

Royal Newfoundland Constabulary Public Complaints Commission

**Annual Report
April 1, 2005 - March 31, 2006**

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THE ROYAL NEWFOUNDLAND CONSTABULARY PUBLIC COMPLAINTS COMMISSION

OFFICE OF THE COMMISSIONER

January 11, 2007

The Honourable H. Hodder
Speaker, House of Assembly
Confederation Building
P.O. Box 8700
St. John's, NL
A1A 4J6

Dear Mr. Speaker:

Pursuant to Section 39 of the *Royal Newfoundland Constabulary Act, 1992*, I am pleased to present the Royal Newfoundland Constabulary Public Complaints Commission's Annual Report for the period April 1, 2005 to March 31, 2006.

Yours sincerely,


LOIS HOEGG, Q.C.
COMMISSIONER

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Message from the Commissioner

It takes courage, persistence and almost always resources emotional if not also financial to make and pursue a public complaint. It is so important that we have citizens who are prepared to commit these efforts to doing so, for regardless of the outcome, we are all the better for having engaged the process.

The exercise of reviewing the behavior of public officials, including the police, permits us as a society to examine the legitimate boundaries of officialdom's actions and authority. Investigation, and hearing if indicated, of an individual Royal Newfoundland Constabulary officer's

conduct in a given situation provides a context for determining that the police carry out their responsibilities in accordance with their public mandate. This process is critical to public confidence in our institutions and to the maintenance of our democratic values as a society.

The importance of complaints mechanisms has become especially apparent to Newfoundlanders and Labradorians, and indeed to all Canadians, through the work of some recent high-profile public inquiries. Such inquiries provide opportunity to the average person to learn about the justice system, form his or her own opinions on the merits of the issues examined, and express their concerns if affected. All of this, in my view, engenders public confidence in our institutions discretely and in all branches of our government legislative, judicial and executive which provide fora for correcting wrongs.

Although a very small cog in a big wheel, the Royal Newfoundland Constabulary Public Complaints Commission tries to foster this public confidence and preserve our cultural values through proper attention to public complaints made against members of the Royal Newfoundland Constabulary.

A handwritten signature in blue ink that reads "Lois Hoegg".

**Lois Hoegg, Q.C.
Commissioner**

The Commission and Its Role

The Royal Newfoundland Constabulary Public Complaints Commission was established by legislation in May 1993 and operates pursuant to Part III of the *Royal Newfoundland Constabulary Act, 1992*. Its purpose is to provide members of the public with an independent forum for their complaints against Royal Newfoundland Constabulary officers.

The Commission's mandate is to investigate, hear and decide complaints from the public alleging misconduct by RNC members in carrying out their duties.

The Royal Newfoundland Constabulary Public Complaints Commission functions independently of both the Department of Justice and of 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, and to ensure that they 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.

The Commission has jurisdiction over Royal Newfoundland Constabulary officers of all ranks in the province of Newfoundland and

Labrador with respect to complaints alleging improper exercise of police power, or of police misconduct in the exercise of their duties.

The Commission must receive a signed complaint to conduct an investigation. It cannot commence an investigation on its own initiative. Neither can the Minister of Justice direct the Commissioner to undertake an investigation or review. Complaints from third parties are usually accepted by the Commissioner only with the consent of the person subjected to the misconduct.

While we must limit ourselves to the confines of our enabling legislation in decision making, we do try to assist members of the public when they come to us with concerns outside of our jurisdiction by providing them with direction and assistance where appropriate.

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 RNC Public Complaints Commission believes that in carrying out its mandate, it has made a positive contribution to the public trust of our protection of the rights and privileges of our citizens and thereby to our fair and democratic society. Our goal is to continue to do so in future.

Who Are We?

Commissioner
Lois Hoegg, Q.C.

