

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



ANNUAL REPORT 2019

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Annual Report 2019

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) is a civilian, independent 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 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 Police Complaints Commissioner.

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 proceed directly to the Review Board. Upon receiving a Request for Review of a public complaint, the Police Complaints Commissioner may attempt to resolve the complaint, 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 2019, the OPCC received 177 complaints from the public. An additional 41 were internal complaints meaning one officer making an allegation of misconduct against another officer.

Of the 177 public complaints, at the time of reporting, 25 were informally resolved, 41 were unfounded, 19 were withdrawn, 37 are still under investigation, 2 were substantiated, 3 were abandoned, and 50 were not proceeded with because they did not meet the statutory conditions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.

A total of 16 Requests for Review were received from members of the public in 2019. Two independent investigations were ordered in relation to public complaints in the calendar year 2019. Three public complaint matters were referred to the Review Board in 2019, all of which are scheduled for hearing in 2020.

Eight internal complaints were forwarded to the Police Review Board in the calendar year 2019.

# Highlights of 2019

- The OPCC updated its print and online materials in 2019 to improve information available to members of the public.
- The six month time limitation for filing complaints will be increased to one year and this change will come in to effect in January 2021.
- The Chair and Vice Chair of the Police Review Board attended the annual national conference of the Canadian Association of Civilian Oversight of Law Enforcement held in Toronto in May, 2019.
- Police Review Board members attended Diversity and Inclusion training as part of the Department of Justice Agency, Board, and Commission Diversity and Inclusion Strategy.
- Forms were updated and are available in a fillable format.

# 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 made by the public alleging misconduct by municipal police officers. The Police Review Board hears 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".

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, monitors the timelines for the processing of complaints. 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, 2019, the members of the Police Review Board were:

**Jean McKenna**, Chair

**Hon. Simon J. MacDonald**, Vice Chair

**Nadine Bernard**

**Stephen Johnson**

**Stephanie Myles**

**Kimberley Ross**

**John Withrow**

**Judith A. McPhee, QC**

Police Complaints Commissioner

## Staff

**Jeff Garber, Manager**

Investigations and Outreach

**Joni Keeping, Coordinator**

Adjudicative Branch

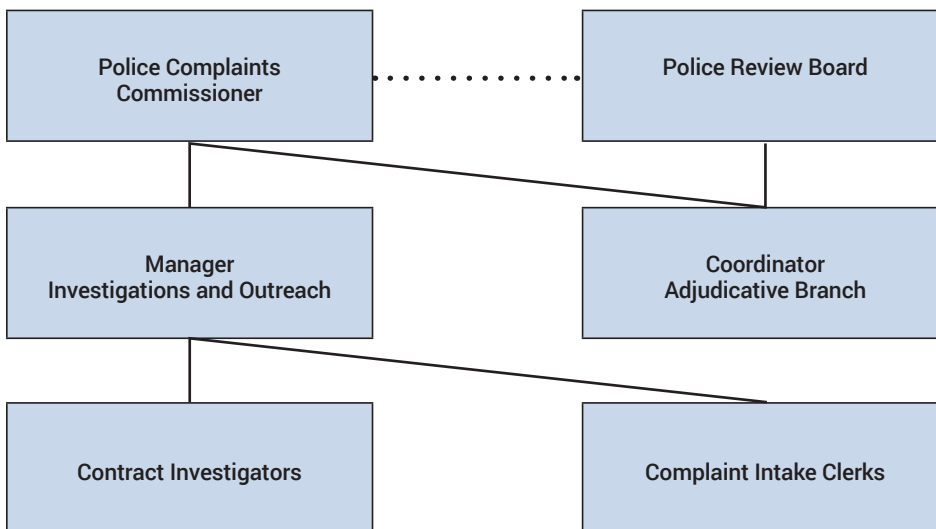
**Amanda McLean**

Complaint Intake Clerk

**Brittany Birch**

Complaint Intake Clerk

## Organizational Chart



# Statistics

A total of 218 complaints were filed with the Office of the Police Complaints Commissioner

in 2019; 177 of the complaints were from the public and 41 were internal.

## Complaints by Municipal Agency

Department	2018		2019	
	Public Complaints	Internal Complaints	Public Complaints	Internal Complaints
Amherst	3	2	6	5
Annapolis Royal	0	0	0	1
Bridgewater	1	0	2	1
Cape Breton Regional Police Service	27	6	23	3
Halifax Regional Police Service	139	13	125	27
Kentville	2	0	0	1
New Glasgow	5	7	6	0
Stellarton	10	0	3	0
Truro	8	5	12	3
Westville	0	0	0	0
<b>Total</b>	<b>195</b>	<b>33</b>	<b>177</b>	<b>41</b>

## Disposition of Complaints

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

### Disposition of Public Complaints

Disposition	2018	2019
Informal Resolution	23	25
Other*	60	50
Unsubstantiated	56	41
Withdrawn	16	19
Still Under Investigation	28	37
Abandoned	12	3
Substantiated	1	1
Founded in Part	1	1
<b>Total</b>	<b>197</b>	<b>177</b>

\*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	2018	2019
Informal Resolution	5	8
Other	1	0
Unsubstantiated	1	6
Withdrawn	2	0
Still Under Investigation	15	17
Substantiated	8	9
Abandoned	0	1
Substantiated in Part	1	0
<b>Total</b>	<b>33</b>	<b>41</b>

