

2011 Annual Report

Office of the Police Complaints Commissioner

on behalf of the
Nova Scotia Police Review Board



December 1, 2012

Honourable Maurice G. Smith
Minister of Transportation and Infrastructure Renewal
2nd Floor, Johnston Building
1672 Granville Street
P.O. Box 186
Halifax, Nova Scotia B3J 3Z8

Dear Minister,

I have the honour to submit to you the Annual Report of the Nova Scotia Police Review Board for the calendar year 2011, 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. The signature is stylized and cursive.

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 2011, the Commissioner received 94 complaints from the public. An additional 46 internal disciplinary matters were dealt with by the Office.

Of the 94 public complaints, six were substantiated, seven were informally resolved, 21 were unfounded, 13 were withdrawn, 19 are still under investigation, and 28 were not accepted or 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 continued to be the most common allegations in 2011. Complaints related to neglect of duty were prevalent again in 2011. Internal discipline allegations dealing with discreditable conduct and neglect of duty were respectively the most common in 2011.

Ten public appeals were filed by the time of reporting in 2011. The Commissioner exercised her statutory discretion to conduct an independent investigation on four of the appeals. As a result of these investigations, three files had been forwarded to the Police Review Board for a formal hearing (by the time of reporting).

No internal disciplinary matters were appealed to the Police Review Board by the time of reporting in 2011, although there were 3 appeals by officers as a result of public complaints in which discipline was imposed. The Police Review Board conducted an equivalent of 9.5 days of hearings into 8 appeals in 2011. Sixteen meetings were also held to consider preliminary arguments.

The Police Review Board heard three pay and allowance appeals in 2011, in which suspended officers appealed the decision to discontinue their remuneration after the mandatory initial 60 day period of suspension with pay.

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, or 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, 2011, the members of the Police Review Board were:

Nadine Cooper Mont, *Police Complaints Commissioner*

Lester Jesudason, *Chair*

Linda Garber, *Vice Chair*

Betty Thomas, *Member*

Daniel Paul, *Member*

Peter James, *Alternate Member*

Ken Langille, *Member*

Ann Mann, *Member*

Richard Evans, *Member*

Staff

Jeff Garber, *Manager, Investigations and Outreach*

Pamela J. Whittaker, *Coordinator, Adjudicative Branch*

Mirella Lopresti, *Complaint Intake Clerk*

Norma MacDonald (retired), *Complaint Intake Clerk*

Ellen Dodson, *Complaint Intake Clerk*

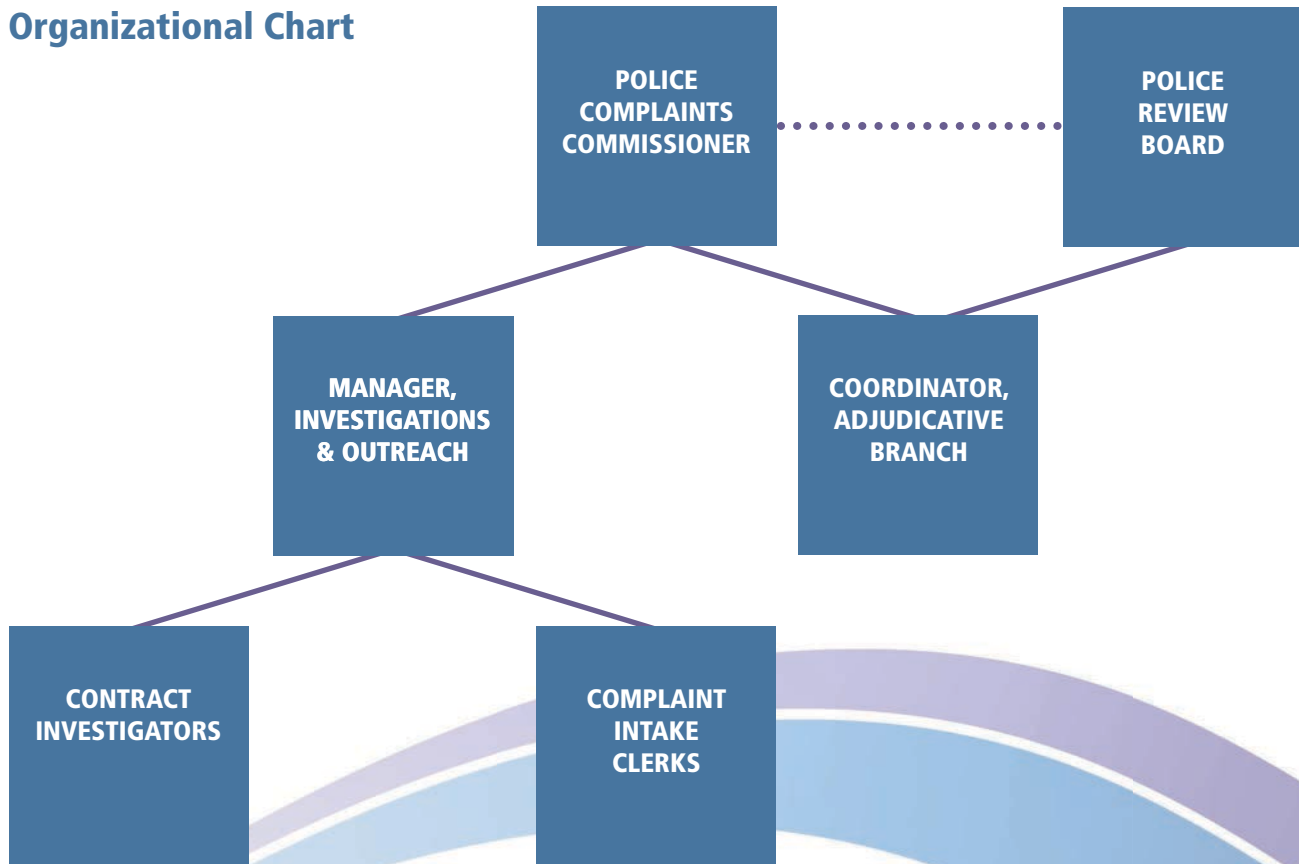
Staff Offices

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

Mailing Address: PO Box 1573
Halifax, NS
B3J 2Y3
Canada

Telephone: (902) 424-3246
Facsimile: (902) 424-1777
Email: polcom@gov.ns.ca
Website: www.gov.ns.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.gov.ns.ca/just/Policing_Services/_docs/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.

Please visit www.gov.ns.ca/opcc for more information.

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 the complaint is frivolous and vexatious and if that is the case, the matter will not 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. 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.

