

2013 Annual Report

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



April 8, 2014

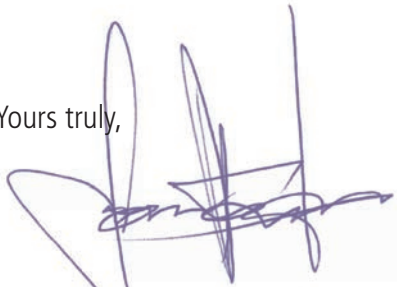
Honourable Lena Metlege Diab
Minister of Justice and Attorney General
1690 Hollis Street
PO Box 7
Halifax, Nova Scotia
B3J 2L6

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 2013, 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 2013, the Commissioner received 114 complaints from the public. An additional 39 internal disciplinary matters were dealt with by the Office.

Of the 114 public complaints, 2 were substantiated, 15 were informally resolved, 32 were unfounded, 20 were withdrawn, 8 are still under investigation, and 35 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, and neglect of duty were the most common allegations in 2013. Internal discipline allegations dealing with discreditable conduct and neglect of duty were the most common in 2013.

Twelve public appeals were filed by the time of reporting in 2013. The Commissioner exercised her statutory discretion to conduct an independent investigation into seven 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 2013 internal disciplinary matters were appealed to the Police Review Board.

The Police Review Board conducted an equivalent of 7 days of hearings in 2013. 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, 2013, 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

