

# ANNUAL REPORT

2001 - 2002



Commission for  
Public Complaints  
Against the RCMP

Commission des  
plaintes du public  
contre la GRC

The Honourable Lawrence MacAulay, P.C., M.P.  
Solicitor General of Canada  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Mr. MacAulay,

Pursuant to section 45.34 of the *Royal Canadian Mounted Police Act*, I hereby transmit the annual report of the Commission for Public Complaints Against the RCMP for the 2001–2002 fiscal year, for tabling in Parliament.

Yours very truly,



Shirley Heafey  
Chair

June 2002

Minister of Public Works and Government Services  
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# MESSAGE FROM THE CHAIR



This past year has been a year of upheaval for the institutions that are responsible for maintaining law and order. Most of us have no idea of the added stress and responsibility placed on all police forces in Canada. Unprecedented acts of terrorism against Canada's closest ally led our government to adopt laws that have conferred extraordinary powers on the police—powers that will most likely have some far-reaching consequences on people within our borders. Canada needed to respond and it did.

However, these new powers have taken both the RCMP and this Commission into new and uncharted waters. We must journey through these waters with extreme caution. We all know that Canada is a mosaic of cultures and communities. Major changes in our society will be interpreted and understood differently by every part of that mosaic. Each has a unique perspective. Each has a unique experience and cultural memory of its interactions with Canada's police forces. Both the Commission and the RCMP must show we understand this fundamental Canadian characteristic and reflect that understanding and insight in our work.

It has never been more crucial for the RCMP to enjoy the whole-hearted support of the communities it polices. Never before has it been so vital to reach out to Canada's diverse communities, to build trust, and to keep that trust. But trust is intimately bound up with accountability: the RCMP must show at every turn and at every level that it is accountable and that it accepts responsibility for its conduct.

This is a view that the Commissioner of the RCMP has endorsed in no uncertain terms. "It is essential," Commissioner Giuliano Zaccardelli wrote recently, "that we demonstrate through our everyday work that we are accountable for our actions, and take our responsibility seriously."<sup>1</sup>

The work of this Commission is vital to ensuring accountability. This year I intend to renew my efforts to make the public and the RCMP more aware of our essential role and mandate. It

is important that we communicate and share our vision—"Excellence in policing through accountability"—as broadly as possible among the citizens we serve as well as the country's national police force.

We are acutely aware that the social and political context has changed significantly. While this is true, and from time to time there may be cause for concern, I want to reassure Parliament, members of the public and the RCMP that we will continue to be vigilant, whatever the limitations or challenges, in serving the people of Canada.

**Shirley Heafey**  
**Chair, Commission for Public Complaints Against the RCMP**

<sup>1</sup> See article "Balance Change and Stability" by Giuliano Zaccardelli, RCMP Commissioner, in *Gazette*, Vol. 63, No. 5, 2001.

# COMMISSION STATEMENT

## VISION

EXCELLENCE IN POLICING THROUGH ACCOUNTABILITY



Commission for  
Public Complaints  
Against the RCMP

Commission des  
plaintes du public  
contre la GRC

## MISSION

To provide civilian oversight of RCMP members' conduct in performing their policing duties so as to hold the RCMP accountable to the public.

## MANDATE

- To receive complaints from the public about the conduct of RCMP members
- To conduct reviews when complainants are not satisfied with the RCMP's disposition of their complaints
- To hold hearings and carry out investigations
- To report findings and make recommendations

## CORE VALUES

The following core values guide our work and reflect the work environment for which we strive:

- Independence
- Objectivity
- Fairness
- Timeliness
- Effective communication
- Excellence
- Respect
- Integrity
- Professionalism
- Teamwork



## PART 1

# ABOUT THE COMMISSION

### ROLE OF THE COMMISSION

The Commission is an independent body. It is not part of the RCMP. Parliament established the Commission to address allegations from the public of inappropriate conduct by RCMP members and to reinforce good police conduct. In carrying out its duties, the Commission treats the public and RCMP members with fairness and objectivity. The Commission does not act as an advocate for either the complainant or the RCMP member(s). Nor is the Commission a disciplinary body of the RCMP; it cannot discipline RCMP members or award compensation to complainants. It makes findings and recommendations designed to prevent a problem from recurring. These findings and recommendations may address the conduct of specific RCMP members or may deal with broader issues involving RCMP policies and practices. The Commission's effectiveness therefore depends on the RCMP Commissioner's acceptance of our findings and recommendations.

*In carrying out its duties, the Commission treats the public and RCMP members with fairness and objectivity.*

## **JURISDICTION OF THE COMMISSION**

Generally, the Commission has jurisdiction under the *RCMP Act* over a complaint when it comes from the public and concerns the conduct of an RCMP member while performing a duty or function. These duties and functions include criminal investigations, public complaint investigations, security assignments and intelligence operations. The Commission does not have jurisdiction, however, to investigate or review the administration or management of the Force.

A complaint must also involve:

- an RCMP member or other person appointed or employed under the authority of the Act;
- an RCMP member or other person, who, when the complaint is made, has not died, retired, resigned or been dismissed from the Force; and
- conduct that occurred after September 30, 1988, the date the Commission became authorized to take complaints.

Historically, the Commission has refused complaints about the personal conduct of RCMP members except when a member has clearly placed himself or herself on duty. However, a thorough examination of the Commission's jurisdiction reveals an exception.

Although the Commission recognizes that RCMP members are entitled to private lives free from scrutiny, in some cases the personal conduct of members may reflect poorly on their positions in the RCMP and on the entire Force. Therefore, when the alleged conduct is likely to adversely affect the member's performance and/or the Force's reputation, the Commission will receive and review the complaint. In such cases, the Commission minimizes the personal information disclosed in its reports.

The Commission seeks to resolve questions about its jurisdiction to receive or review a public complaint at the beginning of the public complaints process. In doing so, the Commission reduces the number of complaints that are unnecessarily investigated by the RCMP. When the Commission determines that it does not have jurisdiction to receive or review a complaint, the complainant is notified.

Because complaints are also made directly to the RCMP, the Commission keeps the Force informed of the criteria it uses to determine its jurisdiction. The Commission believes that its efforts to resolve questions of jurisdiction early in the complaints process results in more efficient and timely service to complainants and members, and makes better use of RCMP and Commission resources.

## **COMPLAINT AND REVIEW PROCESS**

As indicated in the flow chart on page 11, complaints may originate from any of the following sources:

- the public may complain directly to the RCMP;
- the public may complain to the Commission or to provincial policing authorities; or
- the Commission Chair may initiate a complaint.

Each complaint is dealt with as follows:

- first, the RCMP conducts an investigation, unless the Commission Chair deems it advisable in the public interest to investigate the complaint;
- then, the RCMP reports the results of the investigation to the complainant and the police member(s) involved.

If not satisfied with the RCMP's handling of the matter, the complainant may ask for a review by the Commission. Following this review, and if the Chair is satisfied with the RCMP's disposition of the complaint, she reports this to all parties involved, as well as to the Commissioner and the minister responsible for the RCMP, the Solicitor General.

If the Chair is not satisfied, she may, after examining the relevant materials provided by the RCMP,

- review the complaint without investigating further;
- ask the RCMP Commissioner to investigate further;
- initiate her own investigation; or
- hold a public hearing.

