



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.

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

**Annual Report
2012**





**ATTORNEY GENERAL
MINISTER OF JUSTICE**

Room 104
Legislative Building
Winnipeg, Manitoba CANADA
R3C 0V8

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

May it Please Your Honour:

It is my pleasure to present the 2012 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, 2012.

Respectfully submitted,

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

Honourable Andrew Swan
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

Honourable Andrew Swan
Minister of Justice
Attorney General of Manitoba
Room 104 Legislative Building
Winnipeg MB R3C 0V8

Dear Sir:

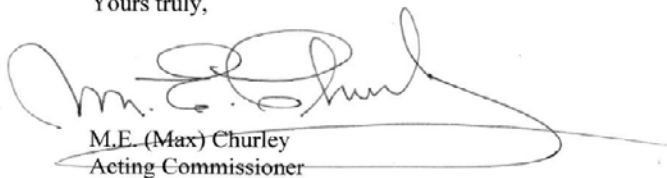
Pursuant to Section 45 of *The Law Enforcement Review Act*, I am pleased to present the Law Enforcement Review Agency's 27th annual report for the period of January 1, 2012, to December 31, 2012.

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

The Law Enforcement Review Act strives to:

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

Yours truly,



M.E. (Max) Churley
Acting Commissioner

TABLE OF CONTENTS

TITLE	PAGE
Introduction.....	9
LERA’s Mission Statement.....	9
About LERA	
What is LERA?	9
To whom does the act apply?	9
What does LERA investigate?	9
Who are complainants and respondents?.....	10
How is a complaint filed?	10
Are there time limits?	10
How is a complaint investigated?	11
How is a complaint screened?	11
Does a complainant need a lawyer?	11
How is a complaint resolved?.....	12
LERA as an Agency	13
How to Reach the Law Enforcement Review Agency	13
Website Overview	13
Organizational Structure	14
Activities.....	15
Acknowledgements	16
Case Summaries	17
Commissioner’s Decision to Take No Further Action.....	17
Provincial Judges’ Reviews of Commissioner’s Decision to Take No Further Action.....	21
Informal Resolution of Complaints.....	27
Public Hearings Before a Provincial Judge.....	28
Statistical Analysis	31
Analyse Statistique.....	33
2012 Statistical Report – Data Tables	
Table 1: Complaints Listed by Police Service	35
Table 2: Public Complaints.....	36
Table 3: Investigations Conducted	37

Table 4: Complainants' Allegations	38
Table 5: Incidents Alleging Misuse of Pepper Spray	39
Table 6: Incidents Alleging Misuse of Handcuffs	39
Table 7: Incidents Alleging Misuse of Taser	39
Table 8: Incidents Alleging Injuries from Use of Force	39
Table 9: Disposition of Complaints	40
Table 10: Legal Involvement of Complainants	41
Table 11: Provincial Judges' Reviews of Commissioner's Decision to Take No Further Action	42
Table 12: Complaint Referrals to Crown for Criminal Investigation....	42
Table 13: Complainants Have Also Lodged a Criminal Complaint with Police.....	42
Table 14: Time Span of Ongoing Investigations Carried Over as of December 31, 2012	43
Table 15: Files Concluded in 2012 by Year of Origin	43
Table 16: Length of Time to Complete Investigations.....	44
Table 17: Location of Incidents	45
Table 18: 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 that has an established police service. The minister must table the report in the Legislature.

LERA'S Mission Statement

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

About LERA

What is LERA?

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

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

To whom does the act apply?

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

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

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

What does LERA investigate?

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

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

Who are complainants and respondents?

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

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

How is a complaint filed?

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

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

Are there time limits?

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

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

How is a complaint investigated?

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

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

How is a complaint screened?

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

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

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

Does a complainant need a lawyer?

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

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

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

How is a complaint resolved?

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

Informal Resolution:

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

Admission of Disciplinary Default:

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

Referral to Judge for Hearing:

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

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

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

LERA as an Agency

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

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

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

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

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

How to Reach the Law Enforcement Review Agency

By Mail:

420-155 Carlton Street
Winnipeg MB R3C 3H8

By Phone:

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

By Fax:

204-948-1014

By Email:

lera@gov.mb.ca

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

Website Overview – 2012

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

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

2012 Web Trends Report:

Visitors30,945
Pages viewed51,891
Average pages viewed per day.....141

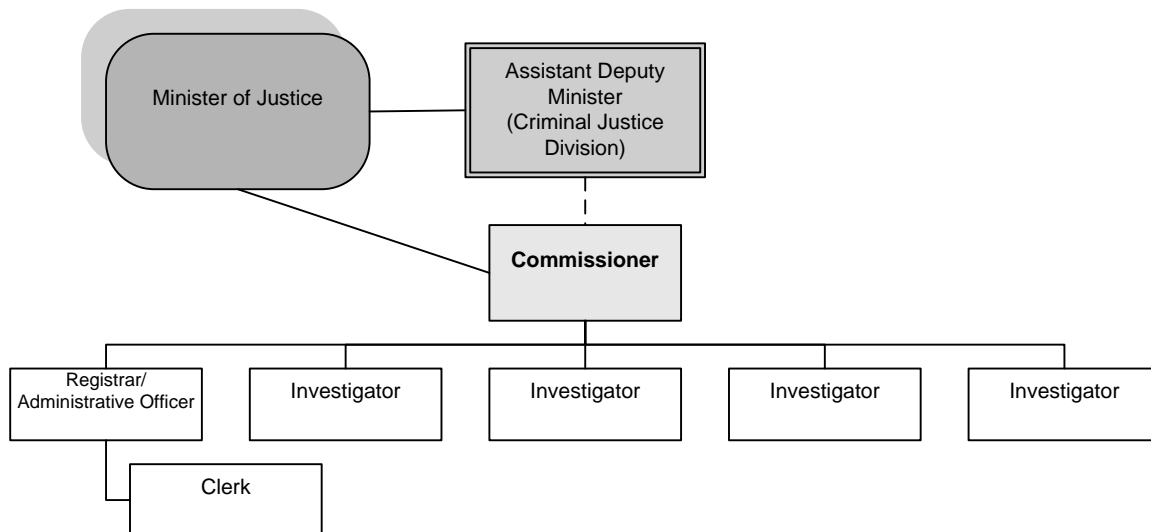
Organizational Structure

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

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

LERA's budget for the financial year beginning April 1, 2012 and ending March 31, 2013 is:

Full Time Employees	7
Total Salaries (\$000`s)	\$525
Total Operating Budget (\$000`s)	\$109
TOTAL	\$634



Activities

During the year, the commissioner and/or staff:

- participated in meetings with the minister of Manitoba Justice and deputy minister of Manitoba Justice
- participated in meetings with the assistant deputy minister of Manitoba Justice, Criminal Justice Division
- participated in meetings and discussions with police executives, police associations, members of police services and municipal officials
- attended reviews of the commissioner's decisions and public hearings presided over by a provincial judge acting *persona designate*
- met with chief and associate chief judges of the Provincial Court
- participated in Manitoba Bar Association Law Day open house at Manitoba Law Courts Complex
- attended graduation ceremonies for Winnipeg Police Service recruit classes
- attended Manitoba Organization and Staff Development training courses
- met with new Communications person assigned to Justice
- presented to students at the Northwest Law Enforcement Academy
- attended 7th Annual Manitoba Council of Administrative Tribunals Conference (MCAT)
- attended 10th Annual Crown Defence Conference
- attended 8th annual lecture by Supreme Court Justice Marshall Rothstein at University of Winnipeg
- presented to Winnipeg Police Service recruit and cadet classes on *The Law Enforcement Review Act*
- attended the 2012 Canadian Association of Civilian Oversight of Law Enforcement (CACOLE) Conference (LERA commissioner, is past president of CACOLE) in Toronto
- LERA Commissioner chairs panel discussion comprising of a member from the Ontario Civilian Police Commission, the Canadian Association of Police Boards and the Federation of Canadian Municipalities on how police boards work together to ensure provision of adequate, effective, affordable and sustainable policing
- attended Heads of Civilian Oversight Professional Development Symposium in Victoria hosted by the office of British Columbia Police Complaint Commissioner
- attended a meeting with other provincial civilian oversight agencies hosted by the Commission for Public Complaints Against the RCMP
- attended a conference planning meeting for the Canadian Association of Civilian Oversight of Law Enforcement
- met with the inspector of the Professional Standards Unit, Winnipeg Police Service
- emailed provincial court decisions about LERA matters to all Manitoba police agencies
- met with the executive director of the Manitoba Police Commission
- attended the 11th annual Keep the Fires Burning celebration
- presented to Dakota Ojibway Police Service (DOPS) recruits
- attended RCMP "D" Division Change of Command Ceremony at Minto Armouries
- presentation to LERA staff by Civil Legal Services

- attended Manitoba Policy on Access to Government (MPAG) training event
- attended retirement function for Chief, Winnipeg Police Service
- attended Oath of Office Ceremony for new Chief of Winnipeg Police Services

Acknowledgements

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

Commissioner's Decision to Take No Further Action

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

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

The commissioner performs an important gate-keeping function that ensures complaints that have no chance 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.

Following are samples of cases in 2012 in which the commissioner decided no further action was required:

- A male youth was at a friend's house and said he got lost walking home on a cold night. He said he was picked up by officers in a police vehicle. He was asked where he was from and where he was going. He told them he was from a remote northern community and was in town going to school. He says the officers handcuffed him, drove him out of town and left him by the roadside to walk back in the cold. He eventually reached a building where he called police. Officers went and got him and held him in the provincial jail under *The Intoxicated Persons Detention Act (IPDA)* until he was sober.

After an investigation, the commissioner said there was insufficient evidence to hold a public hearing and declined to take further action.

* * * * *

- A man said he was walking down the street when a police car approached him from behind and a spot light was shone on him. An officer told him to, "Stop, right there". He gave the officer his name and said he was going to a friend's house to play games. The officer told the man to place his hands on his head and asked if he knew why he was stopped. The man began to reply, when the officer interrupted saying there were sketchy characters hanging around and asked if he had any guns in his bag. The man said, in his complaint, that he was familiar with the officer's reputation for violent behaviour, so when the officer was distracted, he ran.

The officer chased him and several other officers arrived to help. The man said he ran through yards and over fences. When he got tired of running, he removed his back pack, walked into the middle of the street and laid down, face first. Several officers were yelling and rushed him. He said their knees hit his back with such force and weight that he could not breathe. He said he told them, "I can't breathe, I can't breathe". He said he received six blows to the head. With every blow, his head would bounce off the pavement. He said he was also kicked, punched in the kidneys and struck on the thigh.

The officer who first stopped him was interviewed and denied the complainant's version of events. He said he did stop to check the man and when he asked him what he had in his backpack, the man ran. The officer said the man threw his back pack away when he was being chased. The bag was picked up and searched. Officers found three rocks of a substance believed to be crack cocaine, a digital scale and some money.

The officer said the police caught the man and got him on the ground. The man resisted arrest and had to be physically restrained.

After an investigation the commissioner said there was insufficient evidence substantiating the allegations to justify referral to a public hearing and declined to take further action.

* * * * *

- An officer pulled over a male driver travelling with his fourteen year old sister on number one highway and charged him with speeding. The officer also believed that there was a radar detection device in the vehicle. There was a discussion between the three about speeding, driver's licencing, radar detection devices and traffic enforcement in Manitoba. The two alleged that the officer threatened to conduct a strip search of the female for the detection device. Other allegations were made that the officer abused his power as they discussed the towing of the vehicle and the status of the male's driver's licence.

When the officer provided his response to the allegations he denied that he was rude and further denied threatening to conduct a strip search. As it happened, the officer was wearing a recording device at the time of the stop, which was provided to the investigator. The audio recording of the entire conversation clearly showed that the officer did not threaten or even insinuate that a strip search would or should be conducted.

Upon completion of the investigation the commissioner determined that there was insufficient evidence substantiating the allegations to justify referral to a public hearing and declined to take further action.

* * * * *

- An adult female called the police reporting a domestic dispute. She said her ex-boyfriend was at her house and refused to leave, despite her requests for him to do so. Officers attended the residence and in her complaint to LERA, the female alleged that an officer directed a racist remark toward her. She went on to say that she was arrested and excessive force was used by the officers causing her hands to turn blue from handcuffs that were tightly applied. She was then taken to an industrial area where an officer “unclipped his gun” and she was removed from the car and had her head slammed against it. When taken to the Main Street Project (MSP) an officer jumped on her back with his knee. She also complained that she was not intoxicated at the time of her detention.

The police documentation of the incident indicated that when the officers arrived, the female, although she was the one who called the police, was belligerent and refused to provide officers with information and answer their questions. The officers found her to be intoxicated and fearing that she may not be able to care of herself, took her into custody and lodged her at the MSP to be released when sober. The intake document, completed by a staff member at the MSP, confirmed that the female was intoxicated at the time of her lodging.

The officers, when interviewed, agreed that some force was necessary to detain the complainant but it was minimal and in keeping with police use of force policy. Although there was evidence of bruising to the arms, there is no evidence of serious or lasting injury. The officers denied that any racist comments were made and said that the complainant was taken directly to the MSP at 75 Martha St.

The police car used to transport the complainant was equipped with Global Positioning System (GPS) technology which records the movements of the vehicle electronically and cannot be tampered with. A printout of the GPS confirmed that the vehicle was driven directly from the residence to 75 Martha St. in a time of three minutes and thirty one seconds.

The complainant provided the names of persons that she claims saw the officers take her into custody at the residence but when contacted they refused to be interviewed.

Upon completion of the investigation, the commissioner said there was insufficient evidence to hold a public hearing and declined to take further action.

