

Manitoba
Office of the Commissioner
Law Enforcement Review Agency (LERA)

**Annual Report
2013**



**ATTORNEY GENERAL
MINISTER OF JUSTICE**

Room 104
Legislative Building
Winnipeg, Manitoba CANADA
R3C 0V8

The Honourable Philip S. Lee, C.M., O.M.
Lieutenant-Governor of Manitoba
Room 235 Legislative Building
Winnipeg MB R3C 0V8

MAY IT PLEASE YOUR HONOUR:

It is my pleasure to present the *2013 Annual Report of the Law Enforcement Review Agency*.

This report details the agency's accomplishments and activities for the 12-month period ending December 31, 2013.

Respectfully submitted,

A handwritten signature in purple ink that reads "Andrew Swan".

Honourable Andrew Swan

Manitoba



Justice

Law Enforcement Review Agency (LERA)
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T 204 945-8667 F 204 948-1014
www.gov.mb.ca/justice/lera

The Honourable Andrew Swan
Minister of Justice
Attorney General

Dear Minister:

Pursuant to Section 45 of *The Law Enforcement Review Act*, I am pleased to present the Law Enforcement Review Agency's 28th annual report for the period of January 1, 2013, to December 31, 2013.

This report provides statistics on the number and nature of complaints received by the Law Enforcement Review Agency as well as a description of the complaint process and the mandate of the agency. For additional information I have included a summary of a variety of cases to demonstrate the process in actual scenarios.

The Law Enforcement Review Act strives to:

- promote a high standard of professional conduct among police officers in Manitoba
- guarantee each citizen in Manitoba the opportunity for an independent investigation and review of their complaints against on duty municipal police officers
- provide a mechanism for the resolution of complaints in a manner that is fair both to the complainants and the respondent police officers
- ensure that the conduct of police officers is consistent with the rule of law and the ideals of a democratic and open society

Yours truly,

A handwritten signature in blue ink, appearing to read "M.E. Churley".

M.E. (Max) Churley
Commissioner

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INTRODUCTION

The Law Enforcement Review Act requires the commissioner to submit an annual report on the performance of his duties and functions to the minister and each municipality in the province that has an established police service. The minister must table the report in the Legislature.

LERA'S Mission Statement

The mission of the Law Enforcement Review Agency (LERA) is to deliver a judicious, timely, impartial, client-oriented service to the public and to the police services and police officers within its jurisdiction.

About LERA

What is LERA?

LERA is an independent, non-police agency, established in 1985, under *The Law Enforcement Review Act*, to investigate public complaints about police.

LERA deals only with complaints about municipal or local police incidents arising out of the performance of police duties. It does not investigate criminal matters.

To whom does the act apply?

The act applies to any peace officer employed by a Manitoba municipal or local police service, including police chiefs. It does not apply to members of the RCMP.

Complaints about members of the RCMP should be directed to the Commission for Public Complaints (CPC) against the RCMP, at www.cpc-cpp.gc.ca or by calling 1-800-665-6878 (toll free). LERA will forward these complaints to the CPC.

With the introduction of *The Cross Border Policing Act*, *The Law Enforcement Review Act* now applies to the conduct of police officers from other provinces or territories who have been appointed as police officers in Manitoba. Complaints involving police officers from outside of Manitoba's jurisdiction can result in recommendations by a judge, but no penalty can be imposed. The act also applies to the conduct of Manitoba police officers appointed as police officers in other provinces.

What does LERA investigate?

LERA investigates allegations from the public that on duty municipal or local police officers have committed any of the following actions as outlined in Section 29(a) of the *Act*:

- abusing authority, including:
 - making an arrest without reasonable or probable grounds
 - using unnecessary violence or excessive force
 - using oppressive or abusive conduct or language
 - being discourteous or uncivil
 - seeking improper monetary or personal advantage
 - serving or executing documents in a civil process without authorization
 - providing differential treatment without reasonable cause on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*
- making a false statement or destroying, concealing or altering any official document or record
- improperly disclosing any information acquired as a member of the police department
- failing to exercise discretion or restraint in the use and care of firearms
- damaging property or failing to report the damage
- failing to help where there is a clear danger to the safety of people or property
- violating the privacy of any person under *The Privacy Act*
- breaching any part of *The Law Enforcement Review Act* that does not already specify a penalty for the violation
- helping, counselling or causing any police officer to commit officer misconduct

Who are complainants and respondents?

A **complainant** is any person who feels wronged by the conduct or actions of a municipal police officer in Manitoba and files a complaint. Complainants may file on their own behalf or on behalf of another person. LERA must have written consent from that person before acting on the complaint.

A **respondent** is any police officer against whom a complaint has been filed by the public.

How is a complaint filed?

A complaint must be made in writing and signed by the complainant. Date, time, location and other details of the incident are important and must be included. A complainant may ask LERA staff or members of the local police service to help prepare their complaint.

Written complaints may be sent directly to LERA, or given to a police chief or any member of a municipal or local police service. Police will forward the complaints to LERA.

Are there time limits?

The act requires a written complaint to be made within 30 days of the incident. The commissioner may extend that limit if there are valid reasons for being unable to make the complaint on time.

The commissioner may also extend the 30-day filing limit to avoid conflict with court proceedings or an ongoing criminal investigation involving a complainant.

How is a complaint investigated?

LERA has professional investigators who interview witnesses, take statements and review reports such as official police records and medical reports. LERA investigators make all the inquiries they believe are necessary to uncover relevant evidence.

LERA may be contacted at any time to inquire about the status of a complaint. The commissioner remains open to discussion with all parties before making a final decision.

How is a complaint screened?

After an investigation, the commissioner will screen the complaint to decide if any further action should be taken. The act states the commissioner must do this. The commissioner will take no further action if any one of the following situations arises:

- the alleged conduct does not fall within the scope of misconduct covered by the act
- the complaint is frivolous or vexatious
- the complaint has been abandoned by the complainant
- there is not enough evidence to justify referring the complaint to a provincial judge for a public hearing

If the commissioner decides to close the complaint file and take no further action, the complainant will be notified in writing. The complainant will then have 30 days from the date of the decision to ask the commissioner to refer the matter to a provincial judge for review. Reviews are arranged by LERA and the Provincial Court at no cost to the complainant.

Does a complainant need a lawyer?

Complainants do not require a lawyer when dealing with LERA. Complainants and the police are both entitled to legal representation during the process if they choose. However, they must arrange for such services themselves.

If complainants apply for legal aid and do not qualify, they may, in exceptional circumstances, make a request to the minister of justice to appoint a lawyer to represent them at a hearing. Counsel may be appointed by the minister, only where the applicant cannot afford to retain legal counsel.

Police officers are generally represented by legal counsel provided under their employment contract or collective agreement.

How is a complaint resolved?

When the commissioner decides that there is sufficient evidence to justify referring the complaint to a provincial judge for a public hearing, *The Law Enforcement Review Act* provides several ways to resolve that complaint.

Informal Resolution:

The commissioner must try to resolve the complaint through informal mediation. Both the complainant and the respondent police officer must agree to this process before it can take place. If the complaint is resolved informally, to the satisfaction of both complainant and respondent, no further action is taken and no record of the incident is made on the officer's service record.

Admission of Disciplinary Default:

A respondent police officer can admit to the alleged officer misconduct. The commissioner then reviews the officer's service record and consults with the police chief before imposing a penalty.

Referral to Judge for Hearing:

If a complaint cannot be resolved informally, and there is no admission of misconduct by the police officer, the commissioner must refer the complaint to a provincial judge for a public hearing.

Penalties that may be imposed by the provincial judge on the respondent under *The Law Enforcement Review Act* are:

- dismissal
- permission to resign, or summary dismissal if the resignation is not received within seven days
- reduction in rank
- suspension without pay for up to 30 days
- loss of pay for up to 10 days
- loss of leave or days off for up to 10 days
- a written reprimand
- a verbal reprimand
- an admonition

LERA as an Agency

The Law Enforcement Review Agency (LERA) is an independent agency of Manitoba Justice, Criminal Justice Division, under *The Law Enforcement Review Act*.

The Lieutenant-Governor in Council charges the minister of justice, as a member of the executive council, with the administration of *The Law Enforcement Review Act*.

The Law Enforcement Review Act authorizes the Lieutenant-Governor in Council to appoint a commissioner.

The commissioner carries out investigations in compliance with *The Law Enforcement Review Act* and has powers of a commissioner under Part V of *The Manitoba Evidence Act*.

LERA is staffed by a commissioner, an administrative officer/registrar, four investigators and a clerk.

