

Prince Edward Island Police Commissioner

Commencing Civilian Oversight of Policing
in
Prince Edward Island

CACOLE CONFERENCE 2009
OTTAWA, ONTARIO
JUNE 8 -10



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CANADA

Things to discuss

- ▶ Overview of PEI and the policing community
- ▶ Factors contributing to the development of the new Police Act
- ▶ Evolution of the PEI Police Act
- ▶ State of development of office of the Police Commissioner
 - Structure of the Police Commissioner's Office
 - Powers of the Police Commissioner
- ▶ Challenges during implementation
- ▶ Five year plan



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A sketch of PEI

- Land area – 5,686 Km²
 - Municipalities – 29.8%
 - Not incorporated – 70.1%
 - 1st Nations reserves – 0.1%

- Population
 - Total: 135,851 (2006 census)
 - 1st Nations: 1,117 (2007 registration data)



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A sketch of PEI

- ▶ Municipal police serviced communities:

• Charlottetown	pop: 32,174	area: 44 Km ²
• Summerside	pop: 14,500	area: 29 Km ²
• Kensington	pop: 1,485	area: 2 Km ²
• Borden–Carleton	pop: 786	area: 13 Km ²

• (census 2006)

- ▶ Security Services Division

- University of Prince Edward Island – 4400 students

- ▶ Atlantic Police Academy



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A sketch of PEI

- ▶ Municipal police services
 - Charlottetown 66
 - Summerside 28
 - Kensington 5
 - Borden–Carleton 3

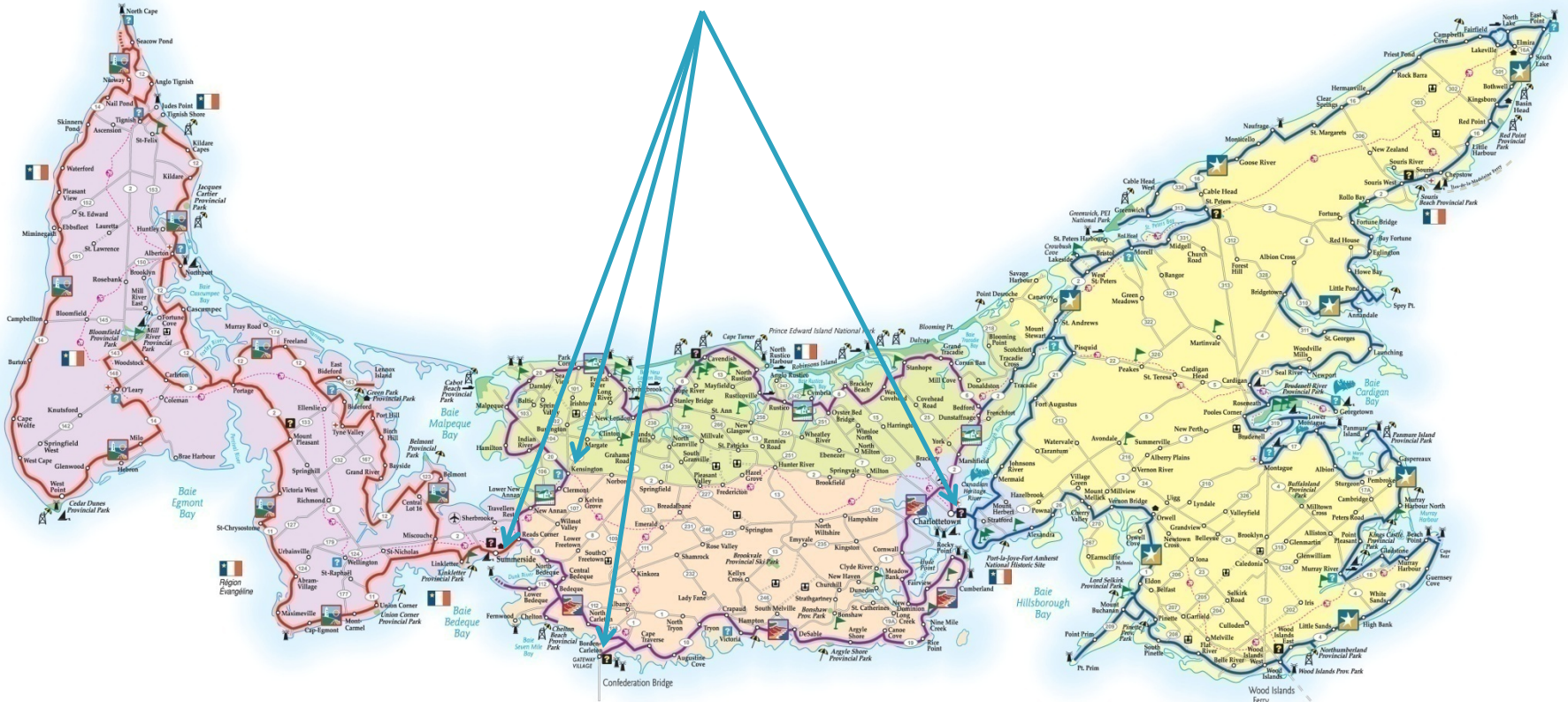
- ▶ Security services Division
 - University of Prince Edward Island 10