* * * * *

- Officers were called to a home because of a domestic dispute between a man and woman. The woman said that when police arrived, they made racist remarks toward her and, in response, she lost control. Her boyfriend told her to calm down but she refused. She said she was taken to an unknown location where she was badly assaulted with a baton. She said the officers restrained her with handcuffs and leg irons so tight that one ankle was sprained and a wrist swollen. She also said her right eye was closed and she had broken ribs, a broken nose and severe bruising all over her body.

The car the officers were driving that night had a Global Positioning System (GPS). The GPS showed the car left the residence of the complainant and went directly to the Public Safety Building and then directly to the Winnipeg Remand Centre. Medical reports supported the fact that the complainant was injured, but the severity didn't include broken bones. The injuries appeared to be consistent with the level of force described by the officers in response to the resistance of the complainant.

After an investigation, the commissioner said there was insufficient evidence to hold a public hearing and declined to take further action.

* * * * *

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

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

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

Following are samples of these applications:

Review #1

- Three family members; father, mother and teenage son, filed several complaints about separate contacts with police officers.

#1(a)

The father said he was driving his car when a police officer, who has a history of harassing and stalking him and his family, tried to stop him. He did not stop immediately when addressed by the police. He was close to his destination and went there. When he did come to a stop, the officer got out of the police car and immediately asked him if he had a gun in his vehicle and began to search it. The officer found nothing illegal; asked him for his driver's licence and registration; and ordered him to wait in his car. The officer returned to his patrol car; then came back with a traffic ticket for operating a vehicle with faulty equipment because the car's left and centre brake lights were not working. The complainant had an independent witness who, after checking his brake lights, provided a statement confirming that only the centre light was faulty.

The officer, when interviewed, explained that the two brake lights were not working. He said although he had dealings with the father and his son previously, he was not harassing or stalking him. The officer said that until the vehicle was actually stopped, he had no idea who the occupant was. He said that he did not search the vehicle and he asked the man if he had a gun.

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

DECISION: The complainant withdrew the complaint after the judge handed down decisions on the following two complaints: Review#1(d) and (e)

#1(b)

The son complained that a tactical officer who had his gun drawn stopped him and, with some force, removed him from his van onto the ground. He said the officer messed up his shoulder by stepping on it and that the officer was really rude and threatening.

The son said there were five or six other guys in the van with him, but he only knew one by name. The son said he recognized one of the officers from a previous incident and the son had already filed a complaint against that officer. The son said the officer looked at him and said, "I told you I'd get you back, ha, ha, you can't win." The son was taken to the police station, where, he said, the same officer harassed him and made "fat jokes" about him. He was placed under arrest and charged with numerous criminal offences. He said he didn't receive any medical attention until after being put in a cell at the detention centre.

The officers involved in the arrest were identified and interviewed. They all denied abusing the complainant in any way. They said that the arrest and follow up were uneventful. Medical reports from the incident showed there were no signs of bruising or swelling.

The son's father said he was in another vehicle close to the incident. He was interviewed and said that he saw no abuse by the officers involved. The one witness named by the son refused to be interviewed and the other witnesses were never identified.

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

DECISION: The complainant withdrew the complaint after the presiding judge made decisions on two other reviews of complaints: Review #1, (d) and (e).

#1(c)

The son said he was stopped by two plain clothes police officers who harassed him by asking what he was doing in the area and by searching his vehicle. The officers told him that he wasn't supposed to be in the area. He said that one officer searched him; was swearing; and was rude in response to his questions and that of his three friends. He said he asked for the officer's badge numbers but was ignored. The complainant provided the names of three independent witnesses.

A review of police records covering the timeframe of the alleged incident, failed to identify any officers who may have been involved.

The three witnesses identified by the complainant, were contacted. They were interviewed but did not support the allegations.

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

DECISION: The complainant withdrew the complaint after the presiding judge made decisions on reviews of two other complaints: Review #1, (d) and (e).

#1(d)

The father said his son was intentionally intimidated by police officers when they stopped him in his school's parking lot and that the officer harassed the son.

The son was interviewed and supported what his father said. The son identified the police officers by name, saying that they were parked right beside him in the school lot. The son said one of the officers asked him why he had made a false complaint against him and that the officer said: "You can't prove anything; you'll never win in court; you have no proof." and started laughing. The son also said the officer told him to watch his back, that he would be tailing him. The son gave the name of a friend who was with him and had seen the incident.

The friend was interviewed but didn't support the son's story. The friend didn't recall being with the son or stopped by the police at that location.

The two suspected officers were interviewed and said they were not working the date of the alleged incident and this was verified by a copy of their shift schedule.

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

DECISION: The provincial judge held that the commissioner had not made an error by not taking further action on this complaint.

#1(e)

The father made a complaint on behalf of his son. He said that his son was being driven to school by his mother and that the father followed behind. He said two police officers stopped his son near his home. The father named the two officers. The mother asked the officers the reason for her son's unlawful arrest. The officers said that he was being taken to the district office, but he was taken to the police station instead. The son said he was subjected to racial slurs; was shackled and had a sock stuffed in his mouth; and was badly kicked causing severe internal injuries. The next day, he was released and hospitalized at the Concordia Hospital for observation of severe internal injuries. He suffered from pain and swelling. The son gave a statement to support his father's complaint.

Medical reports showed the son had some minor injuries which were recorded as muscular bruising.

The officers said that while they were dealing with an unrelated incident the day before this incident, they had an encounter with the son. They later told a superior officer about it and were told to arrest the son and charge him. The officers said shackles were not used; nor were

they abusive toward the son in any way. They said the son was generally co-operative and was at all times treated fairly.

Other allegations that a Taser was used to intimidate the son were found to be incorrect. Tasers electronically record any use and the Tasers used in that area at the particular time had not been discharged. Also, the son said he was refused food, but this was shown to be false.

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

DECISION: The provincial judge held that the commissioner had not made an error by not taking further action on this complaint.

* * * * *

Review #2

- A man complained that officers abused their authority when he was taken into custody and no medical treatment was provided for severe frostbite. He was taken to a correctional centre in an intoxicated condition with third degree frostbite and did not get a medical examination. He said he was suffering from shooting pains and numbness in his hands.

He wasn't sure where he was picked up, but was aware that he had passed out.

He went to hospital after he was released from custody and the resulting medical report showed he had second degree frostbite and complete recovery was expected.

The officers involved said they responded to a call from a woman who reported an intoxicated person wanting to come into her residence. When officers arrived, they found the man in the snow. They asked him if he was all right and he said that other than being a little cold he was fine. The officers saw no evidence of injury or frostbite. When asked where he lived, the man pointed to a residence which the officers knew to be incorrect. They took him to the correctional facility until he was sober. The officers said that if they had seen a reason to take him to the hospital, they would have done so.

The commissioner found that the officers obviously intended to protect this man. They were reminded to check more closely on the condition of people who were found outside in extremely cold weather. A recommendation was made to the chief of police that training courses should include a reminder for officers to take greater care when confronted with a similar circumstance. The complainant asked to have a provincial judge review the commissioner's decision.

DECISION: The commissioner declined to take further action because there was insufficient evidence to justify a public hearing. A review date was set but the complainant failed to

appear. Attempts to contact him failed and the matter was considered by the provincial judge to be withdrawn.

