



NBPC
NEW BRUNSWICK
POLICE COMMISSION



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COMMISSION DE POLICE
DU NOUVEAU-BRUNSWICK

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Annual Report 2020-2021
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, 2020, to March 31, 2021.

Respectfully submitted,



Honourable Kris Austin
Minister responsible for the New Brunswick
Police Commission

From the Chair to the Minister Responsible

Honourable Kris Austin
Minister of 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, 2020, to March 31, 2021.

Respectfully submitted,



Lynn Chaplin
Chair
New Brunswick Police Commission

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Message from the Chair

Minister,

It is with great pleasure and pride that I submit to you the annual report of the New Brunswick Police Commission. As you will see, we have remained focussed and determined on our path of change, outreach, renewal and modernization. Our dedication to excellence in the civilian oversight of police conduct issues has ensured excellent service and outcomes to all New Brunswicker's.

We have increased our role within the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) and have benefited from collaboration with other local and provincial partnerships as the role and expectations of policing in Canada continues to evolve.

As I conclude my term as Chair, I wish to thank the professional staff and Commission Members for their work, support, integrity and dedication to this important work. Civilian oversight of police conduct is essential to a democracy and I am grateful for the opportunity to have served the public interest in this important work.



Lynn Chaplin
Chair
New Brunswick Police Commission

Message from the Executive Director

Like everyone in New Brunswick, 2020-2021 saw people living and working during the COVID global pandemic. Commission staff rose to the challenge and adapted to the challenges that came with it, while Commission members offered their undeniable support throughout.

I continued to participate with the Board of Directors on the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE). CACOLE sees membership from administrative conduct oversight agencies, like the Commission, and the serious incident investigation teams from across Canada.

The 22 recommendations made by Alphonse MacNeil in his October 2019 external review of the Commission were addressed during the reporting period and we realized our goals and objectives from our Strategic Plan for 2019-2021. Planning turned to creating the Commission's Strategic plan for 2021-2024 that would be finalized in November 2021.

Commission staff joined other policing stakeholders including the New Brunswick Police Association, the New Brunswick Association of Chiefs of Police, the civic authorities that govern our municipal and regional police forces, and the Department of Justice and Public Safety, in consultations to revise the *New Brunswick Police Act*. The revisions would come into effect in June 2021.

Changes to the legislation would introduce new timelines to how conduct complaints are dealt with, with a goal of increasing the efficiency of its process and providing a timelier resolution to the complaint. The Commission continued to modernize the way public complaints are handled by improving its complaint form and making the process more accessible and focusing on the principles of the *Code of Professional Conduct Regulation* that seeks to correct and educate police officers.

The Commission is committed to working with the public and its stakeholders in ensuring public accountability and transparency in police oversight.



Jennifer Smith
Executive Director
New Brunswick Police Commission

Composition of the Commission

During the reporting period, members of the Commission included: Lynn Chaplin as Chair of the Commission, Marc Léger as Vice-Chair and members Bob Eckstein, John Foran, and Marc Roy.

New member orientation was delivered to all Commission members.

Additional information on our Commission members is available on the Commission's website at <https://nbpolicycommission.ca/>.

The Commission employed an Executive Director, a Senior Consultant, an Associate Director and Administrative Officer. Staff are responsible for the day-to-day operations of the Commission.



Review activities of the New Brunswick Police Commission

On July 7, 2011, Richard Oland was found murdered in his office in downtown Saint John, New Brunswick that was investigated by the Saint John Police Force (SJPF).

On December 19, 2015, Dennis Oland, the victim's son, was found guilty of murder despite trial Justice Jack Walsh identifying four issues regarding the overall police investigation relating to crime scene processing and crime scene management:

- ① Failure to properly secure against too many unnecessary entries into the crime scene;
- ② Failure to secure washroom on second floor; used by unknown number of people;
- ③ Failure to ensure exit to alleyway remained untouched until it could be examined fully; and
- ④ Failure to have pathologist consider whether a dry-wall hammer could have been the murder weapon.

On December 23, 2015, the Saint John Board of Police Commissioners (SJBPC) requested that the Commission complete a review of the SJPF's investigation of the Oland case and to specifically address the issues raised by Justice Walsh, what areas may have already been addressed and any other areas that still require improvement. This review was suspended pending the completion of the criminal proceedings.

On July 19, 2019, Dennis Oland was acquitted, and a decision was made by Public Prosecutions not to appeal the decision. In August 2019, the Commission started its review and in January 2020, an on-site review was completed.

The review found that the overall outcomes of the SJPF homicide investigations spoke for themselves, with only one unsolved case at the time of the review, with a high probability of charges being laid and a 100% conviction rate on concluded investigations. The crime scene management issues raised by Justice Walsh were adequately addressed by the SJPF.

The following recommendations were made:

- ① That the Commission request that the Minister of Public Safety create provincial major case management policy;
- ② That the Commission direct the Saint John Chief of Police to establish standard operating procedures/policy for investigating major crime incidents; and
- ③ That the Commission direct the Saint John Chief of Police to utilize a Sudden Death Checklist for supervisors to complete upon conclusion of a sudden death incident deemed as non-criminal in nature.

The full review report can be found on the Commission's website under publications.

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.

Operations

The Commission began using its electronic records management system which will assist the Commission’s tracking and reporting functions.

Consultations occurred with stakeholders to develop criteria-based competency for a new list of Commission investigators. An expression of interest was called, interviews conducted, an approved new list of investigators was selected. Stakeholders were given an opportunity to provide feedback for selection of investigators prior to final approval by the Commission.

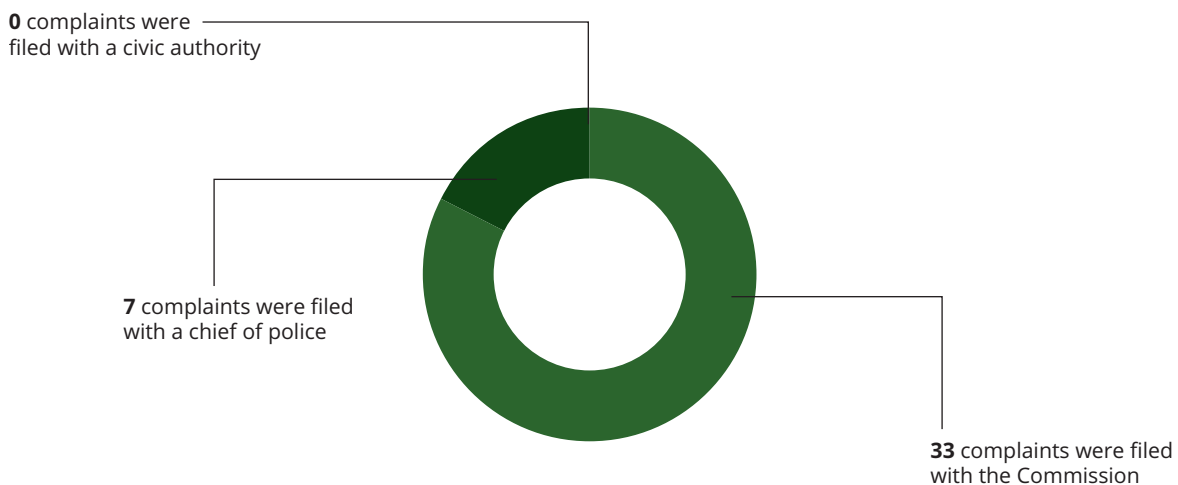
Consultation also occurred with stakeholders regarding the Commission’s list of arbitrators. Work continues at the Commission to establish new arbitrator guidelines.

Several administrative and operational policies were developed. The Commission launched its new website, written in plain language and more accessible to the public.

