

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

**Annual Report
2018**



This publication is available in alternate formats, upon request, by contacting:

Manitoba Justice
Administration and Finance
Room 1110-405 Broadway
Winnipeg, MB R3C 3L6
Phone: 204-945-4378
Fax: 204-945-6692

This publication is available in English at:
<http://www.gov.mb.ca/justice/publications/annualreports/index.html>

La présente publication est accessible à l'adresse suivante:
<http://www.gov.mb.ca/justice/publications/annualreports/index.fr.html>

Veillez noter que la version intégrale du rapport n'existe qu'en anglais.
Nous vous invitons toutefois à consulter la lettre d'accompagnement
en français qui figure en début du document.



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 *2018 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, 2018.

Respectfully submitted,

"original signed by"

Honourable Cliff Cullen
Minister of Justice
Attorney General





Justice

Law Enforcement Review Agency (LERA)
420 – 155 Carlton Street, Winnipeg Manitoba R3C 3H8
T 204 945-8667 F 204 948-1014
www.gov.mb.ca/justice/lera

The Honourable Cliff Cullen
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 33rd annual report for the period of January 1, 2018, to December 31, 2018.

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,

"original signed by"

Duane Rohne
Commissioner



Justice

Organisme chargé des enquêtes sur l'application de la loi
155, rue Carlton, bureau 420, Winnipeg (Manitoba) R3C 3H8
Tél. : 204 945-8667 Téléc. : 204 948-1014
www.gov.mb.ca/justice/iera

Monsieur Cliff Cullen
Ministre de la Justice
Procureure générale

Monsieur le Ministre,

Conformément à l'article 45 de la Loi sur les enquêtes relatives à l'application de la loi, j'ai le plaisir de vous présenter le 33^e rapport annuel de l'Organisme chargé des enquêtes sur l'application de la loi, correspondant à la période allant du 1^{er} janvier au 31 décembre 2018.

Ce rapport fournit des statistiques sur le nombre et la nature des plaintes reçues par l'Organisme chargé des enquêtes sur l'application de la loi et décrit le processus de dépôt des plaintes ainsi que le mandat de l'organisme. À titre de renseignement complémentaire, j'ai joint un résumé de diverses causes afin d'illustrer le processus grâce à des scénarios réels.

La Loi sur les enquêtes relatives à l'application de la loi vise à :

- favoriser une éthique professionnelle de haute qualité parmi les agents de police au Manitoba;
- garantir à tous les résidents du Manitoba que leurs plaintes éventuelles contre des agents de police municipale en fonction feront l'objet d'une enquête et d'un examen indépendants;
- fournir un mécanisme de règlement des plaintes équitable aussi bien pour les plaignants que pour les agents de police défendeurs;
- faire en sorte que le comportement des agents de police respecte la primauté du droit et les principes d'une société ouverte et démocratique.

Je vous prie d'agréer, Monsieur le Ministre, mes salutations distinguées.

Le commissaire,

"original signed by"

Duane Rohne

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?	10
Who are complainants and respondents?.....	10
How is a complaint filed?	10
Are there time limits?	11
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	16
Case Summaries	
Commissioner’s Decision to Take No Further Action.....	17
Public Hearings Before a Provincial Judge	26
Out of Scope	27
Frivolous or Vexatious	28
Abandoned and Withdrawn.....	29
Informal Resolution	30
Criminal Charges	31
Statistical Analysis	32
Analyse Statistique.....	34

2018 Statistical Report – Data Tables

Table 1: Complaints Listed by Police Service	36
Table 2: Public Complaints.....	37
Table 3: Investigations Conducted	38
Table 4: Complainants’ Allegations	39
Table 5: Incidents Alleging Misuse of Pepper Spray.....	40
Table 6: Incidents Alleging Misuse of Handcuffs	40
Table 7: Incidents Alleging Misuse of Taser	40
Table 8: Incidents Alleging Injuries from Use of Force	40
Table 9: Disposition of Complaints	41
Table 10: Legal Involvement of Complainants	42
Table 11: Provincial Judges’ Reviews of Commissioner’s Decision to Take No Further Action	43
Table 12: Complaint Referrals to Crown for Criminal Investigation... 	43
Table 13: Complainants Have Also Lodged a Criminal Complaint with Police.....	43
Table 14: Time Span of Ongoing Investigations Carried Over as of December 31, 2018	44
Table 15: Files Concluded in 2018 by Year of Origin	44
Table 16: Length of Time to Complete Investigations.....	45
Table 17: Location of Incidents	46
Table 18: Complainant Demographics	47

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 police board 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). If LERA receives complaints about members of the RCMP, LERA will forward them to the CRCC.

A Manitoba police officer who has been appointed as a police officer or peace officer in another province or territory is subject to investigation and discipline in Manitoba under *The Law Enforcement Review Act* with respect to his or her conduct in the other jurisdiction, as if the conduct took place in Manitoba, even if an investigation, hearing or inquest has been held in the other jurisdiction.

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

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 service
- 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.

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 court 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 court 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 court 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 Provincial Court 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 court judge for a public hearing.

Penalties that may be imposed by the provincial court 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, Community Safety 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 has a commissioner, an administrative officer/registrar, and one investigator. Three other investigator positions are presently vacant.

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

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 Regulations
- Public Hearings and Reviews
- News Releases
- Annual Reports
- Links
- Site Map
- Disclaimer and Copyright

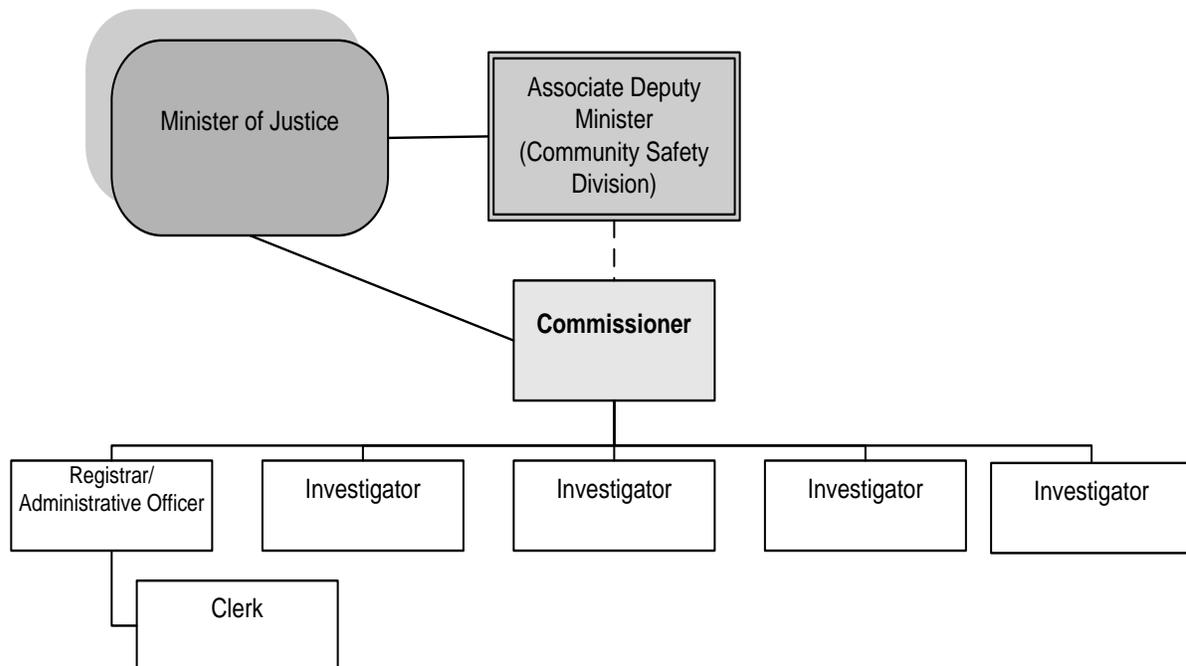
Organizational Structure

The commissioner is required to submit an annual report on the performance of his duties and functions to the minister and to each police board 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, 2018 and ending March 31, 2019 is:

