

Office of the Police
Complaints Commissioner
and the Nova Scotia Police
Review Board

ANNUAL REPORT 2015

September 30, 2016

Honourable Diana C. Whalen
Minister of Justice and Attorney General
1690 Hollis Street
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Dear Minister,

I have the honour to submit to you the Annual Report of the Nova Scotia Police Review Board for the calendar year 2015, pursuant to the provisions of Section 26 of the *Police Act*, R.S.N.S. 2004, Chapter 31.

This report provides statistics on the number and nature of complaints received by the Office of the Police Complaints Commissioner as well as a comprehensive description of the complaint process and mandate of the Office.

Yours truly,

A handwritten signature in black ink, appearing to read 'Nadine Cooper Mont'. The signature is stylized with several loops and a long horizontal stroke at the end.

Nadine Cooper Mont
Police Complaints Commissioner

Mission Statement

The mission of the Office of the Police Complaints Commissioner and the Nova Scotia Police Review Board is to maintain public confidence in our municipal police agencies by delivering judicious, timely, impartial, client-oriented service to the public, to the police services and to the police officers within its jurisdiction.

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Executive Summary

The Police Complaints Commissioner's Office investigates complaints by citizens alleging misconduct by municipal police officers. The Office provides administrative support to the Police Review Board which is empowered to hear complaints made by the public and appeals from police officers who are disciplined.

Complaints by citizens must be filed using a prescribed form within six months of the incident that provoked the complaint and be signed by the complainant. The police department investigation of the complaint must be completed within 60 days of the date that the complaint form is filed. In those instances where the complainant is not satisfied by the decision of the Chief or the municipality's Board of Police Commissioners, the Commissioner may conduct an independent investigation. If, as a result of that investigation, the Commissioner finds that the complaint is not frivolous or vexatious, the matter is referred to the Police Review Board. Police Review Board hearings into public complaints are open to the public unless the Review Board orders otherwise. Review Board hearings regarding internal disciplinary appeals are not open to the public. The Police Review Board's decision is final.

In 2015, the Commissioner received 92 complaints from the public. An additional 34 internal disciplinary matters were dealt with by the Office.

Of the 92 public complaints, 0 were substantiated, 6 were informally resolved, 25 were unfounded, 18 were withdrawn, 16 are still under investigation, 3 were abandoned and 24 were not proceeded with because they did not meet the statutory conditions or the officers retired or resigned. In the event of officer retirement or resignation, an investigation may continue however no discipline can be imposed if a default is substantiated.

Public complaints related to discreditable conduct, abuse of authority, neglect of duty, and corrupt practice were the most common allegations in 2015. Internal discipline allegations dealing with discreditable conduct and neglect of duty were the most common in 2015.

A total of ten appeals from members of the public and from officers appealing discipline were received in the calendar year 2015, resulting in five independent investigations and six hearings of the Police Review Board. One appeal was withdrawn, one appeal was received beyond the 30 day appeal period, and one appeal was filed in error.

Role of the Police Review Board/ Commissioner

The primary role of the Office of the Police Complaints Commissioner is to investigate complaints by citizens alleging misconduct by municipal police officers. The Police Review Board is empowered to hear and rule on public complaints and police officer's appeals against disciplinary penalties or dismissals that are imposed or ordered by chiefs of police and boards of police commissioners.

The responsibilities of the Police Review Board are outlined in Section 18 of the *Police Act* which states that: "The Review Board shall perform the functions and duties assigned to it by this Act, the regulations, the Minister or the Governor in Council".

These responsibilities include the following:

- 1) Conduct investigations and inquiries in accordance with the Act; and
- 2) Conduct hearings into complaints referred to it by the Complaints Commissioner in accordance with the Act or the regulations

Section 19(1) of the *Police Act* provides that the Minister may direct the Review Board to investigate, inquire into and report to the Minister upon any matter relating to:

- (a) the extent, investigation or control of crime
- (b) the enforcement of law
- (c) the operation and administration of a police department

The Office of the Police Complaints Commissioner was established by proclamation of the *Police Act* on December 20, 2005 and came into effect January 1, 2006. Prior to this, the Nova Scotia Police Commission was responsible for many of the functions that fall within the purview of the *Police Act* and regulations. The Office of the Police Complaints Commissioner is responsible for providing all of the administrative support needed by the Review Board to carry out its responsibilities.

