

New Brunswick Police Commission

Annual Report
2016–2017

**New Brunswick Police Commission
Annual Report 2016-2017**

Province of New Brunswick
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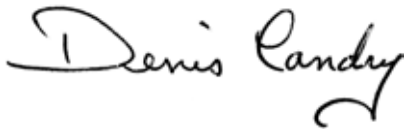
From the Minister to the Lieutenant-Governor

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, 2016, to March 31, 2017.

Respectfully submitted,



Honourable Denis Landry
Minister

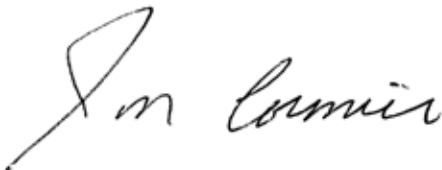
From the Chair to the Minister

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, Province of New Brunswick, for the fiscal year April 1, 2016, to March 31, 2017.

Respectfully submitted,



Ron Cormier
Chair

Table of contents

Chair’s message	1
Strategic priorities	2
Strategy management	2
Highlights	3
Performance measures	4
Overview of the commission’s operations	5
High-level organizational chart	6
Statistics	7
Financial information	11
Summary of staffing activity	11
Summary of legislation and legislative activity	12
Summary of Official Languages activities	12
Report on the <i>Public Interest Disclosure Act</i>	12

Chair's message

Fiscal year 2016-2017 was once again busy, with work toward the revision of the *Police Act* and a number of important and high-profile files.

Given the fiscal realities of the commission's budget allocation, we were able to negotiate cost-sharing agreements with police boards and civic authorities, which resulted in municipalities reimbursing one-half, or in some cases, the entire cost, of the expenses incurred by the commission in select files for which it was requested the commission assume carriage.

Only two scheduled meetings were held, relying instead on monthly conference calls. In September, the commission held a meeting in Bathurst followed by a presentation to the new mayor and council to ensure they were fully briefed on the *Police Act* and the role of the commission.

Because of travel restrictions, we were unable to attend the Canadian Association for Civilian Oversight of Law Enforcement conference held in Saskatchewan; however, acting vice-chair Lynn Chaplin will attend the 2017 conference in St. John's, Newfoundland and Labrador.

The executive director along with Robert Stoney, lawyer and former acting chair of the commission, attended the *Police Act* revision workshop organized by the Department of Justice and Public Safety. There were 31 issues within the *Police Act* that the commission felt needed to be revised and modernized. I must emphasize that our staff and members put in a tremendous amount of time, effort and commitment in preparing a position paper that our representatives at the workshop were tasked to champion.


The commission organized its first advisory forum. Numerous community organizations attended to assist us in developing our strategic plan for the upcoming year. Through this forum we were able to build many strong relationships.

The Ethics and Values Evaluation and Renewal (EVER) program is under revision to address the concerns from police chiefs, which were mostly financial. This program seeks to establish an evaluation and renewal program that would assist police officers who have become the subject of *Police Act* disciplinary processes. It involved significant outreach consultations and research with academia from the Université de Moncton, the Atlantic Police Academy, Collège communautaire du Nouveau-Brunswick, New Brunswick Community College and several specialists in the fields of psychology and law enforcement.

The commission championed an adequacy of policing project to define adequacy of policing. The first phase of the project got underway in April 2016 with a workshop attended by numerous academics thus greatly exposing the commission's mandate. The second, third and fourth phases of the project are to be conducted by the Department of Justice and Public Safety.

At the commission, we strongly believe that public confidence is of the utmost importance in the work we do and because our mission is to "safeguard the public interest in policing" every effort is made to achieve this goal. As commission's chair and leader, I will work in collaboration with all our stakeholders to achieve the best possible result for the citizens of our province.

I congratulate and thank our members and employees for all the hard work they do in performing their duties responsibly and professionally.



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, increase accountability and continuously drive improvement.

