

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

**Annual Report
2014**





**ATTORNEY GENERAL
MINISTER OF JUSTICE**

Room 104
Legislative Building
Winnipeg, Manitoba CANADA
R3C 0V8

The Honourable Janice C. Filmon, 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 *2014 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, 2014.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Gord Mackintosh".

Honourable Gord Mackintosh





Justice

Law Enforcement Review Agency (LERA)
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The Honourable Gord Mackintosh
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 29th annual report for the period of January 1, 2014, to December 31, 2014.

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,



M.E. (Max) Churley
Commissioner

TABLE OF CONTENTS

TITLE	PAGE
Introduction.....	9
LERA’s Mission Statement.....	9
About LERA	
What is LERA?	9
To whom does the act apply?	9
What does LERA investigate?	9
Who are complainants and respondents?.....	10
How is a complaint filed?	10
Are there time limits?	10
How is a complaint investigated?	11
How is a complaint screened?	11
Does a complainant need a lawyer?	11
How is a complaint resolved?.....	12
LERA as an Agency	13
How to Reach the Law Enforcement Review Agency	13
Website Overview	13
Organizational Structure	14
Activities/Acknowledgements	15
Activités/Remerciements	17
Case Summaries	
Commissioner’s Decision to Take No Further Action.....	19
Provincial Judges’ Reviews of Commissioner’s Decision to Take No Further Action.....	23
Informal Resolution of Complaints.....	31
Public Hearings Before a Provincial Judge	33
Statistical Analysis	35
Analyse Statistique.....	37
<u>2014 Statistical Report – Data Tables</u>	
Table 1: Complaints Listed by Police Service	39
Table 2: Public Complaints.....	40

Table 3: Investigations Conducted	41
Table 4: Complainants' Allegations	42
Table 5: Incidents Alleging Misuse of Pepper Spray	43
Table 6: Incidents Alleging Misuse of Handcuffs	43
Table 7: Incidents Alleging Misuse of Taser	43
Table 8: Incidents Alleging Injuries from Use of Force	43
Table 9: Disposition of Complaints	44
Table 10: Legal Involvement of Complainants	45
Table 11: Provincial Judges' Reviews of Commissioner's Decision to Take No Further Action	46
Table 12: Complaint Referrals to Crown for Criminal Investigation....	46
Table 13: Complainants Have Also Lodged a Criminal Complaint with Police.....	46
Table 14: Time Span of Ongoing Investigations Carried Over as of December 31, 2012	47
Table 15: Files Concluded in 2012 by Year of Origin	47
Table 16: Length of Time to Complete Investigations.....	48
Table 17: Location of Incidents	49
Table 18: Complainant Demographics	50

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 Civilian Review and Complaints Commission for the RCMP (CRCC) at www.crcc-ccetp.gc.ca or by calling 1-800-665-6878 (toll free). LERA will forward these complaints to the CRCC.

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 – 2014

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

2014 Web Trends Report:

Visitors.....	17,963
Pages viewed	13,589
Average pages viewed per day.....	37

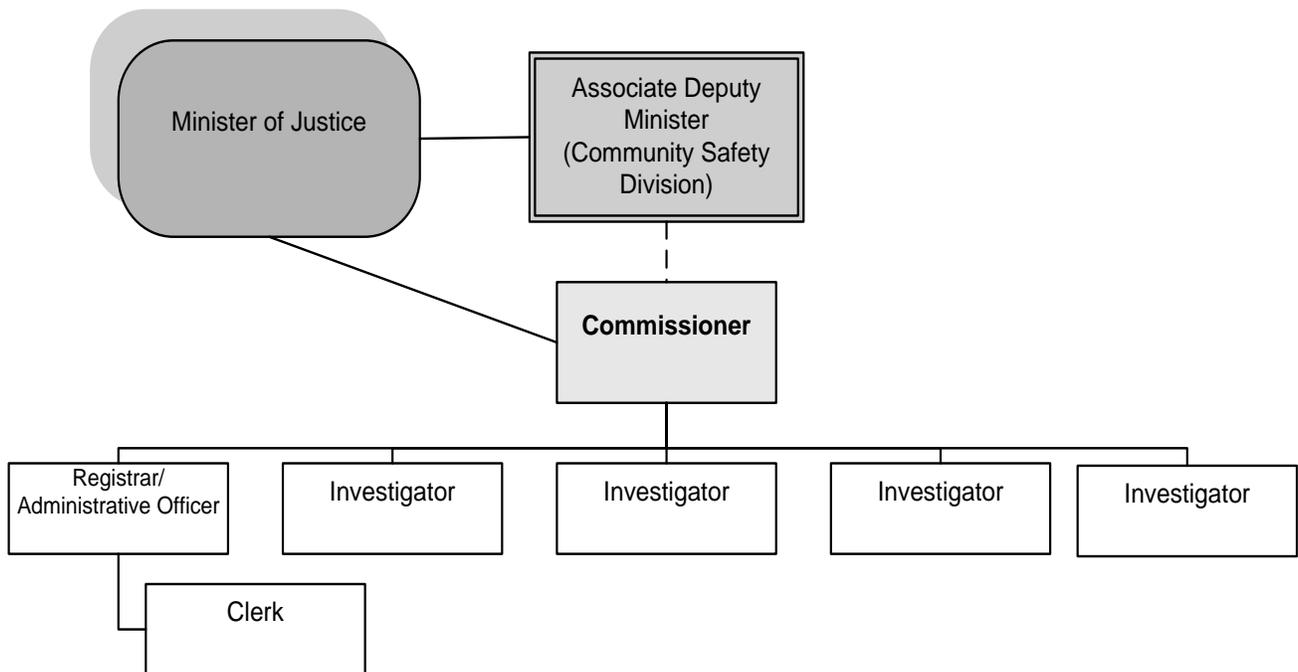
Organizational Structure

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 the Associate Deputy Minister of the Community Safety Division.

LERA’s budget for the financial year beginning April 1, 2014 and ending March 31, 2015 is:

Full Time Employees	7
Total Salaries (\$000`s)	\$317
Total Operating Budget (\$000`s)	<u>\$109</u>
TOTAL	\$426



Activities

During the year, the commissioner and/or staff:

- participated in meetings with the Executive Director of Policing Services and Public Safety, Community Safety 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 9th Annual Manitoba Council of Administrative Tribunals Conference (MCAT)
- attended 12th Annual Crown Defence Conference
- presented to Winnipeg Police Service recruit and cadet classes on *The Law Enforcement Review Act*
- 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 Civilian Review and Complaints Commission for the Royal Canadian Mounted Police (RCMP)
- 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 13th annual Keep the Fires Burning celebration
- met with Civil Legal Services
- presentation to Brandon Police Board
- met with Chief and Inspector, Brandon Police Service
- met with Director, Independent Investigation Unit
- attended Mel Myers Labour Conference
- met with Executive Director and Program Manager of Main Street Project
- attended 2014 National Mental Health Conference
- presented to the Brandon Police Service students
- presentation at Assiniboine Community College, Brandon
- attended Diversity and Culture – Working with Differences workshop

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

Activités

Au cours de l'année, le commissaire ou le personnel :

