



### **TTC 2019 Annual Report – Public Complaints Involving Special Constables and Fare Inspectors**

**Date:** May 13, 2020  
**To:** TTC Board  
**From:** Chief People Officer

#### **Summary**

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Proper oversight and transparency are vital to ensuring that complaints are investigated in a full, fair and impartial manner. It is for this reason that the TTC has been working diligently in 2019 to enhance public confidence and trust in the TTC’s public complaint processes and investigations involving TTC Special Constable Service and Revenue Protection.

This report provides information on complaints received from customers in 2019 involving TTC Special Constables and Fare Inspectors, and describes the enhancements made to the TTC Special Constable and Fare Inspector public complaint processes.

Looking ahead, to further strengthen internal investigations, the TTC is in the process of developing a new Investigation Unit to receive and respond to complaints involving TTC Special Constables and Fare Inspectors. This Unit is intended to replace and expand on the current mandate of the TTC Unit Complaint Coordinator (“UCC”). The TTC is also working on the written complaint and investigation procedures for this Unit that will build on the new strengthened interim complaint processes. These procedures will continue to include a process whereby the member of the public may request a review of the TTC’s investigation by the Office of the Ombudsman Toronto.

#### **Recommendations**

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It is recommended that the TTC Board:

1. Receive this report for information.

## **Financial Summary**

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There are no financial implications from the receipt of this report. The 2020 Operating Budget, which was approved by City Council on February 19, 2020, included \$1.0 million to support the hiring of seven positions and external investigation services for the new Investigation Unit.

The Interim Chief Financial Officer has reviewed this report and agrees with the financial impact information.

## **Equity/Accessibility Matters**

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The TTC is committed to promoting and supporting equity, diversity and inclusion in all its policies, processes, programs and services to reflect and respond to the needs of our employees and customers. The TTC is also committed to providing transit services, including transit enforcement activities, that are respectful, inclusive and free from harassment, discrimination and violence.

In the 2019 Ombudsman Toronto Enquiry Report, concerns were raised regarding racial profiling and a need for the TTC to improve its ability to conduct investigations involving TTC Fare Inspectors and Special Constables in a fair and effective way. In response, the TTC accepted all six recommendations of the Ombudsman and undertook interim measures in 2019 to enhance public trust and confidence in TTC's complaint process. These interim measures included streamlining the complaint process to be more user friendly, and providing additional training to TTC internal investigators on workplace investigations and addressing anti-Black racism. The TTC also established a protocol for retaining the services of third party investigators, managed through the TTC's Diversity and Human Rights Department, to investigate serious misconduct complaints, including allegations of harassment, discrimination, use of force and violence. These interim measures helped to bolster oversight and procedural fairness for all TTC customers and employees.

The TTC encourages customers to report complaints they may have about a TTC employee or service so that they may be looked into and resolved promptly. Any complaints against a Fare Inspector or a Special Constable may be submitted to the TTC in various accessible formats, including by phone, TTY or in writing by web

complaint, email, fax or by mail. Information on submitting a complaint is the available to the public on the TTC website [www.ttc.ca](http://www.ttc.ca).

## **Decision History**

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In March 2016, Ombudsman Toronto commenced a review of the Toronto Transit Commission's oversight of the Transit Enforcement Unit. As a result of this review, in April 2017, Ombudsman Toronto provided the TTC with a number of recommendations. One of these recommendations was for the UCC to prepare an annual public report outlining complaints statistics. The UCC has released an annual public report every year since 2017. This report is the third annual reporting of such complaint data involving TTC Fare Inspectors and Special Constables.

### [Presentation: Ombudsman Toronto Report: An Investigation into the Toronto Transit Commission's Oversight of its Transit Enforcement Unit](http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2017/May_18/Reports/3_Presentation_Ombudsman_Decision_and_Report.pdf)

([http://www.ttc.ca/About\\_the\\_TTC/Commission\\_reports\\_and\\_information/Commission\\_meetings/2017/May\\_18/Reports/3\\_Presentation\\_Ombudsman\\_Decision\\_and\\_Report.p  
df](http://www.ttc.ca/About_the_TTC/Commission_reports_and_information/Commission_meetings/2017/May_18/Reports/3_Presentation_Ombudsman_Decision_and_Report.pdf))

Also, at its meeting on July 16, 17 and 18, 2019, City Council had before it the Ombudsman Toronto Enquiry Report: Review of the Toronto Transit Commission's Investigation of a February 18, 2018 Incident Involving Transit Fare Inspectors <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2019.CC9.2>

City Council adopted the recommendations contained within the Ombudsman Toronto report, and further directed the TTC to adopt the Toronto Action Plan to Confront Anti-Black Racism. In addition, City Council requested that the TTC Board direct the TTC Chief Executive Officer to report to the Executive Committee in Q1 2020 on the status of implementation of the Ombudsman's recommendations. The TTC has accepted all six recommendations contained within the Ombudsman's report and the related City Council directions. The six recommendations adopted were as follows:

