



ARCHIVED - Archiving Content

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

ARCHIVÉE - Contenu archivé

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

Annual Report 2005

Office of the Commissioner
Law Enforcement Review
Agency (LERA)



**ATTORNEY GENERAL
MINISTER OF JUSTICE**

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

**The Honourable John Harvard
Lieutenant-Governor of Manitoba**

May It Please Your Honour:

It is my pleasure to present the *2005 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, 2005.

I trust this meets with your approval.

Yours truly,

Original signed by

**Honourable Gord Mackintosh
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 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 annual report for the period of January 1, 2005 to December 31, 2005.

Yours truly,

Original signed by
George V. Wright
Commissioner

TABLE OF CONTENTS

TITLE	PAGE
Title Page	1
Minister's Letter of Transmittal	3
Commissioner's Letter of Transmittal	5
Table of Contents	7
Introduction	9
LERA's Mission Statement	9
About LERA	9
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?	10
Preliminary screening of complaint	11
Does a complainant need a lawyer?	11
How are complaints resolved?	11
LERA as an Agency	13
Website Overview	13
LERA's Organizational Structure	14
Activities	15
Acknowledgements	16
Case Summaries	17
Commissioner's Decision to Take No Further Action	17
Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action	20
Informal Resolution of Complaints	22
Public Hearings Before a Provincial Judge	24

Legal Developments	30
Breaches of the <i>Canadian Charter of Rights and Freedoms</i> as Disciplinary Defaults	30
Contributing Causes	31
Statistical Analysis	33
2005 Statistical Report – Data Tables	35
Table 1: Complaints Listed by Police Service	35
Table 2: Public Complaints	36
Table 3: Investigations Conducted	37
Table 4: Complainant’s Allegations	38
Table 5: Incidents Alleging Misuse of Pepper Spray	39
Table 6: Incidents Alleging Misuse of Handcuffs	39
Table 7: Incidents Alleging Injuries from Use of Force	39
Table 8: Disposition of Complaints	40
Table 9: Legal Involvement of Complainants	41
Table 10: Reviews by Provincial Judge of Commissioner’s Decision to Take No Further Action	42
Table 11: Referrals of Complaint to Crown for Criminal Investigation	42
Table 12: LERA Complaints where Complainant has also Lodged a Criminal Complaint with Police	42
Table 13: Time Span of Ongoing Investigations Carried Over as of December 31, 2005	43
Table 14: Files Concluded in 2005 by Year of Origin	43
Table 15: Length of Time to Complete Investigations	44
Table 16: Location of Incident	45
Table 17: Complainant Demographics	46

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 with an established police department. The minister shall 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 under *The Law Enforcement Review Act* in 1985, to investigate public complaints about police.

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

LERA is staffed by a commissioner, an administrative officer and professional investigators.

To whom does the act apply?

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

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

What does LERA investigate?

LERA investigates citizen allegations that municipal police officers have committed any of the following:

- abuse of 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
 - 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 assist where there is a clear danger to the safety of a person or property
- violating the privacy of any person within the meaning of *The Privacy Act*
- contravening any part of *The Law Enforcement Review Act* that does not specify a penalty for the violation
- assisting, counselling or causing any person 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 obtain 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. Date, time, location and other details of the incident are important and must be included. LERA staff or members of the local police service will help prepare a complaint if asked.

Written complaints may be submitted directly to LERA, a police chief or any member of a municipal police department. Police will forward complaints to LERA.

Are there time limits?

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

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

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 conduct all 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.

Preliminary screening of complaint

After the investigation, the commissioner will screen the complaint to decide if any further action should be taken. The act requires the commissioner to do this. A decision will be made by the commissioner to take no further action if any one of the following situations arise:

- 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 matter 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 at no cost to the complainant.

Does a complainant need a lawyer?

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

If a complainant applies for legal aid and is declined, he/she may, in exceptional circumstances, make a request to the minister of justice to appoint a lawyer to represent him/her at a hearing.

Police officers in these cases are generally represented by a lawyer under their employment contract.

How are complaints resolved?

The act provides several ways to resolve complaints.

Informal Resolution:

The commissioner must try to resolve the complaint through informal mediation. Both the complainant and the police officer must agree to this process before it can take place. If the complaint is resolved informally, to the satisfaction of both the complainant and the respondent(s), 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 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 officer misconduct, 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(s) 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 and three investigators.

LERA's address is:

420-155 Carlton Street
Winnipeg, Manitoba, R3C 3H8
Telephone: 204-945-8667 in Winnipeg; or toll free in Manitoba 1-800-282-8069
Facsimile: 204-948-1014

E-mail: lera@gov.mb.ca

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

Website Overview – 2005

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 & Copyright

2005 Web Trends report:

Visitors – 5,868
Pages viewed – 25,340
Average pages viewed per day – 69
Documents downloaded:

- Complaint Form – 491
- Annual report – 9,515
- Decisions – 16,913

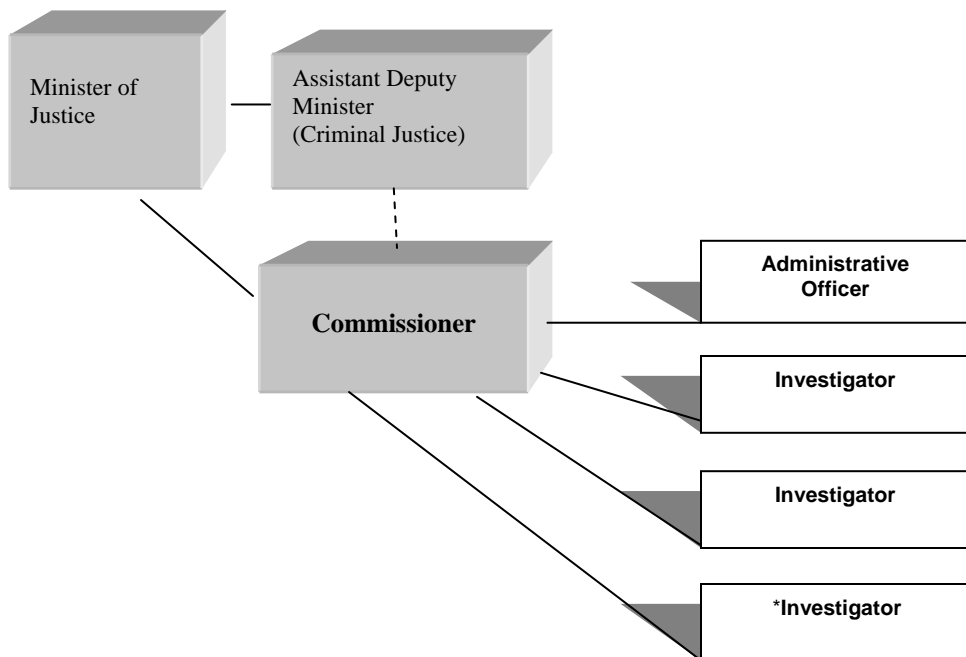
LERA'S Organizational Structure

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 department.

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

LERA's budget for the financial year beginning April 1, 2005 and ending March 31, 2006 is:

Full Time Employees	4
Total Salaries	\$265.3
Total Other Expenditures	<u>\$ 60.9</u>
Total	\$326.2



* The above figures represent the approved funding level for the 2005/06 fiscal year. In that year, the Law Enforcement Review Agency employed one additional full time investigator to manage the increasing workload experienced by the program. This position will permanently become part of the Law Enforcement Review Agency in 2006/07.