- ont participé à des réunions avec le directeur général du maintien de l'ordre et de la sécurité publique de la Division de la sécurité communautaire;
- ont participé à des réunions et à des discussions avec des cadres de la police, des associations de policiers, des membres de services de police et des fonctionnaires municipaux;
- ont assisté à la révision de décisions du commissaire et à des audiences publiques présidées par un juge de la Cour provinciale siégeant en qualité de personne désignée;
- ont participé à la journée portes ouvertes de l'Association du Barreau du Manitoba, au palais de justice du Manitoba;
- ont assisté à la cérémonie de remise des diplômes des classes de recrues du Service de police de Winnipeg;
- ont participé à des formations de l'Organisme de perfectionnement et de formation du gouvernement du Manitoba;
- ont rencontré des employés du service des communications affectés au ministère de la Justice;
- ont présenté un exposé aux étudiants de la Northwest Law Enforcement Academy;
- ont assisté à la 9^e conférence annuelle du Manitoba Council of Administrative Tribunals (MCAT);
- ont participé à la 12^e édition annuelle de la Crown Defence Conference;
- ont présenté des exposés sur la *Loi sur les enquêtes relatives à l'application de la loi* devant des classes de recrues et de cadets du Service de police de Winnipeg;
- ont participé, en qualité de membres du conseil d'administration de l'Association canadienne de surveillance civile du maintien de l'ordre (CACOLE), à plusieurs réunions du conseil et réunions de planification, cela par téléconférence;
- ont participé, par téléconférence, à une réunion tenue par la Commission civile d'examen et de traitement des plaintes relatives à la Gendarmerie royale du Canada (GRC);
- ont rencontré l'inspecteur de l'unité des normes professionnelles du Service de police de Winnipeg;
- ont envoyé par courriel à tous les services de police du Manitoba les décisions de la Cour provinciale portant sur les causes visées par l'Organisme chargé des enquêtes sur l'application de la loi;
- ont rencontré le directeur général de la Commission de police du Manitoba;
- ont assisté à la 13^e édition annuelle de l'activité « Keep the Fires Burning »;
- ont rencontré des représentants de la Direction du contentieux civil;
- ont présenté un exposé devant le conseil de police de Brandon;
- ont rencontré des représentants (chef et inspecteur) du Service de police de Brandon;
- ont rencontré le directeur de l'Unité d'enquête indépendante;
- ont assisté à la « Mel Myers Labour Conference » annuelle;
- ont rencontré des représentants (directrice générale et gestionnaire de projet) du Main Street Project;

- ont participé à la Conférence nationale sur la santé mentale de 2014;
- ont présenté un exposé devant les étudiants du Service de police de Brandon;
- ont présenté un exposé au Collège communautaire Assiniboine de Brandon;
- ont participé à l'atelier « Diversity and Culture – Working with Differences ».

Remerciements

- aux membres du public qui font part de leurs plaintes et de leurs préoccupations à l'Organisme chargé des enquêtes sur l'application de la loi;
- aux plaignants et aux défenseurs qui parviennent à régler leurs différends à l'amiable;
- aux chefs des services de police municipaux du Manitoba;
- aux associations de policiers et aux membres des services de police municipaux du Manitoba;
- aux avocats qui aident les plaignants et les défenseurs;
- aux fonctionnaires de Justice Manitoba pour leur aide et leur expertise;
- au personnel de l'Organisme chargé des enquêtes sur l'application de la loi dont la compétence et l'engagement sont essentiels à la réussite de l'organisme;
- à la Direction des systèmes d'information du gouvernement du Manitoba pour avoir assuré la maintenance du système de traitement des données informatiques de l'Organisme;
- aux nombreux autres intervenants qui participent au processus de l'Organisme.

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 performs an important gate-keeping function that ensures complaints that have no prospect of success do not go to a public hearing. This function ensures that the LERA process runs more smoothly and efficiently and preserves the legitimacy of the LERA process with the public.

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

- A male was suicidal. He flagged down a taxi and while holding a knife to the driver's throat, demanded money. The driver escaped and the male unsuccessfully attempted to drive the taxi, so started walking. The taxi driver contacted the police who located the man with the knife clearly visible. The officers, with guns drawn, directed the male to drop the knife but he refused and demanded that the officers shoot him. As the officers continued to direct the man to drop the knife, he held it in a threatening manner and advanced towards the officers. At this point, the officers shot at the male two or three times striking him in the left forearm and lower left abdomen.

The male was arrested and taken to the nearest hospital where he received surgery for his injuries. He now believed that excessive force was used in the circumstance; that the situation could have been handled by using a Taser, by using fewer shots or by talking him out of it.

In his complaint to LERA, he alleged that he was subjected to unnecessary violence and excessive force contrary to Section 29(a) (ii) of the Act.

Following the police investigation, he was charged with numerous offences and subsequently convicted of robbery, two counts of assaulting a police officer, two counts of assault with a weapon and possession of a weapon. At trial the judge found the complainant's evidence to lack consistency and was inconsistent with what he told police after the arrest. Additionally, the judge found that both officers believed they were going to be stabbed unless they used force.

The officers involved were interviewed and confirmed that once confronted by the male, they saw the knife and requested that he drop it. He did not comply so the two officers drew their firearms and pointed at the male. They continued to urge him to drop the knife as he advanced toward them. Feeling their lives were in danger, they felt they were left with no other alternative then to fire.

Upon completion of the investigation, the commissioner conducted a thorough review deciding that there was insufficient evidence to justify referral to a public hearing and declined to take further action.

* * * * *

- A call was received by the police about a heavily intoxicated male in attendance at a concert. The male was taken to a room where he resisted attempts to restrain him so was taken to the ground. He was arrested for assaulting a police officer and escorted to the police station.

The male later made a complaint to LERA, claiming that while being detained, he was punched in the face repeatedly. Also, while in police custody, he tripped causing his knees to bleed. Upon awakening the next morning, he found that four of his teeth were broken and his right eye heavily bruised.

The investigation included the interview of witnesses who confirmed that the male was highly intoxicated and very uncooperative. It was also discovered that prior to police arrival, security officers noted him stumbling around and being concerned for his safety, attempted to assist him. It was during this time that the male fell down the stairs taking the security members with him. At this point, the male smacked his face into the wall causing bleeding from his mouth and face.

The commissioner reviewed the police reports on the incident and officers involved were interviewed. They advised that when attempting to handcuff the male, he would not cooperate and attempted to bite one of the officers. The officer in response punched the male 4 to 5 times in the face and mouth.

The male sought medical and dental treatment and the Commissioner reviewed the injury reports and the treatment received.

On completion of the investigation, the commissioner determined there was insufficient evidence substantiating the complainant's allegations to warrant a hearing and declined to take further action.

* * * * *

Out of Scope

LERA is mandated under the Act to investigate public complaints of disciplinary defaults by police officers as defined in Section 29, the discipline code. LERA does not investigate criminal or service issues. From time to time complaints are received about police action that is not subject to investigation by the agency.

These are sample cases where the commissioner decided no further action was required because the matter was outside the scope of *the Act*.

- A male had filed a complaint with police, reporting that family members and friends had stolen money and other property from him while he was hospitalized. Upon completing their

investigation, the police didn't charge anybody for the thefts which prompted the male to submit a complaint to LERA with a request to review the police decision.

Upon review, the commissioner determined that the complaint was outside the scope of the Act, in that it is service related, not pertaining to conduct. The male was advised to take his complaint to the Chief of Police who is mandated to address such concerns.

* * * * *

- A female was driving from Regina to Winnipeg. After crossing the border, she received a speeding ticket from an officer of the Royal Canadian Mounted Police (RCMP). Her complaint didn't involve officer conduct; it was related to the amount of the fine assessed and the administration process in Manitoba to pay the fine or contest the ticket.

Upon review, the commissioner determined that the complaint was outside the scope of the Act, in that: 1) it involved the RCMP who are not subject of the Act; and 2) it is not a conduct issue, but an administrative and legislative matter.

The complainant was advised of the process by which she could have her concerns addressed and no further action was taken.

* * * * *

Criminal Charges

Some complaints of misconduct by an officer(s) may fall under Section 29 of the Act and also be criminal in nature. A complainant may file complaints resulting from the same incident, with both LERA and the police service of jurisdiction. In such instances the criminal process always takes precedence over the LERA investigation. Additionally, under Section 35(1) of the Act, the commissioner or a Provincial Court Judge must report a matter to the Attorney-General for the possible laying of charges when there is evidence disclosed that a police officer may have committed a criminal offence.