The Chair then sends an interim report to the Commissioner and to the Solicitor General setting out her findings and recommendations. (In the case of a public hearing, it is the panel that prepares the report.) This interim report is treated as follows:

- The Commissioner informs the Chair and the Solicitor General in writing of any action to be taken in response to the Chair's findings and recommendations. (Should the Commissioner decide not to act on any findings or recommendations, the Commissioner shall include in his notice the reasons for not so acting.)

- The Chair then prepares a final report that includes the Commissioner's response, as well as the Chair's final findings and recommendations, and sends it to all parties.

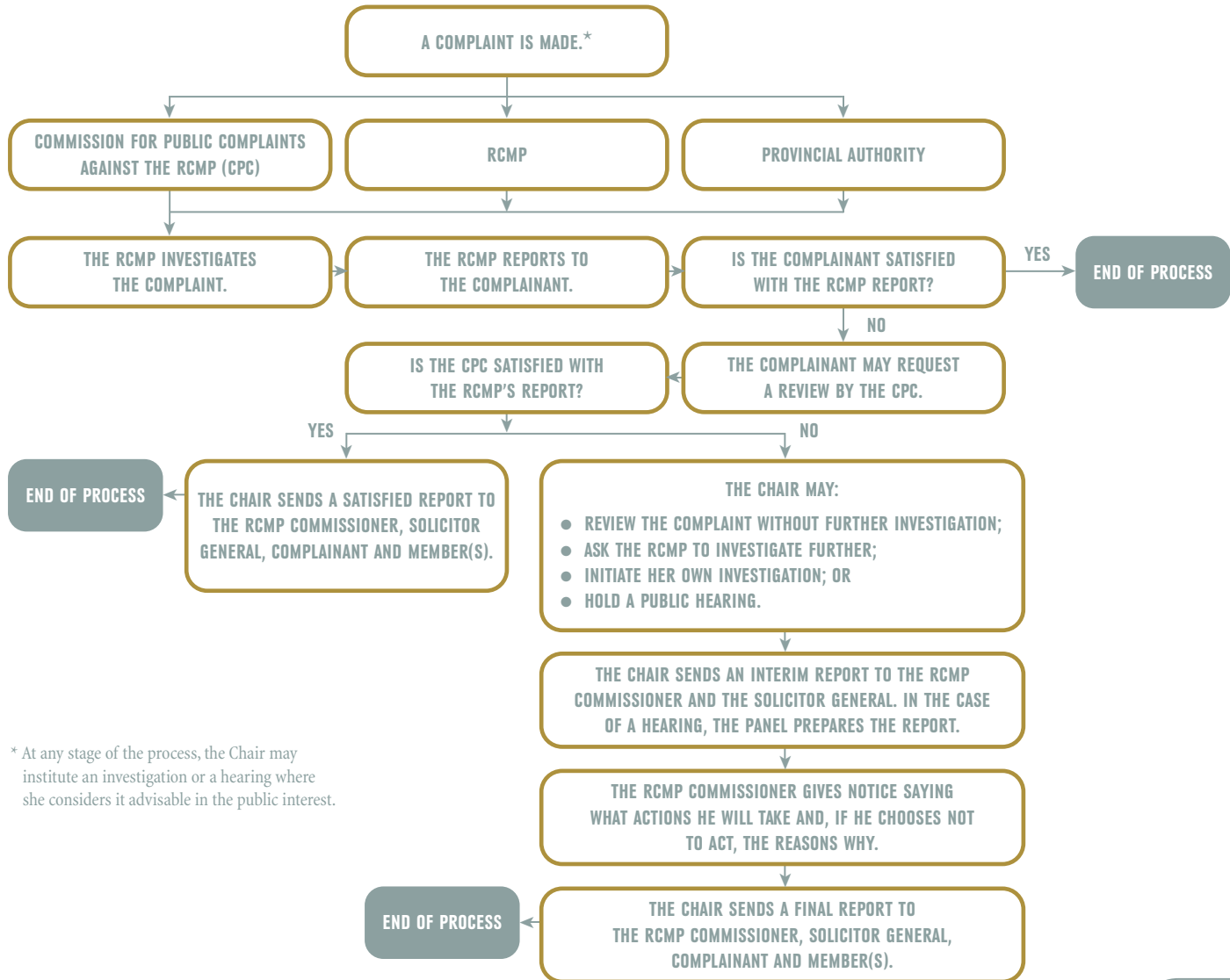
## **IN THE PUBLIC INTEREST: HEARINGS AND INVESTIGATIONS**

As mentioned above, when a complainant asks the Commission to review the RCMP's handling of a complaint, the Commission Chair may investigate the complaint or hold a public hearing. The RCMP need not have investigated or disposed of the complaint for the Commission Chair to launch an investigation or public hearing; she may do so whenever she considers it to be in the public interest. The Chair weighs the information gathered during an RCMP or Commission investigation, however, before calling a public hearing.

In the case of an investigation, the Chair sends to the RCMP Commissioner and the Solicitor General an interim report of her findings and recommendations. The Commissioner must respond to the report, indicating whether he will act on the report's findings and recommendations. If the Commissioner rejects the findings and recommendations in the report, he must provide reasons for doing so. The Chair then prepares a final report that is distributed to all parties, as well as the Commissioner and the Solicitor General.

*The Commission Chair may investigate a complaint whenever she considers it to be in the public interest.*

## THE COMPLAINT RECEIPT AND REVIEW PROCESS



\* At any stage of the process, the Chair may institute an investigation or a hearing where she considers it advisable in the public interest.

If a public hearing has been called, the hearing panel seeks to establish the facts of the complaint by considering all relevant information. The panel has the power to subpoena witnesses and documents as necessary. The panel produces an interim report, which may contain findings and recommendations designed to improve RCMP operations generally or to correct individual inadequacies that have led to the complaint. This interim report is sent to all of the parties involved, as well as to the Commissioner and the Solicitor General, and is made publicly available. The Commissioner must respond to the report as he does for a public interest investigation. After considering the Commissioner's response, the Chair issues a final report, which is distributed in the same manner as the panel's hearing report.

## COMPOSITION OF THE COMMISSION

### COMMISSION MEMBERS

The legislation establishing the Commission provides for a Chair, a Vice-Chair, and a maximum of 29 other members and alternates from all provinces and territories that contract with the RCMP to provide policing services. The Chair serves full time; other members may serve full time or part time. The federal government appoints the Chair and Vice-Chair for a fixed term of up to five years. The members of the Commission representing each province and territory are appointed by the Governor in Council following consultation with the minister responsible for police affairs in that province or territory.

### COMMISSION STAFF

Commission staff are responsible for handling complaints, reviews and investigations and for providing administrative support for hearing panels. It is the joint efforts of Commission members and staff that ensure the Commission functions effectively.

The Commission's Western Region office in Surrey, British Columbia, is responsible for taking all enquiries and complaints in either official language and is the first point of contact for the public. Commission staff responsible for the hearing, investigation and review functions work primarily out of the head office in Ottawa.

Appendix A includes an organization chart setting out the reporting relationships of the Commission. Appendix B presents the Commission's budget.

PART 2  
**YEAR IN REVIEW—  
UPDATE ON ACTIVITIES**

**YEAR TWO OF THE STRATEGIC PLAN**

The Commission has completed the second year of its five-year strategic plan. The plan—the first in the Commission’s history—resulted from a Commission-wide review and planning exercise during the 1999–2000 fiscal year. The exercise rejuvenated the Commission and enabled it to refine its goals and priorities and develop a sound plan for achieving them.