1. The TTC develop a plan to structurally strengthen the independence of its internal investigations of the Transit Enforcement Unit;
2. The TTC strengthen its documentation of the Unit Complaints Coordinator terms of reference and mandate;
3. The TTC revise its Transit Fare Inspector and Transit Enforcement Officer investigation procedures to include provisions relating to retaining external investigators as recommended;
4. The TTC ensure that the standard of proof applied to investigations of Transit Fare Inspectors is based on a balance of probabilities;

5. The TTC develop policies and procedures for the appropriate use of unbiased and objective expert witnesses in its Transit Fare Inspector and Transit Enforcement Officer investigation procedures; and
6. The TTC develop a plan to provide additional workplace investigation training to its internal investigators.

At its meeting on September 24, 2019, the TTC Board had before it a report entitled TTC Status Update – Ombudsman Recommendations, which provided an overview of the Ombudsman’s July report, the various initiatives undertaken by TTC staff in order to respond to the recommendations contained within the report. Through this report, the TTC also adopted the Toronto Action Plan to Confront Anti-Black Racism.

[http://www.ttc.ca/about the ttc/commission reports and information/commission meetings/2019/september 24/reports/19 ttc status update ombudsman recommendations .pdf](http://www.ttc.ca/about-the-ttc/commission-reports-and-information/commission-meetings/2019/september-24/reports/19-ttc-status-update-ombudsman-recommendations.pdf)

At its meeting on February 25, 2020, the TTC Board had before it a report entitled TTC Status Update: Anti-Racism Strategy and Ombudsman Recommendations, which provided an overview of TTC actions to implement the Toronto Ombudsman six recommendations and an overview of TTC’s Anti-Racism Strategy.

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[http://www.ttc.ca/About the TTC/Commission reports and information/Commission meetings/2020/February 25/Reports/9 TTC Status Update Anti Racism Strategy and Ombudsman Recom.pdf](http://www.ttc.ca/About-the-TTC/Commission-reports-and-information/Commission-meetings/2020/February-25/Reports/9-TTC-Status-Update-Anti-Racism-Strategy-and-Ombudsman-Recom.pdf)

This annual report includes information on complaints received in 2019 alleging misconduct by TTC Fare Inspectors and Special Constables, and identifies the complaint process improvements that the TTC undertook in 2019 to enhance public confidence in its internal investigations in response to the recommendations made by the Toronto Ombudsman.

## **Issue Background**

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There are two separate public complaint processes in place for Special Constables and Fare Inspectors. The reason for the two processes is that complaints involving Special Constables are required to comply with specific requirements as outlined in the TTC’s Special Constable Agreement with the Toronto Police Services Board. These requirements include: 1) all complaints involving Special Constables must be sent to Toronto Police Services (TPS) for review before the TTC may investigate; and 2) the UCC must have completed investigation training as provided by TPS. For Fare Inspectors, the complaint process does not involve TPS. As a result, public complaints involving Fare Inspectors are managed through a slightly different process.

Both public complaint processes underwent changes in response to the Ombudsman Toronto recommendations arising from its July 2019 Enquiry Report. In consultation with the Ombudsman Toronto, the TTC implemented new interim complaint processes in September 2019.

Specifically, in September 2019, the TTC identified an interim UCC with no prior association to the TTC Special Constable Service or Revenue Protection departments. The interim UCC has completed training provided by the TPS Professional Standards Unit. The interim UCC works closely and in consultation with the TTC's Diversity and Human Rights Department.

The interim UCC is responsible for receiving and addressing complaints received by the public that relate to:

- The conduct of a Special Constable;
- The conduct of a Fare Inspector; and/or
- The policies of, or services provided by, the TTC Special Constable Program.

Also, after September 2019, the TTC worked to improve the public complaint process, making it more responsive and user-friendly for the public. Here are some examples of the updates that have been made under both interim public complaint processes:

a) Improved Options for Filing a Complaint

Public complaints may be filed with the TTC in person at 1900 Yonge St., Toronto, Ontario, by email, fax, and by mail. In addition, members of the public may directly report complaints to the TTC's Customer Service Centre, which has longer service hours and the ability to request that video evidence, where available, be preserved promptly. Customers may speak to a customer service representative by telephone at 416-393-3030 from 7 a.m. to 10 p.m. daily to report their complaint.