The Commission continues to work with stakeholders to ensure that the public interest in policing, and accountability and transparency in police oversight, is met.

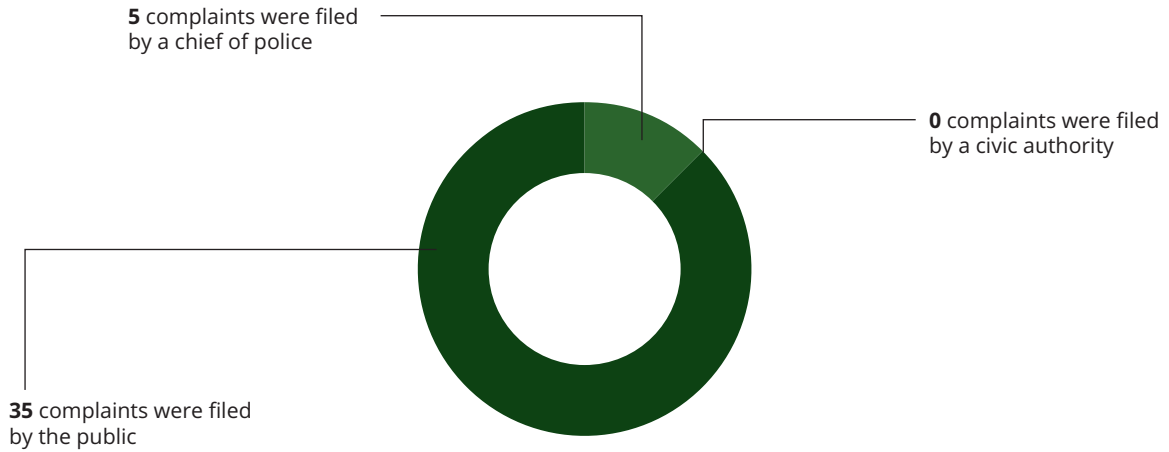
How complaints are filed

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 40 complaints filed; 7 complaints were filed with a chief of police, none were filed with a civic authority and 33 were filed with the Commission.



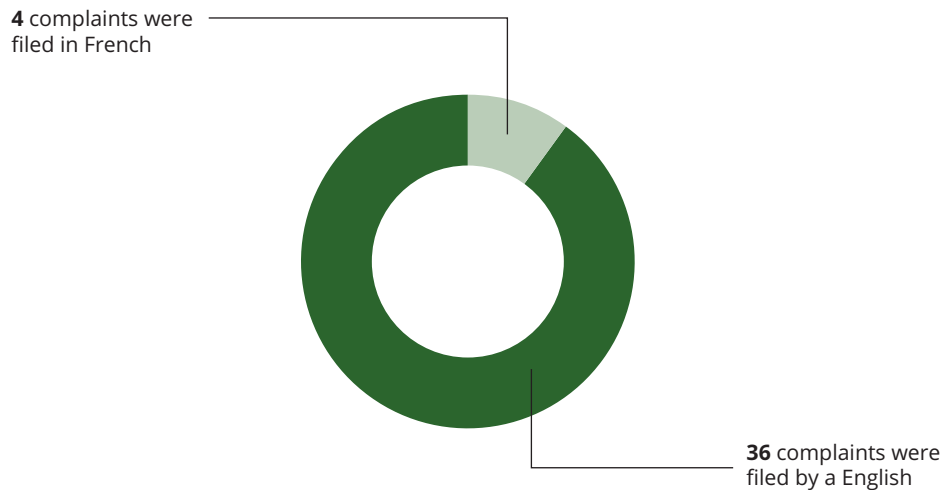
Who is filing complaints

Both members of the public and a chief of police may file a complaint. In the reporting period, 5 complaints were filed by a chief of police, none by a civic authority and 35 by the public.



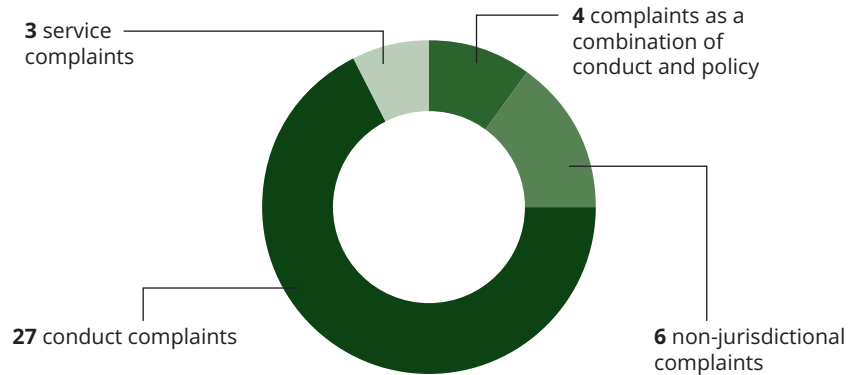
What language are complaints being filed in

The Commission processes complaints in both official languages. During the fiscal year, 4 of the complaints were filed in French and the remaining 36 were filed in English.



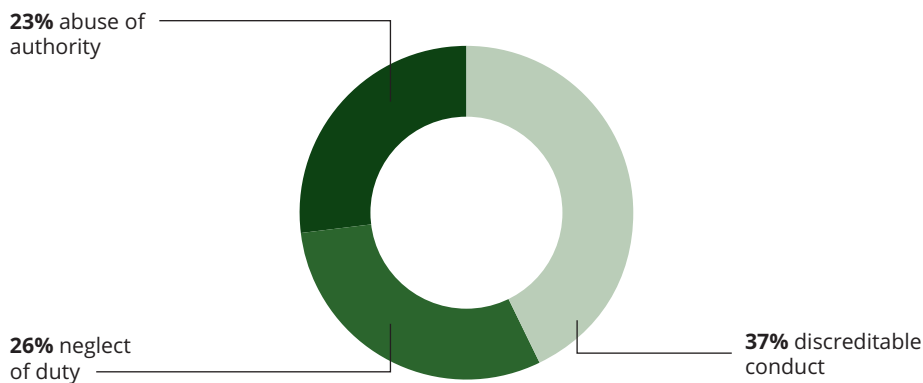
What types of complaints can be filed

Complaints that the Commission has jurisdiction of are characterized as either conduct, service, policy or a combination of conduct, service and/or policy. Of the 40 complaints filed, 6 were non-jurisdictional. As in most previous years, most complaints were characterized as a conduct complaint (27), followed by four (4) complaints characterized as a combination of conduct, service and/or policy and three (3) service complaints.