The development of the strategy, using the Formal Management system, starts with a strategic vision to move New Brunswick forward. This vision is anchored in five priority areas:

- **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. Growth efforts will be guided by the *New Brunswick Economic Growth Plan*, which focuses on strengthening the workforce; expanding innovation capacity; increasing the agility of government; fostering public and private investment in strategic infrastructure; and growing capital investment from the private sector.
- **Education** – Improving education as guided by two 10-year plans, *Everyone at Their Best* for the anglophone sector and *Donnons à nos enfants une longueur d'avance* for the francophone sector, that identify objectives for the early learning and education system and establish clear expectations for standards and performance. The areas of focus for the first year are: ensuring children and other learners develop the competencies they need to be successful in school and life; improving both literacy and numeracy skills for all learners; and working to make post-secondary education more accessible and affordable.
- **Families** – Creating a healthier and stronger New Brunswick by focusing on seven key areas: improving access to primary and acute care; promoting wellness; supporting those with mental health challenges; fostering healthy aging and support for seniors; advancing women's equality; reducing poverty; and providing support for persons living with a disability.
- **Federal and Aboriginal Relations** – Building stronger relationships with First Nations; strengthening action on climate change; and working with the federal government to maximize federal funding, including optimizing infrastructure funding and growing the workforce through immigration.
- **Smart Province** – Providing taxpayers with better value for their money by transforming the culture of government by eliminating duplication; adopting new innovations in technology to improve services and savings; and ensuring GNB has a ready workforce that has the skills, training, support, leadership and working environments it needs to thrive.

Highlights

During the 2016-2017 fiscal year, the New Brunswick Police Commission focused on these strategic priorities:

- The Ethics, Values, Evaluation and Renewal (EVER) program: Commission staff conducted the research and developed the commission's new EVER program, which seeks to establish an evaluation and renewal program that would assist police officers who have become the subject of *Police Act* disciplinary processes.

The EVER program involved significant outreach consultations, however, more work is required for the chiefs of police to be comfortable with the fiscal resources that may be required to ensure officers receive the individual attention and services they need when breaches of values and ethics are identified as a barrier to effective service.

- New Brunswick *Police Act* revision: Following extensive consultations with the commission's stakeholders and partners, the commission spent much of the summer and fall of 2016 attending *Police Act* revision workshops organized by the Department of Justice and Public Safety and hosting strategy meetings within the commission. The result of this work, championed by the commission but led by the Department of Justice and Public Safety, encompassed a great deal of work and significant expenditures. The commission is hopeful that the 31 revisions submitted by the commission to the *Police Act* review will be considered and implemented within the next fiscal year.
- 2016-2017 Community Advisory Forum: The commission organized its first annual Community Advisory Forum in Fredericton. The forum gathered together numerous community organizations to assist in the development of a strategic plan for the coming year. As a result of the community forum, stronger partnerships have been developed with St. Thomas University, the University of New Brunswick and the Fredericton Sexual Assault Crisis Centre.
- Unfounded sexual assaults in New Brunswick: In February 2017, a Toronto *Globe and Mail* story headlined "Unfounded" reported that New Brunswick had the highest number of sexual assault claims dismissed as "unfounded" by police forces in Canada. The commission continues to work in collaboration with the Department of Justice and Public Safety, chiefs of police and community groups to investigate and respond to this important public policy issue. The commission as the independent civilian oversight body within the province will ensure that any issues identified are thoroughly investigated and monitored given the importance of maintaining public trust in police forces in New Brunswick.
- "Adequacy" project: Commission staff researched and developed an "Adequacy of Policing" project that sought to identify an equation that would be used by stakeholders to properly define and answer the question, with both empirical and anecdotal evidence, what is "adequate" policing?

The commission partnered with the New Brunswick Social Policy Research Network and the Department of Justice and Public Safety and championed a four-phase consultation project with academia, civic authorities, labour and the chiefs of police. The first phase was held in April 2016 with a workshop attended by numerous New Brunswick academics, thus greatly exposing the commission's mandate and creating a new network of contacts for the commission. Subsequent phases are to be led by the Department of Justice and Public Safety and are yet to be announced.