The TTC has also enhanced its online complaint form to include an additional category for TTC's Special Constables and Fare Inspectors, thereby providing customers the option to submit their complaints directly to the TTC Customer Service Centre using the quick and easy [www.ttc.ca](http://www.ttc.ca) web complaint form.

b) Removed the Distinction Between a Concern and Complaint

In both new interim public complaint processes, effective September 2019, the TTC simplified the process by eliminating the distinction between a "concern" and a "complaint." Under the previous complaint process, there was a distinction between a complaint and a concern, and if something was deemed a concern, it would then be addressed by local resolution. This distinction was found to limit the complainant's ability to participate in the resolution process.

Now reports made by the public of alleged misconduct involving Fare Inspectors or Special Constables are documented as complaints requiring an intake and gathering of evidence, investigation, and a documented resolution. This helps to ensure that all issues raised by our customers are both documented and dealt with in a fair and thorough manner.

For the purposes of this report, the TTC has consolidated the statistical data into one category of complaints, but has provided the data breakdown of complaints versus concerns where required.

#### c) Expanded Mandate to Ensure Thoroughness

Investigations into complaints involving Special Constables or Fare Inspectors require factual findings, and an application of those factual findings to not only the Transit Enforcement Code of Conduct, but also to all applicable TTC corporate policies, including the TTC's Respect and Dignity Policy, TTC's Workplace Violence Policy and Program, TTC's Employee Code of Conduct Policy and TTC's Diversity and Inclusion Policy as appropriate. Also, the standard of proof applied to the complaint investigations is on a balance of probabilities.

#### d) Oversight by TTC Diversity and Human Rights and External Investigators

All complaints that raise a potential human rights element are now being reviewed by a TTC's Human Rights Consultant with the specialized knowledge and experience in conducting human rights related workplace investigations. This includes providing consultation to the UCC in gathering all relevant information regarding the complaint.

TTC Human Rights Consultants are also assisting in retaining external investigators and ensuring that complaints involving human rights, discrimination, harassment and/or use of force are being investigated by independent third party investigators, in a timely, fair and thorough manner.

## **Comments**

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This report is an annual report on the number of complaints relating to TTC Special Constables and TTC Fare Inspectors for the year 2019. The data included in the report is up to December 31, 2019.

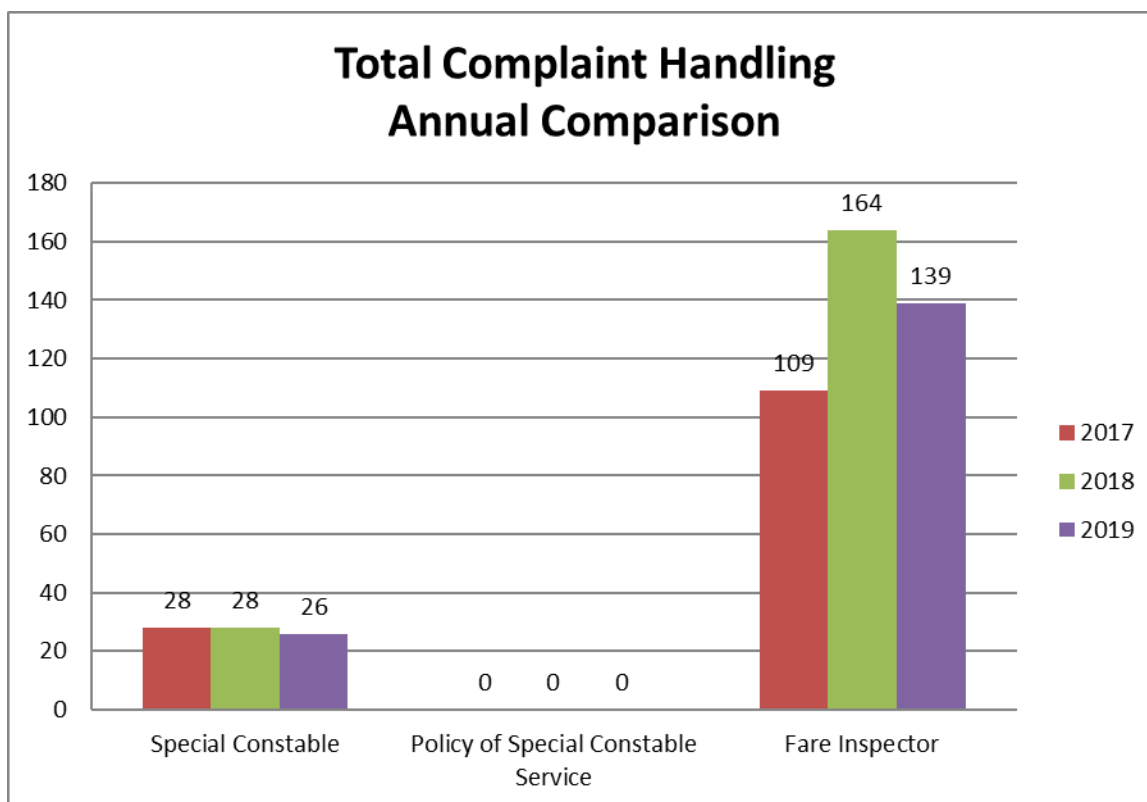
TTC Special Constables perform security functions with respect to TTC properties and assets and ensure that the transit system remains a safe and reliable form of transportation for everyone. In 2019, TTC Special Constables attended 13,536 service

calls. Their interactions with members of the public are generally limited as compared to TTC Fare Inspectors.