Richard Evans

William Kilfoil

Ken Langille

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*

Ellen Dodson, *Complaint Intake Clerk*

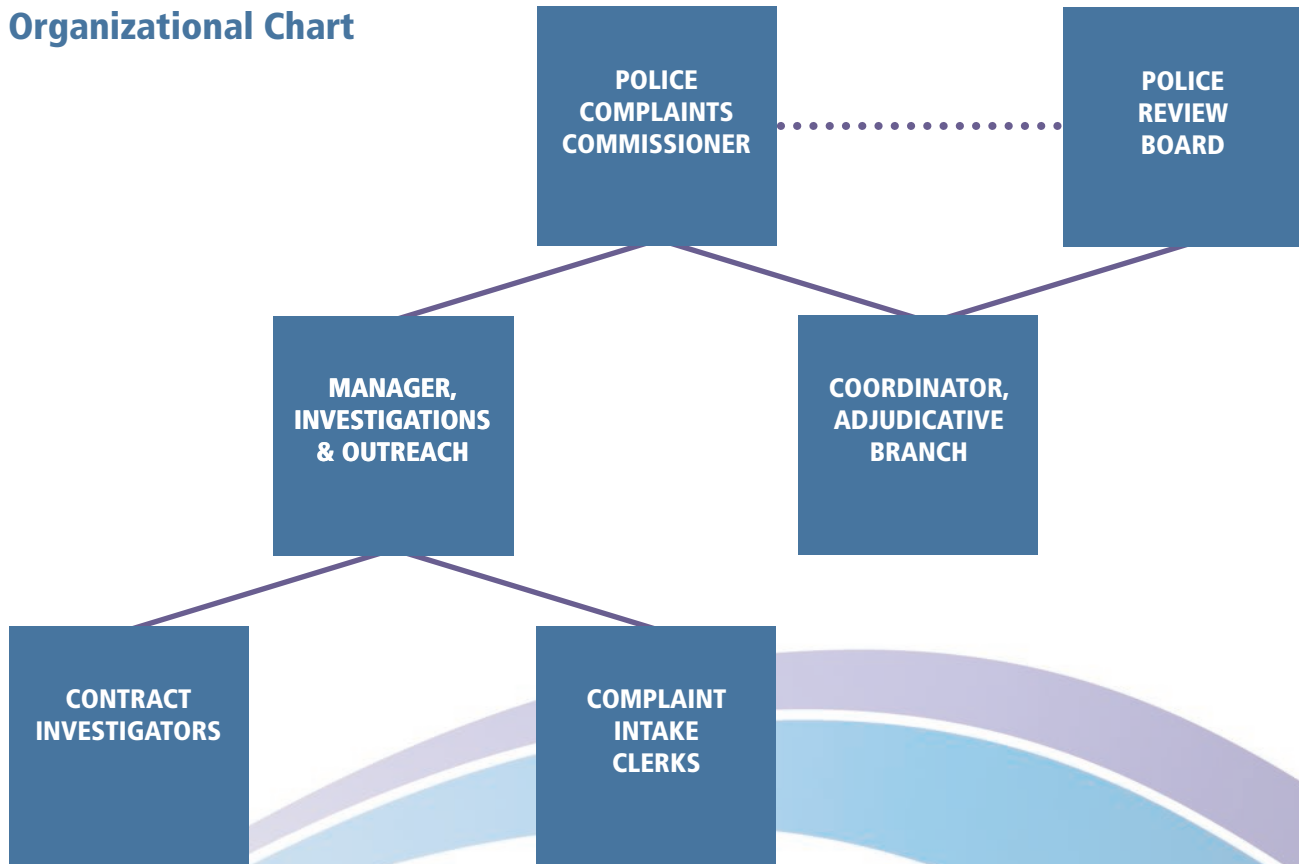
Staff Offices

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

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Canada

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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 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.

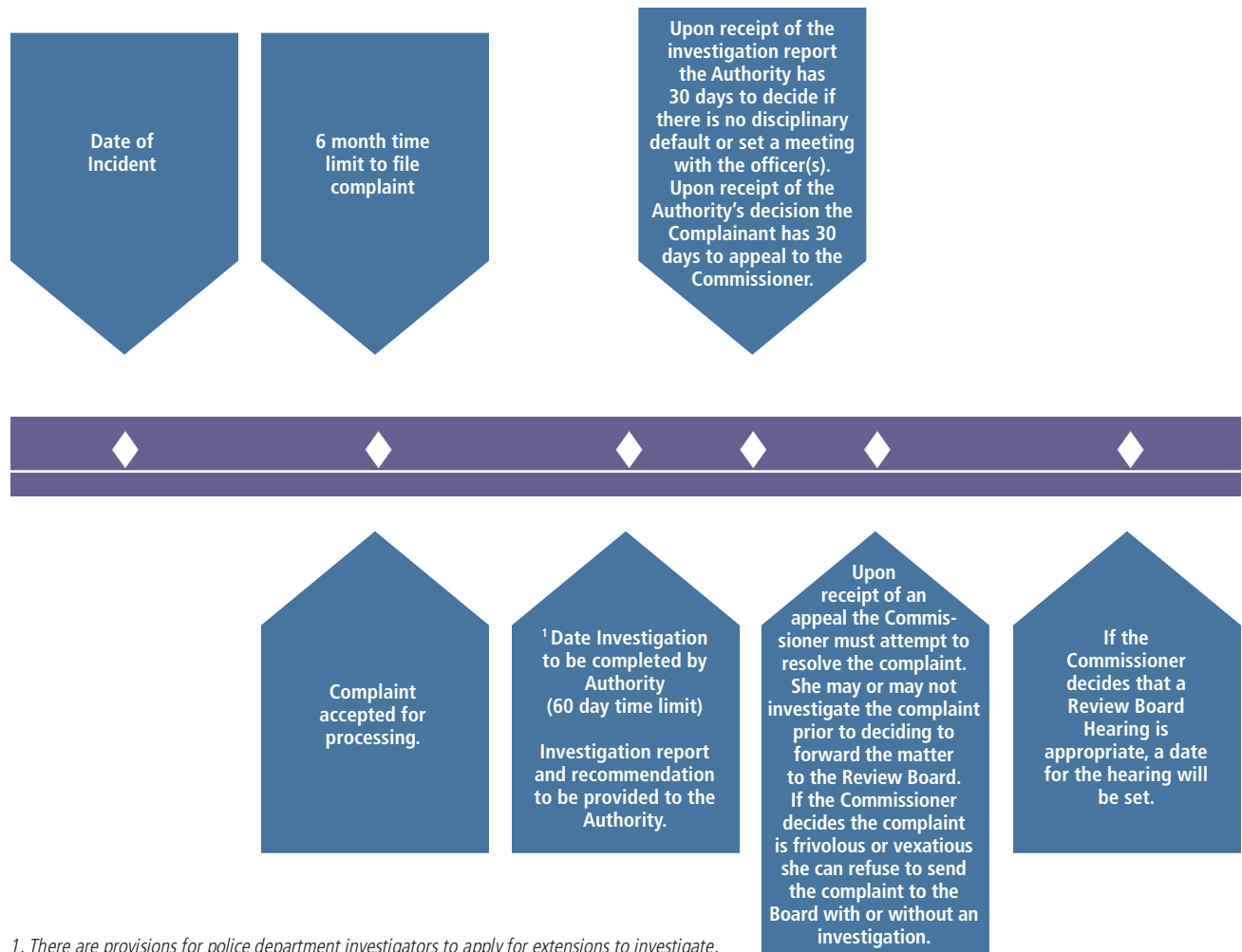
Can a police officer appeal?

