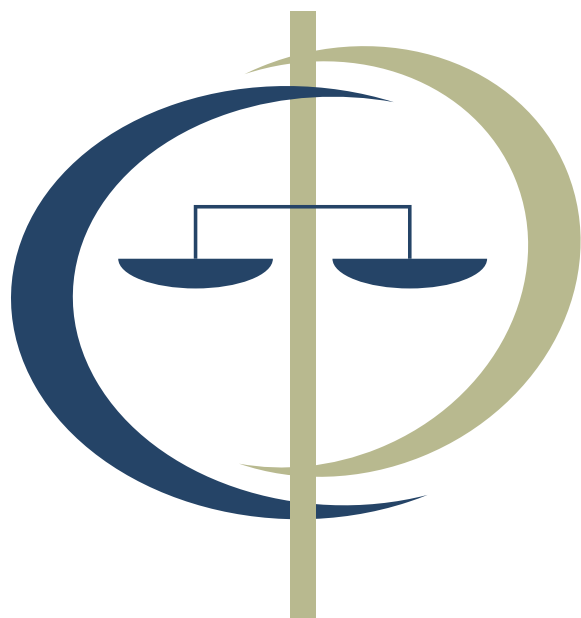


New Brunswick Police Commission



Annual Report
2015–2016

**New Brunswick Police Commission
Annual Report 2015-2016**

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Transmittal letters

From the Minister to the Lieutenant-Governor

The Honourable Jocelyne Roy Vienneau
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, 2015, to March 31, 2016.

Respectfully submitted,



Honourable Denis Landry
Minister

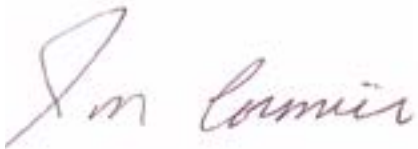
From the Chair to the Minister

Honourable Denis Landry
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, 2015, to March 31, 2016.

Respectfully submitted,



Ron Cormier
Chair

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Chair's message

Fiscal year 2015-2016 was one of the most active periods in the history of the New Brunswick Police Commission. After serving as a commission member for nearly three years and acting vice-chair for a year-and-one-half, I was appointed chair in October 2015. France Levesque-Ouellette and Lynn Chaplin were appointed as members in 2015.

The commission met with the editorial boards of English and French newspapers as part of our outreach program to inform the public of our role and mandate.

The commission has faced several challenges since the New Brunswick *Police Act* was amended in 2008. Many of these challenges have resulted from discrepancies and vagueness in the Act. As a result, and considering the public interest, the commission invited stakeholders such as the chiefs of police, civic authorities and RCMP, to a five-day workshop to examine issues about the Act that required amendments. These sessions were held in Fredericton in October and November 2015. The following February, the commission forwarded to the Department of Justice and Public Safety a position paper identifying 31 issues of concern that it hoped would be addressed in the upcoming revision of the Act.

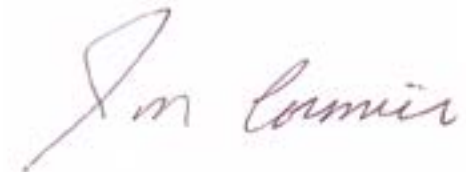
The commission continued a research project on the adequacy of policing. The New Brunswick Social Policy Research Network prepared an evidence-based approach for a three-day session to be held in the spring of 2016. The Department of Justice and Public Safety proposed to take over the project from the commission. The commission agreed, but it retained responsibility for administering and financing the first segment of the project, held in Fredericton. The commission will continue to support the Department of Justice and Public Safety to bring this important project to a successful conclusion.

The commission started an initiative with the New Brunswick Community College, Collège communautaire du Nouveau-Brunswick and the Atlantic Police Academy to design the training required to assess and enhance the level of ethics among police and new hires.

For the first time, the commission held one of its quarterly meetings at a First Nations community. The meeting, followed by a presentation to the chief and band council, took place at St Mary's First Nation on March 17, 2016. It was well received, and meaningful discussions followed.

The commission was tasked with a number of high-profile conduct cases. This took considerable effort and coordination from staff to address the numerous inquiries and expectations from the civic authorities, police chiefs, media and public. I commend them for a job well done.

