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MESSAGE FROM THE CHAIR

It is fair to say that one of the essential attributes of a democracy is the rule of law. Canadians generally recognize that the police play a vital role in the proper functioning of our society by fostering an environment in which everyone can enjoy personal security and the other freedoms enumerated in the *Canadian Charter of Rights and Freedoms*.

“To operate effectively, the Commission must have its own affairs in order.”

Making sure that the police observe the rule of law is the very essence of civilian oversight, and it is a critical element in a balanced public safety plan. When the police are held to account for the special powers they wield, the trust between citizen and law enforcement is enhanced. Since my appointment as Chair of the Commission in October 2005, I have endeavoured to reinforce that trust by strengthening police accountability in Canada.

To operate effectively, the Commission must have its own affairs in order. To that end, the Commission resolved several long-standing human resources issues this

year, began a major restructuring of the organization and streamlined several of its business processes.

To ensure the prompt and meaningful resolution of complaints and provide useful recommendations to the RCMP, the Commission implemented an aggressive plan to eliminate its chronic case load backlog, reducing its inventory of review cases to historic lows.

To ensure that more Canadians, especially members of minority communities, are aware of and have access to the complaints process, I began a dialogue this year with my counterpart in British Columbia to collaborate on outreach activities. I also met members of the Cross-Cultural Roundtable on Security (an advisory group that provides the Minister of Public Safety with a better understanding of the inadvertent effects that national security measures could have on Canada's diverse communities) to learn more about the barriers preventing some groups from using the public complaints process.

To enhance our utility in an era of intelligence-led policing, we took steps to strengthen our research and information

management capacity with an eye to devoting more resources to the analysis of emerging trends and providing strategic policy advice to government.

To address gaps in the existing model of RCMP oversight, in November I appeared at the policy review hearing of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. There I outlined what I believed to be the essential features of a civilian oversight model capable of providing effective review of the national security activities of the RCMP.

Police powers and practices have changed significantly in the 18 years since the Commission was established. Today's RCMP benefits from recent legislative changes that have further enhanced its extensive powers of surveillance, search, seizure and arrest. Its work has become more collaborative and its focus increasingly preventive and proactive rather than reactive. This enhancement of police powers has been accompanied by a growing public debate about the balance between individual rights and the state's response to new and emerging public safety challenges. Embedded in this debate is a call for greater police accountability. Once undermined, police credibility and legitimacy are extremely difficult to restore, and there is perhaps more skepticism today about government authority than ever before.

“Effective civilian oversight requires not only appropriate legislative authorities but also an adequate resource base.”

The Commission, with 44 employees and a budget of \$5.1 million, is tasked to conduct oversight of a police force with more than 22,000 employees and a budget of \$3 billion. Effective civilian oversight requires

not only appropriate legislative authorities, but also an adequate resource base.

In her 2003 review of Canada's national security and law enforcement agencies and their oversight bodies, the Auditor General observed a wide disparity in the powers of civilian review exercised by these bodies. She recommended that such powers be more closely aligned with the level of intrusiveness exercised by the organization under review.

The provinces appear to have anticipated this need. In the last decade, several legislatures have broadened the review powers exercised by provincial bodies charged with civilian oversight of police activity. Meanwhile, a succession of Federal Court decisions has restricted, rather than expanded, the scope of the Commission's powers to hold Canada's national police force to account. The situation therefore demands far more than a focused review of the Commission's mandate to oversee RCMP conduct in matters of national security. What is needed is a comprehensive review of the Commission's mandate to oversee RCMP conduct relating to every aspect of the Force's public safety responsibilities.

I would like to thank Commission staff for extending such a warm welcome to me in my inaugural year and for their patience as we resolved various long-standing labour-management issues. I would also like to commend Commission staff for the show of dedication and energy that saw the Commission's review case backlog dwindle to a five-year low, and I look forward to helping the Commission become an even more valuable contributor to policing excellence in Canada.



Paul E. Kennedy
Chair

PART I: WHO WE ARE AND WHAT WE DO

About the CPC

The Commission for Public Complaints Against the RCMP (CPC) is an independent body established in 1988 to receive and review complaints about the conduct of RCMP members in the performance of their policing duties. The purpose of the Commission is to contribute to excellence in policing through civilian oversight. The CPC ensures that complaints made by the public about the conduct of RCMP members are examined fairly and impartially. Its findings and recommendations serve to identify, correct and prevent the recurrence of policing problems, whether they are due to the conduct of specific RCMP members or to flaws in RCMP policies or practices.

The Commission derives its authority from Parts VI and VII of the *RCMP Act*. Its jurisdiction to review complaints includes complaints about the conduct of an RCMP member while performing a policing duty or function, as well as off-duty conduct of an RCMP member when it is determined that the alleged conduct is likely to adversely affect the member's performance as an RCMP member and/or the RCMP's

reputation. The CPC does not have authority to review matters falling within the administration of the affairs of the RCMP, including managerial or administrative concerns.

