

Nova Scotia Office of the Police Complaints Commissioner (OPCC)
Policy and Procedure: Public Complaints
Effective January 15, 2021

Policy Statement: All complaints made against municipal police officers in the Province of Nova Scotia are subject to the public complaints policy of the Office of the Police Complaints Commissioner (OPCC)

General

A complaint shall be made in writing, using Form 5, and shall describe the alleged misconduct, indicate the date of the incident, and be signed by the complainant.

Complaint by third party

A complaint may be filed by a third party not personally affected by the alleged misconduct if the person who was personally affected signs the complaint (Form 5) on the line 'Signature of Person Affected' to allow the third party to carry the complaint forward.

Time limitation for filing

- 1) A complaint must be made and filed, in writing (Form 5), no later than 1 year after the conduct complained of is alleged to have occurred. Subject to paragraph 2, a complaint made more than 1 year after the conduct shall not be processed.
- 2) If the conduct complained of occurred on or after January 15, 2020, the Complaints Commissioner may extend the time limit for making and filing a complaint if satisfied that there are good reasons for doing so and that doing so would not be contrary to the public interest. A complaint made after the extended time limit shall not be processed. *[Section 29 of the Police Act Regulations made January 28, 2020, and in force January 15, 2021]*
- 3) When a complaint is made beyond the 1-year time limit, the Complainant shall be provided a deadline for explaining the delay. If no response is received by the deadline, the file may be closed.
- 4) The following non-exhaustive factors shall be considered in deciding whether to extend the time for filing:
 - Reasons given for the delay, including discoverability.
 - Due diligence of the Complainant.
 - Length of the delay.
 - Fairness to the complainant of denying an extension balanced against prejudice to the officer of granting an extension.
 - Chance of a complete investigation being done.

Process upon complaint being filed

A complaint must describe conduct contrary to the Code of Conduct for municipal police officers, as contained in section 24 of the *Police Act Regulations*.

OPCC may contact the complainant to clarify the particulars of the complaint, using mail, email or the telephone to do so. OPCC should use caution to avoid breaching the complainant's privacy when leaving telephone messages. When OPCC communicates with a complainant via telephone, the communication shall be documented in OPCC's file.

If OPCC contacts the complainant for the purpose of clarifying the complaint, OPCC shall give the complainant a deadline for providing further information and, for the complainant's convenience, may invite replies by telephone, email, or mail. The invitation may include a caution that the file will be closed if the OPCC does not receive a response. If no response is received by the deadline, the file may be closed.

Any further information received in response to an invitation from OPCC shall be considered part of the complaint.

Complaint not disclosing a breach

Should a complaint fail to describe conduct contrary to the Code of Conduct, the complaint shall not be processed. The complainant shall be notified in writing of the reason the complaint is not being processed, and the Chief of Police or designated disciplinary authority shall be copied on the correspondence.

Processing Complaint -Initial Processing

Once a complaint meets current filing requirements, it is considered complete. The Form 5 Public Complaint and a covering letter shall be sent to the Chief Constable of the subject officer's police agency.

Distribution of Complaints Documents

Non-criminal complaints

If the complaint does not disclose or allege a criminal act, copies of the Form 5 and covering letter are sent to the complainant, the subject officer(s), legal counsel (if known), and any other officer designated by the Chief Constable.

Criminal complaints:

If the complaint alleges or reveals a criminal act, the subject officer(s) will *not* receive a copy of the Form 5 or the covering letter. This allows the Chief Constable to refer the matter to the Serious Incident Response Team for criminal investigation and to pause *Police Act* complaint proceedings.

Extension of Time

The Complaints Commissioner may grant an extension of time to complete the complaint investigation if there are reasonable grounds, and if it will not unfairly disadvantage the complainant or the subject officer(s).

Complaints against RCMP officers

If a complaint appears to be against a member(s) of the RCMP, the complainant shall be informed that the applicable complaints authority is the Civilian Review and Complaints Commissioner for the RCMP.

If a complaint relates to an integrated police unit (comprised of members of both a municipal force and the RCMP), OPCC shall:

1. deal with the complaint in the usual fashion as it relates to municipal officers, and
2. inform the complainant that the applicable complaints authority for RCMP complaints is the Civilian Review and Complaints Commissioner for the RCMP.