

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



ANNUAL REPORT 2021

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Office of the Police Complaints Commissioner and the Nova Scotia Police Review Board
Annual Report 2021

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 monitors complaints and investigations involving municipal police in Nova Scotia. The OPCC provides support to the Police Review Board which has the responsibility for deciding appeals from complainants or police officers dissatisfied with decisions of police agencies.

A member of the public may start a complaint against a municipal police officer or municipal police force by filing a signed prescribed form within one year¹ of the incident giving rise to the complaint or of the time at which the complainant should have become aware of the incident. Subject to certain exceptions, complaints are investigated by the police agency from which they arose. Unless a complaint is resolved to the satisfaction of the complainant and the officer or an extension has been granted by the Police Complaints Commissioner, the investigation must be completed within 60 days of the date a complaint is filed.

Where the complainant or subject officer is not satisfied with the decision of the Chief/ Delegated Disciplinary Authority or, in the case of a complaint against a chief of police, the municipality's Board of Police Commissioners, they may file a Notice of Review. Upon receiving a Notice of Review from a subject officer, the Police Complaints Commissioner must refer the file to the Review Board for a hearing. Upon receiving a Notice of Review from a public complainant, the Police Complaints Commissioner is required to attempt to resolve the complaint and, in attempting to do so, may conduct an independent investigation. If resolution is not successful, the Commissioner is required to send the file to the Review Board for a hearing, unless satisfied the complaint is frivolous, vexatious, without merit or an abuse of process.

In 2021, the OPCC received 157 complaints from the public. In addition, there were 47 internal complaints, in which one officer alleged misconduct by another officer.

As of the time of reporting, 16 public complaints had been withdrawn, 6 had been abandoned, 51 had been set aside because they did not meet the statutory conditions for filing a complaint, 14 had been informally resolved, 3 complaints had been investigated by police and found to be substantiated in whole or in part, 41 complaints had been investigated by police and found to be unsubstantiated, and 26 were still under investigation.

OPCC received a total of 33 Requests for Review in 2021, resulting, as of the time of reporting, in 4 public complaints and 9 internal disciplinary matters being referred to the Police Review Board.

¹ *If the incident occurred on or after January 15, 2020, the Complaints Commissioner may extend the time for filing a complaint if satisfied that there are good reasons for doing so and that doing so would not be contrary to the public interest: Section 29 of the Police Act Regulations.*

Role of the Police Complaints Commissioner

The Office of the Police Complaints Commissioner was established by proclamation of the *Police Act* on December 20, 2005 and came into effect January 1, 2006.

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

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

A complainant who is not satisfied with the decision made by the police agency following an investigation, may request that the Commissioner refer the complaint to the Police Review Board. If the Commissioner cannot satisfactorily resolve the complaint, he/she forwards the matter for a hearing before the Police Review Board, unless he/she has determined the complaint is frivolous, vexatious, without merit or an abuse of process.

Role of the Police Review Board

The primary role of the Police Review Board is to conduct reviews of public complaints and police officers’ appeals against disciplinary penalties or dismissals.

The responsibilities of the Police Review Board are outlined in Section 18 of the *Police Act* which states that: “The Review Board shall perform the functions and duties assigned to it by this *Act*, the regulations, the Minister or the Governor in Council”.

The Police Review Board shall:

- 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

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.

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 fewer than three persons appointed by the Governor-in-Council.

As of December 31, 2021, the members of the Police Review Board were:

- Jean McKenna**, Chair
- Hon. Simon J. MacDonald**, Vice Chair
- Nadine Bernard**
- Stephen Johnson**
- Peter Mancini QC**
- Kimberley Ross**
- John Withrow**
- Patrick H. Curran**
Police Complaints Commissioner

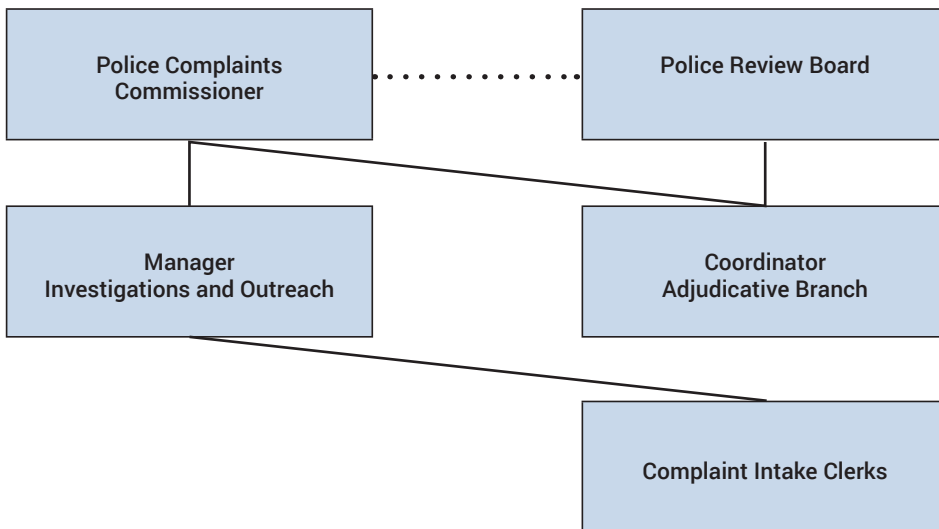
Staff

- Jeff Garber, Manager**
Manager, Investigations and Outreach
- Joni Keeping, Coordinator**
Coordinator, Adjudicative Branch
- Amanda McLean**
Complaint Intake Clerk

The Office of the Police Complaints Commissioner is located at 1690 Hollis St.