TTC Fare Inspectors perform on-site customer service functions, including fare payment education and inspection. They have a greater opportunity to engage with TTC customers on a daily basis. In 2019, TTC Fare Inspectors conducted 2.2 million fare inspections.

Within the context of the above mentioned customer service enhancements to TTC’s public complaint processes, and the respective levels of engagement each group has with the public, the TTC received 26 complaints against TTC Special Constables, and 139 complaints against TTC Fare Inspectors in 2019. Overall, this is a reduction from the previous year.

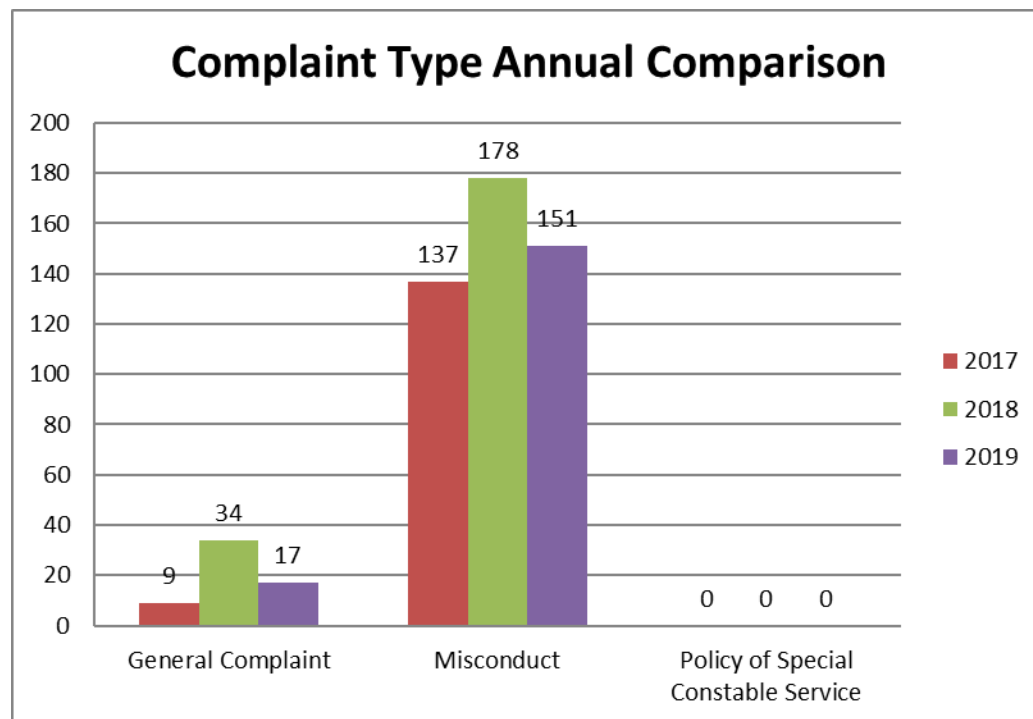
The graph below is an overview of the total number of complaints received from the public in 2019 involving TTC Special Constables<sup>1</sup> and TTC Fare Inspectors, with a comparison to 2017 and 2018.



<sup>1</sup> Formerly known as Transit Enforcement Unit (TEU), and Transit Enforcement Officer (TEO) Program.

Of the 165 public complaints received in 2019, 151 of them raised allegations of misconduct against a Fare Inspector or Special Constable.<sup>2</sup>

A misconduct complaint includes any complaint alleging a contravention of the Transit Enforcement Code of Conduct (See Appendix A). General complaints involve issues related to general conduct or services of the Special Constable Service or Revenue Protection departments, and are not specific to any single Special Constable or Fare Inspector.<sup>3</sup>



The breakdown of these complaints by group is as follows:

### 1. Special Constables

Under the interim Special Constable public complaint process, when the TTC receives a complaint involving the conduct of a Special Constable, the UCC is required to forward the complaint to the TPS Special Constable Liaison Office for review by the TPS Professional Standards Unit. This is pursuant to the agreement between the TTC and the Toronto Police Services Board. Upon receipt, TPS will review and assess each complaint as either serious misconduct (i.e. criminal allegation) or less serious conduct.

<sup>2</sup> Please Note: The complaint type annual statistics may include events that concluded (i.e. in which a determination was made) in 2019, but commenced the year prior (2018). Also a single complaint may have multiple allegations. Therefore, there may be some discrepancy when cross referencing tables.

