

RCMP External Review Committee

Performance Report

**For the period
ending on
March 31, 2004**

The Honourable A. Anne McLellan, P.C., M.P.
Solicitor General of Canada (Minister of
Public Safety and Emergency Preparedness)

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Part I: The Chair's Message

The year 2003-2004 has been a busy one for the RCMP External Review Committee. The trend in recent years towards an increased workload and greater complexity of issues has continued.

Our small independent tribunal reviews certain labour relations matters within the RCMP. It provides an outside, objective, and timely review of these matters for the consideration of the RCMP Commissioner, who is responsible for making the final decision in these matters. The law requires that the Commissioner take into account the Committee's findings and recommendations in each case; if he does not follow them, he is required by the *Royal Canadian Mounted Police Act (RCMP Act)* to explain his position in writing.

I believe that our work contributes to the fairness and openness of the RCMP labour relations environment. It is important for Canadians to know that the RCMP is equitable in the manner in which it treats its members, given the vital role that it serves as the national police force, and, in many instances, provincial and municipal police forces as well.

While case review is our priority, we must also work to ensure that the public and the RCMP management and member communities are fully informed about our role and our findings. We strive to provide an environment for our staff that encourages high quality work and provides ample opportunity for skills development. In addition, we are dedicated to meeting government commitments for accountability and reporting, and we are working to improve our modern management practices.

As our results for 2003-2004 illustrate, we are striving to provide Canadians with a quality vital service in an effective and efficient manner. Over the coming years, we will endeavour to continue to establish relevant priorities and meet them with hard work and dedication.

Philippe Rabot
Chair

Part II: Management Representation Statement

I submit, for tabling in Parliament, the 2003-04 Departmental Performance Report (DPR) for the RCMP External Review Committee.

This report has been prepared based on the reporting principles and other requirements in the *2003-04 Departmental Performance Reports Preparation Guide* and represents, to the best of my knowledge, a comprehensive, balanced, and transparent picture of the organization's performance for fiscal year 2003-04.

Catherine Ebbs
Acting Executive Director and Senior Counsel

August 30, 2004

Part III: Performance Summary

The RCMP External Review Committee has two strategic objectives. The first is to ensure an impartial review of the labour relations cases referred to it by the RCMP. The second is to ensure the timely exchange of information related to the Committee's mandate and its findings and recommendations.

Our case review process is our priority. It leads to findings and recommendations that are comprehensive and based on current research of law and policy. Our processing times continue to be longer than desired, and this is an ongoing area of concern.

In addition to case review, the Committee is involved in making available communication tools. These assist the public and RCMP stakeholders to better understand our role, and to become fully informed about our findings and recommendations. The Committee ensures that all publications are timely and up-to-date. It also strives to provide quality responses to a growing number of requests for information from the public and RCMP members about issues related to our mandate.

The Committee is in a transition stage in terms of its management focus, and is committed to developing a strategy that will clearly set out our expected results and outcomes, and use relevant and reliable indicators to measure our progress. Over the coming year, the Chair and the Committee staff will be involved in this project.

Part IV: Context

The RCMP External Review Committee was created through amendments to the *RCMP Act*, which were enacted in 1986, and began its operations in 1987. It is an independent and impartial tribunal that aims to promote fair and open labour relations within the RCMP, in accordance with applicable principles of law and policy. To this end, the Committee conducts an independent review of appeals in disciplinary and discharge and demotion cases, as well as certain categories of grievances, pursuant to the *RCMP Act*.

The Committee operates at arms' length from the RCMP. Since it has no vested interest in the outcome of cases that come before it, this ensures that its review of these cases is completely impartial. It reports to Parliament through the Minister of Public Safety and Emergency Preparedness. Almost two decades of experience in interpreting laws and policies related to labour relations within the RCMP have enabled the Committee to acquire considerable expertise in that regard. Its expertise is well regarded within the RCMP, amongst both the management ranks and members tasked with specific responsibilities in the area of labour relations. The public interest is always a foremost consideration in the Committee's analysis of cases. At the same time, the Committee strives to treat members fairly and to be sensitive to the constraints under which managers must operate.

The Committee contributes to fairness, transparency and quality in the RCMP labour relations environment. The ultimate decision in each case rests with the RCMP Commissioner. However, the law requires that in his deliberations, the Commissioner consider the findings and recommendations of the Committee. If the Commissioner chooses not to follow the recommendations, the *RCMP Act* requires that he provide written reasons. The sufficiency of those reasons has from time to time been scrutinized by the Federal Court when reasons have been judicially reviewed.

Fair and open labour relations contribute to the provision of quality services. As the Government of Canada notes in its *Values and Ethics Code*, "*Those who are treated with fairness and civility will be motivated to display these values in their own conduct.*" The Committee plays a vital role in ensuring that justice is done, and seen to be done in the internal labour relations of the RCMP. This is the Committee's contribution to Canadians.