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- Online:** www.novascotia.ca/opcc

Organizational Chart



Number of complaints

A total of 204 complaints were filed with the Office of the Police Complaints Commissioner in 2021. 157 of the complaints were public allegations, while the other 47 arose internally, with one officer making an allegation of misconduct against another officer.

Complaints by Municipal Agency

Department	2020		2021	
	Public Complaints	Internal Complaints	Public Complaints	Internal Complaints
Amherst	6	6	6	2
Annapolis Royal	0	0	0	0
Bridgewater	2	0	1	3
Cape Breton Regional Police Service	28	1	32	7
Halifax Regional Police Service	69	31	78	34
Kentville	4	0	1	0
New Glasgow	7	1	6	1
Stellarton	0	0	2	0
Truro	16	1	31	0
Westville	4	0	0	0
RCMP/No agency indicated	2	0	0	0
Total	138	40	157	47

Disposition of Complaints

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

Disposition of Public Complaints

Disposition	2020	2021
Informal Resolution	20	14
Other*	27	51
Unsubstantiated	34	41
Withdrawn	17	16
Still Under Investigation	32	26
Abandoned	7	6
Substantiated	1	2
Substantiated in Part	0	1
Total	138	157

*Includes complaints beyond the time limitation for filing, no breach of the code of conduct alleged, officers retired or resigned, complaints against the RCMP or a Sheriff. More information may be requested from a complainant before a decision is made whether to proceed with a complaint. In situations where the complaint is against a member of the RCMP or a Sheriff, the complainant is directed to the appropriate body to pursue their complaint.

Disposition of Internal Complaints

Disposition	2020	2021
Informal Resolution	3	2
Other	2	4
Unsubstantiated	9	8
Withdrawn	1	2

Still Under Investigation	13	16
Substantiated	9	14
Abandoned	0	1
Substantiated in Part	3	0
Total	40	47

Allegations

	Public		Internal	
	2020	2021	2020	2021
Alleged Defaults				
Abuse of Authority	47	55	15	1
Corrupt Practice	4	13	4	4
Engages in Deceit	8	2	3	4
Discreditable Conduct	126	56	46	44
Improper Disclosure	1	3	1	1
Improper use of Firearm	0	0	0	0
Insubordination	0	0	2	4
Neglect of Duty	45	29	19	13
Complaint Against Department	0	0	0	0
Damages Property	1	1	1	2
Liquor or Drug Infraction	0	1	1	0
Total	232	160	92	73

Note: A complaint may contain several allegations of misconduct

Requests for Review to the Commissioner and the Police Review Board

A total of 33 Requests for Review were received in 2021, resulting in four public complaints and nine internal disciplinary matters being referred to the Police Review Board.

Budget and Staffing

Nova Scotia Police Complaints Commissioner and Police Review Board

	2020–21	2021–22
Departmental expenses by object	Estimate	Forecast
Salary and employee benefits	195,200	217,600
Operating costs	199,800	209,400
Gross expense		
Total	<u>395,000</u>	<u>427,000</u>
Funded staff (number of FTEs)	3.0	3.0
Less: Staff funded by external agencies	—	—
Total – Funded staff	<u>3.0</u>	<u>3.0</u>

Appendix 1

The Complaint Process

How long do I have to file a complaint?

As of January 15, 2021, complaints had to be filed within one year of the date of the incident giving rise to it, unless the Complaints Commissioner extended the time for filing upon being satisfied there was good reason for the extension and that it would not be contrary to the public interest.

Where do I file a complaint?

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

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

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

How do I file a complaint?

A Complaint Form (Form 5) must be submitted in writing, dated and signed by the complainant. You can obtain the Form 5 from any municipal police department, local board of police commissioners, or OPCC's office. The Form 5 can also be found on OPCC's web site:

www.novascotia.ca/opcc/publications/Form_5_and_Form_5A.pdf

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

What happens next?

What happens after I make my complaint?

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

Who decides the outcome of the case?

The Chief of Police / Delegated Disciplinary Authority 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, the officer complained about and the Police Complaints Commissioner will be notified of the decision (Form 11).

Common Questions and Answers

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

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

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

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

The Police Complaints Commissioner will review the file and attempt to resolve the matter. If unable to resolve the matter, the Commissioner will refer the complaint to the Police Review Board for hearing unless satisfied it is frivolous, vexatious, without merit or an abuse of process.

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?

No further action can be taken under the *Police Act*.

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, upon request, assist you with preparation of subpoenas for witnesses.

Is my complaint kept confidential?