The legislation establishing the CPC provides for a Chair, a Vice-Chair and the possibility for other members and alternates from all provinces and territories that contract with the RCMP to provide policing services.

How the Commission works

A member of the public can make a complaint directly to the RCMP, the CPC or a provincial policing authority. When the Commission receives such a complaint, it may attempt to settle the matter informally by facilitating a discussion between the complainant and a representative from the RCMP. When informal resolution fails or is inappropriate (e.g., because of the nature of the allegation), a CPC complaints analyst helps the complainant formalize his or her complaint and forwards it to the RCMP for investigation. The RCMP then reports the findings of its investigation to the complainant, the RCMP member(s) involved and the CPC.

VISION: Excellence in policing through accountability.

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

MANDATE: The mandate of the CPC is set out in Part VII of the *RCMP Act* and can be summarized as follows:

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

If the complainant is not satisfied with the RCMP's handling of the matter, he or she may request that the CPC review the complaint. In its review, the Commission analyzes all materials relating to the complaint, including the RCMP operational file, the RCMP public complaint investigation, relevant law and policy, and all material provided by the complainant. If the Chair is satisfied with the RCMP's handling of the complaint, he sends a final report to all parties involved, including the RCMP Commissioner and the Minister of Public Safety. If the Chair is not satisfied with the RCMP's handling of the complaint,

he sends an interim report to the RCMP Commissioner and to the Minister setting out the Chair's findings and recommendations. The RCMP Commissioner reviews the Chair's findings and recommendations and sends a written notice to the Chair and the Minister outlining any further action that has been or will be taken with respect to the complaint.

The Chair of the Commission also has the authority to initiate his own complaint, to launch a public interest investigation or to conduct a hearing.

PART II: THE YEAR IN REVIEW

Kingsclear public interest investigation

This year the Commission continued its public interest investigation into the Kingsclear Youth Training Centre. On May 27, 2004, the Chair of the Commission for Public Complaints Against the Royal Canadian Mounted Police initiated a public interest investigation into complaints received relating to RCMP investigations of alleged sexual abuse in and around the infamous and now-closed Kingsclear Youth Training Centre in New Brunswick.

The abuse is reported to have occurred between the 1960s and the 1980s. The Commission is examining allegations that the RCMP failed to properly investigate alleged criminal conduct by former Youth Training Centre staff and residents, as well as a currently retired RCMP Staff Sergeant, Clifford McCann. The Commission is also investigating allegations that the RCMP engaged in activities designed to “cover up” this alleged criminal conduct. The Commission has staffed a team of experts and professionals, including seasoned Commission reviewers, former police officers and a former senior Crown counsel.

The Commission received approval for \$3.1 million from Treasury Board in March 2005 to conduct this investigation and began interviewing complainants and witnesses in September 2005. Total expenditures this year were approximately \$1 million.

The largest investigation ever undertaken by the Commission, the Kingsclear investigation is being conducted on two simultaneous tracks. The two-track terms of reference were finalized in January 2006 (see opposite page).

The investigation of Kingsclear staff and residents involves few interviews; it focuses largely on a review of documentation provided by the RCMP and material from a judicial inquiry by the New Brunswick government into the Youth Training Centre in the 1990s known as the Miller Inquiry. The McCann investigation involves both a review of documentation and numerous interviews across Canada. It is anticipated that the two tracks will overlap on many levels and processes are in place to ensure that the ongoing investigations proceed together where possible.

TERMS OF REFERENCE

Kingsclear custodial staff and residents investigation

To investigate the conduct of the RCMP in relation to its criminal investigations into allegations of abuse by custodial staff and Kingsclear residents including:

- the adequacy of the RCMP's criminal investigations into the alleged abuse by the custodial staff and residents at the Kingsclear School; and
- the allegations of cover-up of the alleged abuse by the custodial staff and the residents at the Kingsclear School.

McCann investigation

To investigate the conduct of the RCMP in relation to its criminal investigations of Staff Sergeant Clifford McCann (now retired), including:

- the adequacy of the RCMP's investigations, which were conducted into Staff Sergeant McCann's alleged criminal conduct; and
- the allegations of cover-up of the alleged criminal actions of Staff Sergeant McCann by unidentified members of the RCMP.

By the end of the fiscal year, the Commission had conducted approximately 40 interviews across Canada. The investigators completed these interviews with most of the complainants and civilian witnesses relevant to the McCann investigation. Also, some interviews of retired RCMP members had commenced. For the Kingsclear staff and residents track, most of the available material has been collected, and analysis is under way. Cooperation from the RCMP has been encouraging and will assist in ensuring a successful completion of this investigation.

