jan-Jun 2022</b>
<b>Assault</b>	0	0
<b>Breach of Confidentiality</b>	1	1
<b>Corrupt Practice</b>	0	0
<b>Deceit</b>	0	0
<b>Discreditable Conduct</b>	45*	23*
<b>Insubordination</b>	4*	0
<b>Neglect of Duty</b>	20*	24*
<b>Service/Policy Complaint</b>	2	0
<b>Unnecessary Arrest/Unnecessary Exercise of Authority</b>	5*	8*

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

<b>DISPOSITIONS</b>	<b>Jan-Jun 2021</b>	<b>Jan-Jun 2022</b>
<b>CSR Terminated and then Screened out by OIPRD</b>	0	0
<b>Customer Service Resolution (CSR)</b>	0	0
<b>Early Resolution</b>	2	1
<b>Informal Resolution Agreement</b>	3	5
<b>Local Resolution</b>	0	0
<b>Pending</b>	26	10
<b>Substantiated – Formal Discipline</b>	0	0
<b>Substantiated – Informal Discipline</b>	0	0
<b>Terminated by OIPRD</b>	2	0
<b>Unsubstantiated</b>	2	2
<b>Withdrawn</b>	11	6
<b>TOTAL</b>	<b>46</b>	<b>24</b>

**INTERNAL/CHIEF’S COMPLAINTS**

As of June 20<sup>th</sup>, 2022, the PSU investigated 16 internal complaints. This represented a 30.43 percent decrease from the 23 investigated at this time in 2021.

Of the 16 internal complaints, four rose to the level of a Chief’s Complaint and 21 met the threshold at the onset for a total of 25 Chief’s Complaints being investigated by the PSU. This represented a 78.57 percent increase from the 14 investigated at this time in 2021.

A review of complaints generated to date in 2022 indicated that the most frequent type of complaints were officer conduct complaints with allegations of:

- Discreditable Conduct – most common were allegations of officers participating or promoting Freedom Convoy/Rally’s (6), engaging in inappropriate texts or emails (5) and inappropriate Social Media related posts (2) and
- Insubordination – most common were allegations of officers engaging in inappropriate texts or emails (4) and inappropriate Social Media related posts (2)

Of the 37 internal/Chief's complaints, 11 have been closed as follows:

- Six were closed no further action,
- One was closed pending further information,
- One was forwarded to York Regional Police for investigation,
- One was unsubstantiated, and
- Two were substantiated

The remaining 26 internal/Chief's Complaints are still under investigation as of this writing.

As of June 20<sup>th</sup>, 2022, three officers were suspended from duty:

- 1 officer charged PSA is suspended with pay,
- 1 officer charged criminally is suspended with pay,
- 1 officer convicted criminally, pending appeal is suspended without pay

## INTERNAL / CHIEF'S COMPLAINTS

### INTERNAL / CHIEF'S COMPLAINTS – ALLEGATIONS

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

Allegations	Jan-Jun 2021	Jan-Jun 2022
Breach of Confidentiality	6	2*
Break and Enter	1	0
Deceit	1	1
Discreditable Conduct	17*	26*
Harassment	0	1
Insubordination	5*	9*
Neglect of Duty	9*	6
Possession of Narcotics	1	0
Possession of Prohibited Firearm	0	2*
Sexual Assault	2	0
Theft Under	0	1*
Unlawful in a Dwelling	0	1

### CHIEF'S COMPLAINTS - DISPOSITIONS

DISPOSITIONS	Jan-Jun 2021	Jan-Jun 2022
Pending	11	22
Substantiated – Formal Discipline	0	0
Substantiated – Informal Discipline	2	2
Unsubstantiated	1	1
<b>TOTAL</b>	<b>14</b>	<b>25</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