The New Brunswick Police Commission strives to make sure the public maintains confidence in our police forces and the men and women who risk their lives for the maintenance of law and order in this province.



Ron Cormier
Chair, New Brunswick Police Commission

Strategic priorities

Strategy management

The **Government of New Brunswick** (GNB) uses a formal management system built on leading business practices to develop, communicate and review strategy. This process provides the public service with a proven methodology to execute strategy and continuously drive improvement.

The development of the strategy, using the formal management system, starts with a strategic vision of *Moving New Brunswick Forward*. This vision is anchored in four strategic themes which include:

1. **More jobs** — Creating the best environment for jobs to be generated by New Brunswickers, by businesses, by their ideas, by their entrepreneurial spirit, and by their hard work. This includes providing seamless support to businesses, leveraging new technologies and innovation by supporting research and development, and developing a skilled workforce by improving literacy and education.
2. **Fiscal responsibility** — Getting New Brunswick's fiscal house in order through a balanced approach to decrease costs and increase revenues.
3. **Best place to raise a family** — Designing social programs to make life more affordable and make New Brunswick the best place to raise family.
4. **Smarter government** — Providing taxpayers with better value for their money by transforming the culture of government by eliminating waste and duplication, adopting new innovations in technology to improve services and savings and improving accountability measures.

Highlights

During the 2015-2016 fiscal year, the New Brunswick Police Commission focused on these strategic priorities:

- ◆ *The commission met three times. In Fredericton on May 21, 2015, it had an opportunity to develop its strategic direction for the upcoming year. In Grand Falls on Nov. 9, 2015, it met with town council and the members of their police force. At St. Mary's First Nation on March 17, 2016, it met with the band council.*
- ◆ *To support a better understanding of the police disciplinary process, the commission started mapping the disciplinary stages. Once the project is completed, the commission hopes to publish the process map on its website and in future annual reports.*
- ◆ *The commission maintained its membership in the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE). It was unable to attend the annual planning workshops in Ottawa and the international conference in Saskatoon due to government-wide travel restrictions. These meetings, which the commission has attended as a founding member of the association, promote national consistency in civilian oversight of law enforcement in Canada. A continued absence from attending these meetings will lessen the profile of New Brunswick and weaken the capacity of the association to explore a truly national perspective of issues governing law enforcement oversight.*
- ◆ *The commission's primary focus was research and development with respect to police ethics and values, specifically post-officer misconduct and pre-employment hiring. The commission undertook a partnership with the New Brunswick Community College, Collège communautaire du Nouveau-Brunswick, numerous academics and subject matter experts and the Atlantic Police Academy. This project culminated in the commission's Ethics and Values Evaluation and Renewal (EVER) program, which addresses the ability of a police officer subject of a disciplinary process to reintegrate into the ethics and values culture of his or her police force. While the program remains under development, the addition of a pre-employment ethics and values assessment and ongoing renewal training will be pursued to conclude the project within the next fiscal year.*
- ◆ *The commission began consultations with the New Brunswick Social Policy Research Network to determine how to define adequate policing. The commission maintains a mandate to ensure that the provincial government and municipalities are ensuring adequate policing but does so without any clear understanding of what defines "adequate." With a better understanding of this, the commission hopes to develop a resource allocation model for the nine municipal and regional police forces. The commission expects the first phase to begin in April 2016.*
- ◆ *A protracted arbitration hearing, administered by the commission, concluded with the resignation of the subject officer from the Beresford-Nigadoo-Petit-Rocher and Pointe-Verte (BNPP) Region Police Force.*
- ◆ *The commission also experienced an increase in the number of Police Act proceedings it assumed. Most were at the request of the chief of police, given that the chief wished to protect the public perception of impartiality of their office in addressing the comportment of the subject officer. The commission began two investigations but suspended them once it became apparent that the allegations required a criminal investigation.*