Performance measures

Safeguarding 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.

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 is delivered to stakeholders, partners, civic authorities and/or law enforcement personnel describing the New Brunswick *Police Act* and the mandate and authorities of the commission pursuant to the Act.

Overall performance

The commission delivered a presentation to the mayor and council of Bathurst and its police personnel. It also conducted its first advisory and public consultation forum with numerous community organizations during which a presentation was given on the commission’s role and mandate.

Why do we measure this?

While the commission’s responsibilities and involvement in the disciplinary overview of New Brunswick police forces is becoming better known, the authorities 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 New Brunswick police jurisdictions (including the RCMP) is not understood by the police forces and much less by the civic authorities. A better understanding of the commission’s role by stakeholders, partners, civic authorities and law enforcement can foster greater accountability to the public’s interest. An increased number of these presentations results in an increase in the information available and a greater familiarity with the commission.

Overview of the commission's operations

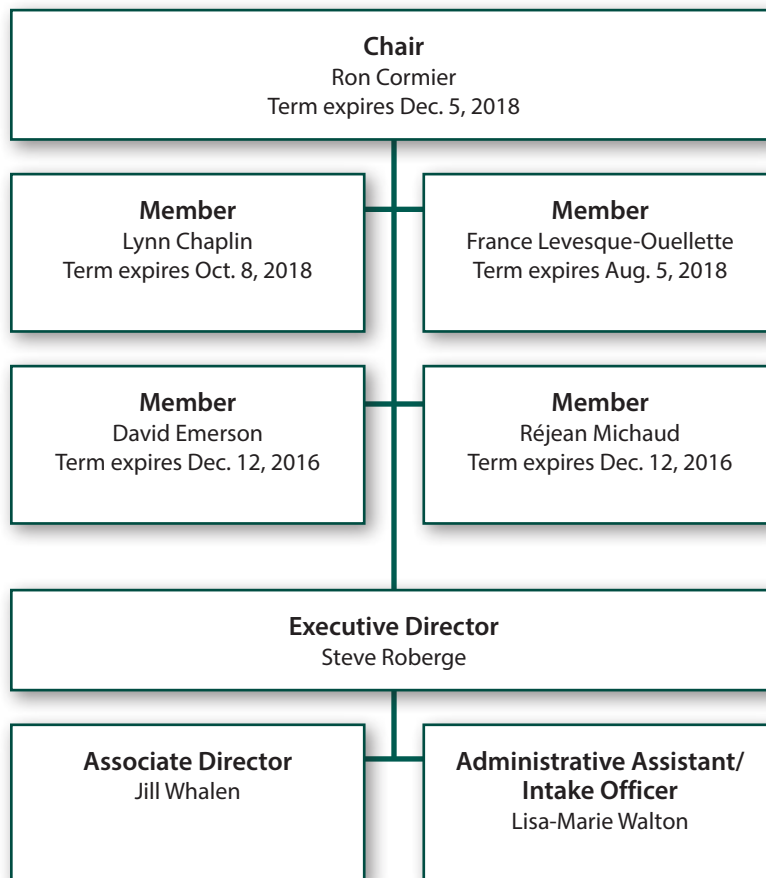
The New Brunswick Police Commission has as its mission "To safeguard the public interest in New Brunswick Policing".

Roles of the commission:

1. the investigation and determination of complaints by any person relating to the conduct of a member of a municipal or regional police force;
2. the characterization and review of conduct, service or policy complaints relating to municipal or regional police forces;
3. 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;
4. the determination of the adequacy of municipal, regional and RCMP forces within the province, and whether each municipality and the province are discharging its responsibility for the maintenance of an adequate level of policing; and
5. 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 is composed of three permanent full-time employees reporting to the chair. It was structured in 2016-2017 with four commission members who are volunteers receiving nominal remuneration for the days they participated in commission meetings or reviews.

