



REPORT TO THE POLICE SERVICE BOARD

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Date of Report: 9/17/2024

Type of Report: Public

Title: By-Law Administration of the Complaints System

RECOMMENDATION:

The Board is to receive the review of investigations conducted by the Professional Standards Unit (PSU) from January 1 to June 30, 2024, for informational purposes.

OVERVIEW

This report provides a review of investigations involving public complaints, internal complaints, and Chief's complaints. The public complaints system is overseen by the Law Enforcement Complaints Agency (LECA), formerly known as the Office of the Independent Police Review Director (OIPRD) prior to April 1st, 2024. Complaints can be submitted by mail, at any police station, or online. The OIPRD/LECA determines which complaints will undergo investigation through a screening process, with screening categories outlined in Appendix A.

The OIPRD/LECA has three options for handling screened complaints - retaining them for investigation or other resolution methods, assigning them to a third-party police service for investigation, or directing the DRPS to investigate through the PSU. There are specific legislative timelines for public complaint investigations: conduct complaints must be completed within 120 days, and policy/service complaints within 60 days.

The PSU initiates internal complaints in response to potential misconduct by members of the Service. Information for an internal complaint can come from any source, but it usually originates from a member of the Service or a member of the public. Civilian members of the Service can also be the subject of an internal complaint investigation and may face discipline as outlined in DRPS Directive AO-09-004: Civilian Discipline Process.

Chief's complaints are investigations into the conduct of sworn members that may uncover evidence of misconduct according to the *Police Services Act* (PSA) and the *Community Safety Policing Act* (CSPA), effective as of April 1st, 2024. These complaints may arise from an internal investigation. Chief's complaints (PSA) and Chief's investigations (CSPA) are initiated by order of the Chief of Police, and just like public complaints, sworn members are required to participate in the investigation.

The number of substantiated complaints in all categories for the first part of 2024 is low, considering the total number of complaints investigated. Despite an almost 40% increase in public complaints, all completed investigations to date were unsubstantiated. There are no discernible 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

As of June 30th, 2024, the OIPRD/LECA received 91 public complaints regarding the conduct of DRPS officers or DRPS services/policies. This marked a 33.82% increase from the 68 complaints received in 2023, which is attributed to a higher volume of public complaints.

Of the 91 public complaints involving DRPS officers' conduct or related to DRPS services or policies, 52 were addressed by the OIPRD/LECA.

- 48 cases were screened by the OIPRD/LECA and closed based on the criteria outlined in Appendix “A.”
- Two were withdrawn before screening.
- Two were assigned by the OIPRD/LECA to the OPP for investigation.

The DRPS PSU was assigned to investigate the remaining 39 public complaints, marking a 44.44% increase from the 27 assigned in 2023. 33 of the 39 public complaints have been resolved with 6 remaining active investigations:

- One was closed with no further action.
- Three were resolved by way of Early Resolution.
- Ten were closed by way of an Informal Resolution Agreement (after consultation with PSU investigators).
- One was Terminated by OIPRD/LECA.
- Eight were deemed unsubstantiated (after an investigation).
- Ten were withdrawn by the complainants (after consultation with PSU investigators).

A review of complaints investigated by PSU in the first half of 2024 indicated that the most frequent type of complaints involved officer conduct, with allegations of:

- Neglect of Duty (24) – most common were allegations of officers not conducting a thorough investigation (14)
- Discreditable Conduct (20) – most common were allegations of incivility (6) and discrimination (3)
- Unnecessary Arrest/Unnecessary Exercise of Authority/Use of Force (9)– most common were allegations of officers conducting unlawful arrests (7)

PUBLIC COMPLAINTS

TYPE OF PUBLIC COMPLAINT

| Type | Jan-Jun 2023 | Jan-Jun 2024 (PSA & CSPA) |
|-------------------------------------|--------------|---------------------------|
| Conduct | 66 | 73 |
| Not About Conduct or Service | 0 | 0 |
| Interactions with Public | N/A | 8 |
| Performance of Duties | N/A | 5 |
| Policy | 2 | 1 |
| Service | 0 | 4 |
| TOTAL | 68 | 91 |

PUBLIC COMPLAINTS SCREENED OUT BY THE OIPRD/LECA

| Reason | Jan-Jun 2023 | Jan-Jun 2024 |
|--|---------------------|---------------------|
| At This Time (pending Criminal Charges/Investigation/Tickets) Over 6 Months | 8 | 12 |
| Frivolous, Vexatious, Bad Faith | 6 | 3 |
| More Appropriately Dealt with by Another Act or Law | 0 | 2 |
| Third Party | 0 | 1 |
| Not in Public Interest | 26 | 30 |
| Withdrawn before Screening | 1 | 2 |
| TOTAL | 41 | 50 |

