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THE ONTARIO POLICE COMPLAINTS SYSTEM FORUM

PERSPECTIVES FROM THE COMMUNITY, POLICE AND POLICY-MAKERS

FINAL REPORT EXECUTIVE SUMMARY

17 SEPTEMBER 2013

Submitted to:
Attorney General of Ontario
Independent Police Review Director of Ontario



UNIVERSITY OF
WATERLOO



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The following organizations were Forum partners

Dixon Hall
Kensington-Bellwoods Community Legal Service
Ryerson University
Scadding Court Community Centre
Toronto Police Service
University of Toronto
University of Waterloo

The following individuals took lead roles in organizing the Forum

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Kevin Lee (Scadding Court Community Centre)
David Roberts (Toronto Police Service)
Dr. Jennifer L. Schulenberg (University of Waterloo, Department of Sociology & Legal Studies)
Ryan Tucker (Dixon Hall)

Forum associates who were integral to developing and supporting the Forum

Alexandra Park Neighbourhood Learning Centre
Covenant House
Justice for Children and Youth
Midaynta Community Services
Schizophrenia Society of Ontario
Youth and Policy Advocacy Working Group

Forum Sponsors

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24. Reduce the number of police-managed investigations by exploring alternative models of investigation and investigators used under comparable investigation processes or systems. In addition, provide increased opportunities for independent investigators and certified mediators, perhaps by reviewing the way in which resources are spent (e.g. training community leaders or channelling resources to community-based agencies).
25. Collect information from anonymous complaints on the nature of the complaint and identify trends or systemic concerns identified by demographic factors as race, ethnicity, and age. Findings should be discussed with police services and the Police Service Board to allow for improvements to the complaints system.
26. Designate analysts to assess the types of complaints made and if they reflect any patterns that could serve to guide the OIPRD’s efforts and resources in addressing systemic issues.
27. Establish a procedure to focus particular attention on the human rights components of complaints to explicitly recognize violations under the Ontario Human Rights Code and to ensure that violations are addressed as fully as possible.
28. Report on OIPRD actions to implement recommendations from the Forum, perhaps in annual reports.

It is important to note how critical the effective functioning of the complaints system is to the health and safety of communities. A robust and transparent system will help to strengthen public confidence, break down barriers between law enforcement and the community, and help to improve policing practices in the best interests of the public. Acknowledging and acting upon the collaborative efforts of the public and law enforcement at this Forum to improve the police complaints system is important to create a responsive, effective, and efficient OIPRD.

14. Develop the capacity of diverse communities to participate in informal resolution and mediation processes in meaningful ways.
15. Use discretionary power to interpret the OIPRD Rules of Procedure as liberally as possible to expand the six-month time limit for filing complaints so that it is a criterion for the inclusion and not the exclusion of complaints.
16. Provide greater clarity and transparency on the criteria used to screen out complaints, notably complaints deemed “frivolous”, “vexatious”, “not in public interest, and “made in bad faith”. Provide letters to complainants with clear reasons for screening out their complaints, or finding their complaints unsubstantiated, with direct references to established criteria as outlined in the OIPRD Rules of Procedure.
17. Provide more oversight and rigorous investigation of serious cases, such as those involving the excessive use of force.
18. Clarify the criteria for referring complaints to the police, and take into account complainant preferences when making decisions about referrals. Notify complainants prior to assigning their complaint to a police-managed investigation so as to provide them with the opportunity to withdraw their complaints.
19. Assign police-managed investigations to a different police service than the service where the officer who is the subject of the complaint is employed.
20. Provide more information to community members about the investigation process conducted by Professional Standards.
21. Clarify the involvement of third parties and agents in the system by defining the scope of third party rights and the criteria under which third party rights are permitted, noting such issues as privacy rights, and requirements for consent of the person who is the subject of the complaint.

E. Common Themes

22. Educate the public about the safeguards used to protect complainants from retaliation and ensure confidentiality of their complaints, including guidelines on the use and retention of written records, and the locations at which parties will engage in informal resolution or mediation processes.
23. Improve screening processes to reduce the number of false complaints and explore the implementation of tools to inform the public about the consequences of filing false complaints.

EXECUTIVE SUMMARY

The *Ontario Police Complaints System Forum: Perspectives from the community, police and policy-makers* (“the Forum”) was held in Toronto on November 26 and November 27, 2012. Co-chaired by Scadding Court Community Centre (SCCC) and the University of Waterloo, one hundred and fifty delegates from sixty organizations and nine police services from across Ontario discussed the current state of the police complaints system. A number of recommendations emerged out of the Forum that focus on how to improve the police complaints system and specifically the role and function of the Office of the Independent Police Review Director (OIPRD).

In 2007, the Ontario legislature passed The Independent Police Review Act (the “Act”) to create the OIPRD as an arms-length agency of the Ontario Ministry of the Attorney General. The Act amended Part V of the Police Services Act, and the amendments came into force on October 19, 2009. The OIPRD’s goal is to “provide an objective, impartial office to receive, manage and oversee the investigation of public complaints against Ontario’s police” (OIPRD, 2012). Decisions on complaints are made independent of police, government, and the public to provide civilian oversight, police accountability, and to increase public confidence in the complaints system. Mr. Gerry McNeilly has served as the Independent Police Review Director since June 2008.