Part V: Performance Discussion

Strategic outcome 1: Ensure an impartial review of cases

Logic Model (Strategic Outcome - Expected Results - Program Activity)

(As stated earlier, the Committee is currently working towards developing a strategy that will clearly set out our expected results and outcomes, and use relevant and reliable indicators to measure our progress. Therefore, the logic model set out in the present report represents a preliminary draft. This draft will be used to facilitate discussion and consultation. It is the Committee's plan that an approved final version of the logic model will be available for inclusion in the 2004-2005 Report on Plans and Priorities.)

Strategic Outcome: Ensure an impartial review of cases
The Committee aims to promote fair and open labour relations within the RCMP. To this end, the Committee conducts an independent review of appeals in disciplinary and discharge and demotion matters, as well as certain categories of grievances, in accordance with the <i>RCMP Act</i> . In general, the Committee spends 80% of its time and resources on case review. Committee Chair and staff wages amounted to \$443,000 for the year and operating expenses to \$95,000.
Expected Results
<ul style="list-style-type: none"> The Committee's findings and recommendations are timely, fair and impartial, and reflect the intent behind legislation, regulations and policy directives. There is ongoing improvement in the expertise of the Committee in matters related to the interpretation of the <i>RCMP Act</i> and other relevant legislation, administrative law and labour law principles, statutory interpretation, as well as Treasury Board and RCMP policies. The Committee will have modern management practices that will foster a collegial working environment marked by support for excellence and opportunities for skills development.
Program Activity
<ul style="list-style-type: none"> Timely case review and provision of quality findings and recommendations

Strategic Outcome: Performance Discussion

The RCMP External Review Committee provides findings and recommendations to the Commissioner of the RCMP with respect to appeals of disciplinary and discharge and demotion matters, as well as certain categories of grievances, in accordance with the *RCMP Act*. The Committee's priority is to conduct fair and impartial reviews of each case. It's goal is to make recommendations that are timely and that constitute a sound and logical interpretation of the *RCMP Act* and related statutes, administrative and labour law principles, rules of statutory construction as well as that of government-wide and RCMP policies.

The Committee carries out a number of activities related to this priority. Each case review involves effective management of the file by office staff. The Chair conducts a comprehensive review of the file, and an analysis of the legal and policy questions raised, with assistance from staff lawyers. The completed report of the findings and recommendations is submitted to the Commissioner of the RCMP who has the authority to make the final decision, taking into consideration the Committee's recommendations.

In our planning for the year 2003-2004, as described in the Committee's Report on Plans and Priorities 2003-2004, we set out four focus areas for meeting our objective of providing a fair and impartial review of cases. These are: a) Skills Development; b) Processing Times; c) Archive File Project and c) Modern Management Practices. Our efforts in the past year in each area are summarized as follows:

a) Skills Development

In order to achieve this goal, the Committee is committed to providing a work environment that encourages skills development and knowledge sharing. This is crucial to our ability to effectively carry out our mandate. As well, it is a recognition of the government wide commitment to learning that is set out as a priority by the Clerk of the Privy Council in his Eleventh Annual Report to the Prime Minister (March 2004).

The Chair and staff have this year taken advantage of opportunities to attend training seminars that address issues relevant to the work of the Committee. At regular intervals, the Committee holds staff meetings where each employee is encouraged to make a presentation on a topic that is directly relevant to the Committee's mandate. During the past year, a major initiative was undertaken by the Committee which consisted in reorganizing and updating its research files. As a result, research files are now organized in a manner that enhances the ability to stay current on emerging issues. All employees of the Committee are able to contribute to the process of information and knowledge sharing.

b) Processing Times

Another Committee priority for the past year was to improve processing times. We strive to complete grievance files within three months and disciplinary and discharge and demotion files within six months. However, with workload continuing to increase, it has not been possible to achieve these targets during the past year.

Another factor contributing to the processing delays is the complexity of issues raised by many of the cases. This adds to the time that it takes to analyze and research the issues, particularly when it comes to disciplinary cases where the member's continued career with the Force is at stake. As an example, the Committee has twice been called upon to address high profile whistleblowing cases in the last two years.