Activities

During the year, the commissioner and/or staff:

- met with the Honourable Gord Mackintosh, Minister of Justice and Attorney General
- participated in meetings with the deputy minister of justice and assistant deputy minister, Criminal Justice Division
- participated in meetings and discussions with police executives, police associations, members of police services
- attended reviews of the commissioner's decision(s) and public hearing(s) presided over by a provincial judge acting *persona designata*
- received Winnipeg Police Chief Jack Ewatski and Winnipeg Police Service Professional Standard Unit Inspector Alex Katz
- made a presentation to Aboriginal Court Program staff
- attended Winnipeg Police Service Training Academy and received a presentation on taser technology
- attended graduation ceremonies for Winnipeg Police Service recruit classes
- attended Brandon Police Service Community Appreciation dinner
- attended 2005 conference planning session for the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE) in Ottawa
- attended and presented at the Canadian Association for the Civilian Oversight of Law Enforcement (CACOLE) conference in Montreal
- participated in Dakota Objibway Police Commission meeting at Wasagaming
- attended the Unlocking Innocence Conference (an international conference on avoiding wrongful convictions) in Winnipeg
- attended the Manitoba Justice Association's Crime Prevention breakfast
- received the co-ordinator responsible for the portable digital audio recorder program for the Winnipeg Police Service
- met with the Native Addictions Counsel of Manitoba representative in Brandon
- received Manitoba Ombudsman investigator
- participated in interviews with CJOB Winnipeg, Radio Southern Manitoba (Altona), CBC-TV Winnipeg, Winnipeg Free Press, Winnipeg Sun
- participated in committee meetings reviewing accessibility to LERA by Aboriginal people
- participated in Manitoba Bar Association Law Day open house at Manitoba Law Courts Complex
- made presentations to Winnipeg Police Service recruit classes and to a class of recently promoted sergeants

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 acting for complainants and respondents
- Manitoba Justice officials for their assistance and expertise
- LERA's staff, whose competence and commitment are vital to LERA's success as a civilian monitoring agency
- the many other stakeholders involved in the LERA process

Case Summaries

Commissioner's Decision to Take No Further Action

When LERA receives a complaint, the commissioner assigns an on-staff investigator to conduct an investigation into the complaint. When the investigation is completed it is the commissioner's job to review the results of the investigation to determine whether 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 Act*
- *there is insufficient evidence to justify referring the matter to a public hearing; or the complaint has been abandoned*

In carrying out this duty the commissioner performs an important gate-keeping function that ensures complaints with no chance of success do not make their way to a public hearing. This function is designed to ensure that the LERA process runs more smoothly and efficiently and to preserve the legitimacy of the LERA process with the public.

Following are samples of cases in which the commissioner decided no further action was required:

- A man had been arrested by police for assault. He claimed that one of the officers assaulted him when he was being taken to the detention facility and threatened to throw him over a desk if he did not co-operate. The man also claimed he suffered injuries as a result of the assault.

As the man claimed that he had been injured by police, the LERA investigator requested that he complete a medical information release form and return it by mail to the investigator. The man never did so.

Interviews conducted with police officers and guards at the detention facility revealed that the man had been drinking and was unco-operative with them at the time. The man was restrained and all denied that the officer threatened to throw him over a desk. They also denied that he was injured in any way.

As there was no independent evidence supporting the man's claim of injuries, the commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

- A man complained that he had been issued three false traffic tickets. He also complained he was being discriminated against because of his race and that one of the officers insulted him by stating that he was driving like a maniac.

The LERA investigation of the police report and interviews with officers showed that the man had been observed committing three traffic offences in quick succession. The man had failed to stop his truck at a stop sign. He changed lanes without signalling, cutting off other vehicles in the process and then drove through a red light. When he was stopped by police, he accused them of being racist and being abusive towards him. One of the officers told the man that he was also part of a visible minority and that race had nothing to do with stopping him for traffic violations. The officers also denied being abusive and stated that the man was the one being abusive to them.

The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

- A man was awakened by police knocking at his door and yelling that they were there respecting a domestic dispute with his ex-wife. He claimed that the officers searched his residence without a warrant, were abusive to him and made a false statement by acting on a false report.

During LERA interviews with the officers, they said that the man's ex-wife called police to complain about the man calling her residence. The calls were not threatening but they were a nuisance to her. She asked that police speak to the man and that is what they did. When they told the man to quit calling his ex-wife, he agreed to do so. During the conversation, the officers also mentioned that they could smell marijuana. The man was offended by this and told the officers that the smell was coming from another apartment. The officers had met the man at the door of his apartment and were allowed in. They denied conducting any search and also denied being abusive to him. The officers stated that they only were there about three to four minutes with the man and that after the conversation was over, the man thanked them for "being decent with him ."

The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

- A woman had gone for a walk one evening and saw a police car stopped with its lights flashing. She decided to see what was going on, so she walked up to the police car and asked what was happening. The officer told her rather forcefully to leave and when she didn't, the woman claimed that he jumped out of his car, grabbed her and threw her to the ground where he roughed her up and handcuffed her. She was then thrown into the back of the police car and charged with obstruction.

During the LERA investigation, which included officer interviews, review of reports and an interview with an independent witness, it was determined that the officers were maintaining a perimeter of an attempted break and enter scene where a police dog was being used to search for suspects. The arresting officer stated that when the woman ran up to his car, she was yelling at him so he told her to leave or she would be arrested. When she refused to do so, she was arrested and placed in the police car. The independent witness confirmed that the woman had not been thrown down and handcuffed before being placed in the police car. After the witness had left, the woman became violent, so the officer called for assistance. When a female officer showed up, the woman was taken out of the car, handcuffed and put back in the car.

The woman was subsequently convicted in criminal court on the obstruction charge.

The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

- A woman had been involved in a driving incident with a man so she called police. She spoke with a communications centre operator who asked if she had cut the other driver off. She felt this was a rude comment. She was told to come down to the police station to file a report. At the police station, she was asked by an officer what happened. She told the officer she had been cut off, so he began to take the accident report. During the taking of the report, the officer commented that there were three sides to every story, that being her version, the other driver's version and the truth. He also commented that he was getting a headache trying to get her version of events straight. The woman felt that the officer was also rude by suggesting that he was getting a headache and telling her she should have written out her statement before coming to the office.

When the officer was interviewed, he admitted that he made the comments about three sides to every story and about getting a headache because he was getting a headache. He had not meant any rudeness by these comments. The woman herself admitted in her complaint to LERA that it was she

who had suggested she should have written her accident statement before coming to the police station. The officer had merely agreed with her suggestion.

The commissioner said there was insufficient evidence for a hearing and declined to take any further action on the file.

Case Summaries

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

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

Following are samples of these applications.

- A man had been in a verbal confrontation with his wife when he was struck on the head by someone using a 10 pound weight training bar. Police were called and the man was arrested.

He alleged that the officers physically assaulted him before he was placed in the police car. He was taken first to the police station and then directly to jail, where he claimed that he was assaulted again by the officers. The actions at the jail were on video tape and did not support the man's contention that he was assaulted.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The man asked to have a provincial judge review the commissioner's decision.

DECISION: The provincial judge agreed that the commissioner was correct in declining to take further action on this complaint.

- Police were called to a man's apartment because of a loud music complaint. The man claimed that the police physically and verbally assaulted him when arresting him after a verbal confrontation with them.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The man asked to have a provincial judge review the commissioner's decision.

DECISION: The provincial judge agreed that the commissioner was correct in declining to take further action on this complaint.