Full Time Employees (filled positions)	3
Total Salaries (\$000`s).....	\$326
Total Operating Budget (\$000`s).....	<u>\$ 61</u>
TOTAL	\$387



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*
- met with Communications staff assigned to Justice
- presented to Winnipeg Police Service recruit and cadet classes on *The Law Enforcement Review Act*
- distributed LERA court decisions to all Manitoba police agencies
- met with the executive director of the Manitoba Police Commission
- ongoing contact with Investigators of the Winnipeg Police Service Professional Standards Unit
- met with Legal Services Branch
- met with Chief and Inspector, Brandon Police Service
- met with Director, Independent Investigation Unit
- staff completed Manitoba Organization and Staff Development Comptrollership Framework Online Learning Program E-Modules
- staff completed Information Security Awareness Online training

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 des services de 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 rencontré des employés du service des communications affectés au ministère de la Justice;
- 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 transmis à tous les services de police du Manitoba les décisions des tribunaux en vertu de la Loi sur les enquêtes relatives à l'application de la loi;
- ont rencontré le directeur général de la Commission de police du Manitoba;
- ont communiqué de manière continue avec les enquêteurs de l'unité des normes professionnelles du Service de police de Winnipeg;
- ont rencontré des représentants de la Direction des services juridiques;
- ont rencontré le chef et un inspecteur du Service de police de Brandon;
- ont rencontré le directeur de l'Unité d'enquête indépendante;
- ont suivi les modules électroniques d'apprentissage en ligne portant sur le cadre de contrôle offert par la Direction du perfectionnement et de la formation du gouvernement du Manitoba;
- ont suivi la formation en ligne sur la sensibilisation à la sécurité informatique.

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 défendeurs 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 défendeurs;
- 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.

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 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.

Under Section 13 (4) of the Act, the burden of proof is on the complainant to show that the commissioner erred in declining to take further action on the complaint.

The following are examples of when the commissioner decided to take no further action and application was made for a review by a Provincial Court Judge.

Insufficient Evidence

- An adult woman, the complainant, alleged that officers abused their authority when they arrested her without reasonable or probable grounds and used unnecessary violence or excessive force. The complainant reported that in the early morning hours she went to meet a friend at a local restaurant. On her arrival, the restaurant was closed. She decided to walk a very short distance back home to pick up her cigarettes and wait for her friend. As she approached her residence, she alleged that an officer emerged from a hidden location near her residence and

asked to speak to her. She declined to speak to the officer stating she had done nothing to warrant the officer's attention.

Immediately thereafter, she alleged the officer hit her head against a fence gatepost, she yelled at the officer and then fell unconscious. She woke sometime later in an emergency room at a local hospital. She alleged the officer inflicted significant injuries to her face, head, arm and hands. She submitted fifteen photos of her injuries and the scene of the contact with the officer. The most significant injury was to her face. She sustained two severely blackened eyes and fractures to her nose. The complaint said that blood on the sidewalk and a fence post in front of her residence was evidence of the assault and the location of the alleged assault.

The LERA investigator obtained medical records from a hospital and Emergency Medical Technicians (EMTs) and firefighters detailing the treatment they provided to the complainant. The EMTs and firefighters responded to a 911 call at about 4:00 a.m. They were the first people to arrive on scene. The complainant did not have facial injuries. As EMTs began to offer treatment and examine the complainant, she became belligerent. The complainant approached a firefighter and tried to strike him. The firefighter moved to the side to avoid the strike. The complainant lost her footing and fell face forward onto the concrete sidewalk. EMTs and firefighters attended to her, observed she had lacerated her nose and face because of the fall. She again adopted a belligerent attitude. The EMTs requested police to attend to assist them as the complainant began to walk away.

Two officers arrived minutes later and located the complainant a short distance from the EMTs. The officers handcuffed the complainant because of the belligerent behaviour and so the EMTs could safely attend to her injuries. The complainant was placed on the ground. She was now bleeding freely from the lacerations caused by the fall. EMTs transported the complainant to a hospital for further treatment with the assistance of one officer. At the hospital, medical staff requested hospital security assistance and released the officers. Hospital staff recorded the complainant was verbally belligerent and repeatedly tried to leave the hospital before a physician could examine her. Medical tests revealed the complainant had consumed more than twice the amount of alcohol considered toxic for human consumption.

LERA obtained the police records of the call for service. The police records were consistent with the EMTs, firefighters and hospital records. Officers' records that the complainant displayed signs of gross intoxication by alcohol and was physically and verbally belligerent. The police records contained information about the complainant's activity before EMTs and firefighters saw her at 4:00 a.m. A patron of a nearby licenced establishment called the police several hours after the EMTs and firefighters responded to the call for service. The caller said the complainant was in the licenced establishment. She was highly intoxicated by alcohol or street drugs and had bit him. The LERA investigator interviewed the caller and obtained a statement from him.

The man confirmed he called the EMTs and firefighters at about 4:00 a.m. He identified the complainant as the woman he saw in the establishment and outside laying on the sidewalk. The man said he did not know the complainant. He was with friends in the establishment when she sat beside him and began talking to him. The complainant appeared grossly intoxicated by alcohol, street drugs or both. When he ignored the complainant, she leaned forward and bit his arm. He yelled out at her, the establishment staff ejected her from the business. Sometime later,

he left the establishment and saw the same woman laying on the sidewalk. He called 911 because she appeared to need medical attention. When the firefighters and EMTs arrived, he walked away without talking to them. He later declined a police investigation of the assault committed by the complainant.

The LERA investigator met with two officers that responded to the call for assistance from the EMTs and firefighters. The officers' account of the incident was consistent with the EMTs and firefighters and diverged significantly with that of the complainant. The officers arrived on scene and located the complainant a short distance away; she had walked away from the EMTs and firefighters. The complainant was highly intoxicated, verbally belligerent and resistant to their efforts to assist her. She was bleeding freely from her face. EMTs and firefighters said that the complainant had fallen and fell face first onto the concrete sidewalk. The officers said when they located the woman, she was at or near her residence, a very short walk from the establishment the EMTs and firefighters first encountered her. In the officers' view, this is undoubtedly a factor as to why the complainant thought she was assaulted in front of her house by officers. The officers said she was confused and disoriented, likely because of her gross level of intoxication and injury to her head.

