

# Royal Newfoundland Constabulary Public Complaints Commission

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Annual Report 2018-19



## Message from the Commissioner

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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 Royal Newfoundland Constabulary Public Complaints Commission for the period April 1, 2018 to March 31, 2019.

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



John Rorke  
Commissioner

## Table of Contents

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Message from the Commissioner.....	i
Overview .....	1
Organizational Structure.....	3
Highlights and Partnerships .....	4
Report on Performance.....	5
Opportunities and Challenges .....	6
Financial Statements.....	7

## Overview

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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 with Professional Standards Division will interview the complainant, the police officer(s) concerned and any other relevant witnesses, and review relevant documents.

Upon completion of the Professional Standards Division 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.

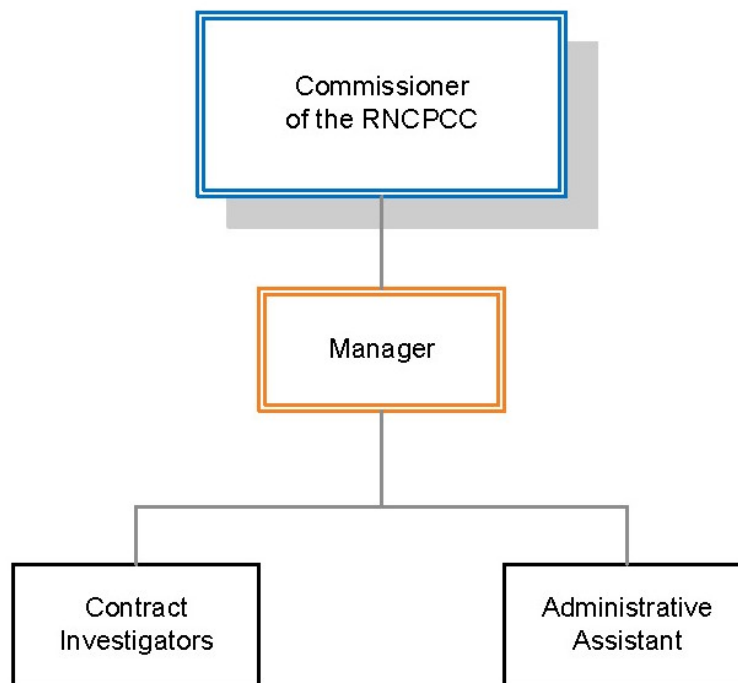
### **Contact Us**

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## **Organizational Structure**

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## Highlights and Partnerships

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### **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. Being a member of CACOLE keeps the RNCPCC apprised of the latest trends in civilian oversight, both in Canada and abroad. The Commission has been involved with CACOLE since it was established in 1997.

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. Additionally, CACOLE members work with organizations in justice, rights, and advocacy agencies and representatives of community agencies and police services from 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](http://www.cacole.ca).

### **Activities:**

- On June 22, 2018, members of the RNCPCC met with members of the Civilian Review and Complaints Commission for the Royal Canadian Mounted Police as well as the Department of Justice and Public Safety. Topics related to CACOLE initiatives were discussed, as well as the various trends in police oversight.
- On October 1, 2018, members of the RNCPCC presented to the Royal Newfoundland Constabulary cadet recruits. The presentation was held at the RNC training facility in St. John's and provided the cadets with an overview of the RNCPCC as well as discussion related to oversight in this province and across Canada.
- A teleconference meeting was held on December 3, 2018 with members of the Nova Scotia Serious Incident Response Team and Police Complaints Commissioner as well as the Office of the Police Commissioner Prince Edward Island and the New Brunswick Police Commissioner. This Atlantic/Maritime regional meeting focused on comparing the roles of the various offices in these regions.
- On March 8, 2019, members of the RNCPCC met with Chief of Police, Joe Boland and members of the Royal Newfoundland Constabulary. Topics related to police oversight were discussed.

### **CACOLE 2018 Conference**

The Royal Newfoundland Constabulary Public Complaints Commission was proud to take part in the 2018 CACOLE conference in Winnipeg, Manitoba from May 27 – 30, 2018.

Approximately 130 delegates and speakers from across Canada and internationally attended the conference.

## 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	40
Complaints filed during 2018-19	54
Total active public complaints as of March 31, 2019	58
Files concluded	36
Appeals filed	1
Appeals carried forward from previous years	0
Appeals concluded	1
Total active appeals as of March 31, 2019	0
Public hearings in progress as of March 31, 2019	0
Referrals to Chief Adjudicator to conduct a public hearing	0
Appeals to the Trial Division of the Supreme Court of NL	4
Complaints transferred from Chief of Police for Investigation	7

## Summary of Complaints by Type of Alleged Misconduct

Conduct (provided by Regulations 3.1)	Number	%
3. (1) Conduct Unbecoming	6	11
3. (1)(a) Improper/Unlawful Arrest	1	2
3. (1)(b) Unnecessary Force	6	11
3. (1)(c) Discourtesy	8	15
3. (1)(d) Lack of Service	13	24
3. (1)(e) Lack of Investigation	18	33
3. (1)(f) Disclosed Information	2	4
<b>TOTAL</b>	<b>54</b>	<b>100</b>

## 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.



**Objective:** By March 31, 2019, 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 <b>Royal Newfoundland Constabulary Act, 1992</b>	All 54 complaints filed during this period were reviewed to ensure compliance with the Act.
Number of compliant complaints registered	All 54 complaints were registered.
Registered complaints investigated or delegated, as required	One of the registered complaints were deemed to be outside the Commission's jurisdiction. The remaining 53 new complaints were investigated, in addition to 40 files carried forward from previous years.
Appeals investigated	One appeal was received and investigated by the RNC Public Complaints Commission in fiscal year 2018-2019.
Decisions on appeals rendered	One appeal was received, the decision was upheld by the commissioner.

## 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 are sometimes 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 only to the complainant but also to the police agency which, hopefully, will remediate the misconduct so as not to tarnish the reputation of the agency 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 2019 (unaudited).

### 4.1.03 RNC Public Complaints Commission

	Actual \$	Estimates	
		Amended \$	Original \$
01. Salaries.....	97,664	97,700	97,700
Operating Accounts			
Employee Benefits.....	2,175	600	600
Transportation and Communications.....	4,425	3,800	3,800
Supplies.....	302	600	600
Professional Services.....	85,292	99,100	99,100
Purchased Services.....	615	1,600	1,600
Property, Furnishings and Equipment.....	-	200	200
02. Operating Accounts.....	92,809	105,900	105,900
<b>Total: RNC Public Complaints Commission</b>	<b>190,473</b>	<b>203,600</b>	<b>203,600</b>

# Contact Us

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