

Annual Report 2019-2020
New Brunswick Police Commission
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Transmittal letters

From the Minister to the Lieutenant-Governor

The Honourable Brenda Murphy
Lieutenant-Governor of New Brunswick

May it please your Honour:

It is my privilege to submit the annual report of the New Brunswick Police Commission, Province of New Brunswick, for the fiscal year April 1, 2019, to March 31, 2020.

Respectfully submitted,



Honourable Hugh J. Flemming, Q.C.
Minister responsible for the New Brunswick
Police Commission

From the Chair to the Minister Responsible

Honourable Hugh J.A. Flemming
Minister of Justice and Public Safety

Sir:

I am pleased to be able to present the annual report describing operations of the New Brunswick Police Commission for the fiscal year April 1, 2019, to March 31, 2020.

Respectfully submitted,



Lynn Chaplin
Chair
New Brunswick Police Commission

Table of contents

Message from the Chair	1
Message from the Executive Director	2
Members of the Commission	3
External Review of the New Brunswick Police Commission	4
Compliance	6
• Complaint process	6
• Operation	7
• How complaints are filed	7
• Who is filing complaints	8
• What language are complaints being filed in	8
• What types of complaints can be filed	9
• How many conduct complaints are filed	9
• How a police officer breaches the <i>Code of Professional Conduct</i>	10
• How complaints are resolved	10
New Brunswick Police Commission Priorities	11
• Strategy and Operations Management	11
Education and Engagement	12
• Branding	12
• Awareness	12
• Media relations	12
• Presentations and workshops	13
• National activities	13
Performance measures	13
Addressing identified gaps	14
• Objective of the measure	14
• Measure	14
• Description of measure	14
• Overall performance	14
• Why do we measure this?	14
Appendices	14
• Appendix A	15
• Appendix B	16
• Appendix C	23
• Appendix D	26

Message from the Chair

The past year has been exceptionally busy at the Police Commission and has resulted in many permanent and significant changes to how the Commission functions and engages with our partners.

On behalf of the Commission, I want to express our gratitude to the Department of Justice and Public Safety, the Municipal Police Communities and Civic leaders who have supported and engaged with us during this period of change.

In late December 2018, I, on behalf of the Commission, requested that the Minister of Public Safety appoint an independent reviewer to examine the Commission's processes and procedures. Mr. Alphonse MacNeil conducted the review and his report and recommendations were made public in October 2019. The Commission's response to the recommendations can be found later in this annual report. Much of our work this year focussed on the 22 Recommendations from the "MacNeil Report", which touched on every aspect of our work and I am pleased that all recommendations have been addressed.

We were pleased to be a partner in the recent discussions for amendments to the *Police Act* and look forward to the revised legislation.

On behalf of the Commission members, I want to express our gratitude to the staff at the Commission who have led the change which was necessary. Their leadership, engagement and belief in our stated values of Quality Service, Accountability, Objectivity and Transparency are exceptional.



Lynn Chaplin
Chair
New Brunswick Police Commission

Message from the Executive Director

In 2019-2020 I joined the Commission as its Executive Director and it turned out to be an exciting year of change. In late 2018, the Commission recognized a need to re-evaluate its processes and procedures, its relationship with its stakeholders and how we do our business.

The principles of the *Code of Professional Conduct* look to correct and educate the police officer. This is at the core of the Commission's desire to modernize its approach and ensure accountability.

During the reporting period, the Strategic Plan for 2019-2021 was finalized; action items were identified to address the strategic priorities of the Commission and the MacNeil recommendations.

I had the pleasure of meeting with police chiefs, representatives from the New Brunswick Police Association, representatives from local police unions and civic authorities responsible for the governance of municipal police forces to talk about our way forward. I am pleased that each municipal police force has identified a professional standard point of contact to work with the Police Commission on improving efficiencies and effectiveness within the process. A workshop was held for the points of contact in Saint John in October 2020 to open lines of communication, to provide training, and to chart the path forward.

It has been a privilege to work with partners and stakeholders to bring about organizational change. While the Commission's logo and website are obvious signs of change, what will never change is our commitment to an objective, accessible, fair and professional response to police oversight.



Jennifer Smith
Executive Director
New Brunswick Police Commission

Members of the Commission

During this fiscal year, there were changes in membership of the Commission. Lynn Chaplin was appointed as Chair of the Commission and Marc Léger was appointed as Vice-Chair. The Commission also had two Commission members, Bob Eckstein and John Foran.

New member orientation was created and delivered to all Commission members and will be given to all new members.

Additional information on our Commission members is available on the Commission's website at **NB Police Commission / Commission de police du N.-B.**



External Review of the New Brunswick Police Commission

On December 27, 2018 the New Brunswick Police Association held a news conference and criticized the way the New Brunswick Police Commission handled an investigation into a former deputy chief of the Saint John Police Force. The Association reproved the Commission's former Executive Director's leadership style and called for his removal.

On December 29, 2018, concerned by the accusations of a valued police stakeholder, the Acting Chair of the New Brunswick Police Commission (NBPC) asked the Minister of Public Safety to appoint an independent third-party to review the policies, processes, and procedures of the NBPC and the concerns of the New Brunswick Police Association (NBPA).

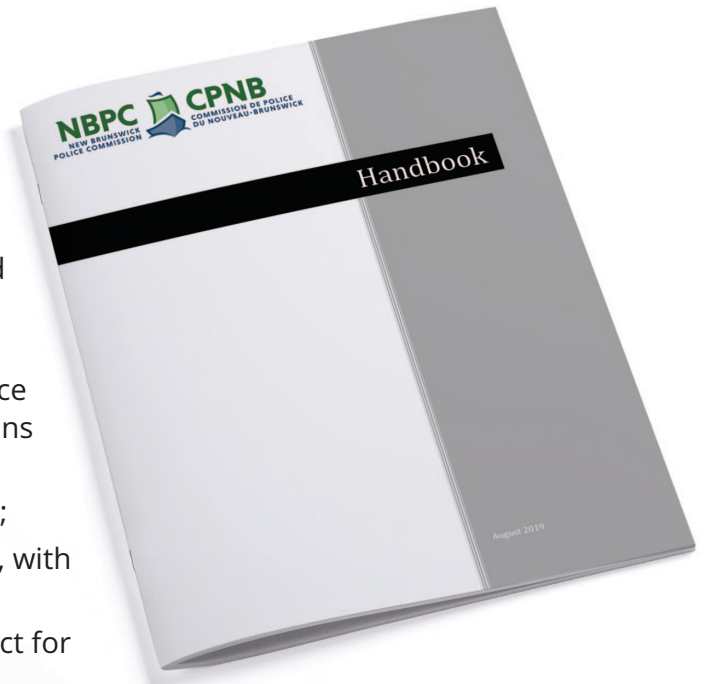
The Public Safety Minister contracted Alphonse MacNeil of Alphonse MacNeil Consulting to conduct a review and provide a report and recommendations.

Alphonse MacNeil



Mr. MacNeil's review resulted in a report with twenty-two (22) recommendations. The following actions taken by the NBPC are in response to the MacNeil recommendations:

- Developed Strategic Plan 2019-2021;
- Hired a new Executive Director who toured the province meeting with the Chiefs of Police, the Civic Authorities, and the NBPA and police unions;
- Created the NBPC Handbook that guides members and staff on their roles and responsibilities;
- Participated in the selection of new NBPC members;
- Appointed, in consultation with the Department of Justice and Public Safety (JPS), new NBPC members to three-year terms;
- Established and conducted orientation policy and training for NBPC members;
- Engaged with the New Brunswick Association of Chiefs of Police (NBACP), the NBPA, the police force unions, the civic authorities, JPS in Communications strategy / branding session;
- Created new NBPC logo and modernized website;
- Identified over forty (40) policies to be developed, with 100% of critical policies written;
- Identified Professional Standards Points of Contact for each municipal police force;
- Hosted a Professional Standards Workshop for the Points of Contact;
- Enhanced the file management process at the NBPC, including the development of a quality assurance guide for review of complaints;
- Implemented a Records Management System (RMS) that will allow NBPC staff to properly document actions taken in a file, maintain diary dates and produce reports;
- Modernized complaint and withdrawal forms; made them more accessible to the public; and
- Assisted, where appropriate, the Minister with respect to: the development of a Serious Incident Response Team (SIRT) and the *Police Act* review.



The Commission will continue its work to:

- Modernize the investigation process by consulting with stakeholders, creating a new investigators list based on established criteria, revising the investigators manual and developing investigation policies and templates;
- Modernize the policies and procedures as it relates to the selection of arbitrators by consulting with stakeholders, revising the arbitrators list and establishing a set fee structure;
- Determine if there is a business case to establish an in-house investigator's position; and
- Collaborate with JPS regarding the adequacy of policing.

Compliance

Complaint process

A member of the public who believes they have been affected by the operational policies and procedures, or the services of a municipal police force, or the conduct of a member of a police force may file a complaint.