- ▶ Atlantic Police Academy 9



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Municipal Police Services



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Factors contributing to the development of the new Police Act

- ▶ Need for public oversight of police complaints
 - Complaints processed internally – recourse?
 - Cross border policing implications
 - Only jurisdiction in Canada without an oversight mechanism



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Factors contributing to the development of the new Police Act

- ▶ Address issues related to the appointment process for municipal police officers, auxiliary police officers, police academy instructors, security police officers and police officers from out-of- province
 - establish a framework for provincial accountability
- ▶ Clarify powers and immunities of police officers



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Factors contributing to the development of the new Police Act

- ▶ Clarify authority and responsibility of Attorney General for policing in the province
- ▶ Clarify what constitutes a provincial police service and the authority of the Attorney General regarding municipal police services



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Factors contributing to the development of the new Police Act

- ▶ Existing legislation is dated and confusing – needed a manageable, modernized legislation



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Evolution of the 2008 PEI Police Act

- ▶ Police Act 1930
- ▶ RCMP as Provincial Police Force in 1932
 - municipal police forces: Charlottetown (1855) and Summerside (1877)
- ▶ Present Police Act was proclaimed in 1951
 - Approx 8 amendments last in 2000
- ▶ Appointment regulations made in 1993



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Evolution of the 2008 PEI Police Act

- ▶ A new Police Act was examined by a committee of legislature in 1990
 - contemplated establishment of a Police Commission

Evolution of the 2008 PEI Police Act

- ▶ Private members bill in 1998 introduced the Police Commission Act
 - Uniform standards and code of conduct
 - Standing committee recommended an appeal process for complaints



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Evolution of the 2008 PEI Police Act

- ▶ **Police Act passed in legislature December 2006**
 - Complaints process and Police Commission
 - Appointments, immunities, powers of Police Officers, Security Police Officers and Auxiliary, Police Academy, etc.
 - Provincial Police Force (currently the RCMP)
 - Regulatory powers

- ▶ Some problems identified and Minister commits to amend Act

Evolution of the 2008 PEI Police Act

- ▶ Highlights of amendments passed in December 2008
 - Increased transparency and refined complaints process
 - Deleted provisions which would allow the Commissioner to review a complaint prior to a hearing
 - Complaint time limit from 12 to 6 months
 - Added regulation-making powers for training, use of force
 - Manager and investigator qualifications provisions subject to Regulation
- ▶ Currently preparing for proclamation

Structure of the Police Commissioner's Office

- ▶ Legislated positions
 - Commissioner & Deputy – appointed by Lieutenant Governor-in-Council for up to 5 years
 - Manager – hired by Commissioner



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Structure of the Police Commissioner's Office

- ▶ Inclusive appointment process for Commissioner and Deputy
- ▶ Minister shall provide....such facilities as the Minister considers appropriate



