

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

ANNUAL REPORT 2018

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Office of the Police Complaints Commissioner and the Nova Scotia Police Review Board
Annual Report 2018

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.

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Executive Summary

The Office of the Police Complaints Commissioner (OPCC) oversees the investigation of complaints by the public who allege misconduct by municipal police officers. Once the OPCC processes the complaint, it is sent to the police agency for investigation. The OPCC may conduct an independent investigation on an appeal from the public. The OPCC also provides administrative support to the Police Review Board which hears public complaints on appeal and appeals from police officers who have been disciplined.

Complaints are filed by completing and signing a prescribed form within six months of the incident giving rise to the complaint. The police agency investigation of the complaint must be completed within 60 days of the date that the complaint is filed unless an extension has been granted by the Commissioner.

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. Officer appeals proceed directly to the Review Board. Upon receiving a public complaint, the Commissioner may attempt to resolve, 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. A decision of the Police Review Board is final.

In 2018, the Commissioner received 197 complaints from the public. An additional 33 internal disciplinary matters were processed by the Office.

Of the 197 public complaints, at the time of reporting, 23 were informally resolved, 56 were unfounded, 16 were withdrawn, 28 are still under investigation, and 60 did not proceed.

A total of 12 Requests for Review were received from members of the public related to 2018 files. Five independent investigations were ordered in relation to public complaints in the calendar year 2018 (some of which were for 2017 files). Three public complaint matters were referred to the Review Board in 2018, however one matter was withdrawn and the other two are scheduled for hearing in 2019.

Four internal disciplinary hearings were referred to the Police Review Board in the calendar year 2018.

The OPCC gave presentations to the Nova Scotia Association of Municipal Boards of Police Commissioners, the HRM Board of Police Commissioners and the Halifax Regional Police Diversity Working Group. In addition, the office provided training to the Cape Breton Regional Police Service on the complaint process.

The Manager of Investigations and Outreach and the Vice-Chair of the Police Review Board attended the education conference, in May of 2018, sponsored by the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE). The Commissioner attended the annual meeting of the CACOLE Heads of Agency in October 2018.

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 oversee the investigation of complaints by the public 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. When a complainant is not satisfied with the decision of the police agency, they may request a review by the Commissioner. If the Commissioner determines the complaint has merit he/she will forward the matter for hearing before the Police Review Board. The Commissioner may refer the matter to an independent investigator 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, 2018, the members of the Police Review Board were:

Jean McKenna, Chair

Simon MacDonald, Vice Chair

John Manning

Stephanie Myles

Kimberly Ross

Ann Soucie

John Withrow

Judith A. McPhee, QC

Police Complaints Commissioner

Staff

Jeff Garber, Manager

Investigations and Outreach

Joni Keeping, Coordinator

Adjudicative Branch

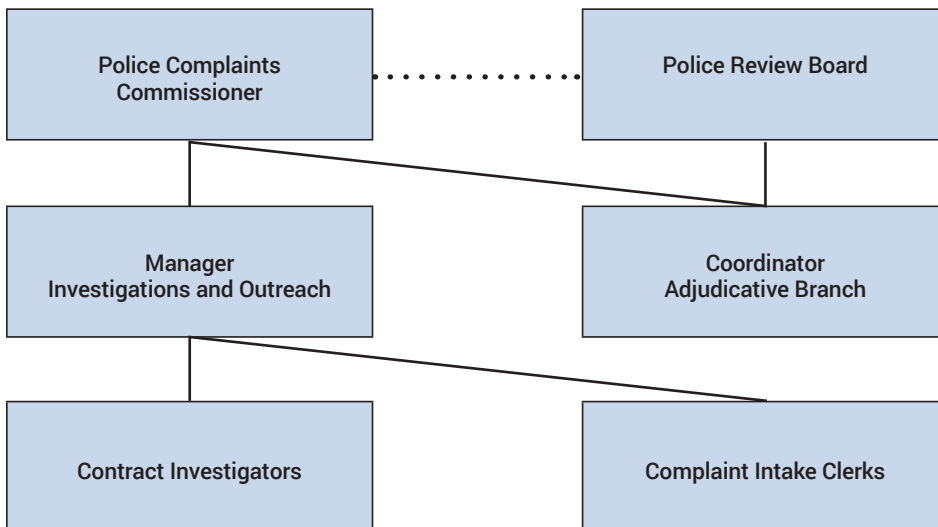
Mirella Lopresti

Complaint Intake Clerk

Amanda McLean

Complaint Intake Clerk

Organizational Chart



Demographics

A total of 230 complaints were filed with the Office of the Police Complaints Commissioner in 2018. 197 of the complaints began with a member of the public bringing allegations forward while the other 33 arose internally, with one officer making an allegation of misconduct against another officer.

The average age of the 197 complainants was 45.

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 2018, alcohol consumption was associated with 17 files, a family dispute resulted in police involvement and subsequent allegations in 13 files, and charges or summary offence tickets were laid/issued in 63 of the 197 public complaint situations.

Complaints by Municipal Agency

Department	2017		2018	
	Public Complaints	Internal Complaints	Public Complaints*	Internal Complaints
Amherst	5	4	3	2
Annapolis Royal	0	0	0	0
Bridgewater	0	0	1	0
Cape Breton Regional Police Service	16	9	27	6
Halifax Regional Police Service	114	28	139	13
Kentville	3	0	2	0
New Glasgow	2	6	5	7
Stellarton	2	0	10	0
Truro	8	2	8	5
Westville	4	0	0	0
Total	154	49	195	33

* Two 2018 public complaints were directed at members of the RCMP, and the complainants were referred to the Civilian Review and Complaints Commission for the RCMP

Disposition of Complaints

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

Disposition of Public Complaints

Disposition	2017	2018
Informal Resolution	28	23
Other*	31	60
Unfounded	25	56
Withdrawn	28	16
Still Under Investigation	37	28
Abandoned	4	12
Founded	1	1
Founded in Part	0	1
Total	154	197

*Includes situations where the complaint was beyond the six month time limitation for filing, no breach of the code of conduct alleged, complaints against the RCMP, complaint against a Sheriff, complaint abandoned by the complainant, or where an officer retired/resigned. More information is often requested from complainants before a decision is made to not proceed with a complaint. In situations where the complaint is against a member of the RCMP or a Sheriff, the complainant will be directed to the appropriate body to pursue their complaint.

Disposition of Internal Complaints

Disposition	2017	2018
Founded	5	8
Informal Resolution	16	5
Other	6	1
Unfounded	6	1
Withdrawn	3	2
Still Under Investigation	13	15
Abandoned	0	0
Founded in Part	0	1
Total	49	33

Allegations

	Public		Internal	
	2017	2018	2017	2018
Alleged Defaults				
Abuse of Authority	79	102	9	4
Corrupt Practice	15	4	2	4
Engages in Deceit	13	5	9	1
Discreditable Conduct	70	83	43	27
Improper Disclosure	3	4	3	2
Improper use of Firearm	0	0	0	0
Insubordination	0	0	3	0
Neglect of Duty	43	55	20	16
Complaint Against Department	0	0	0	0
Damages Property	8	1	6	0
Liquor or Drug Infraction	0	0	0	0
Total	231	254	95	54

Appeals to the Commissioner and the Police Review Board

A total of 12 Requests for Review were received from members of the public related to 2018 files. Five independent investigations were ordered in relation to public complaints in the calendar year 2018 (some of which were for 2017 files). Three public complaint matters were referred to the Review Board in 2018,

however one matter was withdrawn and two are scheduled for hearing in 2019.

Four internal disciplinary hearings were referred to the Police Review Board in the calendar year 2018.