- A complaint had been made to police by a woman alleging that her ex-husband was stalking her. The man was spoken to by police and he felt that the officers were biased against him. He also believed that one of the officers released information about him that negatively affected his ability to have access to his children.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The man asked to have a provincial judge review the commissioner's decision.

DECISION: The provincial judge agreed that the commissioner was correct in declining to take further action on this complaint.

- A man called the police station to speak with an officer who had called earlier. He left a message that he was a lawyer and wanted the officer to call back. When the officer called back, he challenged the

man about actually being a lawyer and according to the man, called him “a goof”. The man also complained that, despite several calls to the chief of police, the chief did not return any of his calls.

The LERA investigation confirmed through the Law Society of Manitoba that the man definitely was not a lawyer in Manitoba or anywhere else in Canada.

The commissioner declined to take further action because the complaint was frivolous. The man asked to have a provincial judge review the commissioner’s decision.

DECISION: The man attended the initial review hearing and requested an adjournment to prepare his case. The request was granted. After numerous attempts to contact the man to attend the next review hearing date, the hearing proceeded in his absence. The judge ruled that the man, by his absence, failed to prove the need for a review. The judge dismissed the complaint.

- A woman had been at a house party where she drank a considerable amount of beer. She telephoned police to complain that she had been robbed and that she was being held against her will. When police arrived, the owner of the house asked them to remove the woman because she was drunk and abusive to everyone there. The woman claimed that when the police removed her from the house and took her to the drunk tank, she was injured in the process.

Although a medical report indicated the woman suffered a broken bone, it could not be established when this happened. The witnesses at the house and the officers involved all denied any actions that caused the injury.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. The woman asked to have a provincial judge review the commissioner’s decision.

DECISION: The provincial judge agreed that the commissioner was correct in declining to take further action on this complaint.

Case Summaries

Informal Resolution of Complaints

Under Section 15, the LERA 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 are examples of complaints resolved informally in 2005:

- Police were called to an apartment where a man was throwing furniture and other items out of the third-floor window. There were complaints that people were screaming and sounds of things being broken were heard. When the police arrived, they saw a lot of broken glass and other items on the ground. At the apartment, they heard things being broken and loud voices inside the suite. The police had to force their way into the apartment and found the place had been trashed. They also saw a nude man standing in the living room, so he was restrained and handcuffed. As the man was acting irrationally, he was taken by ambulance to the hospital where he was seen by medical personnel and subsequently released. The man claimed that he had been injured and verbally abused by police during the incident.

A meeting was held to resolve the complaint informally but resolution was not achieved. The LERA commissioner is now tasked with making a final decision.

- Police were called to a complaint where three youths had been seen damaging mail boxes and breaking limbs off trees. Upon arrival at the scene, police found two youths and questioned them about their involvement and the whereabouts of the third youth. It was determined that the two youths were not involved in the incident and they were allowed to leave. One of the youths complained that one of the officers was rude and abusive during their encounter.

The complaint was resolved with a meeting between the youth and the officer involved.

- Police were called to an incident where some children were playing on a fence between two properties. The man from one of the properties told the children to keep off the fence. The children got off the fence for a short while and then one of them climbed back on. The man pushed the child off the fence causing minor injuries. This action was seen by a witness who reported the matter to the child's mother, and the mother called police. The man was arrested, handcuffed and taken to the police station. He complained several times that the handcuffs were on too tight but the officers did not remove them until they were at the police station.

The complaint was resolved informally with a meeting between the man and the officers involved.

- A community dance had been called off because of continuing problems with teenage drinking and vandalism. Some youths protested this action by wearing T-shirts naming those believed responsible for the closure of the dance. Subsequently, a police officer wrote an article in the local newspaper explaining the reasons for the dance closure. This newspaper article also referred to an incident after the dance closure where the home of a community executive member

was vandalized. One of the protesting youths who wore the T-shirt, believed the newspaper article identified him as responsible for the vandalism at the executive member's home. He complained that the officer's newspaper article was a false accusation against the youth.

The complaint was resolved with a meeting between the youth and the officer involved.

- Police responded to a theft complaint where clothing and dolls had been taken from a residence. The investigation revealed that very young children were involved in the incident and police supervised the return of all articles to the rightful owners. The complainant felt that the police were rude to her in dealing with the matter.

The complaint was resolved with a meeting between the woman and the officers involved.

- Police checked a vehicle matching the description of a car involved in an armed robbery. During the investigation, the occupants of the vehicle were found to have a large amount of cash and illegal drugs with them. It was also learned that the drugs were supplied by a local cab driver and that he would be making a drop off very shortly. The officers went to the location where the drop was to take place. They saw a cab approach and suddenly turn away. They stopped the cab and searched it. The cab driver was offended that he had been stopped as nothing had been found in his cab.

A meeting was held to resolve the matter informally but resolution was not achieved. The LERA Commissioner is now tasked with making a final decision.

Case Summaries

Public Hearings before a Provincial Judge

Public hearings under The Law Enforcement Review Act (TLERA) are held before provincial judges. They 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.

Where a public hearing has been referred by the commissioner, Section 27(2) of TLERA states: "The provincial judge hearing the matter shall dismiss a complaint in respect of an alleged disciplinary default unless he or she is satisfied on clear and convincing evidence that the respondent has committed the disciplinary default."

The "clear and convincing evidence" standard was added to the act in 1992. It is not worded 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." Some provincial judges have held that the "clear and convincing evidence" standard falls between the civil and criminal standards of proof. However, some judges have ruled that "clear and convincing evidence" simply means the quality of evidence necessary to meet the standard of proof on a "balance of probabilities."

Following are samples of public hearings on the merits of complaints – 2005:

- A man had started to drive his truck out of a parking spot on a street when he heard someone yell at him. He stopped and a second man came up to him and yelled that the first man had backed into him. This second man grabbed the other's jacket and pulled him with such force that he was injured. This second man produced a badge identifying himself as a police officer and demanded the first man's driver's licence and registration. The man denied backing into the officer's vehicle and when he checked both vehicles, he saw no damage to either one.

An independent witness observed the whole incident and gave his business card to the first man. The witness told the officer that what he saw him say and do was inappropriate and offered him a business card as well, when he discovered he was a police officer.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using unnecessary violence or excessive force and by using oppressive or abusive conduct or language.

Disposition: During a break at the hearing, the matter was resolved informally, so the judge stopped the proceedings and closed the file.

- A trucker had been pulled over by police for inspection by transport compliance officers. When the trucker was talking to one of the compliance officers, a police officer came up and was verbally abusive and aggressive towards him. This action was witnessed by several people.

Officer Misconduct: one police officer

Allegations: Abuse of authority by using oppressive or abusive conduct or language and by being discourteous or uncivil towards the complainant.

Disposition: During a break in the hearing, the matter was resolved informally, so the judge stopped the proceedings and closed the file.

- Two police officers and a Child and Family Services (CFS) worker went to a residence looking for a missing juvenile. A verbal altercation ensued with the occupants of the residence about the need for a search warrant. The officers indicated that they didn't need a search warrant and proceeded to search the residence for the juvenile. The search was not successful. One of the officers was particularly rude and aggressive towards the occupants.

Officer Misconduct: two police officers

Allegations: Abuse of authority by searching a residence without lawful authority, using oppressive or abusive conduct or language and by being discourteous or uncivil towards the complainant.

Disposition: The complainant failed to attend the hearing, so the judge dismissed the complaint.