During the first two years of the plan, the Commission focused on its top priorities—eliminating the backlog of review cases and improving and expediting the review process. During the past fiscal year, the Commission also took the first critical steps in upgrading its information management system, another key objective of the strategic plan. An improved information system will allow Commission staff to better handle complaints; to conduct research more effectively during reviews; to more easily identify, monitor and evaluate policing issues and trends; and to provide research and analysis to policy makers about policing issues. This upgrade will be implemented during the next fiscal year.

## STRATEGIC PLAN

KEY PRIORITIES	YEAR 1	YEAR 2
Eliminate backlog.	✓ Completed	
Develop internal review standards.	✓ Begun	✓ Ongoing
Upgrade information management system.		✓ Begun
Encourage the development of RCMP standards for the receipt and investigation of public complaints.		✓ Begun
Improve internal communication.	✓ Begun	✓ Ongoing
Enhance the Commission's capacity to monitor and analyze policing issues and trends.	✓ Begun	✓ Ongoing
Develop the Commission's capacity to capture and retrieve data and other useful information.	✓ Begun	✓ Ongoing
Develop and implement an external communications plan.	✓ Plan developed	✓ Implementation begun

## ENQUIRIES

The Western Region office receives numerous enquiries every year that are not public complaints as defined in Part VII of the *RCMP Act*. These enquiries account for a significant portion of the day-to-day work of the analysts. Although not all enquiries lead to public complaints against the RCMP, Commission staff are committed to serving the public by providing individuals with information and guidance to address their concerns. Recognizing the importance of evaluating this aspect of the Commission's service, the Western Region office has developed a database to accurately record and analyse the number and types of enquiries it receives. During 2001–2002, the Commission received 1,203 enquiries at its Western Region office.

*Commission staff are committed to serving the public by providing individuals with information and guidance to address their concerns.*

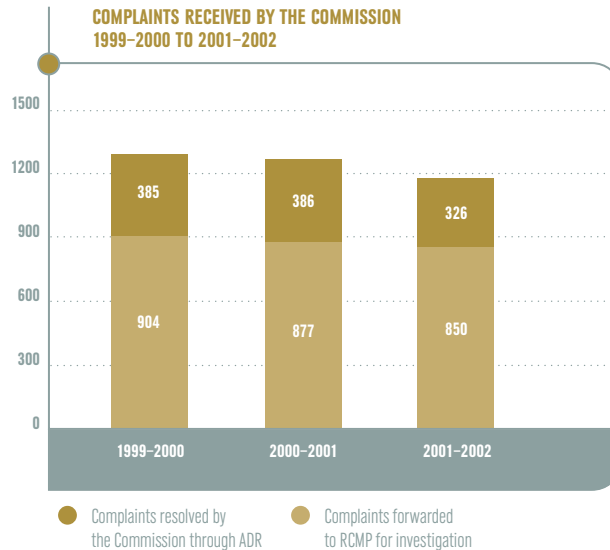
## COMPLAINTS

The Western Region office receives all public complaints made directly to the Commission about the conduct of RCMP members. Commission analysts obtain the details of the individuals' concerns,

formulate these public complaints and then forward them to the RCMP. When a question arises relating to the Commission's jurisdiction, the analyst consults the Commission's Legal Services Unit (LSU) before accepting the complaint. During 2001–2002, the Commission received 1,176 formal complaints.

## ALTERNATIVE DISPUTE RESOLUTION

The Commission enjoys continued success with its alternative dispute resolution (ADR) initiative. When ADR is considered appropriate, the analyst—as a non-partisan facilitator—brings the complainant and the RCMP into contact as soon as possible. This way, the complaint may be resolved without going through the formal public complaints process. In every case, the complainant





retains the option of making an official complaint. The prompt and professional response from RCMP members, particularly supervisors, has been a major factor in the success of this initiative. ADR can provide greater satisfaction to complainants and the RCMP members involved because it resolves the matter early in the process. It is also cost-efficient because valuable resources are saved when a speedy resolution is reached. Staff in the Western Region office began formal training in conflict resolution during the past year to expand their skills in this area.

The following summaries illustrate the Western Region office's success with ADR during the 2001–2002 fiscal year.

- The complainant's boyfriend amicably resigned from the local volunteer fire department. Coincidentally, several items went missing from the fire station. An RCMP member interviewed the boyfriend. The complainant and her boyfriend perceived the member's questioning to be accusatory rather than investigative. They were concerned that the member was conducting a biased investigation. A Commission analyst contacted the detachment superintendent. The superintendent reviewed the file and then advised the complainant that her boyfriend was not a suspect, and that the investigation had been concluded. The complainant was satisfied with this information and no formal complaint was made.
- Two complainants contacted the Commission after viewing a national television program about an overseas killing. The suspects were from Canada. Both complainants concluded from the program that the RCMP was not providing adequate assistance to the investigating authority. A Commission analyst contacted the RCMP member in charge of the file. After acquiring more information from the RCMP, the analyst was able to explain to the complainants that there was ongoing RCMP involvement, but that RCMP assistance was necessarily limited by differences in the applicable laws of Canada and the other country. Both complainants were satisfied with this explanation and no formal complaint was made.
- A valuable ceremonial dress with historical significance was stolen from the complainant's vehicle. The complainant located the stolen dress at a pawnshop and notified the RCMP, but the dress remained for sale at the pawnshop. The analyst contacted a supervising RCMP member who reviewed the investigation file and directed that the dress be seized pending determination of rightful ownership. The complainant was satisfied with this action and no formal complaint was made.
- The complainant was a suspect in a theft from a local business because the RCMP believed it had identified her in a video retrieved from the business. The complainant cooperated with the RCMP and identified the person who actually appeared on

the videotape. She was concerned, however, because the RCMP did not apologize for its error. A Commission analyst contacted a superior officer at the detachment, who agreed to apologize to the complainant for any embarrassment or inconvenience she had experienced. The complainant was satisfied with this RCMP response and no formal complaint was made.

- The complainant alleged that she was the victim of an assault and reported this to her local RCMP detachment. Two weeks passed, but the man she alleged had assaulted her was not arrested. He resided within the jurisdiction of another RCMP detachment. A Commission analyst contacted an RCMP supervisor at the complainant's local RCMP detachment. The supervisor indicated that there had been a breakdown in communication between detachments and agreed to follow up. The man was arrested that same day. The complainant was satisfied with this response and no formal complaint was made.

## REVIEWS

This year has been a year of change and challenge for the Review and Policy Unit. The Commission has dedicated time and resources to the following initiatives because it believes that they are in the long-term best interests of complainants, the RCMP and the public.

## NEW PROCEDURES

The most significant change has been the introduction of new procedures to maintain the high quality and timely delivery of reviews. Every review file is now assigned to an analyst in the Review and Policy Unit and to a lawyer in the LSU. Both examine the file materials and agree on the approach to be taken before the analyst drafts the report for the consideration of the Chair or the Vice-Chair. This procedural change ensures that all files are discussed with LSU staff, and with the Chair or Vice-Chair if required, before the report is drafted. This new process guarantees that all legal issues are satisfactorily addressed. A new file assignment system was also introduced so that review files concerning certain policing issues are assigned to the analyst with the most expertise in that area.

