



REPORT TO THE POLICE SERVICES BOARD

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Date of Report: 2/21/2023

Type of Report: Public

Title: 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 December 31st, 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.

The number of substantiated complaints in all categories for 2022 is 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. This will be continually monitored and reported if any such trends are detected.

PUBLIC COMPLAINTS

In 2022, the OIPRD received 132 public complaints with respect to the conduct of DRPS officers or for DRPS services/policies. This represented a 15.38 percent decrease from the 156 complaints received in 2021.

Of the 132 public complaints involving DRPS officers' conduct, DRPS services or policies, 75 were addressed by the OIPRD as follows:

- 71 were screened out by the OIPRD and closed based on the criteria outlined in Appendix "A", and
- Four were withdrawn before screening

The remaining 57 public complaints were assigned to DRPS PSU for investigation. This is a 24 percent decrease from the 75 that were assigned to PSU in 2021.

51 of those public complaints have been resolved as follows:

- Five were resolved by way of Early Resolution,
- 19 were closed by way of Informal Resolution Agreement (after consultation with PSU investigators),
- One was closed by Local Resolution,
- One was Substantiated complaint was resolved informally,
- Nine were deemed unsubstantiated, and
- 16 were withdrawn by the complainants (after consultation with PSU investigators).

The remaining six public complaints are still under investigation.

A review of complaints investigated by the PSU, generated 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, insulting or insensitive (37) and discriminatory in nature (18)
- Neglect of Duty – most common were allegations of officers not conducting a thorough investigation (20) and did not assist a citizen (5)
- Unnecessary Arrest/Unnecessary Exercise of Authority/Use of Force– most common were allegations of officers conducting unlawful arrests (6) and using excessive force (7)

PUBLIC COMPLAINTS

TYPE OF PUBLIC COMPLAINT

Type	Jan-Dec 2021	Jan-Dec 2022
Conduct	152	128
Policy	3	0
Unsatisfactory Service	1	4
TOTAL	156	132

PUBLIC COMPLAINTS SCREENED OUT BY THE OIPRD

Reason	Jan-Dec 2021	Jan-Dec 2022
At This Time (pending Criminal Charges/Investigation/Tickets)	15	5
Not about Conduct or Service	0	0
Over 6 Months	2	0
Frivolous, Vexatious, Bad Faith	7	13
More Appropriately Dealt with by Another Act or Law	5	4
Terminated by OIPRD	1	0
Third Party	8	5
Not in Public Interest	37	44
Withdrawn before Screening	1	4
TOTAL	76	75

PUBLIC COMPLAINTS RETAINED BY THE OIPRD

DISPOSITION	Jan-Dec 2021	Jan-Dec 2022
Substantiated	0	0
Unsubstantiated	0	0
Withdrawn	0	0
Informal Discipline	0	0
Formal Discipline	0	0
Pending	0	0
TOTAL	0	0

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - ALLEGATION

ALLEGATION	Jan-Dec 2021	Jan-Dec 2022
Discreditable Conduct	6*	0
Fail to Make Entry	1*	0
Neglect of Duty	3*	0
Unlawful or Unnecessary Exercise of Authority	1*	0

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

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - DISPOSITION

DISPOSITION	Jan-Dec 2021	Jan-Dec 2022
Informal Resolution	1	0
Substantiated	0	0
Unsubstantiated	2	0
Pending	2	0
Request for Review	0	0
TOTAL	5	0

PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – ALLEGATION

Allegations	Jan-Dec 2021	Jan-Dec 2022
Assault	0	0
Breach of Confidentiality	3	2
Corrupt Practice	1	1
Deceit	2	3*
Discreditable Conduct	70*	37*
Discreditable Conduct Discrimination Based	15*	18*
Insubordination	4*	0
Neglect of Duty	48*	30*
Service/Policy Complaint	3	4
Unnecessary Arrest/Unnecessary Exercise of Authority	12*	13*

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PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – DISPOSITION

