

**PUBLIC**

THE REGIONAL MUNICIPALITY OF YORK

POLICE SERVICES BOARD

REPORT OF THE CHIEF OF POLICE

FEBRUARY 14, 2018

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**Annual Report on Public Complaints**

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**RECOMMENDATION**

1. That the Board receive this report pursuant to Section 31(1)(j) of the *Police Services Act*, Board By-Law No. 01-11 respecting the Administration of the Complaints System under Part V of the *Police Services Act*.

**SYNOPSIS**

Section 31(1)(j) of the *Police Services Act* requires the Board to review the Chief's administration of the complaints system under Part V and receive regular reports from the Chief on the administration of the complaints system.

In accordance with Board Policy and York Regional Police procedures, the Chief is required to provide semi-annual reports to the Board that include cumulative and detailed information and comparative data from the preceding calendar year. The first report each year shall summarize the yearly complaints, including an analysis of frequency, nature and substance of policy and conduct complaints and whether the analysis indicates the need for training or additional resources. In accordance with Section 31(b) of the Adequacy and Effectiveness of Police Services Regulation, the information contained in the attached report will also be included in the 2017 Annual Report.

## **FINANCIAL IMPLICATIONS**

Not applicable.

## **BACKGROUND**

On October 19, 2009, amendments to Part V of the *Police Services Act* came into effect in Ontario, which brought significant change to the manner in which public complaint investigations are administered. The Office of the Independent Police Review Director (OIPRD) was established as an arm's length agency of the Ministry of the Attorney General. Complaints about police are no longer filed with the police service of origin, but instead are filed directly with OIPRD. The Director is responsible for accepting and classifying complaints, and may decide to send the complaint to the originating service or another police service for investigation. In some cases, the Director may opt to have OIPRD investigate the complaint.

The basic guidelines for filing a complaint have remained the same; that a member of the public may complain about the conduct of an officer or officers, or about the policies of or services provided by a police force. The complainant in a public complaint must have been the person who was directly affected by the conduct, policy or service. The complaint must be made within six months of the incident which prompted it, and complaints must not be frivolous, vexatious, or made in bad faith.

Certain exemptions to the above listed stipulations are now in effect. People who are indirectly affected by the conduct, but who can demonstrate a personal relationship with the complainant may now make a complaint if they can show that they suffered distress or loss as a result of the conduct. On a case-by-case basis, the Director may opt to accept complaints that are made outside of the six month time limit.

A complaint must still be made in writing and be signed by the complainant, and complaints may now be e-filed with OIPRD.

The Ontario Civilian Police Commission (OCPC) will maintain carriage of any complaint appeals and reviews that existed prior to October 19, 2009. Moving forward, OCPC will function solely as an appeal body for Hearings conducted under the *Police Services Act*.

The Chief of Police is still responsible for reviewing every complaint that is made about the policies of or services provided by a police force and shall take appropriate action in response to the complaint.

### **Policy/Service Complaints**

The *Police Services Act* requires the Chief of Police to submit a written report to the Board respecting complaints about the policies of or services provided by the police force and the disposition of same. In 2017 there were five service complaints assigned by the OIPRD to York Regional Police for review in accordance with section 61(1) of the *Police Services Act*. Three service complaints were withdrawn and two matters proceeded to report. They are described below.

## Service Complaints

- 1) On June 22, 2017, York Regional Police was notified by the OIPRD of a service complaint in which the complainant believed that there was a failing by York Regional Police to enforce a Child Custody Access Order.

On three occasions between December 9, 2016 and April 28, 2017, the complainant in this matter contacted York Regional Police in regards to child custody issues between him and his ex-wife. He requested that police enforce a Custody Order issued by Justice Roswell, dated March 31, 2015 which contained a provision for police to enforce the custody and access arrangement of the children on a permanent basis. This Order was made without notice to York Regional Police. In each of the three calls for service to enforce the Order, officers determined it not to be in the best interests of the child or in public interest to enforce the Order.

On May 1, 2017, Mr. Jason Fraser, General Counsel for York Regional Police sent a letter to the counsels for the complainant and his ex-wife indicating the police service's concerns with the police enforcement clause in the Court Order and suggested the matter needed to be brought back before the court. No reply was received from either party.

On July 8, 2017, Mr. Fraser commenced a motion in Family Court, on behalf of the Chief of Police, to change Justice Roswell's Order by setting aside the police enforcement clauses. On September 18, 2017, Mr. Fraser appeared before the Honorable Justice D. Salmers in Family Court. At that time, the police enforcement clauses was removed from Justice Rothwell's Order.

Upon review of the officer's actions in relation to York Regional Police Procedure LE-359 Family Court Orders - Enforcement, the child apprehension authority under section 36 of the *Children's Law Reform Act* and the legal opinion from York Regional Police Legal Services, the service complaint regarding the non- enforcement of this Custody Order was deemed unsubstantiated.

This service complaint was reported to the Board on October 18, 2017.