Disclosure of possible criminal offence

35(1) *Where a matter before the commissioner or a Provincial Court Judge discloses evidence that a member or an extra-provincial police officer may have committed a criminal offence, the commissioner or the Provincial Court Judge shall report the possible criminal offence to the Attorney-General and shall forward all relevant material, except privileged material, to the Attorney-General for the possible laying of charges.*

If an officer(s) is charged criminally and the charge(s) is disposed on its merits in criminal court, LERA loses jurisdiction to take further action under the Law Enforcement Review Act (the Act).

Effect of criminal charge

34 *Where a member or an extra-provincial police officer has been charged with a criminal offence, there shall be no investigation, review, hearing or disciplinary action under this Act in respect of the conduct which constitutes the alleged criminal offence unless a stay of proceedings is entered on the charge or the charge is otherwise not disposed of on its merits.*

This is a sample of case where the commissioner was unable to take further action following the disposition of a criminal charge(s).

- A male, while in custody, was taken to the hospital because he was vomiting blood. The male suffered from a perforated bowel requiring surgery. The male explained that while he was lying in the holding cell at the police station, a police officer had kicked him in the stomach causing the injury. He also alleged that a second officer had earlier slapped him across the face while he was restrained with handcuffs.

The complainant alleged that he was subjected to unnecessary violence and excessive force contrary to Section 29(a) (ii) of the Act.

When making his complaint, it was recommended to the male, that due to the serious nature of his allegations, he should also consider filing a criminal complaint of assault. He did register the criminal complaint and upon completion of the investigation, an officer was charged with Aggravated Assault but was acquitted at trial. Under section 34 of *the Act*, an investigation cannot be conducted in circumstances where an officer is charged with an offence and the charge is disposed of on its merits. *Therefore, the commissioner, no longer having jurisdiction over the complaint, closed the file and no further action was taken.*

* * * * *

Abandoned or Withdrawn

- Police received a report of a suspicious male bicyclist peering into residential windows in the neighbourhood. The responding officers located him and kept him under watch. He was seen looking into houses on one side of the street and shortly after went to the front door of a residence and made several attempts to gain entry. The officers shouted commands at the male to stop but he attempted to flee with the police in close pursuit on foot. The suspect attempted to hide in a tree but was located and brought back to the ground. The male became aggressive and resisted the officers as they tried to restrain him and take him into custody. Following verbal commands to comply, the suspect continued resisting, but the officers successfully gained control and effected the arrest.

A complaint was filed with LERA by the suspect, alleging that the officers subjected him to unnecessary violence and excessive force, contrary to Section 29(a) (ii) of the Act.

An investigation was conducted; however, attempts to locate the complainant to discuss the results failed and the commissioner closed the file with no further action taken.

* * * * *

Provincial Court 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 Court Judge. Section 13(2) of The Law Enforcement Review Act (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, he sends it 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.

Following are samples of applications for a Provincial Court Judge's review.

Review #1

- The police had entered into a criminal investigation after receiving information that a male, already subject of several outstanding warrants for his arrest, was engaged in trafficking cocaine. One evening, the police officers received a tip that the wanted male was travelling in a particular vehicle. This vehicle was put under surveillance and later that night, police officers attempted to stop it at an intersection with the use of patrol cars and officers on foot. Police issued several commands to the people in the vehicle but they were ignored. The driver suddenly reversed the vehicle and drove away at a high speed. The vehicle traveled a short distance as the driver lost control and hit a hydro pole. A police car in close pursuit was able to contain the wanted male, however, both the suspect vehicle and the police car were rendered inoperable. Two males fled from the car by foot, while a female and the wanted male remained in the rear seat. The female was arrested. A police officer, being aware of the male's previous convictions and the potential of his possessing a weapon, drew his firearm as he approached him. The male refused to comply with the officer's commands so physical force was used to gain control of and restrain him. The suspect suffered several injuries.

The male alleged that the police officer used unnecessary violence and excessive force contrary to the Act.

An investigation was conducted which included the interview and taking of statements from witnesses and officers involved; review of all police documentation on the incident; and the review of medical reports from the Winnipeg Fire and Paramedic Service and the hospital where he received treatment.

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.

DECISION: The complainant asked to have a Provincial Court Judge review the commissioner's decision. A date was set for the review, however, the male failed to appear and the review was dismissed by the Provincial Court Judge.

Review #2

- LERA received a complaint from a female regarding an altercation with a cadet. The female and a male acquaintance were attempting to stay warm in a public space when a cadet approached her. She said that a physical altercation occurred between her and the cadet before she was taken to a cell.

The female alleged that the cadet in question committed disciplinary defaults pursuant to article 29 of *the Act* by: using unnecessary violence and excessive force; being discourteous; and using abusive conduct.

The police report was reviewed, the cadets involved were interviewed, two videos obtained from the mall area where the incident occurred were obtained and reviewed, videos from the Main Street Project were reviewed and independent witnesses were interviewed. The videos obtained from the mall didn't capture the entire incident, however, showed no evidence of any abuse by the cadets. The videos from the Main Street Project indicated no evidence of abuse. Independent witnesses employed in the area didn't see any abusive actions supporting the complainant's allegations.

The cadets denied the allegations made by the complainant. They said that both persons were very intoxicated at the time of detention and they recalled that the female had a bruise to one eye that appeared to be at least several days old. The complainant's allegations that her arm was twisted, that she was pulled to the floor, was punched in the face and dragged across the floor, up the stairs and into the van were denied.

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.

DECISION: The complainant asked to have a Provincial Court Judge review the commissioner's decision. However, she did not appear as required and the matter was dismissed.

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Review #3

- A female complained to police that she was threatened by her boyfriend while involved in a domestic dispute. She said that the boyfriend threatened to shoot her and that he had the right ammunition.

Police officers set out to find the male with the knowledge that he may be armed, dangerous and using drugs. He was located at his parents' residence. At this point, the male complied with police commands to turn himself over. The suspect's mother permitted police to search the residence resulting in the discovery of several guns and ammunition.

The male subsequently complained to LERA that when arrested an officer called him an insulting name and said he didn't care to investigate the matter properly. He said that he asked the officer if his girlfriend was intoxicated or drinking when she made the complaint to police and he alleges the officer lied by saying that she wasn't under the influence of alcohol or other drugs. He said he questioned the officer about the quality of the investigation into his

girlfriend's allegations, whether witnesses were interviewed and phone records checked. He alleges that the officer stated that he didn't care and that those in authority above him opposed his release from custody for unknown reasons. He complained that his arrest was "made on unreasonable grounds" because police did not check caller ID records, verify events and consider his girlfriend's level of intoxication.

The complainant alleged that the police officers committed disciplinary defaults pursuant to article 29 of the Act by: making a false statement; being discourteous; and arresting him without grounds.

The investigation included a review of the police reports and interview of the officers involved. The officers' confirmed that they had received the noted complaint from the girlfriend who was crying and shaking at the time. She signed a statement outlining her complaint which indicated the two had been in an argument over a letter when he made the threats to kill her. She was convinced that he would kill her that night or in the near future.

The Tactical Support Team (TST) was utilized in making the arrest due to the potential for the use of weapons by the suspect. The suspect was already released from custody awaiting trial on a previous charge of uttering threats to cause bodily harm.

The arresting officers denied the suspect's account of what had taken place. They said they didn't call him any names, nor did they tell him that they didn't care if the matter was properly investigated. In relation to the allegations that they lacked reasonable grounds to arrest him, the officers said that the girlfriend provided a written signed statement and they believed it to be true giving them sufficient grounds to effect the arrest.

On completion of the investigation, the commissioner found that the complaint as it related to the quality of the investigation conducted by police is out of the scope of Section 29 of the Act and as such should be brought to the attention of the Chief of Police who is mandated to address such issues. The allegations of abuse of authority under Section 29 lacked sufficient evidence to justify referral to a public hearing so the commissioner declined to take further action.