How to Reach the Law Enforcement Review Agency

By Mail:

420-155 Carlton Street
Winnipeg MB R3C 3H8

By Phone:

204-945-8667
1-800-282-8069 (toll free)

By Fax:

204-948-1014

By Email:

lera@gov.mb.ca

Website: www.gov.mb.ca/justice/lera

Website Overview – 2013

LERA's website went online in September 2000. This site contains the following information:

- How to Make a Complaint
- History
- Contact Us
- *The Law Enforcement Review Act* and Regulation
- Public Hearings and Reviews
- News Releases
- Annual Reports
- Links
- Site Map
- Disclaimer and Copyright

2013 Web Trends Report:

Visitors..... 28,368
 Pages viewed 47,221
 Average pages viewed per day..... 129

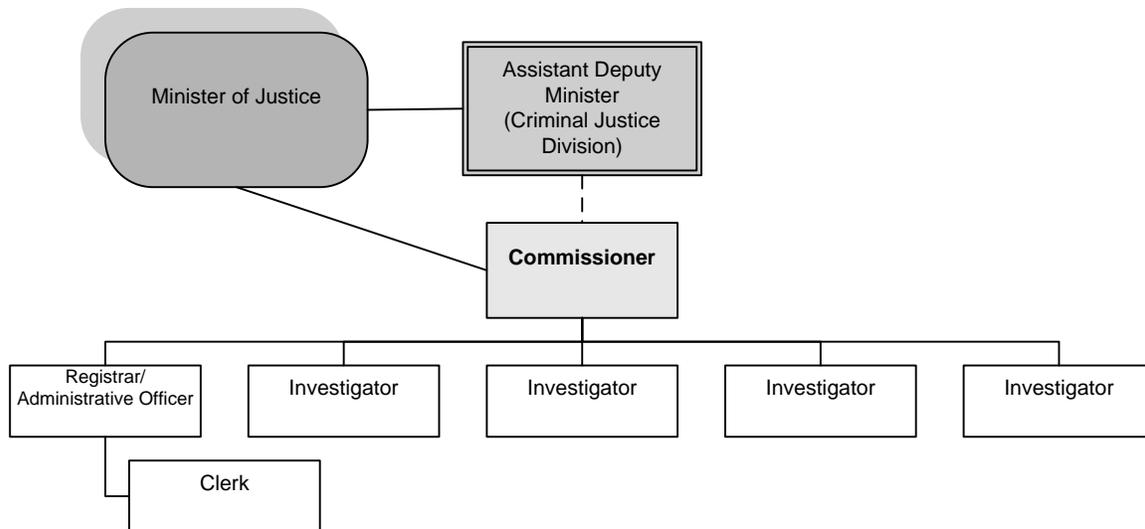
Organizational Structure

The commissioner is required to submit an annual report on the performance of his duties and functions to the minister and to each municipality in the province that has established a police service.

From an administrative perspective, the commissioner reports directly to Criminal Justice Division’s assistant deputy minister.

LERA’s budget for the financial year beginning April 1, 2013 and ending March 31, 2014 is:

Full Time Employees	7
Total Salaries (\$000`s)	\$557
Total Operating Budget (\$000`s)	\$109
TOTAL	\$666



Activities

During the year, the commissioner and/or staff:

- participated in meetings with the deputy minister of Manitoba Justice
- participated in meetings with the assistant deputy minister of Manitoba Justice, Criminal Justice Division
- participated in meetings and discussions with police executives, police associations, members of police services and municipal officials
- attended reviews of the commissioner's decisions and public hearings presided over by a provincial judge acting *persona designate*
- participated in Manitoba Bar Association Law Day open house at Manitoba Law Courts Complex
- attended graduation ceremonies for Winnipeg Police Service recruit classes
- attended Manitoba Organization and Staff Development training courses
- met with Communications staff assigned to Justice
- presented to students at the Northwest Law Enforcement Academy
- attended 8th Annual Manitoba Council of Administrative Tribunals Conference (MCAT)
- attended 11th Annual Crown Defence Conference
- attended 9th annual lecture by Supreme Court Justice Marshall Rothstein at University of Winnipeg
- presented to Winnipeg Police Service recruit and cadet classes on *The Law Enforcement Review Act*
- attended the 2013 Canadian Association of Civilian Oversight of Law Enforcement (CACOLE) Conference (LERA commissioner, is past president of CACOLE) in Charlottetown, Prince Edward Island – Promoting Accountability, Independence and Transparency
 - LERA Commissioner made a presentation and participated in a national panel on The Evolution of Civilian Oversight
 - LERA outgoing Commissioner, George Wright, was presented with a Lifetime Achievement Award for his almost five decades of service to the policing community
- Participated as a member of the CACOLE Board of Directors in several board meetings and planning meetings via teleconferencing
- Participated via teleconferencing at a meeting hosted by the Commission for Public Complaints against the Royal Canadian Mounted Police
- met with the inspector of the Professional Standards Unit, Winnipeg Police Service
- emailed provincial court decisions about LERA matters to all Manitoba police agencies
- met with the executive director of the Manitoba Police Commission
- attended the 12th annual Keep the Fires Burning celebration
- presented to Dakota Ojibway Police Service (DOPS) recruits
- presentation to LERA staff by Civil Legal Services
- attended retirement function for Chief, Brandon Police Service
- attended Oath of Office Ceremony for new Chief of Brandon Police Services

- met with Chief and Inspector, Brandon Police Service and toured new Headquarters
- Respectful Workplace Training attended by all LERA staff
- met with Director, Independent Investigation Unit
- attended Mel Myers Labour Conference
- met with Executive Director and Program Manager of Main Street Project
- attended 2013 National Mental Health Conference
- met with Director and Staff, Manitoba Finance Claimant Advisor Office
- attended Criminal Justice Association Annual Crime Prevention Breakfast
- met with Director of Police Studies Program at U.O.T.N. in The Pas and presented to students
- presented to the Community of Birdtail Reserve
- presented to the Brandon Police Service students
- presented to Ka Ni Kanichihk students
- met with the chiefs of police for Rivers, Morden and Winkler Police Services
- attended the Human Rights Training Session: Legal Trends – The Past Year’s Most Notable Human Rights Cases

Acknowledgements

- members of the public who make their complaints and concerns known to LERA
- complainants and respondents who are able to resolve their differences by informal resolution
- chiefs of police of Manitoba's municipal police services
- police associations and members of Manitoba's municipal police services
- legal counsel and advocates helping complainants and respondents
- Manitoba Justice officials for their help and expertise
- LERA's staff, whose competence and commitment are vital to LERA’s success
- the province’s Information Systems Branch for maintenance of LERA’s computerized data system
- the many other stakeholders involved in the LERA process

Commissioner's Decision to Take No Further Action

When LERA receives a complaint, the commissioner assigns a staff investigator to investigate. When the investigation is completed, the commissioner reviews the results and decides to take no further action in cases where:

- *the complaint is frivolous or vexatious*
- *the complaint is outside the scope of the disciplinary defaults listed in section 29 of The Law Enforcement Review Act (the act)*
- *there is insufficient evidence to justify referring the matter to a public hearing*
- *the complaint has been abandoned*

The commissioner is responsible for ensuring that complaints with no chance of success do not go to a public hearing. This function ensures the LERA process runs more smoothly and efficient and preserves the legitimacy of the process in the eyes of the public.

These are sample cases where the commissioner decided no further action was required.

- A couple was arguing about personal matters in their home. The male said his female spouse threw objects at him. The woman called 911 but hung up before anything was said. Two police officers arrived a few minutes later and the couple was outside. The first officer spoke to the woman while the second officer spoke with the man. The man asked what was going on, he started to argue and the officers put him on the ground to restrain him. While the man was being restrained, he suffered bruises to several parts of his body. The man said his shoulder was dislocated. An ambulance was called but the man refused to take any help. He said that he didn't think the attendants were qualified.

The man was taken to the police station and was told he was under arrest for assaulting a peace officer and resisting arrest. He was read his rights under the *Canadian Charter of Rights and Freedoms* and given the usual police caution. He talked to legal counsel and was released to appear in court at a later date. The man said that the officers used excessive force and brutality, while he immediately remained compliant and was not violent. He said he was bullied and terrified by the "over power hungry police officers."

The man alleged the following under *The Law Enforcement Review Act*:

- making an arrest without reasonable or probable grounds
- using unnecessary violence or excessive force
- using oppressive or abusive conduct or language
- differential treatment without reasonable cause on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*
- damaging property (marks on floor and walls)

The man also said that the court documents prepared by the police were wrong. The documents said that the 911 operator reported hearing a male say something about a knife; the man denied saying anything about a knife.