Manager
Lorraine Roche

Administrative Support
Gerry Peach

Contractual Investigators
Rod Kavanagh
Robert Cuff

Chief Adjudicator
James Kean, LLB,

Adjudicators:
Paul Althouse
David Andrews, Q.C.
John Barrett
Annette Bennett
Reginald Brown, Q.C.
David Eaton, Q.C.
William Morrow, Q.C.
Joan Myles
Ian Kelly, Q.C.
Linda Rose, Q.C.
Robert Sinclair, Q.C.

To Reach Us

We can be reached by mail, email, telephone,
or in person at

RNC Public Complaints Commission
Suite E160, Bally Rou Place
280 Torbay Road
St. Johns, NL
A1A 3W8

Telephone: (709) 729-0950
FAX: (709) 729-1302

Web Page www.gov.nl.ca/mcpcc
e-mail: lorraineroche@gov.nl.ca
gerrypeach@gov.nl.ca

Highlights and Accomplishments

Canadian Association for Civilian Oversight of Law Enforcement

The annual CACOLE conference was held in Montreal, PQ from October 2-5, 2005. The theme, *Current Issues in Police Accountability*, attracted delegates from across Canada, the United States and Western Europe. Both the Commissioner and the Manager attended this conference. This year the Commissioner presented a well received paper on oversight issues within our jurisdiction and moderated a panel discussion on parallel complaint and litigation processes. Lorraine Roche, the Commission's Manager who serves on the Board of Directors of CACOLE, was re-elected as Secretary at the Annual General Meeting following the conference.

Complaints and Appeals

During this reporting year 2005-06, we received thirty-six public complaints alleging misconduct against RNC members. (See Appendices A and B for a summary of complaints.) Fourteen files were also concluded from the period covering 2004-05. Additionally, there were four appeals to the Commission from decisions of the Chief of Police; two of which were from complaints filed in the previous reporting period. Three of these four appeals resulted in the Commissioner upholding the decision of the Chief; the other appeal has not been concluded. Twenty-four inquiries were handled without a formal complaint being filed.

Public Hearings

Two public hearings took place during this reporting period emanating from complaints filed in previous years. One of these hearings was a conclusion to a hearing which started in the previous reporting period. Statistical data respecting these matters is provided in the Adjudicators' Report at Appendix C.

These adjudicators' decisions, along with other decisions of previously heard complaints can be found on our website at www.gov.nl.ca/mcpcc.

Appeals to the Trial Division of the Supreme Court

The 2004-2005 Annual Report reported three appeals to the Trial Division of the Supreme Court of Newfoundland and Labrador initiated by complainants pursuant to Section 36 of the *Act*. One appeal was of the Commissioner's decision to uphold the determination of the Chief of Police to dismiss the complaint. The complainant's appeal is still before the Court.

Another appeal was of an adjudicator's decision to dismiss a complaint. This Appeal, although filed, was not pursued by the Complainant. The Commission applied to the Court to have the appeal dismissed for want of prosecution. However the appellant was given another opportunity to pursue his appeal. At this time of reporting, the matter remains active with the Supreme Court of Newfoundland and Labrador Trial Division.

The last appeal was of the Commissioners determination that a complaint was outside the jurisdiction of the Royal Newfoundland Constabulary Public Complaints Commission. The Supreme Court of Newfoundland and Labrador Trial Division found that this complaint was within the jurisdiction of the Commission and remitted the matter back to the Commission for determination on its merits. The Commission appealed this decision to the Supreme Court of Newfoundland and Labrador Court of Appeal. However, before the matter was heard, the appellant withdrew her complaint. This matter is now concluded.

General Enquiries

Commission staff responds to all inquiries concerning public complaints. As public servants, staff do their best to assist all persons who need information or redirection regarding their concerns. Regularly a member of the public will call requesting forms to complete by return mail. Eight forms sent out for completion were not returned. There were twenty-six inquiries of the Commission that were handled without having to go through a formal complaint process. No further statistics were kept on calls which were general in nature and not directly related to the office of the Public Complaints Commission.