DECISION: The complainant asked to have a Provincial Court Judge review the commissioner's decision. The complainant failed to appear for the review and the Provincial Court Judge dismissed the matter.

* * * * *

Review #4

- Police officers followed and attempted to pull over a vehicle, which had been driving on the left side of a two way street. The police officers located the vehicle parked in front of a residence. In the vehicle, they found a female in the passenger seat and a male lying down on the back seat.

The vehicle belonged to the female. However, she denied driving that night claiming that the driver was another male who had just parked the car and ran away. The driver, according to the female, was a friend of a friend and she did not know his name. The female was cooperative

and responded to the officers' questions. The officers advised the female to call a sober friend or family member available to pick her up along with her vehicle.

The police officers awakened the male, who was not very cooperative and visibly intoxicated. The police officers detained the male under the authority of *The Intoxicated Persons Detention Act* (IPDA). He repeatedly informed the officers that he was a barrister in Europe and that he would make a formal complaint of the officers' conduct. At one point, the male alleged that one of the officers had called him a "nigger". The male had nobody that could come and take responsibility for him so he was lodged at The Main Street Project, 75 Martha Street until sober.

The complainant alleged that the police officers committed disciplinary defaults pursuant to article 29 of the Act by: making an arrest without reasonable grounds; using unnecessary and excessive force for handcuffing him and leaving him in handcuffs for more than an hour; using oppressive or abusive conduct or language; being discourteous; violating privacy; and assisting in committing a disciplinary default.

The LERA investigation included the interview of witnesses, interviews with the officers involved, a review of police reports, and reports prepared by staff at the holding facility. One police officer, when interviewed, advised that at approximately 5:43 AM he witnessed a vehicle coming toward him in the wrong lane. After going past the police car, the officer made a u-turn and gave chase noticing the vehicle was now moving at a high rate of speed. He lost the vehicle briefly but located it on a parking pad behind a residence in a back lane. As the officer came to a stop behind the vehicle he noted a head come up from the back seat area and quickly disappear again. The interior light remained on momentarily in the suspect vehicle. He exited the police car and went to the vehicle noting that there was nobody in the driver's seat. He opened the driver's side rear door and saw a male lying on the back seat. A female was seated in the front passenger side appearing to be slouched down to avoid being seen.

The officer asked who was driving the car, and both persons in the vehicle said that the unknown male was driving, parked it and ran. The keys for the vehicle were still in the ignition. The female said they didn't know who lived at the residence where they had parked, nor did they know why the unknown driver had fled. She confirmed that she owned the vehicle.

The officer questioned the stories provided by the two and the male immediately became defensive advising that he is a Barrister in Europe and that the officer had no right to question him, open the rear door, or arrest him. The officer took note that the male, a European resident, and intoxicated may explain the vehicle being operated on the wrong side of the road. He also noted that the driver's seat was in a position that would indicate a tall person had been driving and the male in the back seat was indeed in excess of six feet in height.

The male became more angry, began interrupting and was verbally uncooperative until he finally said "Arrest me, arrest me then." The male then got out of the vehicle without any direction from the officer and stood chest to chest with him. His level of intoxication was now more evident, he smelled of liquor, was glassy eyed and swayed on his feet. The officer advised him that he was being detained under *The Intoxicated Persons Detention Act*. He was handcuffed and taken to the Main Street Project where he was lodged.

The female's parents attended and picked her up along with her vehicle and the male was held until sober.

The officers in outlining the events leading to the male's detention denied abusing him in any manner.

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

The complainant asked to have a Provincial Court Judge review the commissioner's decision.

The Provincial Court Judge, hearing the review requested by the complainant, dismissed the proceeding when the complainant failed to appear as required.

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Review #5

- Police officers entered a parking lot and approached a vehicle that contained a male and female. The officers questioned them resulting in the male complaining that the officer was rude, unjustifiably questioning them and used unnecessary physical force. After this brief interaction the male was issued with a ticket for having a dirty license plate.

The complainant alleged that the police officers committed the disciplinary defaults pursuant to article 29 of the Act by: arresting without grounds, using unnecessary violence and excessive force, using abusive conduct and being discourteous.

The complainant said that he remained in his vehicle and through the driver's window, he advised the officer that he was with a friend. The officer told him to get out of the vehicle and he asked why as the officer open the door. The complainant put a jacket on, and the officer immediately accused him of the "giving him attitude routine" which the male denied because he was not "offensive, standoffish or rude." The officer asked why he was in the lot, had he been drinking and who owned the car; he answered the questions.

The officer told him to walk to the police vehicle while the other officer continued to question him as to why he was in the lot and if he had been drinking alcohol. The male explained that he parked the way he did so as not shine the headlights toward a street and cause a driving hazard. He denied having consumed alcohol. He again questioned the officer as to why he had to get out of the car, indicating that in his experience with police he was usually asked to stay in his car. In explaining to the officer why he was parked he said, "Guy and girl, parking lot, late in the evening, isn't it obvious what we are doing?"

The officer said that the male was giving him attitude. He then told the officer that his IQ was not high enough to understand what was going on. The male alleged that the officer pulled him from the rear of the police vehicle, pushed him against the vehicle and handcuffed him. He waited quietly while an officer questioned the female. The male was charged with having a dirty licence plate, had the handcuffs removed, his ID was returned and the officer walked him

back to his vehicle. There was a discussion between the two about the officer's handling of the incident.

The investigation included the taking of a statement from the female passenger, a review was completed on the police documentation of the incident and the officers involved were interviewed.

The female passenger said that the officers treated her ok, and her male friend was ok until he was asked to get out of the car but after that he was giving the officers some attitude. One officer asked if she and her friend were breaking up which she thought was a personal question and none of his business.

The officers, in their report(s) and when interviewed, explained that they saw a vehicle with dirty plates pass through traffic lights. The vehicle turned into a parking lot of a business at a high rate of speed and crashed into a snow bank at the end of the lot. As the officers approached the driver's side of the vehicle, the male was asked to step out. The male replied, "why do I have to listen to you" and then rolled up the window. One officer opened the car door and told him to get out of the vehicle and that he was being detained for a traffic violation. The officer told him to walk to the nearby police car and speak to the second officer while he talked with the female.

The female appeared to be "shaken up/distraught", was crying, and said her and her friend were arguing and were probably going to break up. She explained that it was the reason why the male was upset and not listening to the officers. The officer in speaking to the male as they stood by the police vehicle was called "f----- pig". The officer advised when interviewed that at that point he didn't know the status of the vehicle, whether it was stolen or not so he informed the male that he was being detained for a traffic investigation. There was more conversation and from the things that the male were saying coupled with his anger, the officers wondered if there may be a mental health issue involved. Once they determined the ownership of the vehicle and confirmed the male was not impaired, the officers served him with the offence notice and released him.

The officers also explained that because the two appeared to be upset with each other, they separated them in order to determine if there was a domestic dispute requiring intervention. They denied slamming the male into the police car. They simply used the car to hold him against as they handcuffed him.

They also advised that contrary to the allegation by the male that they were stopped for in excess of a hour, it was in fact a total of nineteen minutes. The officers' vehicle is equipped with technology that can track their location. The LERA investigator checked and the officer's information is supported by the automated dispatch systems that they were tied up with this matter for a total of nineteen minutes and two seconds.

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.

DECISION: The complainant asked to have a Provincial Court Judge review the commissioner's decision. However, he did not appear as required and the matter was dismissed.

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Review #6

- A male had been in a long term disagreement with a neighbour and had made complaints to the police. He returned to the station to make an additional complaint about the same neighbour relating to an alleged assault. As he told the officer about the assault he became upset with the manner in which his complaint was being taken. The male requested that his phone number not be recorded. The police officer informed him that this was not allowed due to the computer program he was using and that phone numbers are only used within the police service. The male was not satisfied by this response. The male requested that the report be printed so that he could sign it. The police officer explained that this was not necessary because it was an electronic report and a signature was not required. At this point, the male was again not satisfied and demanded the opportunity to write and sign a report. The male was provided with the necessary supplies so that he could write a report, which would be attached to the report completed by the officer. The police officer left briefly to speak with his supervisor and upon his return the male was gone. It was assumed that the male decided to abandon his complaint.