The officers handcuffed and walked her back to the EMTs and firefighters for treatment. She resisted even though medical care was necessary. After treatment by the EMTs and firefighters she was transported by the EMTs with police assistance to a hospital. The officers said she remained verbally belligerent and resistant to medical staff. The officers were released by the physician treating her, hospital security staff remained with her. The officers had no further contact with her.

The commissioner wrote to the complainant and informed her of the results of the investigation. The commissioner closed the complaint for insufficient evidence to support the allegation that officers were the cause of her injuries. In the commissioner's view, the cause of her injuries was clear, she fell face first onto a concrete sidewalk while grossly intoxicated. EMTs and firefighters witnessed the cause of the injury and confirmed it occurred before the police arrived.

On receipt of the report from the LERA commissioner, the complainant asked for a judicial review of the commissioner's decision. After five court appearances the complainant, while represented by legal counsel, made her case why the commissioner erred in his decision that there was insufficient evidence to support her allegation of abuse of authority.

The complainant felt that the LERA investigation was inadequate and did not cover the time frame that complainant alleged she had contact with officers, that being prior to the recorded time the officers encountered the complainant as documented in the officers, EMTs and firefighters reports. She also alleged credibility issues and evidence that in her view supported her version of the complaint.

Counsel for the officers, countered that the commissioner's decision was correct and based on the fulsome results of the LERA investigation of the complaint. The Provincial Court Judge released his written decision one month after the judicial review. The Provincial Court Judge stated the commissioner's decision to draw the conclusions he did were reasonable and based on the LERA investigation.

DECISION: The Provincial Court Judge dismissed the complainant's application for a full hearing of her complaint.

* * * * *

- An adult male, referred to as the complainant, alleged that officers abused their authority when they arrested him on a street near his home while he and a female acquaintance were arguing.

The complainant alleged that the officers abused their authority by:

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

The Independent Investigation Unit of Manitoba also investigated the complainant's allegation after the complainant made a criminal complaint that officers assaulted him and stole money from him. The IIU investigation concluded with no charges. After a period of abeyance for the criminal investigation to proceed, the LERA investigation continued. LERA had access to the IIU investigation and the respondent officer's reports and notes.

The complainant said the female acquaintance had stolen his cell phone; the woman denied the allegation and said the complainant had assaulted her in his apartment and that she was forced to flee for her safety. The complainant and the female acquaintance had both consumed alcohol and marijuana. The complainant later found his missing cell phone in his apartment, the female acquaintance as she correctly claimed, had not stolen his phone.

Bystanders in the area became concerned for the woman's safety and intervened by calling the police and separating the complainant and the woman until the police arrived moments later. The complainant said immediately upon the officers' arrival they threw him to the ground, handcuffed him, then threw him against a police car, punched him in the face and used a racist term when referring to him. After his arrest and removal from the arrest scene, he further alleged officers stole money from his apartment and broke his wrist and unlawfully strip-searched him.

Civilian witnesses interviewed provided conflicting evidence from that of the complainant about the time before and after the officers' arrival. The witnesses called the police because the female acquaintance told them the complainant had assaulted her, threatened to throw her from his apartment window and held her for a time against her will in the complainant's apartment. The witnesses said the complainant appeared intense and saw the complainant assault the female acquaintance on the street. When the officers arrived moments later, the complainant refused to follow the officers' directions to stay away from the female acquaintance and tried to push and fight with the officers.

In all, five civilian witnesses were interviewed. None of the five witnesses saw an officer strike the complainant as alleged. One witness said an officer told them that the complainant was using a racist word to describe the officers. None of the civilian witnesses said they heard anyone use a racist word. Some of the civilian witnesses said they heard the complainant use foul language.

In all, nine officers were interviewed by LERA or IIU investigators. The officers denied the complainant's allegations of abuse of authority. The officers stated that from the moment of their arrival, they encountered a complainant that was agitated, belligerent, and intoxicated and threatening to assault the officers. The complainant kept approaching his female acquaintance even after officers told him to sit down and not to approach her. The officers said the complainant used the racial term repeatedly while dealing with the officers.

Two officers entered the complainant's apartment after his arrest to obtain identification because the complainant had none with him and the computer database contained no positive ID for him. While in the apartment, they confirmed his identity and secured the apartment because they took the complainant into custody.

While still at the scene of the complainant's arrest, officers moved him to a police car. He resisted the officers and allegedly tried to strike an officer by head butting him. Officers placed a spit sock over his head because he also appeared to try to spit on an officer and shackled his ankles to prevent further resistance or assaults. The officer that the complainant tried to head butt and spit on, pushed his head to the side to avoid being head butted or spit on. The officer stated that he did not strike the complainant; he used an open hand to push his head aside.

Officers moved the complainant to a police office to process him before remanding him into the custody at a correctional facility. While being fingerprinted, the complainant alleged that officers bent his wrist in a way that caused the fracture and slammed his head onto a table. The officers responded saying that the complainant remained agitated, belligerent and refused to walk or stand unassisted. The officers had to carry him into and from a processing room because he refused to walk. The officers also had to hold him upright to photograph him. Two civilian employees of the police service said that they processed the complainant for incarceration and identification purposes. Both said they remembered the complaint and denied officers handled him roughly. They also stated the complainant was belligerent, threatened one of the civilian employees, resulting in a criminal charge for uttering threats. Neither civilian employee had any memory of an officer slamming the complainant's head onto a table or the complainant stating he was injured or asking for medical attention.

The complainant further alleged that the arresting officers participated in an unnecessary strip of him after his admission into the correctional facility. Investigators obtained a video record of the complainant's admission into custody. The video record clearly recorded the officers' departure from the correctional facility immediately after correctional officers took custody of the complainant.

Medical reports obtained from the surgeon that treated the complainant's injuries stated that the complainant had a spiral oblique fracture of a metacarpal bone directly below his ring finger and above the wrist of his left hand. When interviewed by investigators, the complainant's female acquaintance said that the complainant, while in a fit of rage, punched walls in his apartment

with his closed fists. While punching the walls the complainant injured his hand, he went into his washroom and that is when she fled his apartment leading to the assault on the street and the call to the police.

The physician said the complainant told him the fracture occurred when handcuffed and an officer bent his wrist upward while fingerprinting him. The physician was asked for his expert opinion about the possible cause of the fracture, the version provided by the complainant or the potential for the injury to have occurred in the complainant's apartment when he struck a wall with his closed fist. The surgeon stated that the injury is most consistent with striking a wall with a closed fist as opposed to the complainant's version.

Officers investigating the criminal complaint of assault and utter threats committed by the complainant, and charged him with six criminal offences. Nearly one year later, the complainant plead guilty to one offence of uttering threats, the remaining charges were not proceeded with by the court.

On completion of the LERA investigation, the commissioner found there was insufficient evidence to justify referral to a public hearing and declined to take further action. Upon receiving the decision, the complainant made application, pursuant to section 13(2) of the Act, to have the commissioner's decision reviewed by a Provincial Court Judge.

DECISION: The complainant failed to appear as required and the Provincial Court Judge dismissed the matter.

* * * * *

- An adult male, hereafter referred to as the complainant alleged that officers had abused their authority when the officers detained him for being intoxicated and in a public place.