A 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 153 complaints were filed with the Office of the Police Complaints Commissioner in 2013. 114 of the complaints began with a member of the public bringing allegations forward while the other 39 arose internally, with one officer making an allegation of misconduct against another officer.

Of the 114 public complainants, 41 were female with a median age of 45. The median age of the 73 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 2013, alcohol consumption was associated with 16 files, a youth was party to the complaint in 2 instances, a family dispute resulted in police involvement and subsequent allegations in 7 files, and charges or summary offence tickets were laid/ issued in 38 of the 114 public complaint situations.

Complaints by municipal agency

Department	2012		2013	
	Public Complaint	Internal Discipline	Public Complaint	Internal Discipline
Amherst	7	0	3	1
Annapolis Royal	1	0	0	0
Bridgewater	1	1	2	0
Cape Breton	41	0	17	2
Halifax	65	23	70	25
Kentville	5	0	4	0
New Glasgow	0	2	1	0
Springhill	2	0	0	0
Stellarton	3	2	7	6
Truro	2	1	7	5
Westville	0	0	3	0

Internal Discipline

The total number of internal disciplinary matters increased from 29 in 2012 to 39 in 2013. This represents an increase of 34%.

Public Complaints

Public complaints decreased 11%, from 128 in 2012 to 114 in 2013.

Disposition of complaints

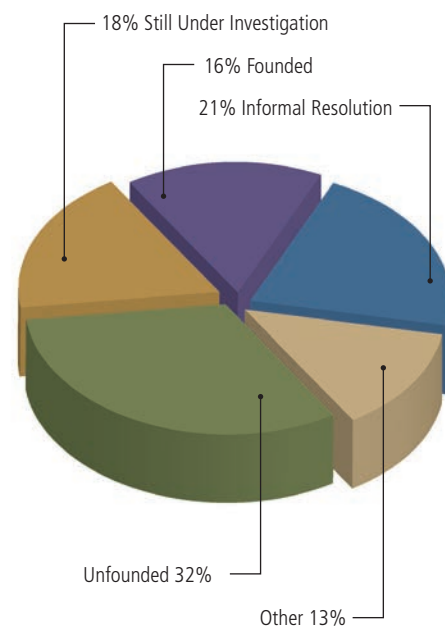
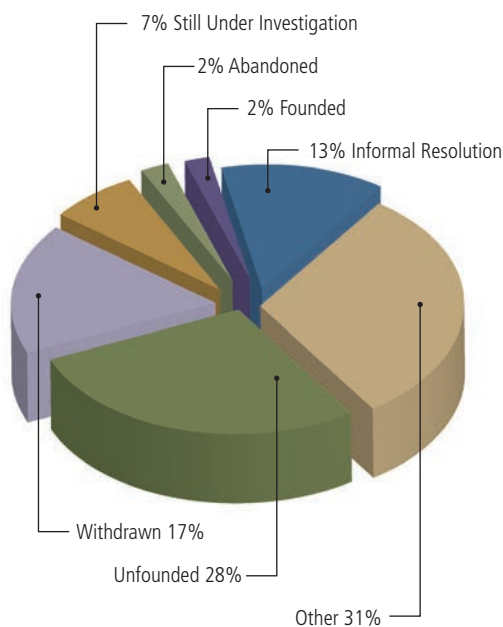
Complaints against municipal police officers may conclude in a variety of ways. The conclusion of a file is recorded and used to provide a snapshot of the progress of files.

Disposition of Public Complaints

Disposition	2012	2013
Founded	1	2
Informal Resolution	17	15
Other	31	35
Unfounded	39	32
Withdrawn	32	20
Still Under Investigation	8	8
Abandoned	0	2
Founded in Part	0	0
Total	128	114

