

Performance Audit
The Public Complaints Process
Toronto Police Service



Audit Services

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Performance Audit

The Public Complaints Process

Toronto Police Service

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EXECUTIVE SUMMARY

The Toronto Police Service provides various policing services to the community. In providing these services, the police are in contact with the public when responding to emergency calls, during investigations, or when patrolling City streets and neighbourhoods. In addition to responding to over 800,000 calls annually, members of the Toronto Police Service have numerous other contacts with the public in conducting detective investigations, traffic and parking enforcement, and special events control.

The Toronto Police Service is authorized to enforce laws and maintain order in a number of ways, such as issuing verbal warnings and commands, as well as making arrests which, in some cases, requires the use of physical force. The vast majority of encounters between police officers and members of the public are conducted without altercation or complaint. However, when members of the public believe police officers have acted improperly, they may seek redress through the public complaints process. In 2000, the Toronto Police Service dealt with 814 complaints, the majority of which (734) related to the conduct of police officers. The balance of the complaints (80) related to the policies of or services provided by the Toronto Police Service.

The administration of complaints filed by members of the public relating to the conduct of a police officer and the policies of or services provided by a police service is governed by Part V of the Ontario Police Services Act.

The objectives of a properly administered complaints process should extend beyond the punitive component of identifying office misconduct and disciplining individual officers. An effective public complaints process can help identify problem areas, foster accountability and ultimately contribute to effecting organizational change. This in turn can positively impact the overall culture of the police service and the quality of policing provided to the public.

An external audit of the Toronto Police Services public complaints process was requested by the Toronto Police Services Board. This report responds to that request, and is the result of an audit performed by the City Auditor who is independent of the Chief of Police and the Toronto Police Services Board.

Procedures performed in completing this audit included interviews with complainants, members of the general public, police officers, representatives from the Toronto Police Association and special interest groups; surveys of other jurisdictions; and the review of 94 complaint files from 2000 and 2001 maintained by the Toronto Police Service.

A summary of our more significant findings are as follows:

- the Toronto Police Service is in compliance with Part V of the Ontario Police Services Act. In our opinion, investigations in regard to public complaints were conducted thoroughly and are administered within prescribed timelines;
- public complaints are properly classified, reasonable efforts were made to gather the necessary evidence needed to complete investigations, and the disposition of complaints was appropriate based on the evidence contained in the complaint files reviewed;

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- access to the complaints process by the public could be improved by making information on the process, including complaint forms, available in languages other than English;
- information on the public complaints process should be available at convenient locations throughout the City such as City of Toronto civic centres and public libraries;
- information on the complaints process, including public complaint forms, should be available on the Internet web sites of both the Toronto Police Service and the Toronto Police Services Board;
- there is a need to ensure police officers, including officers in charge, are aware of their responsibilities in regard to the public complaints process. In particular, there is a need to clarify the responsibilities of officers in charge in relation to the informal resolution of complaints;
- written guidelines regarding the classification of complaints at the intake stage should be developed, and the classification of complaints should be subject to supervisory review on a random basis by senior staff of the Professional Standards Division;
- files for complaints that are informally resolved should be reviewed by Unit Commanders prior to a final decision being made on the complaint to ensure that files are complete and contain appropriate information to support conclusions;
- files for complaints, which have been informally resolved, should be retained until completion of the annual audit of the complaints process;
- interviews with complainants be audiotaped where possible. The audiotaping of interviews should only be conducted with the approval of the complainant;
- discipline imposed against police officers is not being monitored. In two out of the ten files we reviewed where complaints were substantiated, discipline as adjudicated was not imposed;
- quality assurance surveys of complainants and police officers be conducted on a regular basis to obtain ongoing feedback on the complaints investigation process. Issues identified as a result of this process be appropriately addressed;
- specific concerns raised by police officers, in regard to the complaints process, be addressed by the Chief of Police; and
- the Professional Standards Information System be expedited as soon as possible, and reporting requirements clearly defined.

Information on each of the above issues is contained in the body of this report.

Our audit was conducted in the context of the Ontario Police Services Act. Part V of the Act contains specific provisions relating to the administration of the public complaints process. Based on the interviews we conducted during the course of this audit, concerns were expressed

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in relation to certain provisions in the Act. Specifically, two issues were raised from our interviews with various individuals and organizations:

- the investigation of public complaints against police officers by the Chief of Police. Certain individuals and organizations contend that civilian oversight provides a more thorough and objective investigation of complaints than those conducted by the police; and
- the current provincial legislation only allows the individual directly affected by the conduct of a police officer to lodge a complaint. Third-party witnesses to an event, are not permitted to file a complaint against a police officer. A total of 29 third-party complaints (3.5 percent) were filed with the Toronto Police Service in 2000. The number of potential third-party complainants who did not formalize a complaint when informed of the provisions of the legislation is not known.

One of the objectives in the Toronto Police Service's business plan for 2002 - 2004 is to attain a high degree of public confidence in the impartiality of the public complaints process. Public confidence in the system is a fundamental principle in the administration of an effective complaints process. If members of the public lack confidence in the process, it is unlikely that they will file a complaint. The concerns expressed above, which are driven by the current provincial legislation, negatively impacts the ability of the Toronto Police Service to achieve the objectives of its business plan. While a detailed study of the merits or otherwise of current legislation is outside the scope of this audit, this matter is an issue which requires attention.

This audit makes a number of recommendations to improve the current public complaints process. The number of recommendations should not be viewed as an indication of significant problems in the Toronto Police Service's public complaints process. Rather, the recommendations taken collectively represent a series of enhancements which, if acted upon, will contribute to improving the overall efficiency and effectiveness of the public complaints process.

In conclusion, it is suggested that the Chief of Police be requested to provide a written response within six months to the Police Services Board with regard to the recommendations contained in this report. The report prepared by the Chief of Police should include a specific work plan and time table for the implementation of the recommendations where appropriate.

RECOMMENDATIONS

The following is a list of recommendations corresponding to those contained in the body of this report. The page number that follows each recommendation indicates the page on which the background information supporting the recommendation can be found.

- 1. The Chief of Police ensure that information on the public complaints process and the standard complaint forms be available in languages other than English. Such material be available in languages appropriate to the cultural make up of the City.**

Page 16
- 2. The Chief of Police give consideration to making informational material on the public complaints process available at convenient locations throughout the City, such as City of Toronto civic centres and public libraries. In addition, the Chief of Police ensure that information on the complaints process is readily accessible at all police divisions.**

Page 16
- 3. The Toronto Police Services Board include information on the public complaints process on its Internet web site. In addition, the Toronto Police Service and the Toronto Police Services Board make public complaint forms available on their respective web sites.**

Page 17
- 4. The Chief of Police ensure all officers, particularly officers in charge, are aware of:**

 - their responsibility in providing information on the public complaints process to members of the general public; and**
 - the importance of creating an environment where the reporting of police officer misconduct is as stress free as possible for members of the general public.**

Page 18
- 5. The Chief of Police establish clear written guidelines for the classification of all complaints and direct senior staff of the Professional Standards Division to review the classification of complaints on a random basis.**

Page 19
- 6. The Chief of Police clarify the roles and responsibilities of officers in charge with respect to the complaints process, ensure they have the necessary knowledge of the process, and emphasize the importance and benefits of their active involvement in informally resolving less serious complaints as soon as they are reported.**

Page 20

7. The Chief of Police direct that all complaint files relating to informal resolutions be forwarded to the Professional Standards Division for review. Deficiencies identified during the review process be communicated to the respective officers in charge for follow-up with the appropriate Unit Complaints Coordinator. Corrective action be communicated to the Professional Standards Division.

Page 21
8. The Chief of Police direct that information from complaint files which have been subject to informal resolution be retained such that problem areas can be readily identified and appropriate action taken.

Page 21
9. The Chief of Police postpone the destruction of files relating to complaints, which have been informally resolved, until completion of the annual audit of the public complaints process.

Page 21
10. The Chief of Police direct the Professional Standards Division to monitor the withdrawal of public complaints in all police divisions to ensure that withdrawals are not used as a means of expeditiously resolving complaints. Where withdrawn complaints at certain divisions are inordinately out of line, the Professional Standards Division determine the reasons and, where appropriate, take corrective action.

Page 22
11. The Chief of Police ensure that all Unit Complaints Coordinators are aware of the level of documentation required for investigative files, and that such files are clear, concise and presented in a manner which supports the final conclusions of the investigations. Where appropriate, training be provided to meet this objective.

