



Kingston Police

Public Agenda Information Report

To: Kingston Police Services Board
From: Scott Fraser, Acting Chief of Police
Subject: 2022 Year-End Report on Administration of Public Complaints
Date: January 11, 2023

Recommendation:

That the 2022 Year-End Report on Administration of Public Complaints, Report Number 23-02 is for information only.

Summary:

This report on the administration of public complaints under Part V of the *Police Services Act* is designed to provide a brief overview and analysis of officer conduct and discipline issues. In addition, service or policy complaints, if any, are addressed in this annual report.

During the period of January 1 to December 31, 2022, there were 56 public complaints received by the Professional Standards Bureau from the Office of the Independent Police Review Director (OIPRD). This number represents a decrease of 4 complaints (or 6.6%) for the same reporting period in 2021.

1. **Classification of Allegations.** The general classification of the complaints received between January 1 and December 31, 2022, is detailed below.

- (a) Discreditable Conduct: 15
- (b) Unlawful or Unnecessary Exercise of Authority: 9
- (c) Deceit/Breach of Confidence: 0
- (d) Neglect of Duty/Insubordination: 10
- (e) Corrupt Practice: 2
- (f) No Conduct Offence or Service Issue Identified: 14
- (g) Service: 6

2. **Status of Investigations:** The status of the complaints are as follows.

Resolved	unsubstantiated	7
	early resolution	3
	informal resolution	2
	screened out by OIPRD*: not in the public interest / frivolous / over 6 months	32
	withdrawn	7
	substantiated	0
	assigned to outside agency for investigation	1
Unresolved	under investigation or not yet concluded	4
Total		56

**It should be noted that, if a complaint is screened out by the OIPRD, the complaint will still be reviewed, and may be investigated by the Kingston Police if deemed necessary. Please see Appendix A for the OIPRD screening criteria, as available on oiprd.on.ca.*

3. **Status of Investigations from 2021.** There are no outstanding investigations from 2021.

4. **Local Inquiries (OIPRD).** Pursuant to O.Reg. 263/09, local inquiries must be reported quarterly to the OIPRD. A Local Inquiry Report is filed when a complainant requests a local resolution but does not wish to complete or sign an OIPRD Local Complaint Form. There were 10 Local Inquiry Reports filed during the period January 1 to December 31, 2022. There were 11 filed for the same period last year. While there were 10 local inquiries filed, 6 were found to be unsubstantiated and 4 were resolved informally. There are no Local Inquiry investigations still underway.

5. **Police Services Act Hearings.** There are 2 matters currently before Police Services Act disciplinary hearings.



Scott Fraser
Acting Chief of Police

Appendix A

Screening Complaints

When the OIPRD receives a complaint, our staff ensures the complaint form is complete and signed. If additional information is required before the complaint can be screened, a case coordinator will contact the complainant by phone or email before the complaint can proceed.

Our case coordinators examine each complaint to determine its type – conduct, policy or service.

All complaints are presumed to be screened in, unless there is a reason to screen out the complaint because it does not meet the requirements under Section 60 of the Police Services Act (PSA).

Complaints Screened Out

A complaint may be screened out for one of these reasons:

- **Bad faith:** Complaints where there is clear evidence that it was made for an improper purpose or motive. For example, a complaint made with the intention of deceiving the OIPRD or police services.
- **Better dealt with under another act/law:** Complaints that are better dealt with by another in another forum or venue. For example, a complaint that takes issue with the speed a person was travelling when they received a traffic ticket is better dealt with in court.
- **Frivolous:** A complaint is frivolous when it does not reveal any allegation of misconduct or breach of the Code of Conduct, or is trivial, lacks substance or an air of reality.
- **No jurisdiction under section 58:** The complaint is not about policy, service or conduct; the police officer the complaint is about does not fall under the jurisdiction of the OIPRD; or the complainant is excluded from filing a complaint.
- **Not in the public interest:** Under section 60(4) of the PSA, the Director can screen out a complaint if “having regard to all the circumstances, dealing with the complaint is not in the public interest.” When the Director determines what may or may not be in the public interest, a broad range of factors are considered including the nature of the misconduct alleged.

The Director may consider the detail provided by the complainant, whether the action was a proper exercise of police discretion, the circumstances in which the conduct occurred, whether the conduct was connected to an occupational requirement and whether the conduct could bring the police force into disrepute. This list is not exhaustive. For example: an officer standing in a dangerous

location, like a busy highway, accused of yelling at the complainant to hurry up would be more likely to be screened out than an allegation of an officer yelling in a complainant's driveway.

- If there is ongoing police or SIU investigation or outstanding criminal charges, and our investigation will interfere with the results of the outstanding investigation or criminal charges. For more information, refer to Guidelines and Directives 001 – Guideline for Reviewing Complaints.

Other factors considered when determining whether or not it is in the public interest to investigate a complaint, include:

- The effect of a decision to investigate or not investigate a complaint on the public's confidence in the accountability and integrity of the complaints system.
- Whether the issues are of systemic importance or there is a broader public interest at stake.
- If there is an ongoing police investigation and our investigation will interfere with the results of the police investigation.
- Over six months: Under section 60(2) and (3) of the PSA, the Director may decide not to deal with a complaint if it is made more than six months from the date of the incident cited in the complaint or when the incident was discovered by the complainant. The "six months" is not a time limit. In determining whether to deal with a complaint older than six months, the Director may exercise his discretion and must consider the following criteria outlined in the act:
 - Whether the complainant is a minor or is has a disability within the meaning of the Accessibility for Ontarians with Disabilities Act, 2005.
 - Whether the complainant is or was subject to criminal proceedings related to the events underlying the complaint.
 - Whether, having regard to all the circumstances, it is in the public interest for the complaint to be dealt with.

If a complaint is received after six months, the OIPRD may ask the complainant to provide reasons for the delay in filing. The Director will also consider when the complainant first learned of the alleged misconduct. All circumstances, including the reason for delay and the severity of the complaint, are considered.

- Prior to proclamation: The OIPRD can only deal with complaints about incidents that happened on or after October 19, 2009.

- Third party criteria not met: The complainant is too remote from the incident. A complainant has to fit into one of the categories outlined under section 60(6) of the PSA.
- Vexatious: A vexatious complaint may be one that was made out of anger or the desire to seek retribution. Vexatious complaints may lack a reasonable purpose or be made with the intention to harass or annoy, and are often repetitive (filing the same complaint numerous times after the previous complaint was screened out, or filing repeated complaints about the same officer).