Later on, the male returned to make additions to the report. The male provided a piece of paper on his return to two police officers on duty. One of the police officers picked up the paper and started to read it. While he was looking at it, the male grabbed the piece of paper which caused it to tear. After this occurred the male left quickly with no further comment. Due to the incident with the paper, the male stated that he suffered some pain in his shoulder. He sought medical relief and the medical report indicated that the pain may be due to a rotator cuff tear.

The complainant alleged that the police officers committed disciplinary defaults pursuant to article 29 of *the Act* by: using unnecessary violence and excessive force; and being discourteous.

An investigation was conducted involving the review of police reports and medical reports and the interview of the officers involved. The officer that first spoke to the complainant said that he was taking the details of the alleged assault from the male and he became upset with the manner in which the report was being taken. The complainant told the officer that he wanted his phone number recorded as unlisted to which the officer explained that he couldn't do that because the computer program didn't accept that kind of entry. He went on to explain that it didn't matter because the police would not release the phone number, they would only use it for their own purposes. The male didn't accept that and demanded that he see the report so that he could sign it. The officer explained that it was an electronic report and no signature was required. He said the report would be forwarded to other officers for follow up. The complainant was not satisfied and demanded that he be able to write the report and sign it. The officer provided a pen and paper and told him to write his report and he would add it to the electronic report. The complainant sat and apparently began to write and as he did so the officer went to the back of the office and when he returned the complainant had departed. He checked with the other officer in the desk area and confirmed that the complainant had not left

any written material for him prior to his departure. The officer thought that the male must have abandoned his complaint. There were no witnesses to the conversation.

The second officer that spoke with the complainant upon his return was identified and interviewed. He advised that he was in the area and heard what was said during his previous encounter with the first officer and denied the complainants account of what took place. The complainant brought in a piece of paper on the second occasion and the second officer was looking at it when the complainant snatched it from his hand ripping it in the process. The male became upset and left the police station without making any comment about being injured. The officer said there was no “tug of war” over the piece of paper as the complainant had claimed. The officer said that contrary to what the complainant alleged, he at no time did anything to intimidate the complainant, nor did he or the first officer refuse to give him their badge numbers. In fact, their badge numbers are on their uniforms.

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.

DECISION: The complainant asked to have a Provincial Court Judge review the commissioner’s decision. The Provincial Court Judge, hearing the review, found that the commissioner had not made an error by not taking further action on his complaint.

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Informal Resolution of Complaints

Under Section 15 of The Law Enforcement Review Act (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 2014.

- A black male African immigrant who speaks little English was employed in a maintenance position at a parking lot. He had just completed a job on one level and was proceeding up a ramp to collect loose garbage from between vehicles when he was called over by a male identifying himself as a police officer who wasn't in uniform nor did he display a badge or other form of identification. The police officer had just parked a car in the parkade as noted by the employee.

The officer asked the employee what he was doing and he told the police officer that he worked in the parkade showing him his access card. The officer didn't believe him, proceeded to walk him out of the area and told him he had to leave.

The employee contacted his boss by telephone and passed the phone to the officer so that his boss could confirm his employment. His boss asked the officer to identify himself but the officer refused to oblige. As a result, the boss, refused to provide any further information to the officer other than confirmation that the man was at his place of work. The officer then returned the employee's cell phone and told him to go back to work.

The employee said he was afraid for his safety because he didn't know who this person was and he felt startled and humiliated. He believed that he was targeted because he is black and is of African descent.

Investigation revealed the identity of, and confirmation that the person involved in this incident was in fact a police officer. It was learned that the officer entered the parkade on the date in question and noted a male wandering around the entrance/exit area. To the officer, the man looked out of place and he thought he may have gained entry when one of the overhead doors opened. The man appeared to be going in and out of parking stalls with what looked like a plastic shopping bag with something in it. The officer said it appeared he was going in and out of the parking stalls and was peering into a side window of one vehicle.

The officer believed that the man's presence was suspicious so he walked over to him and asked him what he was doing there. The male looked at the officer as if he didn't understand what he was asking and held up the bag he was carrying. He again identified himself as a police officer and asked him what he was doing in the parkade and how he gained access. There was an obvious language barrier, but the officer understood that the man was saying that he was

cleaning the parkade. The officer held some doubt because the man had no cleaning supplies/equipment and couldn't answer his questions.

He instructed the man to accompany him outside the building so that he could investigate and verify the man's claims. As they walked out the male called someone on his phone and was talking. He handed the officer his cell phone gesturing that someone on the phone wanted to talk with him. The person on the other end was angry and again there was a language barrier but seemed to be saying that he ran a janitorial company and that he had someone working cleaning the parkade. The officer had trouble understanding the male on the phone. He had no pen or paper so was trying to understand and remember the name of the company but he was unsuccessful. He thanked the male on the phone and ended the conversation, giving the phone back to the employee.

The officer asked the male to produce identification so he opened his wallet showing that he had none but showed a card that appeared to be an access card. He asked his name but couldn't understand what he was saying. He saw that his efforts were futile and told the man to continue on intending to follow up on it later with the parking company.

The officer did confirm with the cleaning company that the man was in fact an employee and he actually called the man and left a message for him to call him back so that he could try and explain. As a result of the complaint to LERA both the complainant and the police officer agreed to meet and attempt to resolve the matter informally. A meeting was arranged with the use of an interpreter and the two resolved the matter with both having a better understanding of what occurred from the other's perspective. They shook hands and the complainant was satisfied with the outcome necessitating no further action.

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Public Hearings before a Provincial Court Judge

Public hearings under The Law Enforcement Review Act (the Act) are held before Provincial Court Judges. The judges do not sit in their usual capacity as members of the Provincial Court. 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 Court 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 the same as the more traditional standards that are used in other contexts. In criminal cases, the standard is “beyond a reasonable doubt,” which was used in the Act until 1992. In civil cases, the standard is “balance of probabilities.” Provincial Court Judges have held that the “clear and convincing evidence” standard falls between the civil and criminal standards of proof.

Following are the circumstances of an incident which was, on the merits of the complaint, referred to a public hearing, in 2014.

Police officers entered a residence with a search warrant issued under the *Controlled Drug and Substances Act*. A number of marijuana plants were found along with several improperly secured rifles and shot guns which were unregistered, contrary to legal requirements at that time.

Three persons were arrested, including a female who was escorted to the police station and stripped searched by a female officer. The other two arrestees, one adult and the other a teenager, were not stripped searched.

The female filed a complaint with LERA alleging that:

- she asked if everyone was being strip-searched and an officer said yes
- she asked why she had to be strip-searched but was not given an answer
- she was so upset she banged her head on the holding room wall three times before the strip-search, she said she was asked to stop and complied
- she begged both officers that she not be strip-searched
- the female officer directed her to remove all her clothing
- she complied with a request from the officer to show all parts of her body for visual inspection
- she said the female officer inspected all her clothing
- she was directed to get dressed and did
- she does not know the name or badge number of the female officer
- she had no drugs or weapon(s) on her and none were found on her person

Investigation failed to identify the female officer alleged to have conducted the strip search on the complainant. The arresting officer, although he ordered the strip search, didn't record the name of, nor could he recall which one of the female officers was involved. Five female officers, on duty at the time of the incident, denied any knowledge of or involvement in the strip search.

The commissioner found that there was sufficient evidence to justify referral of the matter to a hearing before a Provincial Court Judge.

Officer Misconduct: One male officer (arresting officer).