- Police responded to a call where someone had seen a person wearing a mask and acting suspiciously. It was thought that this masked person had gone into an apartment. When police arrived at the apartment, a young child answered the door but the babysitter would not let them enter. The police forced the door open and the babysitter was knocked down, receiving injuries. The babysitter complained that the police searched the apartment and then left.

Officer Misconduct: one police officer (there were five officers present but only one was charged with misconduct)

Allegations: Abuse of authority by searching a residence without lawful authority, using unnecessary violence or excessive force, using oppressive or abusive conduct or language, and being discourteous or uncivil to the complainant.

Disposition: Prior to the hearing, an attempt was made to resolve the matter informally, but this was not successful. At the hearing, the complainant failed to appear, so the judge dismissed the allegations and closed the file.

- Police arrived at a residence with a search warrant for a male occupant. A female answered the door and asked to read the search warrant. She was allowed to do so. She noted the warrant was for the male's residence but she advised the officers that there were two separate apartments at that residence. She had a discussion with the senior officer about his authority to search her apartment and she refused to allow him to do so. The officer told her rather forcefully that he was going to search the whole residence despite her protests and that he would arrest her if she prevented the search.

Officer Misconduct: one police officer (the senior member in charge of the group of officers)

Allegations: Abuse of authority by searching a residence without lawful authority, using oppressive or abusive conduct or language and by being discourteous or uncivil to the complainant.

Disposition: Prior to this matter being referred to a hearing, the LERA commissioner had dismissed the complaint on the basis of there being insufficient evidence that the officer committed the disciplinary offences mentioned above. The complainant requested that a judge review the commissioner's decision. The reviewing judge ruled that a public hearing was justified.

During a break at the hearing, the matter was resolved informally, so the judge stopped the proceedings and closed the file.

- A man and his wife had been victims of a house fire. During the police investigation, treatment of the man as a victim changed to treating him as a suspect. He was eventually charged with arson but the charges were later dropped by the Crown. The man filed a complaint alleging several acts of misconduct.

Officer Misconduct: one police officer

Allegations: abuse of authority by using oppressive or abusive conduct or language, failing to inform the complainant, upon his detention, the reasons therefore contrary to the *Canadian Charter of Rights and Freedoms* and failing to allow the complainant to retain and instruct counsel without delay contrary to the Charter.

Disposition: The judge ruled that the Charter violations were not within LERA as these violations while affecting the admissibility of evidence in a court of law, did not constitute an abuse of authority under LERA. The judge did find the officer in default on the oppressive or abusive conduct allegation and ordered that the penalty be a written reprimand.

- Two women lived together in an apartment for a very short period before one of them decided to move out. After moving out, she came back to retrieve some of her personal belongings, but the other woman was not present at that time. However, the first woman did call the second woman to tell her she had been in the apartment. The second woman called the caretaker and asked him to check the apartment. He called back to say the door had been left unlocked. When the second woman got back to the apartment, she found a number of her articles missing, so she phoned the police as she suspected the first woman had taken them.

When the police located the first woman, they arrested her and took her to the police station. At the police station, the woman claimed she was not allowed to call a lawyer and that she was assaulted and verbally abused by the officers. She was eventually released without any charges laid against her.

Officer Misconduct: two police officers

Allegations: Abuse of authority by searching the residence without lawful authority, using unnecessary violence or excessive force, using oppressive or abusive conduct or language and by being discourteous or uncivil towards the complainant.

Disposition: The judge found the officers in default respecting their search of the residence without lawful authority and directed that the penalty be a verbal reprimand.

The judge dismissed the other three alleged defaults.

- Police responded to a call from another police agency about a complaint that a man driving may be impaired, because his vehicle appeared to be wandering on the highway before entering the city. The police were not successful in intercepting this vehicle so they went to the residence to see if the registered owner was there.

They did not see the vehicle so they circled the block and when they came back, they found the vehicle on the side street. They checked the vehicle and then went to the door of the residence, where they met the man. The man exhibited signs of impairment but denies that he drank and drove. The police disbelieved the man's story and arrested him for impaired driving. He was taken to the police station for a breathalyser test. The first test showed a reading 110 mg% and the second test showed 120 mg%. The man was subsequently released for summons on a later date.

The man was subsequently served a notice of suspension of his driver's licence. When he appeared before the registrar of motor vehicles, he was surprised to see a police report stating the officers saw him get out of his vehicle. He was given a three month suspension, which he successfully appealed to the court of Queen's Bench. The impaired driving charges were stayed as well.

Officer Misconduct: one police officer

Allegations: Abuse of authority by making a false statement.

Disposition: The judge ruled that the statement in the police report supported by evidence given by the officer was in fact, true. The officer, in choosing the wording that he did, did not intend to convey the meaning that he actually saw the man driving. The judge commented that the man was fortunate in escaping prosecution for impaired driving before he dismissed the complaint.

- A woman complained that four police officers illegally searched her home and that one of them used excessive force in controlling her. Apparently, they were looking for a parole violator and they had received information that he was at the woman's home.

Officer Misconduct: four police officers

Allegations; three police officers – abuse of authority by searching a residence without lawful authority. One police officer – abuse of authority by searching a residence without lawful authority, using unnecessary violence or excessive force and by using oppressive or abusive conduct or language on the complainant.

Disposition: The complainant failed to attend a pre-hearing conference set by the judge so the judge dismissed the complaint and closed the file.

- A woman had gone to a drug store to get a prescription renewed. She was told that she needed to see her doctor to get a new prescription. The woman explained that her doctor had advised her that he would verify by phone her need to have the prescription renewed. She then went to the doctor's office where she felt she was treated badly and then returned to the drug store. While at the drug store, two police officers came in. She subsequently learned that the doctor's office had called police about her so she approached the officers to resolve the issue. She advised them that she has a hearing disability and asked that they look directly at her when speaking or else write down what they wanted to know. The officers ridiculed her and would not write down their questions. They also used excessive force and removed her from the drug store premises.

Officer Misconduct: two police officers

Allegations: Abuse of authority by using unnecessary violence or excessive force, using oppressive or abusive conduct or language, by being discourteous or uncivil and by using differential treatment without reasonable cause under the *Human Rights Act*.

Disposition: Prior to the hearing, the matter was resolved informally so the judge closed the file.

- A woman had complained to police about a neighbor's dog running loose on her property. When she caught the dog, it slipped its collar and got away. She kept the collar after several attempts to turn it over to authorities were unsuccessful because no one would issue a receipt for it. When police came to retrieve the collar, she demanded that they sign a receipt for it but they refused. She was arrested for possession of stolen property but that charge was stayed by the Crown.

Officer Misconduct: two officers

Allegations: Abuse of authority by arresting the complainant without reasonable and probable grounds, using unnecessary violence or excessive force, using oppressive or abusive conduct or language and by being discourteous or uncivil to the complainant.

Disposition: The matter was resolved informally prior to the hearing taking place.

- A man had been taken to the police station for questioning about a serious investigation. He was detained for many hours before being released. He complained that he was assaulted by one of the officers during the interrogation.

Officer Misconduct: one police officer

Allegation: Abuse of authority by failing to inform the complainant of the reasons for his detention, failing to inform him of his right to retain and instruct counsel, using unnecessary violence or excessive force and by using oppressive or abusive conduct or language on the complainant.

Disposition: The complainant failed to attend the hearing so the judge dismissed his complaint and closed the file.

- A woman complained that police came to her residence looking for a particular man. She asked who that was and also asked if the police had a warrant. The police said they didn't need a warrant and proceeded to search the residence. During the search, one of the officers became verbally and physically abusive to the complainant.