Budget and Staffing

	2017-18	2018-19
	Estimate	Forecast
Departmental expenses by object		
Salary and employee benefits	197,000	203,000
Operating costs	187,000	185,000
Gross expense		
Less: Chargeable	(34,000)	(34,000)
Total – Nova Scotia Police Complaints Commissioner	<u>350,000</u>	<u>354,000</u>
Ordinary recoveries	–	–
Funded staff (number of FTEs)	3.0	3.0
Less: Staff funded by external agencies	–	–
Total – Funded staff	<u>3.0</u>	<u>3.0</u>

Appendix 1

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 will not be considered.

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

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 to, 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.

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 may attempt to informally resolve the complaint or 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 of the Commissioner's decision.

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. The Office of the Police Complaints Commissioner can 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 provincial government 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.

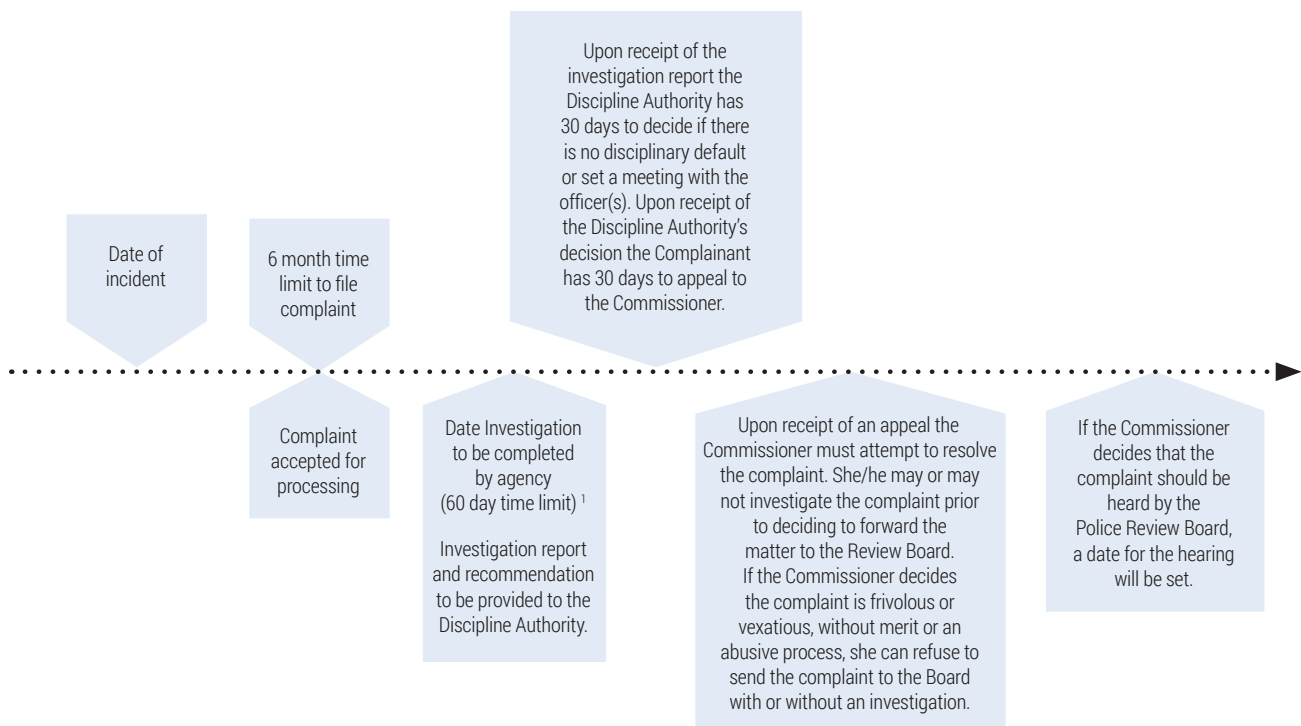
Can a police officer appeal discipline?

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



¹ 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 Not-for-Profit Corporations Act*. The national organization is governed by a set of By Laws and is managed by an elected, volunteer Board of Directors.

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

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