Allegation: The use of oppressive or abusive conduct or language: the unjustified strip search, contrary to subsection 29(a) (iii) of *The Law Enforcement Review Act*.

Disposition: *The respondent officer became ill and passed away prior to the hearing and the file was closed.*

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Statistical Analysis

- LERA's jurisdiction extends to 12 police services with 1,659 police officers. Total population served is 771,008.
- Winnipeg Police Service accounts for 87 per cent of complaints made to LERA. Brandon Police Service accounts for eight (8) per cent and other services account for the remainder.
- There were 237 files opened in 2014, up by 21 complaints from 2013. The four (4) year average is 238 new files per year.
- The number of formal complaints filed (138) is up from 117 formal complaints in 2013.
- Ninety-nine complaints were resolved at intake or after preliminary enquiries the same as in 2013.
- In 2014, there were 225 total investigations. There were 216 investigations in 2013.
- There were 132 investigations completed in 2014, up four (4) from 128 in 2013.
- There were no complaints alleging the misuse of pepper spray in 2014.
- There was one (1) complaint of misuse of the Taser.
- There were four (4) incidents alleging misuse of handcuffs in 2014, up one (1) from 2013.
- Incidents alleging injuries from the use of force increased to 66 from 44 in 2013. Allegations of injuries were made in 48 per cent of complaints investigated.
- There were four (4) informal resolutions of complaints in 2014, up two (2) from 2013. 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 increased from 2013. 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 up by three (3) requests to nine (9) in 2014. The four (4) year average is 11. (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 2014, 13 criminal complaints were made after a LERA complaint was also filed. This was up eight (8) from 2013. (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 a decrease from eight (8) months in 2013, to six (6) months in 2014. (See Tables 15 and 16)

- The average age of all complainants was 38. The oldest complainant was 82 and the youngest was 14. (See Table 18)

Analyse statistique

- La compétence de l'Organisme chargé des enquêtes sur l'application de la loi comprend 12 services policiers qui comptent 1 659 agents de police. La population servie compte en tout 771 008 habitants.
- Le Service de police de Winnipeg compte pour 87 % des plaintes faites à l'Organisme. Le Service de police de Brandon compte pour 8 %, et les autres services comptent pour le reste.
- En tout, 237 dossiers ont été ouverts en 2014, soit une hausse de 21 plaintes par rapport à 2013. La moyenne sur quatre (4) ans est de 238 nouvelles plaintes par année.
- Le nombre de plaintes officielles déposées (138) est plus élevé que celui de 2013 (117).
- Quatre-vingt-dix-neuf plaintes ont été résolues au moment de l'évaluation initiale ou après des enquêtes préliminaires, soit le même nombre qu'en 2013.
- En 2014, il y a eu 225 enquêtes. Il y a eu 216 enquêtes en 2013.
- On a achevé 132 enquêtes en 2014, soit quatre (4) de plus qu'en 2013 (128).
- Il n'y a pas eu de plaintes d'usage abusif de gaz poivré en 2014.
- Il y a eu une (1) plainte d'usage abusif de pistolet Taser.
- Il y a eu quatre (4) incidents alléguant l'usage abusif de menottes en 2014, soit un (1) de plus qu'en 2013.
- Les incidents alléguant des blessures découlant de l'usage de la force sont passés de 44 à 66 en 2013. Des allégations de blessures ont été soulevées dans 48 % des plaintes ayant fait l'objet d'une enquête.
- Il y a eu quatre (4) règlements informels des plaintes en 2014, soit deux (2) de plus qu'en 2013. L'Organisme chargé des enquêtes sur l'application de la loi continue à fournir un soutien actif et, lorsque c'est possible, à utiliser un mode alternatif de règlement des conflits pour rétablir l'harmonie sociale entre les parties. Cette méthode de résolution demeure une priorité et les plaignants et les répondants sont encouragés à l'utiliser.
- Le pourcentage de plaintes abandonnées par les plaignants a augmenté par rapport à 2013. Les enquêteurs de l'Organisme communiquent avec les plaignants après que l'enquête a été terminée mais avant qu'une décision définitive soit rédigée. Dans bon nombre de cas, lorsque les plaignants apprennent les résultats de l'enquête, ils abandonnent la plainte. Dans d'autres cas, lorsqu'un enquêteur de l'Organisme n'est pas en mesure de trouver un plaignant, une lettre est envoyée à la dernière adresse connue du plaignant, lui demandant de communiquer avec l'enquêteur. S'il n'y a pas de contact dans les 30 jours, la plainte est considérée comme abandonnée et une lettre recommandée est envoyée au plaignant confirmant la fermeture du dossier. (Voir tableau 9)

- Les demandes de la part de plaignants pour que des juges examinent les décisions du commissaire ont augmenté de trois (3), atteignant neuf (9) demandes en 2014. La moyenne sur quatre (4) ans est de 11. (Voir tableau 11)
- L'Organisme ne mène pas d'enquêtes criminelles. Lorsqu'une cause montre qu'une infraction criminelle peut avoir été commise, le commissaire ou le juge provincial doit la signaler au procureur général en vue d'une enquête criminelle.

S'il y a indication d'un crime, les enquêteurs de l'Organisme informeront le plaignant qu'une plainte criminelle peut aussi être déposée auprès du service de police concerné par l'incident. En 2014, 13 plaintes criminelles ont été déposées après le dépôt d'une plainte auprès de l'Organisme. Ce nombre est en hausse de huit (8) par rapport à 2013. (Voir les tableaux 12 et 13)

- Lorsqu'un agent ou un plaignant fait l'objet d'une enquête criminelle, l'enquête de l'Organisme est suspendue. Les enquêtes criminelles et les comparutions connexes prennent souvent des mois ou même des années à être traitées par le système judiciaire. Cela est indépendant de la volonté de l'Organisme, mais alourdit considérablement le temps requis pour mener des enquêtes.

L'achèvement des enquêtes dans un délai raisonnable demeure une préoccupation et constitue un objectif permanent. Il y a eu une baisse allant de huit (8) mois, en 2013, à six (6) mois en 2014. (Voir les tableaux 15 et 16)

- La moyenne d'âge de tous les plaignants était de 38 ans. Le plaignant le plus âgé avait 82 ans et le plus jeune avait 14 ans. (Voir tableau 18)

2014 Statistical Report – Data Tables

Table 1: Complaints – Listed by Police Service**	Police Officers **	Population ***	2014 (n=138)	2013 (n=117)	2012 (n=148)	2011 (n=169)	2010 (n=140)
Altona	8	4,088	0	1 (1%)	0	1 (0.6%)	0
Brandon	87	46,061	11 (8%)	14 (12%)	6 (4.1%)	12 (7%)	20 (14%)
Dakota Ojibway (DOPS)	29	15,591	0	2 (2%)	0	1 (0.6%)	1 (0.7%)
Morden	15	7,812	1 (1%)	0	2 (1.4%)	0	2 (1.4%)
Rivers	3	1,189	0	0	0	0	0
Ste. Anne	5	1,626	0	0	0	2 (1%)	0
Winkler	17	10,670	2 (1.5%)	1 (1%)	2 (1.4%)	2 (1%)	0
Winnipeg****	1,490	663,617	121 (87%)	94 (80%)	134 (90%)	148 (88%)	116 (83%)
RM of Cornwallis*	1	4,378	0	0	0	0	0
RM of Springfield*	2	14,069	0	0	1 (1%)	1 (0.6%)	1 (0.7%)
RM of Victoria Beach*	1	374	1 (1%)	0	0	1 (0.6%)	0
RM of Whitehead*	1	1,533	0	1 (1%)	0	1 (0.6%)	0
Other	0	0	2 (1.5%)	4 (3%)	3 (2.1%)	0	0
Total	1,659	771,008	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	2014	2013	2012	2011
Files Opened	237	216	242	260
Resolved at Intake	99	99	94	91
Formal Complaints Received	138	117	148	169

