



REPORT OF POLICE COMPLAINTS AUTHORITY 2012/2013/2014

TO: HIS EXCELLENCY, THE GOVERNOR

TO: MINISTER OF NATIONAL SECURITY

On behalf of the Police Complaints Authority, which I will refer to in the abbreviated form as "the Authority," I am pleased to provide you with a report of its workings for the period 1st January 2012 to 1st September 2014.

I was appointed Chairman of the Authority on 30th June 2013, taking over from Mr. William Francis who had ably served as Deputy Chairman during the period in which no suitably qualified chairman had been appointed.

The Members of the authority are as follows:-

- 1) Winston Esdaille
- 2) Major (Ret) Barrett Dill
- 3) Michelle Simmons
- 4) Andrew Bermingham
- 5) William Francis
- 6) Jeffrey Elkinson (Chairman)

The Authority is assisted by Juliana Swan, who acts as Secretary.

The work of the Authority is set out in the governing statute and primarily, as the recital to the statute sets out, it is “... *to make better provision for the investigation and resolution of complaints against the police.*”

The Authority works closely with the Professional Conduct Unit of the Bermuda Police Service, receiving notification of complaints from the unit as and when they are made. Sgt. Brian Mello is in charge of his unit, answering directly to the Deputy Commissioner of Police. I and the Members of the Authority have an excellent working relationship with Sgt. Mello who ably performs what is a difficult and tasking role; dealing with members of the public who have a grievance against a member of the very service that Sgt. Mello belongs to and at the same time confronting a colleague and fellow member of the service with allegations which, in some cases, if proved, would be damaging to the officer’s career. The Authority meets monthly, with quarterly meetings taking place with the Deputy Commissioner and Sgt. Mello of the Police Conduct Unit.

The Deputy Commissioner of Police, as referred to above, has charge of the Professional Conduct Unit and is responsible for discipline within the Bermuda Police Service. The Authority is fortunate to have had Mr. Paul Wright appointed as of 12th May 2014 who brings with him a much more collaborative approach to the work of the Authority, rather than the more combative approach of his predecessor. As regards the present workings of the Authority, I was surprised to find that upon appointment that there was no website to assist the public in understanding the work of the Authority or to provide the public with an easy means to make a complaint; to date this has been done primarily by the aggrieved member of the public having to attend at a police station or at the Professional Conduct Unit’s office. There had been some attempt a few years ago to place boxes in post offices where members of the public could leave their complaints but these had fallen not only into disuse but, put bluntly, had been forgotten about! With the assistance of Sgt. Brian Mello, these have now been removed. I am pleased to say that we now have a functioning website (pca.bm) with an online form that can be completed and submitted by anyone who considers that they have a complaint to make. Difficulties confronting the Authority as regards having a website created were compounded by the now terminated contracted local provider, going back to 2012, denying that they had any knowledge of such a thing, despite having received some substantial monies from the government to build the website. After many phone calls, and rudeness from the staff, it was acknowledged by them that they had worked on a website but the product

was incomplete and of no use whatsoever. The new provider, at a very reasonable cost, has provided a functioning website that can be built on and improved as we go forward.

In February of this year, members of the Authority participated with the Bermuda Police Service in a Mediation/Negotiation training course, jointly organized by the two bodies. Not alone were valuable skills learnt but it gave members of two bodies the opportunity to meet and get to know each other over the period of four days on which the course was run at Prospect by overseas trainers.

Over the course of the last year, an external team of overseas experts has been identified in the event that, for whatever reason, it is required that an independent investigation of a major event involving the Bermuda Police Service is required. Some further work is needed to consolidate this effort which is on-going.

As to the number of complaints made, I attach for your review, and again thanks to Sgt. Mello for his assistance in preparing this, the summary of complaints made from 1st January 2012 to 16th July 2014. As you will note, the number of complaints made in 2013 were substantially lower than that of 2012 and the current trend in 2014 appears to indicate that there may even be less complaints this year.