## A CONSISTENT APPROACH TO REVIEWS

The Review and Policy Unit worked with the Commission's Records Management Section to centralize research materials. Analysts now have ready access to the wealth of research materials collected over the years. The Commission's computerized information management system, once fully implemented, will improve

access to previous Commission review reports and other research materials. The Commission has also made progress in developing internal guidelines to ensure a consistent approach to reviews involving similar policing issues. For example, an analyst assembled a compendium concerning the use of neck holds by the RCMP, which will prove of great assistance to Commission personnel when reviewing similar files. Likewise, a lawyer in the LSU wrote a paper, soon to be published, on the emerging law on investigative detention to provide context for the Commission's findings and recommendations in a review report. Furthermore, analysts, in cooperation with the LSU, will develop papers for internal use on a host of policing issues, such as the use of force and the treatment of people in detention. Overall, these initiatives help to ensure a consistent approach to policing issues, quick access to important research, and preservation of the Commission's corporate memory.

## CHALLENGES

Although the Commission has worked hard to make internal changes to ensure the quality of its reviews, it continues to face challenges. As of December 31, 2000, for instance, the RCMP stopped providing the Commission with updates to the RCMP's national operational policy manual. This change means that the Commission has not had ready access to RCMP national policy since January 1, 2001. This lack of access to RCMP national policy will seriously reduce the capacity of analysts to effectively review complaints. The Commission considers this a critical issue and is calling on the RCMP to resolve this problem.

*An analyst assembled a compendium concerning the use of neck holds by the RCMP, which will prove of great assistance to Commission personnel when reviewing similar files.*

There are also occasions when the Commission is unable to acquire all relevant information from the RCMP during its review of a public complaint. In such cases, the Commission may be forced to exercise its power to hold a hearing to compel the appearance of witnesses and the production of documents.

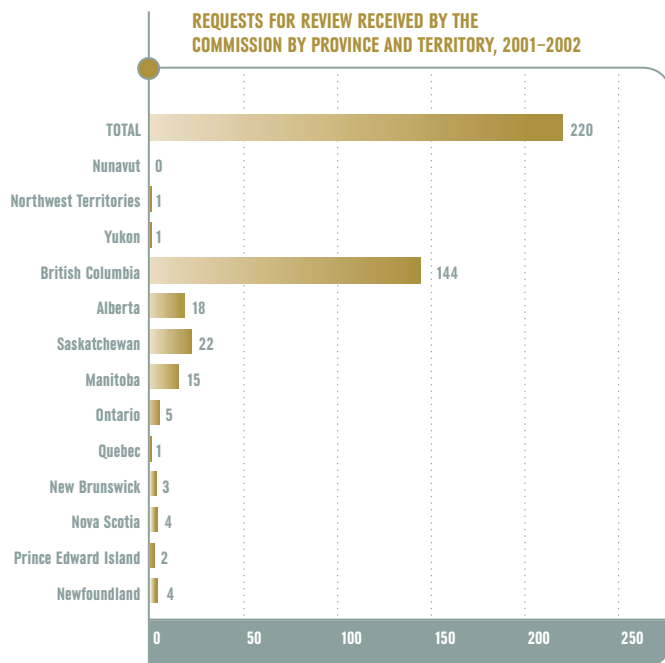
Examples of review cases can be found in Appendix C.

## COMMISSION REVIEW REPORTS COMPLETED IN 2001-2002

Final Reports after Commissioner's Notice	47
Final Reports after Review	73
Interim Reports	16
Non-Jurisdiction Reports	10
Withdrawal of Request for Review	1
<b>Total Number of Reports Signed</b>	<b>147</b>

## FURTHER INVESTIGATIONS DEEMED NECESSARY BY THE COMMISSION IN 2001-2002

Commenced	3
Completed	10
Outstanding at Year End	5



## HEARINGS

### APEC HEARING: THE FINAL REPORT

The Commission Chair released her final report on the public interest hearing into the conduct of RCMP members during public demonstrations in November 1997 at the Asia-Pacific Economic Cooperation (APEC) conference in Vancouver. The release of her report on March 26, 2002, marks the end of the longest and most controversial public interest hearing in the Commission's history.

The Chair started an investigation on December 9, 1997, after receiving 52 complaints about the conduct of RCMP members at the University of British Columbia campus and at the Richmond Detachment. The Chair subsequently instituted a public interest hearing into the complaints on February 20, 1998. She appointed a three-member panel to conduct the hearing but they resigned in December 1998. The Chair then appointed the Honourable Ted Hughes, Q.C. to conduct the hearing, which ran from March 1999 to June 2000. On July 31, 2001, Mr. Hughes submitted his interim report.

On September 6, 2001, the RCMP Commissioner provided his written response to Mr. Hughes' report. The Commissioner accepted the majority of Mr. Hughes' findings and recommendations and indicated that the RCMP has since conducted an extensive review of its readiness for, and response to, major public order events.

He added that he consulted with other police agencies to identify the best practices in the provision of security for such events. The Commissioner confirmed that he has directed a full review of RCMP national policy to ensure that it reflects the substance of the recommendations.

In her final report, the Chair acknowledged the Commissioner's general acceptance of Mr. Hughes' findings and recommendations but noted that the Commissioner had not addressed one of the recommendations: that renovations to the Richmond Detachment allowing a private area for searches be completed without delay. The Chair stated that it is unacceptable that a detachment of this size, in the immediate vicinity of an international airport, be unable to provide a proper and private area to search detainees. The Chair also noted that it is clear from Mr. Hughes' report that some people were adversely affected by inappropriate RCMP conduct during the demonstrations and that, in keeping with the RCMP's commendable Force-wide emphasis on community policing, timely apologies to those people should have been made. While the Chair expressed hope that the Commissioner's general agreement with Mr. Hughes' findings and recommendations would provide some consolation to those who suffered the consequences of unacceptable police conduct, she stated that apologies would still be in order. The Chair asked the Commissioner to advise her of future progress concerning the implementation of Mr. Hughes'

recommendations and any other RCMP initiatives. The Commissioner has since advised the Chair that the policy amendments have been completed, and that he will provide a more detailed account of his response to Mr. Hughes' recommendations in his next Accountability Report, a copy of which is routinely provided to the Chair.

See the Commission's Web site to view the interim and final reports on the APEC hearing.

## SPECIAL PROJECTS

### POLICE PURSUITS AND PUBLIC SAFETY

The Chair has received several complaints over the years about high-speed police pursuits and their often tragic outcomes. These complaints raised serious questions about the threat to public safety. As a result, the Chair undertook an in-depth review of this aspect of police conduct and released her report, *Police Pursuits and Public Safety*, in the fall of 1999. This report recommended the following changes to four areas of the RCMP's national pursuit policy and training:

- 1) That the RCMP amend its policy on 'hazardous' pursuits to make it clear to all members that such pursuits should only be undertaken for a serious offence. The policy should provide a clear definition of what constitutes a serious offence.

- 2) That the RCMP amend its policy on pursuits to make the use of emergency equipment mandatory during all 'routine' pursuits to warn the public of the potential danger.
- 3) That the RCMP make its Advanced Driver Training Program mandatory for all members conducting police pursuits. This program should be upgraded to include better risk assessment and decision-making training.
- 4) That the Advanced Driver Training Program be followed by refresher training for every member every three years, at a minimum, as recommended in the 1986 RCMP "E" Division Evaluation.

In response to these recommendations, the RCMP reviewed its pursuit policy and training. The Commission provided feedback on three occasions during the RCMP review.