The police documents were reviewed by the commissioner and officers were interviewed. The 911 call report said the operator said an intense argument could be heard. The recording of the call confirmed the man talked about a knife nine times. This information was given to the officers when they were sent out to the couple's home.

When the police got to the home, the woman appeared upset and didn't follow the officers' directions. The man could not be calmed and refused to follow the officers' directions. The officers said the man was handcuffed because of safety concerns and the reported presence of a weapon. In an interview, the officers said the arrest and use of force were necessary and that the force was not excessive. The officers said they didn't use abusive or bad language and that they did not discriminate against the man for any reason. The officers also said they weren't aware of any marks left on the floor or walls but said some could have resulted from the scuffle they had with the man while trying to control him.

The complainant sought medical treatment and a report was received from the attending doctor. The injuries alleged to have been received during the incident resolved themselves within 30 days. The diagnosis was soft tissue injuries and abrasions, which he treated with pain and anti-inflammatory medications, ice and a sling.

On completion of the investigation, the commissioner found there was insufficient evidence to justify referral to a public hearing and declined to take further action.

* * * * *

- An adult woman who is deaf and mute was socializing with friends at a local bar. She went home at about 2:00 a.m. She and her boyfriend argued about her drinking and he said he wanted her to stop drinking alcohol. The woman said she was not drunk, but her boyfriend called the police to have her taken away. Two officers went to the house; they separated the couple and spoke to them individually. The officers gestured for the woman to stand by the police car, which she did, while they spoke to her boyfriend. The woman says an officer ran at her, threw her to the ground, handcuffed her and put her in the police car. She was upset with the officer, screamed and kicked at the door and the window. One of the officers opened the car door, pulled her onto the seat and tried unsuccessfully to secure her legs at the ankles. The woman said the handcuffs were tight and hurt her wrists. She said she tried unsuccessfully to communicate to the officers that she wanted the cuffs loosened. The officers didn't tell her why she was being handcuffed and didn't attempt to use an interpreter. The woman was kept in the local detoxification centre for two to three hours. She didn't seek medical attention for her bruised wrists. However, she produced photographs which showed a degree of redness to the wrists.

She complained that the officers abused their authority by:

- making an arrest without reasonable or probable grounds
- using unnecessary violence or excessive force
- differential treatment without reasonable cause on the basis of any characteristic set out in subsection 9(2) of *The Human Rights Code*

The police documents were reviewed and the officers interviewed. The officers said they had received several calls about a disturbance in the area. When they went to the couple's home, the boyfriend waved them down. The woman was on the street with no shoes and yelling loudly. The boyfriend told police he was in a verbal dispute with his girlfriend in the apartment they shared. He said she was smashing dishes, so he left the apartment and she followed him outside. The officers spoke with three witnesses who confirmed what the boyfriend said. The witnesses further advised that the girlfriend had assaulted another person/witness before police arrival. The police said the woman was acting irrationally and appeared drunk. They arrested her under *The Intoxicated Persons Detention Act* because she appeared incapable of controlling her behavior and to protect the safety of the people around her. The four witnesses as well as the staff at the detoxification centre advised that she appeared to be drunk. The woman admitted to having three alcoholic drinks and that she had also used marihuana that evening.

The officers denied that they threw the woman to the ground and this was confirmed by her boyfriend and three other witnesses. The woman didn't see a doctor, didn't ask for one and no one saw any indication that she was injured or in need of medical attention. The staff who assessed her at the detoxification centre said she didn't show or indicate that she was injured.

The officers denied her allegation that they treated her differently because she was deaf and mute. They said they did provide reasonable help for her to communicate with them. The woman said the officers didn't provide her with a pen and paper, but one officer had three pages of notes she had written and her boyfriend agreed that the officers provided her with a pen and paper. The officers went on to say that they were confident, based on previous dealings with her and assurances from her boyfriend, that she could read lips and fully understood their warnings. They said she was being unnecessarily belligerent.

The officers said the complainant didn't ask for an interpreter and to the furthest extent possible they made accommodations for her.

On completion of the investigation the commissioner found there was insufficient evidence to justify referral to a public hearing and declined to take further action.

* * * * *

- A woman said she was walking home while drunk. She stopped into a business and asked the staff to call her boyfriend to pick her up. The staff called the police instead because the woman appeared drunk and it was very cold outside. The complainant advised that at 1:00

a.m. January 20, 2013, according to the weather records, it was minus 35 degrees (C) with the wind chill.

The police came and arrested her under *The Intoxicated Persons Detention Act*, handcuffed her and took her to the detoxification centre. When they got the woman to the centre, the handcuffs got jammed and would not open for the police to take them off. The officers tried other handcuff keys with four other officers becoming involved. Eventually, the fire department was called and removed the handcuffs with a saw which took about 25 minutes. The woman said her wrist was sore and that she had a cut that required a band aid. The woman was kept at the centre until about 5:00 a.m. and was then released.

The woman's complaint said that the handcuffs had failed and she was injured while the police tried to get them off.

The commissioner found the complaint is outside the scope of the disciplinary defaults listed in section 29 of The Law Enforcement Review Act and declined to take further action. The complainant was referred to the chief of police who has jurisdiction to resolve issues about police equipment.

* * * * *

Provincial Judges' Reviews of Commissioner's Decision to Take No Further Action

When the commissioner declines to take further action on a complaint, the complainant may apply to the commissioner to have the decision reviewed by a provincial judge. Section 13(2) of the act says the commissioner must receive this application within 30 days after the date the decision was sent to the complainant.

Once the commissioner receives an application for a review, it is sent to the chief judge of the Provincial Court who assigns a judge to hold a review hearing. At the hearing, the judge must decide whether the commissioner made an error in refusing to take further action on the complaint.

These are samples of applications for a provincial judge's review.

Review # 1

- A man was driving down a street when he saw a traffic jam ahead. He took a back alley to avoid it and was stopped by police in the alley. He said he complied with the officers' request to produce identification, licence, etc. The man said he was a lawyer and asked why he was stopped. The police told him it was because he was acting suspicious by driving down the back lane. The officer said that the police were in the area because of recent shootings and said that he could stop anyone he wanted if they appeared suspicious. The man said the officer spoke to him in a loud, aggressive and intimidating manner.

The man said he told the officers that he was aware of the shootings in the neighbourhood, but that the shootings did not mean everyone in the area is a criminal. He said the officer made a disparaging comment about his being a lawyer which he found inappropriate and insulting. The man said the officer told him to shut up or he would arrest him. Another officer, who was checking the man's licence in the police car, came back to the man's car with his licence. The man said that when he asked the second officer about the results of the check, the officer threw the licence on the ground and told him to be quiet. The officers told him he could leave, got into their police car and left.

The interview with the officers confirmed they were in the area because of recent shootings. Their suspicions were raised when they saw the man was driving at a faster than usual speed. Thinking the vehicle may have been stolen, they blocked him off. The officers said that immediately after being stopped the complainant questioned them as to the reason he was stopped. He told them several times that he was a lawyer and they felt he was trying to intimidate them with the fact.

The officers said they asked for the man's licence five times before he produced it. The officers denied making any disparaging comments like telling him to shut up or threatening him with arrest. When the officer returned the man's licence, he said he was about five feet

away from the complainant and he held it out for him to take. The officers said the man would not advance and take it. So the officer laid it on the hood of his car and shortly after the licence slid off onto the ground. The man was not arrested nor charged and once they were satisfied that there was no further reason for suspicion, they allowed him to go.

On completion of the investigation, the commissioner found there was insufficient evidence to justify referral to a public hearing and declined to take further action.

The complainant asked to have a provincial judge review the commissioner's decision.

DECISION: The provincial judge held that the commissioner had not erred in declining to take further action.

* * * * *

Review #2

- A man reported that he called 911 to have paramedics come to his home to help his roommate. When the paramedics arrived, the man asked them to call police to keep the peace between his roommate and a woman friend. The police arrived and one of the two officers went into the bedroom where the woman guest was sleeping. The man said he asked the officer to leave the bedroom and that the officer grabbed him, threw him to the floor and put him in handcuffs.