The Police Complaints Commissioner shall attempt to negotiate a resolution to public complaints upon an appeal by the complainant. If the Commissioner determines that the complaint has merit he/she will forward the matter for a full hearing before the Police Review Board. The Commissioner may forward the matter to an outside investigator for a full, independent investigation to assist with this decision.

Where the Commissioner cannot satisfactorily resolve a complaint, or has determined the complaint is frivolous and vexatious and does not merit a review by the Board, he/she may refuse to forward the complaint to a hearing.

History

The Nova Scotia Police Commission was established by proclamation of the *Police Act* in 1976. At that time, the Police Commission reported to the Attorney General; it was responsible for improving the effectiveness of municipal police forces and relations between the police and the public. Initially the Police Commission provided a large number of services relating to provincial policing and security including:

- 1) development and approval of training programs for police officers,
- 2) development of programs to improve public awareness of police functions,
- 3) duties and responsibilities,
- 4) maintenance of statistics and research services,
- 5) determinations of the adequacy, efficiency, and effectiveness of the police services provided by municipalities,
- 6) recommendations for appointment or re-appointment of Provincial Civil Constables, Special Constables, and By-Law Enforcement Officers; and
- 7) other duties under the *Private Investigators and Private Guards Act* and the *Police Services Act*.

In 1992, changes to the *Police Act* resulted in the re-organization and re-orientation of the Nova Scotia Police Commission. The majority of the services listed above were transferred to the Policing Services Division of the Department of the Solicitor General. These services are now the responsibility of the Department of Justice. The Police Commission retained its responsibility for investigating matters relating to the conduct and performance of duties by police, the administration of a police force, the system of policing in municipalities, and the police needs of municipalities.

The Nova Scotia Police Review Board was established through amendments to the *Police Act* in the mid-1980s. It replaced the Police Commission as the adjudicating body for citizen complaints and for appeals by officers against decisions made in internal discipline matters. On January 1, 2006 a new *Police Act* was proclaimed and the Office of the Police Complaints Commissioner was created.

Commissioner & Review Board Members

Under the provisions of Section 13(1) of the *Police Act*, the Nova Scotia Police Review Board is composed of not less than three persons appointed by the Governor-in-Council.

As of December 31, 2015, the members of the Police Review Board were:

Nadine Cooper Mont

Police Complaints Commissioner

Jean McKenna

Chair

Judith McPhee, QC

Vice Chair

Paulette Anderson

Elizabeth Cusack, QC

Ann Mann

John Manning

Dr. Daniel Paul

Betty Thomas

John Withrow

Staff

Jeff Garber, Manager

Investigations and Outreach

Joni Keeping, Coordinator

Adjudicative Branch

Mirella Lopresti

Complaint Intake Clerk

Vicky Bennett

Complaint Intake Clerk

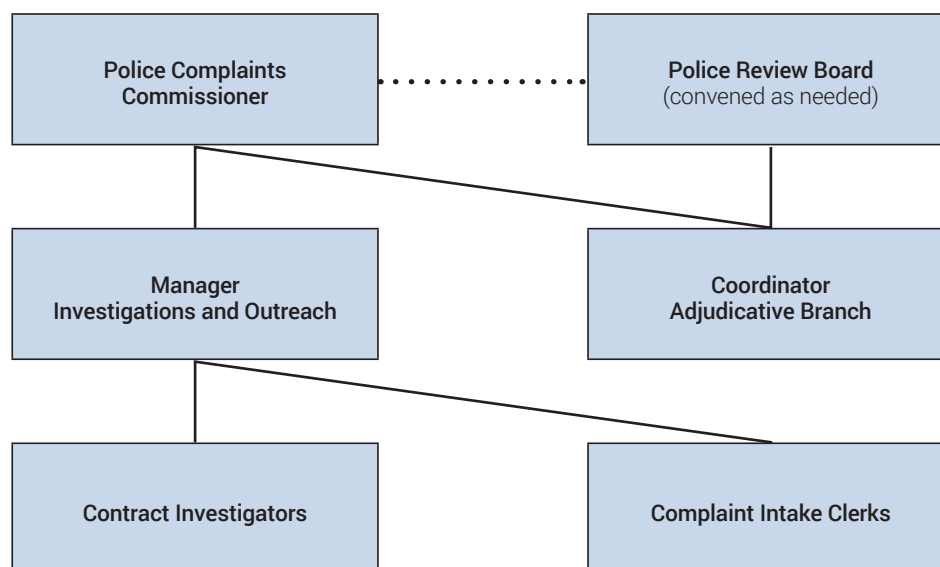
Staff Offices

The Office of the Police Complaints Commissioner is located at 1690 Hollis St., 3rd Floor.

Mailing Address: PO Box 1573
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Email: polcom@novascotia.ca
Online: www.novascotia.ca/opcc

Organizational Chart



Budget and Staffing

	2015-16 Estimate	2015-16 Forecast	2016-17 Estimate
Departmental expenses by object (\$ thousands)			
Salary and employee benefits	201	201	200
Operating costs	268	268	224
Gross expenses	<u>469</u>	<u>469</u>	<u>424</u>
Less: Chargeable to other departments	(34)	(34)	(34)
Total – Nova Scotia Police Complaints Commissioner	<u>435</u>	<u>435</u>	<u>390</u>
Ordinary recoveries	–	–	–
Funded staff (number of FTEs)	3.0	3.0	3.0
Less: Staff funded by external agencies	–	–	–
Total – Funded staff	<u>3.0</u>	<u>3.0</u>	<u>3.0</u>

Professional Association



The Office of the Police Complaints Commissioner is proud to be a member of the Canadian Association for

Civilian Oversight of Law Enforcement (CACOLE). CACOLE is a national non-profit organization of individuals and agencies involved in the oversight of police officers in Canada. CACOLE is dedicated to advancing the concept, principles and application of civilian oversight of law enforcement throughout Canada and abroad.

The first meeting of heads of oversight agencies happened in the fall of 1995. The first conference was held in Halifax in September of 1996. CACOLE was ultimately established in 1997, and is an incorporated non-profit organization under the *Canada Incorporations Act*. The national organization is governed by a set of By Laws and is managed by an elected, volunteer Board of Directors representing oversight agencies in each province, as well as First Nations and the Federal Government. The part-time Executive Director is the only paid position.

CACOLE members represent diverse organizations – municipal and provincial police boards and commissions, First Nations, provincial and federal oversight agencies, ombudsman offices, police associations and professional standard bureaus. CACOLE member organizations operate in Canada, the United States, Great Britain, Northern Ireland, Portugal and other European countries.

For more information please visit CACOLE's website at: www.cacole.ca

The Complaint Process

How long do I have to file a complaint?

You must file your complaint within 6 months of the incident which gave rise to the complaint. If you file a complaint 6 months after the incident it cannot be considered under any circumstances.

Where do I file a complaint?

You may make your complaint against a police officer, chief of police, or police department in general to any of the following:

- Any member of the police force of which the officer is a member;
- The Board of Police Commissioners in the municipality for which the police force is responsible for policing;
- The Police Complaints Commissioner.

The Police Complaints Commissioner obtains a copy of every complaint, wherever it is filed.

How do I file a complaint?

You must file the complaint in writing. You can obtain a form from any municipal police station, local board, or the Office of the Police Complaints Commissioner. The form, with instructions, is also available online: http://www.novascotia.ca/opcc/publications/Form_5_and_Form_5A.pdf

You should include details such as the date, time and place of the incident that you are complaining about.

