

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



ANNUAL REPORT 2020

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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) is an independent civilian office which oversees and monitors complaints and investigations involving the municipal police in Nova Scotia. The OPCC provides support to the Police Review Board which has the responsibility for making decisions on appeals from complainants, or police officers, who may be dissatisfied with the decision of the police agency.

Complaints are filed by completing and signing a prescribed form within six months¹ of the incident giving rise to the complaint. The police agency must carry out an investigation of the complaint. Unless the complaint is resolved to the satisfaction of the complainant or an extension has been granted by the Police Complaints Commissioner, the investigation must be completed within 60 days of the date that the complaint is filed.

In those instances where the complainant or subject officer is not satisfied with the decision of the Chief or the municipality's Board of Police Commissioners, they may file a Request for Review. Officer appeals related to internal discipline proceed directly to the Review Board. Upon receiving a Request for Review from a subject officer or public complainant related to a public complaint, the Police Complaints Commissioner shall attempt to resolve the complaint and may conduct an independent investigation. If resolution is not agreed upon by both the complainant and subject officer, the Commissioner, unless satisfied

the complaint is without merit, shall send the file to the Review Board for a hearing.

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 2020, the OPCC received 138 complaints from the public. In addition, there were 40 internal complaints, meaning one officer making an allegation of misconduct against another officer.

Up to the time when this report was prepared, 27 of the public complaints had been dismissed because they did not meet the statutory conditions for filing a complaint, 7 had been abandoned, 7 had been withdrawn, 20 had been informally resolved, 34 had been investigated by police and found to be unsubstantiated, 1 investigation had been discontinued because the officer(s) retired or resigned, 1 complaint had been investigated by police and found to be substantiated, and 32 were still under investigation.

OPCC received a total of 19 Requests for Review in 2020, resulting in 2 public complaints and 4 internal disciplinary matters being referred to the Police Review Board, as of the time of reporting.

¹ The time to file a complaint is to be increased to one year: *Section 29 of the Police Act Regulations amended January 28, 2020 and in force January 15, 2021.*

Role of the Police Complaints Commissioner

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.

Section 12(1)(b) of the *Police Act* states that the Police Complaints Commissioner shall “perform the duties assigned to the Complaints Commissioner by this *Act*, the regulations, the Minister or the Governor in Council.”

If a member of the public files a complaint alleging that a municipal police officer has committed misconduct described in Section 24 of the Police Regulations, the Commissioner refers the complaint to the chief of police for investigation. The Office

of the Police Complaints Commissioner (OPCC) monitors the investigation to ensure timeliness.

When a complainant or subject officer is not satisfied with the decision of the police agency following the investigation, they may request that the Commissioner refer the complaint to the Police Review Board. If the Commissioner cannot satisfactorily resolve the complaint, he/she forwards the matter for a hearing before the Police Review Board, unless he/she has determined the complaint is frivolous, vexatious, without merit or an abuse of process. In carrying out these duties, the Commissioner may conduct or direct an independent investigation of the complaint.

Role of the Police Review Board

The primary role of the Police Review Board is to conduct reviews of public complaints and police officers’ 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”.

- 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

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, 2020, the members of the Police Review Board were:

Jean McKenna, Chair

Simon J. MacDonald, Vice Chair

Nadine Bernard

Stephen Johnson

Stephanie Myles

Kimberley Ross

John Withrow

Patrick H. Curran

Police Complaints Commissioner

Staff

Jeff Garber, Manager

Manager, Investigations and Outreach

Joni Keeping, Coordinator

Coordinator, Adjudicative Branch

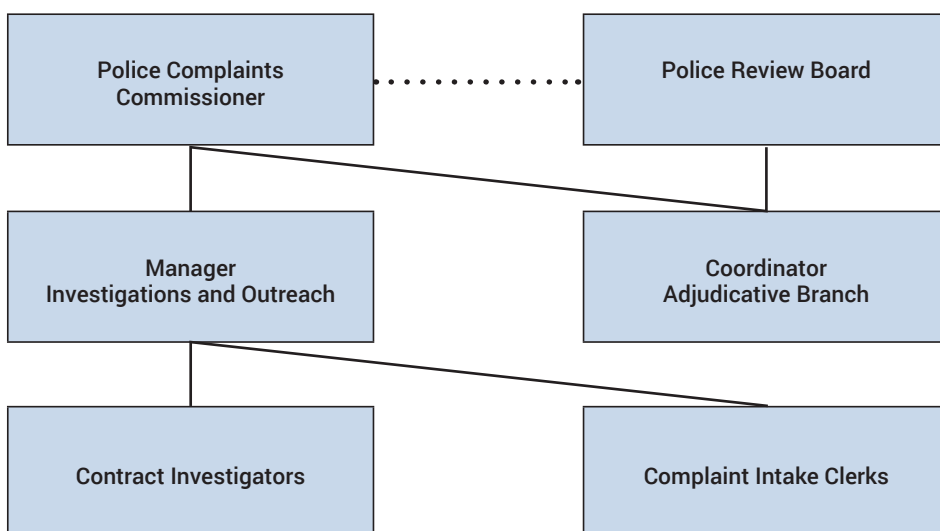
Amanda McLean

Complaint Intake Clerk

Brittany Birch

Complaint Intake Clerk

Organizational Chart



Number of complaints

A total of 178 complaints were filed with the Office of the Police Complaints Commissioner in 2020. 138 of the complaints were from the public bringing allegations

forward while the other 40 arose internally, with one officer making an allegation of misconduct against another officer.

