



LONDON POLICE SERVICES BOARD

"Deeds Not Words"

Report #: 20-87

To: Chair and Members of the London Police Services Board

Date: October 15, 2020

Subject: Quarterly Report - Complaints Against Police - Third Quarter

Board Action:

- ☒ Update / Information Purposes Only
- ☐ Seeking Input
- ☐ Seeking Decision
- ☐ Evaluation

Synopsis:

The attached report on Complaints Against Police is submitted for the Board's information.

Recommendation:

That the Board receives the quarterly report.

SUBMITTED BY: Trish McIntyre, Deputy Chief - Operations

Attachment: Complaints Against Police - Third Quarter Report

	Memorandum Professional Standards Branch		No.: 20-182
	LONDON POLICE SERVICE - COMPLAINT REPORT - IN ACCORDANCE WITH SECTION 31(1)(J) OF THE POLICE SERVICES ACT OF ONTARIO		
	To: Deputy Chief Trish McIntyre - Operations	From: Inspector Paul Reynolds Professional Standards Branch	
	Date Issued: September 30, 2020	Date Effective: September 30, 2020	PAGE 1 of 7

This report is submitted in accordance with section 31(1)(j) of the Police Services Act (PSA) which directs that the London Police Services Board is responsible for reviewing reports from the Chief of Police on the administration of the complaints system.

Part V – Complaints and Disciplinary Proceedings

Part V of the PSA provides the complete legislative scheme governing police complaint and disciplinary proceedings. The purpose of the disciplinary process to allow the employer to maintain discipline in the police workplace; to ensure the respondent officer is treated fairly; and to maintain public confidence in the police service. The Chief of Police is responsible for the administration of the complaints and disciplinary system in accordance with Part V.

Summary of Complaints and Investigations

The following table outlines all investigations and complaints managed by the Professional Standards Branch from January 1 to September 30, 2020 with a 5-year comparison:

Investigations	2016	2017	2018	2019	2020
Complaints – Chief's and OIPRD	84	88	73	103	118
SIU Parallels	6	10	4	8	7
Local Discussions	74	67	96	79	82
Total Investigations	164	165	173	190	207

Summary Statistics re. Complaints and Disciplinary Outcomes

The following table provides a comprehensive outline of OIPRD and Chief's Complaint statistics for the period January 1, 2020 to September 30, 2020 with a 5-year comparison.

OIPRD and Chief's Complaints	2016	2017	2018	2019	2020
Conduct Complaints – Chief's	18	20	11	13	23
Conduct Complaints - OIPRD	57	61	55	73	80
Service Complaints - OIPRD	9	7	5	16	9
Policy Complaints - OIPRD	0	0	2	1	2
Total Complaints	84	88	73	103	114
Alleged Misconduct	2016	2017	2018	2019	2020
Discreditable Conduct	42	47	34	57	72
Insubordination	n/a	n/a	n/a	n/a	8
Neglect of Duty	9	22	18	13	32
Unlawful/Unnecessary Exercise of Authority	8	7	8	10	11
Other (misconduct)	25	10	6	11	32
Total Allegations*	84	86	66	91	155

Resolutions	2016	2017	2018	2019	2020
Screened out by OIPRD	33	23	16	36	67
Unsubstantiated	11	27	8	22	15
Withdrawn	4	6	3	4	11
Customer Service Resolution	4	3	5	4	3
Informal Resolution	n/a	n/a	n/a	n/a	12
Mediation	n/a	n/a	n/a	1	2
Member Resigned/Lost Jurisdiction	0	0	0	0	0
Recommendations made (policy/service)	n/a	n/a	n/a	0	0
Informal Discipline resulting from Red Light Violations**	n/a	0	9	16	9
Informal Discipline	6	7	11	5	7
Formal Discipline (PSA Hearing)	0	1	1	2	0
Pending Investigations**	26	21	29	16	38
Total Resolutions***	84	88	73	103	155

*The number of total allegations will not always match the total number of complaints as there may be more than one type of allegation per complaint.

** Pending investigations may have more than one type of allegation per complaint

***Total Resolutions do not include informal discipline resolutions from Red Light Violations and Total Resolutions may not be the same as Total Investigations as you may have several Resolutions within one investigation.

Note: Since the 2nd quarter report there were 4 new Service Complaints. Two of those complaints were withdrawn by the complainant, one was screened out by the OIPRD for no police action required and the fourth is still outstanding.

Local Discussions

Local Discussions occur where a member of the public makes a complaint at a police station, the service is required to provide the complainant with information about the 'local resolution/discussion process' and about the 'public complaints' process. If the complainant chooses to proceed by way of 'local resolution/discussion' and the service agrees that is appropriate, a supervisor communicates directly with the complainant. These are recognized as an opportunity for immediate resolution by providing information face-to-face. All local discussions are reviewed by the PSB to ensure that the complainant has been advised of the public complaints process through OIPRD and that the investigation undertaken by the supervisor was appropriate and fulsome.

The table below outlines Local Discussions statistics for the period January 1, 2020 to September 30, 2020, with a 5-year comparison.

