

2014 Annual Report

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



August 7, 2015

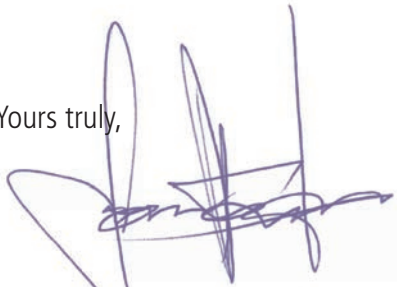
Honourable Diana C. Whalen
Minister of Justice and Attorney General
1690 Hollis Street
P.O. Box 7
Halifax, Nova Scotia B3J 2L6

Dear Minister,

I have the honour to submit to you the Annual Report of the Office of the Police Complaints Commissioner and the Nova Scotia Police Review Board for the calendar year 2014, 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 blue ink, appearing to read 'Nadine Cooper Mont', is written over a light blue rectangular background.

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 2014, the Commissioner received 91 complaints from the public. An additional 40 internal disciplinary matters were dealt with by the Office.

Of the 91 public complaints, 2 were substantiated, 13 were informally resolved, 29 were unfounded, 16 were withdrawn, 5 are still under investigation, and 25 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 abuse of authority and discreditable conduct, and neglect of duty were the most common allegations in 2014. Internal discipline allegations dealing with discreditable conduct and neglect of duty were the most common in 2014.

Eight public appeals were filed by the time of reporting in 2014. The Commissioner exercised her statutory discretion to conduct an independent investigation into five of the appeals. As a result of these investigations, five of the appealed files were forwarded to the Police Review Board for a formal hearing.

Two 2014 internal disciplinary matters were appealed to the Police Review Board.

The Police Review Board conducted an equivalent of 7 days of hearings in 2014. Eight meetings were also held to consider preliminary arguments.

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 and 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, 2014, the members of the Police Review Board were:

Nadine Cooper Mont, *Police Complaints Commissioner*

Lester Jesudason, *Chair*

Ann Mann, *Vice Chair*

Paulette Anderson

Elizabeth Cusack

William Kilfoil

Ken Langille

Jean McKenna

Judith McPhee

Garry Mumford

Dr. Daniel Paul

Betty Thomas

Staff

Jeff Garber, *Manager, Investigations and Outreach*

Pamela J. Whittaker, *Coordinator, Adjudicative Branch*

Mirella Lopresti, *Complaint Intake Clerk*

Vicky Bennett, *Complaint Intake Clerk*

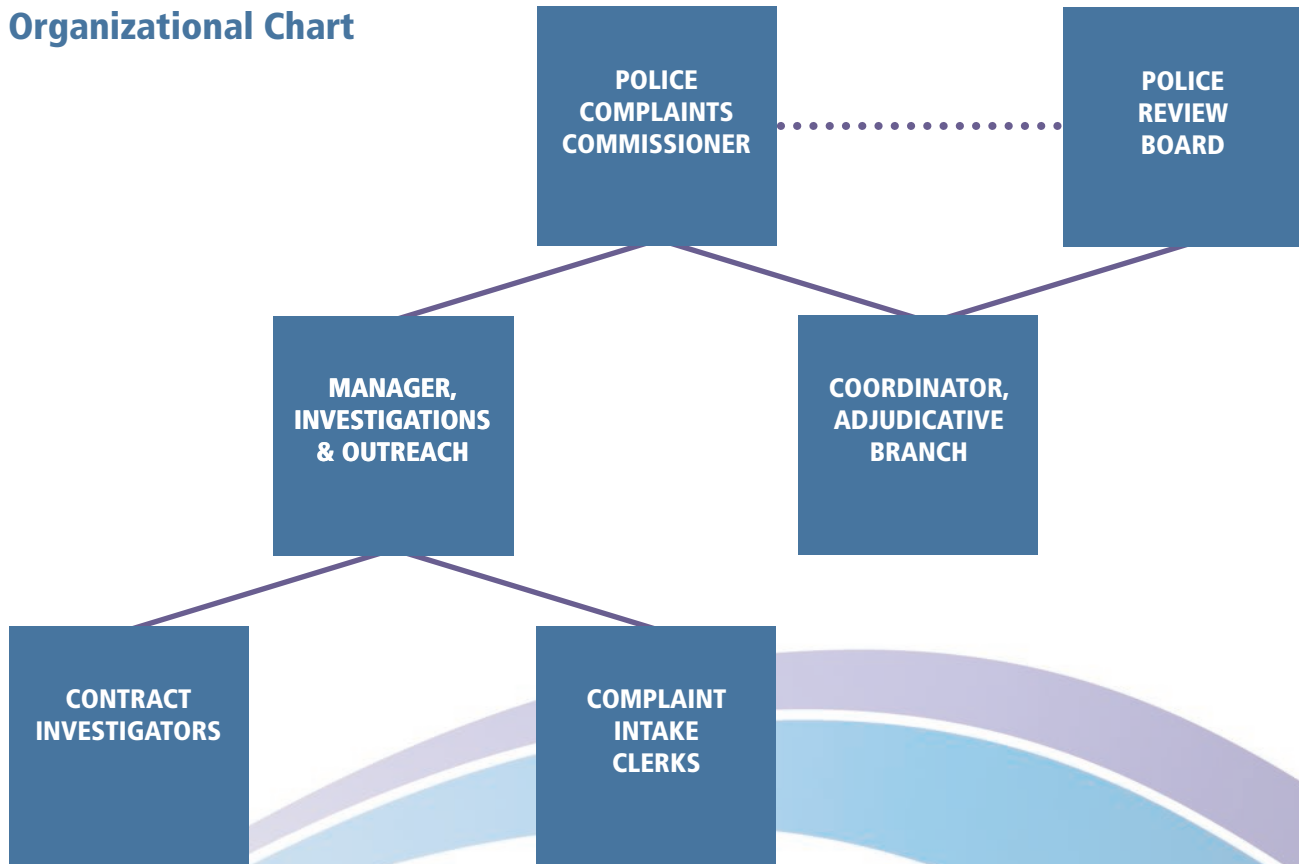
Staff Offices

The Office of the Police Complaints Commissioner is located at Sun Tower, 1550 Bedford Highway, Suite 720, Bedford, Nova Scotia.

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Halifax, NS
B3J 2Y3
Canada

Telephone: (902) 424-3246
Facsimile: (902) 424-1777
Email: polcom@gov.ns.ca
Website: novascotia.ca/opcc

Organizational Chart



Professional Association

The Office of the 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: 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 authority 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* have been and are adhered to and may exercise her/his 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.

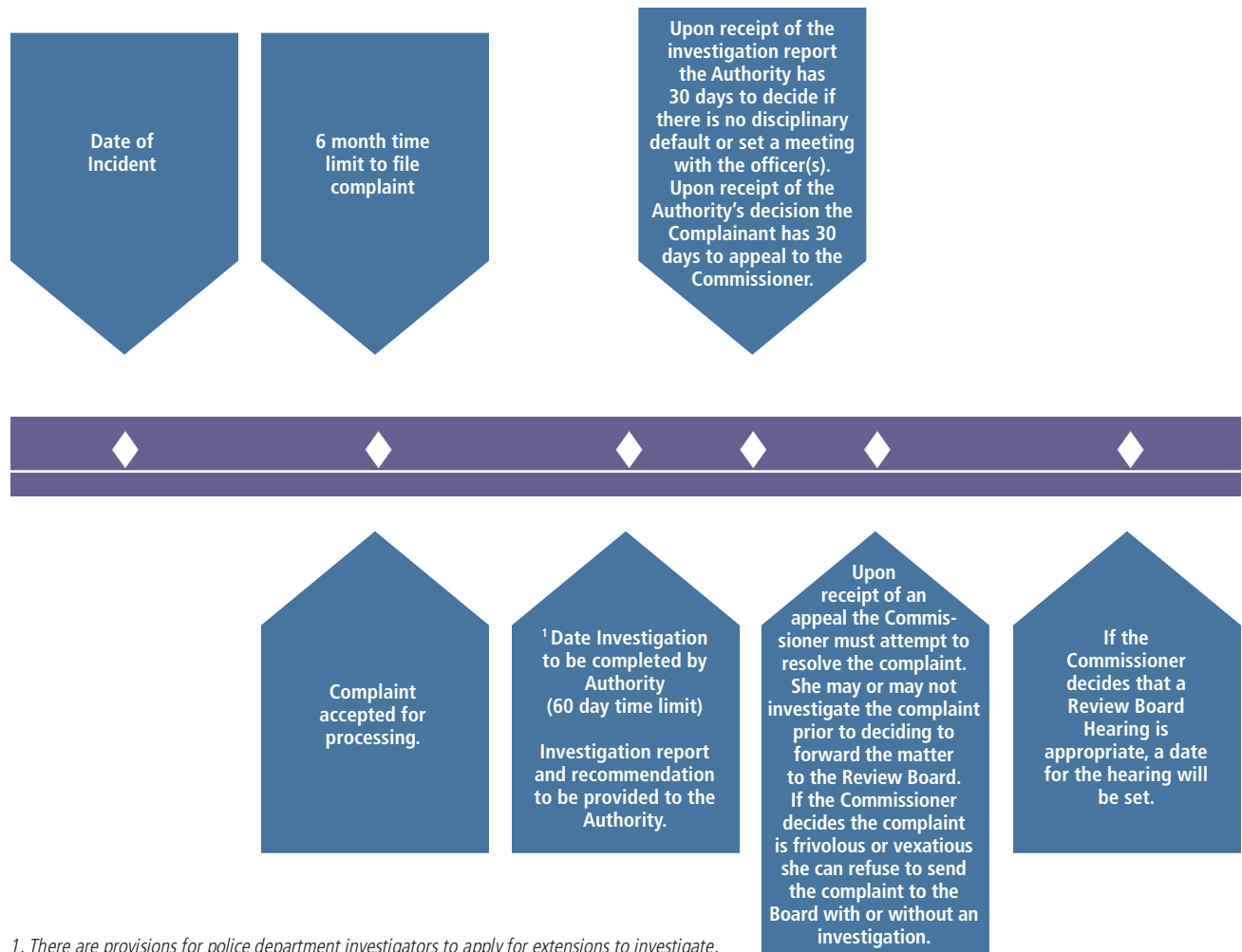
Can a police officer appeal?

