

## The Police Complaints Board Annual Report 2009

The Police Act 2006 provides for the setting up of an independent Police Complaints Board, tasked with:

1. The handling of complaints involving the conduct of persons serving with the force.
2. The recording of matters from which it appears that there may have been conduct of such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings.
3. The manner in which any such complaints of any such matters as are mentioned in Paragraph (2) are investigated or otherwise handled or dealt with.

After any such investigation, the Police Complaints Board shall communicate its decision to the complainant. The complainant may, if not satisfied, ask the Gibraltar Police Authority to review a decision or recommendation of the Boards if, and or:-

1. The complainant produces new written evidence to the Authority which:
  - Was not, with reasonable diligence, available to the complainant at the time the Board considered the complaint; and
  - In the opinion of the Authority might have had a significant bearing on the decision or recommendation of the Board had the Board considered that evidence.
2. The complainant considers that the decision or recommendation of the Board was manifestly wrong or perverse and that no reasonable Board properly considering the complaint could have come to that decision or recommendation.

The current members of the Police Complaints Board are:-

Chairman – Henry Pinna

Members – Phylis Miles

Leslie Edmonds OBE

Joseph Garcia

Julio Alcantara

Lt Col Retd Francis Brancato OBE

The members of the Board are appointed for a period of three years and are eligible for re-appointment.

Since April 2007 members of the public have been able to lodge their complaints with the totally independent Police Complaints Board.

This third annual report of the Police Complaints Board covers the period from 1<sup>st</sup> January 2009 to 31 December 2009.

During 2009 50 complaints were received from members of the public. To this figure we must add a further 7 complaints which remained pending from the previous year. One complaint which was withdrawn by the complainant.

#### **Breakdown of complaints investigated during 2009**

Alleged Assault – 1

Alleged discreditable conduct and or abuse of Authority – 32

Alleged Neglect of duty or not complying with orders – 12

Total – 45

#### **Pending**

There are currently nine complaints under investigation, including 1 complaint involving alleged assault and battery which was referred to the Attorney General. Two complaints are sub-judice and could be investigated if the matters complained against are not dealt with by the Courts.

#### **Results of complaints after investigation**

Complaints not sustained – 36

Complaints sustained – 7

Complaints partly sustained – 2

Total – 45

Of the nine complaints which were sustained or partly sustained, six were dealt with by the line managers, and 3 complaints resulted in the Board recommending that disciplinary action be taken against the officers involved. At the time of writing this report, two of the recommendations involving disciplinary action had been complied with, and one is currently under consideration by the RGP.

Recommendations were also made by the Board on six complaints which had not been sustained but which did warrant, appropriate recommendations. There were also complied with.

Two requests for reviews were received during 2009. Therefore in accordance with Regulation (15/5) of the Police Complaints Regulations 2008 one of the rulings was referred back to the Police Complaints Board with the necessary instruction to review its contents. This was done by the Board and the reviewed ruling was submitted back to the Authority which in turn submitted it to the complainant.

The other request for review was also addressed by the Gibraltar Police Authority which wrote back to the complainant informing her that her request for the Authority to review the ruling by the Police Complaints board was deficient, and asking the complainant to set out in writing why she believed that the version of events which had been accepted by the Police Complaints Board was manifestly wrong or

perverse. The complainant was given 28 days to lodge the full grounds for seeking the requested review. The 28 days margin was not complied with by the complainant, and therefore the review was not made.

## **Chairman's Comment**

Again, as in two previous reports, I must point out that a number of complaints could have been avoided. These complaints were made because some members of the public felt they had been treated rudely and thus unprofessionally by certain officers.

In concluding a report into a complaint, the investigating sub-committee of the Police Complaints Board said that a number of complaints made by the public contain some degree of alleged rudeness when they were approached by certain police officers, and although alleged attitude is not systemic, or can be applied generally, the relative frequency of this type of occurrence is of some concern.

I would again urge the Commissioner to take the necessary action to address this problem, which, although not major, or widespread, can, if routinely and appropriately addressed, help further improve and enhance the force's interaction with the general public.

Traffic-wise, the past year has been exceptionally difficult, due to the various roadworks around our city, and the long frontier queues. There has been much frustration and even annoyance amongst motorists caught up in traffic, it was therefore surprising that not more complaints were received from the general public and police officers must be commended for generally coping professionally in at times, rather difficult circumstances.

I have noted that some of the complaints levelled at the police have been without substance, and seem to have been made vexatiously. It must be borne in mind that the role of the Police Complaints Board is not only to protect members of the public who genuinely complain over the conduct of persons serving with the police, but also to exonerate police officers who might be the victims of malicious or groundless accusations by members of the public who might have a grudge against a particular officer, or the force in general.

To conclude, I once again wish to express my thanks to the Professional Standards Department of the Royal Gibraltar Police for their professionalism in dealing with the complaints the Board has investigated throughout 2009.

Henry Pinna

Chairman PCB

January 2010