Public Complaints

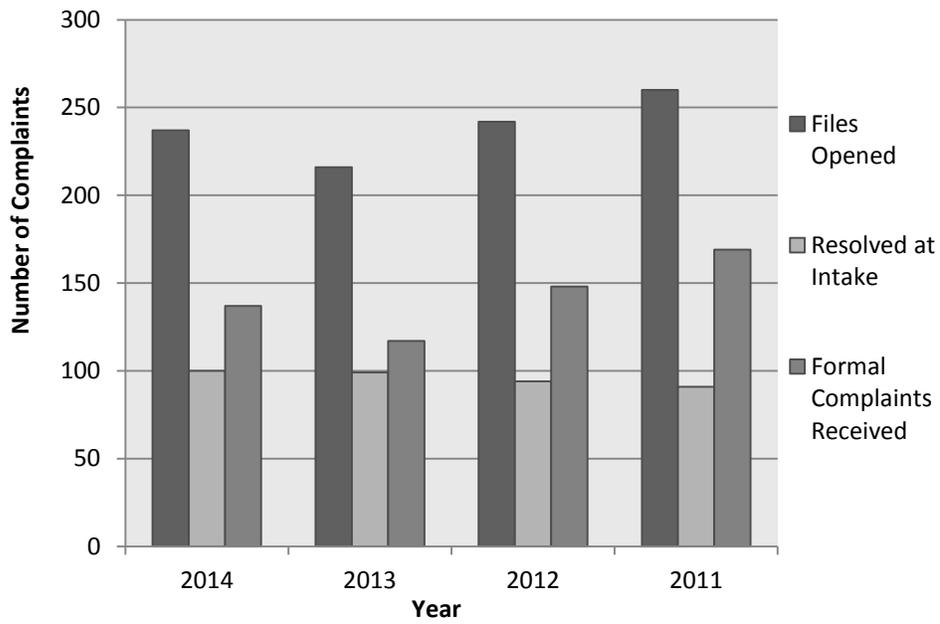


Table 3: Investigations Conducted	2014	2013	2012	2011
Total Investigations	225	216	260	274
Investigations Completed - Files Closed	132	128	162	166
Ongoing Investigations Carried Over as of December 31 st of the year shown	93	88	98	108

Investigations Conducted

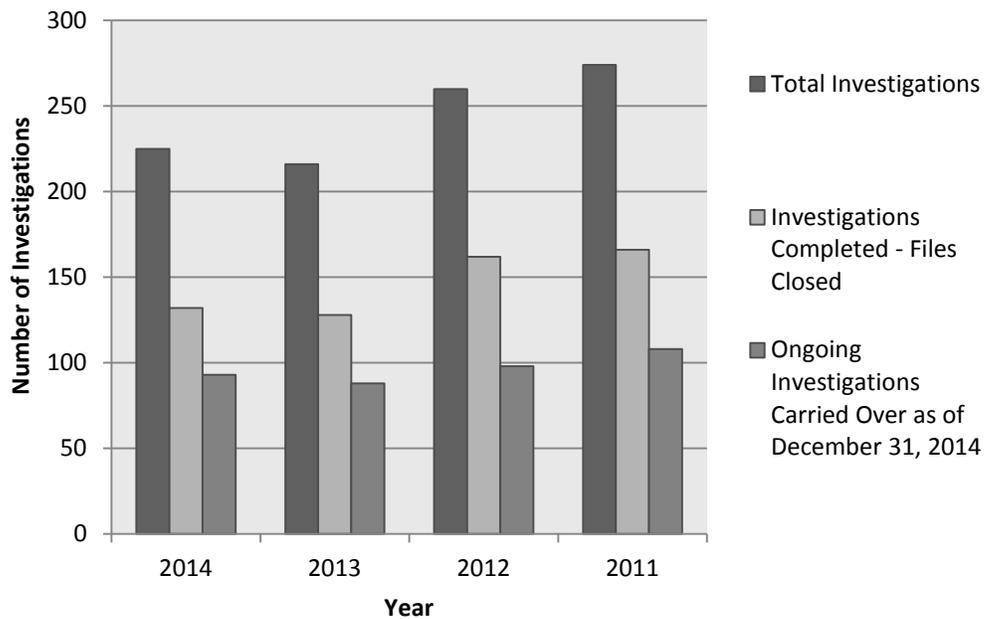


Table 4: Complainants' Allegations: Discipline Code Section 29 <i>The Law Enforcement Review Act</i>	2014	2013	2012	2011
Abuse of authority Subsection 29(a)	34	35	25	45
Arrest without reasonable or probable grounds Subsection 29(a)(i)	19	9	20	22
Using unnecessary or excessive force Subsection 29(a)(ii)	70	49	81	77
Using oppressive or abusive conduct or language Subsection 29(a)(iii)	40	28	33	60
Being discourteous or uncivil Subsection 29 (a)(iv)	49	42	47	49
Seeking improper personal advantage Subsection 29(a)(v)	2	0	0	0
Serving civil documents without proper authorization Subsection 29(a)(vi)	3	0	0	0
Differential treatment without cause Subsection 29(a)(vii) <i>The Human Rights Code</i> Subsection 9(2)	10	15	8	9
Making false statement(s) Subsection 29(b)	8	7	3	4
Improperly disclosing information Subsection 29(c)	1	3	2	4
Failing to exercise care or restraint in use of firearm Subsection 29(d)	1	0	2	0
Damaging property or failing to report damage Subsection 29(e)	4	6	2	6
Failing to provide assistance to person(s) in danger Subsection 29(f)	8	9	4	3
Violating person's privacy (under <i>The Privacy Act</i>) Subsection 29(g))	3	1	6	1
Contravening <i>The Law Enforcement Review Act</i> Subsection 29(h)	0	0	0	0
Assisting any person committing a disciplinary default Subsection 29(i)	0	0	1	0

Table 5: Incidents Alleging Misuse of Pepper Spray

2014 (n=0)	2013 (n= 0)	2012 (n=0)	2011 (n=0)
0% of 138 complaints investigated	0% of 117 complaints investigated	0% of 148 complaints investigated	0% of 169 complaints investigated

Table 6: Incidents Alleging Misuse of Handcuffs

2014 (n=4)	2013 (n=3)	2012 (n=6)	2011 (n=12)
3% of 138 complaints investigated Winnipeg PS = 3 Brandon PS = 1	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

Table 7: Incidents Alleging Misuse of Taser

2014 (n=1)	2013 (n=3)	2012 (n=4)	2011 (n=3)
1% of 138 complaints investigated Winnipeg PS = 1	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

Table 8: Incidents Alleging Injuries from Use of Force

2014 (n=66)	2013 (n= 44)	2012 (n=77)	2011 (n=70)
48% of 138 Complaints investigated Winnipeg PS = 57 Brandon PS = 7 Winkler PS = 2	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

Table 9: Disposition of Complaints	2014 (n=132)	2013 (n=128)	2012 (n=162)	2011 (n=166)
Dismissed by commissioner as outside scope of act	17 (13%)	21 (16%)	13 (8%)	8 (5%)
Dismissed by commissioner as frivolous or vexatious	1 (1%)	0	1 (0.5%)	3 (2%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	48 (36%)	60 (47%)	64 (40%)	84 (50%)
Abandoned or withdrawn by complainant	60 (46%)	43 (34%)	80 (49%)	66 (40%)
Resolved informally	4 (2%)	2 (1.5%)	3 (2%)	4 (2.4%)
Public hearing before a provincial court judge	1 (1%)	2 (1.5%)	1 (0.5%)	1 (.6%)
Admission of guilt by respondent officer	0	0	0	0
Disposed via criminal Procedure	1 (1%)	0	0	0