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - ALLEGATIONS

| ALLEGATION | Jan-Jun 2023 | Jan-Jun 2024 |
|---------------------------|---------------------|---|
| Neglect of Duty | 0 | 2 (OPP) |
| Unlawful Authority | 0 | 2 (OPP) |
| TOTAL | 0 | (4 Allegations/2 Investigations) |

PUBLIC COMPLAINTS INVESTIGATED BY OTHER SERVICES - DISPOSITION

| DISPOSITION | Jan-Jun 2023 | Jan-Jun 2024 |
|------------------------|---------------------|---------------------|
| Substantiated | 0 | 0 |
| Unsubstantiated | 0 | 1 (OPP) |
| Pending | 0 | 1 (OPP) |
| TOTAL | 0 | 2 |

PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – ALLEGATION

| Allegations | Jan-Jun 2023 | Jan-Jun 2024 |
|---|---------------------|---------------------|
| Breach of Confidentiality | 0 | 1 |
| Corrupt Practice | 0 | 1 |
| Deceit | 0 | 2* |
| Discreditable Conduct | 39* | 20* |
| Interactions with the Public-Conduct Undermines Public Trust | N/A | 3 |
| Insubordination | 0 | 0 |
| Neglect of Duty | 22* | 24* |
| Performance of Duties – Neglects to do Duty | N/A | 2 |

| | | |
|---|----|----|
| Service/Policy Complaint | 2 | 5 |
| Unnecessary Arrest/Unnecessary Exercise of Authority | 8* | 9* |

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

*PLEASE NOTE AS OF APRIL 1ST, 2024 THE NEW COMMUNITY SAFETY POLICING ACT (CSPA) CAME INTO EFFECT WHICH CREATED NEW ALLEGATIONS OF MISCONDUCT

PUBLIC COMPLAINTS INVESTIGATED BY THE DRPS PROFESSIONAL STANDARDS UNIT – DISPOSITION

| DISPOSITIONS | Jan-Jun 2023 | Jan-Jun 2024 |
|--|---------------------|---------------------|
| Closed No Further Action | 0 | 1 |
| Early Resolution | 1 | 3 |
| Informal Resolution Agreement | 1 | 10 |
| Substantiated – Formal Discipline | 0 | 0 |
| Substantiated – Informal Discipline | 0 | 0 |
| Pending | 12 | 6 |
| Terminated by OIPRD | 1 | 1 |
| Unsubstantiated | 8 (1 for OPP) | 8 |
| Withdrawn | 4 | 10 |
| TOTAL | 27 | 39 |

OIPRD/LECA did not retain any investigations in the first half of 2024.

INTERNAL/CHIEF’S COMPLAINTS

As of June 30th, 2024, the PSU investigated 26 Chief's Complaints (PSA), seven Chief's Investigations (CSPA), and 11 internal investigations (44 total). This represented an 83.33 percent increase from the 24 investigations (Chief's complaints and internal investigations) in 2023.

20 of the internal/Chief’s complaints/investigations have been resolved as follows:

- One investigation was referred to the Divisional level to be addressed.
- One investigation transitioned to a public complaint.
- One investigation led to a guilty plea in criminal court.
- One investigation resulted in the resignation of the Constable in Training (CIT).
- Three investigations were closed with no further action.
- Six were substantiated after investigation (informal).
- Seven investigations were unsubstantiated.

The remaining 24 internal/Chief complaints/Chief investigations are still under investigation. A review of complaints generated in the first half of 2024 indicated the most frequent type of internal/Chief’s complaints/Chief’s Investigations were officer conduct complaints with allegations of:

- Insubordination (19) – most common were allegations of officers not following DRPS Directives

- Neglect of Duty (13) – most common were allegations officers did not monitor and handle arrested party properly involving an impaired party (5) along with officers failing to arrest parties involving domestic related incidents (7)
- Discreditable Conduct (12) – most common were allegations of officers interfering with investigations (5) and being disrespectful and/or rude (2)

From January 1st, 2024, to June 30th, 2024, four officers were suspended from duty:

- Two officers charged criminally (suspended with pay).
 - One suspension has since been rescinded; one remains in effect.
- Two officers under investigation PSA (suspended with pay).
 - One suspension has since been rescinded; one remains in effect.