All complaints filed with the Commission are confidential and are discussed only with the parties involved.

Once a complaint is filed, the Commission will confirm whether the complaint is a conduct, service or policy complaint. If it is a service or policy complaint, the complaint will be sent to the appropriate chief of police and civic authority to process.

In most cases, the Commission will send a conduct complaint to the chief of the proper police force for processing. If the complaint involves a chief of police or deputy chief of police, the complaint is sent to the civic authority for processing.

The chief of police or civic authority may dismiss a conduct complaint, in whole or in part if, in the opinion of the chief of police or civic authority, the complaint or part of the complaint is frivolous, vexatious or not made in good faith.

The Commission encourages early resolution of conduct complaints. If a complaint cannot be resolved informally, then the complaint will be investigated.

In some cases, where it is in the public interest, the Commission will investigate the complaint itself or order the chief of police or civic authority to conduct an independent external investigation.

If the chief of police or civic authority decides there is insufficient evidence the police officer committed a breach of the Code of Professional Conduct, the chief of police or civic authority, will take no further action.

If the chief of police or civic authority decides there is sufficient evidence the police officer committed a breach of the *Code of Professional Conduct*, the chief of police or civic authority, can hold a settlement conference.

Under the *Police Act*, the Police Commission can schedule an arbitration hearing when the parties to a settlement conference cannot reach agreement in a reasonable period or a police officer, alleged to have breached the *Code of Professional Conduct Regulation* does not attend a settlement conference.

Arbitration hearings conducted under the *Police Act* use independent arbitrators. The arbitrator acts like a judge. S/he hears the details of the dispute and issues a decision. The decision is final and binding on all parties involved.

A process map of the complaint process is found at Appendix B.

Operation

The Commission went through a branding exercise as part of its rebuilding exercise and resulting in a new logo. The Commission is developing a new website and increasing the transparency and accountability of the work of the Commission.

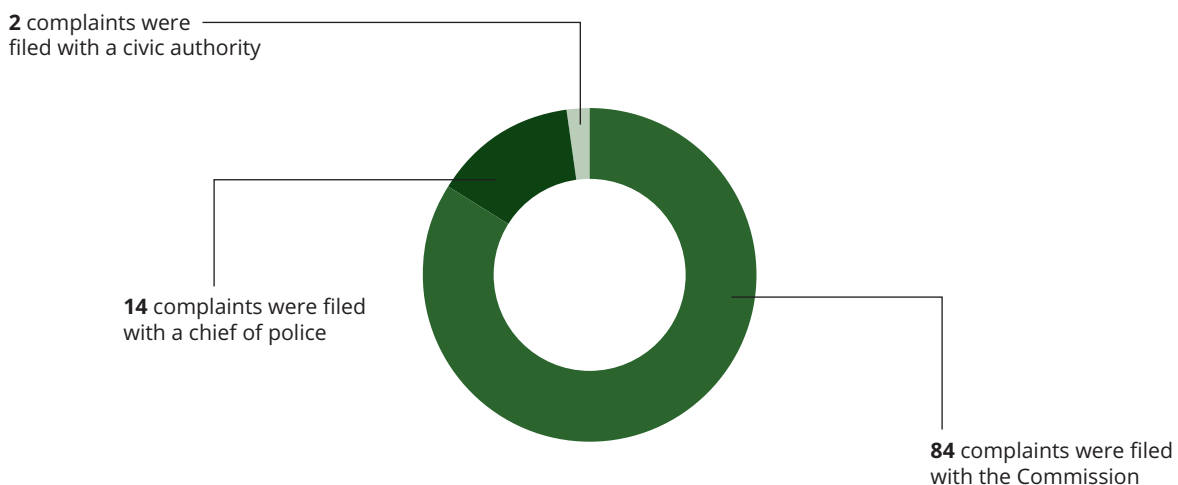
The Commission revised its complaint form to make it more accessible to the public and it can be found on our website (NB Police Commission / Commission de police du N.-B.), at all police forces, or the Commission can send a person a copy. The Commission has also created forms that help decide whether a complaint that is filed outside of the one-year time limit may still be accepted by the Commission. A person may also withdraw their complaint at any stage of the process. These forms may also be found on our website.

Quality control processes were also established, and a new records management system was implemented. These tools will assist the Commission in tracking and reporting. Many policies were developed to improve consistency of work practices with others currently being prepared.

The Commission continues to work with stakeholders to ensure that the public interest in policing is met.

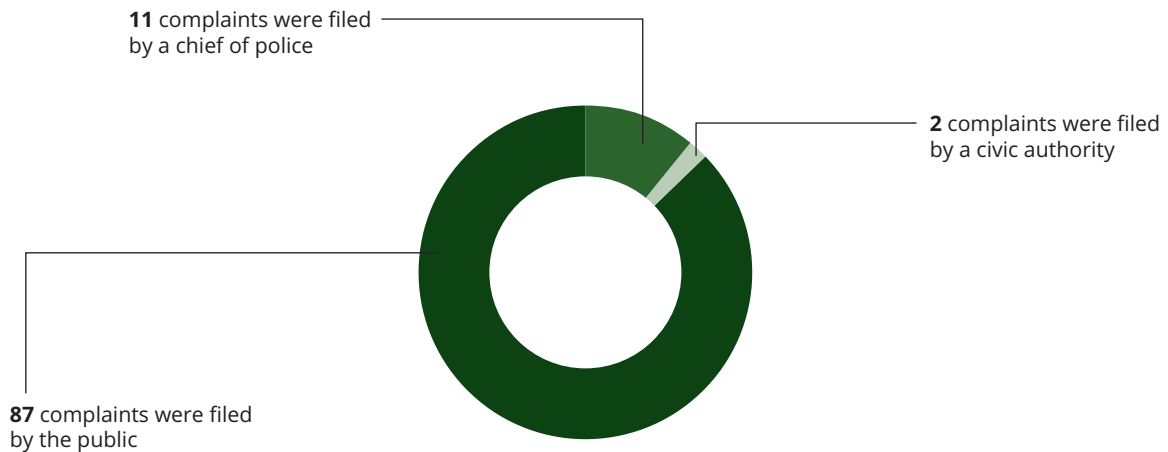
How complaints are filed

A public complaint can be filed directly with the Commission, with the appropriate chief of police or civic authority (which may include a board, a joint board or a municipal council). In the fiscal period, there were 100 complaints filed. 14 complaints were filed with a chief of police, 2 were filed with a civic authority and 84 were filed with the Commission.



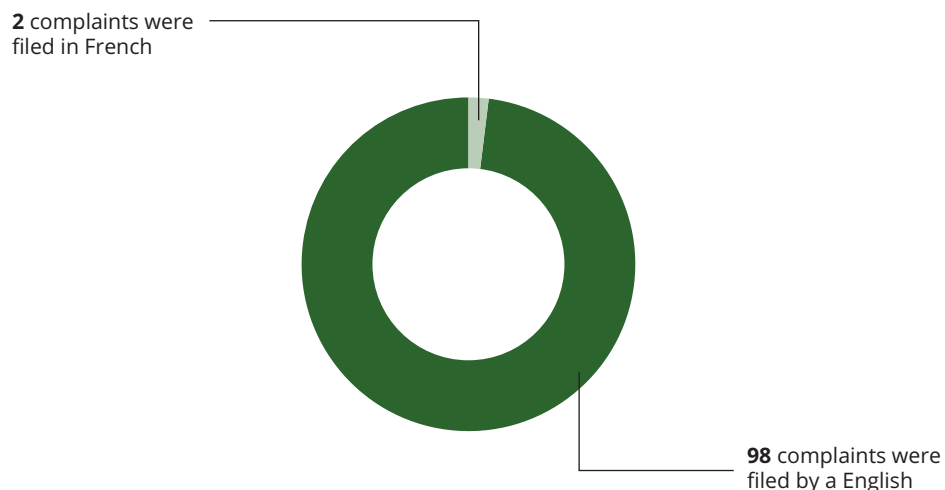
Who is filing complaints

Both members of the public and a chief of police may file a complaint. In the reporting period, 11 complaints were filed by a chief of police, 2 by a civic authority and 87 by the public. The Commission received 32 complaints from one member of the public.



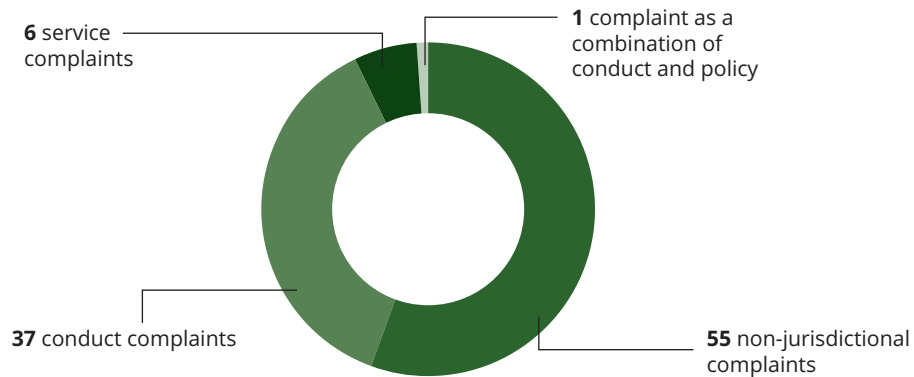
What language are complaints being filed in

The Commission processes complaints in both official languages. During the fiscal year, 2 of the complaints were filed in French and the remaining 98 were filed in English.