Year	Closed with satisfactory outcome	Closed no further action – Section 12 (2)	Open	Total Complaints
2012	5 4 resolved by Informal Resolution 1 payment made reimbursement	30	0	35
2013	8 4 resolved by Informal Resolution 3 minor disciplinary action taken 1 payment made reimbursement	16	6 (PCA 2) (Police 4) (2 investigations reopened by PCA request)	30
2014	1 Minor disciplinary action taken	1	11 PCA 5 (Police 6)	13

Credit must be given to the Bermuda Police Service, led by Commissioner DeSilva, for his leadership and whilst the Commissioner will no doubt not seek to take the credit, just as he does not seek to take credit for the present lower levels of crime, the Authority certainly is of the view that something is being done right that has resulted in these lower figures.

As regards outstanding complaints, there are very few of these but those that are outstanding essentially relate to one particular officer who, in many ways being a valuable member of the service, does attract complaints and has prevailed to date in avoiding any real sanction. The Authority is reviewing some of these complaints and where possible will take a more active role in investigating them. As it is, the Authority does take on some of the complaints made where, through collaborative skills, members of the Authority can assist by explanation to the complainant of certain aspects of police procedures that were misunderstood by the complainant and in most cases, such actions have led to the withdrawal of the complaint or, by reconciliation with the police officer, the complainant understands that advancing the complaint to a more formal inquiry is inappropriate.

In going forward, the Authority hopes to be better able to serve the people of Bermuda and in so far as necessary, be vigilant as regards the conduct of the members of the Bermuda Police Service. One cannot understate the importance of members of the Bermuda Police Service performing their role with diligence, politeness and honesty. The recent autobiography of Bob Cummines, OBE, FRSA, a former armed robber who spent a total of 13 years in high security prisons in England but now awarded the OBE by Queen Elizabeth II for his contribution to society, in particular the founding of a national association of reformed offenders, is instructive. In his book, he recounts that having left school at 15 with no qualifications; he had a job in a shipping office. However, all turned bad for him with his first encounter with the police. He describes how he was in a park with friends when somebody let off a starting pistol. The police were called and began bullying them and he had stood up to them. The police left and returned later and produced a cut throat razor that they said was his. Despite his denials, even his father said "*the police don't tell lies,*" he was told to plead guilty, get a fine and that it would be forgotten about. However, having gotten the fine, his bosses at the shipping office fired him. He felt so wronged that he thought that "*... if you want me to be bad I'll show you how bad I can be.*" Within a year he was sentenced to 6 months in a detention center for possession of a sawn-off shotgun and then proceeded over the next 2 years to establish himself as a hardcore professional criminal.

Obviously, not everyone who has a bad encounter with the police will end up as a criminal but it is something that the members of the police service need to keep in mind when going about their daily work which in many cases can be difficult and sometimes outright dangerous. They have a difficult job but when done properly, they will always have the support of the Authority. However, the Authority equally cautions that it will be diligent and more active in exercising its powers where it is evident that wrongdoing has occurred and that the public interest must prevail.

Moving forward into the latter part of 2014 and 2015, we look forward to hearing from the Deputy Commissioner as to the possible review of the police disciplinary regulations presently in force which are overdue for reform. It is hoped that new regulations will give the Deputy Commissioner and his senior officers more powers to deal in a summary way with any minor infractions by a member of the service rather than embark on formal and sometimes lengthy proceeding.

The members of the Authority thank the Governor and the Minister for the opportunity to serve and humbly submit this Report.

Dated: 26th September 2014

A handwritten signature in black ink, appearing to read 'J Elkinson', with a large, stylized initial 'J'.

Jeffrey Elkinson, Chairman

Attachments

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2012

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
1/12	Assault	6/1/12	CASE CLOSED Via letter from PCA dated 7/2/13
2/12	Uncivil to a member of public	12/8/11	CASE CLOSED Via letter from PCA dated 30/11/12
3/12	Uncivil to a member of public	18/1/12	CASE CLOSED Via letter from PCA dated 25/7/12
4/12	Uncivil to a member of public	15/2/12	CASE CLOSED Via letter from PCA dated 18/7/12
5/12	Uncivil to a member of public	28/2/12	CASE CLOSED Via letter from PCA dated 14/11/12
6/12	Assault	28/2/12	CASE CLOSED Via letter from PCA dated 10/5/12
7/12	Discreditable Conduct	1/3/12	CASE CLOSED Via letter from PCA dated 13/11/12
8/12	Discreditable Conduct (Allegedly failed to secure prisoners property).	3/3/12	CASE CLOSED Via letter to PCA dated 25/7/12