DISPOSITIONS	Jan-Dec 2021	Jan-Dec 2022
CSR Terminated and then Screened out by OIPRD	0	0
Early Resolution	5	5
Informal Resolution Agreement	19	19
Local Resolution	0	1
Substantiated – Formal Discipline	0	0
Substantiated – Informal Discipline	0	1
Pending	16	6
Terminated by OIPRD	1	0
Terminated by PSU	1	0
Unsubstantiated	11	9
Withdrawn	22	16
TOTAL	75	57

INTERNAL/CHIEF'S COMPLAINTS

In 2022, the PSU investigated 45 Chief's Complaints and conducted 19 internal investigations (64 total). This represented a 16.36 percent increase from the 55 investigations (Chief's complaints and internal investigations) in 2021.

26 of the internal/Chief's complaints have been resolved as follows:

- 12 investigations were closed no further action,
- One was a criminal investigation regarding a police officer from another service which was concluded
- 11 were substantiated after investigation (two formal, nine informal discipline),
- One was unsubstantiated and
- One of the investigations was assigned to a third-party police service and was substantiated and is currently in the PSA Hearing Process

The remaining 38 internal/Chief's complaints are still under investigation.

A review of complaints generated in 2022 indicated the most frequent type of internal/Chief's complaints were officer conduct complaints with allegations of:

- Discreditable Conduct – most common were allegations of officers engaging and participating or posting about the Freedom Convoy/Rallys/Protests (11), officers sending inappropriate emails/texts (8), misuse of MTO/CPIC/DRPS systems (2) and officers engaging in inappropriate online/social media comments/posts (2)
- Insubordination – most common were allegations of not following orders and/or DRPS Directives (7), officers sending inappropriate emails/texts (7), officers not disclosing secondary activities (3) and officers engaging in inappropriate online/social media comments/posts (2)
- Neglect of Duty – most common were allegations of not following orders and/or DRPS Directives (7), officers engaging and participating with social media that is in contravention of DRPS orders and Directives (3), and officers failing to attend court (2)

As of December 31, 2022, there were three officers suspended from duty:

- 2 officers charged criminally
- 1 officer charged PSA

INTERNAL / CHIEF'S COMPLAINTS

INTERNAL / CHIEF'S COMPLAINTS – ALLEGATIONS

Allegations	Jan-Dec 2021	Jan-Dec 2022
Break and Enter	1	0
Breach of Confidence	12*	3
Criminal Harassment	0	3
Dangerous Operation of a Conveyance	1	0
Deceit	2	4*
Discreditable Conduct	33*	44*
Importing Prohibited Device	0	1
Insubordination	20*	24*
Neglect of Duty	10*	14*
Point Firearm	1	0
Possession of Drugs	2	0
Possession Prohibited Firearm	0	5*
Possession Prohibited Weapon	0	5*
Possession Prohibited Ammo	0	2*
Theft Under	0	1
Sexual Assault	2	0
Unlawful in Dwelling	0	1
Unnecessary Force	0	2
Utter Threats	1	0

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INTERNAL / CHIEF'S COMPLAINTS - DISPOSITIONS

DISPOSITIONS	Jan-Dec 2021	Jan-Dec 2022
Other Services Officer	2	1 (OPP)
Pending	21	38
Loss of jurisdiction due to retirement/resignation	3 (1 Member retired, 2 Members resigned)	0
Substantiated by Other Service	0	1 (YRP) currently in PSA Hearing Process
Substantiated – Formal Discipline	0	2
Substantiated – Informal Discipline	7	9
Unfounded/Terminated/Unsubstantiated	22	13
TOTAL	55	64

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

Report Approval Details

Document Title:	By-Law Administration of the Complaints System 2022.docx
Final Approval Date:	Feb 9, 2023

This report and all of its attachments were approved and signed as outlined below:

A handwritten signature in black ink, appearing to be 'Todd Rollauer', with a stylized, cursive-like script.

Todd Rollauer