Page 25
12. The Chief of Police direct Unit Commanders to review all public complaint investigation files in their respective divisions before signing off, to ensure that the files are complete, that all appropriate investigative procedures were performed, and that the investigations are free of bias. This review should be conducted prior to the final adjudication of the complaint.

Page 25
13. The Chief of Police direct the Professional Standards Division that interviews with complainants be audiotaped where possible. Audiotaping of interviews only be conducted with the written approval of the complainant. If a complainant does not wish to be audiotaped, this fact be included in the complaint file.

Page 26

14. The Professional Standards Division, on a sample basis, review audiotaped recordings of interviews to ensure that investigations are complete, thorough and free of bias. Any problems identified during this process be communicated to senior staff and appropriate action, including training, be initiated. Page 26
15. The Chief of Police direct that a conflict of interest declaration be signed by investigative officers on appointment to the Public Complaints Investigation Bureau or assignment to a Unit Complaint Coordinator position. Specific guidelines relating to what constitutes a conflict of interest should be developed and communicated to investigators. Page 26
16. The Chief of Police develop, where public complaints are substantiated, internal controls to ensure that the appropriate and necessary disciplinary action is imposed on police officers. In addition, the Chief of Police ensure that the information pertaining to disciplinary action taken is retained for the required time period in the subject officer's file. Disciplinary action taken be reported to the Professional Standards Division. Page 27
17. The Chief of Police disclose the range of discipline imposed on police officers in the Professional Standards Division Annual Public Report prepared by the Professional Standards Division. Page 28
18. The Chief of Police give consideration to the retention of outside legal representation for the complainant at formal disciplinary hearings, where appropriate. Page 28
19. The Chief of Police develop a plan to measure the performance of the Toronto Police Service relative to its business plan as it relates to the complaints process. Such a plan to include a recommendation relating to the reporting of the results of this process. Page 29
20. The Toronto Police Services Board:
- consider the concerns raised by the general public with respect to the complaints process, specifically, the administration of the public complaints process by the police and the ability to investigate complaints filed by third parties; and
 - take the necessary action to deal with these issues, including communicating these concerns to the Ministry of the Attorney General for consideration and appropriate action. Page 30

21. The Chief of Police review the complaint investigation process to ensure that the concerns identified by both the general public and complainants, as outlined in this report, are appropriately addressed.

Page 31
22. The Chief of Police direct the Professional Standards Division to solicit feedback from complainants and police officers involved in public complaints, and that the survey results be returned directly to the Complaints Review Unit for analysis and the identification of any issues or deficiencies that need corrective action.

Page 32
23. The Chief of Police review the concerns of officers relating to the public complaints process as identified in this report, and take appropriate action to address these concerns.

Page 34
24. The Chief of Police expedite the implementation of the Professional Standards Information System and ensure that the informational requirements of the system are clearly defined to meet the needs of the Professional Standards Division.

Page 35
25. The Chief of Police direct Toronto Police Service, Legal Services to maintain information on civil litigation that relates to public complaints and to report this information to Professional Standards Division, such that the risk and cost of not effectively dealing with public complaints is monitored on a regular basis.

Page 36
26. The Chief of Police direct the Professional Standards Division to develop a time tracking system to capture the amount of time investigators spend on the investigation of public complaints, such that the resources deployed in performing these investigations can be more effectively managed.

Page 36
27. The Chief of Police report to the Toronto Police Services Board, within six months, with a response to each of the recommendations contained in this report, including a specific work plan and timetable for the implementation of the recommendations, as appropriate.

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BACKGROUND

Introduction

The Ontario Police Services Act is the Provincial legislation that governs police services in Ontario. The Ontario Police Services Act is administered by the Solicitor General. The Ontario Police Services Act was proclaimed on November 27, 1997, and became effective January 1998. The Act introduced significant changes to the existing legislation, including a less formal approach to resolving public complaints against police officers and the policies of or services provided by a police service.

The administration of complaints filed by members of the public relating to the conduct of a police officer and the policies of or services provided by a police service is governed by Part V of the Ontario Police Services Act. Part V of the Act regulates the complaints process by defining what constitutes a complaint, who can make a complaint, and how the complaint shall be handled. Part V also outlines the remedial and punitive powers of both the Police Services Board and the Chief of Police.

Under the legislation, the Chief of Police is responsible for administering complaints concerning the conduct of police officers, as well as complaints related to the policies of or the services provided by the Toronto Police Service. The Toronto Police Services Board is responsible for establishing policy and guidelines for the effective management of the complaints process and for reviewing the Chief of Police's administration of the process.

Any member of the public who has been directly affected may make a complaint. The complaint must be in writing and signed by the complainant. A member of the public may make a complaint only if the complainant was directly affected by the policy, service or conduct that is the subject of the complaint. Anonymous complaints are not investigated. The Chief of Police may decide not to deal with any complaint if the complaint is made more than six months after the facts on which it is based has occurred.

The Ontario Civilian Commission on Police Services, an independent civilian agency that reports to the Solicitor General and the Minister of Correctional Services, oversees the handling of public complaints.

Objectives of a Public Complaints Process

A public complaints process has several objectives, notably:

- to be open and accessible to members of the public;
- to fairly and thoroughly investigate complaints from members of the public;
- to enhance accountability;
- to identify management problems;

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- to prevent and minimize police misconduct through education, review and revision of existing policies and the introduction of new policies, as appropriate;
- to help achieve long-term improvements in the quality of policing and bring about a positive change in a police organization's culture;
- to increase the perception of fair treatment by both complainants and police officers, which is crucial to the effectiveness of the complaints process; and
- to discipline police officers when complaints are substantiated.

The objective of an effective complaints process is not simply to discipline police officers but to demonstrate that the police service is responsible as an institution. An effective complaints process should welcome public complaints as a tool to address possible problems. This in fact is consistent with the philosophy of community policing where the emphasis is on actively seeking community input regarding policy issues that impact the public. Complaints provide the Chief of Police with valuable information for evaluating employee performance, identifying areas of police misconduct, monitoring police relations with the public and identifying the need for new or revised policies or improved training.

An Independent Audit

In November 1996, the Toronto Police Services Board retained the law firm of Genest Murray DesBrisay Lamek to “conduct a review of whether the Board’s policy governing internal investigations was followed relating to an internal investigation”. In considering the results of this study, the Toronto Police Services Board adopted a recommendation that called for an annual audit of the discipline and public complaints processes.

The Toronto Police Services Board requested the City Auditor, to conduct a review of the administration of the complaints system by the Chief of Police, and determine whether the current complaints process is “impartial, thorough and administered without delay”.

The City Auditor advised that this review would form a part of his 2001 Work Plan and a final report would be forwarded to the Toronto Police Services Board in 2002. The Terms of Reference for this review was approved by the Toronto Police Services Board and is included as Appendix 1 in this report.

This is the first review conducted by the City Auditor of the police public complaints process. Significant background work and research was required in order to ensure that the City Auditor and his staff were knowledgeable of the complaints process itself, the applicable legislation, internal policies and procedures, and practices at other police jurisdictions in both the United States and Canada.

Audit Objectives and Scope

The overall objective of this audit was to determine whether the Toronto Police Service’s administration of public complaints complied with applicable legislation, as well as with related policies and guidelines approved by the Toronto Police Services Board. In addition, the audit

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measured the effectiveness of the public complaints process by assessing the performance of the Toronto Police Service relative to the goal established by the Professional Standards Division in its 2001 business plan.

The goal articulated in the business plan was to “strengthen the confidence of members of the public and service members in the impartiality and integrity of the Toronto Police Service’s administration of Part V of the Ontario Police Services Act – the complaints system.”

In 1999, the Ontario Civilian Commission on Police Services conducted a review of the disciplinary practices of the Toronto Police Service. The Chief of Police was responding to the findings of this review at the time of our audit. Accordingly, it was determined that the discipline component in relation to public complaints would not be included as part of the current audit. However, in our review of substantiated complaints, our work included a determination as to whether or not discipline as adjudicated was administered.

The scope of this audit focused on conduct related complaints received and processed by the Toronto Police Service in 2000 and the early part of 2001. In 2000, conduct related public complaints constituted 90 percent of all public complaints received by the Toronto Police Service. Complaints received in 2000 totalled 814 with 734 of these related to police conduct. The balance of the complaints (80 complaints representing 10 percent of the total) pertained to the policies of or services provided by the Service.

