

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



ANNUAL REPORT 2016

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Office of the Police Complaints Commissioner and the Nova Scotia Police Review Board  
Annual Report 2016

Office of the Police Complaints Commissioner

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# 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 timely, impartial, client-oriented service to the public, to the police services and to the police officers within its jurisdiction.



# Table of Contents

Executive Summary .....	1
History .....	2
Role of the Police Complaints Commissioner/Police Review Board .....	3
Commissioner & Review Board Members .....	4
Organizational Chart .....	4
Demographics .....	5
Complaints by Municipal Agency .....	5
Disposition of Complaints .....	6
Disposition of Public Complaints .....	6
Disposition of Internal Complaints .....	6
Allegations .....	6
Appeals to the Commissioner and Police Review Board .....	7
Budget and Staffing .....	7
Appendix 1 .....	8
Appendix 2 .....	11



# Executive Summary

The Police Complaints Commissioner's Office investigates complaints by citizens who allege misconduct by municipal police officers. The Office also 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 are filed by completing and signing a prescribed form within six months of the occurrence giving rise to the complaint. 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 or subject officer is not satisfied by the decision of the Chief or the municipality's Board of Police Commissioners, they may file an appeal with the Commissioner. Officer appeals proceed directly to the Review Board, while the Commissioner must attempt to resolve public complaints, upon appeal. If a public complaint cannot be informally resolved, the Commissioner may conduct an independent investigation, send the file to the Review Board for a hearing, or take no further action.

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 2016, the Commissioner received 121 complaints from the public. An additional 59 internal disciplinary matters were dealt with by the Office.

Of the 121 public complaints, at the time of reporting, 19 were informally resolved, 18 were unfounded, 32 were withdrawn, 20 are still under investigation, and 32 were not proceeded with because they did not meet the statutory conditions for filing a complaint 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, and neglect of duty were the most common allegations in 2016. Internal discipline allegations dealing with discreditable conduct and neglect of duty were the most common in 2016.

A total of eleven appeals from members of the public and from officers appealing discipline were received in the calendar year 2016, resulting in five independent investigations and three hearings of the Police Review Board. The Board also held preliminary conference calls and continued to deal with outstanding matters from prior calendar years.



# 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 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, duties and responsibilities,
- 3) maintenance of statistics and research services,
- 4) determinations of the adequacy, efficiency, and effectiveness of the police services provided by municipalities,
- 5) recommendations for appointment or re-appointment of Provincial Civil Constables, Special Constables, and By-Law Enforcement Officers; and
- 6) 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.

# Role of the Police Complaints Commissioner/Police Review Board

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 hears reviews of public complaints and police officer's appeals against disciplinary penalties or dismissals.

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.

The Police Complaints Commissioner, hereafter called the Commissioner, ensures timelines for the processing of complaints are followed, and attempts to negotiate a resolution to public complaints upon an appeal. If the Commissioner determines the complaint has merit he/she will forward the matter for hearing before the Police Review Board. The Commissioner may forward the matter to an independent investigator for an investigation to assist with this decision.

Where the Commissioner cannot satisfactorily resolve a complaint, or has determined the complaint is frivolous, vexatious, without merit or an abuse of process, she/he may take no further action.