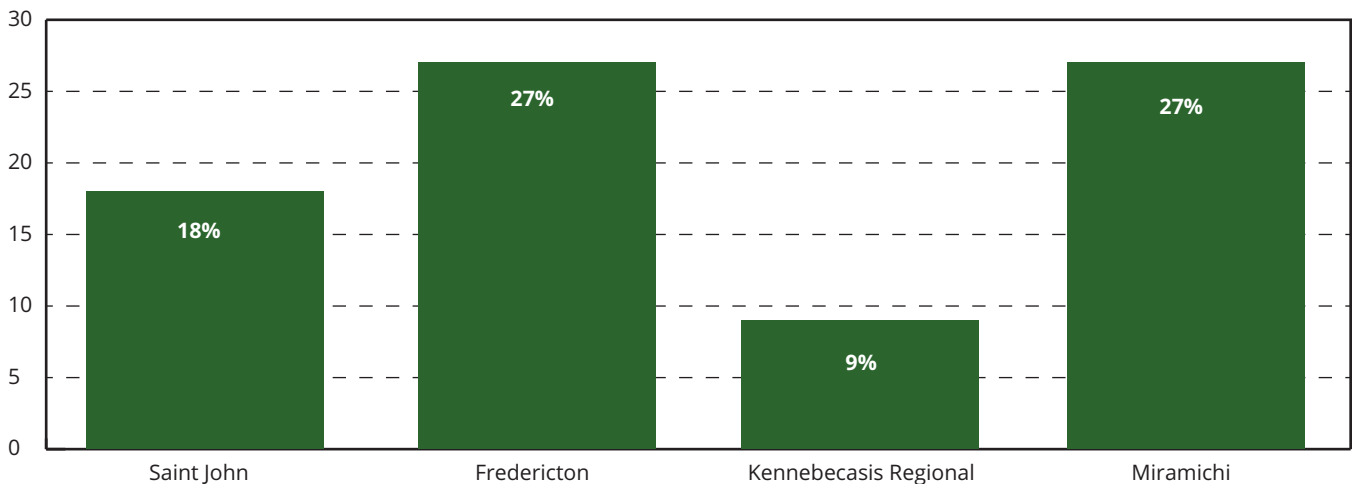
What types of complaints can be filed

Complaints that the Commission has jurisdiction of are characterized as either conduct, service, policy or a combination of conduct and service/policy. Of the 100 complaints filed, 55 were non-jurisdictional (including 30 filed by one individual) and one (1) request to eliminate a police officer position. As in most previous years, most complaints were characterized as a conduct complaint (37), followed by service complaints (6) and one (1) complaint characterized as a combination of conduct and policy.



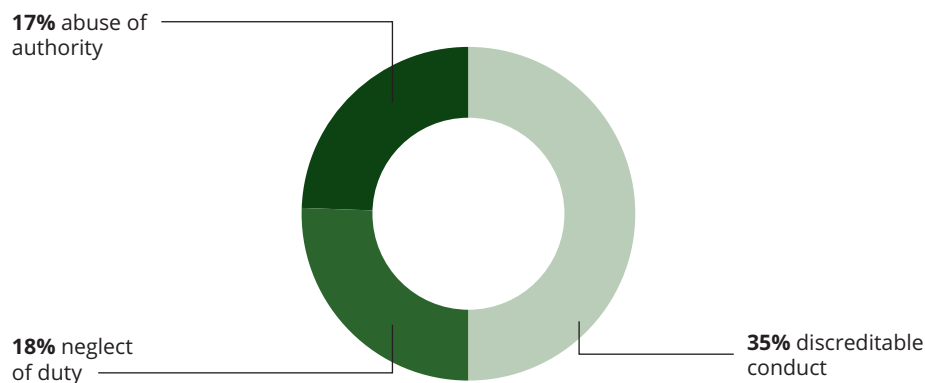
How many conduct complaints are filed

A total of 38 conduct complaints were filed during the fiscal year. The four largest police forces (Saint John, Fredericton, Kennebecasis Regional and Miramichi) accounted for the highest number of complaints.



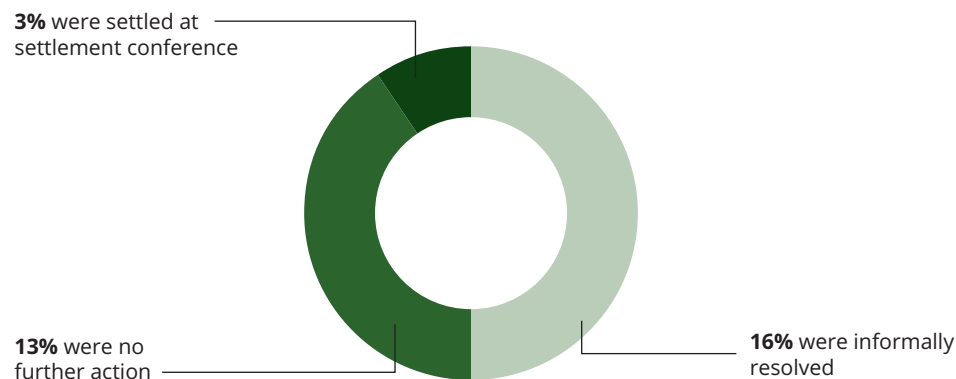
How a police officer breaches the Code of Professional Conduct

The *Code of Professional Conduct (Code)* is a regulation found in the *Police Act* and is the Code of Conduct for police officers. A police officer is considered to have breached the *Code* if they do something that results in a breach of any of the thirteen breaches listed in the *Code*. When someone files a conduct complaint, they are stating that an officer has breached the *Code*; sometimes there can be more than one alleged breach of the *Code*. Of the 38 conduct complaints, there were 66 alleged breaches of the *Code* with the most common being discreditable conduct (35%), neglect of duty (18%) and abuse of authority (17%).



How complaints are resolved

Complaints are resolved when: a complaint is withdrawn; a complaint is summarily dismissed if the complaint is frivolous, vexatious or not made in good faith; a complaint is resolved at early (informal) resolution; where no further action is warranted as a result of an investigation; a settlement is reached at settlement conference; or a decision is made by an arbitrator at an arbitration hearing. The Commission oversees the whole process and a complainant can request the Commission review the decision made by a chief of police or civic authority. During the reporting period, 3% of complaints were withdrawn, 50% were summarily dismissed, 16% were informally resolved, 13% were no further action and 3% were settled at settlement conference. There were no arbitration hearings, however in 16% of the complaints an officer retired/resigned resulting in a loss of jurisdiction (half involved the same officer).



New Brunswick Police Commission Priorities

Strategy and Operations Management

The New Brunswick Police Commission oversees the public complaint's process into the conduct of police officers and the policies or services of municipal and regional police forces. It does so in a transparent and accessible manner that ensures complainants and police officers are treated fairly, impartially and with respect.

The Commission functions at arms-length from government. The Police Commission consists of a Chair, a Vice-Chair and such other members as the Lieutenant-Governor in Council appoints.

The New Brunswick Police Commission safeguards the public interest in policing by:

- Addressing complaints regarding the conduct of members of municipal or regional police forces and ensuring independent investigations;
- Ensuring consistency in disciplinary and corrective measures imposed in response to *Police Act* violations; and
- Investigating matters relating to policing in New Brunswick.

The Commission does this by ensuring we remain committed to our values:

Quality Service	We provide services that are dependable and consistent.
Integrity	We act with honesty and fairness.
Accountability	We take responsibility for our policies, decisions, actions and products.
Objectivity	We make balanced and unbiased decisions.
Transparency	We foster a structure and culture that encourage access to information within the law.

The Commission's 3-year strategic plan was implemented in 2019 and it's strategic priorities focused on improving our foundations, improving our partnerships and improving our internal processes and decision making. The Commission has been rebuilding and modernizing since 2019 and is preparing to enter into a new strategic planning exercise.

Education and Engagement

Branding

To reflect the modernization of the Commission and as part of its strategic plan to improve its partnerships, we engaged with our stakeholders in a branding exercise in an effort to create a new look and feel for the Commission. This resulted in a new logo that was implemented in our documentation and on our website.