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Structure of the Police Commissioner's Office

- ▶ Responsibilities of Commissioner
 - Police Commissioner is a corporation sole
 - Commissioner may employ staff, investigators or experts ...”as the Police Commissioner may require for proper conduct of the functions...”
 - Requirements for commissioner staff in regulations
 - Define duties and fix remuneration
 - Annual Report – requirements in Act
 - Prepare annual budget for Minister



Structure of the Police Commissioner's Office

- ▶ Commissioner and Deputy – hourly and per diems
- ▶ Manager – 0.5 FTE
- ▶ Administrative and process support is contracted
- ▶ Reception – staff cost shared (IRAC)
 - Police Commissioner's office “store front” is located at Island Regulatory and Appeals Commission Office (IRAC) while Commissioner and manager are located elsewhere – use IRAC facilities for hearings



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Powers of Police Commissioner

- ▶ Summon
- ▶ Administer oaths and affirmations
- ▶ Receive evidence ..on oath...such evidence or other information as the Police Commissioner considers appropriate whether or not such evidence would be admissible in a court of law



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Powers of Police Commissioner

- ▶ Certification of contempt filed with Registrar of Supreme Court
- ▶ Hold hearing anywhere in the province
- ▶ Make rules respecting practice and procedure



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Powers of Police Commissioner

- ▶ Complaints must relate to a breach of the Code of Professional Conduct
- ▶ Commissioner's office has two procedural roles in the complaints process:
 - Venue for appeals of decisions of Chief Officers and Director
 - Venue for investigating and deciding complaints against Chief Officers, Director and Security Police Officers



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Powers of Police Commissioner

- ▶ Appeal venue:
 - Manager after investigating the decision, the request and the complaint will:
 - Attempt informal resolution
 - Dismiss if decision deemed appropriate or complainant or respondent have refused a reasonable resolution
 - Refer to a hearing
 - Police Commissioner shall:
 - Dismiss
 - Overturn
 - Vary
 - Order costs



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Powers of Police Commissioner

- ▶ Investigating and deciding Chief Officer/Director/SPO complaints:
 - Manager after investigating the complaint will:
 - Attempt informal resolution
 - Dismiss if complaint unfounded, trivial (etc) or complainant or respondent have refused a reasonable resolution
 - Refer to a hearing
 - Police Commissioner shall:
 - Dismiss
 - Impose a disciplinary penalty
 - Order costs



Powers of Police Commissioner

- ▶ Manager/investigator has powers, rights, privileges and immunities of Investigator
 - Same as a Police Officer while conducting investigation and any proceedings under Act