High-level organizational chart



Statistics

Preamble

The commission received and monitored 80 files, which consisted of Conduct, Service and Policy complaints and any combination thereof.

- A Conduct Complaint is when a complainant is alleging that the conduct of a police officer was not appropriate (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 found in s. 35 of the *Code of Professional Conduct – Police Act*.
- A Service Complaint is when the complainant is alleging that the police force or officer failed to provide them with any service or an inappropriate level of service (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 is when the complainant is alleging that the policy of a police force is either ineffective or non-existent (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

Forty-five complaints were filed concerning allegations that were uniquely related to conduct; 23 complaints were filed relating to the service and/or policy of a police force; two complaints contained allegations relating to conduct as well as service and/or policy; and, 10 complaints 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

There were 47 complaints involving conduct filed against officers employed with municipal and regional police forces in New Brunswick. Fifty-five individual officers with one or more complaints were named resulting in a total of 132 allegations against them.

Most Conduct Complaints in 2016-2017 alleged that the officer engaged in discreditable conduct (54 of the total 132 allegations). Discreditable conduct of a police officer includes, but is not limited to, acting in a manner while on duty which 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.

At the end of the fiscal year, 32 of the Conduct Complaints filed during the year were finalized with fifteen 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; six were summarily dismissed as they were deemed frivolous, vexatious or not made in good faith; five were resolved through informal resolution; two were concluded through a settlement conference; two were withdrawn by the complainant; and, jurisdiction was lost on two files as the officer was no longer employed with the police force.

A settlement conference is an opportunity for an officer who is alleged to have breached a section of the code to respond to the alleged breach and to reach an agreement with the chief, civic authority or the commission concerning disciplinary and corrective measures.

An arbitration hearing is held when an officer has allegedly breached a section of 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/commission and the subject officer within a reasonable period. The decision of an arbitrator at an arbitration hearing is binding for all parties involved.

- For past and present decisions, please refer to: <http://www.nbpoliccommission.ca/index.php/en/decisions/arbitration-hearings>

Of the complaints filed during the 2016-2017 fiscal year, none of the concluded complaints proceeded to an arbitration hearing.

Service and Policy complaints

In the 2016-2017 fiscal year, 23 complaints were filed relating solely to the service and/or policy of a police force and two complaints* were filed that alleged conduct as well as service and/or policy issues, for a total of 25 complaints involving service and/or policy. Twenty-one of these complaints were concluded by the end of the fiscal year. Of the concluded complaints, five were resolved, 13 were deemed unfounded or required no further action, and three 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	RCMP	Total
Conduct Complaints filed	2	0	5	16	1	4	5	11	1	0	45
Combination Conduct and Service and/or Policy complaints filed	0	0	0	0	0	0	0	1	1	0	2
Service Complaints filed	0	2	2	10	0	1	2	3	0	0	20
Policy Complaints filed	0	0	0	1	0	0	0	1	0	0	2
Service and Policy complaints filed	0	0	0	0	0	0	1	0	0	0	1
Other	1	1	0	1	0	0	0	1	0	6	10
Total complaint files	3	3	7	28	1	5	8	17	2	6	80
Files outstanding*	1	0	2	7	0	2	5	1	0	0	18
Files carried over**	3	0	5	10	0	0	3	3	0	0	15
Files carried over and still outstanding	2	0	1	6	0	0	0	1	0	0	10

* **Files outstanding are part** of the total number of files, however, were not finalized as of the end of the fiscal period of April 1, 2016, to March 31, 2017.