<sup>3</sup> General complaints include Presto related complaints (i.e. alleged equipment malfunction).



Complaints assessed by TPS as serious misconduct are investigated by TPS. Complaints assessed by TPS as less serious are returned to the TTC for investigation. The investigation is either conducted by the UCC, who has the requisite investigation training from TPS, or by an external investigator recognized by TPS as having the requisite investigative training.

If the complaint is returned to the TTC for investigation, TPS is provided a copy of TTC's investigation report upon completion of the investigation. Complainants and Respondents are advised of the findings of the investigation. Any corrective action resulting from the findings of an investigation is determined by the Head of Special Constable Service in consultation with TTC's Employee Relations Department. The parties may also request a review of the investigation process by the Office of the Toronto Ombudsman.

In 2019, the TTC received a total of 26 complaints involving TTC Special Constables. This is a reduction from 2018, particularly given there was an increase in staff from 56 to 67 Special Constables in 2019.<sup>4</sup>

Allegations of discreditable conduct arose in 20 of the 26 complaints, with the most common complaint relating to alleged discourtesy during enforcement interactions. Complaints alleging poor use of discretion related to situations where the Complainant did not agree with the Special Constable's course of action, namely issuing a Provincial Offences ticket versus a caution. Some of these discreditable conduct complaints also included related allegations of differential treatment based on race (3), creed/religion (1) and personal harassment (1).

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<sup>4</sup> In 2017, 2018 and 2019, while TTC had increased the number of TTC Special Constables from 35, 56 and 67 respectively, TTC did not see a corresponding increase in complaints.

Below is a breakdown of the complaint allegations received in 2019.

### **Categorization of Special Constable Misconduct Complaint Allegations<sup>5</sup>**

<b>Transit Enforcement Code of Conduct Section</b>	<b>Sub-Category</b>	<b>2019 Total</b>
Breach of Confidence		0
Consuming Drugs or Alcohol in a Manner Prejudicial to Duty		0
Corrupt Practice		1
Damage to clothing or equipment		0
Deceit		0
Discreditable Conduct		20
	Discourtesy/Attitude/Rudeness	12
	Harassment/Discrimination <sup>6</sup>	6
	Poor Use of Discretion	3
Insubordination		0
Misrepresentation		0
Neglect of Duty		1
Other Less Serious		1
Unlawful or Unnecessary Exercise of Authority		6
	Related to Use of Force	6

A total of 15 of the 26 complaints received were initially categorized as concerns, and some were addressed informally<sup>7</sup>, before the process was updated in September 2019 to eliminate the distinction between concerns and complaints.

Of the remaining 11 complaints, none were retained and investigated by TPS. Six of the 11 complaints were handled as follows: 3 were assigned to an external investigator; 1 was assigned to the TTC's Diversity and Human Rights Department for investigation following approval by TPS; and 2 were pending intake by the UCC and review by TPS<sup>8</sup> as of December 31, 2019. Final dispositions have not been made on these complaints as the investigations remain ongoing. The remaining 5 complaints were resolved through informal resolution or dismissed as abandoned by the Complainant.

<sup>5</sup> Please Note: A single complaint may have multiple allegations, and therefore the numbers of allegations are greater than the number of complaints.

<sup>6</sup> Of these allegations, two were abandoned by the Complainant, and one was resolved informally prior to the new process. The remaining were assigned to investigation under the new process.

<sup>7</sup> This includes what was known as "local resolution" under the former process. Also, some of the concerns were dismissed as abandoned by the Complainant under the former process.

<sup>8</sup> The two complaints were returned to TTC by TPS for investigation in Q1 2020.

## 2. Fare Inspectors

Under the interim Fare Inspector public complaint process that came into effect in September 2019, all reports by the public of alleged misconduct involving Fare Inspectors are documented as complaints and sent to the UCC. Through the use of a new intake guide, the UCC conducts a fulsome intake interview with the customer, gathering all the relevant details of the complaint. The UCC is then better able to ensure that any video evidence is secured and to determine appropriate next steps.

If the complaint involves allegations of misconduct that is considered minor in nature, the UCC may investigate. As of September 2019, complaints deemed more serious misconduct, for instance allegations of harassment, discrimination, use of force and violence, are being investigated by external investigators, managed through the TTC's Diversity and Human Rights Department. The TTC has retainers with external providers that specialize in conducting independent workplace investigations.

Similar to the interim Special Constable public complaint process, Complainants and Respondents are advised of the findings of the investigation. Any corrective action resulting from the findings of an investigation is determined by the Head of Revenue Protection, in consultation with the TTC's Employee Relations Department. The parties may also request a review of the investigation process by the Office of the Toronto Ombudsman.