Will my complaint be taken seriously?

Yes. Once you have put your complaint in writing, the Chief of Police or the Chief's designate will appoint an officer to investigate the complaint.

What happens after I make my complaint?

The police officer appointed to investigate the complaint will contact you to discuss the matter and will try to resolve the complaint informally if you and the officer you complained about agree. If informal resolution is not agreed upon, the investigator will proceed with the investigation. The police department investigation must be completed 60 days from the day you filed the written complaint. In some circumstances, the Commissioner may grant an extension of time to complete the investigation. You will receive a notice when the investigation is complete.

Who decides the outcome of the case?

The Chief of Police or the Municipal Board of Police Commissioners (if the complaint is against the Chief of Police) will review the investigation and based on its findings will decide to:

- Take no further action with respect to the complaint; or
- Discipline the officer.

You will be notified of the decision, as will the officer complained about and the Commissioner.

What is the role of the Police Complaints Commissioner in the Police Department's Investigation?

The Commissioner ensures that time limitations provided within the *Police Act* are adhered to and may exercise her authority to extend the time to investigate complaints when additional time is requested by the authority.

What can I do if I am not satisfied with the decision of the Chief, or the Municipal Board of Police Commissioners?

You must file a Notice of Review (Form 13) with the Commissioner within 30 days of receipt of the decision. Once you file the Form 13, the Commissioner will attempt to mediate an informal resolution. Any informal agreement will require the consent of the officer being complained about and the complainant.

If informal resolution is unsuccessful, the Commissioner may conduct an independent investigation of the complaint. Following the completion of this investigation, the Commissioner will decide whether to send the matter to the Review Board or not. You will be notified in writing as to how your file will proceed.

What can I do if my complaint is not referred to the Review Board?

The Commissioner's decision is final. You may seek legal advice or contact the Office of the Ombudsman.

What happens when my complaint is referred to the Review Board?

A panel of three members will conduct a public hearing into your complaint. You will be notified of the hearing date and you may be represented by a lawyer if you wish. If you are not represented by a lawyer, the Office of the Police Complaints Commissioner will provide assistance in preparation of subpoenas for witnesses and information on hearing procedures.

Is my complaint kept confidential?

Complaints are considered confidential. However, if your complaint is referred to the Police Review Board, the hearing is open to the public, unless the Review Board orders otherwise.

Who sits on the Police Review Board?

The Governor in Council appoints civilian members to the Police Review Board. Please refer to page 4 for the names of the members of the Police Review Board. A Chair and Vice-Chair are designated. Co-Chairs may also be designated by the Governor in Council. The Chair or Vice-Chair and two members constitutes quorum.

What can the Review Board do?

The Review Board may:

- Find the complaint valid and make recommendations on penalties;
- Dismiss the matter;

- Affirm or change any penalty which has been imposed or substitute a finding;
- Award or fix costs where appropriate.

The Review Board cannot award compensation.