Finally, management and leadership initiatives, and government-wide obligations, add pressure to the Committee workload. The challenge is to respond to management responsibilities in a way that promotes a supportive and motivating work environment, while at the same time meeting the priorities we have set for impartial and timely review of cases. Over the next year, the Committee will continue to examine our processes in an effort to find ways to efficiently reduce processing times without compromising quality.

c) Archive Project

Over the past year, the Committee continued its initiative of reviewing each file to facilitate archiving of files in accordance with the directives from the National Archivist of Canada. This exercise was temporarily suspended in order for us to focus on the improvements to our research files, but will be reinstated shortly.

d) Modern Management Improvements

The Committee recognizes that providing a quality service requires sound management practices. Over the past two years, the Committee has been involved, through the Modern Comptrollership Initiative, in identifying areas for improvement in its management operations. Last year, the Chair approved an Action Plan which will serve to enhance management practices and better define priorities. One key project includes opportunities for the Committee Chair and staff in the coming year to work together to establish a performance measurement strategy.

Expected Results and Performance Indicators

As shown in our logic model, we have identified three expected results (or immediate outcomes) flowing from our first strategic outcome. These are:

Expected Result 1: The Committee's findings and recommendations are timely, fair and impartial, and reflect the intent behind legislation, regulations and policy directives.

Expected Result 2: There is ongoing improvement in the expertise of the Committee in matters related to the interpretation of the *RCMP Act* and other relevant legislation, administrative law and labour law principles, statutory interpretation, as well as Treasury Board and RCMP policies.

Expected Result 3: The Committee will have modern management practices that will foster a collegial working environment marked by support for excellence and opportunities for skills development.

It can be somewhat difficult to assess the extent to which the Committee is succeeding in meeting these results. For independent administrative tribunals, it is important that any performance measurement initiative respect the independence of the tribunal member in the decision-making process. In prior years, the Committee has referred to certain indicators which suggest confidence in the quality of Committee reports. For example, when the Commissioner's decisions are subject to judicial review, the Courts may comment upon the soundness of the Committee's findings and recommendations; however, judicial reviews in the RCMP labour context are relatively rare.

A review of RCMP adjudication board decisions indicates that the Committee's findings and recommendations are often relied upon by the parties in formulating their arguments, and by the boards themselves in explaining the bases for their decisions. Furthermore, the Commissioner of the RCMP has in the past acknowledged shortcomings in certain policies of the Force, as pointed out by the Committee, and taken corrective action on specific points. For example, the development in recent years of a new RCMP policy on the duty to accommodate members with a disability is illustrative of the deference afforded to Committee recommendations.

In response to a government-wide priority, the Committee will be working this year to establish indicators of performance that will be reliable, relevant and cost-effective. As well, in relation to our goal of timeliness, the Committee will continue to maintain statistics regarding workload and processing times.



Strategic outcome 2: Promote exchanges of information

Logic Model (Strategic Outcome - Expected Results - Program Activity)

(As stated earlier, the Committee is currently working towards developing a strategy that will clearly set out our expected results and outcomes, and use relevant and reliable indicators to measure our progress. Therefore, the logic model set out in the present report represents a preliminary draft. This draft will be used to facilitate discussion and consultation. It is the Committee's plan that an approved final version of the logic model will be available for inclusion in the 2004-2005 Report on Plans and Priorities.)

Strategic Outcome: Promote exchanges of information
<p>The Committee aims to positively influence the manner in which labour relations issues are addressed within the RCMP. Through the distribution of different communication tools and the maintenance of an up-to-date website, the Committee strives to foster an increased awareness of its role and current information on its findings and recommendations.</p> <p>The Committee estimates that it spends 20% of its time and resources on tasks related to our second strategic outcome. Committee Chair and staff wages amounted to \$111,000. for the year and operating expenses to \$80,000.</p>
Expected Results
<ul style="list-style-type: none"> • There is increased awareness and improved understanding of the role and mandate of the RCMP External Review Committee among RCMP stakeholders (including members, management, Appropriate Officer Representatives, Member Representatives, Staff Relations Representatives, RCMP adjudicators) As well, the findings and recommendations of the Committee are widely distributed and referred to in internal labour relations matters. • The public has an increased awareness of the role of the RCMP External Review Committee and has increased confidence in the internal labour relations system within the Force because of the existence of a competent independent outside review mechanism.
Program Activity
<ul style="list-style-type: none"> • Dissemination of information on relevant legal principles

Strategic Outcome: Performance Discussion

Communication with partners, stakeholders and the public is another key objective of the Committee. Civilian oversight of the RCMP ensures public confidence in the management of the Force. In the context of labour relations, this is particularly important since the working conditions of RCMP members are not set out in a collective agreement and the public needs to have a high degree of confidence in the manner in which workplace disputes are addressed. For that reason, the dissemination of information to the public is an important objective.

In pursuing this objective, the Committee seeks to ensure that members and management are aware of their rights and obligations. We seek to provide up-to-date information about applicable policies and regulations, the relevant case law and the findings and recommendations of the Committee on issues that may resurface from time to time. We aim to communicate that information in a manner that can be easily understood by someone who does not have legal training.