In 2019, the TTC received a total of 139 complaints involving Transit Fare Inspectors. This is a reduction from 2018<sup>9</sup>. Similar to the Special Constables, while the TTC saw an increase in staffing from 63 to 84 Fare Inspectors, it did not see a corresponding increase in its complaints.

A total of 123 complaints raised allegations of discreditable conduct, in violation of the Transit Enforcement Code of Conduct, with the most common complaint relating to alleged discourtesy during fare inspection and enforcement interactions.<sup>10</sup> Complaints alleging poor use of discretion related to situations where the Complainant did not agree with the Fare Inspector's decision to issue a Provincial Offence Act Notice (i.e. fine) versus a warning. Some of these discreditable conduct complaints also included allegations of differential treatment based on race (20), creed/religion (2), age (3), disability (3), sexual orientation (1) and personal harassment (4).

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<sup>9</sup> 63 Fare Inspectors and 164 complaints. In 2019, there were 84 Fare Inspectors and a reduction in complaints to 139.

<sup>10</sup> As a component of the Fare Inspector training program, Fare Inspectors receive customer service training that includes scenario based learning using general examples from these common complaints, and ways to communicate and interact with customers more effectively and appropriately.

Below is breakdown of the complaint allegations received in 2019.

### **Categorization of Transit Fare Inspector Misconduct Complaint Allegations<sup>11</sup>**

<b>Transit Enforcement Code of Conduct Section</b>	<b>Sub-Category</b>	<b>2019 Total</b>
Breach of Confidence		0
Consuming Drugs or Alcohol in a Manner Prejudicial to Duty		0
Corrupt Practice		1
Damage to clothing or equipment		0
Deceit		0
Discreditable Conduct		123
	Discourtesy/Attitude/Rudeness	82
	Harassment/Discrimination <sup>12</sup>	35
	Poor Use of Discretion	23
Insubordination		0
Misrepresentation		0
Neglect of Duty		1
Other Less Serious		3
Unlawful or Unnecessary Exercise of Authority		3
	Related to Use of Force	3

Of the 139 complaints, 68 were initially categorized as concerns, and many were addressed informally<sup>13</sup>, before the process was updated in September 2019 to eliminate the distinction between concerns and complaints.

Of the remaining 71 complaints, 13 complaints proceeded to investigation by the UCC or by external investigators. The remaining complaints were either pending review, sent to the departmental management for investigation, resolved through informal resolution, or dismissed as abandoned by the Complainant, as of December 31, 2019.

Of the 13 complaints investigated, 8 were investigated by the UCC, and 5 were investigated by external investigators. There were 2 complaints found substantiated, 7 found to be unsubstantiated, and the remaining complaints are still under investigation as many were received in Q4 2019.

<sup>11</sup> Please Note: A single complaint may have multiple allegations, and therefore the total number of allegations is greater than the total number of complaints.

<sup>12</sup> Of these allegations, 16 were abandoned by the Complainant, seven were resolved informally, six were investigated by the UCC and five were found unsubstantiated prior to the new process. Under the new process, five have been assigned to external investigators, two were substantiated as noted above, and the remaining are still under investigation.

<sup>13</sup> This includes what was known as “local resolution” under the former process. Also, some of the concerns were dismissed as abandoned by the Complainant under the former process.

Of the 2 complaints found substantiated, one found the conduct of a Fare Inspector to be discourteous and unprofessional in violation of s. 2(1)(a)(xi) of the Transit Enforcement Code of Conduct. The other found that a Fare Inspector engaged in conduct that was discriminatory on the basis of race in violation of the Ontario *Human Rights Code*, and TTC policies, including TTC's Respect and Dignity Policy and the Transit Enforcement Code of Conduct.

## Looking Ahead

2019 was a year in flux. The TTC undertook changes to its complaint processes to build greater public trust and confidence in TTC's internal investigations of complaints involving Special Constables and Fare Inspectors. Through these changes, TTC customers are provided greater procedural fairness and thoroughness in the handling of their complaints, and are more involved in the process.

Also in 2019, the TTC proactively committed to changing the structure and culture of its transit enforcement with the introduction of two departments: TTC Special Constable Service and Revenue Protection, and an increased focus on improved customer service, community engagement, and staff education, including training on addressing anti-Black racism, diversity and inclusion, crisis communication and ethical decision making. More information on this and other initiatives are found in the TTC 2019 Special Constable Service Annual Report. With the TTC's increased focus on equity and improved customer service and community engagement, we hope to see a continued downward trend in the overall number of complaints.

In 2020, the TTC is working towards establishing a new Investigation Unit, comprised of a dedicated team of qualified and diverse investigators, who will be responsible for receiving and investigating customer complaints, and applying both the Transit Enforcement Code of Conduct, and the applicable TTC corporate policies, to their factual findings as appropriate. The new Unit will also have a dedicated Data Analyst who will be expected to coordinate the Unit's complaint data collection, ensure data integrity, and identify future complaint trends and analysis for the TTC, having the benefit of a completed year under the new interim complaint processes.