* * * * *

Review #3

- A woman said she thought a police officer or a social worker was trying to drug her. She said that during the year, they were in her house and stole her tax returns and bank information from her computer. The woman had no evidence to support the claims. *The Law Enforcement Review Act* sets out specific time frames within which a complaint must be registered. The commissioner found that it was outside that time frame. He also found that the complaint was a criminal case and outside the scope of the act.

The commissioner declined to take further action because it was outside the scope of LERA's jurisdiction and the complainant asked to have the decision reviewed by a provincial judge.

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

* * * * *

Review #4

- A man said that three people from provincial and civic government offices broke into his apartment. He said he taped a letter to his door denying them, and the police, permission to re-enter. Police went to the apartment in response to a call from another party. The man opened the door, but didn't come outside the apartment. The man said he showed papers to the officers saying that none of them could enter. One officer grabbed his arm and pulled him out of the apartment. The man told the officer it was assault and the police ignored the man's demands for everyone to leave. He was told he could be arrested for causing a disturbance. The man said he wasn't causing a disturbance, he was explaining his rights. He said a second officer grabbed his left arm and pushed him away from the door.

Police evidence showed that they were called to the apartment to help with the legal entry and inspection of the apartment by the fire inspector. The officers were asked to help keep the peace and ensure the inspection took place. The police said the man resisted entry to the residence. He was asked to move into the hallway and allow them to enter as required by the inspection order. He moved and a 15 minute inspection was done. The man demanded that the inspector and his assistants be arrested but they were not.

When interviewed, the officers said the man was asked to step into the hallway and was guided by an officer. They said they did not use force. The fire inspector and two people with him were witnesses to the incident. When interviewed, they said that one officer took him by the arm with one hand and guided him into the hallway. No force was used. They said the

man didn't complain of any injury at the time and that when the inspection was completed everyone left.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing.

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

* * * * *

Review #5

- A man was having an argument with his female boss in the presence of the boss's boyfriend and other employees. The man said the boyfriend took offence to how the man was talking and started punching him and throwing him around. Police were called. When they arrived, an officer smelled alcohol on the man's breath. The officer said he was being taken to the "drunk tank". The man said he told them the alcohol was from the night before and that he had not had any that day. The man said he should not have been arrested because he was the victim of the assault and had not been drinking. He also said he should not have been taken to the Main Street Project, should have been taken to the hospital to be checked out.

The police reports and interviews with the officers showed that they had been called to the assault. When they arrived, they said they spoke with several witnesses before speaking to the man. They said they found him to be intoxicated and belligerent that he had a strong odour of alcohol. The man was not charged with an offence but was taken to the Main Street Project and kept under *The Intoxicated Persons Detention Act* until he sobered up. The man resisted the officers while being handcuffed. He did not complain of any injury at the time. The officers saw no evidence of injuries and did not take him for medical examination.

Interviews with staff at the Main Street Project confirmed that the man was intoxicated but did not show signs of injury.

A medical report from a doctor at the Health Sciences Centre who saw the man after he was released said the man had soft tissue injuries to his back and right wrist and advised him to take one day off work.

The commissioner declined to take further action because there was insufficient evidence to justify a public hearing and the complainant asked to have the decision reviewed by a provincial judge.

DECISION: The complainant withdrew his request for a review and the provincial judge dismissed the matter as abandoned.

* * * * *

Informal Resolution of Complaints

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

Following is an example of a complaint resolved informally in 2012:

- A man said a police officer arrested him for uttering a threat of bodily harm. The man said he was walking his dog and police stopped him because the dog was not on a leash. He told the officers that the dog, although not on a leash, was under control because he was trained to stay with him. After talking to the police, he went home and looked at the bylaw on the Internet. He said he thought it allowed him to walk his dog without a leash in this circumstance. He printed the bylaw and continued to walk his dog. The same officers drove by and he flagged them down to show them the bylaw. After a discussion, one of the officers arrested him, put him in handcuffs and charged him for uttering threats of bodily harm against the officer. The man said the officer accused him of saying: "If I see you back in this area again, I'll kick your ass." But the man denied making the statement and went on to complain about the officer's behaviour throughout both conversations they had that day. The officer and the man agreed to an informal mediated process which was successfully completed. A Stay of Proceedings was entered by the Crown attorney's office for the charge of uttering threats and the matter was closed.

* * * * *

Public Hearings Before a Provincial Judge

Public hearings under the act are held before provincial judges. The judges do not sit in their usual capacity as members of the Provincial Court. A public hearing is only held after a matter has been referred by the commissioner under Section 17 of the act.

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

“The provincial 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 judges have held that the “clear and convincing evidence” standard falls between the civil and criminal standards of proof.

Following are the results of public hearings on the merits of complaints heard in 2012:

- A woman said that she and several friends left a street party and happened to see a girl apparently being abused by her boyfriend. The woman, in trying to help the girl, was pushed to the ground and kicked. The woman and her friends left in her vehicle with one of her friends driving. They were pulled over by police and an officer asked the driver to step outside the vehicle. Several other officers, with guns drawn, told the other women to get out of the vehicle and they did. The woman was angry and demanded to know why they were being treated this way. She said that one officer, using profane language, told her to shut up and she responded in a similar manner. She said the officers twisted her arms behind her back and dragged her to a police car. She said she kept asking what was going on and was told to shut up. She was handcuffed and had her head slammed on the hood of the car several times. She said she was thrown to the sidewalk when other officers joined in by punching and kicking her. She was called a crack head and other uncomplimentary names. She said she was “hog-tied” and lost her strapless top around her waist. She said that while being dragged from the car, her right leg was injured and she screamed in pain.

The officers said that they received a report of the vehicle being involved in a suspicious circumstance at River and Osborne. Witnesses said that three men had possibly abducted a female and put her in the van. The van was stopped and the complainant was immediately confrontational yelling and swearing at the officers. She was eventually placed under arrest. When she resisted, she had to be physically subdued. The officers denied that excessive and unnecessary force was used.

Officer Misconduct: Six (6) police officers

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

Disposition: The allegations were dismissed by the judge. The judge found in favour of the officers who had made a motion of dismissal based on their contention that there was no evidence that any one of them, or all of them or some of them, abused their authority in the manner alleged. The complainant was unable to specifically identify the officers involved. The judge also noted that the evidence presented by the complainant was not clear, conflicting in some respects and the chronology of events differed from the complaint made to LERA and her evidence at the hearing.

* * * * *

- A man (man #1) said he and a male friend (man #2) left a concert at the MTS Centre and met other friends walking toward Main Street. They saw a few police cruisers and a police officer who walked over to where they were standing. They said he started pushing people around with his Taser.