Scope Limitations

The scope of our audit was restricted due to the fact that we were not able to review files related to those complaints which were “informally resolved.” The policies of the Toronto Police Service include a provision which requires that “no record of an informal resolution shall be placed in a police officers file. Further, once relevant statistical information is obtained, the TPS 901 and TPS 904 shall be destroyed by Complaints Review.” (TPS 901 is referred to as a “Policy Service or Conduct Report” and contains the signature of the complainant agreeing that he or she is satisfied with the resolution to the complaint. A TPS 904 form is referred to as a “Complaint Statistical Report” and contains statistical data relating to the complaint allegation or identified misconduct.)

One hundred and fifty-five complaints, out of a total of 734 (21 percent), were informally resolved and, as such, these files were not available for our review.

The Audit Process

The audit work conducted included the following:

- a review of the Ontario Police Services Act and related public complaint literature;
- a review of the Toronto Police Service’s internal policies and practices;
- participation in a training course offered by the Ontario Police College for public complaint investigators which focussed on Part V of the Ontario Police Services Act;

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- observation of an Ontario Police Services Act hearing relating to a public complaint;
- unannounced visits to all 17 Toronto Police Service divisions by an Audit Services' staff member, to evaluate public access to the complaints process;
- interviews with unit commanders, sergeants, staff sergeants and unit complaint coordinators;
- interviews with staff from the Professional Standards Division, and in particular staff from the Complaints Review Unit;
- a survey of 133 police officers from seven police divisions. A verbal briefing was provided to these officers prior to the surveys being distributed;
- focus group meetings held in five police divisions with the participation of 44 police officers;
- a review of 94 files related to complaints received in 2000 and early 2001 including the review of audio tapes, where available;
- interviews with representatives from the Ontario Civilian Commission on Police Services;
- interviews with the President and other representatives of the Toronto Police Association;
- interviews with representatives from the following groups:
 - Canadian Civil Liberties Association;
 - Toronto Police Accountability Group;
 - Parkdale Legal;
 - Justice for Children and Youth; and
 - Toronto Rape Crisis Centre;
- interviews with a number of unemployed youth from Youthlink Inner City;
- interviews with 14 members of the general public who had registered a complaint against the police;
- interviews with 12 police officers who were the subject of a complaint made by a member of the public;
- development of an internal Audit Division web site, whereby members of the public could provide comments concerning the public complaints process;
- an analysis of comments received from 30 members of the public;
- the development of a communication strategy including the placement of an information bulletin in one of the Toronto area newspapers soliciting input on the complaints process;

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- a survey of the complaints process in selected jurisdictions in Canada (eight jurisdictions) and the United States (six jurisdictions);
- discussions with Professor Samuel Walker from the University of Nebraska. Professor Walker is an authority in the area of police accountability and the author of a book entitled “Police Accountability – The Role of Citizen Oversight”;
- discussion with Dr. Patricia Hughes, Executive Director, Minneapolis Civilian Police Review Authority; and
- the review of various publications and documentation on the public complaints process (Appendix 2).

Co-operation of the Toronto Police Service

In conducting this audit, the City Auditor and his staff received the full co-operation of the Toronto Police Service and were able to access all available complaint related files and information related to complaints maintained by the Toronto Police Service.

ADMINISTRATIVE FRAMEWORK

Administrative Structure Relating to the Complaints Process

The Professional Standards Division of the Toronto Police Service is responsible for the administration of the public complaints process. The Division consists of five units and two sub-units. The five units are:

1. Complaints Review Unit;
2. Public Complaints Investigation Bureau;
3. Internal Affairs;
4. Quality Assurance; and
5. Prosecution Services.

The two sub-units are Awards and Legal Services.

The Unit Commander of the Professional Standards Division, who has been delegated the responsibility for addressing public complaints, reports directly to the Chief of Police.

These units, except for the Public Complaints Investigation Bureau, are located at Toronto Police Service Headquarters on College Street.

The 2001 operating budget for the Professional Standards Division was approximately \$6 million.

The budget of \$6 million does not include the salaries of the Unit Complaints Coordinators who are based in police divisions and units, and who investigate less serious complaints against officers in their respective divisions. The investigation of complaints by the Unit Complaint Coordinators is not a full-time responsibility for these officers.

The Unit Complaints Coordinators report directly to the Unit Commanders of their respective divisions or units.

THE ADMINISTRATION OF THE PUBLIC COMPLAINTS PROCESS

The process, in regard to the administration of public complaints, is illustrated in summary form in Appendix 3 of this report.

Filing a Complaint

There are two kinds of complaints. They relate to:

- the conduct of a police officer; and
- the policies of or services provided by a police service.

According to Part V of the Ontario Police Services Act, any member of the public who has been directly affected may make a complaint concerning the conduct of a police officer or the policies or services provided by a police service. The complaint must be in writing and signed by the complainant. A member of the public may make a complaint only if he or she was directly affected by the policy, service or conduct that is the subject of the complaint. Anonymous complaints are not investigated. The policy of the Toronto Police Service provides that where “a complainant is unable to communicate in writing, or due to any disability is unable to attend a police station, a supervisor shall be detailed to attend and take the complaint, where reasonable.”

The Chief of Police, in accordance with the provisions of the Ontario Police Services Act, may decide not to deal with any complaint if the complaint is made more than six months after the incident on which it is based occurred.

Standard complaint forms are available at all police divisions. The complaint, however, can be made in the form of a letter, as long as it identifies the officer and outlines the circumstances of the complaint. The complaint can be personally delivered, or delivered by a third party, sent by fax or mail to either a police facility or the Ontario Civilian Commission on Police Services. Complaints filed with the Ontario Civilian Commission on Police Services are forwarded to the Toronto Police Service for investigation. The legislation does not allow the electronic mailing of complaints because all complaints must include the complainant’s signature.

All complaints received in person or by mail throughout the City are forwarded to the Complaints Review Unit of the Professional Standards Division. This Unit is responsible for the review and classification of all complaints for the Toronto Police Service.

Summarized below are the number and disposition of complaints received in 2000 by the Toronto Police Service. This information was obtained from statistics maintained by the Professional Standards Division of the Toronto Police Service.

Complaints received relating to:	Conduct of a police officer	734
	Policies of or services provided by the Toronto Police Service	<u>80</u>
	Total Complaints	<u>814</u>

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Investigations in relation to complaints were not conducted due to the fact that the following number of complaints were classified by the Complaints Review Unit as:

Frivolous	57
Vexatious	2
Made in bad faith	19
In excess of six months since occurrence	32
Made by a third party	<u>29</u>
	<u>139</u>

The disposition of the balance of the complaints were as follows:

Complaints informally resolved	155
Complaints withdrawn	212
Complaints unsubstantiated	246
Complaints substantiated	12
Complaints forwarded to an Ontario Police Services Act hearing	2
Complaints outstanding	8
Other *	<u>40</u>
	<u>675</u>
Total Complaints	<u>814</u>

* Included in the above category “other” are complaints which were not signed or where the subject officer had either retired or resigned.

Public Access to the Complaints Process

One of the key attributes of any public complaints process is the ease of access to members of the general public in filing complaints. If potential complainants do not have appropriate access to the process, all other components of the process are virtually irrelevant.

Information on the public complaints process is available at each police division in the form of an informational pamphlet entitled “Resolving Complaints – Your Guide for Filing Complaints about Police Conduct, Services and Policies in Ontario.” This pamphlet is produced by the Ontario Civilian Commission on Police Services.

One of the areas of concern identified during our review, is that the Toronto Police Service provides information relating to the complaints process in English only. In a community as diverse as the City of Toronto, it is important that information on the complaints process be available in languages other than English.

Written documentation and instructional material describing the public complaints process should be available to the community in a range of languages commensurate with the cultural make-up of the City.

A number of police organizations we contacted publish public complaints brochures and other informational documents in several languages. For example, Minneapolis provides public complaints information in eight languages, while San Francisco's complaint forms contain instructions in three languages other than English.

We have been advised by the Ontario Civilian Commission on Police Services that the pamphlet entitled "Resolving Complaints – Your Guide for Filing Complaints about Police Conduct, Services and Policies in Ontario" is available in approximately 20 languages.

Recommendation:

- 1. The Chief of Police ensure that information on the public complaints process and the standard complaint forms be available in languages other than English. Such material be available in languages appropriate to the cultural make up of the City.**

Facilitating the dissemination of information on complaints is an important part of the community outreach and access activities relating to the public complaints process. Potential complainants will not file a complaint if they are not informed about how and where to file a complaint. Members of the public should be able to obtain a complaint form at convenient locations throughout the City. Information relating to the complaints process is currently only available at police divisions. In certain police divisions, information relating to the complaints process was not readily accessible.