## Contact

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Nancy Van Veghel, Interim Unit Complaints Coordinator  
416 397-8714  
[nancy.vanveghel@ttc.ca](mailto:nancy.vanveghel@ttc.ca)

Valerie Albanese, Head, Diversity and Human Rights  
416-393-6625  
[valerie.albanese@ttc.ca](mailto:valerie.albanese@ttc.ca)

**Signature**

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Gemma Piemontese  
Chief People Officer

Attachment 1 – Toronto Transit Commission Transit Enforcement Unit Code of Conduct

## Toronto Transit Commission Transit Enforcement Unit CODE OF CONDUCT



Established May 23, 2014

### TTC TRANSIT ENFORCEMENT UNIT MISSION STATEMENT:

The Transit Enforcement Unit is committed to working in partnership with TTC employees and the community to support the TTC's vision of a transit system that makes Toronto proud. The Transit Enforcement Unit is responsible to assist the TTC in protecting the integrity of the transit system and performing security functions with respect to TTC properties and assets in order to ensure that the TTC properties and assets are protected and the transit systems remain as safe and reliable form of transportation.

Six core values have been established as follows which form the basis of the TTC Enforcement Unit's Code of Conduct:

- A. **Leadership** – A Transit Enforcement Member shall lead through a positive attitude to motivate, inspire and influence others towards a common goal;
- B. **Professionalism** – A Transit Enforcement Member shall be professional by demonstrating fairness and respect toward all members of the community;
- C. **Integrity** – A Transit Enforcement Member shall at all times be honourable, trustworthy and strive to do what is right;
- D. **Teamwork** – A Transit Enforcement Member shall work together within his or her department, the TTC, TTC employees and with the members of various communities to achieve departmental goals;
- E. **Accountability** – A Transit Enforcement Member shall accept responsibility for his or her actions and be accountable for those actions within the TTC and the communities he or she serves; and
- F. **Reliability** – A Transit Enforcement Member shall be conscientious, responsible and dependable in his or her dealings with other TTC employee and the communities he or she serves.

1. In this code of conduct,

*“record”* means any record of information, however recorded, whether in printed form, on film, by electronic means or otherwise, and includes correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy of the record.

“*Transit Enforcement Unit*” means the TTC Transit Enforcement Unit or any successor department or unit.

“*on duty*” means the time period commencing from when a Transit Enforcement Member reports to work up until the time the employee leaves work, and shall include lunch and break times. On duty also includes the time period in which an employee is required to be at work, or is in attendance in a working session at a conference or seminar as a representative of the TTC and further includes anytime that the Transit Enforcement Member is in a TTC issued uniform.

“*Transit Enforcement Officer*” means a person employed by the TTC who is a “proper authority” within the meaning of TTC By-law No. 1 and who has been appointed by a Police Services Board, and approved by the Minister, as a special constable in accordance with s. 53 of the *Police Services Act*, with powers and duties as set out in the appointment.

“*Transit Enforcement Unit Member*” means any member/employee of the Transit Enforcement Unit, including but not limited to a Transit Enforcement Officer.

2. (1) A Head of the Transit Enforcement Unit or a Transit Enforcement Unit Member commits misconduct if he or she engages in,

**(a) Discreditable Conduct, in that he or she,**

(i) fails to treat or protect persons equally without discrimination with respect to services provided by the Transit Enforcement Unit based on any of the prohibited grounds as set out in section 1 of the *Ontario Human Rights Code*.

(ii) engages in improper or oppressive conduct towards another employee, ,

(iii) uses profane, abusive or insulting language to any law enforcement officer or TTC employee,

(iv) uses profane, abusive or insulting language or is otherwise uncivil to a member of the public,

(v) wilfully or negligently makes any false complaint or statement,,

(vi) assaults any other person,

(vii) withholds or suppresses a complaint or report against a member of the Transit Enforcement Unit or about the policies of or services provided by the Transit Enforcement Unit of which the officer is a member,

(viii) fails to report that he or she has been charged with a criminal offence,

(ix) is guilty of a criminal offence that is an indictable offence or an offence punishable upon summary conviction,



(x) contravenes any provision of any agreement with a police service board, including but not limited to any agreement which provides for the appointment of Special Constable status, or

(xi) acts in a disorderly manner or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the TTC;

**(b) Insubordination, in that he or she,**

(i) is insubordinate by word, act or demeanour, or

(ii) without lawful excuse, disobeys, omits or neglects to carry out any lawful order;

**(c) Neglect of Duty, in that he or she,**

(i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as, a member of the Transit Enforcement Unit,