The man said the officer pushed the Taser into man #1's chest, used profane language and told him to get off the road. At that time, man #1 had his cell phone in his hand and was texting a friend. He told the officer that his actions were unnecessary and the officer responded by snatching the phone, pushing him back and again telling him to stay off the road. The man said he told the officer to return his phone; that he had no reason to take it; and said he was not on the road. He reached for his cell phone and the officer again pushed him back and threw the cell phone on the sidewalk damaging it. Upset with the way he was treated, he and his friend (man #2) went to get the badge number of the officer who was now standing with several other officers. When they approached, man #2 was grabbed by the officer and pinned on the police car. Another officer handcuffed man #1 taking his possessions and placing them on the police car. Both men said they didn't resist in any way. Man #1 was told to sit by the police car and await further instructions. The officer that cuffed him was treating him with respect but that the second officer, who had grabbed man #2, now forced man #1 to the ground and stepped on him. He said he complained to the officer that he was having trouble breathing as a result of the officer crushing his chest. Another officer bent over and told man #2 that he was the sane one present and if he co-operated he wouldn't be arrested. A third officer intervened and asked the first officer to let the man get up. The two men were taken to the Public Safety Building, where they were read their rights and fingerprinted. While there, another officer approached man #1 telling him that he had been involved in an assault and called him an "asshole." After being held for four hours, the two men were charged with obstructing a peace officer and causing a disturbance.

Officer Misconduct: One police officer.

Allegations: making an arrest without reasonable and probable grounds, subsection 29(a)(i); and using unnecessary violence or excessive force, subsection 29(a)(ii)

Disposition: The complaints of both males were referred to a hearing and on the date of the hearing the two men and the officer agreed to try and resolve the matter informally. The Informal process was initiated leading to a successful resolution.

Statistical Analysis

- LERA's jurisdiction extends to 12 police services with 1,664 police officers. Total population served is 767,653.
- Winnipeg Police Service accounts for 90 per cent of complaints made to LERA. Brandon Police Service accounts for six per cent and other services account for the remainder.
- There were 242 files opened in 2012, down by 18 complaints in 2011. The four year average is 266 new files per year.
- The number of formal complaints filed (148) is down from 169 formal complaints in 2011.
- Ninety-four (94) complaints were resolved at intake or after preliminary enquiries compared to 91 in 2011.
- In 2012, there were 242 total investigations. There were 260 investigations in 2011.
- There were 162 investigations completed in 2012, down four from 166 in 2011.
- There were no complaints alleging the misuse of pepper spray in 2012.
- There were four complaints of misuse of the Taser.
- There were six incidents alleging misuse of handcuffs in 2012, down six from 2011.
- Incidents alleging injuries from the use of force increased to 77 from 70 in 2011. Allegations of injuries were made in 52 per cent of complaints investigated.
- There were three informal resolutions of complaints in 2012, down one from 2011. LERA continues to actively support and, whenever possible, engage in alternative dispute resolution to restore social harmony between the parties. This method of resolution remains a priority and complainants and respondents are encouraged to use it.
- The percentage of complaints abandoned by complainants increased from 2011. LERA investigators contact complainants after the investigation is completed but before a final decision letter is written. In many cases, when complainants learn the results of the investigation, they drop the complaint. In other cases, when a LERA investigator is unable to locate the complainant, a letter is sent to the complainant's last known address asking the complainant to contact the investigator. If contact is not made within 30 days, the complaint is considered abandoned and a registered letter is sent stating that. (See Table 9)
- Complainants' requests for judges to review the commissioner's decisions were down by eight requests to 12 in 2012. The five-year average is 17. (See Table 11)

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

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 2012, nine criminal complaints were made after a LERA complaint was also filed. This was up one from 2011. (See Tables 12 and 13)

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

The completion of investigations within a reasonable time line is always of concern and is a continuing objective. There was an increase from six months in 2011, to seven months in 2012. (See Tables 15 and 16)

- The average age of a complainant is 37. The oldest complainant was 72 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 12 services de police, ce qui représente 1 664 agents de police. Au total, l'organisme sert 767 653 personnes.
- Un total de 90 % des plaintes déposées auprès de l'Organisme concernent le Service de police de Winnipeg. Vient ensuite le Service de police de Brandon, avec 6 %, les autres services se partageant le reste.
- En 2012, l'Organisme a ouvert 242 dossiers, 18 de moins qu'en 2011. La moyenne annuelle des quatre dernières années s'élève à 266 nouveaux dossiers par an.
- Le nombre de plaintes officielles déposées a diminué, passant de 169 en 2011 à 148 en 2012.
- L'Organisme a pu régler 94 plaintes dès leur réception ou après une enquête préliminaire, comparativement à 91 en 2011.
- En 2012, il y en a eu 242 enquêtes au total. Il y en avait eu 260 en 2011.
- En 2012, 162 enquêtes ont été menées, soit quatre de moins qu'en 2011 (166).
- En 2012, aucune plainte n'a été déposée portant sur l'utilisation abusive de vaporisateur de poivre.
- Il y a eu quatre plaintes portant sur l'utilisation abusive du Taser.
- Il y a eu six allégations d'utilisation abusive des menottes en 2012, soit six de moins qu'en 2011.
- Il y a eu 77 allégations de blessures liées au recours à la force, comparativement à 70 en 2011. Ces allégations représentent 52 % des plaintes pour lesquelles il y a eu enquête.
- En 2012, trois plaintes ont été réglées sans formalités, une de moins qu'en 2011. L'Organisme continue de soutenir activement le règlement extrajudiciaire des différends, un processus de règlement qui vise à rétablir l'harmonie sociale entre les parties concernées, et il y participe dans la mesure du possible. Ce processus reste prioritaire, et les plaignants et les défendeurs sont encouragés à le choisir.
- Le pourcentage de plaintes abandonnées par les plaignants a augmenté par rapport à 2011. Les enquêteurs de l'Organisme communiquent avec les plaignants une fois l'enquête terminée, mais avant qu'une lettre de décision finale soit rédigée. Dans bien des cas, les plaignants abandonnent leur plainte après avoir appris les résultats de l'enquête. Dans d'autres cas, l'enquêteur de l'Organisme ne peut pas trouver le plaignant et une lettre est envoyée à sa dernière adresse connue l'avisant qu'il dispose de 30 jours pour

communiquer avec l'enquêteur, faute de quoi sa plainte sera considérée comme abandonnée et une lettre recommandée lui sera envoyée à cet effet. (Voir le tableau 9)

- En 2012, douze demandes de révision par un juge de la décision du commissaire ont été déposées par des plaignants, soit huit de moins que l'année précédente. La moyenne sur cinq ans s'élève à 17. (Voir le tableau 11)
- L'Organisme n'effectue aucune enquête criminelle. Lorsque, dans le cadre d'une affaire, des éléments de preuve laissent croire qu'une infraction criminelle a peut-être été commise, le commissaire ou le juge de la Cour provinciale doit le signaler au procureur général, et une enquête criminelle est 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 2012, neuf plaintes déposées auprès de l'Organisme ont été suivies d'une plainte au criminel, soit une de plus qu'en 2011. (Voir les tableaux 12 et 13)

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

L'Organisme s'efforce toujours de compléter les enquêtes dans un délai raisonnable, cela étant un de ses objectifs permanents. Ce délai est passé de six mois en 2011 à sept mois en 2012. (Voir les tableaux 15 et 16)