Awareness

We are working towards making our materials more accessible to the public and increasing our transparency by modifying our forms and improving our website. During the reporting period, the Commission published the following:

- Revised public complaint form;
- Complaint withdrawal form;
- Guideline on Time Limit Extension for Making a Complaint;
- Time Limit Extension Request Form; and
- Response to Time Limit Extension Request Form

Media relations

The *Police Act and the Right to Information and Protection of Privacy Act (RTIPPA)* set out the information that the Commission can release to the public. Complaints only become public if they are referred to arbitration and because complaints are personnel investigations under *RTIPPA*, we are only able to release complaint statistics. We publish our annual reports on the website and these contain detailed complaint statistics.

We also publish other news releases or documents to inform New Brunswickers of the work of the Commission and these are also published on our website. During the reporting period, we published the following:

- Alphonse MacNeil Review of the New Brunswick Police Commission – History
- Review of the New Brunswick Police Commission - October 2019
- Major Case Management Review – Saint John Police Force
- NBPC Handbook
- NBPC Fact Sheet
- Press release on the Major Case Management Review of Saint John Police Force

We are committed to increasing our transparency and accessibility. We continue to work on modernizing the website as the central resource for the public and the media to access information about us.

Presentations and workshops

As part of our strategic plan, we continue to reach out to various groups to provide information and to seek information, so we can provide a better service to the public. In 2019-2020, we sat down with chiefs of police, police association and union members, municipal councils and boards of police commissioners to discuss the way forward. Our Executive Director presented to Lancaster House Conference on the topic of investigations and to the Canadian Institute's Law of Policing Conference on the topic of oversight and investigations.

National activities

The Commission is a member of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) which is a national organization of individuals and agencies involved in the oversight of police officers in Canada. CACOLE members represent diverse organizations - municipal and provincial police boards and commissions, First Nations, provincial and federal oversight agencies, ombudsman's offices, police associations and professional standards bureaus individuals as well as organizations in the 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.

The Executive Director is a Director on the CACOLE Board of Directors and participates in monthly meetings. Being part of CACOLE allows us to work with our colleagues across the country and internationally to improve our effectiveness and our efficiency as well as to share best practices.

CACOLE hosts two meetings annually, one for the public and one for agency heads that we participate in.

Performance measures

Addressing identified gaps

Action all 22 recommendations from the MacNeil Report published October 1, 2019

Measures

Complete to 30% by March 31st, 2020

Addressing identified gaps

Objective of the measure

Modernize operations, improve internal process, advance transparency and open avenues of consultation with stakeholders

Measure

Address 50% of the 22 MacNeil recommendations by March 31, 2020

Description of measure

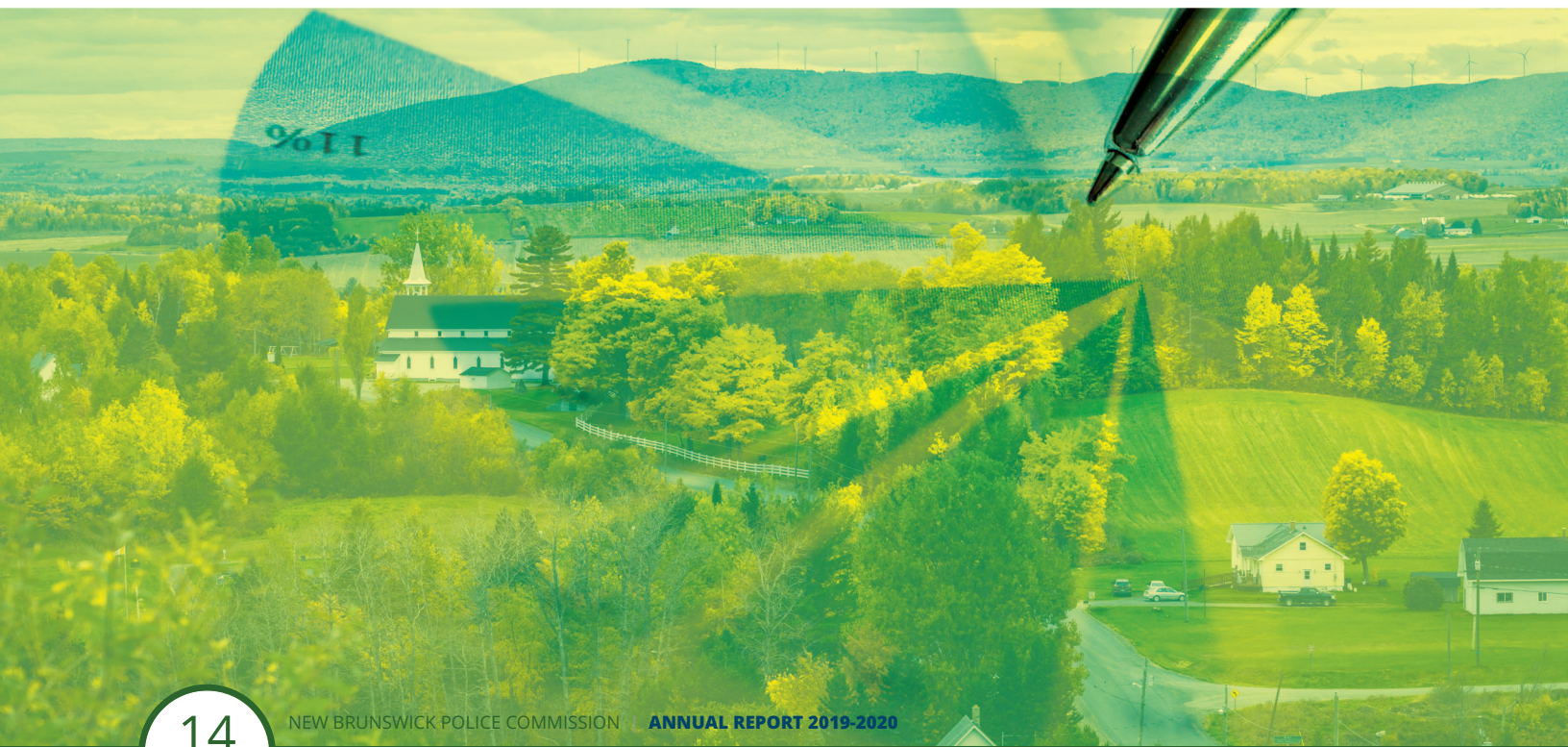
Completion of the 22 recommendations was a commitment made by the Commission and a benchmark of 50% was set for the fiscal year 2019-2020. Each recommendation was prioritized, and resources were dedicated to address areas of highest risk.

Overall performance

The measure of 30% was exceeded by 3% in the five months following publication of the MacNeil report. A senior consultant was hired in the fall of 2019 which accelerated progress that was tempered somewhat due to operational priorities and staff turnover.

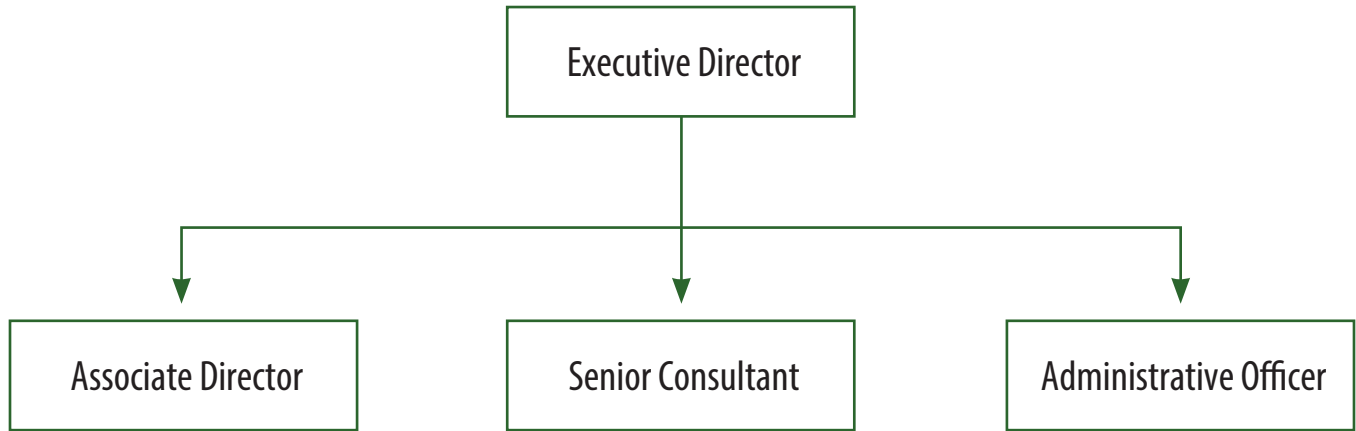
Why do we measure this?

The commission's responsibilities and involvement in the disciplinary overview of New Brunswick police forces is foundational to the authorities granted to the Commission under the Police Act. Organizational change and continuous improvement are critical to civilian oversight and striving for enhanced accountability and transparency requires focus and dedication. By establishing measurable benchmarks and regular reporting on results, the Commission will address all 22 recommendations of the MacNeil report by mid 2021.



