

# COMITÉ DE DÉONTOLOGIE POLICIÈRE

MONTRÉAL

FILE : R- 2006-1307-2 (04-0591)

DECEMBER 19<sup>th</sup>, 2006

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REVIEW MADE BY M<sup>e</sup> MARTHA MONTOUR

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APPLICATION FOR REVIEW OF :  
MR. TRACY CROSS

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## DECISION

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[1] On January 16<sup>th</sup>, 2006, the Commissaire à la déontologie policière (Commissioner), M<sup>e</sup> Claude Simard, dismisses the complaint of Mr. Tracy Cross after an investigation under sections 178 and 179 of the *Police Act*<sup>1</sup> (Act).

[2] Mr. Cross files with the Comité de déontologie policière (Committee) an application for review of the decision which respects the provisions of section 182 of the Act.

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<sup>1</sup> L.R.Q., c. P-13.1.

**MEETING WITH THE COMPLAINANT**

[3] On November 13<sup>th</sup>, 2006, the Committee meets Mr. Cross who presented his reasons for lodging a complaint with the Commissioner and for requesting a review of the decision rendered.

[4] Mr. Cross explains that on January 12<sup>th</sup>, 2004, he was the chief of police. Officer Terry Isaac, along with a team of police officers from other native communities, was to carry out a police operation in Kanesatake.

[5] Officer Isaac arrived with his team at the police station. Officer Isaac informed Mr. Cross that he had received authorization from the Mohawk Council to be the new chief of police, that he (Mr. Cross) was removed from his position and that he was to leave the premises.

[6] The police operation did not take place as Officer Isaac and his officers were confined in the police station by community members and there was no back-up from outside police agencies.

[7] Other outside police agencies had withdrawn prior to the operation as the planning was deficient and, above all, officers lacked training in the handling of certain types of firearms. This fact was noted in the decision of the Commissioner and in the application for review by Mr. Cross.

[8] Mr. Cross describes the event as a “hostile takeover” without risk management, especially for the children. He submits that these police officers failed to use sound judgment and did not fulfill their duty to protect lives.

[9] Mr. Cross attached affidavits from commander Jacques Beaupré, news clippings regarding the statement of Mr. Jacques Chagnon, ex-minister, photographs of weapons and other supporting documents to his application for review.

[10] A witness who is present, Mr. Ben Allen, confirms that he has evidence regarding the “takeover” which supports the complaint of Mr. Cross against the police officers. Mr. Allen was never interviewed.

[11] Mr. Cross requests that a more complete investigation be instituted based on the submitted evidence and his representations and that his complaint be reconsidered.

#### **APPRECIATION OF THE APPLICATION FOR REVIEW**

[12] Mr. Cross raises two issues in his complaint and in his application for review.

[13] On the first issue, Mr. Cross complains that there was an illegal use of the CRPQ<sup>2</sup> to conduct a criminal investigation on himself on January 12<sup>th</sup>, 2004, by Officers Terry Isaac and Jason Bennett. The Commissioner conducted the investigation on this issue. This is confirmed by the mandate and workplan of the investigator and in the decision of the Commissioner.

[14] The Commissioner found that the CRPQ was not used for personal purposes but rather for police investigation purposes concerning a riot in progress. This was confirmed by an independent police investigator from the Kahnawake Peacekeepers.

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<sup>2</sup> Centre de renseignements des policiers du Québec.

[15] Mr. Cross has not raised any new evidence on the first issue regarding the CRPQ.

[16] After having reviewed the evidence in the record of the Commissioner, the Committee finds that the decision on this issue is well-founded and the Committee will not intervene.

[17] On the second issue, Mr. Cross complains that there was an illegal and illegitimate invasion of his police department by Officer Terry Isaac. The Commissioner did not deal with this issue in his decision. The mandate and workplan provide no direction whatsoever for the investigator on this issue. There is evidence such as the affidavits of commander Beaupré and witnesses.

[18] After having reviewed the evidence in record of the Commissioner, the decision of the Commissioner to dismiss the complaint and the submissions of Mr. Cross, the Committee has concluded that the investigation is not complete.

[19] The investigation must be resumed on the second issue raised by Mr. Cross in his complaint and in his application for review.

[20] **FOR THESE REASONS**, the Committee **DECIDES** :

[21] **TO RECEIVE** the application for review;

[22] **TO MAINTAIN** the decision of the Commissioner on the first issue raised by Mr. Tracy Cross regarding the use of the CRPQ;

[23] **TO QUASH** the decision of the Commissioner in part, and;

[24] **TO ORDER** the Commissioner to resume and complete his investigation within a delay of three months on the second issue raised by Mr. Tracy Cross in his complaint.

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Martha Montour, lawyer

Place of hearing : Montréal

Date of hearing : November 13<sup>th</sup>, 2006