Our Report on Planning and Priorities 2003-2004 set out two main areas of activity for this strategic objective, as follows: a) Efforts to Promote Awareness of Findings and Recommendations; and b) Sharing Information with Partners.

a) Efforts to Promote Awareness of Findings and Recommendations

Our main vehicle for informing Canadians about the Committee is the Committee's *Annual Report*, presented to Parliament annually. It offers a full review of the Committee's activities for that year. As well, since its inception, the Committee has made available summaries of all of its cases in a quarterly publication entitled *Communiqué*. The Communiqué also includes articles on subjects of interest related to the Committee's mandate that are prepared by staff counsel. It also contains a summary of the Commissioner's decisions, and, where applicable, the Federal Court's judgments on the Commissioner's decisions. This publication is sent out to all RCMP detachments and to various stakeholders in the area of labour relations. It is also available on the Committee's Internet site at <http://www.erc-cee.gc.ca>.

Another communication tool is our web site, which provides a capability to do a keyword search of the Committee's findings and recommendations on any given subject. In addition, we regularly respond to inquiries for information from RCMP members on matters related to our mandate.

The Committee has been able to meet all deadlines with respect to its major communications tools. An effort has been made to regularly publish articles of interest on specific themes in the *Communiqué*. As well, it is a priority for the Committee to ensure that its website contains current information.

In addition to its regular communication tools, the Committee is increasingly involved in responding to inquiries from interested members of the public and RCMP members. The Committee endeavours to provide timely responses that are based on up-to date relevant information. This year, the Committee has introduced a tracking procedure that will allow us to measure our performance in relation to this activity.

b) Sharing Information with Partners

The Committee works closely with the Commissioner and RCMP management, with lawyers employed by the RCMP to represent parties to discipline and discharge proceedings, as well as with Staff Relations Representatives (on grievance issues). For example, each year the Committee holds an information session for newly appointed Staff Relations Representatives, to sensitize them to the work of the Committee and inform them about important principles stemming from our findings and recommendations.

The Committee also maintains open lines of communication with regional managers and individual members, through means of its publications, telecommunications, the Internet, and occasional visits to RCMP detachments across the country. As well, the Committee Chair maintains liaison with the Commissioner and his staff on emerging issues of policy or law that relate to the Committee's mandate.

Expected Results and Performance Indicators

As shown in our logic model, we have identified two expected results flowing from our second outcome:

Expected Result 1: There is increased awareness and improved understanding of the role and mandate of the RCMP External Review Committee among RCMP stakeholders (including members, management, RCMP lawyers who represent parties in disciplinary and discharge proceedings, Staff Relations Representatives, RCMP adjudicators) As well, the findings and recommendations of the Committee are widely distributed and referred to in internal labour relations matters.

Expected Result 2: The public has an increased awareness of the role of the RCMP External Review Committee and has increased confidence in the internal labour relations system within the Force because of the existence of a competent independent outside review mechanism.

As mentioned previously, in response to a government-wide priority, the Committee will be working this year to establish indicators of performance for both of our strategic outcomes that will be reliable, relevant and cost-effective.

APPENDIX A

Table 1 - Summary of Voted Appropriations

Financial Requirements by Authority (thousands of dollars)					
		2003-2004			
Vote		Total Main Estimates	Total Planned Spending	Total Authorities	Total Actual Spending
	RCMP External Review Committee - Case Review				
50	Operating Expenditures	861	861	914	774
	Capital Expenditures	-	-	-	-
	Grants and Contributions	-	-	-	-
(S)	Minister - Salary and motor car allowance	-	-	-	-
	Total Department	861	861	914	774

Table 2 - Comparison of Total Planned to Actual Spending

Departmental Planned versus Actual Spending (thousands of dollars)				
	2003-2004			
RCMP External Review Committee - Case review	Total Main Estimates	Planned Spending	Total Authorities	Actual Spending
FTEs	6	6	6	6
Operating	861	861	914	774
Capital	-	-	-	-
Grants and Contributions	-	-	-	-
Total Gross Expenditures	861	861	914	774
Less:	-	-	-	-
Respendable Revenues	-	-	-	-
Total Net Expenditures	861	861	914	774
Other Revenues and Expenditures	-	-	-	-
Non-respendable Revenues	-	-	-	-
Cost of services provided by other departments	109	109	109	112
Net Cost of Program	970	970	1023	886

Table 3 - Historical Comparison of Total Planned Spending to Actual Spending

Historical Comparison of Departmental Planned versus Actual Spending (thousands of dollars)						
			2003-2004			
Case Review	Actual 2001- 2002	Actual 2002- 2003	Total Main Estimates	Total Planned Spending	Total Authorities	Total Actual Spending
RCMP External Review Committee	698	733	861	861	914	774
Total	698	733	861	861	914	774

APPENDIX B

Resource Person

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