Appendices

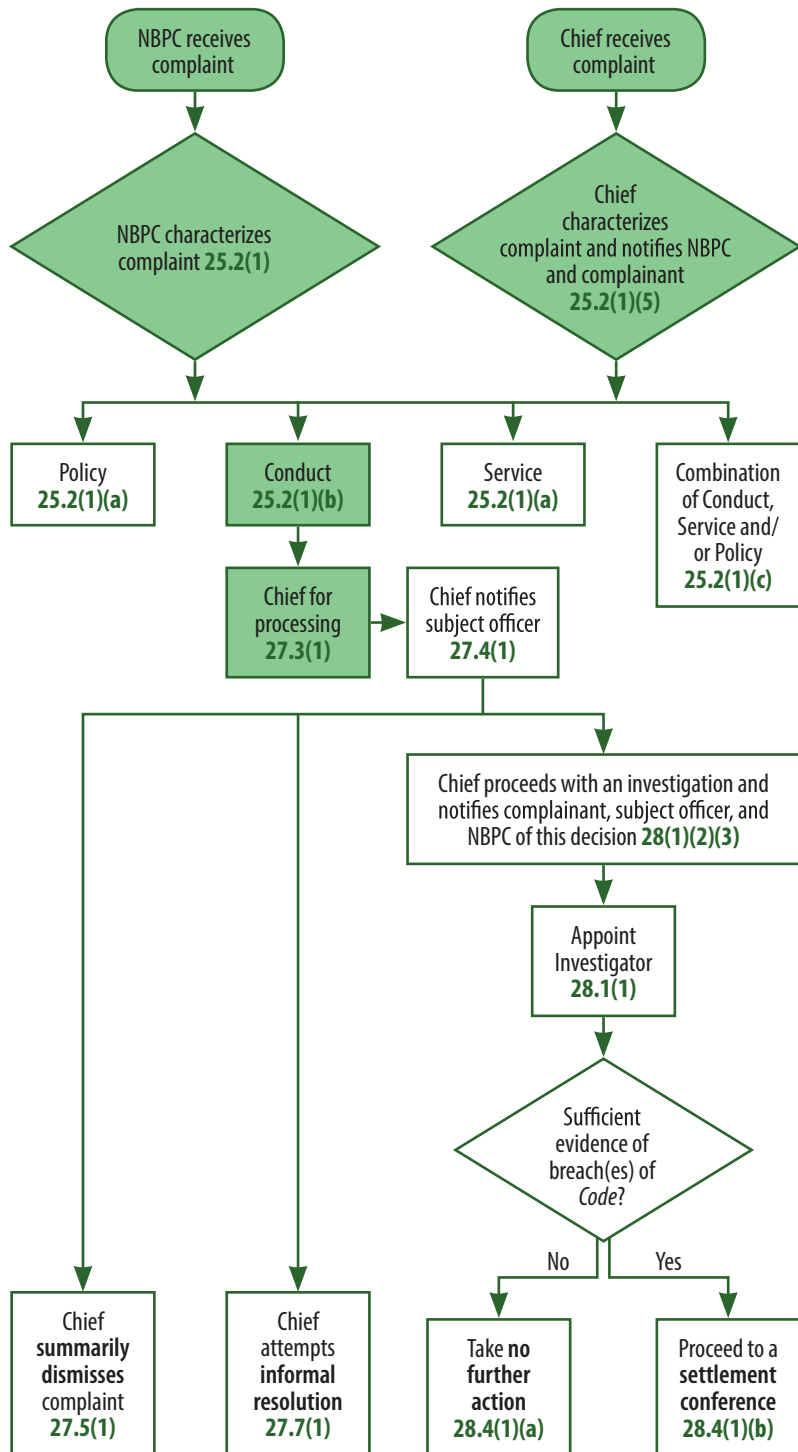
Appendix A – Organizational chart



Appendix B – Process maps

All sections/subsections/paragraphs referenced are from the New Brunswick *Police Act*.

Conduct Complaint against Police Officer

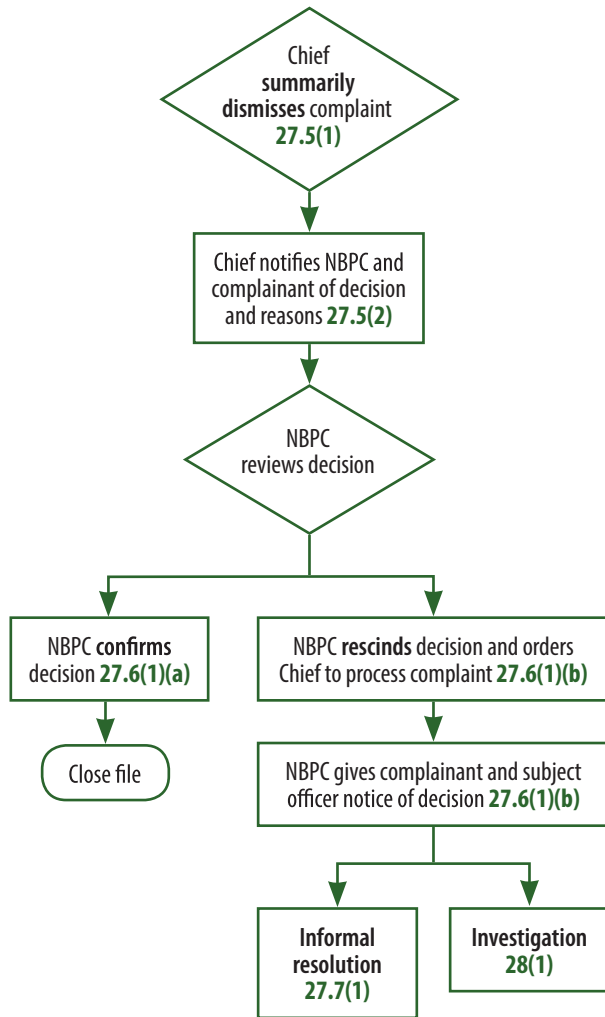


Pursuant to section 26.1(1) "...the Commission... may, at any time before an arbitrator has been appointed, process a conduct complaint or take over from a chief of police or civic authority the processing of a conduct complaint."

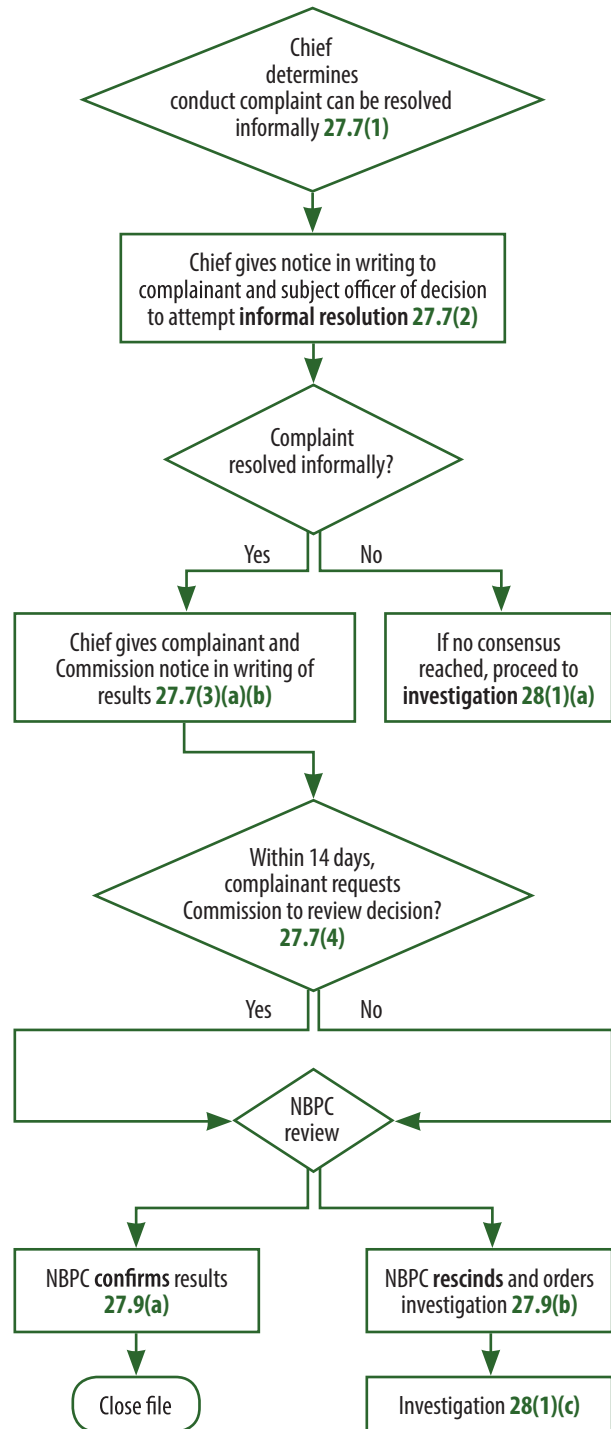
Pursuant to section 26.1(2) "The provisions of this Act that apply to the powers that a chief of police or civic authority may exercise when processing a conduct complaint also apply with the necessary modifications to the Commission..."

