

PUBLIC

THE REGIONAL MUNICIPALITY OF YORK

POLICE SERVICES BOARD

REPORT OF THE CHIEF OF POLICE

FEBRUARY 15, 2017

Annual Report on Public Complaints

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 2015 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 against 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. Parties 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 2016 there was 8 service complaints assigned by the OIPRD to York Regional Police for review in accordance with section 61(1) of the *Police Services Act*. 1 service complaint was not accepted by the OIPRD as it was deemed not in the public interest, 1 was not dealt with as it was deemed outside of the OIPRD mandate, 5 service complaints were withdrawn and 1 matter proceeded to a report. It is described below.

Service Complaints

On April 28, 2016, at 12:39 pm, a citizen called the YRP 911/Communications Centre to report that he saw an unknown female walk up his neighbours' driveway in the City of Vaughan. Since the female did not immediately re-appear and knowing that his neighbours were away at work, the caller attended the residence and saw the female in the backyard, lying on the ground, kicking at the rear patio door. The caller reported to the YRP Call Taker what he saw and that he found the behavior strange and very suspicious; he requested that police attend. The Call Taker told him that she had entered a call and that an officer would be dispatched soon. The call for service was entered as a suspicious person call, it was placed in the dispatch queue and it was upgraded from a priority 3 to priority 2 response.

Nine minutes later, the caller contacted the 911/Communications Centre a second time to report the female had left and had walked towards the Yonge Street area to a different Call Taker and he reiterated what he had seen and that he thought the female was trying to break into the house. He was advised that a call had been entered and officers would attend. The call was then upgraded from a suspicious person to an attempted break in, but not to a break and enter in progress.

The Dispatcher saw the call in the dispatch queue as a priority 2 call and chose not to voice the call as required by YRP procedure. He held the call in the queue despite several units being available to attend the call.

At 12:56 pm, PC Ahmed Payanda #2257 was on a traffic stop when he observed the call in the queue and advised the Dispatcher he would attend. At 1:06 pm, PC Payanda arrived in the area around 8 Cavalier Crescent, but was unable to locate the female. PC Payanda met with the caller and the homeowner (who had arrived home at the call of his neighbor) and found all points of entry to the residence secure. PC Payanda cleared the call submitting a report of an attempt break and enter to the residence.

At 5:42 pm, the Complainant arrived home and discovered that a quantity of jewelry had been taken from her bedroom. She called #2 District to report that a break and enter had actually occurred and the officer returned to the residence and updated the report accordingly. It was found that the entry was through the rear sliding door, which had then been re-secured by the suspect.

A Discipline Review Committee was held on July 21, 2016 to review the findings of the investigation. It was determined that there were issues with the initial and supplemental call takers involved as well as the dispatcher assigned on the day in question. These identified issues precluded a proper police response to the call for service.

As a result of the findings, the call takers and dispatcher involved received formal counselling and further training in regards to suspicious persons / break and enter in progress calls and the requirements of YRP Communications procedure LE 002.

This service complaint was reported to the Board on September 21, 2016.

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 2016, have been classified as police procedure, followed by complaints of verbal incivility, misuse of authority and physical assault.

During 2016, York Regional Police received 137 public complaints compared to 150 in 2015, 115 in 2014 and 122 in 2013. This represents a 9 percent decrease in public complaints from 2015. The percentage of complaints being screened in by the OIPRD is consistent with previous years. In 2016, 44 percent of complaints were screened in while in 2015, 54 percent were accepted. The average of accepted complaints for the last 5 years ranges between 44-54 percent.

As the attached chart indicates, 61 public complaints were investigated with none resulting in discipline towards the officer, 11 were informally resolved, 27 withdrawn and 3 determined to be unsubstantiated as well as 1 service complaint. There was 1 complaint in which the OIPRD was unable to proceed as it did not involve a police officer. 18 complaints were still under investigation as of December 31, 2016. 76 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 did not retain any complaints for investigation in 2016 despite their usual efforts to retain a sampling of complaints from the larger police services.

During 2016, following the notification to the complainants of the disposition of their public complaint, 1 request was made by complainants to the OIPRD to review the decision made by the Chief of Police. The OIPRD reviewed the matter and overturned the Chief's decision of *less serious* misconduct and deemed the misconduct to be *serious* and ordered it to go to a Hearing. The matter is still before the tribunal.

The actual strength of the service at the end of 2016, was 1579 sworn officers. The ratio of conduct complaints per officer for the year is .09 and this remains one of the lowest ratios in comparison to other large police services in Ontario. The low average of complaints per officer ratio and the low number of substantiated complaints can be attributed in part to all members upholding the Values and Code of Ethics of York Regional Police.