Complaints are considered confidential. However, if your complaint is referred to the Police Review Board, the hearing is open to the public, unless the Review Board orders otherwise.

Who sits on the Police Review Board?

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

What can the Review Board do?

The Review Board may:

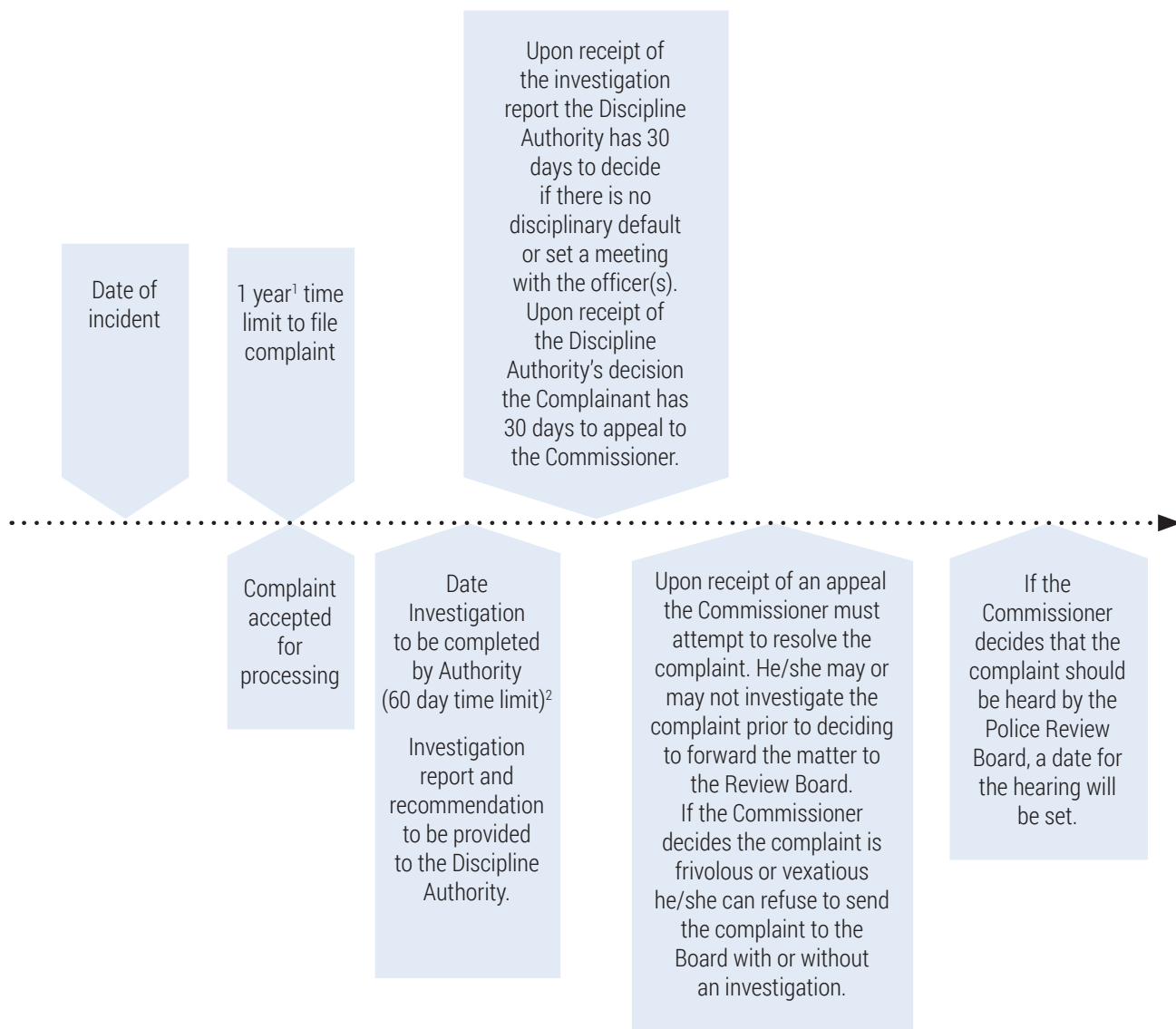
- Substitute a finding that in its opinion should have been reached
- Affirm or change any penalty which has been imposed
- Dismiss the matter

The Review Board cannot award compensation.

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

The Review Board's decision is final.

Filing a Public Complaint Timeline Example



¹ Complainants may apply to the Commissioner to extend the time for filing.

² There are provisions for police department investigators to apply for extensions of time to investigate.

Appendix 2

Professional Association



The Office of the Police Complaints Commissioner is a member of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE). CACOLE is a national non-profit organization of individuals and agencies involved in the oversight of police officers in Canada. CACOLE is dedicated to advancing the concept, principles and application of civilian oversight of law enforcement throughout Canada and abroad.

The first meeting of heads of oversight agencies happened in the fall of 1995. The first conference was held in Halifax in September of 1996. CACOLE was ultimately established in 1997, and is an incorporated non-profit organization under the Canada Incorporations Act. The national organization is governed by a set of By Laws and is managed by an elected, volunteer Board of Directors representing oversight agencies in each province.

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

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