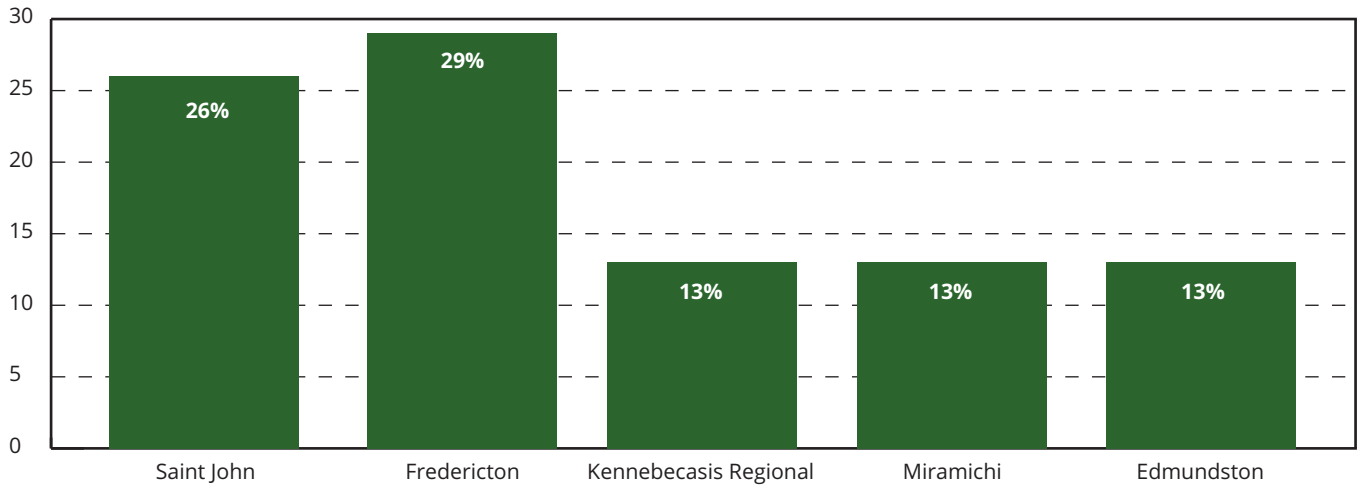
How a police officer breaches the Code of Professional Conduct

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 31 conduct complaints, there were 35 alleged breaches of the Code with the most common being discreditable conduct (37%), neglect of duty (26%) and abuse of authority (23%).



How many conduct complaints are filed

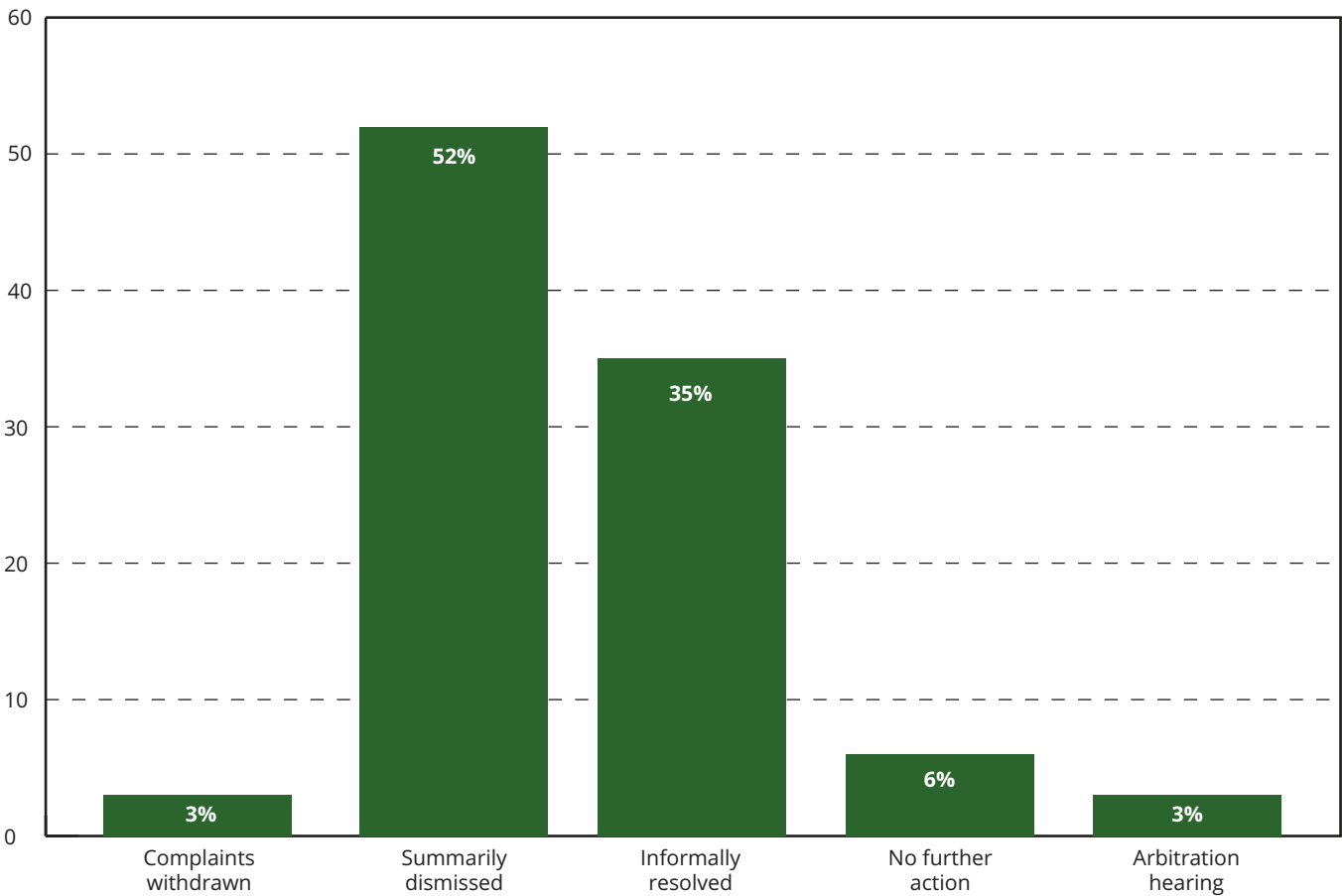
A total of 31 conduct complaints were filed during the fiscal year. The five largest police forces (Saint John, Fredericton, Kennebecasis Regional, Miramichi and Edmundston) accounted for the highest number of complaints (26%, 29%, 13%, 13% and 13%).



How complaints are resolved

There are different ways that a complaint can be resolved or concluded. They include when someone withdraws their complaint; when a complaint is summarily dismissed if the complaint is frivolous, vexatious or not made in good faith; or when a complaint is settled at early (informal) resolution. Most times, these occur at the beginning of the complaint process.

When an investigation occurs, if there is not sufficient evidence that an officer breached their code of conduct, the complaint will be closed with no further action being taken. If there is sufficient evidence the officer breached their code of conduct, then the complaint may be settled at a settlement conference or decided by an arbitrator at an arbitration hearing. The Commission oversees the process from start to finish, 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, 52% were summarily dismissed, 35% were informally resolved, 6% resulted in no further action, there were no settlement conferences, and 3% proceeded to an arbitration hearing. The Commission did not lose jurisdiction of any complaints.



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 completed during the reporting period. Its strategic priorities focused on improving our foundations, improving our partnerships and improving our internal processes and decision making. The Commission commenced a new strategic planning exercise in 2021.

Education and Engagement

Awareness

We continued to work towards making our materials more accessible to the public, writing them in plain language, and increasing our transparency by modifying our forms and improving our website. During the reporting period, the Commission published the following:

- How to file your complaint
- Arbitration decisions added to the website

Education

The Commission collaborated with students from St. Thomas University as they completed a social action initiative with support from Commission staff.

Commission staff also supported a student placement from the New Brunswick Community College.

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.

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.

Police Act review

Commission staff engaged with other policing stakeholders in discussions to revise the *Police Act*. Several meetings and consultations took place. This was a collaborative effort by all to improve the *Police Act*. The work began in early 2020 and would receive Royal Assent in June 2021.

Presentations and workshops

The Commission values its participation in presentations and workshops, however COVID-19 changed the way we all participate in these types of events. The focus during the reporting period was on keeping people safe and ensuring business continuity while respecting the dynamic nature of pandemic restrictions. In early fall 2020, the Commission hosted an investigators' workshop for the newly revised list of Commission investigators.

Presentations were also made to the New Brunswick Association of Chiefs of Police, the Saint John Board of Police Commissioners, and to new recruits at the Kennebecasis Regional Police Force.

National activities

The Commission is a member of the Canadian Association for Civilian Oversight of Law Enforcement 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. Several activities were postponed due to COVID-19 restrictions or conducted virtually.