# 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, 2016, the members of the Police Review Board were:

**Judith A. McPhee, QC**

Police Complaints Commissioner

**Jean McKenna**, Chair

**Paulette Anderson**

**Ann Mann**

**John Manning**

**Dr. Daniel Paul**

**Ann Soucie**

**Betty Thomas**

**John Withrow**

## Staff

**Jeff Garber, Manager**

Investigations and Outreach

**Joni Keeping, Coordinator**

Adjudicative Branch

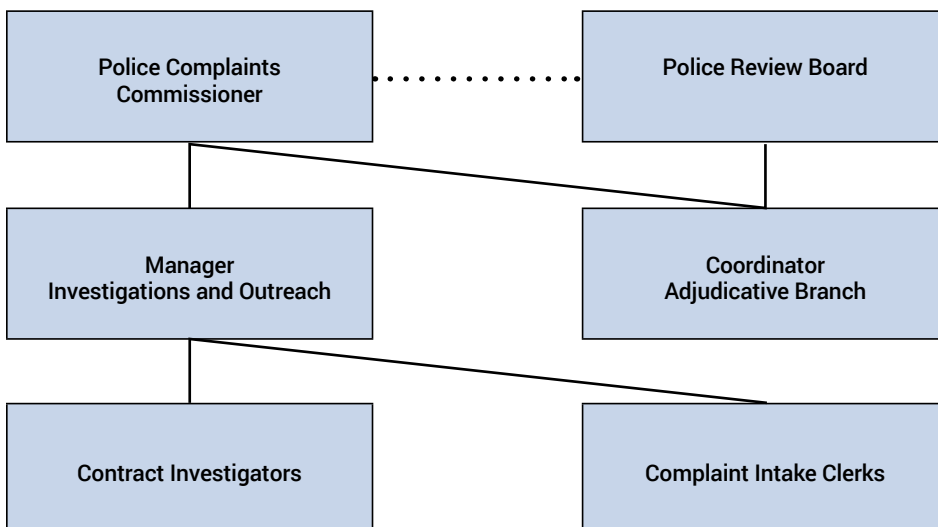
**Mirella Lopresti**

Complaint Intake Clerk

**Amanda McLean**

Complaint Intake Clerk

## Organizational Chart



# Demographics

A total of 180 complaints were filed with the Office of the Police Complaints Commissioner in 2016. 121 of the complaints began with a member of the public bringing allegations forward while the other 59 arose internally, with one officer making an allegation of misconduct against another officer.

Of the 121 public complainants, 37 were female with a median age of 43. The median age of the 84 male complainants was also 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 2016, alcohol consumption was associated with 10 files, a family dispute resulted in police involvement and subsequent allegations in 1 file, and charges or summary offence tickets were laid/issued in 33 of the 121 public complaint situations.

## Complaints by Municipal Agency

Department	2015		2016	
	Public Complaint	Internal Discipline	Public Complaint	Internal Discipline
Amherst	4	2	5	3
Annapolis Royal	0	0	0	0
Bridgewater	0	0	0	2
Cape Breton Regional Police Service	9	6	15	5
Halifax Regional Police Service	63	23	87	37
Kentville	0	0	3	0
New Glasgow	5	1	1	5
Stellarton	3	1	5	1
Truro	6	1	5	6
Westville	2	0	0	0

## Disposition of Complaints

The disposition provides a snapshot of the progress of files, at the time of reporting.

### Disposition of Public Complaints

Disposition	2015	2016
Informal Resolution	6	19
Other*	24	32
Unfounded	25	18
Withdrawn	18	32
Still Under Investigation	16	20
Abandoned	3	0
Founded in Part	0	0
<b>Total</b>	<b>92</b>	<b>121</b>

\*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	2015	2016
Founded	9	13
Informal Resolution	4	9
Other	2	0
Unfounded	5	5
Withdrawn	1	5
Still Under Investigation	13	26
Abandoned	0	0
Founded in Part	0	1
<b>Total</b>	<b>34</b>	<b>59</b>

## Allegations

Abbreviation	Alleged Defaults	Public		Internal	
		2015	2016	2015	2016
AA	Abuse of Authority	36	75	2	2
CP	Corrupt Practice	23	6	5	1
ED	Engages in Deceit	4	2	7	12
DC	Discreditable Conduct	53	84	26	52
ID	Improper Disclosure	0	1	1	10
IUF	Improper use of Firearm	0	0	0	0
INS	Insubordination	0	0	2	4
ND	Neglect of Duty	38	55	26	45
CD	Complaint Against Department	0	2	0	0
DP	Damages Property	7	0	1	0
CLD	Liquor or Drug Infraction	0	0	0	2
	<b>Total</b>	<b>161</b>	<b>225</b>	<b>70</b>	<b>128</b>

# Appeals to the Commissioner and the Police Review Board

A total of eleven appeals from members of the public, and from officers appealing discipline, were received in the calendar year 2016, resulting in five independent investigations and three hearings of the Police Review Board.\*

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

The remainder of files were withdrawn, informally resolved, or the Police Complaints Commissioner did not take further action.

## Budget and Staffing

	<b>2015-16</b>	<b>2016-17</b>
	<b>Actual</b>	<b>Forecast</b>
<b>Departmental expenses by object</b>		
Salary and employee benefits	193,223	180,700
Operating costs	292,676	209,300
<b>Gross expense</b>		
Less: Chargeable to other departments	52,768	
<b>Total – Nova Scotia Police Complaints Commissioner</b>	<b><u>433,131</u></b>	<b><u>390,000</u></b>
<b>Ordinary recoveries</b>	–	–
<b>Funded staff (number of FTEs)</b>	<b>3.0</b>	<b>3.0</b>
Less: Staff funded by external agencies	–	–
<b>Total – Funded staff*</b>	<b><u>3.0</u></b>	<b><u>3.0</u></b>

\*Does not include the Police Complaints Commissioner

# Appendix 1

## The Complaint Process

### How long do I have to file a complaint?

You must file your complaint within 6 months of the occurrence 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 a 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 receives 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, municipal board of police commissioners, 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](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 Police Complaints Commissioner.