- 2) On September 27, 2017, York Regional Police was notified by the OIPRD of a service complaint in which the complainant believed that there was a failing by York Regional Police to enforce a Child Custody Access Order.

On three occasions between November 2016 and August 2017, the complainant in this matter contacted York Regional Police to enforce a Custody Order made by the Honorable Justice Carpenter-Gunn on July 31, 2015. The Order, which had been made without notice to York Regional Police, included a provision that required police to enforce custody and access on a permanent basis.

The complainant wanted York Regional Police to enforce the custody portion of the Order on August 31, 2017, but upon review of the matter with York Regional Police Legal, it was determined that the Order would not be enforced. Subsequently, Mr. Fraser commenced a motion in Welland Family Court on behalf of the Chief of Police, to change the Order by setting aside the police enforcement clause. On November 29, 2017, Mr. Fraser appeared before the Family Court and at that time the police enforcement clause was removed from Justice Carpenter-Gunn's Order.

Upon review of the officer's actions in relation to York Regional Police Procedure LE-359 Family Court Orders - Enforcement, the child apprehension authority under section 36 of the *Children's Law Reform Act* and the legal opinion from York Regional Police Legal Services, the service complaint regarding the non-enforcement of this custody Order was deemed unsubstantiated.

This service complaint was reported to the Board on January 17, 2018.

## **Conduct Complaints**

In regard to complaints made about the conduct of a police officer, the Chief may resolve the matter informally if the conduct is not of a serious nature. If at the conclusion of the investigation and on review of the written report, the conduct of the officer constitutes serious misconduct pursuant to the *Police Services Act*, the Chief shall hold a hearing into the matter. The majority of public complaints received in 2017, have been classified as police procedure, followed by complaints of verbal incivility, misuse of authority and physical assault.

During 2017, York Regional Police received 126 public complaints compared to 137 in 2016 and 150 in 2015. This represents an eight percent decrease in public complaints from 2016. The percentage of complaints being screened in by the OIPRD is consistent with previous years. In 2017, 51 percent of complaints were screened in while in 2016, 44 percent were accepted. Screened in complaints have ranged between 44-52 percent in the last five years.

As the attached chart indicates, 64 public complaints were investigated with none resulting in discipline towards the officer, 17 were informally resolved, 19 withdrawn and 11 determined to be unsubstantiated. There was one complaint in which the OIPRD was unable to proceed as it did not involve a police officer. Eleven complaints were still under investigation as of December 31, 2017. Sixty-three complaints were not accepted by the OIPRD because, in accordance with Section 60 of the *Police Services Act*, they were determined to be either frivolous; vexatious or made in bad faith; could be more appropriately dealt with under another *Act* or law; were not in the public interest or were over six months old.

The OIPRD only retained one complaint for investigation in 2017, in which the complainant withdrew their complaint during the investigation.

During 2017, following the notification to the complainants of the disposition of their public complaint, three requests were made by complainants to the OIPRD to review the decision made by the Chief of Police. Two of the requests were confirmed by the OIPRD as unsubstantiated. One of the reviews has not yet been completed and the results are pending.

The actual sworn strength of York Regional Police at the end of 2017, was 1637 sworn officers. The percentage of conduct complaints per officer for the year is .08 percent; one of the lowest percentages of the large police agencies in Ontario. The low number of complaints per officer and the low number of substantiated complaints can be attributed, in part, to all members upholding the Values and adhering to the Code of Ethics of York Regional Police.

The Professional Standards Bureau has maintained an excellent working relationship with the OIPRD in 2017. They continue to participate in ongoing programs with the OIPRD for Customer Service Resolutions (CSR) including a newer initiative called the Enhanced Mediation Program. Both of these programs aim to assist in the resolution of complaints at an earlier stage to promote understanding between the complainants and the police service as opposed to a more formal investigation for minor complaint issues.

Professional Standards Bureau members continued to deliver presentations to Recruit classes and Supervisor classes in 2017, to familiarize members with the complaint investigation process, as well as to discuss the common themes of complaints in an effort to reduce or eliminate public complaints. York Regional Police is committed to our Values and Code of Professional Ethics both internally and externally.

André Crawford  
Acting Chief of Police

AC: sr  
Attachment

Accessible formats or communication supports are available upon request



# **PROFESSIONAL STANDARDS BUREAU**

**2017**

**ANNUAL SUMMARY**

## PUBLIC COMPLAINT INVESTIGATIONS NATURE OF COMPLAINTS

Year	Police Procedure	Physical Assault	Verbal Abuse	Misuse of Authority	Policy Service	Totals	Staffing
2012	47	13	35	17	8	120	1495
2013	61	11	25	24	1	122	1513
2014	51	11	30	18	5	115	1529
2015	66	16	34	17	17	150	1562
2016	85	8	31	5	8	137	1579
2017	71	7	27	12	9	126	1637