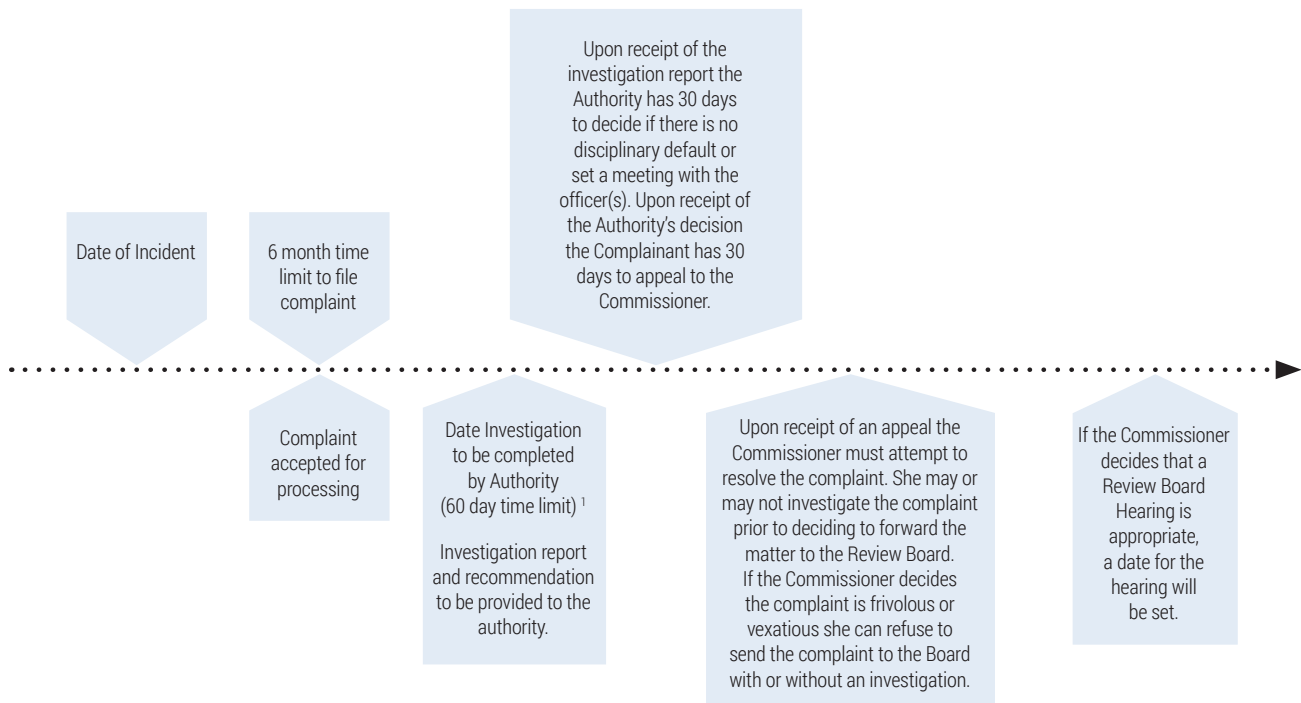
Can a police officer appeal discipline under the *Police Act*?

The police officer may appeal disciplinary action imposed by the Chief of Police or the chief's designate.

What if I am dissatisfied with the Review Board's decision?

The Review Board's decision is final. If you are unhappy with it, you should contact a lawyer.

Public Complaint Timeline



¹ There are provisions for police department investigators to apply for extensions to investigate.

Demographics

A total of 126 complaints were filed with the Office of the Police Complaints Commissioner in 2015. 92 of the complaints began with a member of the public bringing allegations forward while the other 34 arose internally, with one officer making an allegation of misconduct against another officer.

Of the 92 public complainants, 40 were female with a median age of 48. The median age of the 52 male complainants was 43.

The Office of the Police Complaints Commissioner tracks several associated factors regarding public complaint files. These factors are: alcohol consumption (complainant had consumed alcohol), whether a family dispute led to the initial involvement of police, and whether or not a charge was laid in relation to a complaint file. In 2015, alcohol consumption was associated with 5 files, a family dispute resulted in police involvement and subsequent allegations in 1 file, and charges or summary offence tickets were laid/issued in 20 of the 92 public complaint situations.

Complaints by Municipal Agency

Department	2014		2015	
	Public Complaint	Internal Discipline	Public Complaint	Internal Discipline
Amherst	4	1	4	2
Annapolis Royal	0	0	0	0
Bridgewater	2	0	0	0
Cape Breton Regional Police Service	18	5	9	6
Halifax Regional Police Service	53	21	63	23
Kentville	3	0	0	0
New Glasgow	2	2	5	1
Stellarton	1	3	3	1
Truro	7	6	6	1
Westville	1	2	2	0

Disposition of Complaints

Complaints against municipal police officers may conclude in a variety of ways. The conclusion of a file is recorded and used to provide a snapshot of the progress of files.