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.

Performance measures

Addressing identified gaps	Measures
Action remainder of recommendations from the MacNeil Report (October 1, 2019) and continue actioning the 2019-2021 strategic plan.	Complete to 80% by March 31st, 2021

Addressing identified gaps

Objective of the measure

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

Measure

Address 80% of the 22 MacNeil recommendations and action items identified in the 2019-2021 strategic plan by March 31, 2021.

Description of measure

Completion of the 22 recommendations, while continuing to action the Commission’s 2019-2021 Strategic Plan was a commitment made by the Commission and a benchmark of 80% was set for the fiscal year 2020-2021. The remaining recommendations were incorporated into the strategic plan’s action items. Each action item was prioritized, and resources were dedicated to address areas of highest risk.

Overall performance

The MacNeil recommendations were incorporated into the Commission’s 2019-2021 strategic plan. The creation of a new list of investigators, a new list of arbitrators, and some policies remain outstanding. 87% of the strategic plan was completed by March 2021.

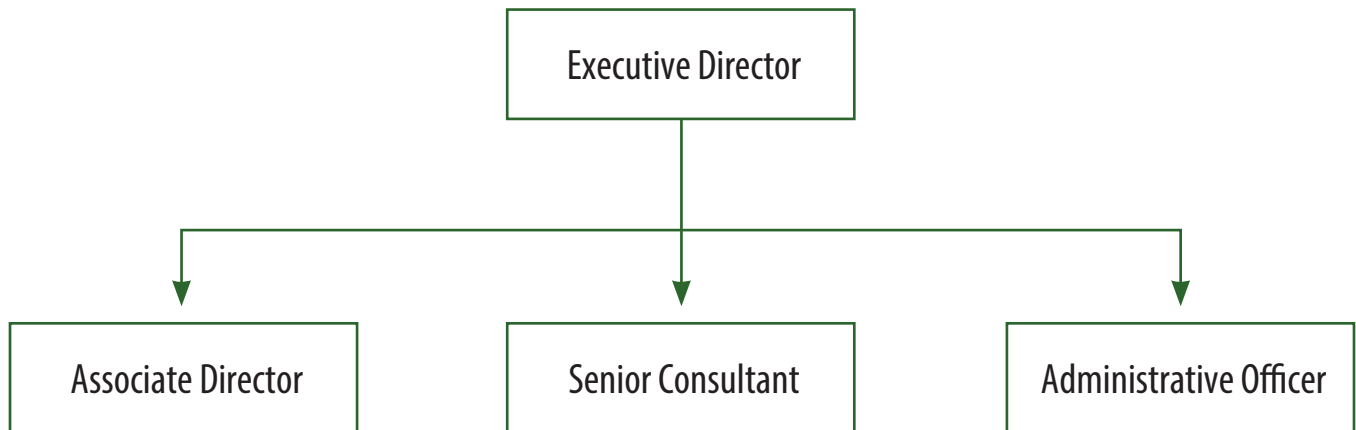
Why do we measure this?

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 80% of its 2019-2021 Strategic Plan by March 31, 2021.