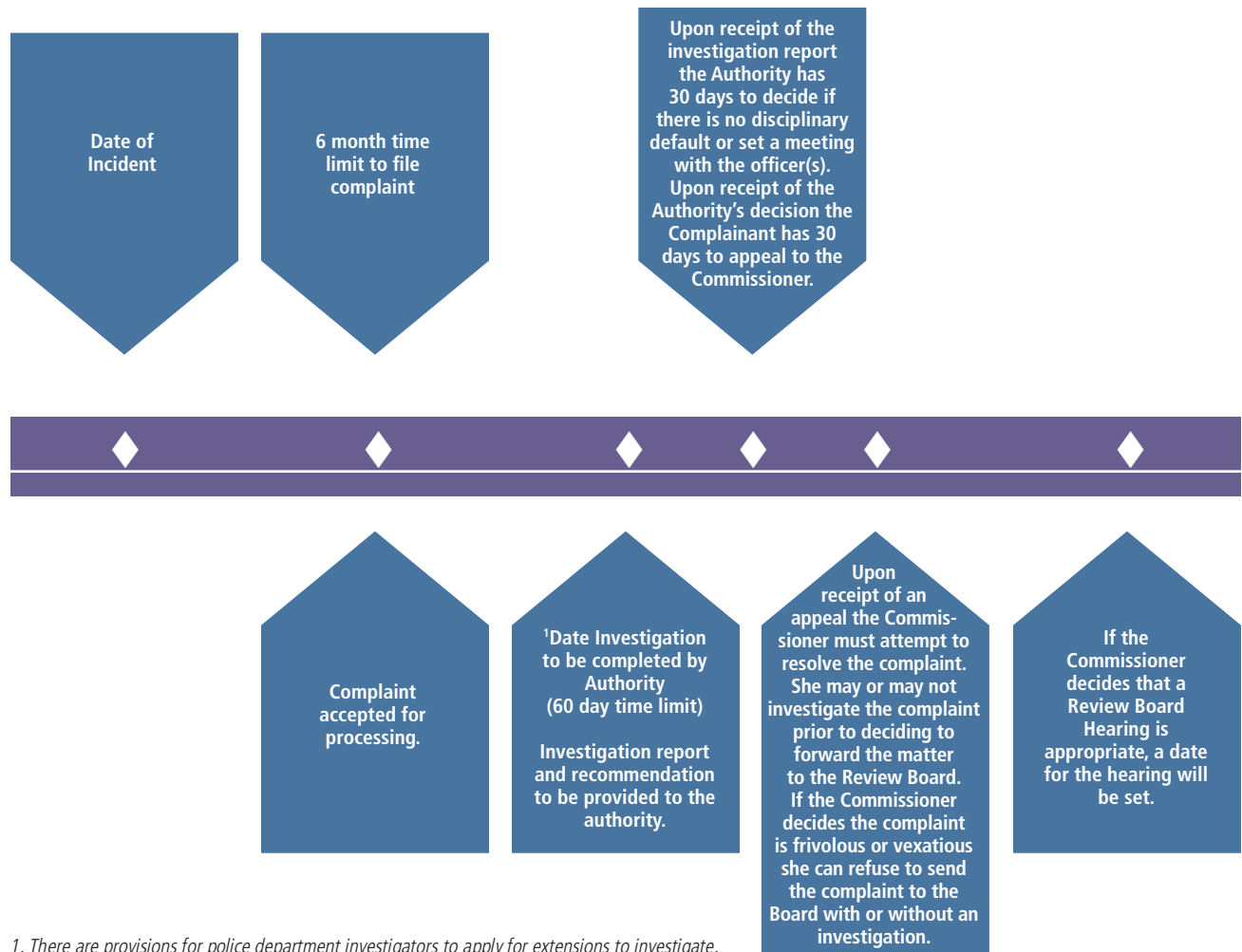
Can a police officer appeal?

The police officer may appeal disciplinary action imposed by the Chief of Police or the Authority.

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 140 complaints were filed with the Office of the Police Complaints Commissioner in 2011. Ninety four of the complaints began with a member of the public bringing allegations forward while the other 46 arose internally, with one officer making an allegation of misconduct against another officer. Of the 94 public complainants, 26 were female with a median age of 43. The median age of the 68 male complainants was 44.

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 2011, alcohol consumption was an associated factor relating to nine files, a youth was party to the complaint in 4 instances, a family dispute resulted in police involvement and subsequent allegations in six files, and charges or summary offence tickets were laid/issued in 36 of the 94 public complaint situations.

Complaints by municipal agency

Department	2010		2011	
	Public Complaint	Internal Discipline	Public Complaint	Internal Discipline
Amherst	4	0	7	3
Annapolis Royal	0	0	0	0
Bridgewater	1	5	1	0
Cape Breton	27	3	29	3
Halifax	34	30	44	30
Kentville	0	1	3	0
New Glasgow	3	0	2	3
Springhill	1	0	2	0
Stellarton	3	1	0	1
Truro	5	2	6	6
Westville	4	0	0	0

Internal Discipline

The total number of internal disciplinary matters increased from 43 in 2010 to 46 in 2011. This represents an increase of 7%.

Public Complaints

Public complaints increased from 82 to 94 between 2010 and 2011. This is an increase of 15%.