The man said the officer took him to the hallway, forced his face against a door, called him names and hit him on the back of the leg. The man said he was taken outside and put in a police car. He said the officer told him he would be arrested for not having any identification. The man was taken to the detoxification centre where he was held for being drunk. The man said he had not been drinking but did take prescription medication. The complaint against the officers included:

- being arrested for being drunk when he had not been drinking
- unnecessary use of violence and excessive force
- oppressive or abusive conduct or language (name calling)

The police report was reviewed and the officers interviewed. The investigator found that several calls had been received by police from others in the residence because the man was drunk and creating problems. When police arrived, they found a partially clad, drunk woman who appeared to be under the age of 18. The man said the girl was his daughter. While the officers tried to find out the woman's age and identity, the man kept interfering with the officers. After giving several warnings, the police arrested the man for obstruction of a police officer.

The officers said that everyone at the residence was drunk and the paramedics confirmed this. One of the women in the house confirmed that the man had been drinking most of the day before and in the hours before his arrest. A second witness confirmed that the man told him that he was drunk while he'd been at the bar earlier and had kept on drinking when he got home.

The arresting officer agreed that he used force (two or three punches to the back of the left shoulder) when trying to restrain and arrest the man for obstructing a peace officer and resisting arrest. Both officers denied that there was a confrontation in the hallway or that they verbally abused the man.

A medical report said the doctor found no evidence of trauma or bruising. Staff at the holding centre said the man was drunk and belligerent, but saw no evidence of injury.

On completion of the investigation, the commissioner found there was insufficient evidence to justify referral to a public hearing and declined to take further action.

The complainant asked to have a provincial judge review the commissioner's decision.

DECISION: The complainant failed to appear on the date and at the direction of the presiding judge correspondence was forwarded informing him to be present on the next docket date one month later or the matter would be dismissed. He didn't appear as required and the matter was dismissed.

* * * * *

Review #3

- A man complained that as a result of being wrongfully convicted of criminal harassment of a female acquaintance, he applied for information about his trial under access to information legislation. He said that a police officer released information that he had made the application and also that he had been charged previously for a similar offence.

The man complained that the officer abused her authority under section 29(c) of the Act – specifically, that the officer had disclosed information she acquired as a member of the police department.

When interviewed, the officer admitted that she disclosed the existence of the application because she had to release it to the victim of the criminal harassment. The woman victim had a protection order under *The Domestic Violence and Stalking Act*. The order required the man to stay away from her. The police officer said she was following the direction of her superior officer, who had consulted with legal counsel. They concluded that by making the application, the man may be putting the victim's mental health and safety at risk.

The police officer, the supervisor and the legal counsel agreed that the fact of the application was evidence of a pattern of activity, placing the victim at risk. The factors contributing to their decision were:

- The complainant, despite being warned to stop contacting the female or a criminal investigation would result, continued to make contact with her.
- A subsequent investigation resulted in the man's being charged and convicted of criminal harassment.

- While still on probation for the conviction, the man engaged in similar acts involving a second person. He was again charged with criminal harassment and breaching his probation order.

Once they arrived at their decision, they relied on section 44 (1) (l) and (r) of *The Freedom of Information and Privacy Protection Act* (FIPPA) which states:

“A public body may disclose personal information only where necessary to protect the mental or physical health or the safety of any individual or group of individuals or for law enforcement purposes or crime prevention.”

The second allegation, that the police officer had divulged information improperly when she told the victim that the man was charged with criminal harassment, was reviewed. The investigation concluded that the charge the man faced in criminal court is not private information (under section 4(1) of the FIPPA). The act states:

“This act applies to all records in the custody or under the control of a public body but *does not apply to information in a court record*, a record of a judge, master or justice of the peace, a judicial administration record or a record relating to support services provided to a judge or judicial officer of a court.”

The commissioner found that the officers’ explanation was accurate and reasonable under FIPPA. On completion of the investigation, the commissioner also found there was insufficient evidence to justify referral to a public hearing and declined to take further action.

DECISION: The complainant asked to have a provincial judge review the commissioner’s decision. However, he withdrew his request before the review.

* * * * *

Review #4

- Two adult men (father and son) complained about the execution of a search warrant at their home. The father said he got a phone call from someone who said he was a police officer and that the officer ordered everyone inside the house to leave. The man, his wife and three sons left by the back door of the home. When they were outside, they were all arrested, handcuffed and advised that the police had a warrant to search the house. The whole family was adults, except for the youngest son. The wife and two sons, including the youngest, were put in a police car while the man and the third son were ordered to stand outside with one of the officers. The man complained that the officer standing with him refused to show the search warrant and wouldn’t respond to questions he had about it.

The man said that as they stood outside, he heard the sound of a breaking door. He said he told the officer that the police did not need to break the garage door because he had a remote opener in his car. He said the officer ignored him.

The family was taken to the police station and they were put in separate rooms. The man said he continually requested a copy of the search warrant and the badge number of the police officer he had been dealing with. The police officer told him not to worry but did not provide him with the requested information.

Eventually, the family was advised that they would all be charged. A copy of the search warrant was provided along with the police officer's badge number and name. When he got a copy of the warrant, the father said he asked about its validity and said he had concerns about it. He said he did not receive a response from officers at this time.

All five family members were released and told to appear in court at a later date. When the man came home, he said that the front door was open, that the home was ransacked and that personal property had been taken and scattered around. He said that money from a safe was missing and that the garage door was damaged.

The man said his family's rights under the *Canadian Charter of Rights and Freedoms* were violated.

One of the sons said that when the police arrested and searched him, the officers held him in the back seat of the police car and put a plastic cover tightly over his head. He also said an officer put him in a choke hold and that his legs were tied. He said that at the police station, the two officers threw him on the floor; one officer held his knee on his back; and the other kicked him. He also said he was beaten up while entering the Public Safety Building (PSB); was not informed promptly of the reason for detention; had his cell phone taken; had his request to see the warrant ignored; was not allowed to talk to his lawyer despite his requests; and was denied medical treatment for his bleeding nose. He said he thought his nose was broken from the beating he said the police gave him.

The son also complained his safe was broken into at his residence and that the \$900 to \$950 his mother had given him to buy a car was missing.

Police documents showed that the police were investigating attempts to sell illegal weapons on social media. The police got a search warrant based on evidence collected; including photographs on the family's website. The Tactical Support Team (TST), who have specialized training, were called to help with the search because there was a possibility of weapons. It also showed that one of the sons was considered a police hater and a member of a local street gang that has a reputation for violent criminal offences.

When they were called by police to leave the house, this son was carrying a cardboard box. The police found a sawed off shotgun and other weapons. Officers said that the son would not co-operate; he used verbal abuse and made threats. The officers attempted to advise him of the reason for his arrest, his legal rights and the standard police caution. They asked him if he understood and he replied by swearing and telling them he was going to have their jobs.

The son was told to get into the police car and refused. When the police officers forced him, he grabbed an officer's hand and bit his thumb. Since the son became more agitated and aggressive with his threats, the officers bound his legs and put a spit sock over his head to keep him from spitting at the officers or trying to bite them again.

At the police station, the officers said the son continued to resist arrest and tried to head butt an officer. Although he was resisting arrest, the officers said they gave him water and took him to the bathroom when he asked.

The officers denied using a choke hold. They said the son's nose was bleeding only slightly and he was asked by two different officers if he needed medical attention, but he refused. The claim that the son was beaten was also denied. The officers said the son was the aggressor and his actions cause the police to use force to bring him under control. It took them some time to provide him with the warrant because of the son's uncooperative behaviour, but that one was produced at the first opportunity.

On completion of the investigations into the two complaints, the commissioner determined that there was insufficient evidence to justify referral to a public hearing and declined to take further action.

Both complainants asked to have a provincial judge review the commissioner's decision(s).

DECISION: The judge, hearing the review requested by the father, found that the commissioner had not made an error by not taking further action on his complaint.

The judge, hearing the review requested by the son, dismissed the proceeding when the complainant failed to appear for the review.

* * * * *

Informal Resolution of Complaints

Under Section 15 of the act, the commissioner provides the complainant and respondent with an opportunity to informally resolve the complaint. The process is often, but not always, successful. To be successful, the process must satisfy each of the parties involved. There is no single model for informal resolutions. They can range from a simple explanation of a police officer's action or a discussion to clear up a misunderstanding, to an apology or reimbursement for damages caused in the incident.

Following is an example of a complaint resolved informally in 2013.

- A man complained that two police officers signaled for him to pull over. Instead of stopping immediately, he decided to go into the parking lot at his workplace next to where the police signalled him to stop. The man provided a long account of the incident which ended in his being arrested for failing to co-operate with the officers. The man said he was placed in a very hot police car with music playing very loudly. He said he was always respectful to the officers.