- L'âge moyen des plaignants était de 37 ans. Le plus âgé avait 72 ans et le plus jeune avait 13 ans. (Voir le tableau 18)

2012 Statistical Report – Data Tables

Table 1: Complaints – Listed by Police Service**	Police Officers **	Population ***	2012 (n=148)	2011 (n=169)	2010 (n=140)	2009 (n=169)	2008 (n=155)
Altona	8	4,088	0	1 (0.6%)	0	0	0
Brandon	82	46,061	6 (4.1%)	12 (7%)	20 (14%)	6 (3.5%)	9 (6%)
Dakota Ojibway (DOPS)	29	12,497	0	1 (0.6%)	1 (0.7%)	6 (3.5%)	4 (2.6%)
Morden	14	7,812	2 (1.4%)	0	2 (1.4%)	1 (0.6%)	0
Rivers	3	1,189	0	0	0	0	0
Ste. Anne	5	1,626	0	2 (1%)	0	0	2 (1.3%)
Winkler	16	10,670	2 (1.4%)	2 (1%)	0	1 (0.6%)	1 (0.6%)
Winnipeg****	1,502	663,617	134 (90%)	148 (88%)	116 (83%)	155 (92%)	138 (89%)
RM of Cornwallis*	1	4,378	0	0	0	0	1 (0.6%)
RM of Springfield*	2	14,069	1 (1%)	1 (0.6%)	1 (0.7%)	0	0
RM of Victoria Beach*	1	374	0	1 (0.6%)	0	0	0
RM of Whitehead*	1	1,533	0	1 (0.6%)	0	0	0
Other	0	0	3 (2.1%)	0	0	0	0
Total	1,664	767,653	100%	100%	100%	100%	100%

* Supplementary police service – RCMP have primary responsibility
 ** Source: director, Aboriginal and Community Law Enforcement, Manitoba Justice
 *** Source: Statistics Canada and Dakota Ojibway Police Commission
 **** LERA's jurisdiction includes members of the Winnipeg Police Service Cadets

Table 2: Public Complaints	2012	2011	2010	2009
Files Opened	242	260	266	297
Resolved at Intake	94	91	126	128
Formal Complaints Received	148	169	140	169

Public Complaints

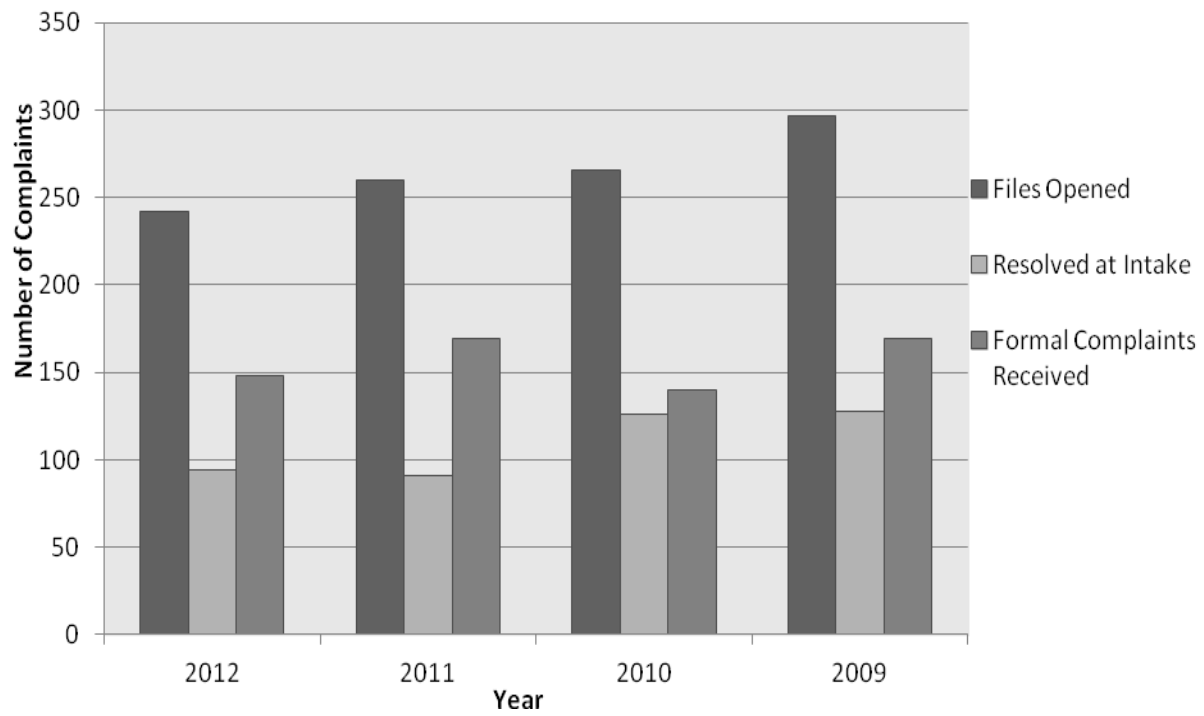


Table 3: Investigations Conducted	2012	2011	2010	2009	2008
Total Investigations	260	274	274	321	367
Investigations Completed - Files Closed	162	166	171	189	214
Ongoing Investigations Carried Over as of December 31, 2012	98	108	103	132	153