On November 19, 2001, the RCMP Commissioner provided a written response to the Chair concerning the recommendations in the Commission's report. He advised that a new RCMP national policy on Emergency Police Operations had been implemented, effective November 8, 2001, and had been distributed to all Commanding Officers with instructions that members review it.

The Chair acknowledges the Commissioner's commitment to both upgrade the training programs to emphasize risk assessment and decision-making skills, and make the training programs more accessible to members. She is concerned, however, that the new policy does not go nearly far enough to meet her recommendations. The Chair will continue to monitor the issue of police pursuits and their potential threat to public safety and to the RCMP members involved. The Chair strongly believes that the RCMP Commissioner should fully implement her recommendations by amending his policy on pursuits and by improving driver training for members.

*The Chair will continue to monitor the issue of police pursuits and their potential threat to public safety and to the RCMP members involved.*

## PROFESSIONAL ACTIVITIES

The Chair and other Commission representatives participated in various conferences with other civilian oversight agencies during the past fiscal year. The Chair also continued to travel the country discussing her role as the head of a civilian oversight agency with various individuals and groups, including representatives of numerous RCMP divisions. These meetings provide an opportunity for the RCMP and others to meet the Chair in person to discuss the public complaints process, as well as related issues of interest or concern.

In March 2002, the Chair was a panel member at a Montreal conference held by the Canadian Institute for the Administration of Justice. The conference, “Terrorism, Law & Democracy,” examined the issues and concerns that have arisen since September 11, including the expanded police powers contained in new anti-terrorism legislation. Commission staff were also involved in the first annual joint conference of the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE) and the International Association of Civilian Oversight of Law Enforcement (IACOLE), which was held in Quebec City in June 2001. The theme of the conference was “Civilian Oversight Challenges in a Global Environment: Human Rights and the Police.”

Professionals from various foreign agencies involved in the oversight of law enforcement met with Commission staff, including representatives from the national police force of the Slovak Republic, the Office of the New South Wales Ombudsman in Australia and the Office of Investigation for the Czech Republic.

Finally, the Commission continues to share its major reports, such as *Police Pursuits and Public Safety* and the Chair’s two reports arising from public interest investigations, with agencies and organizations worldwide.

*The Chair also continued to travel the country discussing her role as the head of a civilian oversight agency with various individuals and groups, including representatives of numerous RCMP divisions.*

## PART 3

# LOOKING TO THE FUTURE

The Commission Chair has repeatedly emphasized the Commission's *raison d'être*, which is to strive for excellence in policing by holding the RCMP accountable to the public for its use of police powers. Even when times are fraught with uncertainty and challenges, as they have been since September 11, the Commission has a duty to focus on effectively performing its role as a civilian oversight agency. In fact, the Commission's responsibilities have increased now that Parliament has expanded police powers in its counter-terrorism and organized crime legislation. It is still unclear how the new legislation will affect the number of public complaints and requests for review received by the Commission.



What *is* known is that standards throughout the public complaints process are now critical to guarantee that public complaints are dealt with thoroughly, consistently and expeditiously. The Commission's strategic plan clearly identified the importance of developing these standards. During the past year, the Commission completed the first step toward this goal by implementing standards to ensure the consistency and quality of the reviews conducted by the Commission. During the next year, the Commission plans to encourage the RCMP to develop standards in two additional key areas—receiving and investigating public complaints.

The manner in which public complaints are currently received, recorded and categorized depends on who is recording the complaint. A standard approach to complaint writing and categorization will ensure that the RCMP captures the precise nature of the complainant's concerns—a crucial first step in effective resolution. Likewise, the Commission will encourage the RCMP to develop standards for public complaint investigations, also crucial for timeliness and quality. The Commission hopes this change will sharply decrease the number of further investigations needed because of deficiencies in the RCMP's initial public complaint investigation. (For examples of cases where the Commission has requested a further investigation because of shortcomings in the RCMP's initial public complaint investigation, please see the summary of selected review cases in Appendix C.)

The Commission also plans to engage in discussions with the RCMP to ascertain the extent to which the RCMP has implemented the hundreds of recommendations made by the Commission over the years. This will allow the Commission to measure its effectiveness as a civilian oversight agency. In addition, the Chair continues to closely monitor the implementation of her recommendations concerning the public interest investigation into the detention and death of Mr. Kim Erik Nielsen of Kamloops, British Columbia, to help prevent similar tragedies involving persons in custody.

While the Chair is acutely aware of the new challenges and demands facing the police since September 11, the Commission remains focused on its civilian oversight role and its duty to ensure that the RCMP is held accountable to the public for the use of its extraordinary police powers.

*The Commission's responsibilities have increased now that Parliament has expanded police powers in its counter-terrorism and organized crime legislation.*

## APPENDIX A

# COMMISSION STRUCTURE

### COMMISSION CHAIR AND VICE-CHAIR



**CHAIR**  
SHIRLEY HEAFEY

Ms. Heafey was appointed Commission Chair on October 16, 1997, for a three-year term, after serving as a member-at-large of the Commission from 1995 until 1997. Prior to her appointment, Ms. Heafey was a barrister and solicitor in private practice in Ottawa and specialized in administrative and human rights law.

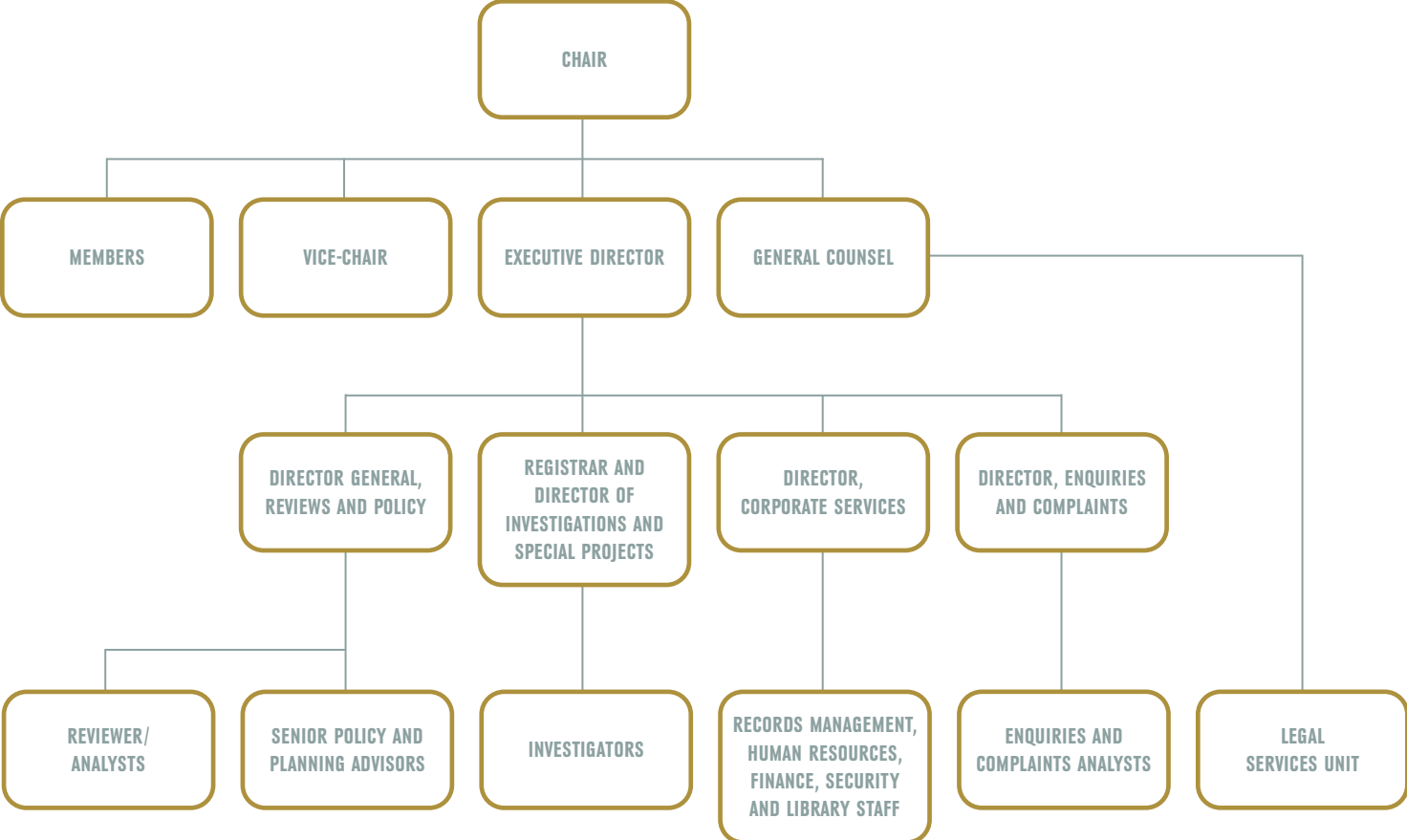
She was also an *ad hoc* counsel to the Security Intelligence Review Committee and to the City Solicitor of Ottawa. In October 2000, she was reappointed Commission Chair for a five-year term.