When the man finally stopped, he says the police car stopped in the access to the lot and blocked the entrance of trucks making deliveries to the business. The officer wouldn't move the car. He said one of the officers damaged his very expensive car by rubbing his belt equipment on it as he leaned over it. When the man asked the officer to stop, he said the officer was rude. He said he was being harassed for tinted windows, but said they were not really tinted, it was just the way they came from the factory.

The officers' report showed they pulled the man over because the car had a Manitoba dealer plate on the back and no plate on the front. It had dark tinted windows and no operating day time running lights on. The police car emergency lights were on and the siren was making intermittent sounds but the man kept driving for several blocks before he stopped at his work place. The driver's side door was opened on the suspect vehicle when the police caught up with him. A police officer told the man to stay in his vehicle but he got out and began walking away. The man was told to stop several times before he did.

He asked what the problem was and the officers said that the man seemed upset when he was told why he was stopped. The man told the officers that there were other offences going on just down the way. He indicated the police shouldn't be stopping him and they should be checking into the other matters.

The man could not produce a Manitoba registration for the vehicle and was carrying a United States' driver's licence. He would not co-operate while the officers attempted to inspect the car. The window tint was checked and the man was given a traffic ticket for having a level of tint that was darker than the level permitted under *The Highway Traffic Act*. The man was told what options he had for dealing with the charge. He took the ticket and threw it on the ground saying that he would not accept it and would not attend a court proceeding.

The man was arrested and put in the police car. A police supervisor came and spoke to the man. He then accepted the ticket and was released. The officer said that he was not aware that his belt came into contact with the vehicle.

The officers and the complainant agreed to try informal resolution. The matter was resolved between the two parties and no other action was taken.

* * * * *

Public hearings before a provincial judge

Public hearings under the act are held before provincial judges. A public hearing is only held after a matter has been referred by the commissioner under section 17 of the act.

Where a public hearing has been referred by the commissioner, section 27(2) of the act states:

“The provincial judge hearing the matter shall dismiss a complaint in respect of an alleged disciplinary default unless he or she is satisfied on clear and convincing evidence that the respondent has committed the disciplinary default.”

The clear and convincing evidence standard was added to the act in 1992. It is not worded like the more traditional standards used in other contexts. In criminal cases, the standard is “beyond a reasonable doubt.” This term was used in the act until 1992. In civil cases, the standard is now “the balance of probabilities.” Provincial judges have held that the “clear and convincing evidence” standard falls between the civil and criminal standards of proof.

Following are samples of public hearings on the merits of complaints heard in 2013.

- A local male business owner and instructor at a gymnasium complained that one of his students was assaulted by a group on the street outside the gym. The student, accompanied by her cousin, went to the police station to give a statement about the incident. The interviewing officer asked for her instructor’s name and the student gave it. The officer told the student that her instructor was involved in an investigation into a shooting incident. He said her instructor had allegedly been lying to the police about the shooting incident. The student said she was encouraged not to associate with the instructor. The allegation by the business owner was that the officer(s) improperly disclosed information acquired as a member of the police department. He said that as a result of the officer(s) divulging this information, word had spread and now his business was losing customers.

The girls were interviewed and confirmed what the two officers had said to them. Neither of the officers had notes on the incident. One officer recalled taking an assault statement complaint and passing it on to other units for follow up. The second officer had no recollection of the incident. The two officers said they were unfamiliar with the complainant and his place of business. Neither recalled a discussion other than the one officer who only recalled taking the statement about the assault but nothing else.

The commissioner found that there was sufficient evidence to justify referring the matter to a hearing before a provincial court judge.

Officer Misconduct: Two officers

Allegations: Improperly disclose information acquired as a member of the police department, contrary to subsection 29(c) of *The Law Enforcement Review Act*.

Disposition: The presiding judge dismissed the default allegations against both officers and noted: "I have no doubt that in fact these comments were made and the information disclosed was done so improperly as it had been acquired by a member of the police service relating to a prior incident in which the complaint was involved on the periphery."

"In this case, as a result of the witnesses being unable to agree as to which of the two respondents was the one who was making these detrimental comments, I must dismiss this claim."

* * * * *

- A man complained that he was held without cause under *The Intoxicated Persons Detention Act*.

He said he was in a private residence at the invitation of the owners and was not drunk. The man said he told police about an assault and asked the officers why a person had been arrested when she was the one assaulted by five "squaws." The man said the officer told him he would "knock his...teeth out." The man said this threat was made in front of his seven-year-old son and that there were also two other children living in the home. The police left and came back 10 minutes later. The man said they walked into the house uninvited, arrested him and didn't read him his rights.

The man said he asked for the officers' badge numbers and one officer told him to "shut his...mouth." The man said he was arrested because he made racist comments about Aboriginals that offended the officer. The man was forced to leave his son with a man he did not know well to avoid the involvement of Child and Family Services (CFS). The man was taken to the detoxification centre, but it was full so they didn't keep him. The man says the two officers threatened to drop him in an area populated predominantly by Aboriginals and the officers coerced him into writing an apology to a third officer about the racist comments.

The police documents were reviewed and the officers said in an interview that they did not threaten to harm the man. They said there was an incident down the street and when they arrived in the area, the man was standing on the curb in front of a house yelling obscenities at people and other officers further down the street. One of the officers at the scene was Aboriginal and as the two officers got out of the cruiser car, the man focused on them yelling and referring to one of the officers as "a squaw." The female officer said she wasn't concerned because she had been subjected to this kind of abuse before. The second officer told the man that he was, through his actions and by yelling, causing a disturbance.

The man was seen to be drunk and was taken to the police car. He was kept there until he was released to a sober person. Both officers said the man's account of the incident was not accurate. The officers did not read the man his rights because it is not required in these circumstances, nor is permitting the person to contact legal counsel.

The officers said the man told them his son was in the house and he didn't want to leave him unattended. They told him that if a place could not be found to leave his son, he may have to be turned over to Child and Family Services for his safety until the man was released from custody. The comment was not meant as a threat, they said they were simply advising him of what action may have to be taken. The officers said they thought the man and his son may be staying overnight at the residence so they suggested that the boy be left with a male at that location.

The officers said the man told them that the other man had agreed to care for his son and that was ok with him. During the ride to the detoxification centre, the man's attitude changed back and forth – one minute apologizing and the next minute being verbally belligerent. The officers said the man was the one who suggested that he should apologize to the Aboriginal constable and the second officer provided him with the paper and pen. They said it was not coerced; that it was the complainant's idea and he did it voluntarily.

The officers said they told the man on the way to the centre to stop using racial slurs when he was talking. The officers said they didn't think the man should be using the racial slurs when he got into the centre.

The police also said they did not threaten to drop the complainant off in an Aboriginal area. They told him he was being dropped off at the "project." This is the informal term they use when talking about the centre. There is an area of the city which is also referred to as "the project" which is an Aboriginal area and they think that is where the confusion came from.

There were four civilian witnesses to the arrest of the man. They all said they witnessed the officers take the man from the residence and detain him. This was in conflict with the officers' statement that he was at the curb when they arrived and this is where he was arrested.

The commissioner found there was sufficient evidence to justify referring the matter to a hearing before a provincial court judge.

Officer Misconduct: Two officers

Allegations: Section 29(a)(i) Making an arrest without reasonable or probable grounds

Section 29(b) Making a false statement, or destroying, concealing, or altering any official document or record

Disposition:

Legal counsel representing the complainant advised the presiding judge that her client no longer wanted to proceed and was withdrawing the complaint.

The presiding judge accepted the request to withdraw and the matter was closed.

Statistical Analysis

- LERA's jurisdiction extends to 12 police services with 1,690 police officers. Total population served is 768,129.
- Winnipeg Police Service accounts for 80 per cent of complaints made to LERA. Brandon Police Service accounts for 12 per cent and other services account for the remainder.
- There were 216 files opened in 2013, down by 26 complaints in 2012. The four year average is 246 new files per year.
- The number of formal complaints filed (117) is down from 148 formal complaints in 2012.
- Ninety-nine (99) complaints were resolved at intake or after preliminary enquiries compared to 94 in 2012.
- In 2013, there were 217 total investigations. There were 260 investigations in 2012.
- There were 128 investigations completed in 2013, down 34 from 162 in 2012.
- There were no complaints alleging the misuse of pepper spray in 2013.
- There were three complaints of misuse of the Taser.
- There were three incidents alleging misuse of handcuffs in 2013, down three from 2012.
- Incidents alleging injuries from the use of force decreased to 44 from 77 in 2012. Allegations of injuries were made in 38 per cent of complaints investigated.
- There were two informal resolutions of complaints in 2013, down one from 2012. LERA continues to actively support and, whenever possible, engage in alternative dispute resolution to restore social harmony between the parties. This method of resolution remains a priority and complainants and respondents are encouraged to use it.
- The percentage of complaints abandoned by complainants decreased from 2012. LERA investigators contact complainants after the investigation is completed but before a final decision letter is written. In many cases, when complainants learn the results of the investigation, they drop the complaint. In other cases, when a LERA investigator is unable to locate the complainant, a letter is sent to the complainant's last known address asking the complainant to contact the investigator. If contact is not made within 30 days, the complaint is considered abandoned and a registered letter is forwarded to the complainant confirming closing of the file. (See Table 9)
- Complainants' requests for judges to review the commissioner's decisions were down by six requests to 6 in 2013. The four year average is 12. (See Table 11)

- LERA does not conduct criminal investigations. When a case shows evidence that a criminal offence may have been committed, the commissioner or provincial judge must report it to the Attorney General for a criminal investigation.