More details and updates on the investigation will be posted periodically on the Commission website:

http://www.cpc-cpp.gc.ca/DefaultSite/Investigations/index_e.aspx?ArticleID=967

Shooting death of Kevin St. Arnaud

On March 15, 2006, the Commission Chair initiated a complaint into the events surrounding the shooting death of Kevin St. Arnaud near Vanderhoof, British Columbia.

On December 19, 2004, Kevin St. Arnaud, an unarmed robbery suspect, was shot and killed by a member of the Vanderhoof detachment. On January 4, 2005, the British Columbia Civil Liberties Association filed a public complaint against the RCMP alleging that Mr. St. Arnaud was shot unnecessarily and without justification. The RCMP decided not to conduct a public complaint investigation because there were already three ongoing investigative processes—a criminal investigation, an independent review by an RCMP officer and a provincial coroner's inquest. When

the Commission reviewed this decision by the RCMP, the Vice-Chair determined that it was reasonable not to conduct a public complaint investigation at the time.

On February 23, 2006, the Regional Crown Counsel announced that the criminal investigation had been concluded and that no criminal charges would be laid. In light of this significant change of circumstance, the Chair determined that there were reasonable grounds to investigate the circumstances and events surrounding the shooting death of Mr. St. Arnaud.

Accordingly, the Commission Chair initiated a complaint in relation to these events, alleging, in particular, that members of the RCMP improperly entered into a situation with Mr. St. Arnaud that resulted in his death and that a member of the RCMP improperly discharged his firearm in the incident.

Other investigations

Investigations in relation to two other cases cited in the Commission's 2004–2005 annual report continued apace this year.

In July 2004, the Commission launched a public interest investigation into a complaint of sexual assault and intimidating conduct. The RCMP conducted a criminal investigation and the Commission later carried out its own investigation. The Commission will report its findings in 2006–2007.

Last year, the Commission also reported that the Chair had initiated a complaint into the RCMP shooting death of an Aboriginal man from Norway House, Manitoba. The Commission is awaiting the RCMP investigative reporting of this matter before beginning a review of this case.

O'Connor Inquiry

In February 2004, the Government of Canada established a Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. In addition to producing a factual report of events, the Commission was also asked to study domestic and international policing review models and make recommendations concerning an independent, arm's-length mechanism to review the national security activities of the RCMP.

In November 2005, CPC Chair Paul Kennedy appeared before the inquiry on behalf of the CPC and outlined the desired characteristics of such a review agency.

His key points are summarized in the text box below:

Key attributes of a civilian agency charged with oversight of RCMP national security activities

With regard to citizen complaints, the agency would have:

- unfettered access to all information other than Cabinet confidences;
- ability to determine what is relevant to a complaint;
- power to summon any witness, take evidence under oath and subpoena documents; and
- authority to share information with other review bodies in recognition of the integrated multi-agency investigative enforcement activity that characterizes modern policing.

Safeguards would include:

- ability to hold *in-camera* / *ex parte* hearings;
- role for special advocates;
- the right of the RCMP Commissioner to ensure that confidential information is not disclosed;

Complaints

In 2005–2006 the Commission responded to 979 enquiries from the public seeking information on a range of matters, including the complaints process, the RCMP, government social services and crisis hotlines. The Com-

- statutory assurance that access to information by the review agency did not constitute a waiver of privilege; and
- statutory assurance that testimony given by a witness under oath could not be used against the witness, except in perjury proceedings.

The agency would be authorized to conduct general reviews or audits and would have the power to:

- generally review RCMP conduct, policies, procedures, guidelines, applicable law and ministerial directives, including an affidavit filed in support of a judicial warrant;
- review operational activities;
- monitor compliance with policy, procedures, guidelines and ministerial directives;
- examine current and former members;
- examine other government officials; and
- compel the production of documents.

As is currently the case, recommendations stemming from a citizen complaint or a general review would **not** be binding on the RCMP Commissioner.

mission also received 738 complaints that required action by Commission staff and were sent to the RCMP for investigation.

Among the issues raised by the public in 2005–2006, cases involving national security, in-custody deaths and excessive use of force were of particular interest to the Chair, who continued to monitor these cases closely.

As in previous years, the most common allegations involved reluctance or unwillingness to do their duty, inappropriate responses or comments, bias, discourteous comments, rudeness and disrespect—issues that are generally amenable to informal resolution. Sometimes, the complainant is merely seeking the immediate resolution of an ongoing problem or has had a misunderstanding with his or her local RCMP detachment. CPC analysts facilitated the informal resolution of 339 cases in 2005–2006.

