



### **The Police Complaints Board Annual Report 2011**

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 – Phyllis Miles

Rosalind Serfaty

Joseph Garcia

Julio Alcantara MBE

Thomas Proctor

Monica Ritchie

For their services to the Board, I wish to thank Albert Danino, who upon being made a member of the Gibraltar Police Authority left the Police Complaints Board, and Brian Franics who had to resign because of pressing work-related commitments. They were replaced by Thomas Proctor and Monica Ritchie.

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 fifth annual report of the Police Complaints Board covers the period from 1<sup>st</sup> January 2011 to 31 December 2011.

During 2011, 49 complaints were received from members of the public. However 14 complaints are sub-judice and can be investigated if the matters complained against are not dealt with by the Courts and the complainants wish these complaints to be investigated by the Police Complaints Board. Therefore the number of complaints received during 2011 which could be investigated was 35 (45 were received in 2010). To this figure of 35 complaints we must add a further 8 complaints which remained pending from the previous year. Therefore the total number of complaints either investigated during 2011 or still being investigated is 43. (The total in 2010, including 9 complaints from the previous year was 52).

**Breakdown of alleged complaints investigated or in the process of being investigated:**

Abuse of authority or conduct: **21**

Neglect of duty: **11**

Discreditable conduct:           **11**

**Total: 43**

**Pending:**

There are currently five complaints under investigation, plus fourteen which are sub-judice, and which might be investigated at a later date.

**Results of complaints which have been fully investigated and closed:**

These figures include the 8 complaints which were left pending from 2010.

Complaints not sustained:   **30**

Complaints sustained:       **4**

Complaints partly sustained: **4**

**Total: 38**

Of the 8 complaints which were sustained or partly sustained, 4 were dealt with by the Line Managers, and the complainants were duly informed. The other 4 complaints resulted in the Board recommending that disciplinary action be taken against the officers involved. This resulted in one officer receiving a written reprimand plus one other charge kept in the officer's file. Another officer was charged with neglect of duty and was fined £150.00. The third officer who was subjected to a disciplinary action was also charged with neglect of duty and was also fined £150.00. The fourth and most recent case involved neglect of duty and abuse of authority. Two officers were involved in this case. One officer was given an official warning and was to be provided with relevant re-training. The other officer was charged with neglect of duty, therefore in accordance with Section 16 (1) of the Police Regulations 2008, action will be taken against the officer in accordance with the Police Discipline Regulations 1991. The disciplinary action against this officer had not yet been undertaken at the time of writing this report.

Recommendations were also made by the Board on 9 complaints which had not been sustained, but which, according to the Board did warrant appropriate recommendations. Seven of these recommendations were complied with. However, the RGP said that they would not implement the other two recommendations. One which dealt with the question of search

warrants was refused because the whole procedure of search warrants will be changing as from 1<sup>st</sup> February 2012 when the CPE Act is enacted and the other recommendation which dealt with the recording of all incoming and outgoing telephone calls was refused on the grounds that its implementation would be impracticable and very costly, and would also raise issues on the storing of data.

### **Reviews**

Two requests for review were received during 2011. Therefore, in accordance with Regulation (15/5) of the Police Complaints Regulations 2008, the said requests were submitted to the Gibraltar Police Authority for their consideration.

In the first case, the Gibraltar Police Authority concluded that the complainant had not demonstrated that the decision of the Police Complaints Board (the Board) was wrong or perverse. All that the complainant had done was to set down that she did not agree with the Board's conclusion. To conclude the Authority found that the Board's decision had been based on the facts and that it was neither wrong nor perverse. The decision of the Board was therefore upheld by the Authority.

The other request for a review although dated 21<sup>st</sup> December 2011 was hand delivered to the secretary of the Board on 4<sup>th</sup> January 2012. The said request will now be submitted to the Gibraltar Police Authority for their consideration.

### **Chairman's Comment**

In my three previous reports I pointed out that a number of complaints could have been avoided. I said that this was because members of the public felt that they had been treated rudely and thus unprofessionally by certain officers. I also said that although this alleged attitude was not systemic, the relative frequency of this type of occurrence was of some concern, and in view of this I urged the Commissioner to take the necessary action to address this problem. Subsequently the RGP carried out a Citizen Focus Lecture in their last but one round of training days during which all police officers received an hour's presentation on dealing with the general public and incorporated examples of inappropriate behaviour, which in some cases led to members of the public making complaints to the Police Complaints Board.

I think that this was a step in the right direction and I would again exhort the Commissioner to continue holding this type of lecture, and to continue holding seminars aimed at officers who

have attracted a significant number of complaints from members of the public because of their inappropriate attitude and behaviour.

As I have pointed out in my last report some of the complaints brought to our attention have been without substance, and could have been made vexatiously, and have therefore not been sustained.

Since April 2007 the Board has investigated 171 complaints. I, therefore, wish to thank all members of the Board, past and present for their onerous work, which they have carried out diligently and with total impartiality and independence, and it must be said without receiving any kind of remuneration.

To conclude, I once again wish to express my thanks and appreciation to the Professional Standards Department of the Royal Gibraltar Police for their help to the PCB in dealing with the complaints the Board has investigated throughout 2011.

Henry Pinna

Chairman

Police Complaints Board

January 2012