Pursuant to section 27.2(1) "...the Commission may... suspend the processing of a conduct complaint...where the processing will be or becomes an investigation into an alleged offence under an Act of the Legislature or an Act of the Parliament of Canada until such time as the Commission directs otherwise."

Summarily Dismiss (Police Officer)

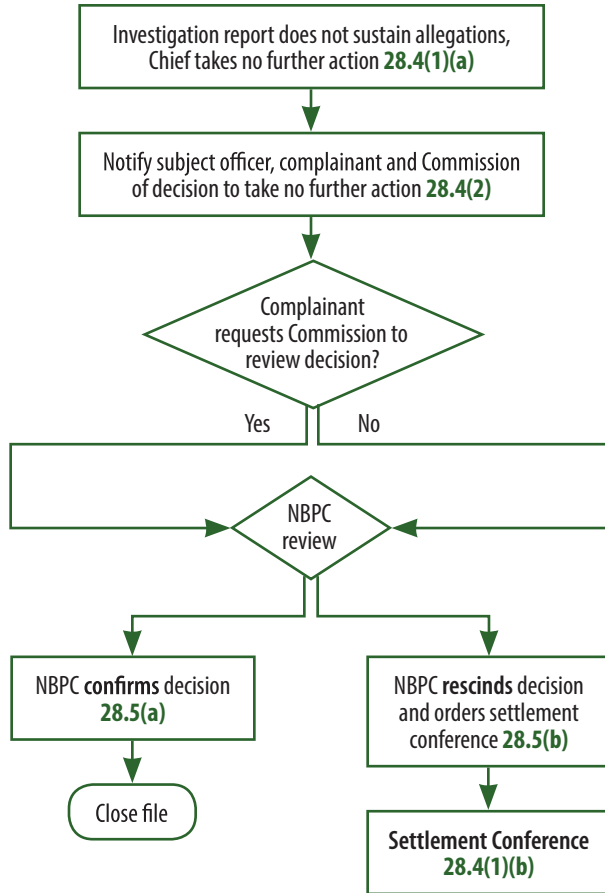


Informal Resolution (Police Officer)

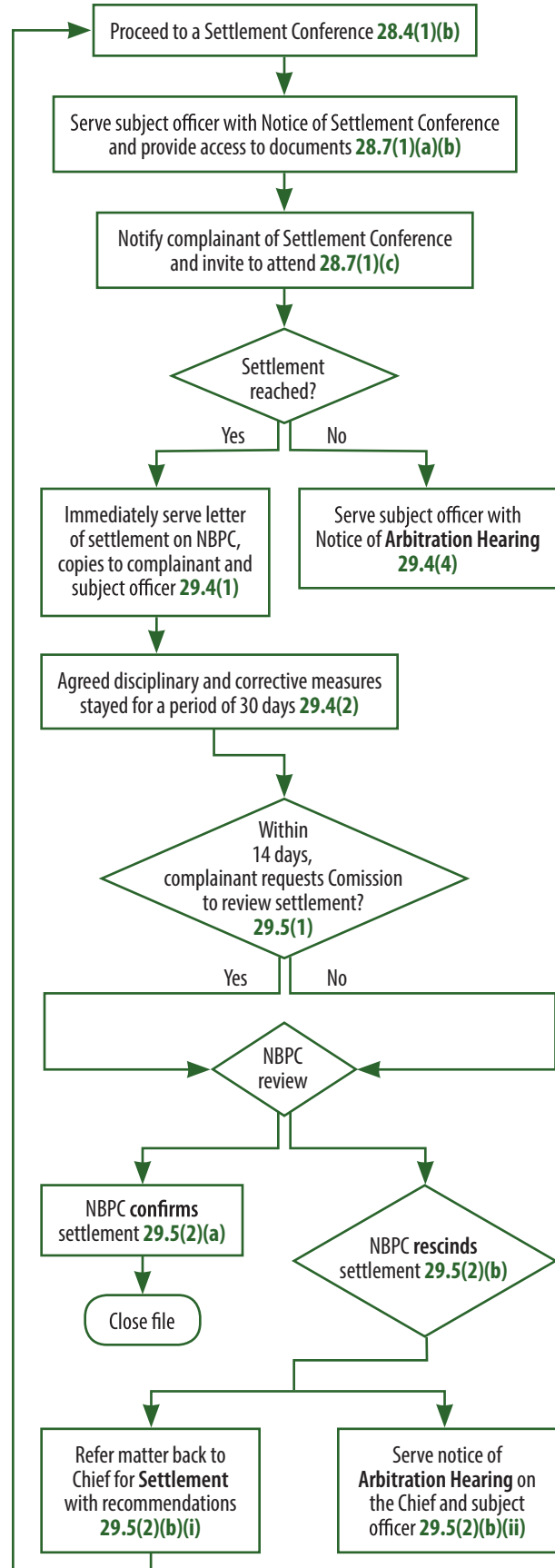


27.5(1) The chief of police may summarily dismiss a conduct complaint, in whole or in part if, in the opinion of the chief of police, the complaint or part of the complaint is frivolous, vexatious or not made in good faith.

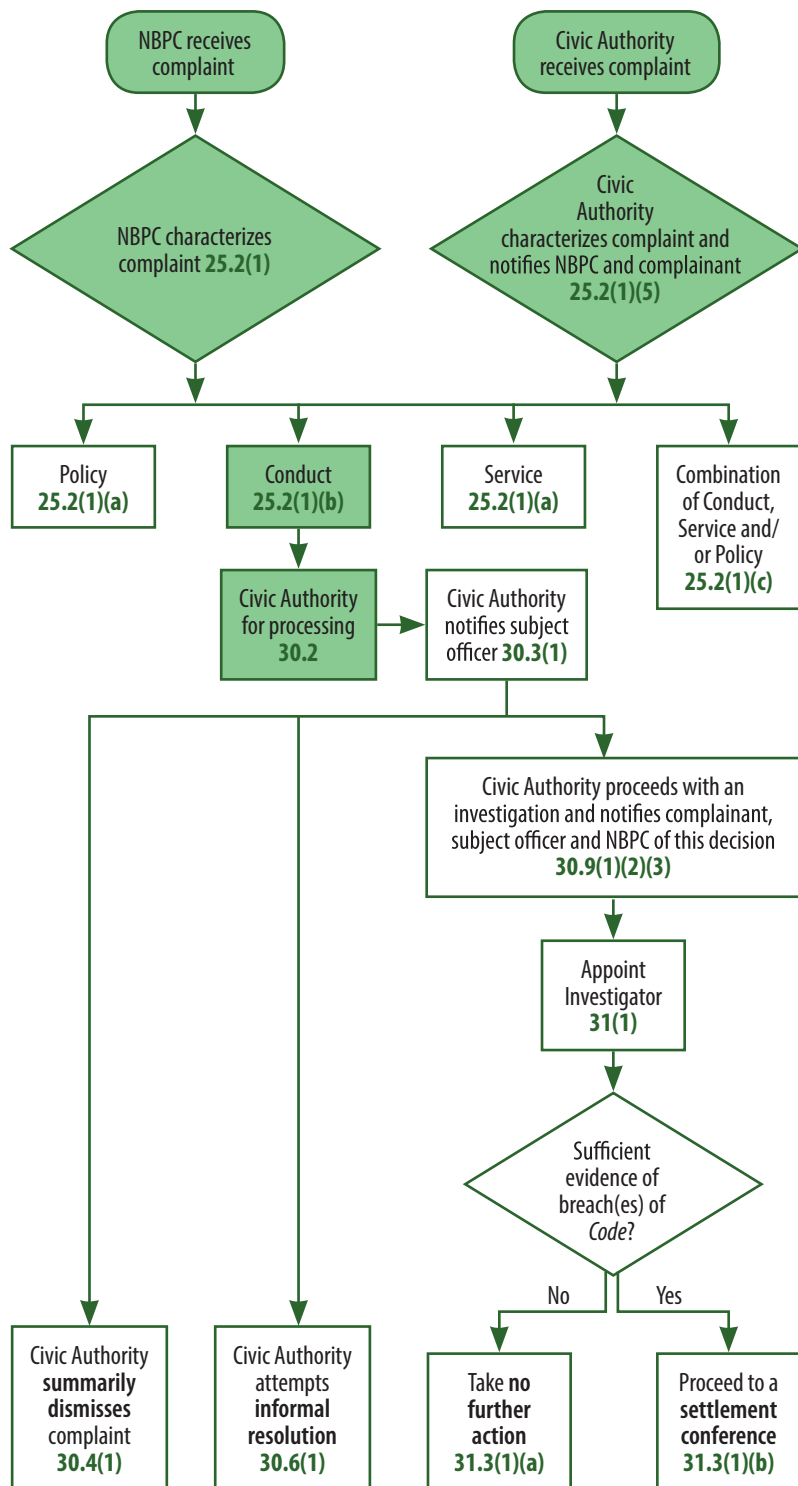
No Further Action (Police Officer)