FINANCIAL REPORT

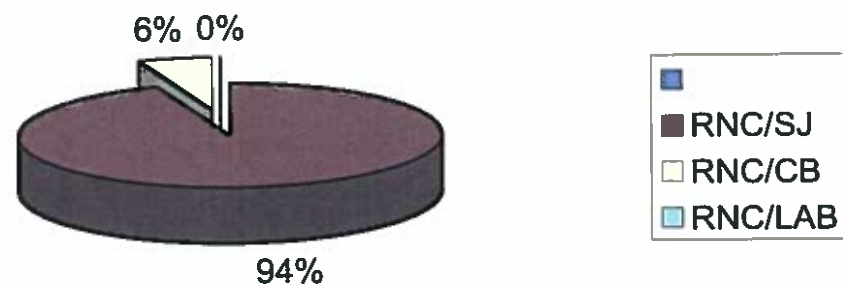
According to the Public Accounts Statement of Expenditure and Related Revenue, the Financial Report for the Public Complaints Commission is as follows:

Category	Original Budget	Amended Budget	Actual Budget
Salaries	57,600	69,900	69,791
Employee Benefits	400	1,100	713
Transportation and Communications	7,900	7,800	2,640
Supplies	1,500	1,200	1,128
Professional Services	90,000	90,000	100,839
Purchased Services	33,500	41,000	40,967
Property, Furnishings & Equipment	700	400	338
Total	191,600	211,400	216,416

Appendix "A" Public Complaints Registered

PUBLIC COMPLAINTS REGISTERED

	RNC/SJ	RNC/CB	RNC/LAB	TOTAL COMPLAINTS
TOTALS	34	2	0	36



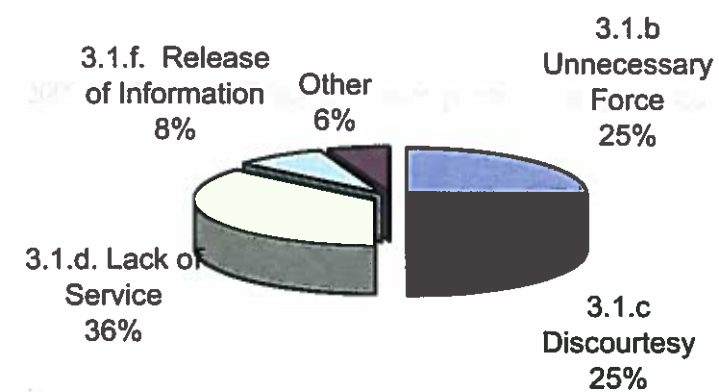
Disposition of Public Complaints

Withdrawn by Complainant	5
Resolved	5
Dismissed by Chief; Insufficient Evidence	7
Suspended (at close of reporting period)	9
Appealed	2
Remainder still active at close of reporting period.	

Appendix "B" Summary of Complaints by Type of Alleged Misconduct

Summary of Complaints by Type of Alleged Misconduct

CONDUCT (provided by Regulations)	NUMBER	% OF ALLEGATIONS
3.1.b Unnecessary Force	9	25%
3.1.c Discourtesy	9	25%
3.1.d. Lack of Service	13	36%
3.1.f. Release of Information	3	8%
Other	2	6%
TOTAL	36	100%



Appendix "C" Adjudicators Report

Adjudicators' Report

April 1, 2005 - March 31, 2006

Party	Date of Complaint	Adjudicator	Hearing Dates	Decision Date	Adjudicator's Order
Cox-Fitzpatrick vs. Motty	6-Dec-02	John Barrett	March 15, 16, 17, 18, 2005	1-Jul-05	Dismissed
Martin vs. Maloney	22-Aug-01	Ian Kelly	April 20, 23, 29, 30, October 6, 2005	19-Oct-05	Accepted officer's guilty plea; no suspension.
Mahoney vs. Ballard*	8-Jan-01	Joan Myles	2004: Oct 21, Nov 5 2005: Mar 21, 22, 23, 24.	24-Mar-05	Accepted officer's guilty plea and counsels' agreed penalty of suspension.

* Concluded in prior reporting year but not reported in Annual Report for 2004-2005.