Disposition of Public Complaints

Disposition	2014	2015
Founded	2	0
Informal Resolution	13	6
Other*	25	24
Unfounded	29	25
Withdrawn	16	18
Still Under Investigation	5	16
Abandoned	0	3
Founded in Part	1	0
Total	91	92

*Includes situations where the complaint did not meet legislated requirements for filing a complaint against a municipal officer or where an officer retired/resigned.

Disposition of Internal Complaints

Disposition	2014	2015
Founded	7	9
Informal Resolution	11	4
Other	2	2
Unfounded	5	5
Withdrawn	6	1
Still Under Investigation	9	13
Abandoned	0	0
Founded in Part	0	0
Total	40	34

Allegations

Abbreviation	Alleged Defaults	Public		Internal	
		2014	2015	2014	2015
AA	Abuse of Authority	56	36	5	2
CP	Corrupt Practice	8	23	0	5
ED	Engages in Deceit	3	4	4	7
DC	Discreditable Conduct	43	53	25	26
ID	Improper Disclosure	1	0	0	1
IUF	Improper use of Firearm	0	0	0	0
INS	Insubordination	0	0	0	2
ND	Neglect of Duty	30	38	11	26
CD	Complaint Against Department	0	0	0	0
DP	Damages Property	1	7	0	1
CLD	Liquor or Drug Infraction	0	0	0	0
	Total	142	161	45	70

Appeals to the Commissioner and Review Board Chair

A total of ten appeals from members of the public and from officers appealing discipline were received in the calendar year 2015,* resulting in five independent investigations and six hearings of the Police Review Board. One appeal was withdrawn, one appeal was

received beyond the 30 day appeal period, and one appeal was filed in error.

*A file may be sent for independent investigation and a hearing of the Police Review Board or any combination of the two

Complaint Summaries

File PC-15-0038 Internal Disciplinary Matter Still Under Investigation – Criminal Proceedings Stayed

Allegations(s)

24 (1) A member who engages in discreditable conduct in any of the following ways commits a disciplinary default:

- (a) acting in a disorderly manner or in a manner that is reasonably likely to bring discredit on the reputation of the police department
- (b) contravening an enactment of the Province, a province or territory of Canada or the Government of Canada in a manner that is likely to bring discredit on the reputation of the police department

24 (3) A member who neglects their duties in any of the following ways commits a disciplinary default:

- (a) neglecting to or, without adequate reason, failing to promptly, properly or diligently perform a duty as a member
- (b) failing to work in accordance with orders

24(4) A member who is deceitful in any of the following ways commits a disciplinary default:

- (c) willfully or negligently making a false, misleading or inaccurate oral or written statement or signing a false, misleading or inaccurate written statement pertaining to the member's duties;

24(5) A member who improperly discloses information in any of the following ways commits a disciplinary default:

- (a) communicating information that the member has as a member of a police department without proper authority;

24(6) A member who engages in corrupt practice in any of the following ways commits a disciplinary default:

- (a) failing to properly account for, or make a prompt or true return of, any money or property received by the member in the course of duty;
- (d) improperly using their position as a member for private advantage.

This matter was initiated with allegations under the *Police Act* related to missing evidence. The member was suspended from duty and a criminal investigation was immediately conducted by the Serious Incident Response Team, resulting in the laying of criminal charges. At this point in time, the criminal charges have been stayed, and the investigation of professional misconduct under the *Police Act* continues.

PC-15-0037

Public Complaint Pending Hearing of the Police Review Board

Allegations

24(3) A member who neglects their duties in any of the following ways commits a disciplinary default:

- (a) neglecting to or, without adequate reason, failing to promptly, properly or diligently perform a duty as a member;

24(7) A member who abuses their authority in any of the following ways commits a disciplinary default:

- (a) making an arrest without good or sufficient cause;

The public complainant in this situation alleged that an officer conducted an inadequate investigation with regard to the complainant's ex-partner who contacted police to say that the complainant was harassing them.

The Police had reason to believe that the complainant may also be a danger to themselves.