Appendices

Appendix A

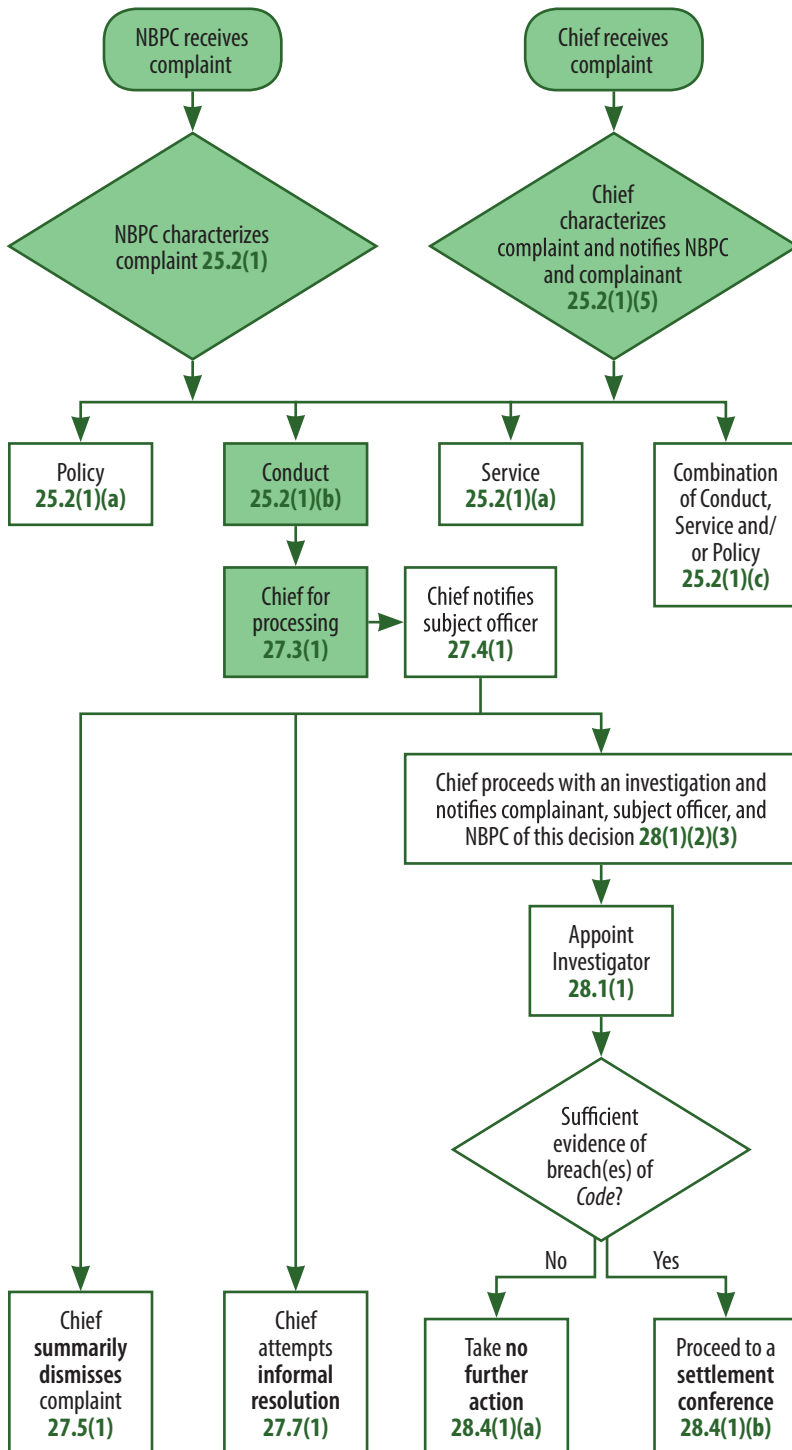
Organizational chart



Appendix B – Process maps

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

Conduct Complaint against Police Officer

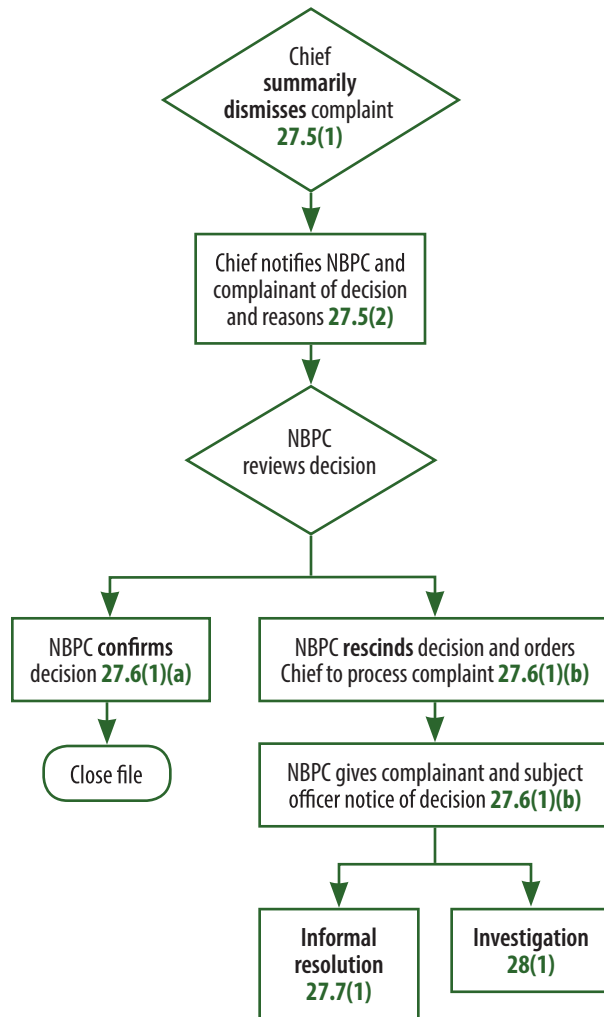


Pursuant to section 26.1(1) "... the Commission... may, at any time before an arbitrator has been appointed, process a conduct complaint or take over from a chief of police or civic authority the processing of a conduct complaint."

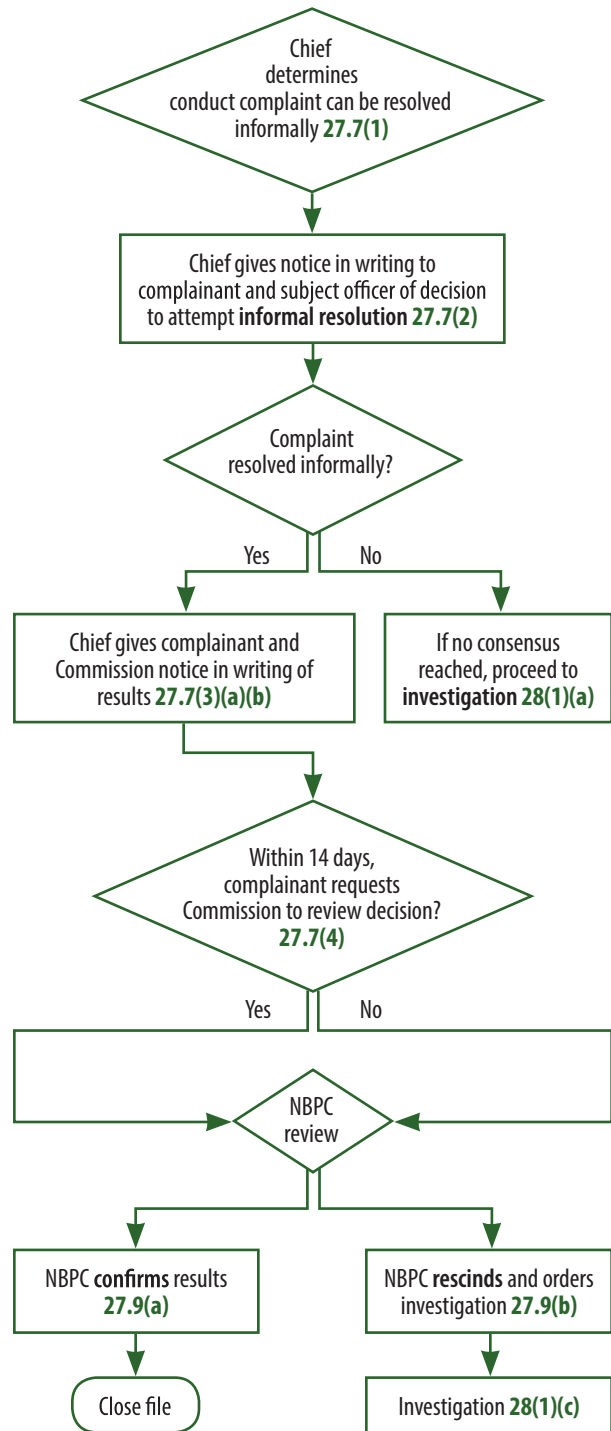
Pursuant to section 26.1(2) "The provisions of this Act that apply to the powers that a chief of police or civic authority may exercise when processing a conduct complaint also apply with the necessary modifications to the Commission..."

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)

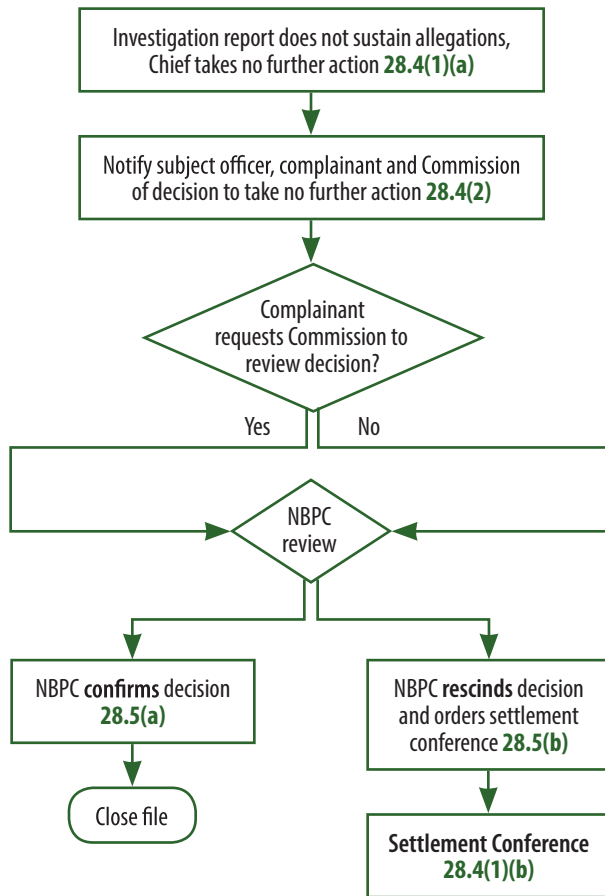


Informal Resolution (Police Officer)

