

Royal Newfoundland Constabulary Public Complaints Commission

Annual Report 2015-16



Message from the Commissioner

In keeping with the requirements of a Category 3 entity under the *Transparency and Accountability Act*, I am pleased to present the Annual Activity Report on behalf of the Office of the Royal Newfoundland Constabulary Public Complaints Commission for the period April 1, 2015 to March 31, 2016.

This activity report was prepared under my direction, and I accept accountability for the actual results reported.



John Rorke
Commissioner

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Overview

Part III of the *Royal Newfoundland Constabulary Act, 1992* established the Royal Newfoundland Constabulary Public Complaints Commission which began operating in May 1993. Its purpose is to provide members of the public with an independent forum for their complaints against Royal Newfoundland Constabulary officers.

The Royal Newfoundland Constabulary Public Complaints Commission functions independently of both the Department of Justice and Public Safety and the Royal Newfoundland Constabulary, reporting directly to the people of Newfoundland and Labrador through the Speaker of the House of Assembly. The role of the Commissioner, under powers conferred through the *Royal Newfoundland Constabulary Act, 1992*, is to receive and maintain a registry of complaints made by members of the public against police officers. The Commissioner ensures that complaints are dealt with in accordance with the provisions of Part III of the *Act* which provides a framework for investigating, hearing and deciding complaints and handling appeals. Additionally, it is open to the Commissioner to make recommendations to appropriate authorities respecting matters of public interest related to police services.

An essential component of a civil society is an effective police service in which citizens have implicit confidence. Civilian oversight of police actions, like that carried out by this Commission, helps to maintain this public confidence.

The Commission is comprised of a part-time Commissioner, full-time manager, half-time administrative support, contractual investigators and a panel of adjudicators.

Complaints Process:

Chief of Police Investigation and Reports:

After a complaint is received by the Royal Newfoundland Constabulary Public Complaints Commission, a copy is sent to the Chief of Police of the Royal Newfoundland Constabulary. The police officer(s) concerned are then informed of the substance of the complaint. A complaint may also be submitted at any Royal Newfoundland Constabulary detachment office. The detachment office will forward such complaints to the Royal Newfoundland Constabulary Public Complaints Commission.

The Chief of Police then designates a member of the Royal Newfoundland Constabulary Professional Standards Division to conduct an investigation into the complaint.

The *Royal Newfoundland Constabulary Act, 1992* allows for the suspension of a public complaint if a criminal investigation is being conducted, or a prosecution is commenced relating to the subject-matter of the complaint, pending a decision on that prosecution.

The investigating officer will interview the complainant, the police officer(s) concerned and any other relevant witnesses, and review relevant documents.

Upon completion of the investigation, an investigative report will be forwarded to the Chief of Police. This report must be submitted within three months of the date the complaint was filed or received, not including the time during which the complaint may have been suspended.

The Chief or Deputy Chief of Police shall consider the complaint and he or she may:

- (a) With the agreement of all parties, reach an informal resolution to the complaint;
- (b) Dismiss the complaint;
- (c) If the complaint concerns the policies or procedures of the constabulary, the chief, or deputy, take whatever action is considered appropriate, if any; or
- (d) Discipline the police officer(s) who is/are the subject of the complaint.

The complainant and the police officer(s) who is/are the subject of a complaint shall be informed in writing of the dismissal of the complaint, or of the discipline imposed and the reasons for that dismissal or discipline.

Review by the Royal Newfoundland Constabulary Public Complaints Commission:

A complainant or police officer who is not satisfied with any of the foregoing decisions may contact the Royal Newfoundland Constabulary Public Complaints Commission to request that the Commission review the decision of the Chief of Police.

Complainants who wish to have the Commission review the decision of the Chief must complete an Appeal Form and forward it to the Commissioner. This form must be received by the Commission within 15 days from the date the report of the decision of the Chief of Police is received by the complainant.

Upon receipt of the Appeal Form, the Commissioner will review the matter, and his/her staff has broad powers to investigate. Documents must be made available upon request and individuals can be required to answer questions.

Following a review by the Commission, the Commissioner may:

- (a) Dismiss the complaint and confirm the decision of the Chief of Police; If the Commissioner does not confirm the decision of the Chief of Police, but is satisfied that the subject matter is frivolous or vexatious, the complaint has been abandoned or withdrawn, or that there is insufficient evidence supporting the complaint to justify a public hearing, the commissioner shall decline to take further action on the complaint;
- (b) With the consent of the parties, effect an informal resolution of the complaint; or
- (c) Refer the matter to a hearing before an independent adjudicator.

Adjudicator's Hearing:

When a hearing before an adjudicator is ordered, the complainant and the officer(s) involved will be notified in writing of the date and place of the hearing. Each party has a right to attend and take part in the hearing and to be represented by counsel. The hearing will be open to the public unless the adjudicator otherwise determines. All parties will receive a copy of the adjudicator's decision.