The complainant said that he had been in a licenced premises and consumed four or five pints of beer. When he left the premises at 10:00 p.m., he tried to catch a transit bus home. When multiple busses passed him and did not stop, he stepped onto the street in front of the approaching bus to force it to stop. The bus swerved around him and continued on its way. Shortly thereafter, two police officers approached him and detained him for being intoxicated. The complainant said the officers transported him to a detoxication centre and left him in the custody of the detoxication centre staff. The complaint alleged the officers detained him with insufficient reason to suspect he was intoxicated or causing a problem.

The LERA investigator informed the chief of police and two officers of the police service involved in the complaint. The chief of police provided a document written by the involved officers that described the circumstances of officer's detention of the complainant.

The LERA investigator obtained a copy of the detoxication centre's documentation recording the complainant's admission and detention at about midnight. The detoxication centre staff assessed the complaints level of intoxication based in a multi question assessment and their

observations of the complainant; they assessed that he was significantly intoxicated. The detoxication centre staff detained him for seven hours and forty-five minutes before they felt assured they could safely release him from the centre.

The LERA investigator interviewed the officers. They stated that while on a general patrol they saw the complainant running on the street in front of moving busses. When they stopped the complainant, they saw that he displayed common symptoms of intoxication by alcohol. After they detained him for being intoxicated in a public place, a bus driver stopped and told them that the complainant has been running in front of busses before his detention by officers. The officers decided that they had to take him to a place of safety. They asked the complainant if a family member or friend could take him in for the night, he said he was in a dispute with his family and had nowhere to stay. The officers transported him to a detoxication centre.

On completion of the LERA investigation, the commissioner found there was insufficient evidence to justify referral to a public hearing and declined to take further action. Upon receiving the decision, the complainant made application, pursuant to section 13(2) of the Act, to have the commissioner's decision reviewed by a Provincial Court Judge.

DECISION: The complainant failed to appear three times for his scheduled judicial review, on the third failure to appear, the Provincial Court Judge dismissed the matter.

* * * * *

- An adult male complained that officers used unnecessary violence or excessive force, and oppressive or abusive conduct or language.

Officers were called to a residence in response to a dispute about rent, damaged property and an assault. The complainant provided receipts and rental documents in support of his argument that the other occupant (a sub-tenant) had violated the rental agreement, owed the complainant money and now refused to return money already paid in the dispute. The other occupant of the rental property disputed the claims of the complainant. She alleged the dispute became violent, she was assaulted and her property damaged by the complainant. The other renter alleged she was pushed and slapped by the complainant sending her cell phone against a wall and breaking it. The complainant and the other renter were not in a domestic relationship; domestic violence protocols did not apply in this matter.

The officers attempted to mediate a resolution hoping that they might adequately resolve all aspects of the dispute between the two parties. The officers were clear with both parties, they had no authority to compel either party into a resolution or binding agreement of any kind however, they wanted to try to help the two parties resolve the dispute. During the nearly 15 minutes the officers spoke with the complaint, they said the complainant yelled at and spoke over the officers. He refused to accept any point of view about the dispute other than his own. The officers admitted that they told the complainant to shut up so they could be heard over the complainant's protests about the rental dispute. The complainant demanded the officer's badge number and name. The officer declined to provide a name at the time. He said they would later provide badge numbers on an incident card. Both officers were in uniform with their badge

numbers visible. Both officers said they later offered the complainant their badge numbers on an incident card. They both said he declined the card and that he could remember their badge numbers.

After about 15 minutes, the complainant, seated on a couch, said he stood up and approached an officer. He said he wanted to move the officer's uniform jacket collar because it obscured the badge number on the uniform jacket. The complainant reached out towards the officer's jacket collar with his hand. The officer said the complainant rose quickly from the couch and grabbed the officer's shoulder. The officer said he interpreted the complainant's actions as threatening and a prelude to an assault. The officer said the complaint had already been credibly accused of assault by the other rental occupant; he was not prepared to let the complaint assault him too. The officer struck the complainant once on the side of the face with his closed fist sending the complainant backwards onto the couch. The officers arrested the complainant for assaulting a police officer, assaulting the other renter and damaging her cell phone.

The officers removed the man from the residence, processed him at the police office and released him from custody for a later court date. Some months later the complainant pled guilty to assaulting his female renter. A crown attorney entered a stay of proceedings on the assault police officer and mischief to property charges.

In the LERA complaint, the complainant alleged that the officer that struck him used unnecessary violence or excessive force. The complainant also alleged the arresting officer used unnecessary violence or excessive force when he improperly handcuffed the complainant leaving his hands, wrists and fingers sore. The complainant further alleged that both officers engaged in oppressive or abusive conduct or language when they told him to shut up and refused to provide him with their badge numbers.

The LERA investigator reviewed all the documents from the police investigation, interviewed the complaint, the second renter, a third witness and the two respondent officers.

Further investigation by the LERA investigator revealed that the complainant and the officer that struck him were alone in the living room of the residence. The second officer, other renter and third witness were in another room of the house speaking about the dispute; they were not in the room when the complainant grabbed the officer's shoulder and the officer struck the complainant. The complainant and the officer were in agreement that the complainant touched the officer's shoulder and the officer struck the complaint once. The complainant did not seek medical treatment. The injury to the complainant appeared to be slight. Neither the complainant nor the officers were inclined to resolve the complaint informally.

The commissioner informed the complainant in a registered letter that in his view the evidence of abuse of authority was insufficient to forward the officers to a public hearing. There was conflicting evidence about the alleged denial to provide badge numbers. The offices admitted they told the complainant to shut up. The commissioner was of the view that the comment was in response to the complainant's intransigence to hear other points of view about the dispute. There was no evidence offered by the complainant to support his injuries to his wrist, hands or fingers. The officers denied they handcuffed him improperly.

There was no doubt an officer struck the complainant once. There were no witnesses to the use of force and no way to determine the veracity of the complainant's or the officer's version of the incident. The complainant was informed that under Section 25 of *The Criminal Code of Canada*, while acting within the scope of their duties, officers are authorized to use as much force as necessary for that purpose. The commissioner also informed the complainant that he, as the commissioner of LERA, had no authority to resolve the rental dispute and the rental dispute itself was out of scope of the authority of the commissioner to review.

The complainant asked for a judicial review of the commissioner's decision. Five months later the complainant presented his arguments before a Provincial Court Judge. The complainant abandoned his original complaint about the officers' unnecessary violence or excessive force and oppressive or abusive conduct or language. Instead, he focused his attention upon the alleged failure of the officers to resolve the rent dispute in his favour. In the complainant's view he was owed money by the other renter and the officers should have resolved that issue in his favour.

DECISION: In the Provincial Court Judge's written decision, he dismissed the complaint because as the commissioner stated in his reasons, the commissioner of LERA has no jurisdiction to make any findings about the officers' refusal to resolve the rent dispute or make any decision about the rental dispute. The Provincial Court Judge added that had the complainant pursued his argument about the officer's use of force, he would have dismissed that complaint as well.

* * * * *

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. Judges sit as a persona designata for exercising the duties or powers under the Law Enforcement Review Act. 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.

There were no files where the commissioner decided to refer the matter to a public hearing before a Provincial Court Judge.

* * * * *

Case Summaries

Out of Scope

LERA is mandated under The Law Enforcement Review Act (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.

The following is a sample where the commissioner decided no further action was required as the matter was outside the scope of *the Act*.