**VICE-CHAIR**  
JOHN L. WRIGHT

Mr. Wright was appointed Vice-Chair of the Commission on August 26, 1998. He was a major in the Canadian Armed Forces, specializing in military policing. He has been involved in several community justice programs, and is a labour arbitrator and a mediator. Mr. Wright was the Chair of the Yukon Workers' Compensation Health and Safety Board for seven years. He has been a part-time member of the Commission since its establishment in 1988. He was reappointed for another two-year term on August 26, 2000.

# ORGANIZATION CHART



## APPENDIX B

# COMMISSION BUDGET

(\$ THOUSANDS)	ACTUAL SPENDING 2001-2002	PLANNED SPENDING 2002-2003
Salaries, wages and other personnel costs	2,286*	2,389
Contributions to employee benefit plans	367	478
<b>Subtotal</b>	2,653	2,867
Other operating expenditures	2,018**	1,580
<b>Total net spending</b>	4,671	4,447

\* This amount includes funding received through Program Integrity Round II.

\*\* This amount includes additional funds provided to the Commission to cover costs related to the APEC hearing.

## APPENDIX C

# SUMMARY OF SELECTED REVIEW CASES

In selecting the following summaries, the Commission has departed from its usual approach. In the past, the summaries included cases where the Commission was satisfied with the police conduct and some where it was not. This year the summary of selected review cases focuses on important differences between the Commission and the RCMP to highlight some of the issues that require continuing attention by the RCMP.

### USE OF FORCE

- A man complained, among other things, that he was kicked and hit after being handcuffed during a lawful arrest.

Two RCMP members stopped the complainant to conduct a sobriety check. After he was stopped—he initially tried to flee—they discovered he was wanted for an alleged sexual assault. The complainant

resisted the members' efforts to take him into custody and a struggle ensued. The Commission agreed with the RCMP that some force was necessary to arrest the complainant. However, when the complainant was down “on all fours with his hands under his body” one member kicked him in the side of the head, near the temple area, because he failed to comply with verbal commands to put his hands behind his back.

The RCMP letter of disposition noted that the kick to the complainant's head, “to keep the situation from escalating,” was unacceptable and indicated that the RCMP member would receive operational guidance on this point. In its interim report, the Commission found that the kick to the complainant's head amounted to an excessive use of force and recommended that the RCMP acknowledge it as such.

The Commissioner specifically rejected that finding and recommendation in his response to the Commission. He said the kick to the complainant's head "did not constitute an excessive level of force but rather an inappropriate application of force" and he supported the use of this tactic on the grounds that, "while not popular," it could resolve a situation that had the "potential of escalating." The Commission noted in its final report that the Commissioner's position was inconsistent with RCMP policy and training, which do not condone a kick to the head to secure compliance by an uncooperative suspect. Kicking someone in the head is not an appropriate intervention strategy unless the member has no option but to use potentially lethal force; that was not the case here. The final report expresses the hope that the Commissioner will reconsider his decision regarding "that kind of conduct in these circumstances."

- A man complained, in part, that members of the RCMP used excessive force in their dealings with him, and that the use of force was unnecessary under the circumstances.

Members of the RCMP pulled over the complainant on a highway in the middle of the night to investigate possible impaired driving. His car registration and licence were requested. Shortly after, another RCMP vehicle arrived on the scene. While checking the driver's documents, the officers became concerned that the complainant was the subject of an outstanding immigration warrant. The complainant in turn was fearful that the officers would assault him, given the time of night and the lack of witnesses at the scene. The complainant attempted to flag down another driver to serve as a witness. When a car stopped, the officers directed the driver to leave the scene. Two of the RCMP members then physically arrested the complainant for causing a disturbance. While being restrained and handcuffed against his vehicle, the complainant was kned in the thigh a number of times; had a neck hold applied, which affected his ability to breathe; and had a pain compliance technique applied to his eyes. The identity of the complainant was later clarified and he was released. The RCMP found the member

had indeed used the knee jab and the eye pressure technique on the complainant and concluded that this use of force was appropriate. The RCMP ignored the allegation of the neck hold.

In its interim report, the Commission found that, given that there were three officers at the scene, the physical force used against the complainant was excessive and could not be characterized as "the least intervention necessary to manage risk" as required by RCMP policy. The Commission further found that the use of the neck hold likely culminated in a choke hold—a dangerous neck hold that the RCMP banned in 1979. The only other neck hold currently authorized, which can interfere with breathing if improperly applied, is the carotid control hold. The carotid control hold is only authorized when an individual's life is at risk. This was not the case here. The Commission also found that two of the members used inappropriate and unprofessional language during their interactions with the complainant. The Commission recommended, among other things, that both

members be counselled with respect to the appropriate application of authorized use of force and that both members apologize to the complainant. The Commissioner, in his response, rejected these recommendations. He found that the evidence “clearly indicated” that the complainant resisted arrest and the force used was in accordance with RCMP policy and expectations.

In her final report, the Commission Chair was deeply troubled by the Commissioner’s response, since it was clear that a neck hold was administered to the complainant. Further, while the complainant’s own “panic” contributed to the escalation of the incident, the officers’ handling of the incident failed to defuse the situation as required by policy and, in fact, significantly escalated the tension and outcome. Lastly, the Commissioner failed to respond to one recommendation in the interim report. In this respect, he failed to meet the requirements of the *RCMP Act* under subsection 45.46 (2). The Commission Chair reiterated the Commission’s recommendations and

stated that she found it disconcerting that the investigation conducted by the Force apparently relied on written statements obtained from two members, while neglecting to review their reports and notebooks for the incident and date in question.