- ♦ *For the first time since the mid-1980s, the commission exercised its authority under the Act to investigate the adequacy of a police investigation. The commission had intended instigating the investigation on its own motion; however a request from the municipality's board of police commissioners to conduct this review reinforced the need for the action. The commission appointed an investigator but suspended the investigation when criminal proceedings were reactivated pending an appeal.*
 - ♦ *Sadly, police were involved in the first shooting death of a civilian in many years. The two subject officers were criminally charged for the death of a suspect they were investigating. The commission suspended its investigation pending the conclusion of criminal proceedings against the officers.*
 - ♦ *The commission developed a position paper with respect to revisions to the Police Act for which the Department of Justice and Public Safety was contemplating consultations during the summer of 2016. In October and November 2015, the commission hosted a five-day workshop with representatives from the chiefs of police, RCMP and civic authorities. The commission asked these representatives to help refine the paper. While the police labour representatives and the department were invited to participate, both chose not to attend.*
 - ♦ *Acting on its mandate to examine any matter relative to policing in New Brunswick, the commission undertook discussions with academia as to the prevalence of youth radicalization in Canada and the role of police in its prevention. Given the presence of expertise at St. Thomas University, the commission will be pursuing this issue further to foster a deeper understanding of the issue within the police community.*
 - ♦ *Since December 2015, the commission has been operating without a permanent vice-chair. It has made numerous overtures to the government to address this shortcoming. While the commission has been structured to incorporate seven members, it continues to operate with five members, with the expiration of the term of two members expected in December 2016.*
-

Performance measures

Safeguarding the public interest	Measures
Promote increased understanding of the commission’s mandate and role with civic authorities, police officers and civilian employees, and First Nations.	Number of outreach presentations.
Facilitate standardization of disciplinary decisions.	Number of published arbitration decisions.

Safeguarding the public interest

Objective of the measure
 Promote increased understanding of the commission’s mandate and role.

Measure
 Number of outreach presentations.

Description of measure
 An outreach presentation was delivered to stakeholders, partners, civic authorities and/or law enforcement personnel describing the *Police Act* and the mandate and authorities of the commission under the Act.

Overall performance
 The commission delivered presentations to the City of Grand Falls and its police department as well as a presentation to the band council of the St. Mary’s First Nation.

Why do we measure this?

While the commission’s responsibilities and involvement in the disciplinary overview of police forces are becoming better known, the authority granted to the commission under the *Police Act* are not as well-known or understood. The commission’s mandate to examine any issue related to policing in all police jurisdictions (including the RCMP) is not understood by the police forces and much less by the civic authorities and First Nation band councils. A better understanding of the commission’s role by stakeholders, partners, civic authorities and law enforcement can foster greater accountability to the public interest. An increased number of these presentations expands the information available and increases familiarity with the commission.

Safeguarding the public interest

Objective of the measure

Facilitate standardization of disciplinary decisions.

Measure

Number of published arbitration decisions.

Description of measure

Arbitrator's decisions of imposed disciplinary and corrective measures are public documents under the *Police Act*. The decisions may be published to complement the Act's mandate, to correct and educate the police population with respect to appropriate conduct. Having the decisions published provides precedents for civic authorities, chiefs of police, police member representatives and arbitrators to evaluate the level of discipline that may arise from violations of the *Code of Conduct* under the Act. This availability promotes consistency in disciplinary decisions, thus fostering greater accountability to the public.

Overall performance

In 2015-2016, all of the arbitration decisions rendered were published on the commission's website. Furthermore, the commission developed a table of national disciplinary decisions relative to police officers across Canada that resulted in a subject officer's termination. Within this same table, the commission highlighted cases where the subject officer claimed that Post Traumatic Stress Disorder contributed to the misconduct. Content in this table is researched and updated annually.

Why do we measure this?

A greater number of arbitration decisions being posted ensure a larger repertoire of situations to reference, increasing consistency in the administration of the disciplinary process. Consistency in the process improves public confidence.