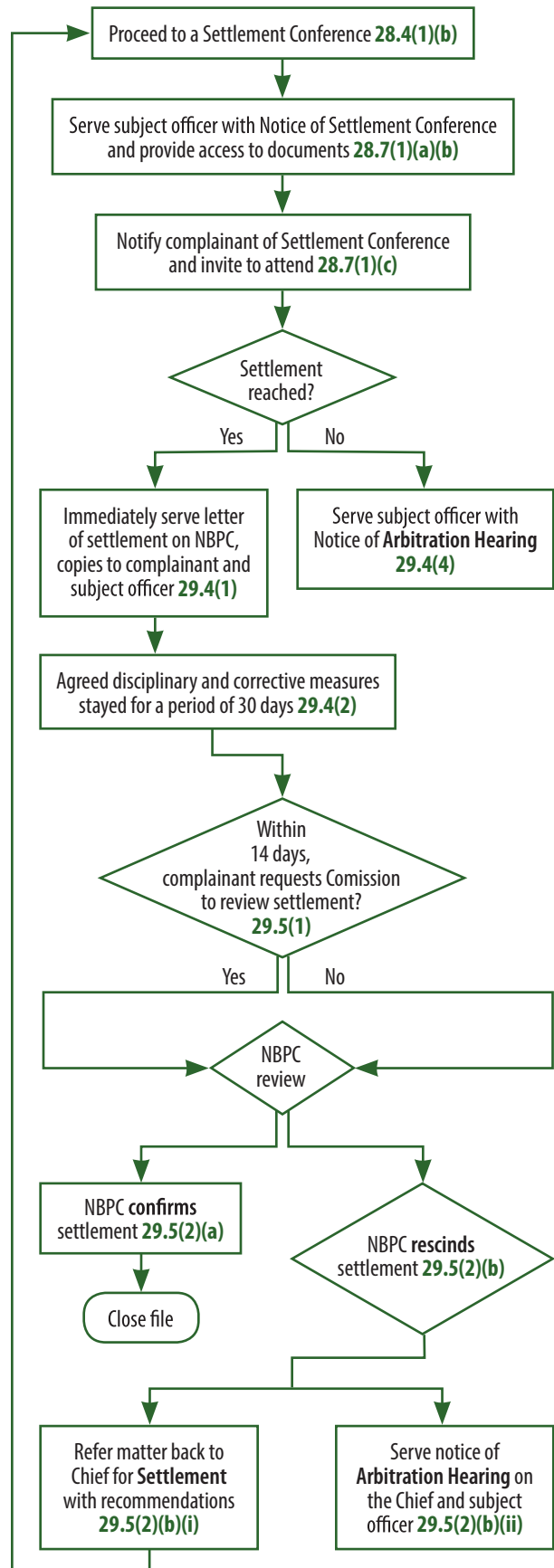


27.5(1) The chief of police may summarily dismiss a conduct complaint, in whole or in part if, in the opinion of the chief of police, the complaint or part of the complaint is frivolous, vexatious or not made in good faith.

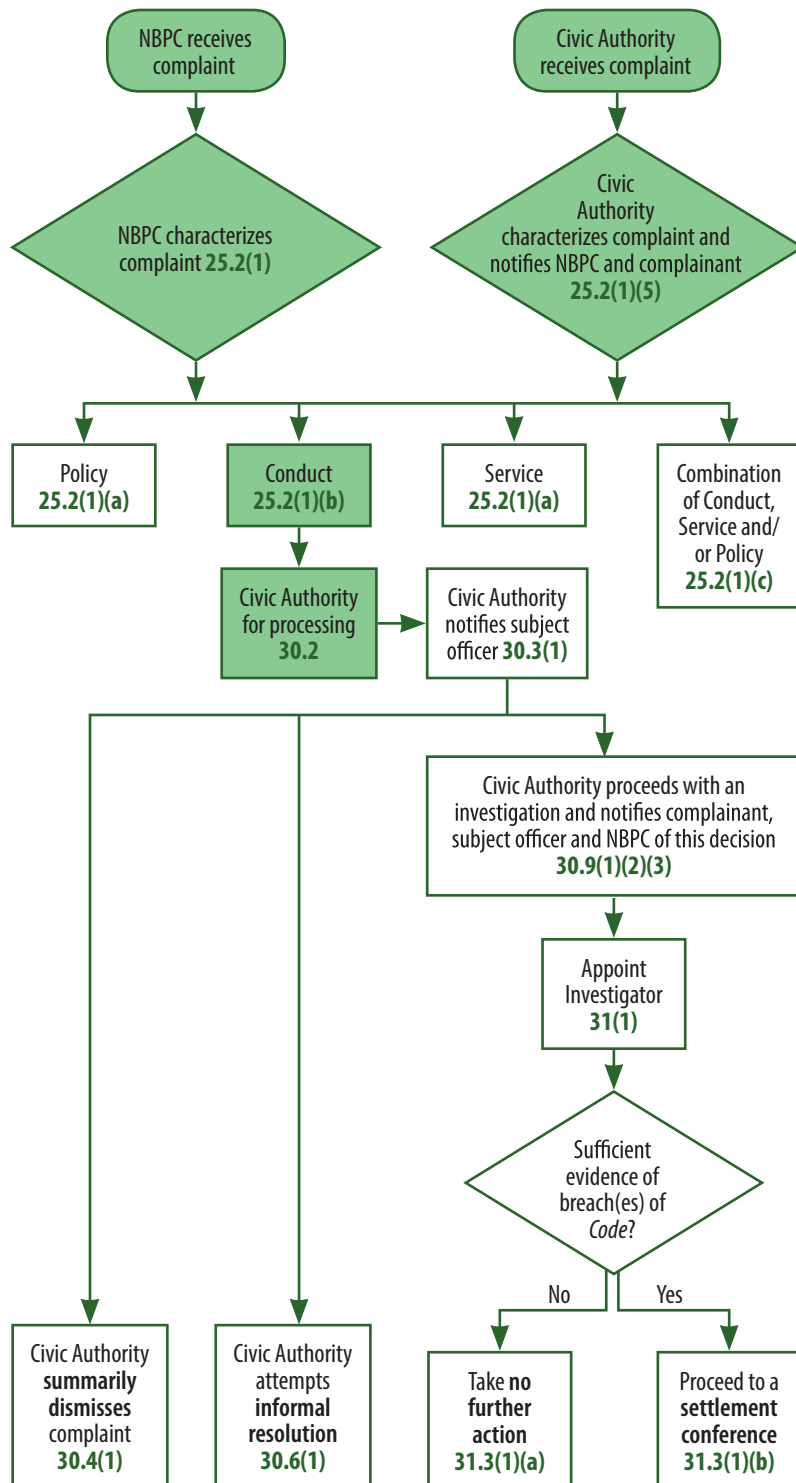
No Further Action (Police Officer)



Settlement Conference (Police Officer)



Conduct Complaint against Chief or Deputy Chief

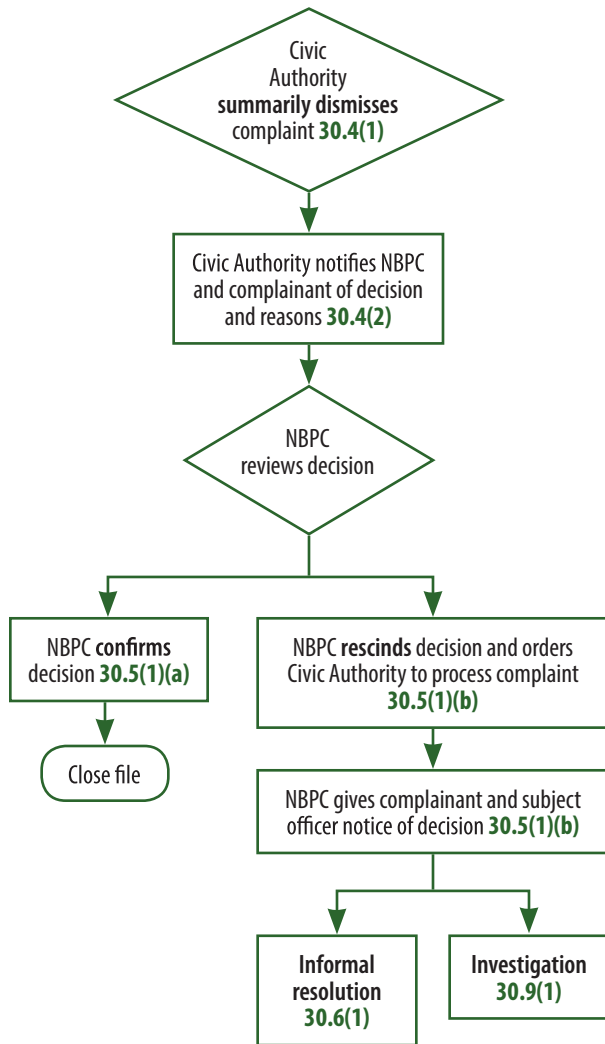


Pursuant to section 26.1(1) "...the Commission... may, at any time before an arbitrator has been appointed, process a conduct complaint or take over from a chief of police or civic authority the processing of a conduct complaint."