Settlement Conference (Police Officer)



Conduct Complaint against Chief or Deputy Chief

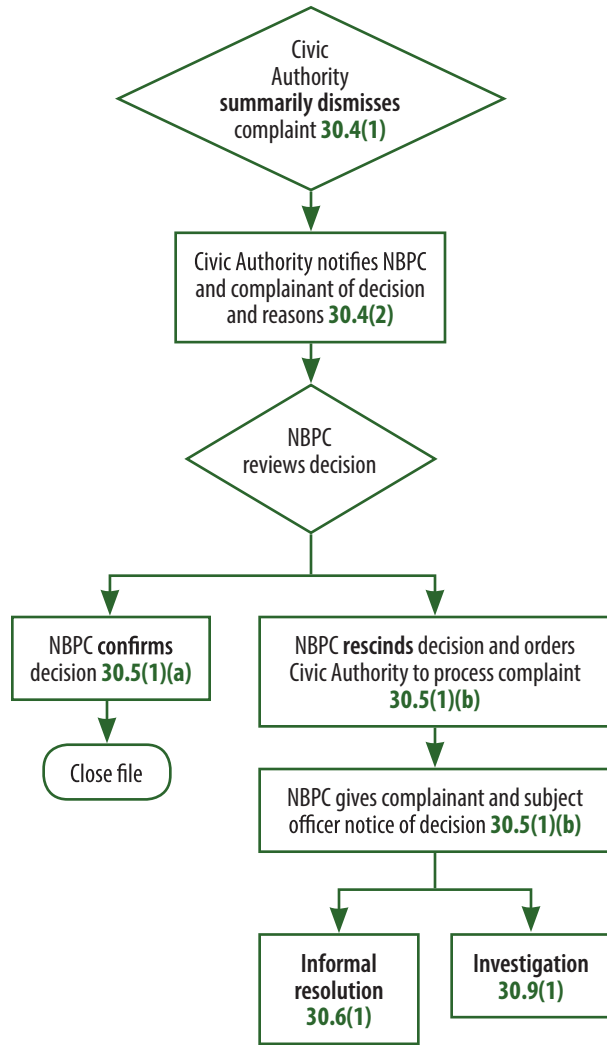


Pursuant to section 26.1(1) "...the Commission... may, at any time before an arbitrator has been appointed, process a conduct complaint or take over from a chief of police or civic authority the processing of a conduct complaint."

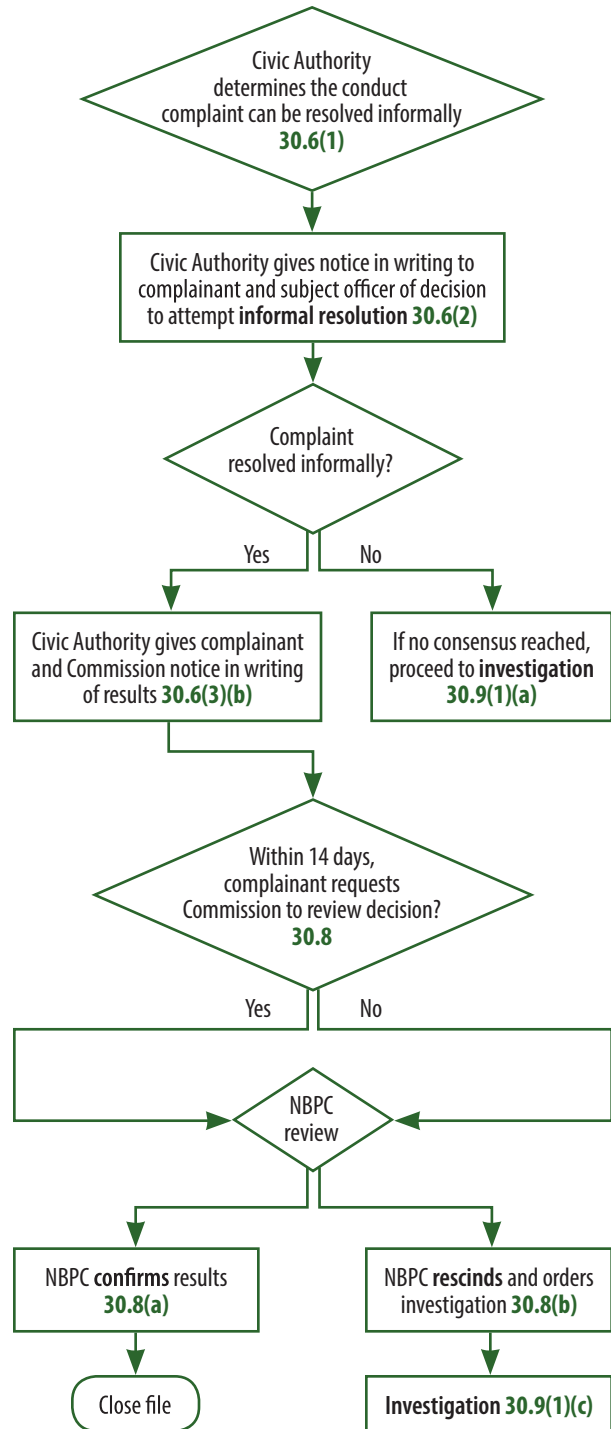
Pursuant to section 26.1(2) "The provisions of this Act that apply to the powers that a chief of police or civic authority may exercise when processing a conduct complaint also apply with the necessary modifications to the Commission..."

Pursuant to section 30(1) "... the Commission may... suspend the processing of a conduct complaint...where the processing will be or becomes an investigation into an alleged offence under an Act of the Legislature or an Act of the Parliament of Canada until such time as the Commission directs otherwise."

Summarily Dismiss (Chief or D/Chief)

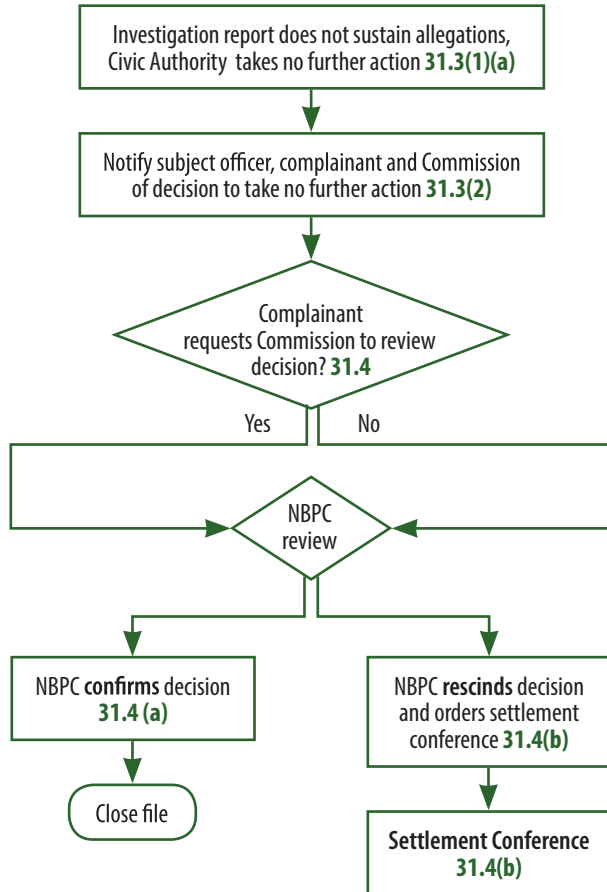


Informal Resolution (Chief or D/Chief)