## Allegations

	Public		Internal	
	2018	2019	2018	2019
Alleged Defaults				
Abuse of Authority	102	57	4	0
Corrupt Practice	4	3	4	3
Engages in Deceit	5	2	1	4
Discreditable Conduct	83	75	27	23
Improper Disclosure	4	2	2	0
Improper use of Firearm	0	0	0	0
Insubordination	0	0	0	2
Neglect of Duty	55	26	16	23
Complaint Against Department	0	0	0	0
Damages Property	1	0	0	0
Liquor or Drug Infraction	0	0	0	0
<b>Total</b>	<b>254</b>	<b>165</b>	<b>54</b>	<b>55</b>

Note: A complaint may contain several allegations of misconduct

# Requests for Review to the Commissioner and the Police Review Board

A total of 16 Requests for Review were received from members of the public in 2019. From the 16 requests, two independent investigations were ordered, and three public complaint matters were referred to the Review Board. The three matters are scheduled for hearing in 2020.

Eight internal disciplinary matters were directed to the Police Review Board in the calendar year 2019.

## Budget and Staffing

	<b>2018–19</b>	<b>2019–20</b>
<b>Departmental expenses by object</b>	<b>Estimate</b>	<b>Forecast</b>
Salary and employee benefits	203,000	210,800
Operating costs	185,000	180,200
<b>Gross expense</b>		
Less: Chargeable	(34,000)	(34,000)
<b>Total – Nova Scotia Police Complaints Commissioner</b>	<b><u>354,000</u></b>	<b><u>357,000</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>

# Appendix 1

## The Complaint Process

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

You must file your complaint within six months of the date of occurrence which gave rise to the complaint. The six month limitation is being extended to one year, as of January 2021.

### 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.

The Office of the Police Complaints Commissioner receives a copy of every complaint, wherever it is filed.

### 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, or you can contact the OPCC's office. The Form 5 can also be found on the web site: [novascotia.ca/opcc/filingacomplaint.htm](https://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?

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 processed 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 their delegate, 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, and will provide advice on the process.

### **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. Based on the file review, the Commissioner will decide whether the complaint has merit and if that is the case, the matter will be referred to the Police Review Board. 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:

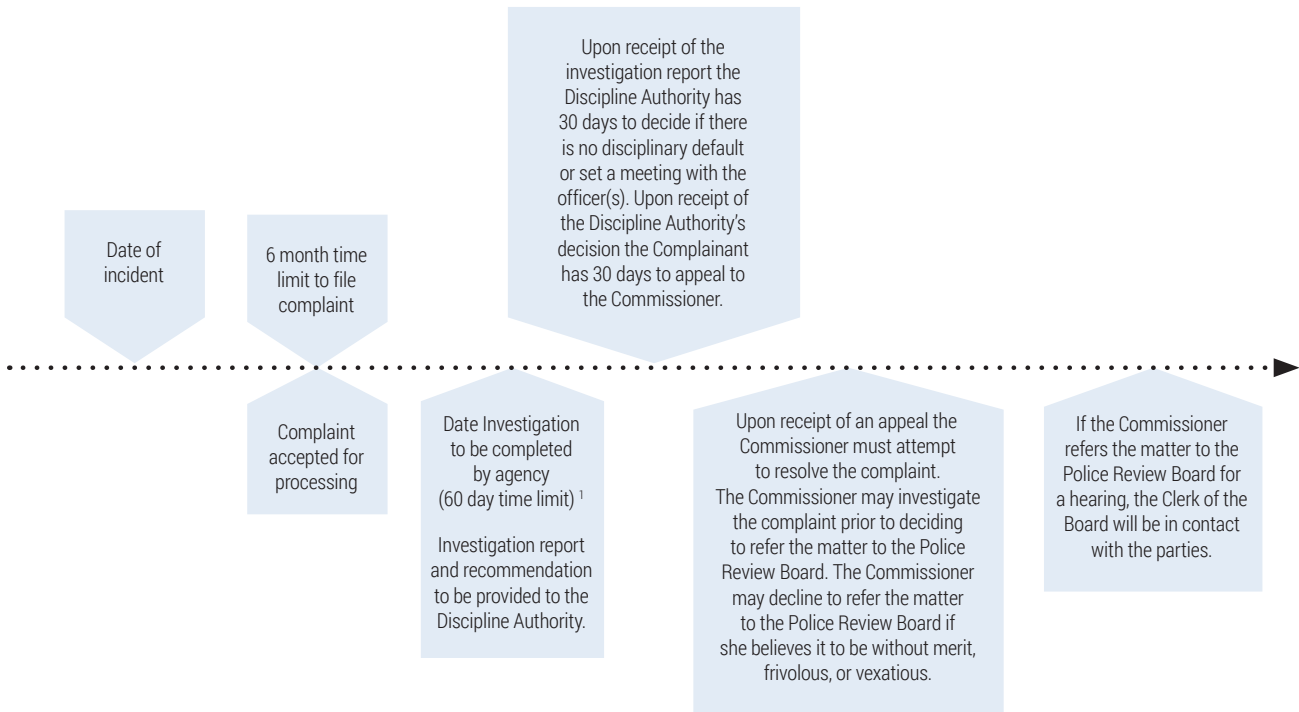
- Substitute a finding that in its opinion should have been reached
- Affirm or change any penalty which has been imposed
- Dismiss the matter

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



<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 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](http://www.cacole.ca)



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