Recommendation:

- 2. The Chief of Police give consideration to making informational material on the public complaints process available at convenient locations throughout the City, such as City of Toronto civic centres and public libraries. In addition, the Chief of Police ensure that information on the complaints process is readily accessible at all police divisions.**

The Toronto Police Service has incorporated on its Internet web site detailed information relating to the complaints process. We have compared the complaints information on the Services' web site to other jurisdictions and, in our view, the Toronto Police Service's site is comprehensive and understandable.

The Internet web site of the Toronto Police Services Board does not contain any information relating to the public complaints process. Part V of the Ontario Police Services Act contains provisions, which enable the public to complain about the policies of the Service. Accordingly, it would be appropriate that the Internet web site of the Toronto Police Services Board contain information on the complaints process.

We also noted that several police organizations across North America provide access to complaint forms on their Internet web site. In each of these organizations, members of the public are able to download and print actual complaint forms, thereby facilitating access to the process.

Recommendation:

- 3. The Toronto Police Services Board include information on the public complaints process on its Internet web site. In addition, the Toronto Police Service and the Toronto Police Services Board make public complaint forms available on their respective web sites.**

In order to evaluate the quality of service provided to members of the public, as well as to assess public accessibility to the Toronto Police Service complaints process, a staff member of Audit Services conducted unannounced visits to all 17 police divisions. The staff member did not ask to file a complaint, but simply requested information on the public complaints process and the complaint forms. Our observations from these visits are summarized below:

- Toronto Police Services policy requires that that all public complaints concerning the conduct of a police officer immediately be referred to the officer in charge. In all cases, this policy was complied with;
- The informational brochure “Resolving Complaints – Your Guide for Filing Complaints about Police Conduct, Services and Policies in Ontario” was readily available and easily accessible at only 2 of the 17 police divisions;
- The level and quality of service provided at each police division was inconsistent. There were undue delays in providing the complaint forms at over 50 percent of the divisions attended;
- Even though the prospective complainant requested informational material only, certain police officers insisted that information relating to the complaint be provided to them, creating an uncomfortable atmosphere for the complainant; and
- In one division, the service provided was exceptional. The complaint’s process was described in detail by the officer in charge, and an offer was made to assist the complainant in completing the necessary complaint form.

One of the goals of the complaints process should be to make the process as open and stress free as possible for any member of the public who wishes to complain. The courteous receipt and proper processing of complaints should be required of any police officer dealing with a member of the public who wishes to file a public complaint.

While not explicitly discouraging the filing of complaints, our visits to the divisions found that the attitude of certain police officers was not conducive to creating an environment, which would make a complainant feel at ease. It is likely that this attitude would be even more stressful for complainants who have language difficulties, come from a cultural background which may discourage them from challenging authority, or who may have experienced difficulties with the police in the past.

Recommendation:

- 4. The Chief of Police ensure all officers, particularly officers in charge, are aware of:**
- **their responsibility in providing information on the public complaints process to members of the general public; and**
 - **the importance of creating an environment where the reporting of police officer misconduct is as stress free as possible for members of the general public.**

Classification of Complaints

An extremely important issue in regard to the public complaints process involves the appropriate classification of complaints. The proper classification and prioritization of complaints is necessary for the efficient and effective operation of the complaints process. Procedures are required for prioritising complaints and focussing resources on the more serious cases.

Once a police service in Ontario receives a complaint, the Chief of Police must determine if the complaint relates to the policies of or services provided by the police service or the conduct of a police officer. The legislation indicates that the Chief of Police may decide not to deal with any complaint, other than against the Chief of Police or Deputy Chief of Police, that is deemed frivolous, vexatious, made in bad faith or filed more than six months after the facts on which the complaint is based.

The legislation is also clear that “the Chief of Police shall not deal with any complaint made by a member of the public if he or she decides that the complainant was not directly affected by the policy, service or conduct that is the subject of the complaint.”

The responsibility for the classification of public complaints at the Toronto Police Service is delegated by the Chief of Police to the Unit Commander of the Complaints Review Unit.

The Chief of Police is required to notify the complainant in writing, within 30 days of the following:

- the determination of the complaint as being related to police conduct or about the policies or services provided; and
- the determination that the complaint is made outside the six-month time frame, is frivolous, vexatious or made in bad faith, or is made by a third party.

Our review of complaint files found that the statutory time frames relating to the above requirements are being adhered to.

Complaints that are classified by the Complaints Review Unit as frivolous, vexatious or made in bad faith are for the most part handled directly by the Complaints Review Unit. Less serious complaints (where there is no suspicion of criminality) are channelled to the Unit Complaints Coordinators in the division or units where the subject officer works. Serious complaints, (those

that include criminal allegations) are forwarded to the Public Complaints Investigation Bureau for investigation. Complaints which are classified as extremely serious (more complex investigations involving serious criminal allegations and which require more investigative resources) are channelled to the Internal Affairs Unit for investigation. Very few public complaints are investigated by the Internal Affairs Unit. In 2000, only two complaints were forwarded to the Internal Affairs Unit.

The classification of complaints is generally done on a judgmental basis by the Unit Commander of the Complaints Review Unit. Although the Toronto Police Service's internal policies contain details as to what constitutes a frivolous, vexatious or bad faith complaint, there are no specific written guidelines in regard to what constitutes "serious" or "extremely serious" complaints.

While all complaints reviewed as part of our audit were, in our opinion, appropriately classified, and while we appreciate the need for a certain level of professional judgement in the review and classification of complaints, formulating clear written guidelines would contribute to a more transparent process. It would also ensure consistent classification of complaints over time, particularly when there is a change of command in the Complaints Review Unit.

To ensure that there is some degree of third-party review in the complaints classification process, consideration should also be given to having the classification of complaints reviewed by senior staff of the Professional Standards Division. Such a review should be conducted on a random basis with evidence of the review appropriately documented.

Recommendation:

- 5. The Chief of Police establish clear written guidelines for the classification of all complaints and direct senior staff of the Professional Standards Division to review the classification of complaints on a random basis.**

DISPOSITION OF COMPLAINTS

Informal Resolution of Complaints

One of the objectives of the 1998 Ontario Police Services Act was to simplify the public complaints system and encourage the informal resolution of less serious complaints. The informal resolution process represents an example of the movement away from complex and paper driven processes in favour of a more service-oriented and timely response to less serious complaints. For complaints that are not of a serious nature, Section 58 of the Ontario Police Services Act allows the Chief of Police to informally resolve the matter, provided the police officer and the complainant consent to the proposed resolution. An informal resolution may include an explanation of policy or law, an apology, identification of a training need or any other action that will satisfy the complainant and the officer. Informal resolutions are not permitted for complaints involving matters of policy or services provided, or for serious complaints with allegations of criminality.

The process of informal resolution related to complaints can occur at two points in the complaints process:

- any time during an investigation about the conduct of an officer; and
- at the conclusion of an investigation, after the final report has been prepared.

The following circumstances are not subject to the informal resolution process:

- an injury requiring medical attention resulting from the act or omission being complained about;
- a history of similar conduct; and
- the allegations against a police officer are sufficient to warrant further investigation.

An officer in charge at a division has the delegated authority, as the representative of the Chief of Police, to informally resolve less serious complaints immediately after a written complaint has been received. This authority is rarely exercised, mostly because of competing demands on the time of officers in charge. Our interviews with officers in charge also indicated that many of them were uncertain of their role in the complaints process and as a result, written complaints were, as a matter of course, directed to the Complaints Review Unit. The ability to informally resolve complaints immediately upon receipt, which would be more efficient and offer the complainant a better quality of service, is often overlooked.

Recommendation:

- 6. The Chief of Police clarify the roles and responsibilities of officers in charge with respect to the complaints process, ensure they have the necessary knowledge of the process, and emphasize the importance and benefits of their active involvement in informally resolving less serious complaints as soon as they are reported.**

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The policies and procedures manual of the Toronto Police Service in relation to the informal resolution of public complaints (section 13-04) contains a provision that “No record of an informal resolution shall be placed in a police officers file. Further, once relevant statistical information is obtained, the TPS 901 and TPS 904 shall be destroyed by Complaints Review.”

The destruction of files which have been informally resolved is not a requirement under the Ontario Police Services Act, but rather is a policy of the Toronto Police Service.

During the course of our review, we identified two cases where an informal resolution occurred after a final report was completed and the Complaints Review Unit, contrary to policy, did not destroy the appropriate documentation. We understand that this oversight was due to a misunderstanding of internal administrative procedures and has since been corrected. The relevant forms were subsequently destroyed.

Files relating to informal resolutions are not independently reviewed to ensure that policies and procedures are followed. For example, in our review of one case where the file had not been destroyed, we noted that the complainant’s written consent to an informal resolution, (a requirement to informally resolve complaints) was not obtained even though the file indicated that the complainant was satisfied with the resolution.