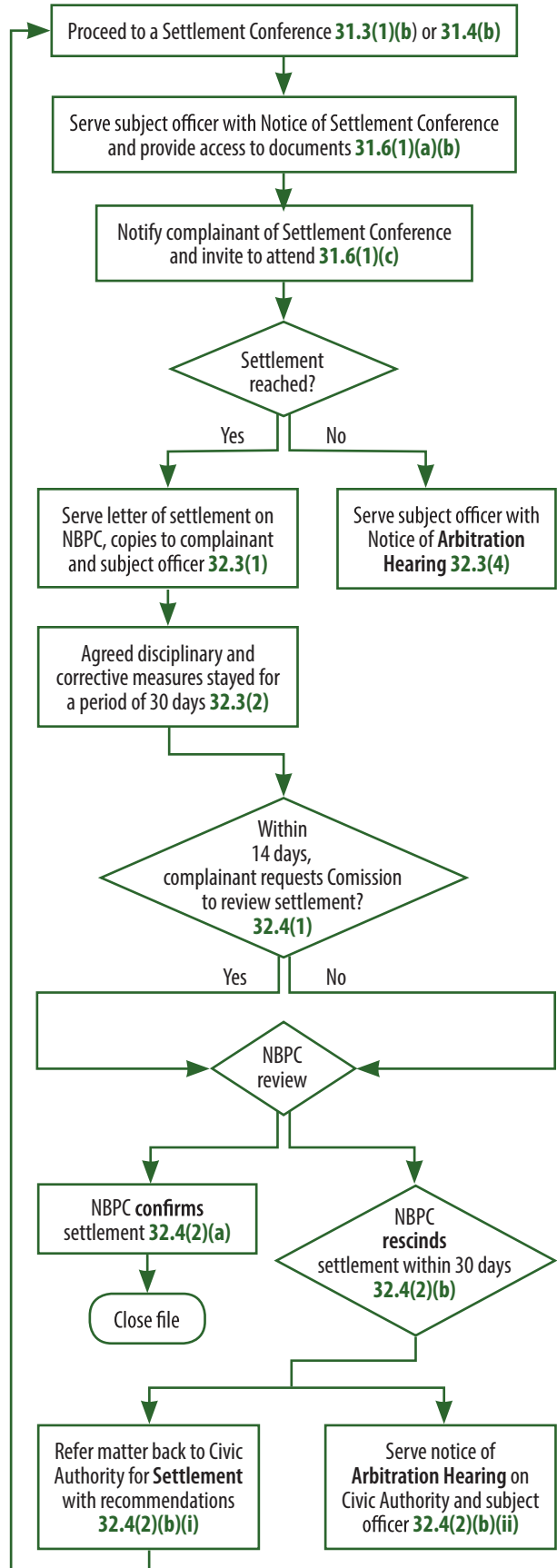


30.4(1) The civic authority may summarily dismiss a conduct complaint, in whole or in part if, in the opinion of the civic authority, the complaint or part of the complaint is frivolous, vexatious or not made in good faith.

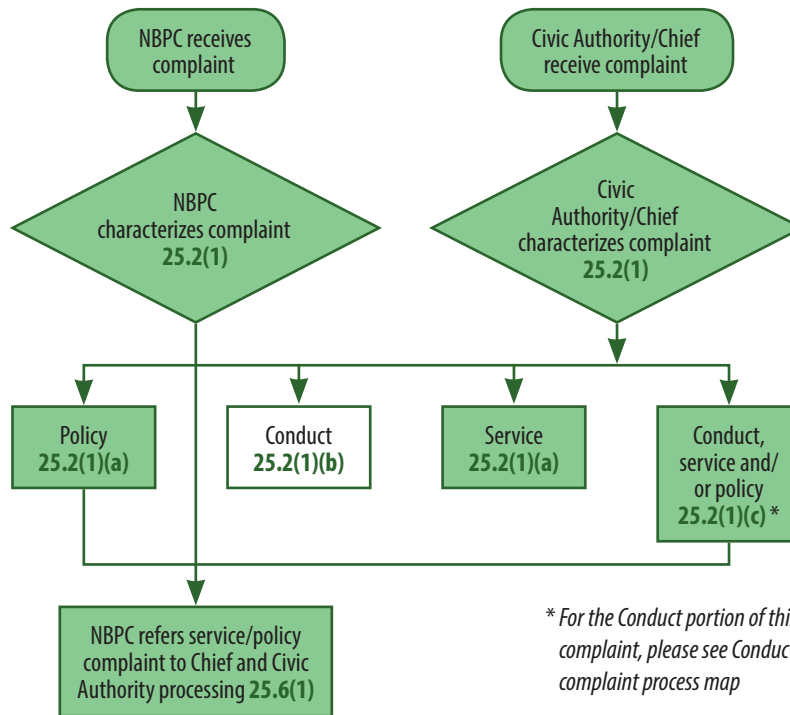
No Further Action (Chief or D/Chief)



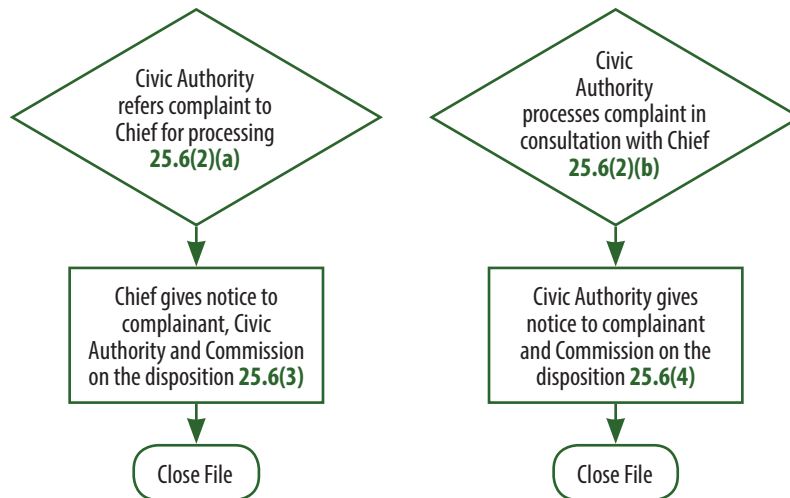
Settlement Conference (Chief or D/Chief)



Service/Policy Complaint



Service and/or Policy Complaint



Appendix C

New complaints filed

2019-2020 Complaints filed	
Conduct	37
Service / policy	6
Combination of conduct, service and or policy	1
No jurisdiction	25
Other	31
Total	100

New complaints filed by police force	2019-2020 Complaints filed by police force									
	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	Total
Total Complaints										
Conduct complaints filed	2	1	0	9	3	2	12	7	1	37
Combination Conduct and Service and/or Policy complaints filed	0	0	0	0	0	0	0	1	0	1
Service complaints filed	0	0	1	3	0	2	0	0	0	6
Policy complaints filed	0	0	0	0	0	0	0	0	0	0
Service and Policy complaints filed	0	0	0	0	0	0	0	0	0	0
Total Complaint Files	2	1	1	12	3	4	12	8	1	44

Disposition of conduct complaints

2019-2020 Disposition of conduct complaints	
Withdrawn	1
No further action	5
Summary dismissal	19
Informal resolution	6
Settlement conference	1
Arbitration hearing	6
Total	38

Disposition of conduct complaints by police force

2019-2020 Disposition of conduct complaints by police force

Police Force	Withdrawn	No further action	Summary dismissal	Informal resolution	Settlement conference	Arbitration hearing	Totals
Edmundston Police Force	0	0	0	0	0	0	0
Grand Falls Police Force	0	0	0	1	0	2	3
Woodstock Police Force	0	0	0	1	0	0	1
Fredericton Police Force	1	1	7	0	0	0	9
Saint John Police Force	0	0	6	2	0	0	8
Kennebecasis Regional Police Force	0	0	1	0	1	0	2
Miramichi Police Force	0	4	3	1	0	4	12
B.N.P.P. Regional Police Force	0	0	1	0	0	0	1
Bathurst Police Force	0	0	1	1	0	0	2
Totals	1	5	19	6	1	6	38

**Officers who resign are no longer members of a police force and results in a loss of jurisdiction. 3 of the 6 cases involve the same officer.*

Alleged breaches of the Code of Professional Conduct

Conduct Complaints Alleged Breaches of the Code

	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	Total
Conduct complaints filed	2	1	0	9	3	2	12	7	1	37
Discreditable conduct - 35(a)	1	0	0	3	2	1	12	4	0	23
Neglect of duty - 35(b)	1	0	0	3	3	0	4	1	0	12
Deceitful behavior - 35(c)	0	0	0	1	0	0	1	0	0	2
Improper disclosure of information - 35(d)	0	0	0	0	0	1	3	1	1	6
Corrupt practice - 35(e)	0	0	0	0	1	1	3	0	0	5
Abuse of authority - 35(f)	0	1	0	4	1	0	0	5	0	11
Improper use and care of firearms - 35(g)	0	0	0	0	0	0	0	0	0	0
Damage police force property - 35(h)	0	0	0	0	0	0	0	0	0	0
Misuse intoxicating liquor or drugs - 35(i)	0	0	0	0	0	0	0	0	0	0
Convicted of an offence - 35(j)	0	0	0	1	1	0	0	0	0	2
Insubordinate behavior - 35(k)	0	0	0	0	0	0	2	0	0	2
Party to a breach - 35(l)	0	0	0	0	0	0	1	0	0	1
Workplace harassment - 35(m)	0	0	0	0	0	2	0	0	0	2
Total allegations	2	1	0	12	8	5	26	11	1	66

Alleged breaches of the Act are identified when a complaint is filed. An incident may have multiple allegations identified.

Appendix D

Summary of expenditures

Item	Budget	Actual
Personal services	262.7	304.5
Other services\	331.2	289.3
Materials & supplies	6.1	3.7
Property & equipment	8.0	10.5
Total	608.0	608.0