Officer Misconduct: two police officers

Allegations: Abuse of authority by searching a residence without lawful authority, using unnecessary violence or excessive force, using oppressive conduct or language, being discourteous or uncivil and by differential treatment of the complainant without reasonable cause under the *Human Rights Code*.

Disposition: The complainant failed to attend the hearing so the judge dismissed the complaint and closed the file.

- A man was parked on the street near a police station when a returning police officer noticed him acting suspiciously and decided to check him out. The officer called for back-up and then turned around to get the plate number of the vehicle. By this time, the vehicle had left but the officer caught up to it. Subsequently, the vehicle got behind the unmarked police car and pursued it

before the officer was able to elude the vehicle and other officers in a marked unit were able to stop the vehicle.

Officer Misconduct: two police officers

Allegation: Abuse of authority by failing to inform the complainant of the reason for his detention, failing to inform him of his right to retain and instruct counsel without delay, searching a vehicle without lawful authority or permission and using oppressive or abuse conduct or language on the complainant.

Disposition: The judge noted the man's strange behaviour during the incident and was made aware of his previous contact with police which caused them concern for their safety. He decided that the officers acted properly under the circumstances and dismissed the complaint.

- A man and several friends were riding their motorcycles when they were stopped by police. During the traffic stop, the man complained to one officer that they had just been stopped 10 minutes earlier by other officers. An argument resulted in which several comments were exchanged. Although the man had initially been told that the reason for the traffic stop was that it was a routine spot check, he was given a ticket for failing to signal. That ticket was subsequently quashed in traffic court when the judge acquitted the man.

Officer Misconduct: two police officers (there were several other officers present but only two were charged with misconduct).

Allegations: Abuse of authority by using oppressive or abusive conduct or language and by being discourteous or uncivil towards the complainant.

Disposition: Prior to the hearing date being set, the man wrote a letter advising that he was no longer pursuing the matter and asked that the file be closed. The judge wrote back to the man confirming that the court file was closed.

Legal Developments

Breaches of the Canadian Charter of Rights and Freedoms as Disciplinary Defaults

Though there were few substantial legal developments in 2005, the commissioner would like to make note of an ongoing issue that is likely to be examined further by the courts. In LERA Complaint #5951, Provincial Court Judge Swail stated that a breach of a person's Charter rights by an investigating officer may not, in and of itself, constitute a disciplinary default. These observations were made in the context of an officer pulling a car over and not accurately advising the driver of the reasons for the stop. The judge ruled that if this was a breach of the driver's Charter rights, it was a technical one and though it might have implications in a subsequent criminal proceeding against the driver, it did not constitute a disciplinary default.

The issue of when a breach of Charter rights will rise to the level of a disciplinary default, such as an abuse of authority, will likely arise in the future. This issue is of interest to the commissioner because in determining whether a complaint should be referred to a hearing, the commissioner must take allegations and evidence relating to Charter breaches into account.

Contributing Causes

Section 22 of *The Law Enforcement Review Act* states:

“When the commissioner identifies organizational or administrative practices of a police department which may have caused or contributed to an alleged disciplinary default, the commissioner may recommend appropriate changes to the chief of police and to the municipal authority which governs the police department.”

Recommended changes follow:

- A woman had gone to a police station with her husband to file a complaint against the actions of two officers at an accident scene. She was not satisfied that the officers at the police station knew enough about *The Law Enforcement Review Act* to properly address her complaint. Alternatively, she felt that, if they did have proper knowledge of the act, then their actions constituted purposely trying to impede her in filing a complaint. The woman also felt that the police station should have the LERA complaint form readily available to members of the public wishing to file a complaint.

When the officers were interviewed, they indicated they had told the woman she could file the complaint directly with LERA or with the police internal affairs unit. When the woman asked for the LERA phone number, the officers did not have it. The officers also told the woman that they do not take complaints at the front desk and that only a supervisor could do that.

Although the commissioner felt that no default under *The Law Enforcement Review Act* had been committed by the officers at the police station, he was concerned that the officers may not have been aware of Section 6(3) of the act. This section shows that a complaint can be made to any member of the police department. The officer must take the complaint and assist by taking a written statement if the complainant can't write it out himself/herself.

The commissioner wrote to the chief of police suggesting he review the situation and make appropriate changes. Within days of receiving the commissioner's letter, the chief wrote back and provided very clear instructions to members of his department about the handling of LERA complaints.

- A man and his friend had gone to a shopping centre to steal a vehicle. He was successful in stealing a truck and when he drove through a red light, he was spotted by police. The officers chased the stolen truck up and down several streets before it went out into the country and crashed into a ditch. The man was arrested and remanded in custody. While in custody he filed a LERA complaint and also filed a criminal complaint of assault with the police service. When he was being interviewed by an internal affairs officer, the man claimed he was threatened with public mischief if his complaints were found to be untrue. The man then filed another complaint with LERA about the threat allegation.

The police service advised LERA that they were conducting a criminal investigation. The commissioner wrote back advising that the LERA investigation was on hold until the criminal investigation was completed. The letter also asked for the names of the officers involved as soon as possible, so that the commissioner could fulfill his responsibilities to the officers by informing them of the LERA complaints.

The police investigation took nearly two years to complete and it was not until the final letter was received from the police service, that the names of the officers involved became known. The

commissioner wrote to the chief of police to remind him of his responsibility under Section 7(2) of *The Law Enforcement Review Act* to provide the officers' names in a more timely fashion.

- A man had been arrested for armed robbery. He claimed that, when he was interviewed by police, they abused their authority by intimidating him into providing a statement to them. This alleged abuse of authority violated the *Canadian Charter of Rights and Freedoms*.

During the LERA investigation, the video of the police interview showed that after the man had been told that he need not say anything, he agreed to make a statement. When the officer started to write down the statement, the man asked if he could write out his statement himself. He is allowed to do this and after he had done so, the officer asked follow-up questions which were also written down.

The commissioner advised the man that it was not within his jurisdiction to determine whether the taking of the statement was a violation of his rights under the Charter and therefore abuse of authority under *The Law Enforcement Review Act*. The alleged violation of rights is a matter for the presiding judge to decide in the criminal trial. However, if it was ruled in criminal court that rights under the Charter were violated, the officer might be in default for abusive or oppressive conduct. In this case, the video clearly showed this not to be the case.

Subsequent rulings by judges at LERA hearings have indicated that violation of Charter rights is not necessarily an abuse of authority under *The Law Enforcement Review Act*; the remedy for Charter violations generally rests with criminal courts.

The commissioner wrote to the chief of police suggesting that abuse of Charter rights, while not a direct violation under abuse of authority under LERA may be contributory to a default for abusive or oppressive conduct.