## NATURE OF COMPLAINTS

Year	Police Procedure	Physical Assault	Verbal Abuse	Misuse of Authority	Policy Service	Totals
2017	70	10	29	12	5	126
2016	85	8	31	5	8	137
% CHANGE 2016-2017	-8%	+12%	-9%	+240%	-6%	-10%

## ANNUAL PERCENTAGE COMPARISON

Year	Police Procedure	Physical Assault	Verbal Abuse	Misuse of Authority	Policy Service
2012	39%	11%	28%	14%	8%
2013	50%	9%	20%	20%	1%
2014	44%	10%	26%	16%	4%
2015	44%	11%	23%	11%	11%
2016	62%	6%	22%	4%	6%
2017	56%	6%	21%	10%	7%

## POLICE SERVICES COMPARISON

Police Service	Durham	Halton	Hamilton	Niagara	Ottawa	Peel	Waterloo	York
2017 Uniform Officers	842	Not available	838	705	Not available	2103	778	1637
2017 Public Complaints	81		92	93		195	102	126
Complaints per officer	0.10		0.11	0.13		0.09	0.13	0.08

# NATURE OF COMPLAINTS DETAILED

## POLICE PROCEDURE

Fail to Identify	0
Neglect of Duty	43
Improper Detention (includes stopping car)	1
Improper Search – person	0
Improper Arrest	10
Improper Charge	13
Improper Entry	0
Improper Use of Discretion	3
Other (parking, provincial offence, keep the peace)	0
<b>Service &amp; Policy</b>	<b>5</b>
<b>TOTAL</b>	<b>75</b>

## PHYSICAL ASSAULT

Assault	2
Assault with Injury	0
Sexual Assault	0
Assault while restrained	0
Other Assault	1
Excessive Force	6
Excessive Force with Injury	1
<b>TOTAL</b>	<b>10</b>

## VERBAL ABUSE

Verbal Abuse / Incivility	17
Harassment / Threat	2
Implied Harassment /Threat	10
Sexual Harassment	0
Other	0
<b>TOTAL</b>	<b>29</b>

## MISUSE OF AUTHORITY

Corruption	0
Theft	0
Fraud	0
Lying Under Oath	0
Deceit	0
Disclose Confidential Information	0
Intoxication	0
Improper Driving	2
Improper Use of Position	6
Misuse of Authority Other –	4
<b>TOTAL</b>	<b>12</b>

**TOTAL NUMBER OF COMPLAINTS 2017**

**126**





## PUBLIC COMPLAINT DISPOSITIONS

Complaints Investigated by York Regional Police				
	2014	2015	2016	2017
<b>Section 64(7) Formal Discipline</b>	0 (1 from 2012 2 from 2013)	0 (2 from 2013)	0 (1 from 2013) (1 from 2015)	0
<b>Section 66(4) Informal Discipline</b>	1 (+2 from 2013)	1 (1 from 2014)	0 (2 from 2015)	0
<b>Section 93(1) Informal Resolution</b>	14	18	11	17
<b>Section 66(2) Unsubstantiated</b>	6	4	3	11
<b>Section 74(1) Withdrawn</b>	11	20	27	19
<b>Section 61(2) / Policy / Service</b>	1	1	1	5
<b>Section 59(1) OIPRD cannot Proceed</b>			1	1
<b>Outstanding Files at Year End</b>	13	24	18	11
<b>TOTAL COMPLAINTS INVESTIGATED BY YORK REGIONAL POLICE</b>	46	68	61	64

Complaints Dealt with by OIPRD (screened out and retained)				
	2014	2015	2016	2017
<b>Section 60(2) Over 6 Months</b>	8	5	1	0
<b>Section 60(4) Not in public interest, other law etc.</b>	54	51	72	57
<b>Section 60(6) Not Directly Affected</b>	1	13	3	4
<b>Section 72(1) Retained by OIPRD</b>	6	13	0	1
<b>TOTAL COMPLAINTS DEALT WITH BY OIPRD</b>	69	82	76	62

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**Total**

**126**

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**Classification of Complaints**

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	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
<b>Conduct Complaints</b>	<b>110</b>	<b>133</b>	<b>129</b>	<b>121</b>
<b>Policy/Service Complaints</b>	<b>5</b>	<b>17</b>	<b>8</b>	<b>5</b>
<b>Total Number of Complaints</b>	<b>115</b>	<b>150</b>	<b>137</b>	<b>126</b>

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<b>Number of Involved Officers</b>	<b>179</b>	<b>189</b>	<b>149</b>	<b>152</b>
<b>Officers Disciplined</b>	<b>1</b> (+1 from 2012 +4 from 2013)	<b>1</b> (2 from 2013 1 from 2014)	<b>0</b>	<b>0</b>
<b>Number of Civilians Involved</b>			<b>4</b>	<b>2</b>
<b>Reviews Requested</b>	<b>6</b>	<b>4</b>	<b>1</b>	<b>3</b>
<b>Directed Hearings Ordered by OIPRD</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>1</b>

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