A Complaint against the Chief of Police:

When a complaint has been made against the Chief of Police, the complaint shall be immediately taken up by the Commissioner as if that complaint were an Appeal to the Commissioner as outlined above.

Contact Us

RNC Public Complaints Commission
689 Topsail Road, Box 8700, St. John's, NL, A1B 4J6

Telephone: (709) 729-0950
Fax: (709) 729-1302
E-mail: RNCComplaintsCommission@gov.nl.ca
Web Page: www.gov.nl.ca/rncpcc

Mandate

The mandate of the Commission is dictated by: statute as per Part III of the *Royal Newfoundland Constabulary Act, 1992* and the Regulations made thereunder; the decisions of the panel of adjudicators, and decisions of the law courts arising directly from appeals of the decisions of the Commission and its adjudicators; as well as decisions affecting the governance of administrative bodies generally.

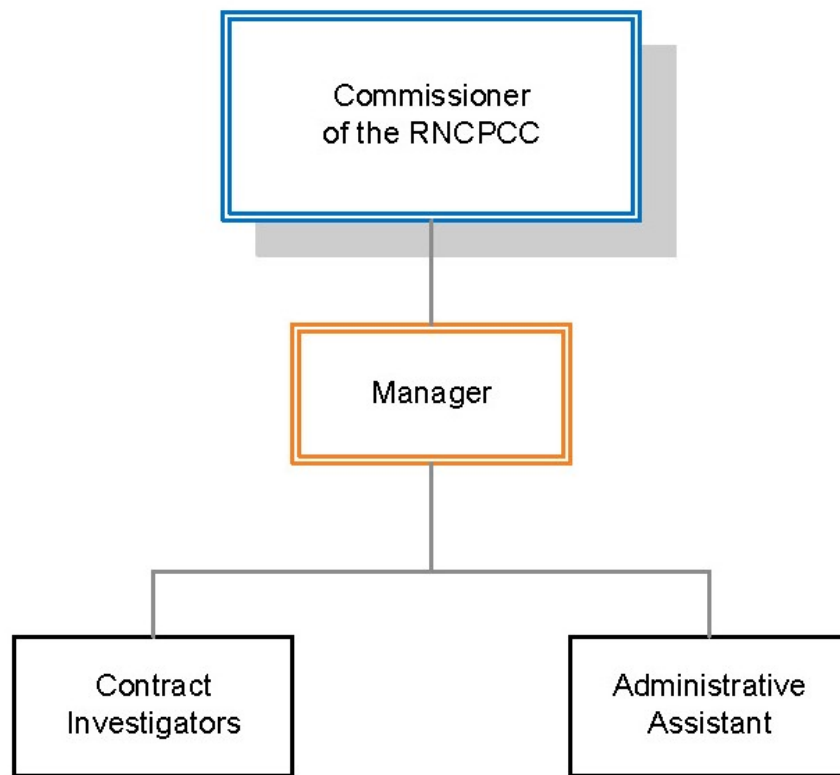
The Commission's mandate is to investigate, hear and decide complaints from the public alleging unbecoming conduct on the part of members of the RNC which is liable to discredit the force and bring it into public disrepute. A second equally important role is to process appeals made by RNC members who have been subjected to internal discipline as the result of a public complaint and are themselves dissatisfied with the decision made by the Chief of Police or his delegate.

The role of the Commission is to receive and maintain a registry of all complaints received, and to ensure that they are all advanced and concluded appropriately and in a timely manner.

Vision

An environment where the public has access to established mechanisms of review of complaints concerning police conduct.

Organizational Structure



Highlights/Accomplishments

Professional Association:

The Royal Newfoundland Constabulary Public Complaints Commission is a proud 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.



CACOLE, established in 1997, 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, individuals and organizations in justice, rights and advocacy agencies, and representatives of community agencies and police services. Geographically, members represent 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.

Activities:

- A member of the Royal Newfoundland Constabulary Public Complaints Commission met with the Professional Standards Division of the Royal Newfoundland Constabulary.
- Meetings were held regarding a new formal Occupational Health and Safety policy for the Commission. Planning meetings were held to discuss a new Commission policy manual.
- Monthly teleconference meetings were held with CACOLE – the Manager of the Royal Newfoundland Constabulary Public Complaints Commission is a Director of CACOLE.
- Members of the Commission met with the Chief of Police and executive members of the Royal Newfoundland Constabulary.
- Members of the Commission presented to 17 Royal Newfoundland Constabulary recruits.
- The Commission received 50 general inquiries from the public regarding complaints to the Royal Newfoundland Constabulary.

CACOLE 2017 Conference

The Royal Newfoundland Constabulary Public Complaints Commission commenced planning in 2015-16 for the 2017 CACOLE conference it will host in St. John's from May 28 – 31, 2017. Approximately 175 delegates and speakers from across Canada and internationally are expected to attend.