Complaints by Municipal Agency

Department	2019		2020	
	Public Complaints	Internal Complaints	Public Complaints	Internal Complaints
Amherst	6	5	6	6
Annapolis Royal	0	1	0	0
Bridgewater	2	1	2	0
Cape Breton Regional Police Service	23	3	28	1
Halifax Regional Police Service	125	27	69	31
Kentville	0	1	4	0
New Glasgow	6	0	7	1
Stellarton	3	0	0	0
Truro	12	3	16	1
Westville	0	0	4	0
RCMP/No agency indicated	0	0	2	0
Total	177	41	138	40

Disposition of Complaints

This is a snapshot of the progress of files, at the time of reporting.

Disposition of Public Complaints

Disposition	2019	2020
Informal Resolution	25	20
Other*	50	27
Unsubstantiated	50	34
Withdrawn	23	17
Still Under Investigation	24	32
Abandoned	3	7
Substantiated	1	1
Substantiated in Part	1	0
Total	177	138

*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 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	2019	2020
Informal Resolution	8	3
Other	0	2

Unsubstantiated	6	9
Withdrawn	0	1
Still Under Investigation	17	13
Substantiated	9	9
Abandoned	1	0
Substantiated in Part	0	3
Total	41	40

Allegations

	Public		Internal	
	2019	2020	2019	2020
Alleged Defaults				
Abuse of Authority	57	47	0	15
Corrupt Practice	3	4	3	4
Engages in Deceit	2	8	4	3
Discreditable Conduct	75	126	23	46
Improper Disclosure	2	1	0	1
Improper use of Firearm	0	0	0	0
Insubordination	0	0	2	2
Neglect of Duty	26	45	23	19
Complaint Against Department	0	0	0	0
Damages Property	0	1	0	1
Liquor or Drug Infraction	0	0	0	1
Total	165	232	55	92

Note: A complaint may contain several allegations of misconduct

Requests for Review to the Commissioner and the Police Review Board

A total of 19 Requests for Review were received in 2020, resulting in 2 public

complaints and four internal disciplinary matters referred to the Police Review Board.

Budget and Staffing

	2019–20	2020–21
	Estimate	Forecast
Departmental expenses by object		
Salary and employee benefits	210,800	195,200
Operating costs	180,200	199,800
Gross expense		
Less: Chargeable	(34,000)	—
Total — Nova Scotia Police Complaints Commissioner	<u>357,000</u>	<u>395,000</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?

In 2020, complaints had to be made within six months of the date of occurrence which gave rise to the complaint. A regulatory change comes into effect on January 15, 2021, allowing complaints to be filed up to one year after the date of incident. The January 15, 2021 regulatory change also allows the Police Complaints Commissioner to extend the time to file a complaint, if satisfied there are good reasons for the extension and it would not be contrary to the public interest.

Where do I file a complaint?

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

- Any municipal police department;
- The Board of Police Commissioners for the area which the police force is responsible for policing;
- The Office of the Police Complaints Commissioner.

If a complaint is filed at a police department or a board of police commissioners, the Office of the Police Complaints Commissioner receives a copy of it.

How do I file a complaint?

A Complaint Form (Form 5) must be submitted in writing, dated and signed by the complainant. You can obtain the Form 5 from any municipal police department,

local board of police commissioners, or you can contact the OPCC's office. The Form 5 can also be found on OPCC's web site: novascotia.ca/opcc/filingacomplaint.htm

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

What happens next?

What happens after I make my complaint?

Unless the Commissioner concludes that a Form 5 complaint does not meet the statutory conditions for filing a complaint, OPCC directs the Chief of the police department where the police officer works to complete an investigation within 60 days after the complaint was filed. The police department where the police officer works will try to resolve the complaint informally if you and the officer(s) complained about agree. If there is no informal resolution, the police department will proceed with the investigation. The police department's investigation must be completed 60 days from the day the complaint is received by the OPCC. In some circumstances, the Commissioner may grant an extension of time to complete the investigation. You will receive notice when the investigation is complete or if an extension is granted.

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 decide what further action, if any, will be taken.

This process may take several months. You will be notified of the decision (Form 11 Decision of the Police Authority), as will the officer complained about and the Police Complaints Commissioner.

Common Questions and Answers

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

The Commissioner ensures that timelines provided in the *Police Act* Regulations are adhered to.