- An adult male complained that a police officer charged him with a violation of a municipal bylaw about animal control, an offence he denied he committed. He also alleged that the officer and municipal authorities refused to provide him with documents prepared by the officer that he wanted as evidence for his defence in court.

The officer was a bylaw enforcement officer for the municipal authority. He did not hold a provincial appointment as a police officer. The Law Enforcement Review Act does not have jurisdiction to investigate decisions of municipal authorities that do not hold provincial appointments as police officers. The municipal bylaw officer was an employee of the municipal authority and as such, was not a police officer. Municipal authorities that made the decision to deny the complainant access to the documents were not police officers.

DECISION: The commissioner declined to take any further action because as the commissioner of the Law Enforcement Review Agency he has no authority to review the decisions of non-police authorities, which were the municipal authorities and the by-law officer. The commissioner informed the complainant of the decision and referred him to the Court to obtain the necessary disclosure to defend himself.

* * * * *

- A man submitted a written statement to LERA alleging an abuse of authority by a police officer because an officer refused to accept his complaint of criminal harassment. The complainant was in a protracted dispute with his cell phone provider about an outstanding bill and repair to his cell phone. The complainant said that while arguing with a cell phone employee, the employee called the complainant unsettling names and refused to resolve the outstanding disputed service and repair bill.

The complainant later met with a police officer at the police station to make a complaint to the officer of criminal harassment. The man thought the employee's conduct constituted a case of criminal harassment and that a police officer should investigate the disputed bill and employees conduct. The officer explained that in his view the dispute with the cell phone provider was not a criminal matter and refused to accept or investigate the man's complaint.

DECISION: The commissioner reviewed the complaint and decided that the complaint is out of scope of the Law Enforcement Review Agency. The commissioner was of the view that the officer's decision was an investigate decision and as such is a quality of service complaint, not an abuse of authority complaint. The commissioner referred the complainant to the officer's chief of police if he wanted to pursue a quality of service complaint. The commissioner also provided the complainant with the necessary documents to initiate a complaint to the [Commission for Complaints for Telecom-television Services](#) about the disputed cell phone bill and repair.

* * * * *

Case Summaries

Frivolous or Vexatious

Clause 13(1)(a) of The Law Enforcement Review Act (the Act) provides that the commissioner must decline to take further action on a complaint if satisfied that the subject matter of a complaint is, among other things, "frivolous or vexatious".

Frequently, the terms "frivolous" and "vexatious" are used interchangeably, or both terms are used in tandem. However, the syntax of the phrase does not necessarily require that the subject matter of a complaint be both frivolous and vexatious at the same time. Rather, if the meaning of either one or the other of the two terms is met, the commissioner must decline from taking action on the complaint.

*The definition of vexatious used in a human rights proceeding **Potocnik v. Thunder Bay (City)** (No. 5) (1997), 29 C.H.R.R. D/512 (Ont. Bd. Inquiry). The board held, in part, that:*

"A vexatious complaint is one that aims to harass, annoy, or drain the resources of the person complained against. A complaint made in bad faith is one pursued for improper reasons – a vexatious complaint is an example of one made in bad faith."

There were no instances where the commissioner decided to take no further action on a complaint that was found to be vexatious.

Abandoned or Withdrawn

The investigation of a complaint made under The Law Enforcement Review Act is complainant driven. That is to say that the complainant may, at any time in the process, withdraw the complaint and the matter will be closed. Complainants are able to seek resolutions of their complaints from chiefs of police. Where a chief accepts a complaint for internal investigation, a complainant may choose an alternative avenue of resolution and the commissioner shall close the complaint.

- An adult woman made a complaint that a police officer abused his authority when he came to her office in uniform, while on duty, and questioned her handling of a problem with his condominium. The condominium is an investment property owned privately by the officer. The complainant is employed as the property manager. The condominium Board of Directors employed the property management company to oversee operations of the property.

The complainant, in the capacity of her employment, had to inform the officer that an occupant of the officer's condominium had damaged common areas of the condominium and the officer was responsible for the payment of professional services used to repair the damage. Prior to the meeting, the complainant did not know the condominium owner was a police officer.

In the meeting, the complainant felt the officer was unprofessional and attempted to intimidate her by being in uniform. The LERA investigator spoke with the complainant and explained the processes and timelines she might expect for a decision after the LERA investigation. The complainant said she made the complaint to ensure the officer's supervisors were aware of the officer's conduct and did not want to meet with the officer in any future meetings while the officer was in uniform and on duty. The complainant also wanted a quick resolution of her concerns.

The LERA investigator informed the complainant that she had the right to seek a resolution of her concerns directly from the officer's chief of police. With the approval of the complainant, the LERA investigator contacted the officer's chief of police and informed the chief that the complaint sought a resolution of her complaint directly from the chief of police.

Shortly thereafter, the complainant spoke with a senior officer of the police service. The complainant agreed to let the police service resolve her complaint. The complainant later withdrew her LERA complaint because her complaint was successfully resolved. The commissioner reviewed and closed the complaint with no further action because the complainant withdrew her complaint.

* * * * *

- An adult woman complained that officers had been discourteous or uncivil to her. The prior day she made a complaint to a police agency about a person that in her view, had abused an animal contrary to the *Criminal Code of Canada* or the Manitoba Animal Care Act. When she was

unable to obtain an update about the progress of the investigation of her complaint, she decided to visit the local police service office.

At the police office she encountered two officers and spoke to them about her complaint and the progress of the investigation. She learned the investigation was closed with no charges or further action. She questioned the investigational decision to close the complaint as flawed and stated so in clear terms to the officers.

The officers stated the reasons, as they believed them, which lead to the investigational decision to close the complaint. In the view of the complaints, one of the officers questioned the veracity of the original complaint. The complainant expressed her displeasure about the officer's response and his apparent lack of professionalism while speaking to her. The complainant recorded the conversation and posted it on a social media platform. Local media picked up the story which garnered significant public interest.

The complainant made a complaint to LERA and the officer's police service. The police service agreed to conduct a review of the officers' conduct in the case. After considering her options, the complainant decided to withdraw her complaint to LERA and move forward with the internal police service complaint. Following the complainant's direction, the Commissioner closed the LERA complaint.

* * * * *

Case Summaries

Informal Resolution

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.

There were no complaints resolved informally in 2018.

Criminal Charges

Some complaints of officer misconduct may fall under Section 29 of *The Law Enforcement Review Act* (the Act) and 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.*

There were no files referred for criminal charges in 2018.