Currently three officers are suspended from duty:

- One officer charged criminally 2018 (suspended without pay)
- One officer charged criminally 2024 (suspended with pay)
- One officer under investigation PSA (suspended with pay)

INTERNAL / CHIEF’S COMPLAINTS/CHIEF’S INVESTIGATIONS

INTERNAL / CHIEF’S COMPLAINTS / CHIEF’S INVESTIGATIONS – ALLEGATIONS

| Allegations | Jan-Jun 2023 | Jan-Jun 2024 |
|---|---------------------|---------------------|
| Breach of Confidence | 2 | 0 |
| Code of Conduct | 0 | 4 |
| Compliance with Laws – Guilty of Offence Under Criminal Code | N/A | 1 |
| Damage to Clothing or Equipment | 0 | 2 |
| Dangerous Operation of a Conveyance | 0 | 1 |
| Deceit | 1 | 4* |
| Discreditable Conduct | 13* | 12* |
| Exceed | 0 | 1 |
| Fail to Provide Necessaries of Life | 0 | 2 |
| Impaired | 0 | 1 |
| Integrity – Unauthorized Disclosure | N/A | 1 |
| Interactions with the Public – Insulting Language | N/A | 1 |
| Insubordination | 10* | 19* |
| Neglect of Duty | 11* | 13* |
| Obstruct Justice | 0 | 1 |
| Performance of Duties – Comply with Directives/Order | N/A | 2 |

| | | |
|---|-----|---|
| Performance of Duties – Unauthorized Communication to Media/Disclosure | N/A | 2 |
| Public Mischief | 1 | 0 |
| Sexual Assault | 1 | 1 |
| Unlawful Authority | 1 | 1 |

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

INTERNAL / CHIEF’S COMPLAINTS/CHIEF’S INVESTIGATIONS - DISPOSITIONS

| DISPOSITIONS | Jan-Jun 2023 | Jan-Jun 2024 |
|---|---------------------|---------------------|
| Became a Public Complaint | 0 | 1 |
| Closed No Further Action | 4 | 3 |
| Pending | 13 | 24 |
| Pled Guilty in Criminal Court | 0 | 1 |
| Resigned | 0 | 1 |
| Substantiated – Back to Division/HR | 4 | 1 |
| Substantiated – Formal Discipline | 0 | 0 |
| Substantiated – Informal Discipline | 2 | 6 |
| Unfounded/Terminated/Unsubstantiated | 1 | 7 |
| TOTAL | 24 | 44 |

APPENDIX A (OIPRD/LECA SCREENING CATEGORIES)
CSPA REFUSAL TO INVESTIGATE

Refusal to investigate

- 158 (1) The Complaints Director may refuse to cause a complaint to be investigated if,
- (a) the facts on which the complaint is based occurred more than six months before the complaint is made;
 - (b) the complainant was not affected by the conduct of the person who is the subject of the complaint, as determined under subsection (3);
 - (c) the complaint alleges conduct that does not, on its face, constitute misconduct; or
 - (d) in the Complaints Director's opinion,
 - (i) the complaint is frivolous, vexatious or made in bad faith, or
 - (ii) having regard to all the circumstances, dealing with the complaint is not in the public interest.

Six-month period

- (2) For the purposes of clause (1) (a), the Complaints Director shall consider,
- (a) whether the complainant is a minor or under a disability within the meaning of the Accessibility for Ontarians with Disabilities Act, 2005, or is a complainant referred to in subsection 154 (3) acting on behalf of a minor or incapable person;
 - (b) whether the complainant is or was subject to a criminal investigation or proceeding in respect of the events underlying the complaint; and
 - (c) whether, having regard to all the circumstances, it is in the public interest for the complaint to be investigated.

Persons affected by conduct

- (3) For the purposes of clause (1) (b), only the following persons shall be considered to have been affected by the conduct:
- 1. A person at whom the conduct was directed.
 - 2. A person who saw or heard the conduct or its effects as a result of being physically present at the time and place that the conductor its effects occurred.
 - 3. A person who,
 - i. was in a personal relationship with a person described in paragraph 1 at the time that the conduct occurred, and
 - ii. suffered loss, damage, distress, danger or inconvenience as a result of the conduct.

Same

- (4) In the case of a complainant referred to in subsection 154 (3) who is acting on behalf of a minor or incapable person, a determination under clause (1) (b) of this section shall be made in respect of the minor or incapable person rather than in respect of the complainant.

Notice

- (5) If the Complaints Director refuses to investigate a complaint in accordance with this section, he or she shall give notice of there refusal, with reasons, and of the substance of the complaint to,
- (a) the complainant;
 - (b) the person who is the subject of the complaint; and
 - (c) the applicable designated authority.

Report Approval Details

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

Chris Kirkpatrick