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2012

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
9/12	Assault	3/3/12	CASE CLOSED Via letter from PCA dated 15/11/12
10/12	Discreditable Conduct	6/3/12	CASE CLOSED Via letter from PCA dated 14/11/12
11/12	Uncivil to a member of public	23/2/12	CASE CLOSED Via letter from PCA dated 18/7/12
12/12	Assault	25/3/12	CASE CLOSED Via letter from PCA dated 17/7/13
13/12	Discreditable Conduct	23/3/12	CASE CLOSED Via letter from PCA dated 12/12/12
14/12	Assault	11/4/12	CASE CLOSED Via letter from PCA dated 13/3/13
15/12	Discreditable Conduct	12/4/12	CASE CLOSED Via letter from PCA dated 30/4/14
16/12	Discreditable Conduct	11/4/12 (Via Letter)	CASE CLOSED Via letter dated 23/7/12
17/12	Neglect of Duty	7/6/11	CASE CLOSED Via letter from PCA dated 13/11/12
18/12	Assault	18/4/12	CASE CLOSED Via letter to complainant dated 4/4/14

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2012

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
19/12	Discreditable Conduct	7/5/12	CASE CLOSED Via letter from PCA dated 7/11/12
20/12	Assault	24/5/12	CASE CLOSED Via letter from PCA dated 7/9/12
21/12	Assault	2/6/12	CASE CLOSED Via letter from PCA dated 13/3/13
22/12	Assault	21-06-2012	CASE CLOSED Via letter from PCA dated 8/3/13
23/12	Harassment	Ongoing	CASE CLOSED Via letter to complainant via PCA dated 4/4/14
24/12	Harassment	22/7/12	CASE CLOSED Via letter from PCA dated 8/3/13
25/12	Harassment	4/7/12	CASE CLOSED Via letter from PCA dated 27/3/13
26/12	Uncivil to a member of public	8/8/12	CASE CLOSED Via letter to the complainant dated 4/4/14
27/12	Assault	28/8/12	CASE CLOSED Via letter from PCA dated 17/7/13
28/12	Uncivil to a member of public	19/2/12	CASE CLOSED Via letter from PCA dated 19/2/13
29/12	Uncivil to a member of public	7/10/12	CASE CLOSED Via letter from PCA dated 30/4/14
30/12	Assault	23/10/12	CASE CLOSED Via letter from PCA dated 30/4/14

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2012

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
31/12	False Arrest	13/9/12	CASE CLOSED Via letter from PCA dated 30/4/14
32/12	Assault	25/11/12	CASE CLOSED Via letter from PCA dated 30/4/14
31/12	False Arrest	13/9/12	CASE CLOSED Via letter from PCA dated 30/4/14
33/12	(1) Wrongful Arrest (2) Uncivil to a member of public	6/12/12	CASE CLOSED Via letter to the complainant dated 4/4/14
34/12	Uncivil to a member of public	8/12/12	CASE CLOSED Via letter to the complainant dated 4/4/14
35/12	Neglect of Duty	Via email dated 26/1/12	CASE CLOSED Via letter from PCA dated 30/4/14

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2013

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
1/13	Assault	7/1/13	CASE CLOSED Via letter from PCA dated 18/7/13
2/13	Discreditable Conduct	December 2012	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
3/13	Neglect of Duty	14/12/12	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
4/13	Discreditable Conduct	6/3/13	CASE CLOSED Via letter to complainant 4/4/14
5/13	Discreditable Conduct	4/2/13	Letter sent to DCOP by PCA asking for a review of the file
6/13	Discreditable Conduct	11/1/13	Letter sent to DCOP by PCA asking for a review of the file
7/13	Discreditable Conduct	8/3/13	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
8/13	Neglect of Duty	22/2/13	Not a PCA matter. (Via instructions from DCOP)
9/13	Assault	7/4/13	Complaint withdrawn in HMC officers not on duty not a PCA matter
10/13	Unprofessional to a member of public	27/4/13	CASE CLOSED Via letter from PCA to the complainant dated 4/4/14
11/13	Neglect of Duty	27/4/13	CASE CLOSED Via letter from PCA to the complainant dated 4/4/14
12/13	Uncivil to a member of Public	20/5/13	CASE CLOSED Via letter from PCA to the complainant dated 4/4/14
13/13	Uncivil to a member of Public	23/5/13	CASE CLOSED Via letter from PCA to the complainant dated 4/4/14