* * * * *

Statistical Analysis

- LERA's jurisdiction extends to 11 police services with 1,643 police officers. Total population served is 822,548.
- Winnipeg Police Service accounts for 85% of complaints made to LERA. Brandon Police Service accounts for 8% and other services account for the remainder.
- There were 166 files opened in 2018, down by 24 complaints from 190 in 2017. The four (4) year average is 117 new files per year.
- The number of formal complaints filed is 98, down 11 from 109 formal complaints in 2017.
- Sixty-eight (68) complaints were resolved at intake, down from 81 in 2017.
- In 2018, there were 187 total investigations. There were 222 investigations in 2017.
- There were 102 investigations completed in 2018, down 17 from 119 in 2017.
- There were no complaints alleging the misuse of pepper spray in 2018.
- There were three (3) incidents alleging misuse of handcuffs in 2018, down one (1) from four (4) in 2017.
- There were two (2) complaints of misuse of the Taser in 2018, compared to none in 2017.
- Incidents alleging injuries from the use of force decreased to 38, from 44 in 2017. Allegations of injuries were made in 39% of complaints investigated.
- There was no informal resolution of complaints in 2018. There was one (1) in 2017. LERA continues to actively support and, whenever possible, engage in alternative dispute resolution. 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 2017. 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 from 10 to 14 in 2018. The four (4) year average is 10. (See Table 11)
- LERA does not conduct criminal investigations. When a case shows evidence that a criminal offence may have been committed by an officer, the commissioner or Provincial Court 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 2018, 15 criminal complaints were made after a LERA complaint was also filed. This was up four (4) from 2017. (See Tables 12 and 13)

- During a criminal investigation against an officer or a complainant, the LERA investigation is put on hold. 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 2017, to six (6) months in 2018. (See Tables 15 and 16)

- The average age of all complainants was 37. The oldest complainant was 74 and the youngest was 13. (See Table 18)

Analyse statistique

- La compétence de l'Organisme chargé des enquêtes sur l'application de la loi s'étend à 11 services de police, ce qui représente 1 643 agents de police. Au total, l'Organisme sert 822 548 personnes.
- 85 % des plaintes déposées auprès de l'Organisme concernent le Service de police de Winnipeg, 8 % concernent le Service de police de Brandon et les autres services se partagent le reste.
- En 2018, l'Organisme a ouvert 166 dossiers, soit 24 de moins qu'en 2017 (190). La moyenne sur quatre (4) ans s'élève à 117 nouveaux dossiers par année.
- Le nombre de plaintes officielles déposées a été de 98, soit 11 de moins qu'en 2017 (109).
- Soixante-huit (68) plaintes ont été réglées à la réception, ce qui représente une baisse par rapport aux 81 plaintes réglées à la réception en 2017.
- En 2018, il y a eu 187 enquêtes. Il y en a eu 222 en 2017.
- En 2018, 102 enquêtes ont été achevées, soit 17 de moins qu'en 2017 (119).
- En 2018, aucune plainte n'a été déposée concernant l'utilisation abusive de vaporisateur de poivre.
- Il y a eu trois (3) incidents relatifs à une utilisation abusive des menottes en 2018, soit un (1) de moins qu'en 2017 (4).
- Il y a eu deux (2) plaintes portant sur l'utilisation abusive du Taser en 2018, comparativement à zéro en 2017.
- Les allégations de blessures liées au recours à la force ont baissé, passant de 44 en 2017 à 38. Les allégations de blessures ont représenté 39 % des plaintes ayant fait l'objet d'une enquête.
- Il n'y a eu aucun règlement de plainte sans formalités en 2018. Il y en a eu un (1) en 2017. L'Organisme chargé des enquêtes sur l'application de la loi continue d'encourager activement le recours à une méthode alternative de résolution des différends, et lorsque c'est possible, à y recourir. Cette méthode de résolution demeure une priorité et les plaignants et les défendeurs sont encouragés à l'utiliser.
- Le pourcentage de plaintes abandonnées par les plaignants a diminué par rapport à 2017. Quand un enquêteur de l'Organisme n'a pas pu trouver le plaignant, une lettre est envoyée à sa dernière adresse connue, lui demandant 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 tableau 9)

- En 2018, 14 plaignants ont demandé la révision de la décision du commissaire par un juge, comparativement à 10 précédemment. La moyenne sur quatre (4) ans est de 10. (Voir 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 par un agent de police, 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 2018, 15 plaintes criminelles ont été déposées après le dépôt d'une plainte auprès de l'Organisme, soit quatre (4) de plus qu'en 2017. (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. 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 huit (8) mois en 2017 à six (6) mois en 2018. (Voir les tableaux 15 et 16)

- L'âge moyen des plaignants était de 37 ans. Le plaignant le plus âgé avait 74 ans et le plus jeune avait 13 ans. (Voir tableau 18)

2018 Statistical Report – Data Tables

Table 1: Complaints – Listed by Police Service**	Police Officers **	Population ***	2018 (n=98)	2017 (n=109)	2016 (n=122)	2015 (n=139)	2014 (n=138)
Altona and Plum Coulee	8	5,116	0	0	0	1 (0.7%)	0
Brandon	89	48,859	8 (8%)	5 (4.5%)	6 (5%)	4 (3%)	11 (8%)
MB First Nations Police Service (MFNPS)	36	18,439	1 (1%)	2 (2%)	4 (3%)	0	0
Morden	16	8,668	0	2 (2%)	1 (1%)	1 (0.7%)	1 (1%)
Rivers	4	1,257	0	1 (1%)	1 (1%)	0	0
Ste. Anne	5	2,114	0	0	1 (1%)	0	0
Winkler	19	12,591	1 (1%)	1 (1%)	1 (1%)	2 (1.4%)	2 (1.5%)
Winnipeg****	1461	705,244	85 (87%)	94 (86%)	102 (83%)	128 (92%)	121 (87%)
RM of Cornwallis*	1	4,520	0	0	0	0	0
RM of Springfield*	3	15,342	0	0	0	0	0
RM of Victoria Beach*	1	398	0	0	0	0	1 (1%)
Other	0	0	3 (3%)	4 (3.5%)	6 (5%)	3 (2.2%)	2 (1.5%)
Total	1643	822,548	100%	100%	100%	100%	100%

* Supplementary police service – RCMP have primary responsibility

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

*** Source: Statistics Canada Census 2016 and Manitoba First Nations Police Service

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

Table 2: Public Complaints				
	2018	2017	2016	2015
Files Opened	166	190	214	211
Resolved at Intake	68	81	92	72
Formal Complaints Received	98	109	122	139

Public Complaints

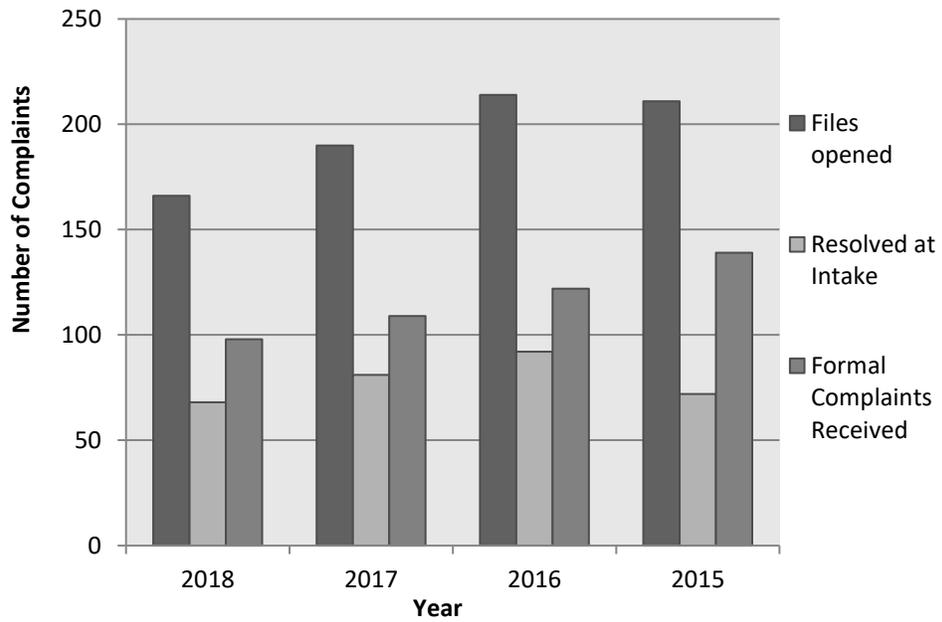


Table 3: Investigations Conducted	2018	2017	2016	2015
Total Investigations	187	222	252	234
Investigations Completed - Files Closed	102	119	122	92
Ongoing Investigations Carried Over as of December 31st of the Year Shown	85	103	130	142