If there is an indication of a crime, LERA investigators will tell the complainant that a criminal complaint may also be made to the police force where the incident occurred. In 2013, five criminal complaints were made after a LERA complaint was also filed. This was down four from 2012. (See Tables 12 and 13)

- During a criminal investigation against an officer or a complainant, the LERA investigation is put on hold. Criminal investigations and related court appearances often take months or even years to get through the judicial system. This is beyond the control of LERA, but it adds greatly to the length of time needed to complete investigations.

The completion of investigations within a reasonable time line is always of concern and is a continuing objective. There was an increase from seven months in 2012, to eight months in 2013. (See Tables 15 and 16)

- The average age of all complainants was 40. The oldest complainant was 74 and the youngest was 15. (See Table 18)

Analyse statistique

- La compétence de l'Organisme chargé des enquêtes sur l'application de la loi s'étend à 12 services de police, ce qui représente 1 690 agents de police. Au total, l'organisme sert 768 129 personnes.
- Un total de 80 % des plaintes déposées auprès de l'Organisme concernent le Service de police de Winnipeg. Vient ensuite le Service de police de Brandon, avec 12 % des plaintes déposées, les autres services se partageant le reste.
- En 2013, l'Organisme a ouvert 216 dossiers, soit 26 de moins qu'en 2012. La moyenne annuelle des quatre dernières années s'élève à 246 nouveaux dossiers par année.
- Un total de 117 plaintes officielles ont été déposées, soit une baisse comparativement aux 148 plaintes officielles faites en 2012.
- L'Organisme a pu régler 99 plaintes dès leur réception ou après une enquête préliminaire, comparativement à 94 en 2012.
- En 2013, il y a eu 217 enquêtes au total. Il y en avait eu 260 en 2012.
- En 2013, 128 enquêtes ont été achevées, soit 34 de moins qu'en 2012 (162).
- En 2013, aucune plainte n'a été déposée portant sur l'utilisation abusive de vaporisateur de poivre.
- Il y a eu trois plaintes portant sur l'utilisation abusive du Taser.
- Il y a eu trois incidents relatifs à une utilisation abusive des menottes en 2013, soit trois de moins qu'en 2012.
- Il y a eu 44 allégations de blessures liées au recours à la force, comparativement à 77 en 2012. Ces allégations représentent 38 % des plaintes pour lesquelles il y a eu enquête.
- Il y a eu deux résolutions informelles des plaintes en 2013, soit une de moins qu'en 2012. L'Organisme continue de soutenir activement le règlement extrajudiciaire des différends qui vise à rétablir l'harmonie sociale entre les parties, et il y participe dans la mesure du possible. Ce processus reste prioritaire, et les plaignants et les défendeurs sont encouragés à le choisir.
- Le pourcentage de plaintes abandonnées par les plaignants a diminué par rapport à 2012. Les enquêteurs de l'Organisme communiquent avec les plaignants une fois l'enquête terminée, mais avant qu'une lettre de décision finale soit rédigée. Dans bien des cas, les plaignants abandonnent leur plainte après avoir appris les résultats de l'enquête. Dans d'autres cas, quand un enquêteur de l'Organisme n'a pas pu trouver le plaignant, une lettre est envoyée à sa dernière adresse connue pour lui demander de communiquer avec

l'enquêteur. Si aucun contact n'est pris dans un délai de 30 jours, la plainte est considérée comme étant abandonnée, et une lettre recommandée est envoyée au plaignant pour lui indiquer que le dossier a été clos. (Voir le tableau 9)

- En 2013, six plaignants ont demandé la révision par des juges de la décision du commissaire, soit six de moins que l'année précédente. La moyenne sur quatre ans est de 12. (Voir le tableau 11).
- L'Organisme n'effectue aucune enquête criminelle. Lorsque, dans le cadre d'une affaire, des éléments de preuve laissent croire qu'une infraction criminelle a peut-être été commise, le commissaire ou le juge de la Cour provinciale doit le signaler au procureur général afin qu'une enquête criminelle soit entreprise.

Le cas échéant, les enquêteurs de l'Organisme signalent au plaignant qu'il peut aussi déposer une plainte en vertu du Code criminel auprès du service de police concerné. En 2013, cinq plaintes déposées auprès de l'Organisme ont été suivies d'une plainte au criminel, soit quatre de moins qu'en 2012. (Voir les tableaux 12 et 13)

- Pendant qu'une enquête criminelle est menée contre un policier ou un plaignant, l'enquête de l'Organisme est suspendue. Le système judiciaire peut prendre des mois, voire des années, à traiter une enquête criminelle et les comparutions devant les tribunaux qui y sont liées. Bien qu'indépendantes de la volonté de l'Organisme, ces interruptions allongent nettement le temps requis pour achever les enquêtes.

L'Organisme s'efforce toujours de terminer les enquêtes dans un délai raisonnable, cela étant un de ses objectifs permanents. Ce délai est passé de sept mois en 2012 à huit mois en 2013. (Voir les tableaux 15 et 16)

- L'âge moyen des plaignants était de 40 ans. Le plus âgé avait 74 ans et le plus jeune avait 15 ans. (Voir le tableau 18)

2013 Statistical Report – Data Tables

Table 1: Complaints – Listed by Police Service**	Police Officers **	Population ***	2013 (n=117)	2012 (n=148)	2011 (n=169)	2010 (n=140)	2009 (n=169)
Altona	8	4,088	1 (1%)	0	1 (0.6%)	0	0
Brandon	87	46,061	14 (12%)	6 (4.1%)	12 (7%)	20 (14%)	6 (3.5%)
Dakota Ojibway (DOPS)	29	12,712	2 (2%)	0	1 (0.6%)	1 (0.7%)	6 (3.5%)
Morden	14	7,812	0	2 (1.4%)	0	2 (1.4%)	1 (0.6%)
Rivers	3	1,189	0	0	0	0	0
Ste. Anne	5	1,626	0	0	2 (1%)	0	0
Winkler	16	10,670	1 (1%)	2 (1.4%)	2 (1%)	0	1 (0.6%)
Winnipeg****	1,523	663,617	94 (80%)	134 (90%)	148 (88%)	116 (83%)	155 (92%)
RM of Cornwallis*	1	4,378	0	0	0	0	0
RM of Springfield*	2	14,069	0	1 (1%)	1 (0.6%)	1 (0.7%)	0
RM of Victoria Beach*	1	374	0	0	1 (0.6%)	0	0
RM of Whitehead*	1	1,533	1 (1%)	0	1 (0.6%)	0	0
Other	0	0	4 (3%)	3 (2.1%)	0	0	0
Total	1,690	768,129	100%	100%	100%	100%	100%

* Supplementary police service – RCMP have primary responsibility

** Source: Executive Director, Policing Services and Public Safety, Manitoba Justice

*** Source: Statistics Canada and Dakota Ojibway Police Service

**** LERA's jurisdiction includes members of the Winnipeg Police Service Cadet

Table 2: Public Complaints	2013	2012	2011	2010
Files Opened	216	242	260	266
Resolved at Intake	99	94	91	126
Formal Complaints Received	117	148	169	140