Statistical Analysis

- LERA's jurisdiction extends to 14 police services with a police officer complement of 1,349. Total population served is 724,730.
- Winnipeg Police Service accounts for 89 per cent of complaints made to LERA. Brandon Police Service for 7.5 per cent and other forces account for the remainder.
- There were 375 files opened in 2005, an increase of eight complaints compared to 2004, the five-year average is 371.
- The 251 formal complaints filed are the second highest ever recorded. As with the previous two years, this figure remains substantially higher than the number of files for which formal complaints were never received or were closed after a preliminary investigation (124 complaints). This reflects the efforts of LERA to provide better service by following up with complainants to ensure that they are heard.
- The number of investigations carried over from 2004 combined with new complaints for 2005, is the highest ever and severely taxes LERA staff. In 2004 there were 495 total investigations. In 2005 there were 532 investigations, an increase of 37.
- There was a small increase in the number of investigations completed over the previous year, from 216 to 217.
- A total of 33 per cent of files opened in 2005 were closed as a result of a complaint not being received, or, after a preliminary investigation. This compares to 31 per cent in 2004.
- The average length of time to complete investigations decreased to 12 months from 13 months in 2005.
- In 2005 there was a decrease in the number of allegations of disciplinary defaults recorded in three of the five main categories: abuse of authority, arrest without reasonable or probable grounds and using unnecessary or excessive force. Using oppressive or abusive conduct or language and being discourteous or uncivil showed slight increases. When numerous allegations are made in a complaint, a strong effort is made to identify and record the default at the outset.
- Recent decisions by judges at review hearings indicate that a breach of the *Canadian Charter of Rights and Freedoms* is not in and of itself, an abuse of authority. However, the commissioner must take allegations relating to Charter breaches into account when considering a complaint.
- There was one complaint, alleging the misuse of pepper spray in 2005.
- Incidents alleging misuse of handcuffs decreased to 31 and were made in 12 per cent of complaints investigated.
- Incidents alleging injuries from the use of force dropped to 113 and were made in 45 per cent of complaints investigated.
- The rate of informal resolution of complaints remained in the same range as in 2004. As a public service agency, LERA actively supports and, whenever possible, engages in alternative dispute resolution aimed at restoring social harmony between affected parties. This method of complaint resolution remains a priority.
- Table 4: It has just recently been discovered the Sub-Section 29(i) was not included in the chart. The wording reads: "Assisting any person in committing a disciplinary, or counselling or procuring

another person to commit a disciplinary default.” No police officer has ever been charged under this sub-section. Sub-Section 29(i) is now part of Table 4.

- Table 8: The number of complaints abandoned by complainants continues to be higher than in previous years. This is a direct result of LERA investigators contacting complainants after the investigation is completed but before a final letter is written. In many cases, when the complainant sees the results of the investigation, he/she then decides to drop the complaint. In other cases when a LERA investigator is unable to locate the complainant, a letter is sent to his/her last known address requesting he/she contact the investigator. If contact is not made within 30 days, the complaint is deemed to be abandoned and a registered letter is sent to that effect.
- Table 10: Complainant’s requests for reviews by a provincial judge of the commissioner’s decision decreased from 12 to 11 in 2005.
- Table 11 and 12: LERA is not mandated to conduct criminal investigations. Where a matter before the commissioner or a provincial judge discloses evidence that a member may have committed a criminal offence, the commissioner or provincial judge shall report the possible criminal offence to the attorney general.
- In recent years, if there is an implication of criminal misconduct, LERA investigators will inform the complainant that a criminal complaint may also be made to the police force where the incident occurred. In 2005, 27 criminal complaints were lodged with police where a LERA complaint was also filed. However, there were no incidents that arose where the commissioner was required to report criminal offences to the attorney general.
- Table 13 and 14: An area of concern has arisen about the length of time it takes the police to investigate matters where a LERA complainant has also filed a criminal complaint. In four cases, complaints were filed in 2002 and as of December 31, 2005, the police investigation is still not completed. In a fifth case from 2002, it took police 33 months to complete their investigation before the matter was returned to LERA. Another case from 2001 is also still under investigation. There are number of other cases where investigations took from 12 to 30 months to complete. While police investigations are underway, the LERA investigation is kept on hold. As a result, the length of time to complete LERA investigations is affected creating the impression that LERA does not respond quickly to complaints. The commissioner has expressed his concerns to the police service about this.

2005 Statistical Report – Data Tables

Table 1: Complaints Listed by Police Service	Police Officers **	Population ***	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)
Altona	7	3,434	0	0	1 (0.5%)	0	0
Brandon	71	39,716	19 (7.2%)	14 (6%)	16 (6%)	14 (6%)	16 (7%)
Dakota Ojibway (DOPS)	26	10,424	5 (2.0%)	2 (.8%)	7 (3%)	17 (7%)	0
RM East St. Paul	10	7,677	2 (1%)	1 (.4%)	0	0	2 (1%)
Morden	7	6,142	0	0	0	0	0
Rivers	3	1,119	1 (0.4%)	0	0	0	1 (0.5%)
Ste. Anne	3	1,513	0	1 (.4%)	0	0	0
Winkler	13	7,943	0	2 (.8%)	0	0	0
Winnipeg	1252	619,544	223 (89%)	228 (90%)	225 (90%)	195 (86%)	206 (91%)
*RM Cornwallis	1	3,779	0	0	0	0	0
*RM Springfield	2	12,602	0	0	0	0	0
*RM St. Clements	1	9,115	0	0	0	0	0
*RM Victoria Beach	1	265	0	1 (.4%)	0	1 (1%)	0
*RM of Whitehead	1	1,457	0	2 (.8%)	0	0	0
Other	0	0	1 (0.4%)	1 (.4%)	1 (.5%)	0	0
Total	1398	724,730	100%	100%	100%	100%	100%

*Supplementary police service – RCMP have primary responsibility

**Source: Director, Aboriginal and Community Law Enforcement, Manitoba Justice

***Source: Statistics Canada, Dakota Ojibway Police Commission

Table 2: Public Complaints	2005	2004	2003	2002	2001
Files opened	375	367	421	372	322
Resolved at intake	124	115	171	145	97
Formal complaint received	251	252	250	227	225

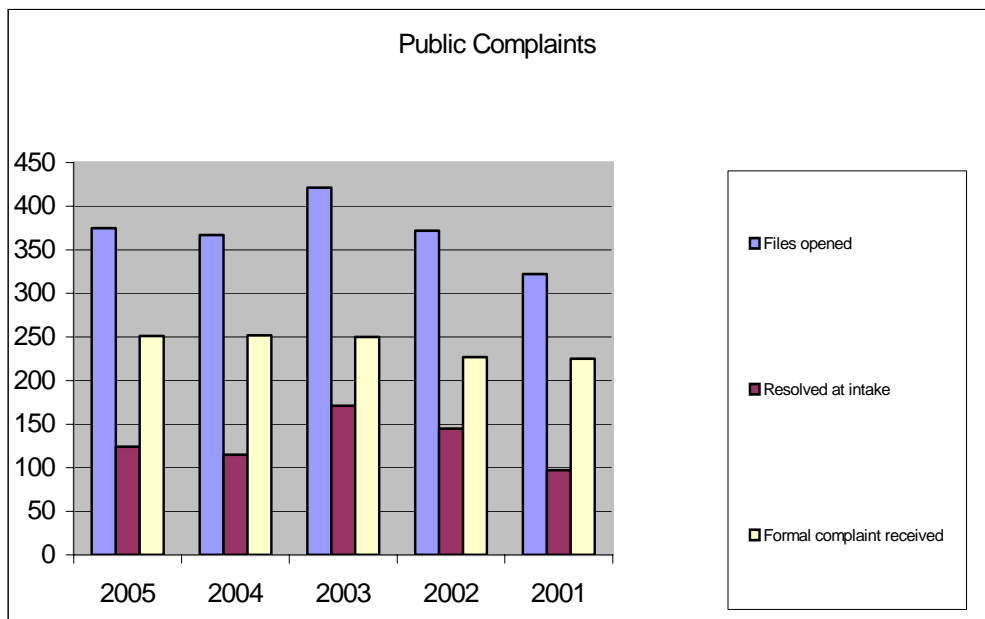


Table 3: Investigations Conducted	2005	2004	2003	2002	2001
Total investigations	532	495	447	430	436
Investigations completed - files closed	217	216	205	235	212
Ongoing investigations carried over as of December 31, 2005	315	279	242	195	224