Local Discussions	2016	2017	2018	2019	2020
Conduct Complaints	66	61	81	67	69
Service Complaints*	8	6	13	10	11
Policy Complaints**	0	0	2	2	2
Total Complaints	74	67	96	79	82
Discreditable Conduct	46	28	47	47	37
Insubordination	n/a	n/a	n/a	n/a	2
Neglect of Duty	7	27	30	9	12
Unlawful/Unnecessary Exercise of Authority	8	4	3	14	5
Other (misconduct)	13	10	12	4	12

* Memorandums Cannot Conflict with Orders or Policy Issued at a Higher Command *

Total Allegations***	74	69	92	74	68
Resolutions	74	69	92	74	68

* In 2020, seven of the Local Discussion Service Complaints were due to a concern regarding response time during this time period.

** There were no new Local Discussion Policy Complaints since the 2nd quarter report.

***The number of total allegations will not always match the total number of complaints as there may be more than one type of allegation per complaint.

Respectfully,



Paul Reynolds
Inspector
Professional Standards Branch

Definitions of Common Terms/Acronyms

LPS – London Police Service

PSB – Professional Standards Branch

OIPRD – Ontario of the Independent Police Review Director

PSA – Police Services Act

SIU – Special Investigations Unit

Complaints Officer – Deputy Chief, Operations

Complaints: Complaints can be initiated from within the LPS or from a member of the public. The majority of complaints focus on the conduct of an officer but can also include policy and service complaints.

Chief's Complaint: Complaints initiated by the Chief of Police.

Public Complaints: Complaints initiated by a member of the public through the Local Complaints process or through the OIPRD public complaints process.

Local Discussions: where a member of the public makes a complaint at a police station, the service is required to provide the complainant with information about the 'local resolution/discussion process' and about the 'public complaints' process. If the complainant chooses to proceed by way of 'local resolution/discussion' and the service agrees that is appropriate, a supervisor communicates directly with the complainant. These are recognized as an opportunity for immediate resolution by providing information face-to-face. All local discussions are reviewed by the PSB to ensure that the complainant has been advised of the public complaints process through OIPRD and that the investigation undertaken by the supervisor was appropriate and fulsome.

Misconduct under the PSA – this legislation defines several types of misconduct that may occur by a sworn member of an Ontario Police Service. This does not apply to civilian members or to Special Constables within the LPS.

Common Allegations of Misconduct:

Discreditable Conduct

- Uses profane, abusive or insulting language/is uncivil to a member of the public
- Guilty of a criminal offence
- Acts in a manner likely to bring discredit upon the reputation of the police force of which the officer is a member

Insubordination

- Without lawful excuse, disobeys, omits or neglects to carry out lawful order
- Subordinate by word, act or demeanour

Neglect of Duty

- Without lawful excuse, neglects or omits promptly and diligently to perform a duty as a police officer
- Fails to work in accordance with orders
- Fails to report a matter that it is his or her duty to report
- Omits to make any necessary entry in a record
- Is absent without leave from or late for any duty, without reasonable excuse

* Memorandums Cannot Conflict with Orders or Policy Issued at a Higher Command *

Unlawful or Unnecessary Exercise of Authority

- Without good and sufficient cause makes an unlawful or unnecessary arrest
- Uses any unnecessary force against a prisoner or other person contacted in the execution of their duty

Other types of Misconduct in the PSA Regulations:

- Deceit
- Breach of Confidence
- Corrupt practice
- Consuming drugs or alcohol in a manner prejudicial to Duty
- Damage to clothing or equipment

OIPRD

Screening of Complaints: Upon receipt of complaint, the OIPRD will review a complaint with respect to two areas:

- (1) Type of complaint – the OIPRD will determine if the complaint relates to the conduct of a police officer or to the services or policies of the police service.
- (2) Screening Out a Complaint – The OIPRD also determines whether or not they will deal with a complaint. A complaint may be screened out by the OIPRD where it is determined that it is not in the public interest to investigate the complaint; where the complaint is made in frivolous/vexatious/made in bad faith; or if the complaint could be dealt with more appropriately under another Act or law.

Conduct Complaints: are about the behaviour of a police officer. Conduct complaints may be retained by the Director to investigate or may be referred back to the subject police service, or referred to another police service to investigate.

Policy Complaints: are about the rules and standards of a police service that guide how an officer delivers police services.

Service Complaints: relate to how effectively and efficiently a police service performs its duties.

Policy and Service Complaints must be referred back to the police service for investigation. The police service must review these complaints and provide a written report to the complainant, the OIPRD and the police services board outlining their decision with reason. Complainants have the right to ask the police services board for a review of this decision. When a board receives a request for a review, it must advise the Chief of Police of the request; review the complaint and take any action, or no action, in response to the complaint as it considers appropriate; and notify the Chief of Police, the complainant and the OIPRD in writing of its disposition of the complaint, with reasons.

Resolutions of Complaints

Unsubstantiated – the investigation has determined that there is insufficient evidence to substantiate the complaint. Also used for service/policy complaints where it is deemed that the Service's existing policy is appropriate or service is adequate based on the circumstances.

Withdrawn – the complainant voluntarily withdraws their complaint.