The destruction of documentation regarding informal resolutions results in the loss of information that could identify trends of inappropriate behaviour on the part of police officers. While certain basic statistical information (e.g., subject officer’s division and years of experience) is currently maintained, there is a need to capture additional information to help identify problem areas and trends. This would then enable appropriate corrective action (e.g., changes to policy guidelines, training, etc.) to be taken.

Auditing of complaints which have been informally resolved is not possible due to the absence of information relating to both the complaint and the complainant. The Toronto Police Services Board has requested that an annual audit of the public complaints process be conducted. To facilitate and increase the effectiveness of this annual audit, informally resolved complaint files should be retained until the completion of the audit.

Recommendations:

- 7. The Chief of Police direct that all complaint files relating to informal resolutions be forwarded to the Professional Standards Division for review. Deficiencies identified during the review process be communicated to the respective officers in charge for follow-up with the appropriate Unit Complaints Coordinator. Corrective action be communicated to the Professional Standards Division.**
- 8. The Chief of Police direct that information from complaint files which have been subject to informal resolution be retained such that problem areas can be readily identified and appropriate action taken.**
- 9. The Chief of Police postpone the destruction of files relating to complaints, which have been informally resolved, until completion of the annual audit of the public complaints process.**

Withdrawal of Complaints

Complainants may withdraw their complaints at any stage in the complaints process. However, if the Chief of Police or Toronto Police Services Board has commenced a hearing in respect of a complaint, the complaint shall not be withdrawn without the consent of the Chief of Police or the Toronto Police Services Board. The withdrawal of a complaint must be done in writing, requires the signature of the complainant and an explanation by the complainant as to the reason for the withdrawal. In certain cases where a complaint has been withdrawn, the Chief of Police may decide to initiate an internal complaint investigation depending on the seriousness of the allegation.

Our review included interviews with complainants who had withdrawn their complaints for various reasons. In many cases, complaints were withdrawn due to the fact that complainants were advised by investigators that there was insufficient evidence or third-party witnesses to proceed further.

Our review and comparisons of complaint statistics of the 17 divisions, noted a high rate of withdrawn complaints along with a low rate of informal resolutions in certain divisions. It is important that complaint withdrawal rates be monitored and reviewed by the Complaints Review Unit to ensure that this form of resolving complaints is appropriate.

Recommendation:

- 10. The Chief of Police direct the Professional Standards Division to monitor the withdrawal of public complaints in all police divisions to ensure that withdrawals are not used as a means of expeditiously resolving complaints. Where withdrawn complaints at certain divisions are inordinately out of line, the Professional Standards Division determine the reasons and, where appropriate, take corrective action.**

Communication with the Complainant

The Ontario Police Services Act requires that the Chief of Police communicate the decision not to deal with a complaint to the complainant in writing within 30 days of receiving the complaint. The complainant in turn may request the Ontario Civilian Commission on Police Services to review the decision of the Chief of Police not to deal with the complaint.

In the case of a complaint that the Chief of Police has determined will be investigated, he is required to notify a complainant concerning the determination of the complaint as being related to policy, services or conduct of an officer. The complainant may also appeal the classification of the complaint within 30 days of receiving notice to the Ontario Civilian Commission on Police Services.

In addition, the internal policies of the Toronto Police Service require that the adjudication and disposition of all complaints be completed within 90 days. The complainant is advised of their right to request the Ontario Civilian Commission on Police Services to review the complaint if they are not satisfied with the disposition.

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Our review of complaints files indicated that the Toronto Police Service is in compliance with the timelines relating to the notification of complainants and reporting to the Toronto Police Services Board.

THE INVESTIGATION OF COMPLAINTS

The Investigative Process

Every complaint concerning the conduct of a police officer must be investigated and reported on unless the matter is informally resolved or withdrawn. At the conclusion of the investigation, the Chief of Police must determine if the allegations in the complaint are substantiated.

All public complaints received by the Toronto Police Service, except those that are channelled to Internal Affairs, are investigated by either Unit Complaints Coordinators at the unit level or by detectives in the Public Complaints Investigation Bureau, that is part of the Professional Standards Division.

Investigations undertaken by both Unit Complaints Coordinators and Public Complaints Investigation Bureau detectives consist of the collection and evaluation of evidence pertaining to the complaint. This usually involves interviews with the complainant and witnesses, a review of subject and witness officer statements, a review of police officers memo books, various reports requested from internal management information systems, as well as the review of any available audio or video footage.

During our review of investigation files, we were able to conclude that reasonable and appropriate efforts are made by investigators to gather relevant evidence needed to conclude on the allegations. We also noted that the disposition of complaints was appropriate given the documentation included in the files. Files, for the most part, were complete and concise.

Investigations conducted by the Public Complaints Investigation Bureau detectives are reviewed by their supervisors and then further reviewed by the Complaints Review Unit.

The Unit Complaints Coordinators who investigate less serious complaints have ongoing discussions relating to the status of outstanding complaints with their supervisors, the Unit Commanders of divisions. These supervisors sign off on all relevant documentation relating to informal resolutions, withdrawal of complaints or on a final report. This sign off is evidence that the supervisor is in agreement with the conclusion reached by the Unit Complaints Coordinator. The files relating to these complaints are not reviewed in detail by the Complaints Review Unit.

Our audit identified several administrative deficiencies in certain complaint files. Almost all of the deficiencies pertain to investigations conducted by Unit Complaints Coordinators. As indicated above, the Complaints Review Unit does not review these files in detail.

The following deficiencies, which had no impact on the final conclusions contained in each of the files, were noted during our audit of complaint files.

- allegations (less serious within context of complaint as a whole) made by the complainant not being identified and addressed;
- final reports in some cases not providing sufficient information to justify the conclusion reached even though the investigative work conducted supported the disposition of the allegation;

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- various notes that did not identify the author or the file reference;
- lack of documentation relating to action taken when “side issues” (those issues identified during the investigation of a complaint that are unrelated to the substance of the complaint) were identified; and
- unexplained gaps in log notes relating to the chronology of action by the investigator.

It is important that Unit Complaints Coordinators be made aware of the importance of maintaining proper and complete investigative files that support the final conclusions of their investigations. In addition, Unit Commanders, in signing off on the investigation of complaints by the Unit Complaints Coordinators, review the files to ensure the investigations were properly conducted.

Recommendations:

- 11. The Chief of Police ensure that all Unit Complaints Coordinators are aware of the level of documentation required for investigative files, and that such files are clear, concise and presented in a manner which supports the final conclusions of the investigations. Where appropriate, training be provided to meet this objective.**
- 12. The Chief of Police direct Unit Commanders to review all public complaint investigation files in their respective divisions before signing off, to ensure that the files are complete, that all appropriate investigative procedures were performed, and that the investigations are free of bias. This review should be conducted prior to the final adjudication of the complaint.**

Our review of investigative files indicated that audio tape recordings of investigative interviews with complainants and witnesses are not used extensively by the Toronto Police Service. Our research of the complaints process in other jurisdictions throughout the United States, indicates that audio tape recordings of interviews with complainants, subject officers and witnesses are an integral part of the complaint investigation process in many of these jurisdictions.

Tape-recorded interviews would provide the Complaints Review Unit with an important tool to help them evaluate the quality and objectiveness of complaint investigations and identify training needs. In view of the sensitivity of audio taping interviews, we suggest that such a process only be conducted with the written approval of the complainant.

In reviewing files where audio tapes were used we noted that, for the most part, information was impartially gathered through the asking of open-ended questions and by seeking clarification of the complaint. However, in our view, the investigators at times did ask inappropriate leading questions of complainants and witnesses.

Recommendations:

- 13. The Chief of Police direct the Professional Standards Division that interviews with complainants be audiotaped where possible. Audiotaping of interviews only be conducted with the written approval of the complainant. If a complainant does not wish to be audiotaped, this fact be included in the complaint file.**
- 14. The Professional Standards Division, on a sample basis, review audiotaped recordings of interviews to ensure that investigations are complete, thorough and free of bias. Any problems identified during this process be communicated to senior staff and appropriate action, including training, be initiated.**

Conflict of Interest

Conducting public complaint investigations is difficult, essentially because investigators both at the Public Complaints Investigation Bureau and the various police divisions are investigating complaints against fellow police officers. In view of this, there may be instances where an investigative officer may have a conflict of interest or be perceived to have a conflict of interest in investigating complaints against certain police officers.