- A man complained, among other things, that an RCMP member applied a choke hold to his daughter.

The complainant’s daughter resisted when a private visit to a family member in jail was prematurely ended. A struggle ensued between herself, five or six correctional officers and one RCMP member. After the complainant’s daughter was handcuffed with hands behind her back and physically forced to sit down, she attempted to stomp on a guard’s foot. The RCMP member then applied a restraint hold to her. When the hold was applied, she cried out and said she could not breathe. The RCMP rejected the complainant’s allegation, concluded that the force used was appropriate and stated that “the arm ... was not in the proper position to properly apply the carotid

control technique, commonly referred to as a choke hold.” In his interim report, the Vice-Chair referred to RCMP policy and training materials to explain the distinction between a “carotid control hold” (to be applied to an individual only in a life-threatening situation) and a “choke hold” (banned since 1979). On the basis of the videotape of the incident, the Commission determined that a choke hold was applied, which constituted both an excessive and unauthorized use of force. The Vice-Chair recommended that the member be counselled with respect to appropriate and authorized uses of force and that he apologize to the complainant’s daughter. According to the Commissioner’s response, appropriate force was used and he stated that the video did not show that a choke hold was applied. In her final report, the Commission Chair noted the inconsistency between the Commissioner’s position and RCMP policy and training materials. Furthermore, the videotape clearly showed that an unauthorized choke hold was used on the complainant’s daughter. The Chair

confirmed that the force used was excessive. There was no indication that, while handcuffed with her hands behind her back, the complainant presented an undue risk to the six or more officers present. The Chair reiterated the Commission's previous recommendations.

## **INADEQUATE CRIMINAL INVESTIGATION**

- A woman complained, among other things, that an RCMP member had advised her that nothing could be done after she reported that a former common-law spouse had chased her around city streets in his vehicle for several miles.

The woman had agreed to meet her former spouse to discuss the division of their communal property. The man, previously convicted of manslaughter as well as assault against the complainant (she had been hospitalized and treated for serious injuries), became extremely agitated during the discussion, causing the complainant to flee in her vehicle. He pursued her in his

vehicle for several miles on busy streets. The man ended his pursuit when the complainant attracted the attention of a friend by honking numerous times near the person's residence. The woman then drove immediately to the nearest RCMP detachment to report the incident, only to be told that nothing could be done. Approximately a month and a half later, the man broke into the complainant's house and shot and killed a friend of the complainant. He wounded one of her daughters before setting the house on fire and then he committed suicide. The complainant and her other daughter were able to escape from the house.

The woman complained to the RCMP about its inaction. The RCMP investigated and, in its letter of disposition, acknowledged that the member who had received the report had not conducted an adequate investigation before advising the complainant that no criminal offence had been committed. The RCMP further stated that "necessary corrective action" would be taken in relation to the member.

Following the complainant's request for review, the Commission found that the member had conducted an inadequate investigation. The member simply reviewed the complainant's written statement and did not ask for any other information, even though he knew her former spouse's history of violence. Furthermore, the member had been advised that the man was on probation and therefore was required to "keep the peace and be of good behaviour." Accordingly, it was recommended that (a) the RCMP advise the Commission and the complainant of the corrective action taken against the member and that (b) the Officer in Charge of the detachment take steps to ensure that statements taken by RCMP investigators be complete, thorough and up to RCMP standards.

In his response, the RCMP Commissioner rejected the finding and recommendations related to this allegation. The inadequate investigation was referred to as a "shortcoming" attributed to the member. The Commissioner stated that this "shortcoming" was the result of the complainant's



“propensity for telling different versions of her story to different listeners” and her “lack of cooperation with the criminal justice system.”

The Chair was concerned with the RCMP Commissioner’s response to this complaint, among others. She met with the Commissioner and drew these matters to his attention. Following the meeting, the Commissioner advised the Chair that it was necessary for him to amend his original response. He accepted the Commission’s finding regarding the inadequate RCMP investigation and instructed the appropriate personnel to implement the two recommendations. In her final report, the Chair acknowledged “the Commissioner’s willingness to revisit his original decision and come to a different conclusion.”

## **IMPROPER ATTITUDE/FAILURE TO DEFUSE CONFLICT**

- A man complained that an RCMP member had displayed an improper attitude by his abrupt manner and tone of voice.

The complainant and his wife were stopped for a routine roadside check. The RCMP member asked the complainant to exit his vehicle. Over the following minutes, voices were raised and some physical contact occurred between the complainant and the member. The member’s supervisor intervened to defuse the situation. The complainant was given a sobriety test and passed. The man complained about the RCMP member’s conduct and the RCMP investigated the matter. The RCMP rejected the allegation and stated that “short and concise instructions . . . might be mistaken for abruptness.” Based on the facts, the Commission disagreed and found that the member acted in a manner that needlessly served to escalate the situation. The Commission recommended that the member receive refresher training concerning RCMP policy in this respect. The Commission also recommended that the member apologize for his conduct or that the RCMP apologize on his behalf. In his response, the Commissioner rejected the second recommendation on the grounds that the complainant contributed to the

escalation of tension. The Chair’s final report expressed considerable unease with the Commissioner’s position. Paragraph 37 (g) of the *RCMP Act* provides that members must act at all times in a courteous, respectful and honourable manner. It does not exempt the member from this standard when a citizen does not reciprocate. The *RCMP Act* does not relieve a member of this obligation when a citizen contributes to an escalation in tension. Putting the blame partially on a citizen does not exonerate a member’s improper conduct, nor does it have any basis in law or RCMP policy. The Act places the onus on the police to be courteous and respectful at all times. The Chair reiterated that the member’s conduct was inconsistent with RCMP policy. She urged the Commissioner to discourage this kind of unprofessional conduct. Finally, she reiterated her recommendation that an apology be offered to the complainant, who was treated in a discourteous and disrespectful manner.

## INADEQUATE PUBLIC COMPLAINT INVESTIGATION/ FURTHER INVESTIGATION REQUIRED

- A couple complained that the RCMP failed to intervene effectively when called on to deal with a breach of the peace and failed to conduct an adequate “follow-up investigation.”

RCMP members were called on to deal with a breach of the peace arising from a dispute between the current and former owners of a business. The attending members suggested a compromise to restore the peace. One of the parties to the compromise subsequently failed to honour it, and the RCMP members were therefore recalled to the premises on several occasions. In its letter of disposition, the RCMP examined only the initial incident. It failed to address the allegation relating to the “follow-up investigation.” Consequently, the Commission was compelled to use its own resources to conduct a further investigation. Ultimately, the Commission found that

the RCMP members involved conducted themselves appropriately. However, in its interim report, the Commission found that the RCMP public complaint investigation did not fully address the complaint. In his response, the Commissioner rejected this finding, but agreed that the complaint had more than one component. In denying that the scope of the public complaint investigation was inadequate, the Commissioner said that the difference in opinion over the proper scope of the investigation was without a “substantive basis in either statute or RCMP directives.” In his final report, the Vice-Chair highlighted the conflict between the Commissioner’s position and what the *RCMP Act* required—that an investigation be conducted whenever a complaint has not been disposed of informally. In this case, the complaint was not fully investigated and disposed of by the RCMP. The final report concluded that this inadequate RCMP investigation compelled the Commission to conduct a further investigation and seriously hindered the timeliness of its review.