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.

Filing a Public Complaint Timeline Example



Demographics

A total of 131 complaints were filed with the Office of the Police Complaints Commissioner in 2014. 91 of the complaints began with a member of the public bringing allegations forward while the other 40 arose internally, with one officer making an allegation of misconduct against another officer.

Of the 91 public complainants, 28 were female with a median age of 50. The median age of the 63 male complainants was 40.

The Office of the Police Complaints Commissioner tracks several associated factors regarding public complaint files. These factors are: the involvement of youth, 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 2014, alcohol consumption was associated with 6 files, a youth was party to the complaint in 4 instances, a family dispute resulted in police involvement and subsequent allegations in 3 files, and charges or summary offence tickets were laid/ issued in 38 of the 91 public complaint situations.

Complaints by municipal agency

Department	2013		2014	
	Public Complaint	Internal Discipline	Public Complaint	Internal Discipline
Amherst	3	1	4	1
Annapolis Royal	0	0	0	0
Bridgewater	2	0	2	0
Cape Breton	17	2	18	5
Halifax	70	25	53	21
Kentville	4	0	3	0
New Glasgow	1	0	2	2
Stellarton	7	6	1	3
Truro	7	5	7	6
Westville	3	0	1	2

Internal Discipline

The total number of internal disciplinary matters increased from 39 in 2013, to 40 in 2014.

Public Complaints

Public complaints decreased from 114 in 2013, to 91 in 2014. This represents a decrease of 20%.

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.

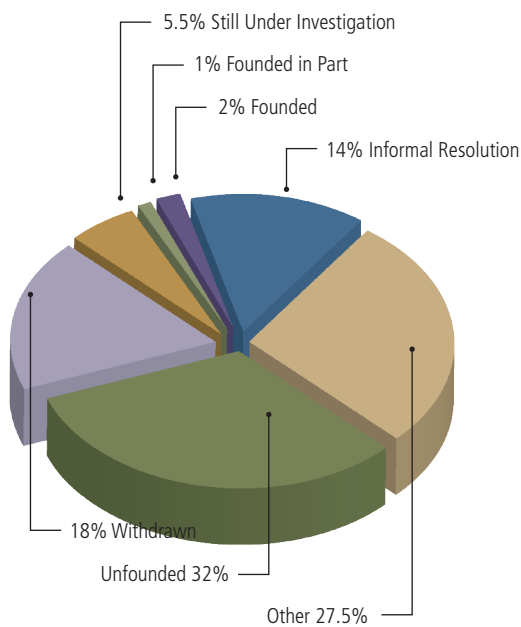
Disposition of Public Complaints

Disposition	2013	2014
Founded	2	2
Informal Resolution	15	13
Other	35	25
Unfounded	32	29
Withdrawn	20	16
Still Under Investigation	8	5
Abandoned	2	0
Founded in Part	0	1
Total	114	91