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

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	5	16	1	4	5	12	2	47
Officers subject to <i>Police Act</i> investigation	4	0	5	17	1	4	6	16	2	55
Allegations from files concerning conduct	4	0	18	34	1	28	7	33	7	132

Conduct complaints – Breaches of the code	Bathurst	BNPP Regional	Edmundston	Fredericton	Grand Falls	Kennebecasis Regional	Miramichi	Saint John	Woodstock	Total
Discreditable conduct – 35(a)	1	0	5	17	0	7	3	17	4	54
Neglect of duty – 35(b)	0	0	4	2	0	1	0	2	0	9
Deceitful behaviour – 35(c)	0	0	2	0	0	0	0	0	0	2
Improper disclosure of information – 35(d)	0	0	0	1	0	0	0	1	0	2
Corrupt practice – 35(e)	0	0	0	0	0	2	0	0	0	2
Abuse of authority – 35(f)	3	0	7	12	1	3	4	12	3	45
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	1	0	0	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)	0	0	0	2	0	1	0	0	0	3
Insubordinate behaviour – 35(k)	0	0	0	0	0	0	0	1	0	1
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	13	0	0	0	13
Total allegations	4	0	18	34	1	28	7	33	7	132
Allegations deemed frivolous/vexatious/not made in good faith	3	0	2	4	0	0	1	0	0	10
Allegations outstanding (alleged breaches of code determined; however, file not finalized)	1	0	15	9	0	20	3	4	0	52

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)	1	0	2	2	0	0	1	0	0	6
Informal resolution	0	0	1	3	0	1	0	0	0	5
No further action	0	0	0	4	0	0	0	9	2	15
Settlement conference	0	0	0	1	0	0	0	1	0	2
Arbitration hearing	0	0	0	0	0	0	0	0	0	0
Withdrawn	0	0	0	0	1	0	1	0	0	2
Loss of jurisdiction	0	0	0	0	0	1	0	1	0	2
Files outstanding	1	0	2	6	0	2	3	1	0	15
Total files	2	0	5	16	1	4	5	12	2	47
Settlement conference – previous year	0	0	0	0	0	0	0	0	0	0
Arbitration hearing – previous year	0	0	0	0	0	0	0	0	0	0

Financial information

Fiscal year 2016-2017 witnessed continued and significant pressures upon the commission’s limited financial resources, uniquely due to increased costs incurred within the professional/legal services category of expenditures contained in 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 exceeded the budget this fiscal year.

	Budget	Actual
Personnel services	249.6	221.1
Other services	97.3	218.4
Materials and supplies	6.1	4.4
Property and equipment	8.0	9.0
Total	361.0	452.9

Summary of staffing activity

Pursuant to section 4 of the *Civil Service Act*, the Secretary to Treasury Board delegates staffing to each Deputy Head for his or her respective department(s). Please find below a summary of the staffing activity for 2016-2017 for the New Brunswick Police Commission.

Number of permanent and temporary employees as of Dec. 31 of each year		
Employee type	2016	2015
Permanent	3	3
Temporary	0	0
Total	3	3

In addition to the three staff members, the commission had three members as of Dec. 31, 2016. The terms of members David Emerson and Réjean Michaud ended on Dec. 12, 2016.

The department advertised one competition, which was a closed (internal) competition.

Pursuant to section 33 of the *Civil Service Act*, no complaints alleging favouritism were made to the chair of the commission and no complaints were submitted to the Ombud.

Summary of legislation and legislative activity

Representatives of the commission attended the *Police Act* revision workshop organized by the Department of Justice and Public Safety. There were 31 issues within the *Police Act* that the commission felt needed to be revised and modernized.

The acts and regulations for which the commission was responsible may be found at:
<http://laws.gnb.ca/en/ShowTdm/cs/P-9.2//>

Summary of Official Languages activities

The dissemination of information is always addressed by the commission in the Official Language in which the original complaint is received. Investigations and the concluding reports are undertaken in the Official Language of the complainant. However, any interviews resulting during the investigation (and any statements taken) are conducted in the Official Language of preference of the individual being interviewed.

Report on the *Public Interest Disclosure Act*

As provided under section 18(1) of the *Public Interest Disclosure Act*, the chief executive shall prepare a report of any disclosures of wrongdoing that have been made to a supervisor or designated officer of the portion of the public service for which the chief executive officer is responsible. The commission received no disclosure(s) of wrongdoing in the 2016-2017 fiscal year.