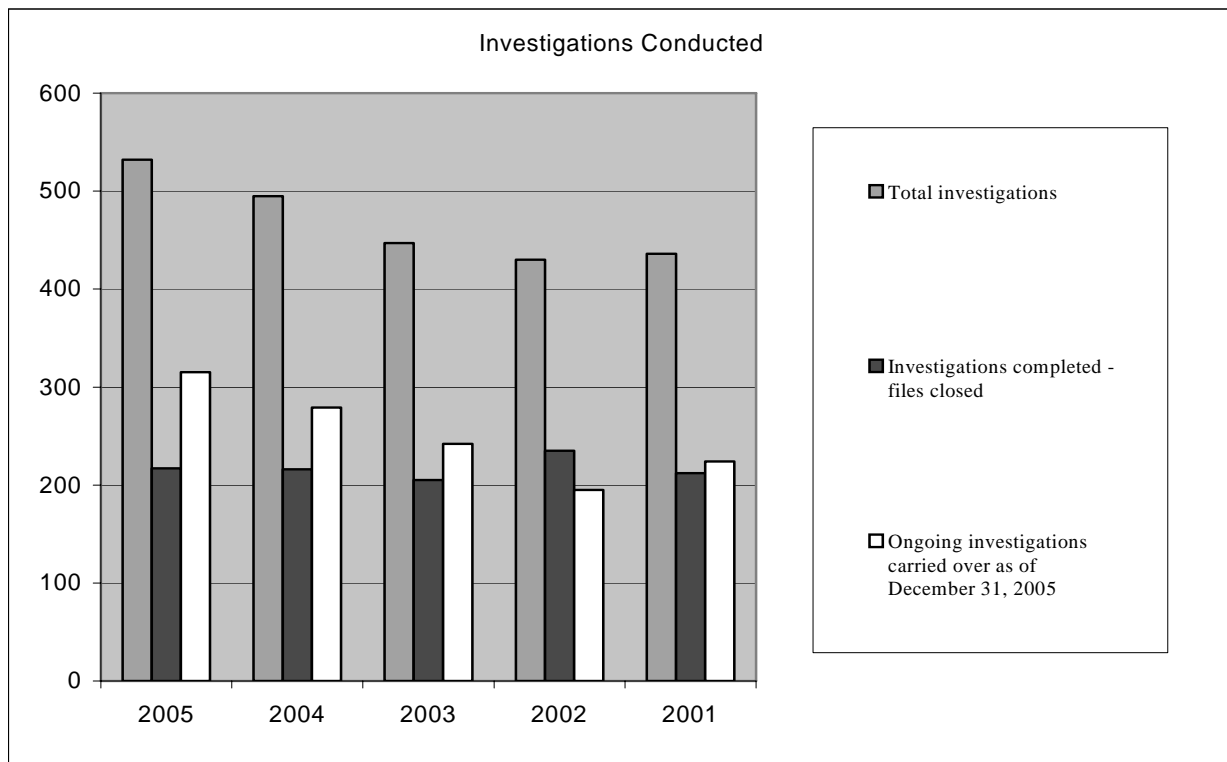


Table 4: Complainants' Allegations: Discipline Code Section 29 <i>The Law Enforcement Review Act</i>	2005	2004	2003	2002	2001
Abuse of authority Sec. 29(a)	109	114	167	137	121
Arrest without reasonable or probable grounds Sec. 29(a)(i)	16	24	20	24	25
Using unnecessary or excessive force Sec. 29(a)(ii)	130	149	136	108	111
Using oppressive or abusive conduct or language Sec. 29(a)(iii)	145	125	114	110	101
Being discourteous or uncivil Sec. 29 (a)(iv)	79	77	114	107	82
Seeking improper personal advantage Sec. 29(a)(v)	0	1	1	0	0
Serving civil documents without proper authorization Sec. 29(a)(vi)	1	1	0	0	2
Differential treatment without cause- Sec. 29(a)(vii) The Human Rights Code Sec. 9(2)	23	21	12	13	15
Making false statement(s) Sec. 29(b)	11	14	8	9	7
Improperly disclosing information Sec. 29(c)	4	4	6	3	2
Failing to exercise care or restraint in use of firearm Sec. 29(d)	5	0	3	0	2
Damaging property or failing to report damage Sec. 29(e)	7	5	5	9	0
Failing to provide assistance to person(s) in danger Sec. 29(f)	8	4	2	6	2
Violating person's privacy (under <i>The Privacy Act</i>) Sec. 29(g)	1	0	0	1	0
Contravening <i>The Law Enforcement Review Act</i> Sec. 29(h)	0	1	0	0	0
Assisting any person committing a disciplinary default Sec. 29(i)	0	0	0	0	0

Table 5: Incidents Alleging Misuse of Pepper Spray			
2005 (n=1)	2004 (n=5)	2003 (n=4)	2002 (n=2)
0.4% of 251 complaints investigated Winnipeg=1	2% of 252 complaints investigated Winnipeg=4 Brandon=1	2% of 250 complaints investigated Winnipeg=4	1% of 227 complaints investigated Winnipeg =1 DOPS = 1

Table 6: Incidents Alleging Misuse of Handcuffs			
2005 (n=31)	2004 (n=42)	2003 (n=26)	2002 (n=9)
12% of 251 Complaints Winnipeg = 30 Brandon=1	17% of 252 complaints investigated Winnipeg=39 Brandon=3	10% of 250 complaints investigated Winnipeg=25 Brandon=1	4% of 227 complaints investigated Winnipeg = 7 Brandon =1 DOPS = 1

Table 7: Incidents Alleging Injuries from Use of Force			
2005 (n=113)	2004 (n=125)	2003 (n=106)	2002 (n=71)
45% of 251 complaints Winnipeg=104 Brandon=2 DOPS=3 East St Paul=1	50% of 252 complaints Winnipeg=120 Brandon=4 RM Whitehead=1	42% of 250 complaints investigated Winnipeg = 101 Brandon = 2 DOPS = 3	31% of 227 complaints investigated Winnipeg =69 Brandon = 1 DOPS =1

Table 8: Disposition of Complaints	2005 (n=217)	2004 (n=216)	2003 (n=205)	2002 (n=235)	2001 (n=212)
Dismissed by commissioner as outside scope of act	40 (18%)	22 (10%)	26 (13%)	28 (12%)	25 (12%)
Dismissed by commissioner as frivolous or vexatious	2 (1%)	1 (0.5%)	26 (13%)	32 (14%)	8 (4%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	53 (24%)	56 (26%)	64 (31%)	81 (34%)	72 (34%)
Abandoned or withdrawn by complainant	103 (47%)	117 (54%)	80 (39%)	75 (32%)	88 (41%)
Resolved informally	4 (2%)	5 (2%)	6 (3%)	8 (3%)	8 (4%)
Public hearing before a provincial court judge	15 (7%)	15 (7%)	5 (1%)	12 (5%)	11 (5%)
Admission of guilt by respondent officer	0	0	0	0	0