Overview of the commission's operations

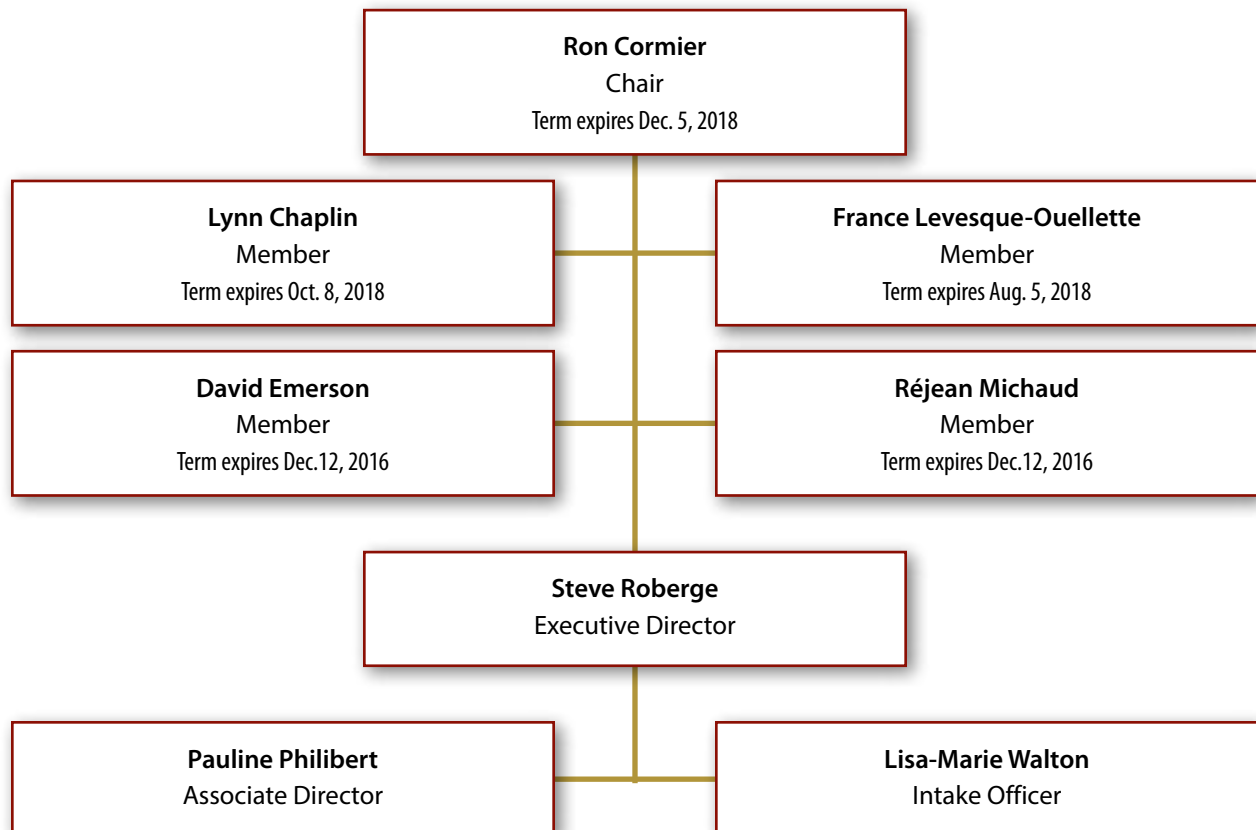
The New Brunswick Police Commission has as its mission, "To safeguard the public interest in New Brunswick Policing."

Roles of the commission:

- the investigation and determination of complaints by any person relating to the conduct of a member of a municipal or regional police force;
- the characterization and review of conduct, service or policy complaints relating to municipal or regional police forces;
- the investigation and determination of any matter relating to any aspect of policing in any area of the province, either on its own motion, at the request of a board or council, or at the direction of the Minister of Justice and Public Safety;
- the determination of the adequacy of municipal and regional forces and the RCMP within the province, and whether each municipality and the Government of New Brunswick are discharging its responsibility for the maintenance of an adequate level of policing; and
- the ensuring of consistency in disciplinary dispositions through maintenance of a repository of disciplinary and corrective measures taken in response to *Police Act* breaches.

The commission consists of three permanent full-time employees reporting to the chair of the commission. It was structured in 2015-2016 with four members receiving nominal remuneration for the days they participate in meetings or reviews.

High-level organizational chart



Statistics

Preamble

The commission received and monitored 62 files, which consisted of Conduct, Service and Policy complaints as well as any combination thereof.

The commission hears three kinds of complaints:

- A Conduct Complaint: A complainant alleges that the conduct of a police officer is inappropriate (for example: an officer is alleged to have used excessive force while arresting a complainant). For a complaint to be considered a Conduct Complaint, the officer must allegedly have breached one or more of the items under s. 35 of the *Code of Professional Conduct – Police Act*.
- A Service Complaint: The complainant alleges that the police force or officer has failed to provide them with service or an inappropriate level of service (for example: an officer is alleged to have taken a longer than reasonable amount of time to respond to a call for service).
- A Policy Complaint: The complainant alleges that the policy of a police force is either ineffective or non-existent (for example: an officer is alleged to have conducted personal business while in uniform and no policy is in place to address this).