Investigations Conducted

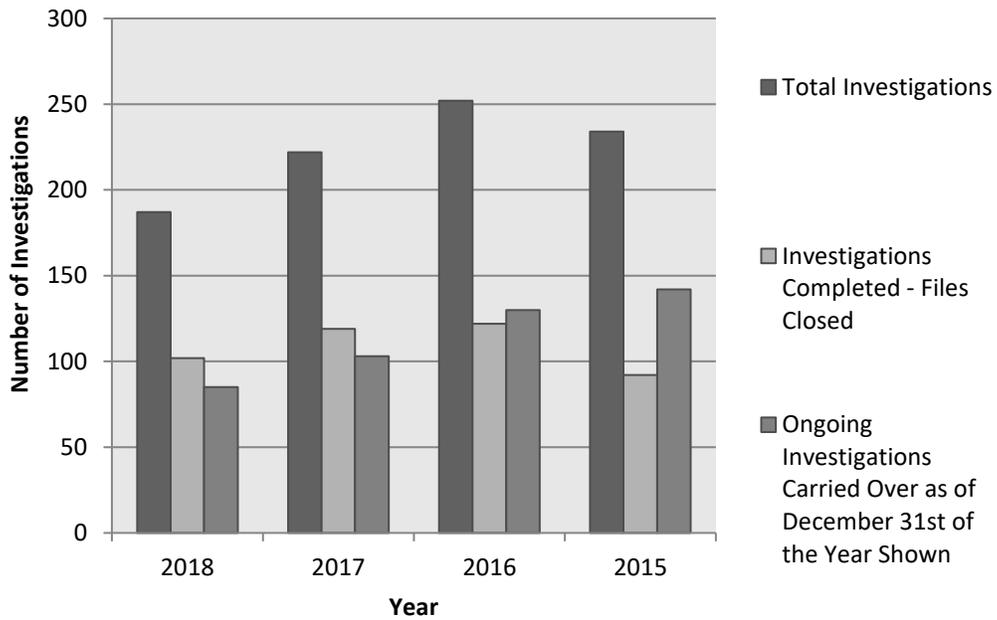


Table 4: Complainants' Allegations: Discipline Code Section 29 <i>The Law Enforcement Review Act</i>	2018	2017	2016	2015
Abuse of authority Subsection 29(a)	41	45	38	39
Arrest without reasonable or probable grounds Subsection 29(a)(i)	9	14	13	17
Using unnecessary or excessive force Subsection 29(a)(ii)	41	45	62	64
Using oppressive or abusive conduct or language Subsection 29(a)(iii)	17	24	31	47
Being discourteous or uncivil Subsection 29 (a)(iv)	32	34	40	52
Seeking improper personal advantage Subsection 29(a)(v)	0	2	0	1
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)	11	11	12	8
Making false statement(s) Subsection 29(b)	5	3	1	3
Improperly disclosing information Subsection 29(c)	2	0	3	2
Failing to exercise care or restraint in use of firearm Subsection 29(d)	0	0	0	0
Damaging property or failing to report damage Subsection 29(e)	4	3	4	4
Failing to provide assistance to person(s) in danger Subsection 29(f)	3	4	2	0
Violating person's privacy (under <i>The Privacy Act</i>) Subsection 29(g)	1	3	3	4
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	1	0	0

Table 5: Incidents Alleging Misuse of Pepper Spray

2018 (n=0)	2017 (n=0)	2016 (n=0)	2015 (n=0)
0% of 98 complaints investigated	0% of 109 complaints investigated	0% of 122 complaints investigated	0% of 139 complaints investigated

Table 6: Incidents Alleging Misuse of Handcuffs

2018 (n=3)	2017 (n=4)	2016 (n=5)	2015 (n=10)
3% of 98 complaints investigated Winnipeg PS = 3	4% of 109 complaints investigated Winnipeg PS = 3 Dakota Ojibway PS = 1	4% of 122 complaints investigated Winnipeg PS = 4 Other = 1	7% of 139 complaints investigated Winnipeg PS = 10

Table 7: Incidents Alleging Misuse of Taser

2018 (n=2)	2017 (n=0)	2016 (n=4)	2015 (n=0)
2% of 98 complaints investigated Winnipeg PS = 2	0% of 109 complaints investigated	3% of 122 complaints investigated Winnipeg PS = 3 Dakota Ojibway PS = 1	0% of 139 complaints investigated

Table 8: Incidents Alleging Injuries from Use of Force

2018 (n=38)	2017 (n=44)	2016 (n=60)	2015 (n=61)
39% of 98 complaints investigated Winnipeg PS = 34 Brandon PS = 3 MB First Nations PS = 1	40% of 109 complaints investigated Winnipeg PS = 39 Morden PS = 2 Dakota Ojibway PS = 1 Brandon PS = 2	49% of 122 complaints investigated Winnipeg PS = 53 Brandon PS = 3 Dakota Ojibway PS = 1 Other = 3	44% of 139 complaints investigated Winnipeg PS = 60 Morden PS = 1

Table 9 Disposition of Complaints	2018 (n=102)	2017 (n=119)	2016 (n =126)	2015 (n=92)
Dismissed by commissioner as outside scope of act	33 (32%)	25 (21%)	27 (21%)	17 (18%)
Dismissed by commissioner as frivolous or vexatious	0	1 (1%)	1 (1%)	0
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	39 (38%)	50 (42%)	67 (53%)	20 (22%)
Abandoned or withdrawn by complainant	30 (30%)	42 (35%)	29 (23%)	52 (57%)
Resolved informally	0	1 (1%)	0	1 (1%)
Public hearing before a provincial court judge	0	0	2 (2%)	1 (1%)
Admission of guilt by respondent officer	0	0	0	0
Disposed via criminal Procedure	0	0	0	1 (1%)

Table 10: Legal Involvement of Complainants	2018 (n=98)	2017 (n=109)	2016 (n=122)	2015 (n=139)
No charges	43 (44%)	40 (36%)	39 (32%)	59 (42%)
Traffic offences	10 (10%)	16 (14%)	12 (10%)	23 (17%)
Property offences	4 (4%)	2 (2%)	5 (4%)	0
Intoxicated persons detention	3 (3%)	4 (4%)	4 (3%)	4 (3%)
Cause disturbance	0	0	0	1 (1%)
Assault police officer/resist arrest	6 (6%)	11 (10%)	13 (11%)	17 (12%)
Impaired driving	1 (1%)	1 (1%)	3 (2%)	3 (2%)
Offences against another person	5 (5%)	5 (5%)	5 (4%)	7 (5%)
Domestic disputes	2 (2%)	0	1 (1%)	1 (1%)
Drugs	0	2 (2%)	1 (1%)	5 (4%)
<i>The Mental Health Act</i>	4 (4%)	4 (4%)	6 (5%)	3 (2%)
Breach of Peace	0	1 (1%)	0	0
Other	20 (21%)	23 (21%)	33 (27%)	16 (11%)