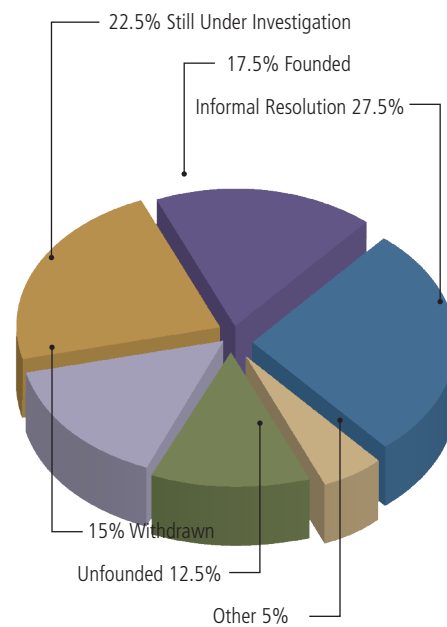
Disposition of Internal Complaints

Disposition	2013	2014
Founded	6	7
Informal Resolution	8	11
Other	5	2
Unfounded	12	5
Withdrawn	0	6
Still Under Investigation	7	9
Abandoned	0	0
Founded in Part	0	0
Total	39	40

2014 Public Complaints

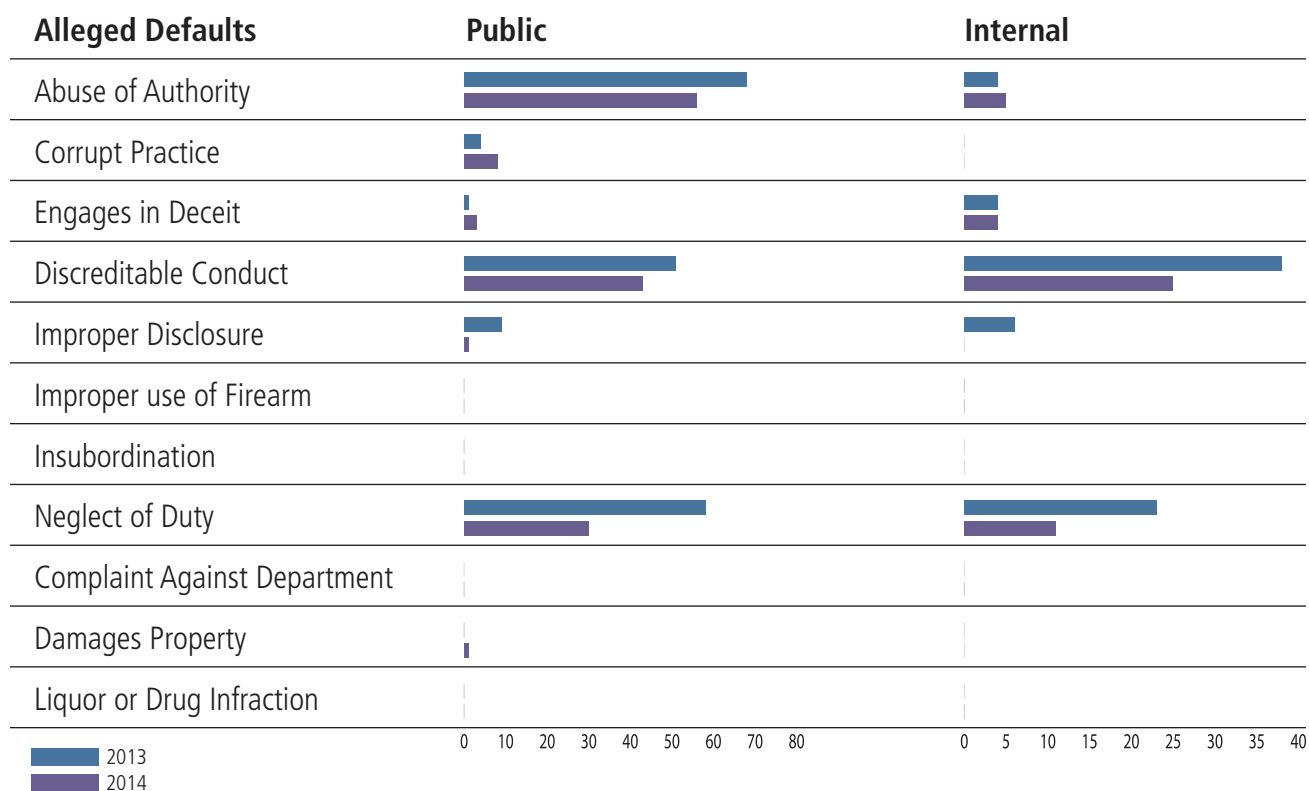


2014 Internal Complaints



Allegations

Alleged Defaults	Public		Internal	
	2013	2014	2013	2014
Abuse of Authority	68	56	4	5
Corrupt Practice	4	8	0	0
Engages in Deceit	1	3	4	4
Discreditable Conduct	51	43	38	25
Improper Disclosure	9	1	6	0
Improper use of Firearm	0	0	0	0
Insubordination	0	0	0	0
Neglect of Duty	58	30	23	11
Complaint Against Department	0	0	0	0
Damages Property	0	1	0	0
Liquor or Drug Infraction	0	0	1	0
Total	191	142	76	45