Breakdown of files

The commission received 39 complaints concerning allegations uniquely related to conduct; 15 related to the service and/or policy of a police force; two contained allegations relating to conduct as well as service and/or policy and are included in both the Conduct Complaints and Service and Policy complaints details below; and, six were deemed “Other” as they were unable to be processed. Files are unable to be processed and, therefore, listed as “Other” status for the following reasons: the complaint exceeded the time limit for filing, the complaint was not within the enumerated breaches of the code, and/or the complaint was against other agencies such as the RCMP or government departments.

Conduct Complaints

Forty-one complaints involving conduct were filed against officers employed with municipal and regional police forces. Forty-three officers with one or more complaints were named, resulting in 113 allegations against them.

Most Conduct Complaints alleged that the officer engaged in discreditable conduct. Discreditable conduct includes acting in a manner while on duty that is likely to bring the reputation of the police force with which the officer is employed into disrepute; asserting or purporting to assert authority as a member of a police force while off duty; or being oppressive or abusive to any person while on duty.

Thirty-one of the Conduct Complaints were finalized with 10 remaining outstanding. The disposition of the finalized complaints was as follows: 15 concluded with no further action being taken as there was insufficient evidence that the police officer committed a breach of the code; seven were concluded through a settlement conference; seven were summarily dismissed as they were deemed frivolous, vexatious or not made in good faith; and two were resolved through informal resolution.

A settlement conference is an opportunity for an officer alleged to have breached the code to respond and to reach an agreement with the chief, civic authority or the commission concerning disciplinary and corrective measures. In addition to the seven finalized complaints concluded through a settlement conference, two settlement conferences were conducted relating to complaints filed during previous fiscal years.

An arbitration hearing is held when an officer has allegedly breached the code and either did not present themselves to a settlement conference or when an agreement on suitable disciplinary or corrective measures could not be reached between the chief of police, civic authority or the commission and the subject officer within a reasonable period. The decision of an arbitrator is binding on all parties.

For past and present decisions:

- New Brunswick Police Commission:
www.nbpolicemission.ca/site/en/decisions/arbitration-hearings

Of the complaints filed in 2015-2016, none of the concluded complaints proceeded to an arbitration hearing; however, two arbitration hearings relating to complaints filed during previous fiscal years (Jeff Smiley and Cherie Campbell) were conducted.

Service and policy complaints

Fifteen complaints relating solely to the service and/or policy of a police force were filed. Two complaints* that alleged conduct as well as service and/or policy issues were filed, for a total of 17 complaints involving service and/or policy. Fourteen of these complaints were concluded by the end of the fiscal year. Of the concluded complaints, seven were resolved; three were deemed unfounded; two were deemed frivolous, vexatious or not made in good faith; and two were withdrawn by the complainant.

**With respect to the two complaints with conduct as well as service/policy allegations, the allegations and final dispositions of these files are included in the Conduct Complaints section for the conduct portion of the complaints and the Service and Policy Complaints section for the service/policy portions.*

Total complaints	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	Other	TOTAL
Conduct Complaints filed	2	0	2	16	1	5	6	7	0	0	39
Combination Conduct and Service and/or Policy Complaints filed	0	0	0	2	0	0	0	0	0	0	2
Service Complaints filed	0	0	3	2	0	0	1	3	0	0	9
Policy Complaints filed	0	0	0	1	0	0	0	0	0	0	1
Service and Policy complaints filed	0	0	1	4	0	0	0	0	0	0	5
Other	0	0	0	0	0	0	0	0	0	6	6
Total complaint files	2	0	6	25	1	5	7	10	0	6	62
Files outstanding*	2	0	3	6	0	0	2	3	0	0	16
Files carried over**	2	0	0	5	0	0	1	6	0	0	14

* *Files outstanding* are part of the total number of files; however, they were not finalized as of the end of the fiscal year.

** *Files carried over* are not part of the total number of files; they are files that were not finalized at the end of the previous fiscal year.