Police invoked the *Involuntary Psychiatric Treatment Act (IPTA)* to locate the complainant and affect an arrest under the Act. It is alleged by the complainant that the police did not follow protocols with regard to an arrest under the *IPTA*.

The complainant was subsequently charged, but not convicted, in relation to the allegation of harassment.

In the decision by the police force related to the respondent officer's conduct, shortcomings were cited in the investigation conducted by the officer into the allegation of harassment but the officer was not disciplined.

This matter is awaiting a formal hearing of the Nova Scotia Police Review Board.

PC-15-0078

Public Complaint Officer's discipline appealed to the Police Review Board, hearing pending

Allegations

24(1) A member who engages in discreditable conduct in any of the following ways commits a disciplinary default:

(a) acting in a disorderly manner or in a manner that is reasonably likely to bring discredit on the reputation of the police department;

(d) being discourteous or uncivil to a member of the public, having regard to all the circumstances;

(7) A member who abuses their authority in any of the following ways commits a disciplinary default:

(b) using unnecessary force on or cruelly treating any prisoner or other person with whom the member may be brought into contact in the course of duty;

In this instance, an individual was traveling to Halifax from out of province for medical appointments. The respondent officer initiated a traffic stop that escalated and both occupants of the vehicle were arrested, but later released. The respondent officer was found guilty of all disciplinary defaults and demoted one full rank, with 12 months close supervision, reassignment of duties, and an inability to apply for promotional routines for a period of 12 months.

The respondent officer appealed the discipline and a hearing of the Police Review Board is pending.

Municipal Police Agencies



Chief Ian Naylor
Amherst Police Department
21 Acadia Street, 2nd Floor
Amherst, Nova Scotia B4H 4W3
P (902) 667-8600 F (902) 667-0268



A/Chief Ken Reade
Kentville Police Service
80 River Street
Kentville, Nova Scotia B4N 1G9
P (902) 678-3378 F (902) 678-6600



Chief P.J. McNeil (Bert)
Annapolis Royal Police Department
P. O. Box 310 Annapolis Royal,
Nova Scotia B0S 1A0
P (902) 532-2427 F (902) 532-7492



Chief Delaney Chisholm
New Glasgow Police Service
225 Park Street
New Glasgow, Nova Scotia B2H 5P7
P (902) 755-8325 F (902) 755-9982



A/Chief Scott Feener
Bridgewater Police Department
45 Exhibition Drive, Bridgewater, NS B4V 0A6
P (902) 543-2465 F (902) 543-74783



A/Chief Don Hussher
Stellarton Police Service
PO Box 609 Stellarton,
Nova Scotia B0K 1S0
P (902) 752-6160 F (902) 752-4101



Chief Peter McIsaac
Cape Breton Regional Police Service
865 Grand Lake Road - Central HQ
Sydney, Nova Scotia B1P 6W2
P (902) 563-5098 F (902) 567-2266



Chief David MacNeil
Truro Police Service
776 Prince Street
Truro, NS B2N 1G9
P (902) 895-5351 F (902) 897-3270



Chief Jean-Michel Blais
Halifax Regional Police
1975 Gottingen Street
Halifax, Nova Scotia B3J 2H1
P (902) 490-5020 F (902) 490-5038



Chief Don Hussher
Westville Police Service
PO Box 923 Westville, NS B0K 2A0
P (902) 396-2777 F (902) 396-2779

Police Resources in Nova Scotia, 2015¹

Municipal Force	Population²	Police Officers	Police Officers per 100,000 population
Amherst	9,717	22	226
Annapolis Royal	481	3	624
Bridgewater	8,241	20	243
Cape Breton Regional	97,398	167	171
Halifax Regional	390,096	516	132
Kentville	6,094	15	246
New Glasgow/Trenton	12,178	31	255
Stellarton	4,485	8	178
Truro	12,059	32	265
Westville	3,798	6	158
Total	544,547	820	

¹ Data courtesy of Nova Scotia Department of Justice, Policing Services Division

² Populations from Statistics Canada Census Profiles, 2011 Census

Office of the Police Complaints Commissioner

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