Investigations Conducted

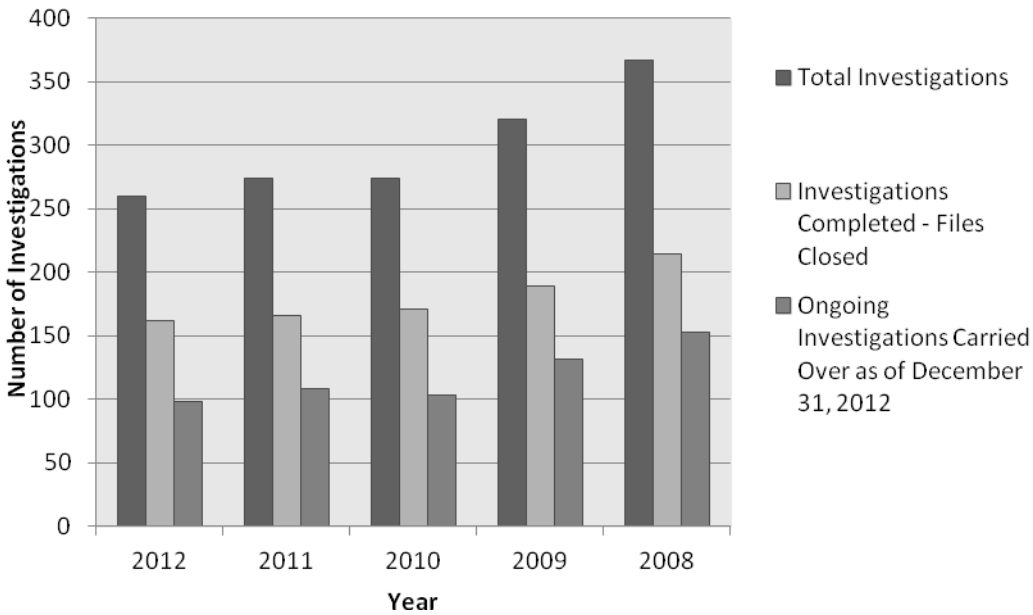


Table 4: Complainants' Allegations: Discipline Code Section 29 <i>The Law Enforcement Review Act</i>	2012	2011	2010	2009	2008
Abuse of authority Subsection 29(a)	25	45	23	40	49
Arrest without reasonable or probable grounds Subsection 29(a)(i)	20	22	24	20	17
Using unnecessary or excessive force Subsection 29(a)(ii)	81	77	75	83	88
Using oppressive or abusive conduct or language Subsection 29(a)(iii)	33	60	48	66	79
Being discourteous or uncivil Subsection 29 (a)(iv)	47	49	41	34	35
Seeking improper personal advantage Subsection 29(a)(v)	0	0	0	0	0
Serving civil documents without proper authorization Subsection 29(a)(vi)	0	0	0	0	0
Differential treatment without cause Subsection 29(a)(vii) <i>The Human Rights Code</i> Subsection 9(2)	8	9	7	11	14
Making false statement(s) Subsection 29(b)	3	4	6	1	2
Improperly disclosing information Subsection 29(c)	2	4	6	9	6
Failing to exercise care or restraint in use of firearm Subsection 29(d)	2	0	0	1	3
Damaging property or failing to report damage Subsection 29(e)	2	6	9	6	9
Failing to provide assistance to person(s) in danger Subsection 29(f)	4	3	1	3	2
Violating person's privacy (under <i>The Privacy Act</i>) Subsection 29(g))	6	1	3	0	0
Contravening <i>The Law Enforcement Review Act</i> Subsection 29(h)	0	0	1	0	0
Assisting any person committing a disciplinary default Subsection 29(i)	1	0	1	0	1

Table 5: Incidents Alleging Misuse of Pepper Spray

2012 (n=0)	2011 (n=0)	2010 (n=1)	2009 (n=0)
0% of 148 complaints investigated	0% of 169 complaints investigated	1% of 140 complaints investigated Winnipeg PS = 1	0 of 169 complaints investigated

Table 6: Incidents Alleging Misuse of Handcuffs

2012 (n=6)	2011 (n=12)	2010 (n=13)	2009 (n=14)
4% of 148 complaints investigated Winnipeg PS = 5 Brandon PS = 1	7% of 169 complaints investigated Winnipeg PS=12	9% of 140 complaints investigated Winnipeg PS = 12 Brandon PS = 1	8% of 169 complaints investigated Winnipeg PS = 10 Brandon PS = 1 Dakota Ojibway PS = 3

Table 7: Incidents Alleging Misuse of Taser

2012 (n=4)	2011 (n=3)	2010 (n=5)	2009 (n=4)
3% of 148 complaints investigated Winnipeg PS = 4	2% of 169 complaints investigated Winnipeg PS=2 St. Anne PS=1	4% of 140 complaints investigated Winnipeg PS = 5	2% of 169 complaints investigated Winnipeg PS = 4

Table 8: Incidents Alleging Injuries from Use of Force

2012 (n=77)	2011 (n=70)	2010 (n=66)	2009 (n=71)
52% of 148 complaints investigated Winnipeg PS = 70 Brandon PS = 5 Winkler PS = 1 Morden PS = 1	41% of 169 complaints investigated Winnipeg PS=67 Brandon PS=2 St. Anne PS=1	47% of 140 complaints investigated Winnipeg PS = 59 Brandon PS = 6 Dakota Ojibway PS = 1	42% of 169 complaints investigated Winnipeg PS = 66 Brandon PS = 1 Dakota Ojibway PS = 4

Table 9: Disposition of Complaints	2012 (n=162)	2011 (n=166)	2010 (n=171)	2009 (n=189)	2008 (n=216)
Dismissed by commissioner as outside scope of act	13 (8%)	8 (5%)	7 (4%)	12 (6%)	6 (3%)
Dismissed by commissioner as frivolous or vexatious	1 (0.5%)	3 (2%)	1 (0.5%)	4 (2%)	5 (2%)
Dismissed by commissioner as not supported by sufficient evidence to justify a hearing	64 (40%)	84 (51%)	97 (57%)	81 (43%)	92 (43%)
Abandoned or withdrawn by complainant	80 (49%)	66 (40%)	54 (32%)	83 (44%)	104 (49%)
Resolved informally	3 (2%)	4 (2%)	1* (0.5%)	2 (1%)	4 (1%)
Public hearing before a provincial court judge	1 (0.5%)	1 (.6%)	11 (6%)	6 (3%)	5 (2%)
Admission of guilt by respondent officer	0	0	0	0	0
Disposed via criminal procedure	0	0	0	1 (0.5%)	0

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

Table 10: Legal Involvement of Complainants	2012 (n=148)	2011 (n= 169)	2010 (n=140)	2009 (n=169)	2008 (n=155)
No charges	50 (34%)	66 (39%)	46 (33%)	58 (34%)	53 (34%)
Traffic offences	14 (9%)	17 (10%)	13 (9%)	19 (11%)	12 (8%)
Property offences	12 (8%)	5 (3%)	6 (4%)	6 (4%)	10 (6%)
Intoxicated persons detention	13 (9%)	16 (9%)	6 (4%)	12 (7%)	9 (6%)
Cause disturbance	0	2 (1%)	0	1 (0.6%)	1 (0.6%)
Assault police officer/resist arrest	30 (20%)	18 (11%)	22 (16%)	25 (15%)	23 (15%)
Impaired driving	2 (1%)	4 (2%)	1 (0.7%)	1 (0.6%)	3 (2%)
Offences against another person	7 (5%)	13 (8%)	10 (7%)	10 (6%)	23 (15%)
Domestic disputes	0	1 (.6%)	3 (2%)	4 (2%)	1 (0.6%)
Drugs	7 (5%)	1 (.6%)	3 (2%)	27 (16%)	5 (3%)
<i>The Mental Health Act</i>	3 (2%)	3 (2%)	9 (7%)	3 (2%)	N/A
Other	10 (7%)	23 (14%)	21 (15%)	3 (2%)	15 (10%)

Table 11: Provincial Judges' Review of Commissioner's Decision to Take No Further Action	2012	2011	2010	2009	2008
	12	20	13	21	21

Table 12: Referrals by Commissioner of Complaint for Criminal Investigation	2012	2011	2010	2009	2008
	0	1	1	1	0

Table 13: Complainants Have Also Lodged a Criminal Complaint with Police	2012	2011	2010	2009	2008
	9	8	11	14	9

**Table 14: Time Span of Ongoing Investigations Carried Over
as of December 31, 2012**

YEAR	1-3 Months	4-7 Months	8-12 Months	13-18 Months	19-23 Months	24+ Months	Total
2008	0	0	0	0	0	1	1
2009	0	0	0	0	0	3	3
2010	0	0	0	0	0	2	2
2011	0	0	0	14	4	1	19
2012	28	25	19	0	0	0	73
Total	28	25	19	14	4	7	98