Customer Service Resolution – Used for complaints that are deemed to be less serious and occurs before the complaint has been screened in by OIPRD. Matters that may benefit from a

* Memorandums Cannot Conflict with Orders or Policy Issued at a Higher Command *

conversation between the complainant and the respondent officer are typical examples. If CSR is successful, the complaint is finalized. If it is unsuccessful, the matter returns to OIPRD for screening.

Informal Resolution – occurs after the complaint has been screened in by OIPRD. Similar to CSR, in that it is resolved after a conversation occurs with the complainant and respondent officer. If resolved in this manner, it will not proceed to the investigative process.

Mediation – OIPRD may suggest mediation for less serious complaints. Both the complainant and respondent officer must agree. If agreed upon, an independent mediator is provided by OIPRD. If successful, the complaint is settled through an informal resolution via mediation. If unsuccessful, the complaint will proceed to the investigative process.

Member resigned/Lost jurisdiction – the PSA has jurisdiction over serving sworn police officers. If the respondent in the matter has retired or resigned from their position, there is no legal authority to proceed with the misconduct complaint.

Recommendations made (policy/service) – when recommendations are made to improve an area of service, or to update/amend a policy as a result of the investigation resulting from the OIPRD complaint.

Determining Seriousness of Misconduct

Making this determination is done on a case by case basis. The totality of the circumstances are considered and may include:

- Nature and seriousness of the incident
- Circumstances surrounding the incident
- Utilization of the principles of counselling, guidance and training
- Application of the concept of progressive discipline
- What the police service has done in the past in similar fact cases
- What other police services have done with similar fact cases
- Same factors will be considered regardless of Chief's investigation or OIPRD investigation
- Chief will decide the route the discipline will take for all substantiated matters

Informal Discipline – occurs when a complaint has been substantiated. Informal Discipline is used for matters deemed to be “not of serious nature”. The disciplinary disposition is decided by the Division Commander. Dispositions may include:

- (a) Informal discipline in accordance with the Police Services Act; or
- (b) Informal discipline in accordance with the Working Agreement.

If a member consents to the proposed disposition, this will remain on a member's record for 2 years. Informal discipline cannot be imposed on a member without their consent. If a member refuses to accept the proposed disposition under informal discipline, the matter will be adjudicated under the Formal Discipline process. The Complaints Officer makes the decision on which is the most appropriate level of discipline to proceed on (informal vs. formal).

Informal Discipline (PSA): where the Chief of Police is of the opinion that there was misconduct or unsatisfactory work performance but that it was not of a serious nature, the Chief of Police may resolve the matter informally without holding a hearing. The resolution can be any disposition excluding demotion or termination.

Informal Discipline (Working Agreement): may include:

- (a) Counselling/guidance;
- (b) Admonishment/guidance;
- (c) Training/admonishment/guidance;
- (d) By mutual agreement, forfeiture of leave, days off or banked time, not to exceed sixteen (16) hours per incident regardless of the number of allegations;
- (e) Diversion to the Employee Assistance Program by way of formal referral may also be used by the Division Commander or designate, in appropriate circumstances, as an alternative to, or part of, the Informal Discipline Process.

The **determination of appropriate disposition** shall be based upon: the nature and seriousness of the incident; the circumstances surrounding the incident; utilization of the principles of counselling, guidance and training; and application of the concept of progressive discipline.

Informal Discipline resulting from Red Light Violations – in late 2017 the city of London implemented cameras at certain intersections, monitoring red light violations. The Highway Traffic Act provides exemptions for police officers to proceed through a red light under specific circumstances. When these exemptions are not met a provincial offence notice is produced for the LPS. The LPS will identify the officer and if the officer cannot provide evidence to support their actions under the Highway Traffic Act, they will be subject to Informal Discipline.

Formal Discipline (PSA Hearing) – occurs when a complaint has been substantiated which is deemed to be “serious” in nature, or for those occasions when a member may have other discipline on file and as a result formal discipline is deemed to be more appropriate (progressive discipline). The procedure for formal discipline is outlined in the PSA and its regulations. Rules associated with formal disciplinary hearings are also found under the PSA. All substantiated formal discipline results are held on a member’s record for a period of five years. All formal disciplinary hearings are open to the public.

Disposition Principles:

The principles governing the determination of disposition of disciplinary matters under Part V are:

- (1) the disposition should accord with the purpose of the disciplinary process;
- (2) corrective disposition should take precedence over punitive where possible;
- (3) presumption of the least onerous disposition as balanced against the public interest;
- (4) proportional weighing of mitigating and aggravating considerations;
- (5) police officer conduct is held to a higher standard than other employees.

Pending Investigations - are still under investigation; results are unknown to date.

Special Investigations Unit (SIU) Parallel Investigations – every police service must conduct an investigation into any incident to which the SIU has invoked their mandate and later reported their investigative findings to the Attorney General. This is commonly referred to as a Section 11 investigation. PSB investigators will examine the evidence to determine if any police misconduct occurred (misconduct as defined under the Ontario Police Services Act), if police adhered to LPS procedures and to the requirements under Section 113(9) of the Police Services Act to fully co-operate with the SIU.