Complaints and Appeals

The following table provides an overview of operational activities of the Commission during this reporting period.

Activity	Total
Complaints carried forward from previous years	35
Complaints filed during 2015-16	36
Total active public complaints as of March 31, 2016	17
Files concluded	56
Appeals filed	3
Appeals carried forward from previous years	6
Appeals concluded	7
Total active appeals as of March 31, 2016	1
Public hearings in progress as of March 31, 2016	0
Referrals to Chief Adjudicator to conduct a public hearing	0
Appeals to the Trial Division of the Supreme Court of NL	3

Summary of Complaints by Type of Alleged Misconduct

Conduct <i>(provided by Regulations 3.1)</i>	Number	%
3. (1) Conduct Unbecoming	1	2.8
3. (1) (a) Unlawful Arrest/Detain	1	2.8
3. (1) (b) Unnecessary Force	9	25
3. (1) (c) Discourtesy	6	16.7
3. (1) (d) Lack of Service	12	33.3
3. (1) (j) Contravene Policy	6	16.7
3. (1) (k) False Statement	1	2.8
TOTAL	36	100

Report on Performance

Issue: Complaints as per Part III of the *Royal Newfoundland Constabulary Act, 1992*

As required by its enabling legislation, the Commission serves as an avenue of redress for members of the public wishing to complain about the conduct of an officer or the operational policies or procedures governing the manner in which a police officer discharges his or her duties.

The focus of the Royal Newfoundland Constabulary Public Complaints Commission will be consistent over the next year. This objective and the associated measure and indicators will be reported on again in the 2016-17 fiscal year.

Objective: By March 31, 2016 the Royal Newfoundland Constabulary Public Complaints Commission will have responded to complaints from the public as per Part III of the *Royal Newfoundland Constabulary Act, 1992*.

Measure: Complaints responded to as per Part III of the *Royal Newfoundland Constabulary Act, 1992*.

Indicator	Results
Complaints reviewed to ensure compliance with Part III of the <i>Royal Newfoundland Constabulary Act, 1992</i>	All 36 complaints filed during this period were reviewed to ensure compliance with the <i>Act</i> .
Compliant complaints registered	36 complaints were registered.
Registered complaints investigated or delegated, as required	Seven of the registered complaints were deemed to be outside the Commission's jurisdiction. The Complainant, the named Officer and the Chief of Police are notified when a complaint is deemed outside the Commission's jurisdiction. Twenty-Nine new complaints were investigated, in addition to 35 files carried forward from the previous year. During this reporting period, one complaint was abandoned due to inaction by the complainant, and one complaint remains inactive at the Supreme Court of Newfoundland and Labrador.
All appeals investigated	Three appeals were filed, with two investigated and dismissed. The remaining appeal is ongoing.
Decisions on appeals rendered	Five appeals were dismissed from previous years (2013-14) as the decisions of the Chief of Police were upheld. One appeal from the previous year (2014) was settled by informal resolution with the complainant and subject officer.

Opportunities and Challenges

Investigations of citizen complaints concerning police conduct present challenges not found in other kinds of regulatory investigations. Police officers exercise exclusive rights to the use of non-negotiable force. The general public views police officers as protectors deserving of respect. However, victims of police misconduct may feel violated because they expect police to behave protectively, professionally, and fairly, and now believe the officer behaved in an unfair or unprofessional way.

Our investigators are, by definition, impartial, neutral, and fact gatherers. The investigator must balance being sympathetic and reassuring to the complainant while not offering an opinion or judgment on their allegations.

The investigators are not law enforcement professionals and therefore are often viewed by the officers he or she investigates as unable to fully appreciate what police officers do and the conditions under which they work.

To both parties, the investigator cannot guarantee anything more than a thorough investigation, by being fair and by focusing on how the Commission's independence counters favoritism or bias and supports impartiality. This professional approach will reassure the public (even if there is no finding of fault) that the public complaints process is fair, independent and thorough and their allegations were investigated.

If the allegations are substantiated, the benefit comes not directly to the complainant but to the police force which, hopefully, will remediate the misconduct so as not to tarnish the reputation of the force as a whole.

Financial Statements

Expenditure and revenue figures included in this document are based on public information provided in the *Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for Fiscal Year ended 31 March 2016* (unaudited).

4.1.03 RNC Public Complaints Commission

	Actual \$	Estimates	
		Amended \$	Original \$
01. Salaries.....	131,962	142,100	113,700
Operating Accounts			
<i>Employee Benefits</i>	950	400	400
<i>Transportation and Communications</i>	2,229	6,900	6,900
<i>Supplies</i>	912	1,500	1,500
<i>Professional Services</i>	94,910	95,800	95,800
<i>Purchased Services</i>	95,971	108,800	88,800
<i>Property, Furnishings and Equipment</i>	-	600	600
02. Operating Accounts.....	197,752	214,000	194,000
Total: RNC Public Complaints Commission	326,714	356,100	307,700

Contact Us

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