The Forum was the first opportunity for stakeholders to meet in a large public venue to review the work of the OIPRD since its inception in 2009. The Forum was a follow-up to the community-led Bill 103-Summit which was held in Toronto on September 24 and September 26, 2008. Organized by SCCC and other partner organizations, the Bill 103-Summit brought together the three pillars of community, police, and government to make recommendations for the establishment of the OIPRD. Since the Bill 103-Summit, there has been no convergence of public opinion, law enforcement, and policy makers to examine current OIPRD processes and to discuss best practices to further improve the system.

Four Forum breakout sessions were organized by theme:

- Public education and support;
- Accountability, accessibility, and transparency;
- The investigative complaint process under the OIPRD;
- The OIPRD complaint decision-making process.

Delegates examined their respective breakout session topics through the guiding principles of accountability, transparency and accessibility. They discussed the current state of the police complaints system, identified barriers and ideas to overcome them, and how to facilitate the system evolving to meet the needs of the public and law enforcement. Delegate feedback was then compiled into a series of session notes where groups reported back on the outcomes of their sessions including recommendations for improvement to the existing police complaints system and structure of the OIPRD.

Common themes that emerged from all breakout sessions included: a fear of reporting, anonymous complaints, concerns on accessibility, analyses of systemic issues within the review process, questions about the neutrality of the OIPRD, coordination with other complaints systems and oversight of the OIPRD (Please refer to Section II of the final report for more information).

What follows are the twenty-eight thematic recommendations that are categorized into specific areas of action. It is anticipated that these recommendations will inform the next steps in terms of ongoing work by the community, police services, and the OIPRD to improve the Ontario police complaints system as a whole. Forum organizers are confident that the Attorney General of Ontario and the OIPRD recognize the value of the feedback obtained at the Forum and will take the appropriate steps to improve the system and current practices to ensure the OIPRD's goal of public confidence in the complaints process is achieved.

Recommendations

Recommendations from the Forum are organized by theme as follows:

- A. Legal structure: The police complaints system
- B. Outreach by the OIPRD
- C. Procedures of the OIPRD
- D. Complaint Investigative Process
- E. Common Themes

The 28 recommendations are organized thematically by actions the OIPRD can take to improve the police complaints system in general as well as the specific operations of the OIPRD. Each recommendation is broken down and discussed in further detail in Section II of this report. Please see Appendix E for the 57 specific recommendations presented by delegates at the recommendations panel.

A. Legal structure: The police complaints system

1. Provide clarity on whether records of complaints will be retained. If they are retained, do so only with the consent of the parties. Use relevant, non-identifying information for purposes related to research, program development, and evidence-based practice.

B. Outreach by the OIPRD

2. Hire additional outreach workers to maximize public information and education opportunities.
3. Develop communication tools and support systems for community members that are accessible, culturally relevant, available in multiple languages, and visually representative of the population in Ontario.
4. Develop a specific outreach plan with actions, targets and outcomes that will reach vulnerable and marginalized populations who are presently not accessing the system.

5. Develop an information dissemination plan that will ensure community members are able to obtain information on the police complaints system at locations where they are most likely to access such information (e.g. legal clinics, court houses, hospitals, libraries, community centres, prisons, health centres, shelters, religious institutions, settlement agencies and academic institutions).
6. Partner with community organizations that have expertise, resources, language capacity and a direct service mandate to build their knowledge of the system and equip them with the tools to assist their clients in navigating the process.
7. Amend the OIPRD Rules of Procedure and the Police Services Act to allow for publicizing the existence of the OIPRD using media outlets such as radio, TV, videos, newspapers, digital storytelling, social media applications, websites, billboards, posters, and pamphlets.

C. Procedures of the OIPRD

8. Create a system for tracking the number, type, and geographical locations of complaint applications for analysis and accountability purposes.
9. Ensure that all materials and information at every point of the police complaints process are made available in multiple languages reflective of Ontario's population. Develop an internal checklist to assist the OIPRD in keeping track of and ensuring linguistic and other accessibility issues are addressed, such as physical, visual, and audio accessibility.
10. Create a system of regular communications with complainants to provide updates on the status of their complaints. Explore the creation of other mechanisms to include complainants throughout the screening, investigation, and decision-making process.
11. Review the effectiveness of the investigation process as outlined in the OIPRD Rules of Procedure and the Police Services Act every few years through outcome analysis and feedback. Monitor public satisfaction with, and confidence in, the OIPRD and its functions. Collect survey data on the satisfaction of complainants with the system, incorporating mechanisms to assess whether there is a difference in satisfaction levels based on who carries out the investigation (OIPRD independent or police-managed). Ensure findings are made publicly accessible.
12. Audit the results of disciplinary hearings and provide information on the outcomes in publicly available and accessible formats.

D. Complaint Investigative Process

13. Establish criteria on the type of complaints that can be referred to informal resolution and mediation processes and the appropriate stage in the process at which this can occur.