Table 11: Provincial Judges' Review of Commissioner's Decision to Take No Further Action	2018	2017	2016	2015
	14	10	13	6

Table 12: Referrals by Commissioner of Complaint for Criminal Investigation	2018	2017	2016	2015
	0	0	1	1

Table 13: Complainants Have Also Lodged a Criminal Complaint with Police	2018	2017	2016	2015
	15	11	13	6

**Table 14: Time Span of Ongoing Investigations Carried Over
as of December 31, 2018**

YEAR	1-3 Months	4-7 Months	8-12 Months	13-18 Months	19-23 Months	24+ Months	Total
2013	0	0	0	0	0	1	1
2014	0	0	0	0	0	7	7
2015	0	0	0	0	0	11	11
2016	0	0	0	0	0	15	15
2017	0	0	0	7	5	0	12
2018	21	8	10	0	0	0	39
Total	21	8	10	7	5	34	85

Table 15: Files Concluded in 2018 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
2014	2	20 months
2015	4	26 months
2016	9	16 months
2017	28	6 months
2018	59	2 months
	102	6 months

Table 16: Length of Time to Complete Investigations	2018	2017	2016	2015	2014
Average Number of Months	6	8	9	7	6

Average Number of Months to Complete Investigation

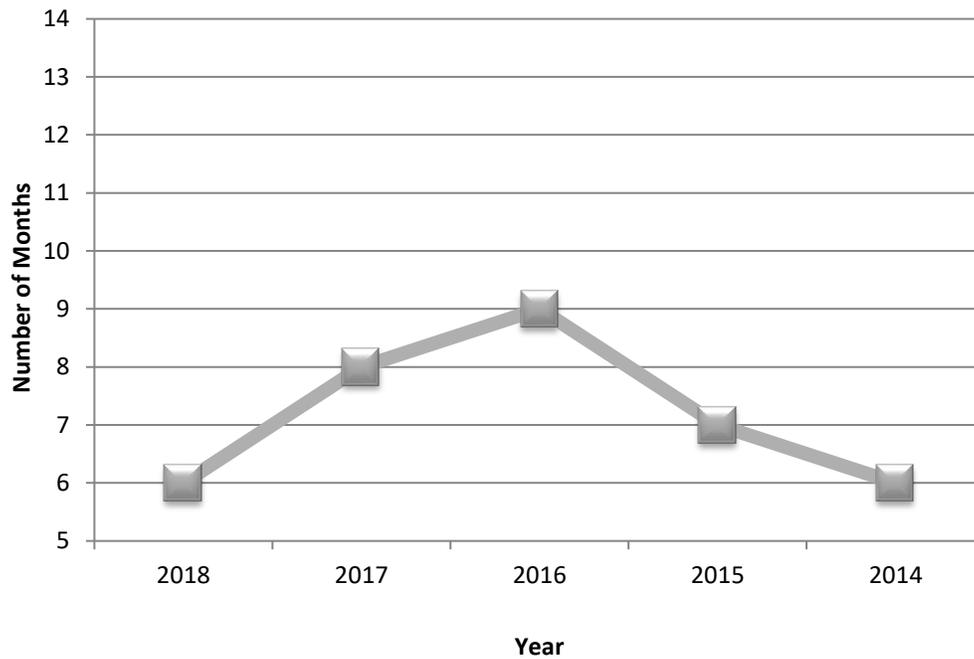


Table 17: Location of Incident	2018 (n=98)	2017 (n=109)	2016 (n=122)	2015 (n=139)	2014 (n=137)
Street	25	41	34	49	48
Private residence	35	35	51	50	44
Public building/place	6	5	7	11	16
Police station	14	13	14	8	19
Other	18	15	16	21	11

Location of Incident

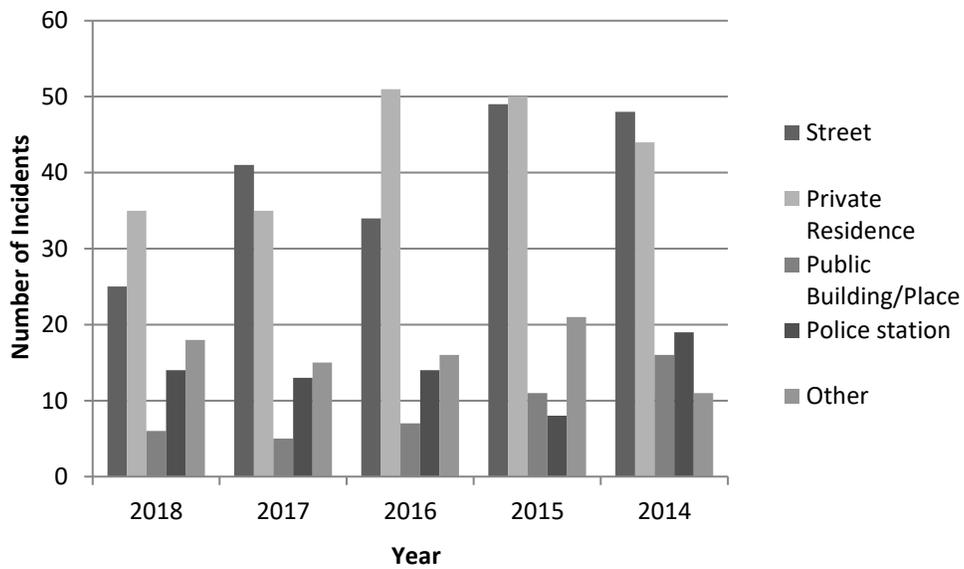


Table 18: Complainant Demographics

SEX	2018 (n=98)	2017 (n=109)	2016 (n=122)	2015 (n=139)	2014 (n=138)
Male	62 (32%)	73 (67%)	83 (68%)	86 (62%)	94 (68%)
Female	36(37%)	35 (32%)	39 (32%)	53 (38%)	44 (32%)
Sex Unknown	0 (0%)	1 (1%)	0	0	0
AGE	2018 (n=98)	2017 (n=109)	2016 (n=122)	2015 (n=139)	2014 (n=137)
Over 50	20 (20%)	23 (21%)	18 (15%)	32 (23%)	27 (20%)
40 - 49	14 (14%)	10 (9%)	21 (17%)	22 (16%)	32 (23%)
30 - 39	19 (19%)	21 (19%)	26 (21%)	32 (23%)	30 (22%)
18 – 29	13 (13%)	18 (17%)	22 (18%)	27 (19%)	28 (20%)
Youth under 18	13 (13%)	19 (17%)	20 (16%)	18 (13%)	11 (8%)
Birth Dates Unknown	19 (19%)	18 (17%)	15 (12%)	8 (6%)	10 (7%)
Average Age	37	37	25	36	38
Oldest Complainant	74	78	66	82	82
Youngest Complainant	13	14	13	14	14