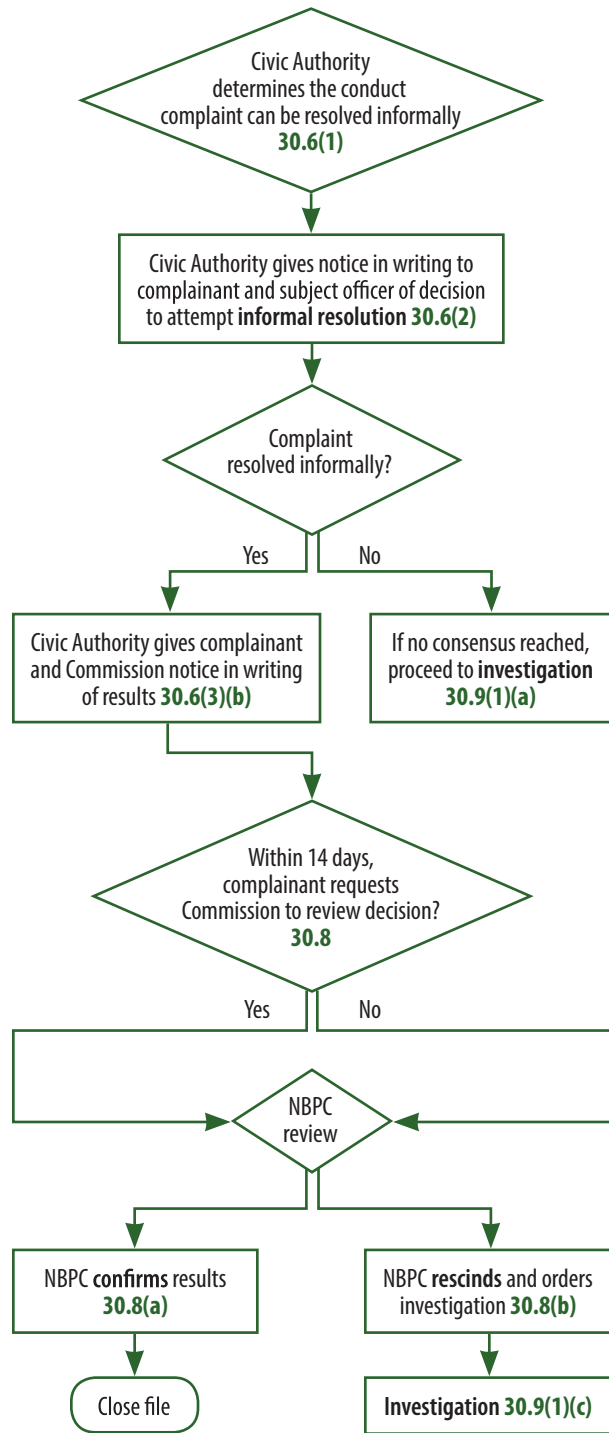
Pursuant to section 26.1(2) "The provisions of this Act that apply to the powers that a chief of police or civic authority may exercise when processing a conduct complaint also apply with the necessary modifications to the Commission..."

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)

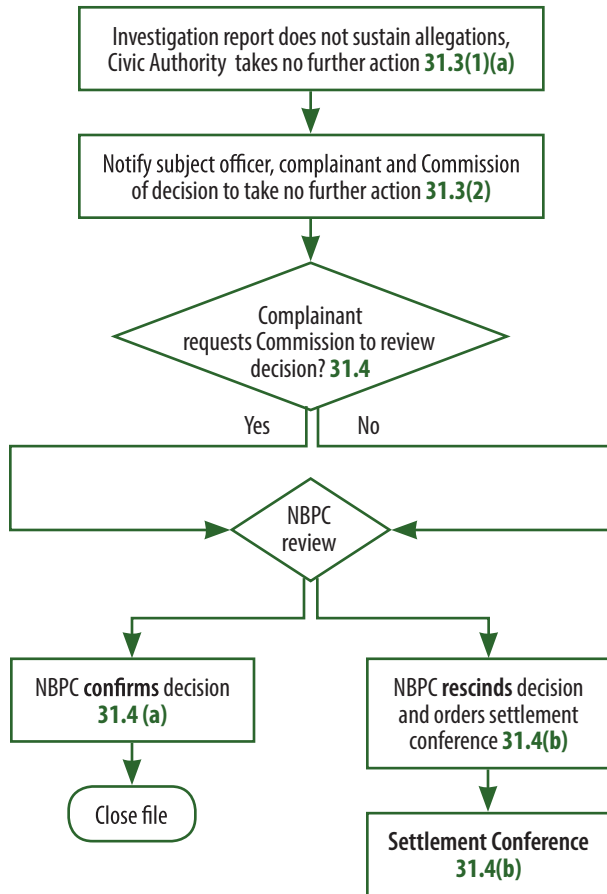


Informal Resolution (Chief or D/Chief)

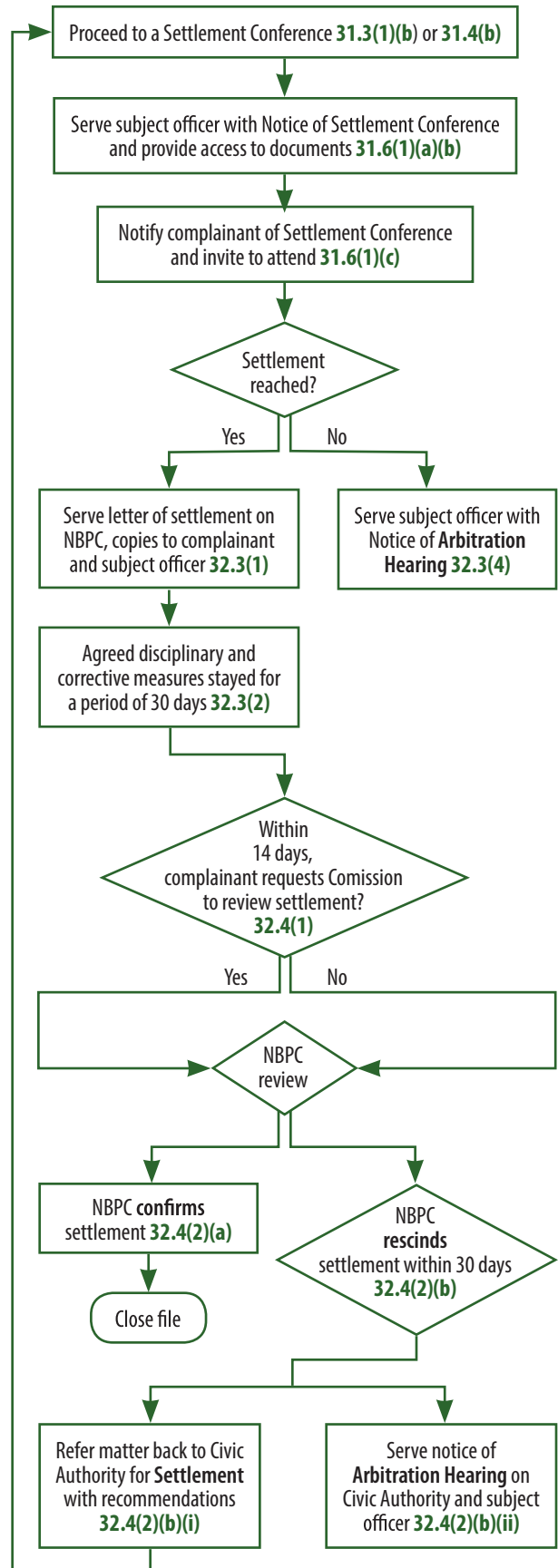


30.4(1) The civic authority may summarily dismiss a conduct complaint, in whole or in part if, in the opinion of the civic authority, the complaint or part of the complaint is frivolous, vexatious or not made in good faith.