Known conflicts of interest are taken into consideration when Unit Commanders assign complaints to investigators. However, to further increase the awareness and importance of the conflict of interest guidelines, complaint investigators should be required to sign a conflict of interest declaration.

Recommendation:

- 15. The Chief of Police direct that a conflict of interest declaration be signed by investigative officers on appointment to the Public Complaints Investigation Bureau or assignment to a Unit Complaint Coordinator position. Specific guidelines relating to what constitutes a conflict of interest should be developed and communicated to investigators.**

SUBSTANTIATED COMPLAINTS AND DISCIPLINE

After the investigative report is completed, a Chief of Police in Ontario may:

- settle the matter by way of informal resolution if the misconduct or unsatisfactory work performance was not of a serious nature;
- find the complaint is unsubstantiated;
- find the officer guilty of misconduct and impose a penalty without a formal hearing where the misconduct is not serious. If the officer does not accept the proposed penalty, a police disciplinary hearing is held; and
- decide the complaint should be heard by a police disciplinary hearing.

Of the 258 final reports issued by the Toronto Police Service in 2000, complaints were substantiated in 12 cases. The substantiation of complaints results in the imposition of discipline against the subject officer.

The Divisional Unit Commander is responsible for adjudicating and imposing discipline, if an investigation concludes that misconduct or unsatisfactory work performance of a less serious nature is substantiated. The Unit Commander is responsible for ensuring that the appropriate corrective discipline is taken. This discipline could range from a reprimand to a penalty of up to three days of salary. The evidence that this discipline was administered is maintained in the officers' personnel files at the respective police division.

Our review found that there are no internal administrative controls in place to ensure that discipline as adjudicated is, in fact, administered. In two out of the ten cases we reviewed (the remaining two cases were being appealed), where misconduct of a less serious nature was substantiated, there was no documentation of discipline in the officers' personnel files. Further review of this matter by my office revealed that discipline was in fact not imposed in these two cases. In the one case, the Toronto Police Service explained that discipline was not imposed essentially due to an oversight caused by staff turnover as both the Unit Commander and the Unit Complaints Co-ordinator were transferred out of the Division at the same time. In the second case, we were not able to determine the specific reasons why discipline was not imposed, other than the fact that we were informed that it was overlooked.

Recommendation:

- 16. The Chief of Police develop, where public complaints are substantiated, internal controls to ensure that the appropriate and necessary disciplinary action is imposed on police officers. In addition, the Chief of Police ensure that the information pertaining to disciplinary action taken is retained for the required time period in the subject officer's file. Disciplinary action taken be reported to the Professional Standards Division.**

In circumstances where complaints are substantiated, the complainant is notified by a letter from the Chief of Police. The complainant is also advised that the Unit Commander will determine the appropriate discipline. The complainant is not advised of the nature of the discipline. The complainants we interviewed were concerned as to why they were not provided with details of the discipline administered to subject officers. While providing this information to complainants may be in contravention of current privacy legislation, a general statement in the Professional Standards Division Annual Report of the levels of discipline imposed will enhance the transparency of the process.

Recommendation:

- 17. The Chief of Police disclose the range of discipline imposed on police officers in the Professional Standards Division Annual Public Report prepared by the Professional Standards Division.**

At each disciplinary hearing, the police officer is represented by a lawyer retained by the Toronto Police Association. Staff of Prosecution Services, a unit within the Professional Standards Division represents the complainant. The representative from Prosecution Services is not a lawyer. The judge who adjudicates at the hearing is, in most cases, a senior police officer designated by the Chief of Police. To ensure the complainant is effectively represented, it may be appropriate in some cases, for the Service to hire outside legal expertise to assist them with the case.

Recommendation:

- 18. The Chief of Police give consideration to the retention of outside legal representation for the complainant at formal disciplinary hearings, where appropriate.**

CONFIDENCE AND SATISFACTION IN THE COMPLAINTS PROCESS

**THE VIEWS OF MEMBERS OF THE PUBLIC,
COMPLAINANTS AND POLICE OFFICERS**

Toronto Police Service’s Goals in Relation to the Complaints Process

One of the Toronto Police Service’s goals in its 2001 business plan, as well as its 2002-2004 business plan, is to attain a higher degree of public and police officer confidence in the impartiality of the public complaints process. In order to achieve this goal, the Toronto Police Service identified the following performance indicators:

- “increased perception of public confidence in the impartiality of the system;
- increased satisfaction with the complaints process for members of the public who had experience with the complaints system; and
- officer perception of confidence in the complaint system.”

While these goals are consistent with the objectives of an effective complaints process, there is no plan in place to determine how these indicators will be achieved and measured. In short, there is no strategy in place to determine when or if these objectives are met.

Recommendation:

- 19. The Chief of Police develop a plan to measure the performance of the Toronto Police Service relative to its business plan as it relates to the complaints process. Such a plan to include a recommendation relating to the reporting of the results of this process.**

During our review, we focussed on the Toronto Police Services’ goals and objectives in order to determine to what extent they have been attained. In this regard, we interviewed members of the general public, complainants and police officers.

Our observations are summarized below:

Members of the General Public – Confidence in the Complaints Process

Public confidence in the complaints process stems from a belief in the fairness and impartiality of the system. Our review found that members of the public who responded to our survey and public interest groups we spoke with did not, for the most part, view the complaints process to be impartial or fair.

The lack of an investigative process independent of the police is regarded as a significant impediment in regard to public confidence in the system. This was an issue we heard time and again from the individuals and organizations we interviewed. Civilian oversight advocates argue that police officials cannot be impartial when investigating their peers. In certain cases, we were advised that this lack of independence was a major reason why certain members of the public

would not consider filing a complaint against the police. Similar concerns have been prevalent in the United States for many years. In response to these concerns, by the end of the 1990s, civilian oversight of the police was an important component of policing in the United States with over 100 separate civilian oversight agencies established.

A further issue in relation to the current legislation, which concerned many members of the public, relates to restrictions on third-party complaints. Professor Samuel Walker, an authority on the subject of police accountability, in his book “Police Accountability – The Role of Civilian Oversight”, describes the attributes of a model citizen complaint procedure. With regard to complaint intake, Professor Walker writes, “complaints do not have to be filed by the alleged victim of misconduct. The department shall receive and investigate allegations from witnesses or third parties to the incident.”

It should be noted that, except for Ontario, all other provinces permit the investigation of complaints submitted by third parties.

Complainants’ Satisfaction with the Public Complaints Process

Our review included interviews with 14 members of the general public who had registered a complaint against the police. Based on these interviews, complainants were, for the most part, not satisfied with the public complaints process. In general terms, the views of complainants mirrored those of the general public. The issue of police independence and the concerns in regard to third-party complaints were again common themes during our interviews.

As indicated earlier, each of these issues is governed by current legislation and as a result, any revisions to the current processes can only be achieved through legislative changes.

Recommendation:

20. The Toronto Police Services Board:

- **consider the concerns raised by the general public with respect to the complaints process, specifically, the administration of the public complaints process by the police and the ability to investigate complaints filed by third parties; and**
- **take the necessary action to deal with these issues, including communicating these concerns to the Ministry of the Attorney General for consideration and appropriate action.**

In addition to the independence of the complaints process and concerns relating to third-party complaints, specific issues identified by the complainants we interviewed were as follows:

- interviews being conducted over the telephone instead of personal face to face meetings with the investigator;
- being “interrogated” by officers in charge and discouraged from lodging written complaints;

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- not being updated on a regular basis on the status of their complaint;
- details contained in final investigative reports not accurately reflecting the substance of the complaint;
- complaints not being resolved more expeditiously and informally; and
- concerns that the appropriate levels of discipline would not be imposed.

A recurring issue throughout our interviews with complainants was the view that complaining against a police officer would somehow lead to some form of retribution or harassment against the complainants. This comment was made to us on a number of occasions and, while difficult to substantiate, is an issue that impacts public confidence in the system and, as a result, requires attention. Similar views were also reiterated to us by an organization that assists disadvantaged members of the public. This organization has made a deliberate policy decision not to assist persons in filing complaints against the police for this very reason.

Notwithstanding the above, there were a number of positive comments made by certain of the complainants. Eight of the 14 complainants indicated that they were generally satisfied with the quality of service provided by the investigating officer. These complainants indicated that they felt that their complaints were taken seriously and the investigators were generally professional and thorough.

Recommendation:

- 21. The Chief of Police review the complaint investigation process to ensure that the concerns identified by both the general public and complainants, as outlined in this report, are appropriately addressed.**

Currently, a number of divisional unit commanders contact complainants after resolution of their complaint to determine their level of satisfaction with the process. This is an effective means of determining how well the process is working and allows the unit commander to obtain first hand knowledge of any concerns the complainant has with the investigative process. It should therefore be a mandatory requirement for all unit commanders.