Disposition of Complaints

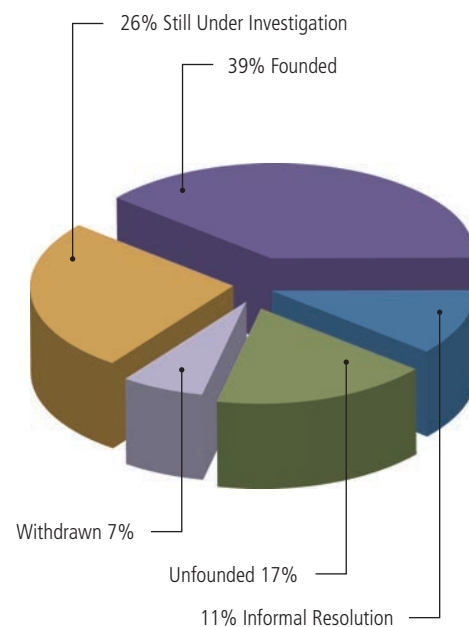
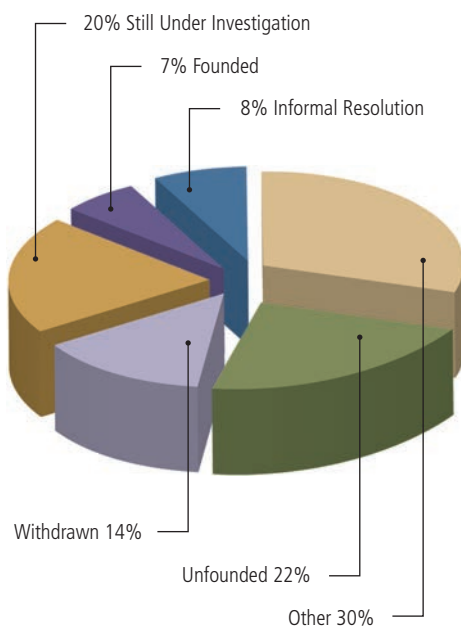
Complaints against municipal police officers may conclude in a variety of ways. The conclusion of a file, or status near the end of the calendar year is recorded and used to provide a snapshot of the progress of files.

Disposition of Public Complaints

Disposition	2010	2011
Founded	2	6
Informal Resolution	6	7
Other	14	28
Unfounded	23	21
Withdrawn	17	13
Still Under Investigation	20	19
Abandoned	0	0
Founded in Part	0	0
Total	82	94