Table 15: Files Concluded in 2012 by Year of Origin

Year	Number of Files	Average Time to Close Investigation
2006	1	7 months
2007	1	2 months
2009	4	21 months
2010	12	13 months
2011	69	8 months
2012	75	4months
Total	162	7 months

Table 16: Length of Time to Complete Investigations	2012 (n=162)	2011 (n=166)	2010 (n=171)	2009 (n=189)	2008 (n=214)
1-3 Months	62	56	45	49	43
4-7 Months	42	66	54	65	67
8-12 Months	44	32	35	36	39
13-18 Months	9	8	30	23	15
19-23 Months	2	2	2	5	11
24+ Months	3	2	5	11	39
Average	7 months	6 months	8 months	9 months	13 months

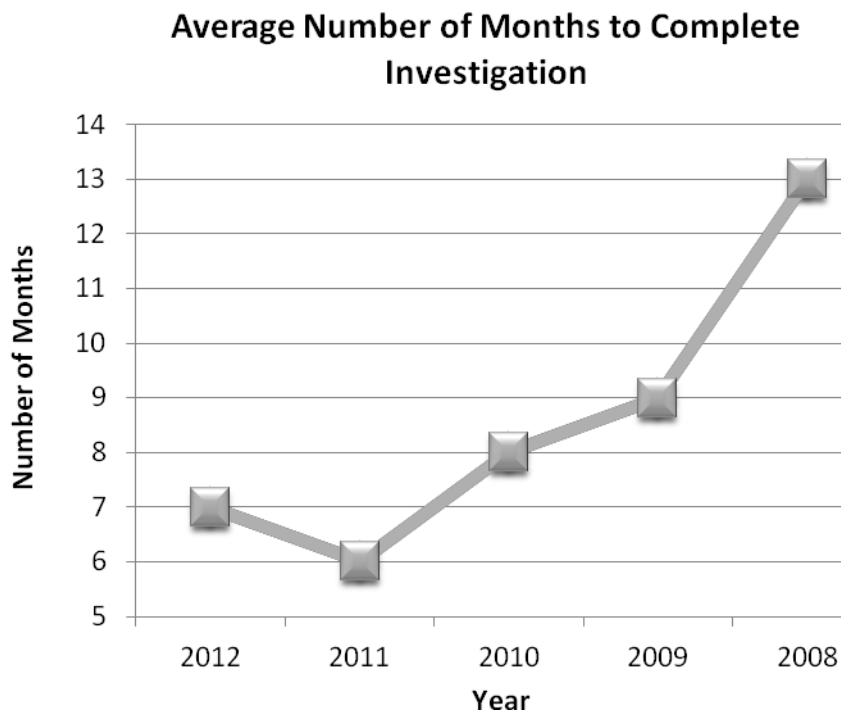


Table 17: Location of Incident	2012 (n=148)	2011 (n=169)	2010 (n=140)	2009 (n=169)	2008 (n=155)
Street	52	63	47	51	45
Private residence	50	60	54	49	56
Public building/place	18	27	15	28	13
Police station	15	13	16	30	28
Other	12	6	8	11	13

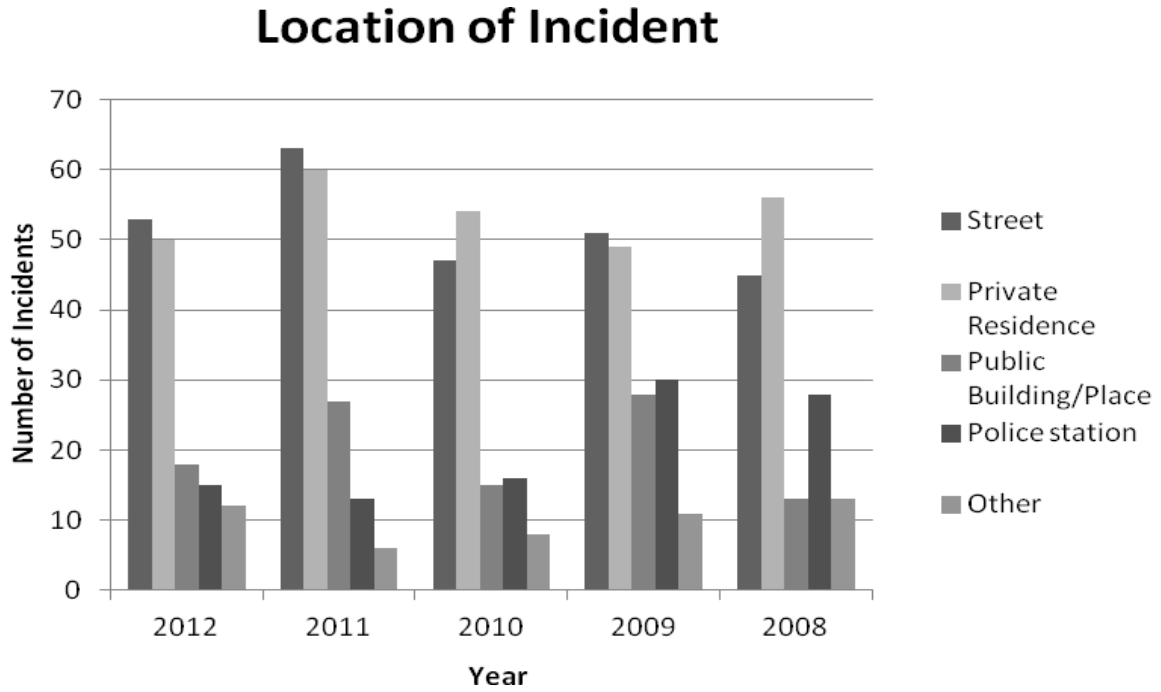


Table 18: Complainant Demographics	2012 (n=148)	2011 (n=169)	2010 (n=140)	2009 (n=169)	2008 (n=155)
Male	93 (63%)	114 (67%)	84 (60%)	122 (72%)	111 (72%)
Female	55 (37%)	55 (33%)	56 (40%)	47 (28%)	44 (28%)
Over 50	31 (21%)	23 (14%)	25 (18%)	13 (8%)	21 (14%)
40 - 49	22 (15%)	41 (24%)	30 (21%)	29 (17%)	26 (17%)
30 - 39	36 (24%)	34 (20%)	33 (24%)	39 (23%)	38 (25%)
18 - 29	22 (15%)	42 (25%)	32 (23%)	58 (34%)	47 (30%)
Under 18	21 (14%)	19 (11%)	21 (12%)	21 (12%)	16 (10%)
Birth Date Unknown	16 (11%)	10 (6%)	8 (6%)	9 (5%)	7 (4%)
Average Age	37	23	36	32	N/A
Oldest Complainant	72	69	64	72	N/A
Youngest Complainant	13	12	14	12	N/A