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

If you are not satisfied with the decision, you may file a Notice of Review (Form 13) with the OPCC within 30 days of receipt of the police department's decision (Form 11).

The Police Complaints Commissioner will review the file and may conduct an independent investigation. If unable to resolve the matter, the Commissioner will refer the complaint to the Police Review Board for hearing unless satisfied it does not have merit.

If the complaint is not referred to the Police Review Board, you will be notified that no further action will be taken with respect to your complaint.

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 contacted by the Clerk of the Board and a hearing date will be scheduled. You may be represented by a lawyer if you wish. The Police Review Board does not provide legal representation for you. If you are not represented by a lawyer, the Clerk of the Police Review Board will provide assistance in preparation of subpoenas for witnesses.

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 Police Review Board is made up of members of the public appointed by the government.

What can the Review Board do?

The Review Board may:

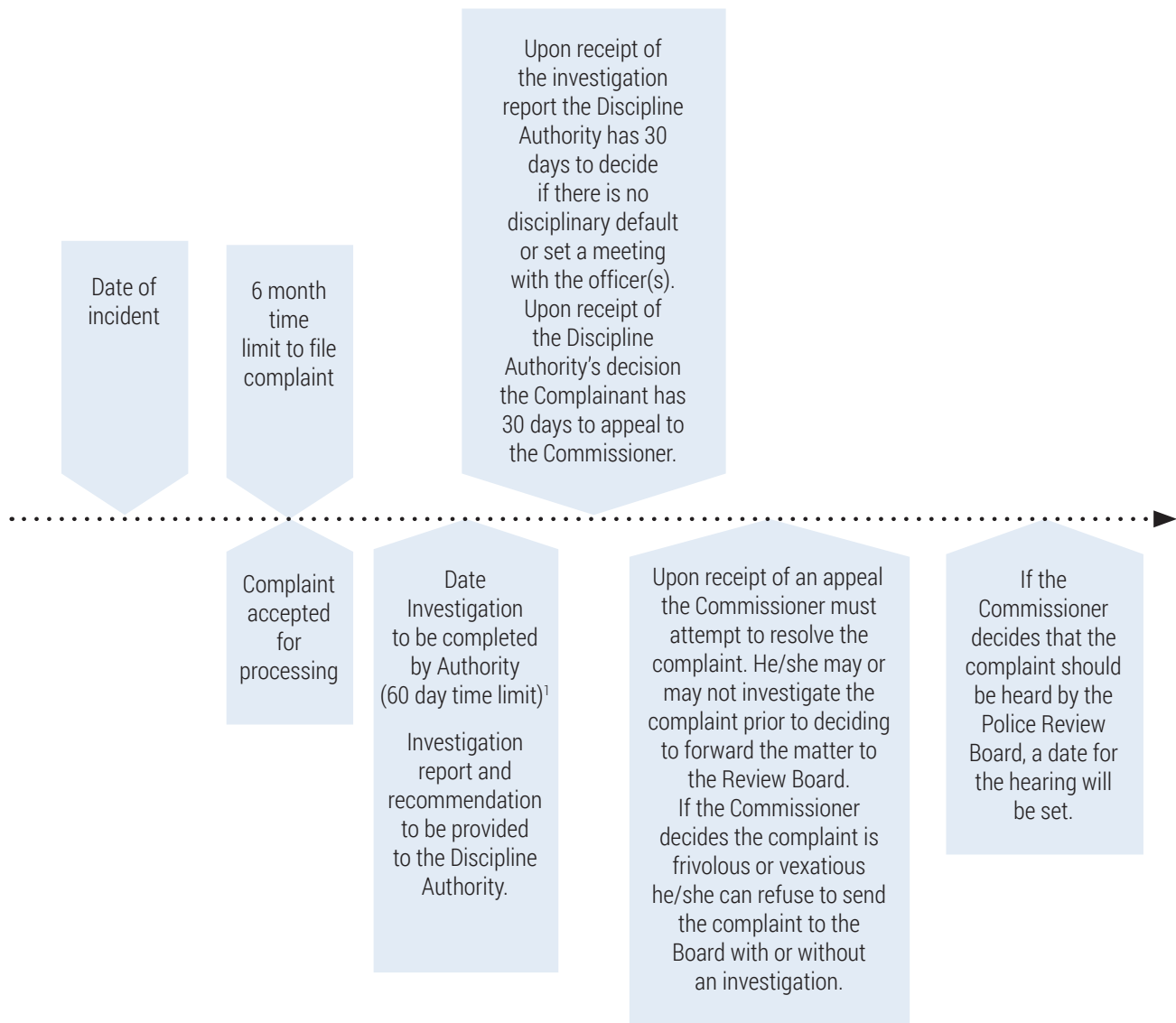
- Substitute a finding that in its opinion should have been reached
- Affirm or change any penalty which has been imposed
- Dismiss the matter

The Review Board cannot award compensation.

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

The Review Board's decision is final.

Filing a Public Complaint Timeline Example



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 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.

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

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