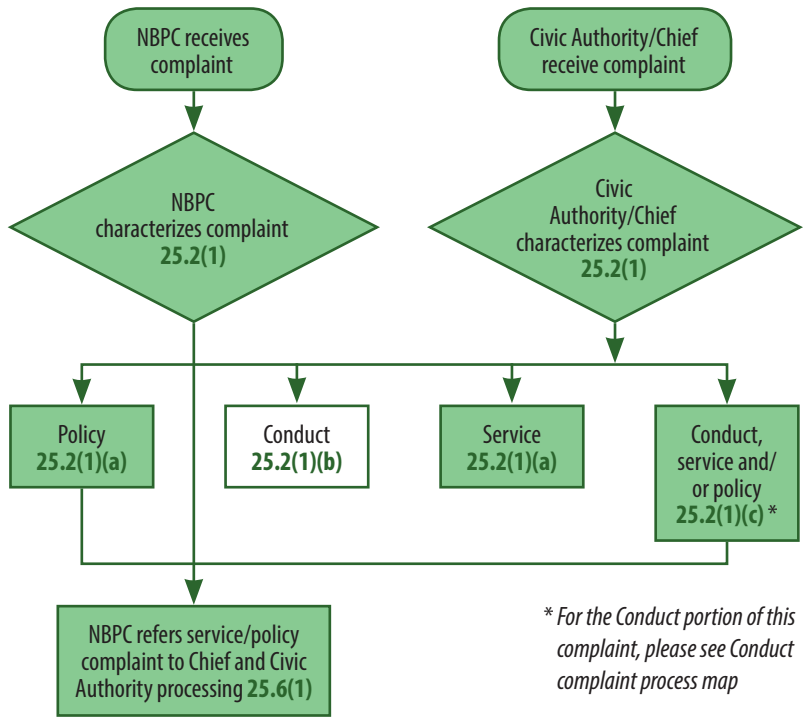
No Further Action (Chief or D/Chief)



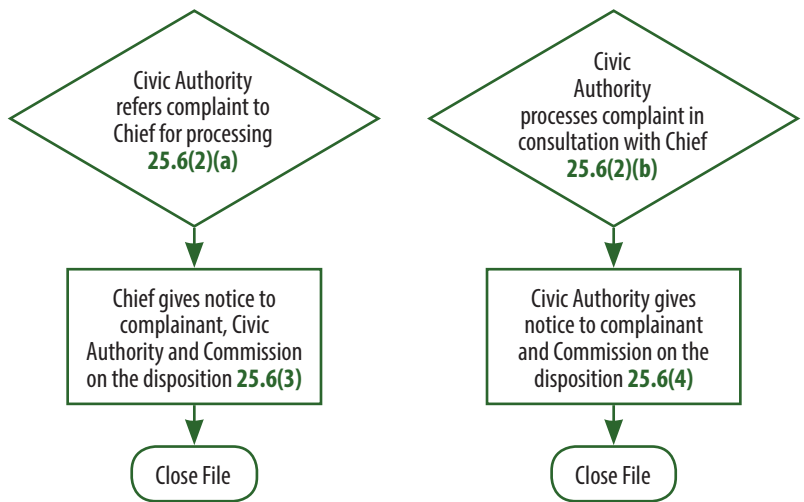
Settlement Conference (Chief or D/Chief)



Service/Policy Complaint



Service and/or Policy Complaint



Appendix C

New complaints filed - overall

2020-2021 Complaints filed	
Conduct	27
Service / policy	3
Combination of conduct, service and or policy	4
No jurisdiction	6
Total	40

New complaints filed by police force Characterization of complaints	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	Total
	Conduct	0	1	2	9	1	4	4	6	0
Combination conduct, service, and/ or policy	0	0	2	0	0	0	0	2	0	4
Service	0	0	0	1	0	0	0	1	1	3
Policy	0	0	0	0	0	0	0	0	0	0
Service and policy	0	0	0	0	0	0	0	0	0	0
Total	0	1	4	10	1	4	4	9	1	34

Disposition of conduct complaints - overall

2020-2021 Disposition of conduct complaints	
Withdrawn	1
Summary dismissal	16
Informal resolution	11
No further action	2
Settlement conference	0
Arbitration hearing	1
Loss of Jurisdiction*	0
Total	31

* Loss of jurisdiction applies when an officer resigns/retires during the processing of a conduct complaint resulting in a loss of jurisdiction.

Disposition of conduct complaints by police force	Disposition of conduct complaints									
	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	Total
Withdrawn	0	0	0	0	0	0	1	0	0	1
Summary dismissal	0	1	1	7	0	2	0	5	0	16
Informal resolution	0	0	2	2	1	2	1	3	0	11
No further action	0	0	1	0	0	0	1	0	0	2
Settlement conference	0	0	0	0	0	0	0	0	0	0
Arbitration hearing	0	0	0	0	0	0	1	0	0	1
Loss of Jurisdiction*	0	0	0	0	0	0	0	0	0	0
Total	0	0	4	9	1	4	4	8	0	31

* Loss of jurisdiction applies when an officer resigns/retires during the processing of a conduct complaint resulting in a loss of jurisdiction.

Alleged breaches of the Code of Professional Conduct – overall

Conduct complaints - alleged breaches of the Code of Professional Conduct Regulation	
Discreditable conduct - 35(a)	13
Neglect of duty - 35(b)	9
Deceitful behavior - 35(c)	0
Improper disclosure of information - 35(d)	1
Corrupt practice - 35(e)	0
Abuse of authority - 35(f)	8
Improper use and care of firearms - 35(g)	3
Damage police force property - 35(h)	0
Misuse intoxicating liquor or drugs - 35(i)	0
Convicted of an offence - 35(j)	0
Insubordinate behavior - 35(k)	0
Party to a breach - 35(l)	0
Workplace harassment - 35(m)	1
Total allegations	35

Alleged breaches of the Code of Professional Conduct by police force*

Conduct complaints - alleged breaches of the Code of Professional Conduct Regulation

	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	Total
Discreditable conduct - 35(a)	0	1	4	6	0	1	0	1	0	13
Neglect of duty - 35(b)	0	0	2	0	1	2	0	4	0	9
Deceitful behavior - 35(c)	0	0	0	0	0	0	0	0	0	0
Improper disclosure of information - 35(d)	0	0	0	0	0	0	1	0	0	1
Corrupt practice - 35(e)	0	0	0	0	0	0	0	0	0	0
Abuse of authority - 35(f)	0	0	1	2	0	1	2	2	0	8
Improper use and care of firearms - 35(g)	0	0	1	1	0	0	1	0	0	3
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	0	0	0	0	0	0	0
Insubordinate behavior - 35(k)	0	0	0	0	0	0	0	0	0	0
Party to a breach - 35(l)	0	0	0	0	0	0	0	0	0	0
Workplace harassment - 35(m)	0	0	0	0	0	0	0	1	0	1
Total allegations	0	1	8	9	1	4	4	8	0	35

*Alleged breaches of the Code of Professional Conduct Regulation are identified when a complaint is filed. An incident may have multiple allegations identified.

Appendix D

Summary of expenditures

Item	Budget	Actual
Personal services	371.3	308.0
Other services\	267.5	181.8
Materials & supplies	10.1	7.8
Property & equipment	22.9	19.7
Total	671.8	517.3