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

The Police Complaints Commissioner ensures that the time limitations outlined in the *Police Act* and Regulations 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 Police Complaints Commissioner within 30 days of receipt of the decision. Once you file the Form 13, the Commissioner will attempt to informally resolve the complaint. 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.

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

A panel of three members will conduct a 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 assist in the preparation of subpoenas for witnesses and will provide 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.

## 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.

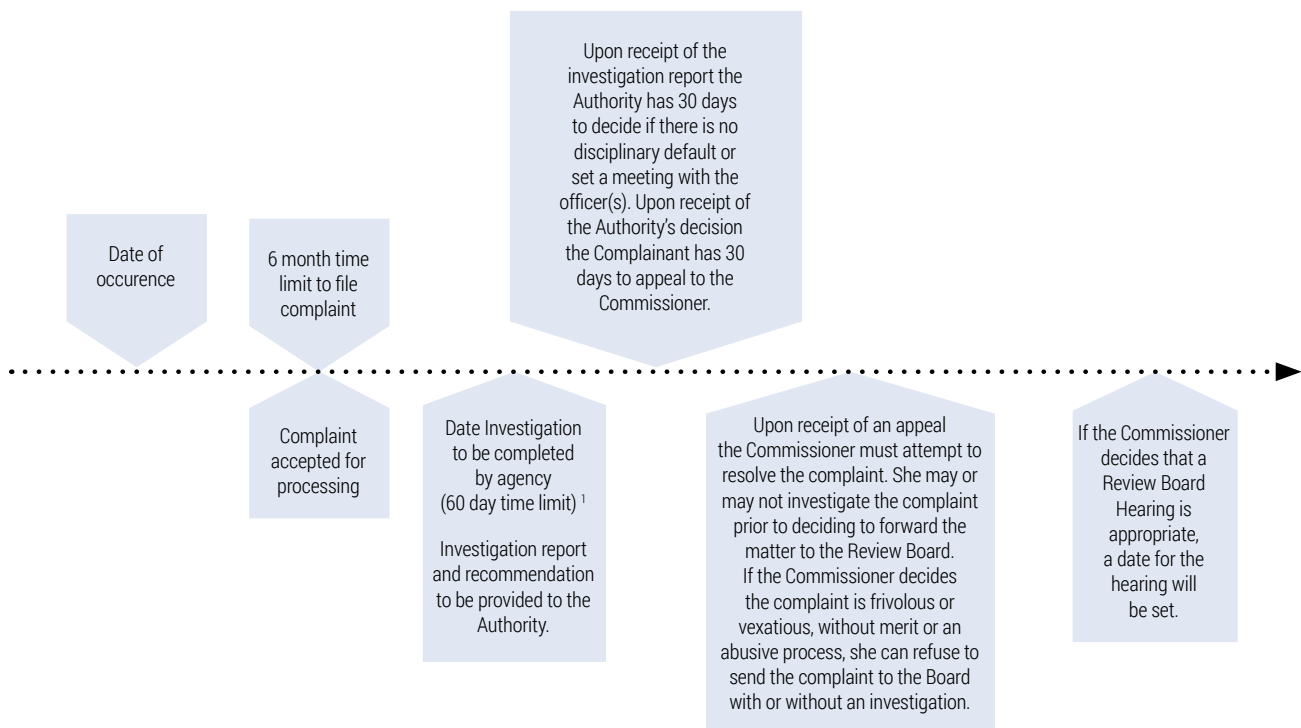
## Can a police officer appeal discipline?

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.

# Public Complaint Timeline



<sup>1</sup> There are provisions for police department investigators to apply for extensions to investigate.

# Appendix 2

## Professional Association



The Office of the Police Complaints Commissioner is 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 took place 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](http://www.cacole.ca)

Office of the Police Complaints Commissioner

1690 Hollis St., 3rd Floor  
PO Box 1573  
Halifax, Nova Scotia B3J 2Y3

Telephone: 902 424-3246  
Facsimile: 902 424-1777  
Email: [polcom@novascotia.ca](mailto:polcom@novascotia.ca)  
Online: [www.novascotia.ca/opcc](http://www.novascotia.ca/opcc)