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2013

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
14/13	Unlawful Arrest	16/3/13	PCA will be dealing with this matter.
15/13	Neglect of Duty	12/6/13	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
16/13	Uncivil to a member of Public	28/5/13	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
17/13	Uncivil to a member of Public	30/5/13	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
18/13	Assault	8/6/13	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
19/13	1. Unprofessional Conduct 2. Excessive use of Force	29/5/13	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
20/13	Uncivil to a member of Public	28/6/13	CASE CLOSED Via letter from PCA dated 30/4/14
21/13	Discreditable Conduct	18/7/13	CASE CLOSED Via letter to complainant 4/4/14
22/13	Discreditable Conduct	22/7/2013	Investigation ongoing complainant lives off island.
24/13	Discreditable Conduct	20/7/13	CASE CLOSED Via letter from PCA to complainant dated 14/7/14
25/13	Discreditable Conduct	6/9/13	CASE CLOSED Via letter from PCA to complainant dated 4/4/14
26/13	Neglect of Duty	5/10/13	CASE CLOSED Via letter from PCA to the complainant dated 4/4/14

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2013

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
27/13	Uncivil to a member of public	14/9/2013	CASE CLOSED Via letter from PCA to complainant dated 24/6/14
28/13	Discreditable Conduct	17/10/13	Informal resolution to be conducted however complainant is being evasive CASE CLOSED
29/13	Discreditable Conduct	27/13	Via letter from PCA to complainant dated 4/4/14 CASE CLOSED
30/13	Uncivil to a member of public	16/7/13	Letter and file forwarded to PCA 22/7/14 recommending case be closed. Waiting for their reply. CASE CLOSED
31/13	Neglect of Duty	14/10/13	Via letter from PCA dated 24/6/14 CASE CLOSED
32/13	Uncivil to a member of public	4/12/13	Via letter from PCA to complainant dated 4/4/14 CASE CLOSED

Key Colour

Still being dealt with by Police	
Forwarded to PCA	
Case being dealt with by PCA	
Cases that are not considered a complaint	
Cases Closed	

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2014

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
1/14	Neglect of duty	4/2/14	Letter and file forwarded to PCA 22/7/14 recommending case be closed. Waiting for their reply.
2/14	Assault	8/2/14	CASE CLOSED Via letter from PCA dated 24/6/14
3/14	Custody responsibilities	8/5/14	Letter sent to AG by DCOP 30-6-14
4/14	Uncivil to a member of Public	14/5/14	CASE CLOSED Via letter from PCA dated 16/7/14
5/14	Uncivil to a member of Public	23/5/14	Informal resolution to be arranged
6/14	Discreditable Conduct		No true case Letter to be drafted for PCA for case to be closed.
7/14		23/5/14	Letter and file forwarded to PCA 5/8/14 recommending case be closed. Waiting for their reply.
8/14	Discreditable Conduct	15/6/14	Letter and file forwarded to PCA 23/9/14 recommending case be closed. Waiting for their reply.
9/14	Neglect of Duty	17/4/14	Under investigation complainant has been off Island
10/14	Harassment	31/7/14	Letter and file forwarded to PCA 23/9/14 recommending case be closed. Waiting for their reply.

PROFESSIONAL CONDUCT UNIT – CHECK LIST 2014

PCU NO.	COMPLAINT	DATE	RESULTS/REMARKS
11/14	Neglect of Duty	8/8/14	Letter to be drafted for PCA for case to be closed.
12/14	Neglect of Duty	29/08/14	Letter and File forwarded to PCA 23/9/14 recommending case be closed. Waiting for their reply.
13/14	Assault	27/8/14	Letter returned from DCOP's office 9/9/14. Informal resolution to be conducted when the complainant returns in December.

Key Colour

Still being dealt with by Police	
Forwarded to PCA	
Case being dealt with by PCA	
Cases that are not considered a complaint	
Cases Closed	