Public satisfaction with the process could also be measured by introducing a quality service survey, which solicits feedback from complainants on an ongoing basis.

The Minneapolis Civilian Review Authority has developed a Quality Service Audit in the form of a customer feedback survey. This survey provides both members of the public and police officers an opportunity to evaluate their experience with the complaints process. The Toronto Police Service should consider adopting a similar survey.

Recommendation:

- 22. The Chief of Police direct the Professional Standards Division to solicit feedback from complainants and police officers involved in public complaints, and that the survey results be returned directly to the Complaints Review Unit for analysis and the identification of any issues or deficiencies that need corrective action.**

Ontario Civilian Commission on Police Services

The Ontario Civilian Commission on Police Services is the provincial oversight agency, which is independent of Municipal police services, and exists in part to provide complainants with a review and an appeal mechanism in relation to decisions made on complaints. The Commission is called upon to review decisions of various police services, as well as decide on the appeals received relating to hearing decisions made by police services.

Most of the complainants we interviewed, however, did not view the Commission to be independent from the Toronto Police Service. In many cases, they viewed the Commission as being “yet another government body” and felt that communicating with them to request a review of their case would be of minimal value. Consequently, the role of the Commission in the complaints process does not appear to enhance the level of public confidence in the impartiality of the process.

In our review of statistics provided to us by the Commission, we noted that in 2000, 109 requests by the public for reviews of the decisions of the Toronto Police Service were made to them. The Commission modified nine of the decisions.

Police Officers’ Confidence in the Complaints System

Our review included a written survey of 133 police officers, as well as the interview of a wide number of officers throughout the Toronto Police Service. We also met with the President and other representatives of the Toronto Police Association.

We found that the majority of police officers are generally in favour of a process that allows the public to bring forward legitimate complaints against police officers. However, many of the officers consider that a large number of public complaints to be either trivial or unfounded.

In general, there was a feeling of dissatisfaction and distrust of the complaints process among the majority of officers surveyed and interviewed. These officers were of the view that the Toronto Police Service’s increased attention to public complaints has had a negative impact on their work and has negatively affected morale. Further, officers felt that the application of the complaints process has gone beyond identifying and addressing inappropriate behaviour, and has been extended to disciplining officers for errors or misjudgements that may have been made in the course of conducting their work.

In addition to the evaluation of the police officer surveys submitted to us, we also interviewed 12 officers who had been the subject of the public complaints we reviewed. Half of the officers we interviewed indicated that the complaints process was handled appropriately, even though they felt that the process favoured the complainant.

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The other half felt that the complaints process was unsatisfactory. Their views essentially mirrored those of the surveyed officers. Specific comments were as follows:

- there should be repercussions for complainants who make frivolous or vexatious complaints against police officers;
- certain members of the public file complaints with the objective of having charges dropped or with the anticipation of receiving more lenient sentences;
- that complaints made by persons who are under the influence of drugs or alcohol are not properly handled;
- officers in certain cases are pressured to apologize to complainants, in order to informally resolve a complaint, even though they are of the view that the complaint is unfounded;
- there is lack of trust toward senior police staff in regard to the destruction of documentation relating to complaints which have been informally resolved;
- complaints against police officers arising due to the lack of time or resources to address specific public concerns at a scene;
- the lack of feedback to officers relating to the status and resolution of complaints;
- memo books being “taken” for an investigation without the knowledge of the police officer;
- the length of time taken to conduct investigations;
- the lack of interpersonal skills of certain officers in charge which negatively impact the initial handling of complaints; and
- the view that unsubstantiated and withdrawn complaints would be held against officers when being considered for promotions or transfers.

In addition to the above, one of the key contributors to the negative views concerning the complaints process relates to the handling of “side issues” that occasionally result from complaint investigations. Side issues are generally unrelated to the substance of the public complaint, but identified during the investigation of the complaint, e.g., an officer did not submit a required form after making an arrest. These “side issues” in turn result in an internal complaint and may have disciplinary implications for the police officer, who is the subject of the public complaint.

While our review found that the number of instances where “side issues” arise from public complaint investigations are minimal, “side issues” are nonetheless associated with the public complaints process and are of concern to police officers. In order to improve officer perception of the complaints process and morale, these side issues should be dealt with as performance issues outside of the complaints process.

Recommendation:

- 23. The Chief of Police review the concerns of officers relating to the public complaints process as identified in this report, and take appropriate action to address these concerns.**

Suggestions by Police Officers for Changes

One of the issues suggested by police officers was a requirement that complainants sign an affidavit attesting to the accuracy of complaints. Certain police officers also held the view that there ought to be repercussions towards those complainants who filed frivolous and vexatious complaints.

While we understand the concerns of officers against whom unfounded complaints are filed, we are of the view that any action, which potentially deters the public from filing a complaint concerning police conduct, is inappropriate. Consequently, we do not support this suggestion. In actual fact, our discussions with complaint investigators indicate that few complainants knowingly file false allegations against officers and that the majority of complaints involve different views of the events, on the part of police officers and complainants.

It should be noted that complaints classified as frivolous, vexatious and made in bad faith were less than 10 percent (78) of the total complaints (814) received in 2000. This is a small amount in the context of the total complaints received, particularly when compared to the number of officers in the Toronto Police Service. The implementation of a process to deal with such a small number of complaints, particularly at the risk of compromising the public complaints process, would in our view, be inadvisable.

MANAGEMENT INFORMATION SYSTEMS

The information maintained relating to complaints by the Toronto Police Service is appropriate to meet legislated reporting requirements regarding public complaints, but inadequate in providing administrative and strategic benefits to the Toronto Police Service.

In the 2000 Environmental Scan, published by the Toronto Police Service it was noted that:

“beyond tracking and investigating complaints, it is necessary to identify the factors underlying the activities which give rise to complaints against the police, particularly those related to the misconduct of police officers. These factors have important implications for police accountability, public confidence and the quality of police services provided.”

The Toronto Police Service currently does not have the appropriate information systems in place to meet the above noted objectives.

There are separate complaints databases maintained by each unit within the Professional Standards Division. The information maintained by the Complaints Review Unit does not have the level of information required to identify factors that may lead to complaints.

We understand that the Professional Standards Information System, a central database, is to be introduced in the near future. It is important that the business reporting requirements of the Professional Standards Division are clearly defined and included in this system.

Annual statistics should be compiled showing the distribution of complaints by category among the various units. These units, individuals or specific activities with a high number of complaints can be identified and corrective action taken in the form of either changes in policy or changes in the conduct of police officers or both.

In addition, the Toronto Police Service does not maintain and could not readily provide us with, the number and dollar value of public complaint cases that evolved into civil litigation cases. This information would enable the Toronto Police Service to better assess the cost of not effectively dealing with and resolving public complaints.

Our audit noted that the actual time spent on complaint investigations at either the divisions or at the Public Complaints Investigation Bureau is not accounted for on a case by case basis. This lack of information does not allow management to effectively manage and deploy its resources relating to the complaints process. The tracking and monitoring of time would help identify problem areas and ensure timely corrective action is taken.

Recommendations:

- 24. The Chief of Police expedite the implementation of the Professional Standards Information System and ensure that the informational requirements of the system are clearly defined to meet the needs of the Professional Standards Division.**

- 25. The Chief of Police direct Toronto Police Service, Legal Services to maintain information on civil litigation that relates to public complaints and to report this information to Professional Standards Division, such that the risk and cost of not effectively dealing with public complaints is monitored on a regular basis.**

- 26. The Chief of Police direct the Professional Standards Division to develop a time tracking system to capture the amount of time investigators spend on the investigation of public complaints, such that the resources deployed in performing these investigations can be more effectively managed.**

IMPLEMENTATION AND FOLLOW-UP OF AUDIT RECOMMENDATIONS

It is anticipated that a follow-up audit to determine the implementation status of the recommendations in this report will be conducted in mid to late 2003, as part of our annual audit of the complaints process. Accordingly, it is important that the Chief of Police formally respond to the recommendations in this report, including providing a timeframe for any action that will be taken.

Recommendation:

- 27. The Chief of Police report to the Toronto Police Services Board, within six months, with a response to each of the recommendations contained in this report, including a specific work plan and timetable for the implementation of the recommendations, as appropriate.**

**CITY AUDIT SERVICES TERMS OF REFERENCE
PUBLIC COMPLAINTS PROCESS REVIEW – TORONTO POLICE SERVICE**

A. Background

In response to a request from the Toronto Police Services Board, the City Auditor reported at the September 28, 2000 meeting of the Board that he would include the audit of the Toronto Police Service public complaints process in the 2001 Audit Work Plan.