Complaint process for Police Officers and Instructing officers



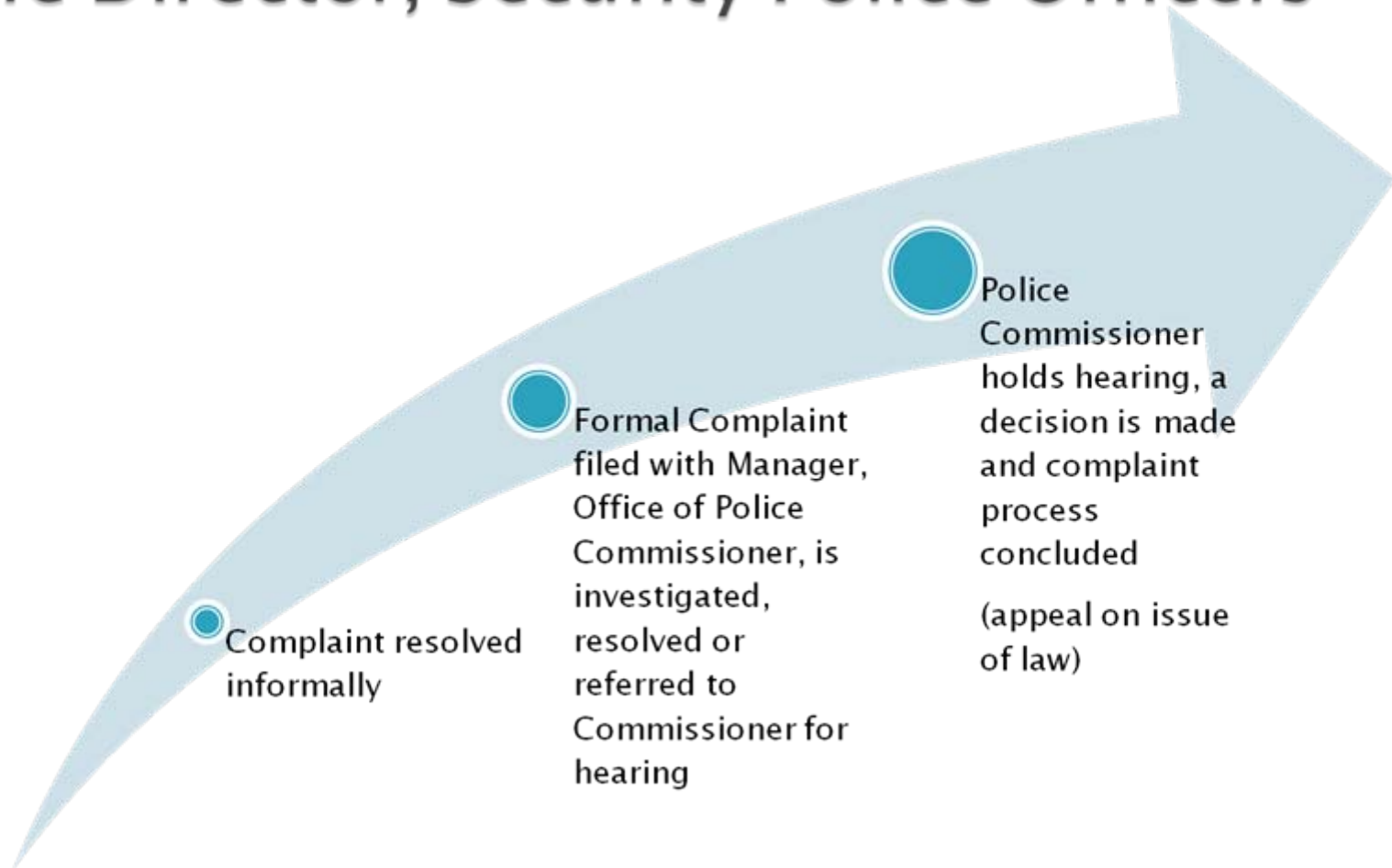
Complaint resolved informally

Formal complaint resolved by Chief Officer or appealed

Office of police commissioner manager investigates, resolves or refers to Police Commissioner

Police Commissioner holds hearing, a decision is made and complaint process concluded
(appeal on issue of law)

Complaints process for Chief Officers, the Director, Security Police Officers



Challenges

- ▶ Police Assoc/Union dissatisfaction with 2006 Police Act version of the complaints procedure among other concerns, especially the expressed need for more in-service training.
- ▶ Estimating utilization
- ▶ Establishing an appropriate “storefront” for the Commissioner's office which is accessible, safe and “optically” separate from government and police services
- ▶ Unknown if we have challenges identifying appointees or thereafter staffing manager position



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Challenges

- ▶ Start-up funding – confirmed April 2009
- ▶ Public and police service education scheduling
- ▶ Structuring paper flow/ forms with police services



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Five year plan

- ▶ Near term
 - Detail complaints process
 - Appoint Commissioner and Deputy and facilitate start up of the Commissioner's office and resource staffing
 - Locate office and refine contracts/arrangements with resource providers
 - Introduce the complaints process to the community and put a face on the Commissioner – educate/communicate

- ▶ Longer term
 - Develop a strategic plan
 - Generate utilization data
 - Establish an evaluation mechanism
 - Develop experience and local expertise
 - Engage with other provincial and federal oversight mechanisms
 - Refine the budget requirements of the office