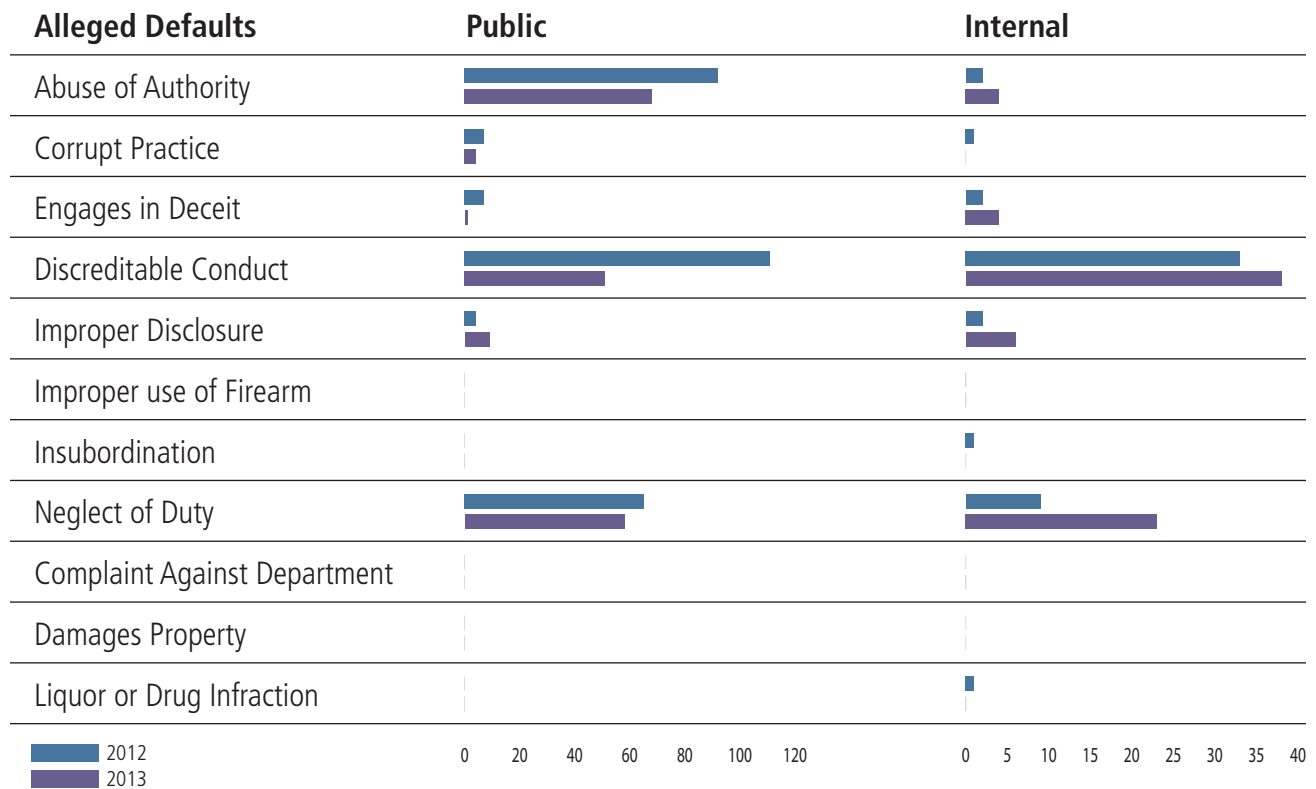
Disposition of Internal Complaints

Disposition	2012	2013
Founded	7	6
Informal Resolution	6	8
Other	2	5
Unfounded	8	12
Withdrawn	1	0
Still Under Investigation	5	7
Abandoned	0	0
Founded in Part	0	0
Total	29	39



Allegations

Alleged Defaults	Public		Internal	
	2012	2013	2012	2013
Abuse of Authority	92	68	2	4
Corrupt Practice	7	4	1	0
Engages in Deceit	7	1	2	4
Discreditable Conduct	111	51	33	38
Improper Disclosure	4	9	2	6
Improper use of Firearm	0	0	0	0
Insubordination	0	0	1	0
Neglect of Duty	65	58	9	23
Complaint Against Department	0	0	0	0
Damages Property	0	0	0	0
Liquor or Drug Infraction	0	0	1	0
Total	286	191	51	76



Appeals to the Commissioner

Public Appeals of Complaint Files Opened in 2013

Twelve public appeals were filed by the time of reporting in 2013. The Commissioner exercised her statutory discretion to conduct an independent investigation into seven of the appeals. As a result of these investigations, five of the appealed files had been forwarded to the Police Review Board for a formal hearing.

Internal Disciplinary Appeals Resulting from Files Opened in 2013

Two 2013 internal disciplinary matters were appealed to the Police Review Board.