(ii) fails to comply with any provision of an agreement with any police service board, including any agreement which provides for the appointment of Special Constable status, related to Conduct and Duties of a Transit Enforcement Officer,

(iii) fails to work in accordance with orders, or leaves an area, detachment, detail or other place of duty, without due permission or sufficient cause,

(iv) by carelessness or neglect permits a prisoner to escape,

(v) fails to report a matter that it is his or her duty to report,

(vi) fails to report anything that he or she knows concerning a criminal or other charge, or fails to disclose any evidence that he or she, or any person within his or her knowledge, can give for or against any prisoner or defendant,

(vii) omits to make any necessary entry in a record,

(viii) is absent without leave from or late for work, without reasonable excuse, or

(ix) is improperly dressed, dirty or untidy in person, clothing or equipment while on duty;

**(d) Deceit, in that he or she,**

(i) knowingly makes or signs a false statement in a record,

(ii) knowingly submits a record that is misleading or false,

(iii) wilfully or negligently provides a false, misleading or inaccurate statement, or

(iv) without lawful excuse, destroys a record or alters or erases an entry in a record;

**(e) Breach of Confidence, in that he or she,**

- (i) divulges any matter which it is his or her duty to keep secret or confidential,
- (ii) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of the warrant or service of the summons,
- (iii) without proper authority, communicates to the media or to any unauthorized person any matter connected with the TTC Transit Enforcement Unit, the TTC or any police service,
- (iv) without proper authority, shows to any person not a TTC Transit Enforcement Member or to any unauthorized TTC Transit Enforcement Member any record that is the property of the TPS or the TTC, or
- (v) without proper authority, shows to any person not a member of a police force or to any unauthorized member of any police force any record that is the property of that or another police force or the TTC;

**(f) Corrupt Practice, in that he or she,**

- (i) offers or takes a bribe,
- (ii) fails to account for or to make a prompt, true return of money or property received in an official capacity,
- (iii) directly or indirectly solicits or receives a gratuity or present without the consent of the Head of the Transit Enforcement Unit, or
- (iv) improperly uses his or her position as a Transit Enforcement Member for private advantage or for personal gain. Personal gain includes gain for himself/herself or any friend or family member;

**(g) Unlawful or Unnecessary Exercise of Authority, in that he or she,**

- (i) without good and sufficient cause makes an unlawful or unnecessary arrest, or
- (ii) uses any unnecessary force against a person contacted in the execution of his or her duty;

**(h) Damage to Clothing or Equipment, in that he or she,**

- (i) wilfully or carelessly causes loss or damage to any article of clothing or equipment, or to any record or other property of,
  - (A) the Transit Enforcement Unit, or

(B) of any police force with which the Toronto Transit Commission has an agreement for Special Constable Status, or

(ii) fails to report loss or damage, however caused, as soon as practicable;

**(i) Consuming Drugs or Alcohol in a Manner Prejudicial to Duty, in that he or she,**

(i) violates the TTC Fitness For Duty Policy.

**(j) Misrepresentation, in that he or she,**

(i) identifies or represents themselves, in any way, to be a police officer,

(ii) wears a uniform that does not display "Special Constable," if applicable.

3. The TTC Head of the Transit Enforcement Unit or any Transit Enforcement Member commits misconduct if he or she conspires, abets or is knowingly an accessory to any misconduct described in this Code of Conduct.
4. The TTC Head of the Transit Enforcement Unit or any Transit Enforcement Member shall also comply with all other TTC Corporate Policies and Procedures and any Departmental Policies and Procedures, including but not limited to Conditions of Employment and Conflict of Interest. These Corporate Policies and Procedures and Departmental Policies and Procedures may be amended from time to time.
5. The TTC Head of the Transit Enforcement Unit or any Transit Enforcement Officer commits misconduct by violating the Code of Conduct and shall be subject to action by the Toronto Police Services Board up to and including suspension and/or termination of Special Constable status. The TTC shall immediately forward to the Board, for the Board's review and action, any information the TTC receives or has in its possession concerning misconduct or alleged misconduct, including a breach of any provision of any Agreement by the Head of the Transit Enforcement Unit or any other Transit Enforcement Officer whether allegedly committed before or after the date of his or her appointment as a Transit Enforcement Officer, occurring up to one year prior to the date of his or appointment as a Transit Enforcement Officer with Special Constable status pursuant to any Agreement and from the date of execution of any Agreement forward, which has not resulted in a Complaints investigation by either the Service or the TTC in accordance with any Agreement.
6. In addition to any suspension and/or termination of Special Constable status in accordance with Section 5 of this Code of Conduct, the TTC Head of the Transit Enforcement Unit or any other Transit Enforcement Member who commits misconduct by violating this Code of Conduct may be subject to TTC disciplinary action up to and including dismissal from TTC employment.