Table 10: Legal Involvement of Complainants	2014 (n=137)	2013 (n=117)	2012 (n=148)	2011 (n=169)
No charges	63 (45%)	49 (42%)	50 (34%)	66 (39%)
Traffic offences	16 (12%)	15 (13%)	14 (9%)	17 (10%)
Property offences	3 (2%)	3 (2.5%)	12 (8%)	5 (3%)
Intoxicated persons detention	8 (6%)	3 (2.5%)	13 (9%)	16 (9%)
Cause disturbance	1 (1%)	0	0	2 (1%)
Assault police officer/resist arrest	20 (14%)	15 (13%)	30 (20%)	18 (11%)
Impaired driving	1 (1%)	2 (2%)	2 (1%)	4 (2%)
Offences against another person	5 (4%)	6 (5%)	7 (5%)	13 (8%)
Domestic disputes	3 (2%)	1 (1%)	0	1 (.6%)
Drugs	0	4 (3%)	7 (5%)	1 (.6%)
<i>The Mental Health Act</i>	4 (3%)	6 (5%)	3 (2%)	3 (2%)
Other	14 (10%)	13 (11%)	10 (7%)	23 (14%)

Table 11: Provincial Judges' Review of Commissioner's Decision to Take No Further Action	2014	2013	2012	2011
	9	6	12	20

Table 12: Referrals by Commissioner of Complaint for Criminal Investigation	2014	2013	2012	2011
	0	0	0	1

Table 13: Complainants Have Also Lodged a Criminal Complaint with Police	2014	2013	2012	2011
	13	5	9	8

**Table 14: Time Span of Ongoing Investigations Carried Over
as of December 31, 2014**

YEAR	1-3 Months	4-7 Months	8-12 Months	13-18 Months	19-23 Months	24+ Months	Total
2011	0	0	0	0	0	3	3
2012	0	0	0	0	0	4	4
2013	0	0	0	6	2	1	9
2014	28	28	21	0	0	0	77
Total	28	28	21	6	2	8	93

Table 15: Files Concluded in 2014 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
2008	1	1 month
2010	1	28 months
2011	4	10 months
2012	12	14 months
2013	53	8 months
2014	61	3 months
Total	132	6 months

Table 16: Length of Time to Complete Investigations	2014	2013	2012	2011	2010
Average Number of Months	6	8	7	6	8

Average Number of Months to Complete Investigation

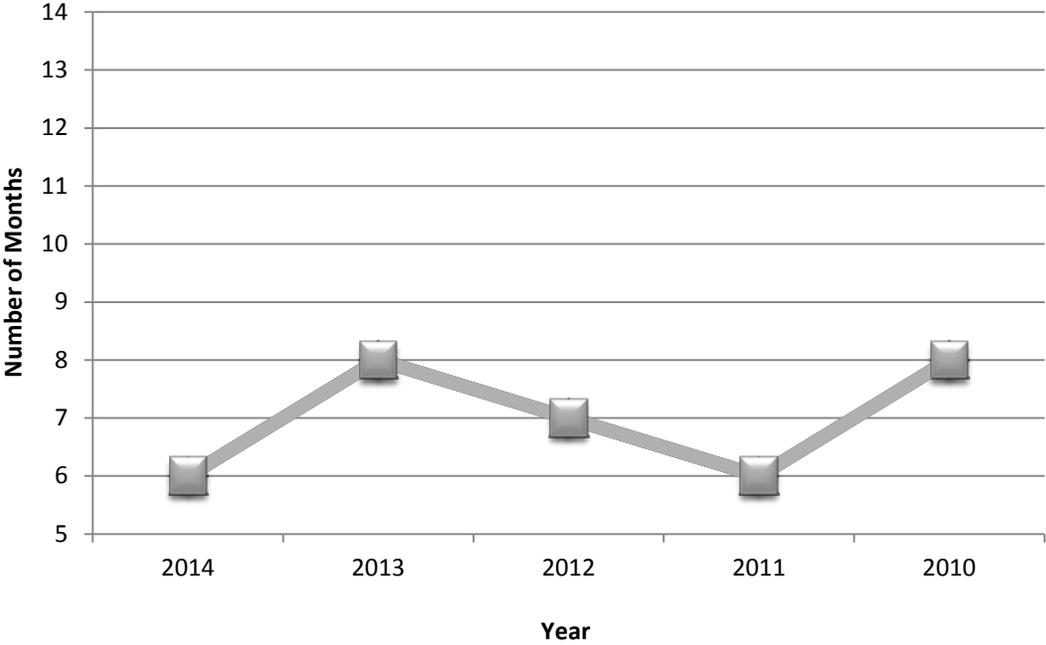


Table 17: Location of Incident	2014 (n=138)	2013 (n=117)	2012 (n=148)	2011 (n=169)	2010 (n=140)
Street	48	38	53	63	47
Private residence	44	29	50	60	54
Public building/place	16	9	18	27	15
Police station	19	14	15	13	16
Other	11	27	12	6	8

Location of Incident

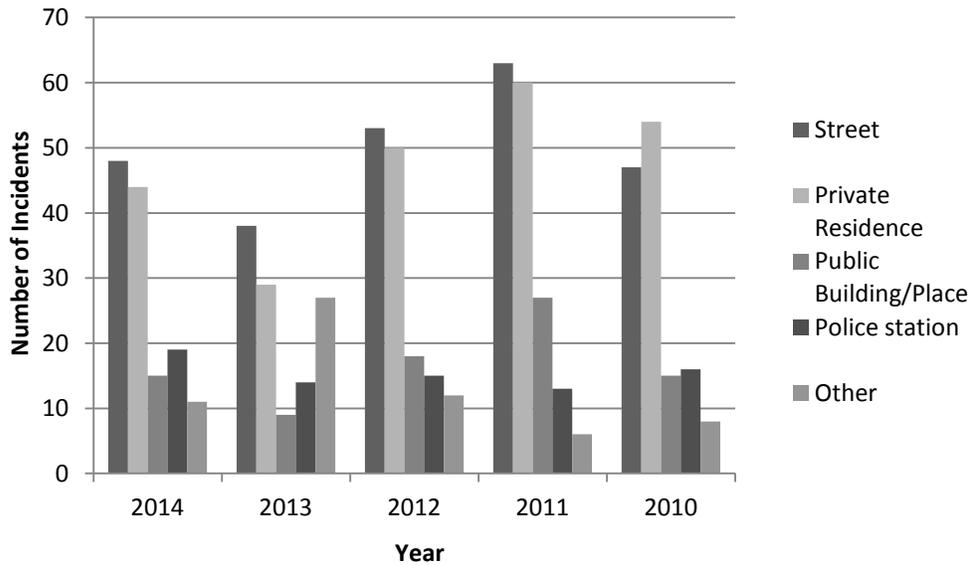


Table 18: Complainant Demographics

SEX	2014 (n=138)	2013 (n=117)	2012 (n= 148)	2011 (n= 169)	2010 (n=140)
Male	94 (68%)	79 (67%)	93 (63%)	114 (67%)	84 (60%)
Female	44 (32%)	36 (31%)	55 (37%)	55 (33%)	56 (40%)
Sex Unknown	0	2 (2%)	0	0	0
AGE	2014 (n=137)	2013 (n=117)	2012 (n= 148)	2011 (n= 169)	2010 (n=140)
Over 50	27 (20%)	22 (19%)	31 (21%)	23 (14%)	25 (18%)
40 - 49	32 (23%)	21 (18%)	22 (15%)	41 (24%)	30 (21%)
30 - 39	30 (22%)	24 (20.5%)	36 (24%)	34 (20%)	33 (24%)
18 – 29	28 (20%)	23 (19.5%)	22 (15%)	42 (25%)	32 (23%)
Under 18	11 (8%)	6 (5%)	21 (14%)	19 (11%)	12 (8%)
Birth Date Unknown	10 (7%)	21 (18%)	16 (11%)	10 (6%)	8 (6%)
Average Age	38	40	49	23	36
Oldest Complainant	82	74	72	69	64
Youngest Complainant	14	15	13	12	14