Public Complaints

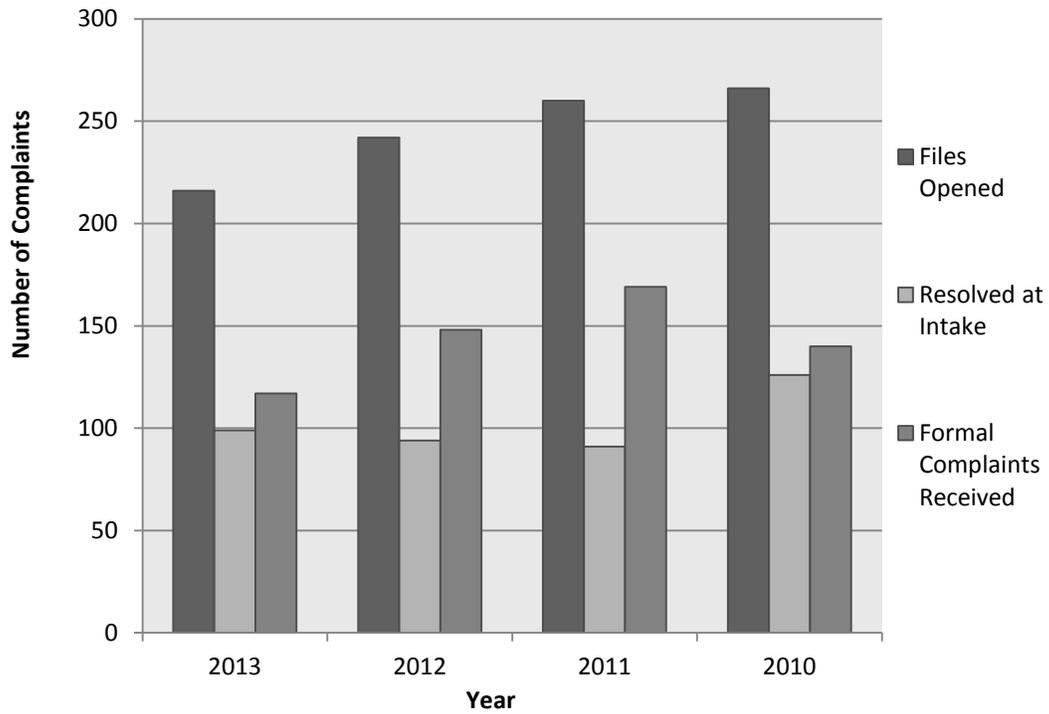


Table 3: Investigations Conducted	2013	2012	2011	2010
	Total Investigations	216	260	274
Investigations Completed - Files Closed	128	162	166	171
Ongoing Investigations Carried Over as of December 31, 2013	88	98	108	103

Investigations Conducted

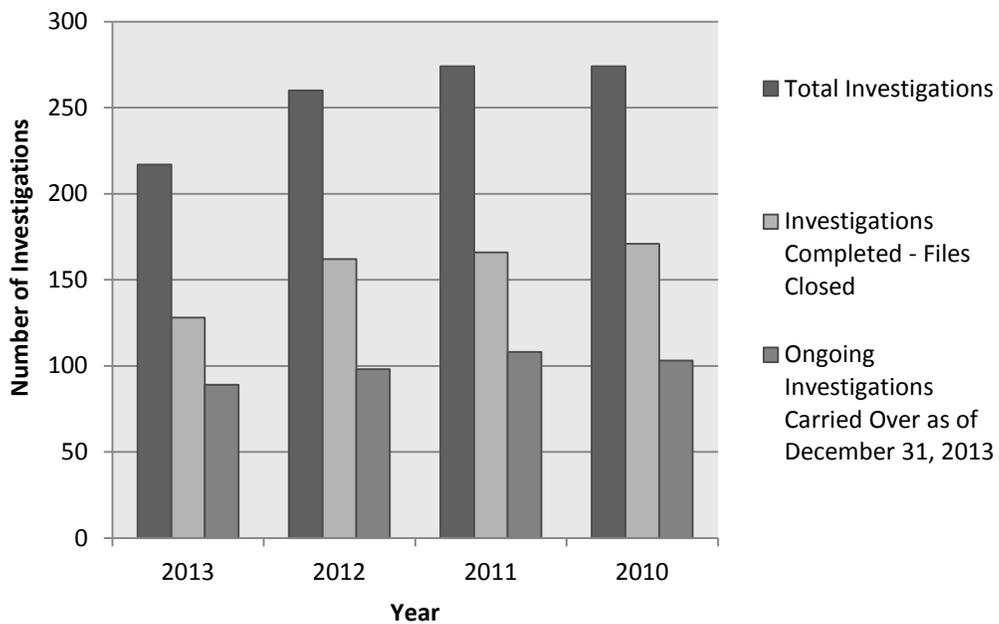


Table 4: Complainants' Allegations: Discipline Code Section 29 <i>The Law Enforcement Review Act</i>	2013	2012	2011	2010
Abuse of authority Subsection 29(a)	35	25	45	23
Arrest without reasonable or probable grounds Subsection 29(a)(i)	9	20	22	24
Using unnecessary or excessive force Subsection 29(a)(ii)	49	81	77	75
Using oppressive or abusive conduct or language Subsection 29(a)(iii)	28	33	60	48
Being discourteous or uncivil Subsection 29 (a)(iv)	42	47	49	41
Seeking improper personal advantage Subsection 29(a)(v)	0	0	0	0
Serving civil documents without proper authorization Subsection 29(a)(vi)	0	0	0	0
Differential treatment without cause Subsection 29(a)(vii) <i>The Human Rights Code</i> Subsection 9(2)	15	8	9	7
Making false statement(s) Subsection 29(b)	7	3	4	6
Improperly disclosing information Subsection 29(c)	3	2	4	6
Failing to exercise care or restraint in use of firearm Subsection 29(d)	0	2	0	0
Damaging property or failing to report damage Subsection 29(e)	6	2	6	9
Failing to provide assistance to person(s) in danger Subsection 29(f)	9	4	3	1
Violating person's privacy (under <i>The Privacy Act</i>) Subsection 29(g))	1	6	1	3
Contravening <i>The Law Enforcement Review Act</i> Subsection 29(h)	0	0	0	1
Assisting any person committing a disciplinary default Subsection 29(i)	0	1	0	1

Table 5: Incidents Alleging Misuse of Pepper Spray

2013 (n= 0)	2012 (n=0)	2011 (n=0)	2010 (n=1)
0% of 117 Complaints investigated	0% of 148 complaints investigated	0% of 169 complaints investigated	1% of 140 complaints investigated Winnipeg PS = 1

Table 6: Incidents Alleging Misuse of Handcuffs

2013 (n=3)	2012 (n=6)	2011 (n=12)	2010 (n=13)
3% of 117 complaints investigated Winnipeg PS = 3	4% of 148 complaints investigated Winnipeg PS = 5 Brandon PS = 1	7% of 169 complaints investigated Winnipeg PS=12	9% of 140 complaints investigated Winnipeg PS = 12 Brandon PS = 1

Table 7: Incidents Alleging Misuse of Taser

2013 (n=3)	2012 (n=4)	2011 (n=3)	2010 (n=5)
3% of 117 complaints investigated Winnipeg PS = 3	3% of 148 complaints investigated Winnipeg PS = 4	2% of 169 complaints investigated Winnipeg PS=2 St. Anne PS=1	4% of 140 complaints investigated Winnipeg PS = 5

Table 8: Incidents Alleging Injuries from Use of Force

2013 (n= 44)	2012 (n=77)	2011 (n=70)	2010 (n=66)
38% of 117 complaints investigated Brandon PS = 6 Winnipeg PS = 38	52% of 148 complaints investigated Winnipeg PS = 70 Brandon PS = 5 Winkler PS = 1 Morden PS = 1	41% of 169 complaints investigated Winnipeg PS=67 Brandon PS=2 St. Anne PS=1	47% of 140 complaints investigated Winnipeg PS = 59 Brandon PS = 6 Dakota Ojibway PS = 1

Table 9: Disposition of Complaints	2013 (n=128)	2012 (n=162)	2011 (n=166)	2010 (n=171)
Dismissed by commissioner as outside scope of act	21 (16%)	13 (8%)	8 (5%)	7 (4%)
Dismissed by commissioner as frivolous or vexatious	0	1 (0.5%)	3 (2%)	1 (0.5%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	60 (47%)	64 (40%)	84 (51%)	97 (57%)
Abandoned or withdrawn by complainant	43 (34%)	80 (49%)	66 (40%)	54 (32%)
Resolved informally	2 (1.5%)	3 (2%)	4 (2%)	1* (0.5%)
Public hearing before a provincial court judge	2 (1.5%)	1 (0.5%)	1 (.6%)	11 (6%)
Admission of guilt by respondent officer	0	0	0	0
Disposed via criminal procedure	0	0	0	0

*There were three referrals to a Provincial Court Judge for a hearing. However, before the hearing(s) began the matters were resolved through the informal process.