Conduct Complaints – allegations	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	TOTAL
Conduct Complaint files (including conduct portion of Conduct and Service and/or Policy complaints)	2	0	2	18	1	5	6	7	0	41
Officers subject to a <i>Police Act</i> investigation	2	0	2	19	1	6	12	9	0	51
Allegations from files concerning conduct	12	0	6	54	2	8	12	19	0	113

Conduct Complaints – breaches of the code	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	TOTAL
Discreditable conduct – 35(a)	4	0	2	26	0	1	0	8	0	41
Neglect of duty – 35(b)	2	0	1	6	1	6	1	4	0	21
Deceitful behaviour – 35(c)	0	0	1	4	1	0	1	1	0	8
Improper disclosure of information – 35(d)	0	0	0	0	0	0	0	1	0	1
Corrupt practice – 35(e)	0	0	0	1	0	0	0	0	0	1
Abuse of authority – 35(f)	2	0	0	9	0	0	10	2	0	23
Improper use and care of firearms – 35(g)	2	0	0	0	0	0	0	0	0	2
Damage police force property – 35(h)	0	0	0	0	0	0	0	1	0	1
Misuse intoxicating liquor or drugs – 35(i)	0	0	0	0	0	0	0	0	0	0
Convicted of an offence – 35(j)	2	0	1	6	0	0	0	0	0	9
Insubordinate behaviour – 35(k)	0	0	1	1	0	0	0	0	0	2
Party to a breach – 35(l)	0	0	0	1	0	0	0	2	0	3
Workplace harassment – 35(m)	0	0	0	0	0	1	0	0	0	1
Total allegations	12	0	6	54	2	8	12	19	0	113
Allegations deemed frivolous/vexatious*	0	0	0	14	0	0	5	0	0	19
Allegations outstanding (alleged breaches of code determined; however, file not finalized)	12	0	6	20	0	0	2	7	0	47

Conduct Complaints – final disposition of files	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	TOTAL
Summary dismissal (frivolous/vexatious/not made in good faith)	0	0	0	5	0	0	2	0	0	7
Informal resolution	0	0	0	1	0	1	0	0	0	2
No further action	0	0	1	3	0	4	4	3	0	15
Settlement conference	0	0	0	4	1	0	0	2	0	7
Arbitration hearing	0	0	0	0	0	0	0	0	0	0
Withdrawn	0	0	0	0	0	0	0	0	0	0
Files outstanding	2	0	1	5	0	0	0	2	0	10
Total files	2	0	2	18	1	5	6	7	0	41
Settlement conference – previous year	1	0	0	0	0	0	0	1	0	2
Arbitration hearing – previous year	0	0	0	2	0	0	0	1	0	3

Financial information

The commission had budget challenges in 2015-2016 uniquely due to increased costs incurred within the professional/legal services category under the Other Services expenditure group. While the fees charged by the commission’s legal representatives have not increased, the volume of legal proceedings and research was significantly greater this fiscal year.

Status report by program/primary		
Fiscal year ending March 31, 2016		
	Budget	Actuals
– Personnel services	245,600	213,444
– Other services	99,800	289,204
– Materials and supplies	6,600	4,723
– Property and equipment	5,000	1,939
Total	357,000	509,310
The commission overspent its budget in Other Services as a result of costs incurred for legal fees and research.		

Summary of staffing activity

Increased activity and transition highlighted 2015-2016. Ron Cormier began his duties as chair on Aug. 5, 2015, succeeding Robert Stoney. France Levesque-Ouellette and Lynn Chaplin were appointed commission members on Aug. 5, 2015, and Oct. 7, 2015, respectively.

Summary of legislation and legislative activity

The Minister of Justice and Public Safety began a review of the *Police Act*. The commission welcomes this news and remains committed to supporting it fully. Changes are necessary to ensure that police oversight is in step with current practices around the country and that the tools of correction and discipline are effective, timely, fair and reasonable from the perspectives of all parties involved, including complainants, subject officers and police forces.

Summary of Official Languages activities

The commission disseminates information in the Official Language of the original complaint received. It carries out investigations and makes concluding reports in the Official Language of the complainant. It conducts any interviews resulting during the investigation (and any statements taken) in the Official Language preferred by the person interviewed.