B. Legislative Authority/Operational Highlights

According to Part V of the Ontario Police Service Act (PSA), any member of the public may make a complaint about the policies of or services provided by a police force or about the conduct of a police officer. A Police Service Board has a statutory responsibility, under Section 31(1) of the PSA, to establish guidelines for dealing with complaints, to review the Chief of Police's administration of the complaints system under Part V, and to receive regular reports from the Chief of Police on his or her administration of the complaints system, as set out in Part V of the PSA. According to Section 41(1) of the PSA, the duties of the Chief of Police include the administration of the complaints process, as set out in Part V of the PSA.

The Chief of Police has delegated the administration of the complaints process to the Professional Standards Division of the Toronto Police Service. This Division consists of five units and is headed by a Staff Superintendent who reports directly to the Chief of Police. The five units within the Division include Public Complaints Investigation Bureau (PCIB), Internal Affairs, Complaints Review, Quality Assurance and Prosecution Services. In addition, Unit Complaint Coordinator positions (UCCs) have been established in the various police Divisions and units to handle less serious complaints that can be resolved at the police division or unit level.

C. Audit Scope and Objectives

The focus of this audit will be to examine the processes established by the Toronto Police Service for handling public complaints as set out in Part V of the PSA. Public complaints are classified as "conduct", "service" or "policy" complaints. Our audit will focus on "conduct" related complaints. The analysis of individual cases will be restricted to a sample of complaints received between January 1 and December 31, 2000, as well as any complaints received prior to January 2000 that remain outstanding. To gain an understanding of the complaints process, a review of some of the active complaints will also be undertaken.

The overall goal of this audit is to determine whether the complaints process, from receipt of a complaint to its resolution, complies with applicable legislation and policies established by the Toronto Police Services Board; and whether the process is effective, impartial and transparent, such that the integrity of and confidence in the process is maintained.

Performance Audit – The Public Complaints Process – Toronto Police Service

The specific objectives of this review are to:

- (a) determine the level of awareness of the public complaints process among members of the Toronto Police Service, as well as Toronto residents;
- (b) assess the effectiveness of the organizational structure, as well as the roles and responsibilities within the Toronto Police Service related to the public complaints process;
- (c) evaluate the criteria in place to ensure the proper classification of complaints;
- (d) determine the level of consistency practised among Unit Complaints Coordinators and staff at divisional front desks (responsible for answering queries from the public) in handling public complaints and related enquiries;
- (e) assess the level of access to the complaints process available to members of the general public;
- (f) assess the type and level of training made available to Unit Complaint Coordinators and other members of the Toronto Police Service with respect to the handling of public complaints;
- (g) assess if resources and time used to resolve complaints are tracked and are appropriate relative to the type and nature of the complaint;
- (h) ensure that adequate documentation to support conclusions is contained in complaint files, that investigations are thorough, and that there is evidence of adequate supervisory review to support the dispensation of the complaint;
- (i) ensure that effective management information systems are in place to enable the availability of timely and complete information, identify problem areas and trends as well as to facilitate decisions;
- (j) ensure that proper quality assurance mechanisms exist in the process to give the Chief of Police and the Toronto Police Services Board the necessary assurance with respect to the integrity of the complaints process; and
- (k) ensure the existence, reasonableness and effectiveness of performance indicators used by the Toronto Police Service to monitor and report on their performance relating to the complaints process.

In satisfying the above noted objectives, we will review the existing management structure, communication channels and administrative processes, as well as reporting protocols. In addition, we will interview community and other stakeholders, service members, as well as survey other jurisdictions. We will also review a sample of complaint files and conduct other procedures we deem necessary to satisfy our audit objectives.

Performance Audit – The Public Complaints Process – Toronto Police Service

In order to conduct our audit we will need the full co-operation of the Toronto Police Service and be able to access complaint related files and information maintained by the Toronto Police Service.

**VARIOUS PUBLICATIONS AND DOCUMENTATION REVIEWED
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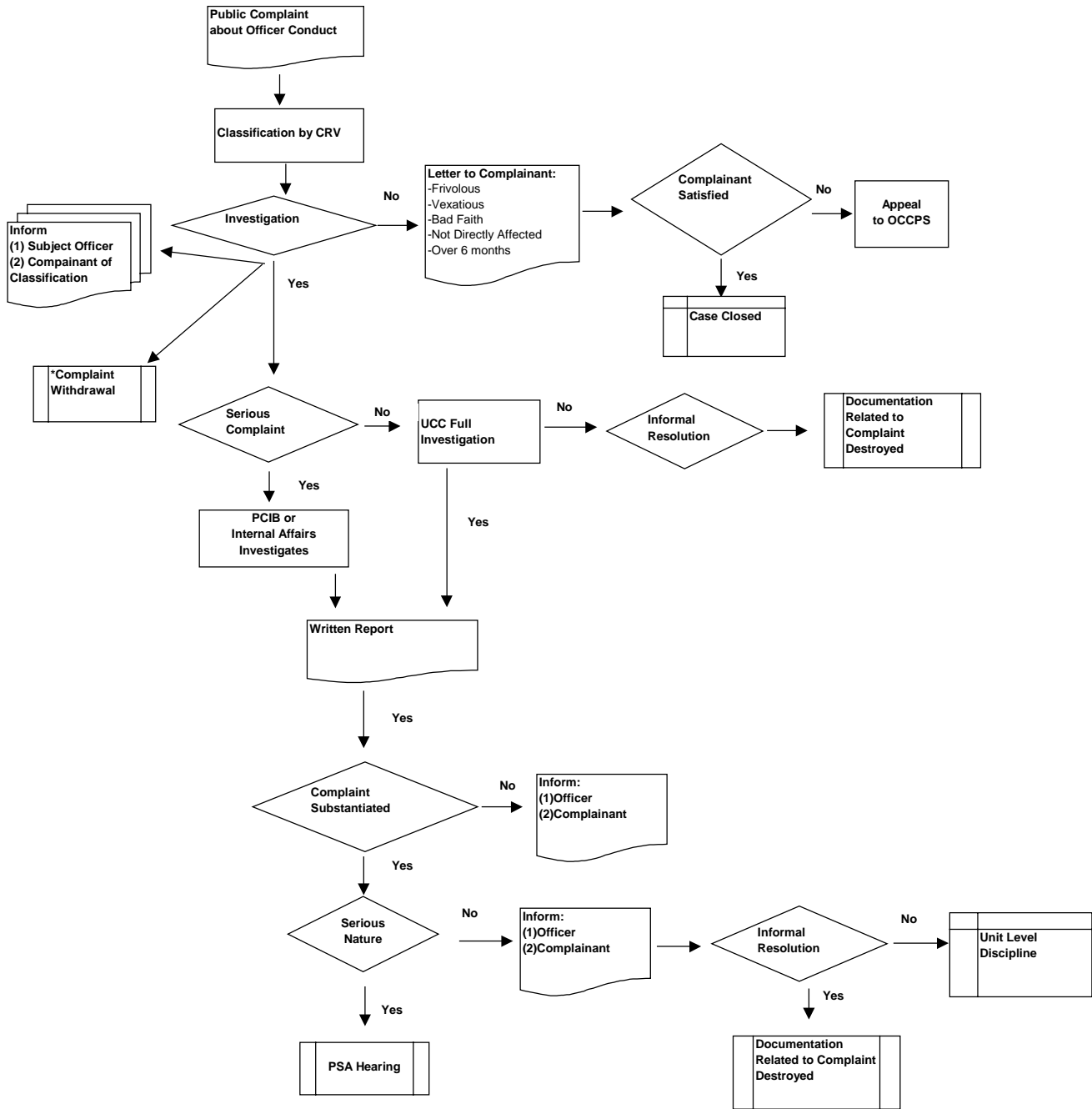
Goldsmith, A. J. Complaints Against the Police. The Trend to External Review

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Performance Audit – The Public Complaints Process – Toronto Police Service

TORONTO POLICE SERVICE ADMINISTRATION OF PUBLIC COMPLAINTS

APPENDIX 3



Legend of Symbols

	Process or Activity that is performed		Predefined Process
	Decision Point in the process		Internal Storage
	Document or multiple documents are produced		

*Complainant may withdraw a complaint at any point in the process

CRV = Complaints Review Unit
OCCPS = Ontario Civilian Commission on Police Services
PCIB = Public Complaints Investigation Bureau
UCC = Unit Complaints Coordinator