- A woman complained that an RCMP member gained entry to her home under false pretences and searched through her personal effects.

Following the initial complaint, the RCMP advised the complainant by letter that it was terminating its investigation because the complainant would not agree to repeated RCMP requests for an interview. Consequently, it did not fully investigate, or dispose of, the complainant’s allegation. In requesting a further investigation by the RCMP, the Commission took the position that the RCMP knew the essence of the complaint from a written statement provided by the complainant and, therefore, the RCMP could have proceeded with the investigation. At the very least, the RCMP should have taken a statement from the member about the incident that gave rise to the complaint. The review requested by the complainant cannot be completed until the RCMP reports back with the results of its further investigation.

- A man complained that members of the RCMP were harassing him and that a member had disclosed personal information about him to a former girlfriend. Specifically, it was alleged that a member had disclosed details of the complainant's criminal record to this individual.

Following a file review, the RCMP concluded that all aspects of the complaint were unsubstantiated. When the complainant requested a review, the Commission found that it had sufficient evidence to properly review the first allegation about the harassment, but had no information concerning the second allegation because the RCMP had not interviewed the member or the former girlfriend about the alleged disclosure of personal information. In the Commission's view, the alleged disclosure of personal information, if true, could amount to a serious infringement of the complainant's privacy rights. Since the RCMP had compiled no information whatsoever about this allegation, the Commission was compelled to request that the RCMP investigate further—

by interviewing the former girlfriend and, if necessary, the RCMP member—so that the Commission could do a proper review of this serious allegation. As a result, this review cannot be completed until the RCMP reports back with the results of its further investigation.

### **FAILURE TO FOLLOW RCMP MEDIA POLICY**

- A concerned person complained that an RCMP member made comments to the media that amounted to an inappropriate expression of opinion on a matter not within RCMP jurisdiction.

In 1999, Chinese migrants arrived by boat in Canada. Commenting to a major newspaper, an RCMP member said he did not believe that these people were genuine refugees, that they did not tell the truth and came to Canada only to improve their economic situation and not to escape oppression. Following the public complaint, the RCMP investigated. In its letter of disposition, the RCMP indicated that the police often inform the public about current events through the media and, in

this case, stated that the member's comments were accurate and supported by facts. In its interim report, the Commission noted that RCMP national and divisional policy makes it clear that RCMP members should not comment on matters outside of their areas of expertise, should confine themselves to statements of fact that respect the integrity of investigations, and should not speculate or offer opinions about ongoing investigations. The Commission found that the RCMP member inappropriately expressed his opinion about a matter still under investigation and that the comments were inappropriate and inflammatory. The Commission also found that the member had demonstrated poor judgement and had violated the RCMP's media relations policy. As a result, the Commission recommended that the member apologize by letter to the complainant for his comments. The Commission expressed its concern that a complaint about comments by an RCMP member to the media was disposed of without any apparent consideration of relevant RCMP policy. The RCMP Commissioner agreed with all of the Commission Chair's findings and recommendations.

## IMPROPER ENTRY INTO A RESIDENCE

- A man complained, among other things, that an RCMP member improperly entered his home without consent.

A municipal police officer and an RCMP member were investigating the complainant's grandson. At that time, the grandson was living in the complainant's home. The municipal police officer approached the house and knocked on the residence door. The RCMP member stood by while the municipal police officer opened the door and called out the grandson's name. No one answered. The municipal police officer and the member returned to their car and waited a short time before proceeding again in an identical manner. This time, the complainant's grandson responded and was subsequently arrested. In its letter of disposition, the RCMP rejected the allegation. In its interim report, the Commission noted the law on this issue and concluded that the conduct of the municipal police officer had violated the constitutional right to privacy of the complainant and his grandson. The

Commission also found that the RCMP member was part of the improper activity and that he had ample opportunity to advise his municipal policing partner of the impropriety of the action. Accordingly, the Commission recommended that the RCMP member be provided with guidance regarding his obligations as a peace officer. In his response to the Commission, the Commissioner disagreed with the Commission's findings and recommendation and found that the RCMP member had acted appropriately. Specifically, he stated that the municipal police officer and the member were "invited in." He further excused the conduct of the member on the grounds that the member was not asked his opinion about the propriety of opening the door. In her final report, the Chair noted that any "implied invitation" to approach a home ends at the door. The law does not permit a police officer, or anyone else, to open a door without consent or proper authorization, except in limited emergency circumstances. Although the member had not physically opened the door, he had a continuing obligation to ensure that the

rights of the complainant and his grandson were not violated. At the very least, he should have taken positive steps to ensure the door was not opened the second time. The Chair's final report strongly recommended that operational guidance be provided to the RCMP member and that he be reminded of the law regarding a person's reasonable expectation of privacy.

## INTERFERENCE IN A CIVIL DISPUTE

- The complainant, a building contractor, alleged that an RCMP member improperly ordered a security guard in the complainant's employ to give the key to a house to another individual.

The complainant had agreed to sell a house. On the date set for the closing of the transaction, the buyers had not met all the terms of the agreement. Accordingly, the complainant was not prepared to give the buyers possession of the property and he hired a security guard to prevent them from taking possession. The complainant had forewarned the RCMP about the situation. The buyers sought

the assistance of the RCMP to gain access to the house. Relying on a Land Titles document shown to him by the buyers and on ambiguous advice received from a Crown prosecutor, the RCMP member ordered the security guard to hand over the key. The member made no effort to find out the complainant's side of the story. The contractor complained about the member's conduct in this case and the RCMP investigated the complaint. In its letter of disposition, the RCMP rejected the complainant's allegation on the grounds that the member had no choice but to give possession to the buyers after they produced the title deeds. In its interim report, the Commission concluded that the actions of the member had amounted to interference in a civil dispute. It pointed

out that RCMP involvement in such disputes must be limited to preventing a breach of the peace. In the interim report, the Commission recommended that (a) the member be reminded of the RCMP's limited role in civil disputes and (b) he apologize to the complainant. In his response, the Commissioner specifically rejected this second recommendation because the member's error had been made in good faith.

In its final report, the Commission highlighted the conflict between the Commissioner's position and the RCMP's guiding principles for police service delivery. The RCMP has repeatedly and publicly declared that members of the public should be treated as clients.

Accordingly, it is reasonable to assume that members will acknowledge responsibility for mistakes, even those made in good faith, and apologize for their errors. In light of these guiding principles, the Commission's final report urged the RCMP Commissioner to reconsider his decision and ensure that the RCMP member apologize to the complainant.

# GETTING IN TOUCH WITH THE COMMISSION

## HEAD OFFICE

### MAILING ADDRESS

Commission for Public Complaints Against the RCMP  
P.O. Box 3423, Station 'D'  
Ottawa, Ontario  
K1P 6L4

### TELEPHONE AND FAX

General Enquiries (613) 952-1471  
Complaints (toll-free) 1-800-665-6878  
Fax (613) 952-8045

## WESTERN REGION OFFICE

### ADDRESS

Commission for Public Complaints Against the RCMP  
7337 137<sup>th</sup> Street  
Suite 102  
Surrey, British Columbia  
V3W 1A4

### TELEPHONE AND FAX

General Enquiries: (604) 501-4080  
(604) 501-4091  
Complaints (toll-free) 1-800-665-6878  
Fax (604) 501-4095

### WEB ADDRESS

[www.cpc-cpp.gc.ca](http://www.cpc-cpp.gc.ca)

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