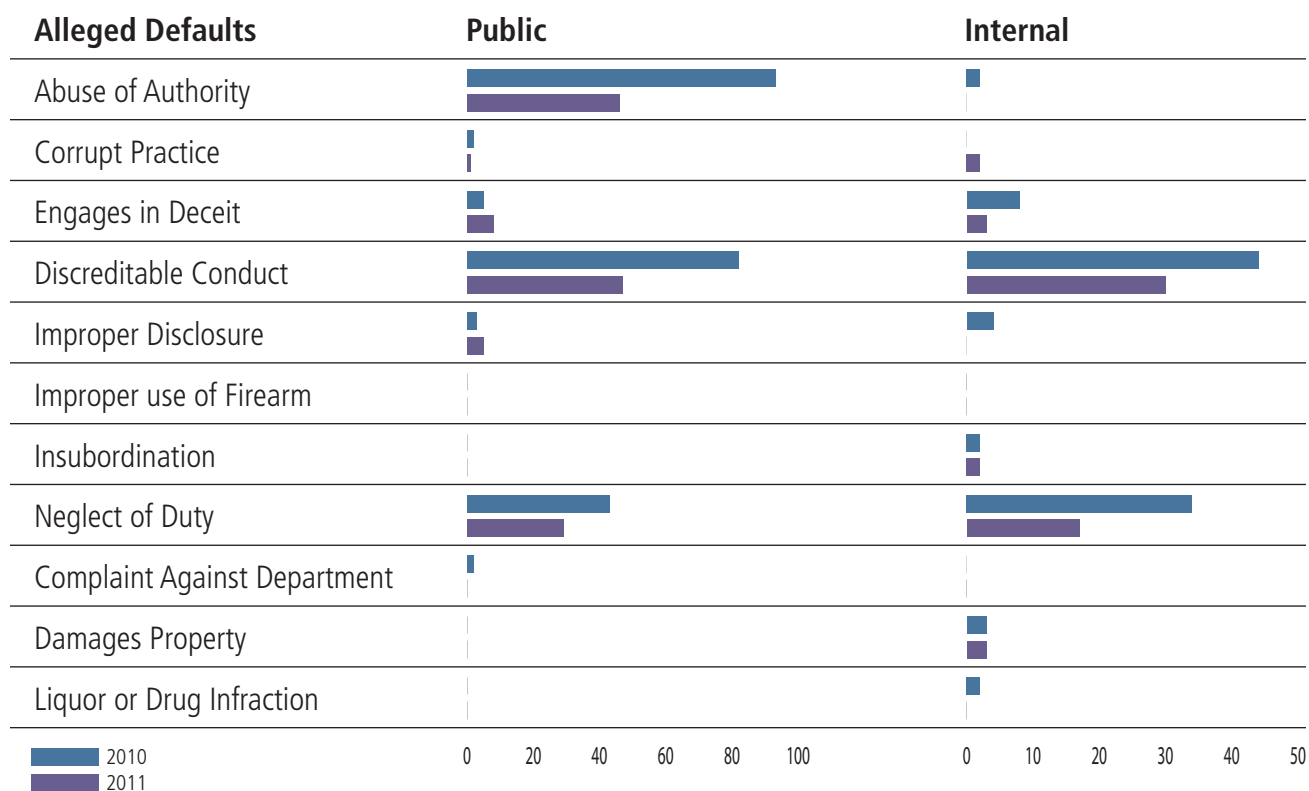
Disposition of Internal Complaints

Disposition	2010	2011
Founded	10	18
Informal Resolution	6	5
Other	4	0
Unfounded	4	8
Withdrawn	0	3
Still Under Investigation	18	12
Abandoned	0	0
Founded in Part	1	0
Total	43	46



Allegations

Alleged Defaults	Public		Internal	
	2010	2011	2010	2011
Abuse of Authority	93	46	2	0
Corrupt Practice	2	1	0	2
Engages in Deceit	5	8	8	3
Discreditable Conduct	82	47	44	30
Improper Disclosure	3	5	4	0
Improper use of Firearm	0	0	0	0
Insubordination	0	0	2	2
Neglect of Duty	43	29	34	17
Complaint Against Department	2	0	0	0
Damages Property	0	0	3	3
Liquor or Drug Infraction	0	0	2	0
Total	230	136	99	57



Appeals to the Commissioner

Public Appeals of Complaint Files Opened in 2011

Ten public appeals were filed by the time of reporting in 2011. The Commissioner exercised her statutory discretion to conduct an independent investigation on four of the appeals. As a result of these investigations, three files had been forwarded to the Police Review Board for a formal hearing (by the time of reporting).

Internal Disciplinary Appeals Resulting from Files Opened in 2010

No internal disciplinary matters were appealed to the Police Review Board by the time of reporting in 2011, although there were three appeals by officers to the Board as a result of public complaints where discipline was imposed.

Activity of the Police Review Board in 2010

The Police Review Board conducted an equivalent of 9.5 days of hearings into 8 appeals in 2011. Sixteen meetings were also held to consider preliminary arguments.

The Police Review Board heard three pay and allowance appeals in 2011, in which suspended officers appealed the decision to discontinue their remuneration after the mandatory initial 60 day period of suspension with pay.

Complaint Summaries

File PC-11-0005

Public Complaint

Unfounded

Allegation(s)

24(7)(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;

A 911 call was made by the complainant's spouse, who was allegedly locked in the car with her children. The complainant was allegedly intoxicated and had threatened the safety of his spouse and children. The complainant was allegedly throwing items at the car before police arrived. The complainant fled before police arrived.

The initial investigation revealed that the complainant was verbally warned that a K9 unit was on the way and that if it was deployed he risked being bitten.

The K9 dog was deployed as the complainant continued to flee officers. He was hiding in heavy bush when engaged by the K9. He was commanded to show his hands and several seconds after being engaged by the K9 he complied and the K9 was called back.

The complainant needed an alleged 28 stitches to close his wounds.

Allegations

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;
- (f) knowingly being an accessory to a disciplinary default by aiding, abetting or conniving with a party

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

24(5) A member who improperly discloses information in any of the following ways commits a disciplinary default:

- (a) communicating information that the member has as a member of a police department without proper authority

24(6) A member who engages in corrupt practice in any of the following ways commits a disciplinary default:

- (d) improperly using their position as a member for private advantage.