The Professional Standards Bureau has maintained an excellent working relationship with the OIPRD in 2016. They continue to participate in an ongoing programs with the OIPRD for Customer Service Resolutions (CSR) and as well a newer program involving mediation for public complaints. 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 2016. The intention is 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

EJ:sr
Attachment

Accessible formats or communication supports are available upon request



PROFESSIONAL STANDARDS BUREAU

2016

ANNUAL SUMMARY

PUBLIC COMPLAINT INVESTIGATIONS NATURE OF COMPLAINTS

Year	Police Procedure	Physical Assault	Verbal Abuse	Misuse of Authority	Policy Service	Totals	Staffing
2011	62	13	35	20	7	137	1461
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

NATURE OF COMPLAINTS

Year	Police Procedure	Physical Assault	Verbal Abuse	Misuse of Authority	Policy Service	Totals
2016	85	8	31	5	8	137
2015	66	16	34	17	17	150
% CHANGE 2015-2016	+29%	-50%	-9%	-29%	-47%	-9%

ANNUAL PERCENTAGE COMPARISON

Year	Police Procedure	Physical Assault	Verbal Abuse	Misuse of Authority	Policy Service
2011	45%	9%	26%	15%	5%
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%

POLICE SERVICES COMPARISON

Police Service	Durham	Halton	Hamilton	Niagara	Ottawa	Peel	Waterloo	York
2016 Uniform Officers	853	697	836	714	1372	2026	789	1579
2016 Public Complaints	91	67	101	100	n/a	182	97	137
Complaints per officer	.11	.10	.12	.14	n/a	.09	.12	.09

NATURE OF COMPLAINTS DETAILED

POLICE PROCEDURE

Fail to Identify	0
Neglect of Duty	41
Improper Detention (includes stopping car)	2
Improper Search – person	1
Improper Arrest	10
Improper Charge	21
Improper Entry	2
Improper Use of Discretion	1
Other (parking, provincial offence, keep the peace)	7
Service & Policy	8
TOTAL	93

PHYSICAL ASSAULT

Assault	2
Assault with Injury	0
Sexual Assault	0
Assault while restrained	0
Other Assault	0
Excessive Force	5
Excessive Force with Injury	1
TOTAL	8

VERBAL ABUSE

Verbal Abuse / Incivility	23
Harassment / Threat	5
Implied Harassment /Threat	3
Sexual Harassment	0
Other	0
TOTAL	31

MISUSE OF AUTHORITY

Corruption	0
Theft	0
Fraud ⁹	0
Lying Under Oath	1
Deceit	0
Disclose Confidential Information	0
Intoxication	0
Improper Driving	2
Improper Use of Position	2
Misuse of Authority Other –	0
TOTAL	5

TOTAL NUMBER OF COMPLAINTS 2016

137



PUBLIC COMPLAINT DISPOSITIONS

Complaints Investigated by York Regional Police				
	2013	2014	2015	2016
Section 64(7) Formal Discipline	0	0 (1 from 2012 2 from 2013)	0 (2 from 2013)	0 (1 from 2013) (1 from 2015)
Section 66(4) Informal Discipline	1 (+1 from 2012)	1 (+2 from 2013)	1 (1 from 2014)	0 (2 from 2015)
Section 93(1) Informal Resolution	13	14	18	11
Section 66(2) Unsubstantiated	12	6	4	3
Section 74(1) Withdrawn	8	11	20	27
Section 61(2) / Policy / Service	0	1	1	1
Section 59(1) OIPRD cannot Proceed				1
Outstanding Files at Year End	19	13	24	18
TOTAL COMPLAINTS INVESTIGATED BY YORK REGIONAL POLICE	53	46	68	61
Complaints Dealt with by OIPRD (screened out and retained)				
	2013	2014	2015	2016
Section 60(2) Over 6 Months	8	8	5	1
Section 60(4) Not in public interest, other law etc.	48	54	51	72
Section 60(6) Not Directly Affected	0	1	13	3
Section 72(1) Retained by OIPRD	13	6	13	0
TOTAL COMPLAINTS DEALT WITH BY OIPRD	69	69	82	76

137

Classification of Complaints				
	2013	2014	2015	2016
Conduct Complaints	121	110	133	129
Policy/Service Complaints	1	5	17	8
Total Number of Complaints	122	115	150	137
Number of Involved Officers	170	179	189	149
Officers Disciplined	1 (+1 from 2012)	1 (+1 from 2012 +4 from 2013)	1 (2 from 2013 1 from 2014)	0
Number of Civilians Involved				4
Reviews Requested	6	6	4	1
Directed Hearings Ordered by OIPRD	1	2	1	1