Appeals to the Commissioner

Public Appeals of Complaint Files Opened in 2014

Eight public appeals were received in the calendar year 2014. Of the eight public appeals, the Commissioner exercised her discretion to independently investigate five files. Of the eight appeals, five matters were forwarded to the Police Review Board for a full hearing.

Internal Disciplinary Appeals Resulting from Files Opened in 2014

Two internal disciplinary appeals were received in the calendar year 2014, which were forwarded directly to the Police Review Board for full hearings.

Complaint Summaries

File PC-14-0107

Public Complaint

Still Under Investigation – Criminal Proceedings not complete, Informally Resolved – in part

Allegation(s)

- (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;

The public complainant alleged that, while in custody, he was subjected to unnecessary use of force including being choked, thrown to the ground, thrown into a police cruiser repeatedly, and carried by the use of restraints. The public complainant alleged that he had bruising in various locations on his body.

The aspect of the complaint involving the use of restraints to carry the complainant was informally resolved, with the officer being counseled on the use of a hog tying technique, in which wrist and ankle restraints are joined by a set of hand cuffs. The entire police squad received this counselling as well. This subject officer was also counselled with regard to her inappropriate verbal interaction with the complainant.

One other subject officer related to this file is still under investigation. A criminal investigation has been initiated by the department into the member's conduct and a use-of-force report is being completed by subject experts.

**File PC-14-0045
Allegation(s)**

Internal Disciplinary Matter

Officer resigned – Jurisdiction lost

- 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;
- 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;

This internal matter arose when the officer engaged in an inappropriate relationship, while on duty, with a coded source, or registered confidential informant.

The member was suspended from duties and his pay was discontinued after the first 60 days of suspension, as per section 67 of the Police Act regulations.

The officer applied to the Police Review Board to overturn the decision to discontinue his pay, and a deal was struck with the member's employer to continue the pay to a specific date.

The member resigned before the process reached its conclusion therefore jurisdiction to find the member guilty of a disciplinary default was lost.

**PC-14-0112
Allegation(s)**

Public Complaint

Informally Resolved

- 24(4)** A member who is deceitful in any of the following ways commits a disciplinary default:
- (a)** (2 counts) wilfully or negligently making or signing a false, misleading or inaccurate written statement or entry, including by electronic means, in an official document or record;
- (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;

The parents of a youth moved forward with this complaint, as third-party complainants. The officer was alleged to have entered information into police records related to a firearms incident involving their son. The parents of the youth maintained that there was no reason to flag their son in police records for this, as there was not an incident involving firearms. The parents of the youth were concerned that this flagging could place their son in danger, should he have a future interaction with the police, should he be considered armed.

The allegation against the officer also called into question the officer's report that a motor vehicle collision occurred, that resulted in the suspension of the driver's license of the youth for 2 years. The complainants maintained that a collision had not occurred.

This complaint file was informally resolved and the officer's supervisor conducted a thorough training session with the officer related to deficiencies in the officer's investigation.

PC-14-0029
Allegation(s)

Internal Disciplinary Matter **Sustained**

- 24(1)** A member who engages in discreditable conduct in any of the following ways
- (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;

This internal disciplinary proceeding resulted when an off-duty officer physically assaulted an individual at a social gathering. The off-duty officer and assault victim were both under the influence of alcohol when the assault occurred.

A criminal trial resulted in the issuance of a peace bond, but there was no criminal conviction.

The member admitted to the disciplinary default and was issued a written reprimand, to be held on file as per section 58 of the Police Act Regulation, for one year. Generally, an officer is not considered for promotional opportunities if there is a formal reprimand on file.

Municipal Police Agencies



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



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



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



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



Chief John W. Collyer
Bridgewater Police Department
45 Exhibition Drive, Bridgewater, NS
B4V 0A6
P (902) 543-2465
F (902) 543-74783



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



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



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



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



Chief Mark Mander
Kentville Police Service
80 River Street
Kentville, NS B4N 1G9
P (902) 678-3378
F (902) 678-6600

¹Municipal Police Resources in Nova Scotia as of April 1, 2015

Municipal Force	²Population	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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