Activity of the Police Review Board in 2013

The Police Review Board conducted an equivalent of 7 days of hearings in 2013. Eight meetings were also held to consider preliminary arguments.

Complaint Summaries

File PC-13-0122 Allegation(s)

Public Complaint

- 24(3)** A member who neglects their duties in any of the following ways commits a disciplinary default:
- (a) (5 counts)** neglecting to or, without adequate reason, failing to promptly, properly or diligently perform a duty as a member;
- 24(5)** A member who improperly discloses information in any of the following ways commits a disciplinary default:
- (a) (4 counts)** communicating information that the member has as a member of a police department without proper authority;
- 24(1)** A member who engages in discreditable conduct in any of the following ways commits a disciplinary default:
- (e)** being discourteous or uncivil to a member of the public, having regard to all the circumstances;

Review Board Hearing Pending

Fourteen allegations were laid against several members of a municipal force in this instance. Upon the Commissioner's request for clarification, the fourteen allegations were revised to ten.

The public complainant in this matter rose a number of concerns, one being that they had been a CI, or confidential informant for the force complained of, and that this information had been disclosed, resulting in the complainant being the victim of a serious assault.

The public complainant in this matter also made allegations with the Serious Incident Response Team (SiRT), who in turn began a criminal investigation parallel to the Police Act Investigation. The Office of the Police Complaints Commissioner (OPCC) provided a copy of its detailed investigation report in the matter to SiRT, to assist them in carrying out their investigation as a law enforcement agency. SiRT requested the OPCC investigation file because the complainant would not cooperate with their investigation due to the fact that SiRT investigators who are seconded police officers would have been duty bound to arrest the complainant, who had outstanding warrants at the time.

SiRT did not proceed with criminal charges in the matter but the Police Act process continues to determine if the named officers breached the disciplinary code of conduct. The matter is currently awaiting a hearing of the Police Review Board.

**File PC-13-0011
Allegation(s)**

Public Complaint

Not Founded

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;

The complainant in this matter submitted allegations against a Serious Incident Response Team investigator who was seconded from a municipal police force. As per the agreement related to the officer's involvement with SiRT, the Office of the Police Complaints Commissioner handled the file.

An initial investigation completed by the member's originating police department found no evidence of misconduct.

The complainant filed an appeal to the Police Complaints Commissioner and the Commissioner exercised her discretion under S.74(2) of the Police Act to order an independent investigation into the matter. A contract investigator was assigned and completed an investigation.

The independent investigation proved the complaint to be frivolous and vexatious therefore the matter was not heard by the Police Review Board.

**PC-13-0031
Allegations**

Internal disciplinary file

Still Under Investigation (SUI)

24(1) A member who engages in discreditable conduct in any of the following ways commits a disciplinary default:

- (a)** (Four Counts) 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;
- (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:

- (c)** (Two counts) Being absent for duty without adequate reason;

Internal disciplinary matters commence when one officer alleges misconduct against another officer of the police force.

In this instance a number of allegations were laid against an officer and an investigation commenced under the Police Act. The member has been suspended from duty in relation to another matter and a criminal investigation and proceedings are ongoing in that matter. The member's pay has been discontinued for the duration of his suspension.

File PC-13-0009

Internal Disciplinary File

Founded

Penalty of Reprimand, Period of close supervision for 12 months accompanied with any psychological assessment as deemed necessary through this supervision period, 32 hours volunteer/charitable work approved through and reported to the Disciplinary Authority, to be completed within a 6 month period. Failure to complete volunteer/charitable work will result in a fine of 32 hours.

Allegation(s)

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;

The penalty delivered in this internal disciplinary file was proportionate to the degree in which the member neglected his duty. The member admitted to a failure to properly process DNA evidence in his care.

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, 2014

Municipal Force	²Population	Police Officers	Police Officers per 100,000 population
Amherst	9,252	24	259
Annapolis Royal	464	3	647
Bridgewater	7,854	22	280
Cape Breton Regional	101,189	183	181
Halifax Regional	228,380	474	208
Kentville	5,961	15	252
New Glasgow/Trenton	12,180	31	255
Springhill	3,838	11	287
Stellarton	4,694	9	192
Truro	12,352	32	259
Westville	3,783	6	159
Total	389,947	810	

¹ Data courtesy of Nova Scotia Department of Justice, Policing Services Division

² Populations are based on preliminary postcensal estimates for 2011, Statistics Canada, Demography Division. Populations are adjusted to follow policing boundaries.



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