Table 10: Legal Involvement of Complainants	2013 (n=117)	2012 (n=148)	2011 (n= 169)	2010 (n=140)
No charges	49 (42%)	50 (34%)	66 (39%)	46 (33%)
Traffic offences	15 (13%)	14 (9%)	17 (10%)	13 (9%)
Property offences	3 (2.5%)	12 (8%)	5 (3%)	6 (4%)
Intoxicated persons detention	3 (2.5%)	13 (9%)	16 (9%)	6 (4%)
Cause disturbance	0	0	2 (1%)	0
Assault police officer/resist arrest	15 (13%)	30 (20%)	18 (11%)	22 (16%)
Impaired driving	2 (2%)	2 (1%)	4 (2%)	1 (0.7%)
Offences against another person	6 (5%)	7 (5%)	13 (8%)	10 (7%)
Domestic disputes	1 (1%)	0	1 (.6%)	3 (2%)
Drugs	4 (3%)	7 (5%)	1 (.6%)	3 (2%)
<i>The Mental Health Act</i>	6 (5%)	3 (2%)	3 (2%)	9 (7%)
Other	13 (11%)	10 (7%)	23 (14%)	21 (15%)

Table 11: Provincial Judges' Review of Commissioner's Decision to Take No Further Action	2013	2012	2011	2010
	6	12	20	13

Table 12: Referrals by Commissioner of Complaint for Criminal Investigation	2013	2012	2011	2010
	0	0	1	1

Table 13: Complainants Have Also Lodged a Criminal Complaint with Police	2013	2012	2011	2010
	5	9	8	11

**Table 14: Time Span of Ongoing Investigations Carried Over
as of December 31, 2013**

YEAR	1-3 Months	4-7 Months	8-12 Months	13-18 Months	19-23 Months	24+ Months	Total
2008	0	0	0	0	0	1	1
2011	0	0	0	0	0	7	7
2012	0	0	0	12	5	0	17
2013	32	18	13	0	0	0	63
Total	32	18	13	12	5	8	88

Table 15: Files Concluded in 2013 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
2009	4	13 months
2010	2	32 months
2011	13	12 months
2012	56	10 months
2013	53	3 months
Total	128	8 months

Table 16: Length of Time to Complete Investigations	2013	2012	2011	2010	2009
Average Number of Months	8	7	6	8	9

Average Number of Months to Complete Investigation

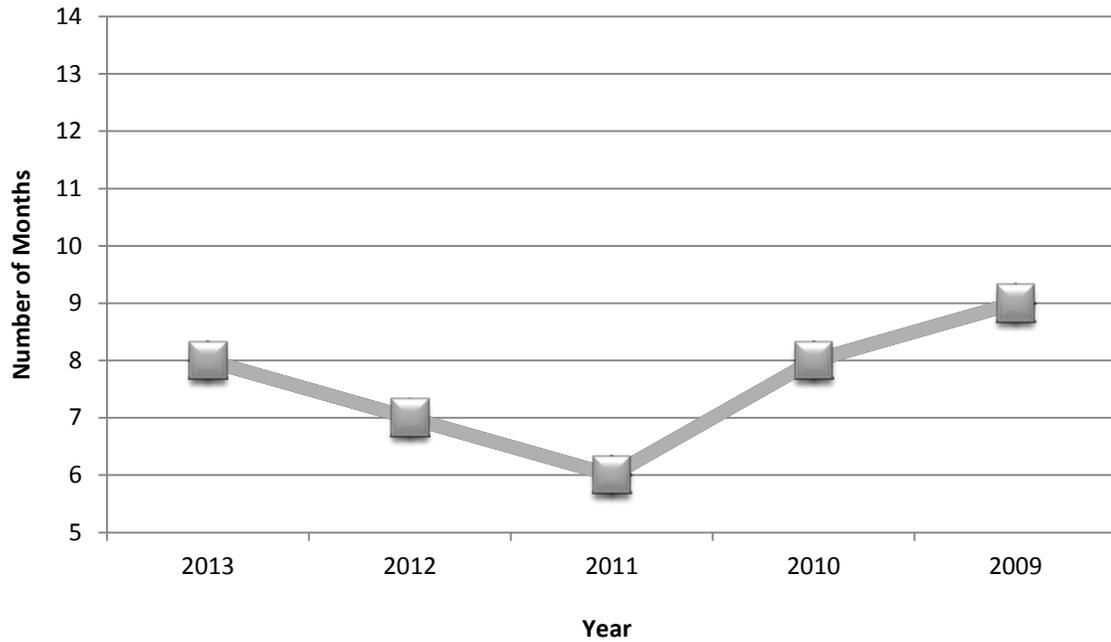


Table 17: Location of Incident	2013 (n=117)	2012 (n=148)	2011 (n=169)	2010 (n=140)	2009 (n=169)
Street	38	53	63	47	51
Private residence	29	50	60	54	49
Public building/place	9	18	27	15	28
Police station	14	15	13	16	30
Other	27	12	6	8	11

Location of Incident

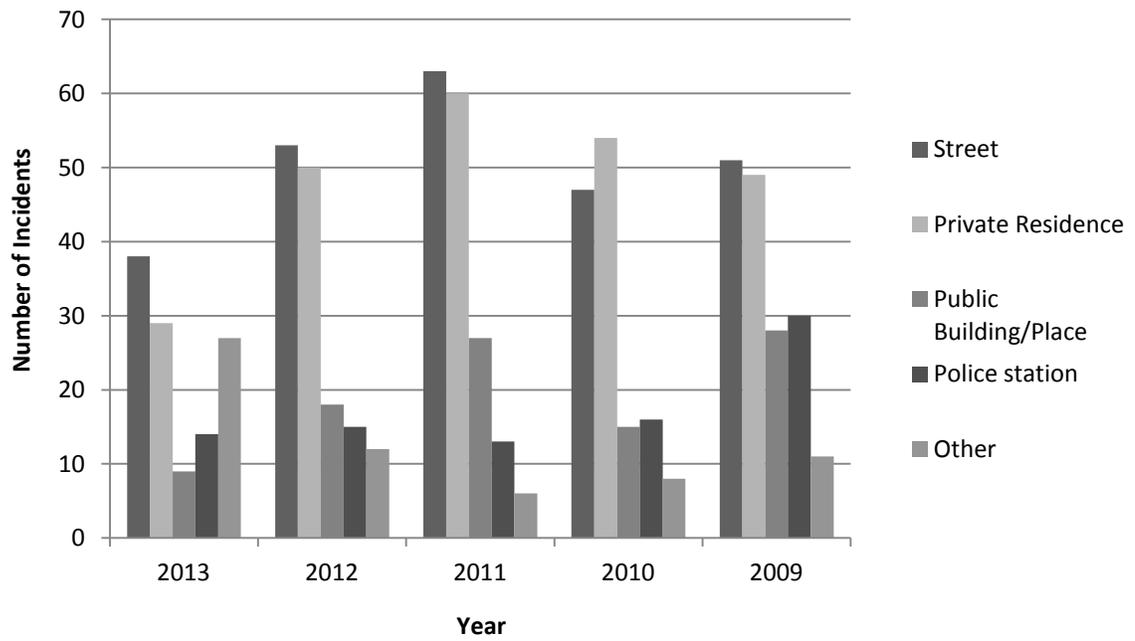


Table 18: Complainant Demographics

SEX	2013 (n=117)	2012 (n= 148)	2011 (n= 169)	2010 (n=140)	2009 (n= 169)
Male	79 (67%)	93 (63%)	114 (67%)	84 (60%)	122 (72%)
Female	36 (31%)	55 (37%)	55 (33%)	56 (40%)	47 (28%)
Sex Unknown	2 (2%)	0	0	0	0
AGE	2013 (n=117)	2012 (n= 148)	2011 (n= 169)	2010 (n=140)	2009 (n= 169)
Over 50	22 (19%)	31 (21%)	23 (14%)	25 (18%)	13 (8%)
40 - 49	21 (18%)	22 (15%)	41 (24%)	30 (21%)	29 (17%)
30 - 39	24 (20.5%)	36 (24%)	34 (20%)	33 (24%)	39 (23%)
18 – 29	23 (19.5%)	22 (15%)	42 (25%)	32 (23%)	58 (34%)
Under 18	6 (5%)	21 (14%)	19 (11%)	12 (8%)	21 (13%)
Birth Date Unknown	21 (18%)	16 (11%)	10 (6%)	8 (6%)	9 (5%)
Average Age	40	49	23	36	32
Oldest Complainant	74	72	69	64	72
Youngest Complainant	15	13	12	14	12