



# Office of the Police Complaints Commissioner (OPCC)

Presentation to Municipal  
Board of Police  
Commissioners

April 2017

# Role of OPCC

- The OPCC ensures the complaint process as outlined by the Police Act and Regulations is followed
- The RCMP has its own process
- The *Police Act*, and its Regulations, outlines the role of OPCC and the Review Board, as well as the complaint process

# Public Complaint vs. Internal Disciplinary Matters

- Public complaints come from members of the public who allege police misconduct
- Internal disciplinary matters arise when an officer makes an allegation against another member of the force
- OPCC deals with both, although plays more of a role with public complaints
- Internal discipline decisions may be appealed through the OPCC to the Police Review Board

# Public Complaint Process

- Intake – Form 5 must be signed and dated
- Complaints may be submitted to any municipal police force, municipal board of police commissioners, or to the OPCC
- Complaints must be filed within 6 months of the incident which gave rise to the complaint
- Complaints may be made against any member of the force, including the chief, or a force in general

# Public Complaint Process

- An officer of a higher rank is assigned to investigate a complaint and will offer informal resolution
- Informal resolution may involve a meeting between the complainant and respondent
- The investigating officer has 60 days to complete the investigation
- The Commissioner may allow an extension of the investigation period

# Public Complaint Process

- The Chief of Police (or designate) decides whether to discipline the officer or take no further action
- A complainant may appeal this decision by filing a Form 13 to the Police Complaints Commissioner no more than 30 days after receiving the decision
- Upon receipt of the Form 13, the Commissioner will attempt to informally resolve the complaint

# Public Complaint Process

- If informal resolution is not successful the Commissioner may order an independent investigation into the matter
- The Commissioner will then make a decision to take no further action if she feels the complaint is frivolous, vexatious, without merit or an abuse of process, or send the complaint to the Police Review Board for hearing
- The decision of the Commissioner is final
- A complainant may withdraw their complaint at any time by submitting the prescribed form, which is a Form 6

# Role of Municipal Board of Police Commissioners

- The Municipal Board of Police Commissioners deals with complaints against the Chief Officer
- The process for handling a complaint against a Chief Officer is similar to that for handling a complaint against any other officer, with a few exceptions
- The Board shall report all complaints concerning a Chief Officer to the Complaints Commissioner, in writing no later than 30 days after the Board receives the complaint

# Role of Municipal Board of Police Commissioners

- The Board shall investigate and attempt to resolve the complaint
- The Board may designate a person to investigate the complaint and report to the Board
- The person who investigates for the Board must be a barrister or the Chief Officer of another department.

# Role of Municipal Board of Police Commissioners

- Upon completion of the investigation, the investigator must immediately submit a report to the Board that includes:
  - a) whether, in the investigator's opinion, the evidence proves that the chief officer has committed a disciplinary default
  - b) whether, in the investigator's opinion, the chief officer is able to carry out the chief officer's duties
  - c) if applicable, any organizational or administrative practices of the police department that the investigator identifies as factors that may have caused or contributed to the alleged disciplinary default.

# Role of Municipal Board of Police Commissioners

- An investigator's report may include a recommendation of what penalty should be imposed
- If an investigator's report identifies any departmental practices that may have caused or contributed to the alleged disciplinary default, the board must consider, independently of the disposition of the disciplinary default matter, all organizational or administrative matters that may need further consideration

# Role of Municipal Board of Police Commissioners

- As with the complaint process for an officer other than a chief officer, a complainant may withdraw their complaint at any time
- If the Board has reason to believe that the complaint should **not** have been withdrawn, it may begin internal disciplinary proceedings
- The Board has 30 days after receiving its investigator's report to decide if the chief officer has committed a disciplinary default

# Role of Municipal Board of Police Commissioners

- If the board decides that the chief officer has not committed a disciplinary default, the board must dismiss the allegation
- If the board decides that the evidence discloses that the chief officer may have committed a disciplinary default, the board must immediately send a notice to the chief officer scheduling a private meeting

# Role of Municipal Board of Police Commissioners

- At the meeting with the Board, the chief officer may be represented by counsel and a member of the Nova Scotia Chiefs of Police Association, and the chief officer must be given an opportunity to:
  - (a) hear the results of the investigation; and
  - (b) admit or deny the allegation

# Role of Municipal Board of Police Commissioners

- After this meeting, the Board must make a final decision on whether the chief officer has committed a disciplinary default
  - (a) if the Board decides that the chief officer has committed a disciplinary default and should be penalized, the board may impose a penalty
  - (b) if the Board decides that the chief officer has not committed a disciplinary default, the board must dismiss the allegation

# Role of Municipal Board of Police Commissioners

- No later than 30 days after the date of the board's decision, the board must forward a written copy of the decision and the reasons for the decision in the prescribed form to each of the following:
  - (a) the chief officer who is the subject of the decision
  - (b) the member who made the allegation or the public complainant
  - (c) the Complaints Commissioner

# Role of Municipal Board of Police Commissioners

- The penalties available to the Board are outlined in Section 26 of the Police Act Regulations and include:
  - (a) a recommendation to the council that the chief officer be dismissed;
  - (b) an order that the chief officer resign from the police department and, if the chief officer does not resign within 7 days after the date of the order, a recommendation to the council that the chief officer be dismissed;
  - (c) an order that the chief officer pay a fine in an amount not exceeding the equivalent of 10 days' pay
  - (d) a reprimand of the chief officer;
  - (e) an order that the chief officer undergo counseling, treatment or training acceptable to the board, the expense of the counseling, treatment or training to be assumed by the police department;
  - (f) any order not included in clauses 26(a) to (e) that the board considers appropriate.

# Police Review Board

- The Police Review Board conducts hearings into complaints referred to it by the Complaints Commissioner, and appeals by officers who have been disciplined
- The Board consists of not fewer than 3 persons appointed by the Governor in Council
- 1 member shall be designated as Chair, and 1 member as Vice-chair
- Review Board hearings are conducted '*de novo*'

# Questions?

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