Table 9: Legal Involvement of Complainants	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)
No charges	112 (45%)	83 (33%)	91 (36%)	107 (47%)	114 (51%)
Traffic offences	11 (4%)	23 (9%)	17 (7%)	21 (9%)	12 (5%)
Property offences	25 (10%)	47 (19%)	37 (15%)	14 (6 %)	4 (2%)
Intoxicated persons detention	13 (5%)	14 (6%)	8 (3%)	8 (4%)	12 (5%)
Cause disturbance	1 (0.4%)	2 (0.8%)	1 (.4%)	3 (1%)	4 (2%)
Assault police officer/resist arrest	31 (12%)	23 (9%)	21 (8%)	17 (8%)	18 (8%)
Impaired driving	1 (0.4%)	5 (2%)	3 (1%)	3 (1%)	3 (1%)
Offences against another person	24 (10%)	18 (7%)	21 (8%)	12 (5 %)	6 (3%)
Domestic disputes	3 (1%)	9 (4%)	5 (2%)	5 (2 %)	6 (3%)
Other	30 (12%)	28 (11%)	46 (18%)	37 (16 %)	46 (20%)

Table 10: Reviews by Provincial Judge of Commissioner's Decision to Take No Further Action	2005	2004	2003	2002	2001
	11	12	13	22	13

Table 11: Referrals of Complaint to Crown for Criminal Investigation	2005	2004	2003	2002	2001
	0	0	0	0	0

Table 12: LERA Complaints Where Complainant Lodged a Criminal Complaint with Police	2005	2004	2003	2002	2001
	27	11	11	19	25

Table 13: Time Span of Ongoing Investigations Carried Over as of December 31, 2005

YEAR	1-3 Months	4-7 Months	8-12 Months	13-18 Months	19-23 Months	24+ Months	Total
2001	0	0	0	0	0	3	3
2002	0	0	0	0	0	10	10
2003	0	0	0	0	0	18	18
2004	0	0	1	61	38	0	100
2005	80	59	45	0	0	0	184
Total	80	59	46	61	38	31	315

Table 14: Files Concluded in 2005 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
2000	1	56 months
2002	9	32.5 months
2003	40	23 months
2004	100	11 months
2005	67	5 months
Total	217	12 months

Table 15: Length of Time to Complete Investigations	2005 (n=217)	2004 (n=216)	2003 (n=205)	2002 (n=235)	2001 (n=212)
1-3 Months	42	35	44	46	40
4-7 Months	42	42	63	51	45
8-12 Months	46	47	46	58	38
13-18 Months	34	39	28	29	51
19-23 Months	22	26	11	23	25
24+ Months	31	27	13	28	13
Average	12 Months	13 Months	9 months	12 months	13 Months

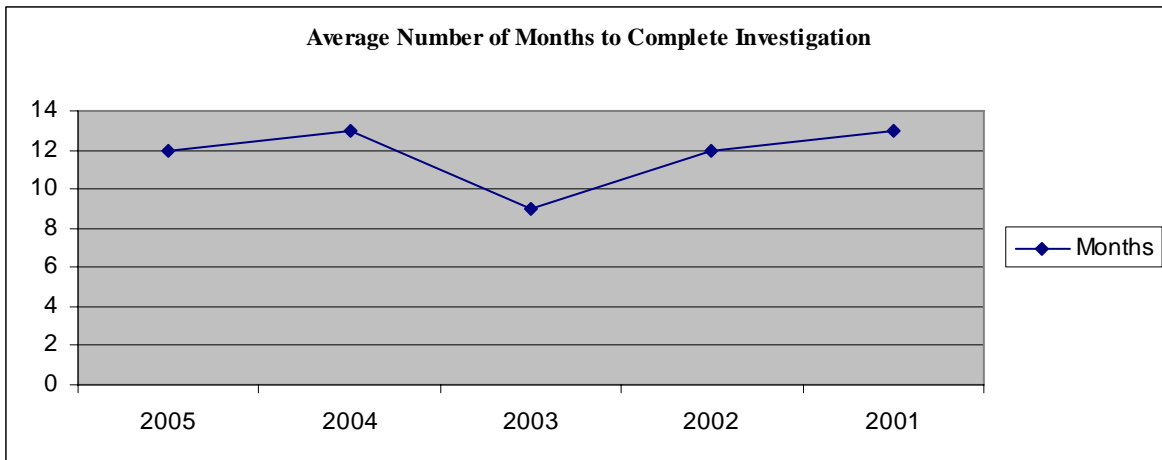


Table 16: Location of Incident	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)
Street	68	102	83	79	79
Private residence	97	62	75	67	64
Public building/place	25	17	23	18	25
Police station	46	49	49	35	36
Other	15	22	20	28	21

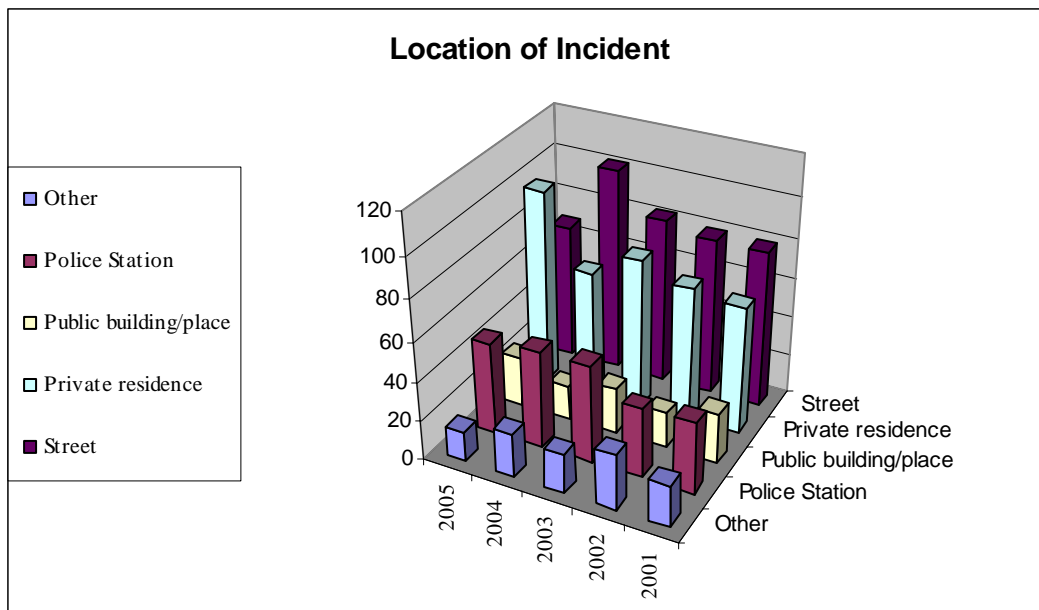


Table 17: Complainant Demographics	2005 (n=251)	2004 (n=252)	2003 (n=250)	2002 (n=227)	2001 (n=225)
Sex					
Male	171 (68%)	181 (72%)	172 (69%)	152 (67%)	155 (69%)
Female	80 (32%)	71 (28%)	78 (31%)	75 (33%)	70 (31%)
Age					
Over 50	30 (12%)	13 (5%)	33 (13%)	23 (10%)	24 (11%)
40 - 49	48 (19%)	35 (14%)	32 (13%)	40 (18%)	44 (20%)
30 - 39	48 (19%)	44 (17%)	45 (18%)	53 (23%)	45 (20%)
18 – 29	56 (22%)	67 (27%)	55 (22%)	64 (28%)	69 (30%)
Youth under 18	39 (16%)	57 (23%)	44 (18%)	14 (6%)	12 (5%)
Birth dates unknown	30 (12%)	36 (14%)	41 (16%)	33 (15%)	31 (14%)