24(7) A member who abuses their authority in any of the following ways commits a disciplinary default:

- (c) unlawfully exercising authority as a member.

The officer is accused of ordering a special constable to notify an acquaintance that he was being sought on an impaired driving complaint. This information was alleged to have been shared in order for the acquaintance of the accused to avoid an impaired driving charge.

The Police Act investigation was suspended as per section 70(3) of the regulations and a criminal investigation commenced. This criminal investigation resulted in the laying of charges against the accused officer. The criminal matter is still before the courts.

The accused officer's pay was suspended by the employer after the mandatory initial period of 60 day's pay. The officer appealed the decision to discontinue his pay to the Police Review Board as per section 67(5) of the Police Act regulations. The Police Review Board allowed the appeal, in part, by ordering his pay and allowances be reinstated from the date they were originally discontinued until 60 days following the issuance of its decision. The Board considered the "unique circumstances and merits of Cst. XX's appeal" in its decision.

File PC-11-0117

Public Complaint

Still Under Investigation

Allegations

24(1)(e) being discourteous or uncivil to a member of the public, having regard to all the circumstances;

24(3)(f) neglecting or lacking concern for the health or safety of a person in the member's custody.

24(7)(a) making an arrest without good or sufficient cause;

24(7)(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 complainant in this instance was part of the Occupy Nova Scotia movement in downtown Halifax and alleges mistreatment on the day HRP dismantled the protest camp (Nov. 11, 2011). The complainant alleges that an HRP officer choked and beat him, neglected to provide medical attention for an associate, laughed at and taunted him, and failed to provide dry clothing or a blanket in holding cells.

Halifax Regional Police chose to request assistance from an outside force for this investigation and a member of Cape Breton Regional Police was tasked with the investigation into the alleged misconduct of this, and other complainants related to the same incident. The initial investigation was due 60 days after receipt of the complaint.

The Police Complaints Commissioner granted three extensions to complete the investigation because of the large scale of the investigation. The investigation into the events involved many other complainants and subject and witness officers. At the time of publication, this investigation was ongoing.

Municipal Police Agencies



A/Chief Ian Naylor
Amherst Police Department
45 Victoria Street
Amherst, NS B4H 1X4
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 Dean Ruddick
Springhill Police Service
P.O. Box 2380
Springhill, NS B0M 1X0
P (902) 597-3779
F (902) 597-3119



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



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



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



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



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



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



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

Nova Scotia 2011 Police Resources & Population

Municipality	Police Officers ²					
	Population ¹	Male	Female	Total	Total Police Officers per 100,000	Other Personnel
Population (100,000+)						
Cape Breton Regional	101,339	188	13	201	198	69
Halifax Regional	225,882	416	93	509	225	272
Population (5,000 - 14,999)						
Amherst	9,462	27	1	28	296	9
Bridgewater	7,918	22	2	24	303	14
Kentville	5,926	15	1	16	270	8
New Glasgow	9,522	29	3	32	336	12
Truro	12,328	31	5	36	292	22
Population (<5,000)						
Annapolis Royal	452	3	1	4	885	4
Springhill	3,902	8	0	8	333	8
Stellarton	4,722	9	1	10	212	9
Westville	3,798	7	0	7	184	4

Adapted from: Statistics Canada, 2010, *Police Resources in Canada*, catalogue no. 85-225-X, pages 22, 35.

¹ Populations are based on preliminary postcensal estimates for 2010, Statistics Canada, Demography Division. Populations are adjusted to follow policing boundaries. Populations for 2011 were not yet available at the publishing of the Statistics Canada report.

² Represents the actual number of permanent, fully-sworn police officers of all ranks (or their full-time equivalents) as of May 15, 2011.

Use caution in comparing forces: The number of officers may not reflect the number available for general community policing because some officers in certain communities are restricted to specific locations (e.g. ports, airports).



Office of the Police Complaints Commissioner
Sun Tower, 1550 Bedford Highway, Suite 720
Bedford, Nova Scotia

Mailing Address:
PO Box 1573
Halifax, Nova Scotia B3J 2Y3

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