Informal resolution in action

Once the CPC analyst determines the relevant facts and understands the goals of the complainant, the analyst explains the citizen's options for dealing with his or her concern. In appropriate cases, the analyst invites the complainant and the RCMP to work together informally to resolve the complaint. The complainant always retains the right to file a formal complaint.

Where the complainant elects to resolve the complaint informally, the CPC analyst serves as a facilitator, helping the complainant obtain information by enlisting the aid of the senior RCMP officer in the jurisdiction where the problem arose. When facilitating in this manner, the analyst provides the RCMP with a summary of the concern expressed by the complainant, normally on the same day that the citizen raises the concern.

The informal resolution of complaints against members of the RCMP has been highly successful—the needs of complainants often can be addressed more quickly than through the formal process. Informal resolution makes it possible for both the CPC and the RCMP to deploy scarce resources to higher priority work.

The following summaries illustrate the breadth of issues that were successfully resolved this year through the Commission's program of informal resolution of citizen complaints.

- An Aboriginal female living on a reserve with her children alleged that while the family was sleeping, RCMP members entered the home and awoke a 15-year-old male in an effort to locate his brother. The members then searched the home and, when challenged, said that the 15-year-old had allowed them entry. The Commission contacted the noncommissioned RCMP officer in charge, who visited the family, obtained further information, and directed the RCMP members concerned to visit the complainant and apologize for their actions. The noncommissioned officer later observed that the visit had served as a positive learning experience for both the RCMP members and the complainant. The complainant was satisfied and did not file a formal complaint.
- The complainant and her parents both contacted the Commission to express their concern that the complainant's estranged husband, an allegedly abusive and angry man, had threatened the complainant's life. The complainant and her estranged husband share custody of a 7-year-old daughter and the verbal threats were especially worrisome because the complainant and her parents both knew the husband to be in possession of an unregistered firearm. A CPC analyst contacted the RCMP. The firearm was seized and an RCMP member met with the complainant to answer questions. The complainant was satisfied and there was no formal complaint.
- A male youth was arrested in British Columbia, fingerprinted, photographed and released under conditions of bail. The youth's parents hired a lawyer and attended court, only to learn that the Crown had not approved the charge. In British Columbia, the RCMP is required to advise a citizen when charges are not laid; also, fingerprints and photographs are not to be taken until charges are approved. The family needlessly incurred legal fees and the youth unnecessarily remained under bail conditions. The youth's father wanted an apology as well as assurances that the youth's photographs and fingerprints would be destroyed. A CPC analyst contacted the RCMP, who assigned an officer to meet with the complainant. This meeting successfully resolved the family's concerns. A formal complaint was not lodged.
- The complainant, who lived on a remote reserve in northern Manitoba, contacted the CPC four months after reporting to local RCMP that she had been assaulted by a man with a knife. Although she knew that the RCMP had removed the man from the reserve the day after the incident, she had not received any information from the RCMP regarding her allegations. When the complainant called the Commission, she had just learned that her alleged assailant had been returned to the reserve the previous week and she was concerned that she had not been notified. A CPC analyst

contacted the RCMP detachment and learned that the charges relating to the complainant's allegations had never been investigated and that the man had been removed from the reserve because he had previously threatened another person with a knife. An RCMP file was opened, and the complainant was invited to make a formal statement regarding her allegations of assault. She was satisfied and did not lodge a formal complaint regarding RCMP conduct.

- The complainant was travelling down a highway with her 10-year-old daughter when she observed numerous RCMP vehicles. As she approached a bridge, she saw a spike belt being laid across the road so she pulled off the road and stopped her car. Shortly thereafter, the suspect vehicle came past her travelling in excess of 120 km/h and narrowly missed hitting her vehicle. The complainant was upset because she had not been advised by the RCMP to pull off to a place of safety. A CPC analyst contacted the RCMP and a member spoke with the complainant for three and a half hours. Although the complainant said she still had questions, she felt that nothing more could be done and chose not to file a formal complaint.

Improving the complaints process

As an important step toward the improvement of complaints management, the Commission reviewed and documented its business processes for complaints and prepared a detailed procedures manual. In

2006–2007, these procedures will be used as a basis for identifying key performance milestones to be tracked.

As highlighted in previous CPC annual reports, community leaders and key stakeholders have signalled the need for oversight bodies to make themselves more accessible to minority communities and to serve these communities more effectively. Acknowledging this as a key priority, the CPC Chair met with members of the Cross-Cultural Roundtable on Security (an advisory group that provides the Minister of Public Safety with a better understanding of the inadvertent effects that national security measures could have on Canada's diverse communities), who identified obstacles faced by members of their constituent communities when they attempt to obtain access to public complaints processes. The Chair also initiated a dialogue with the office of the British Columbia Police Complaint Commissioner to explore the possibility of collaboration between the two jurisdictions on matters raised by the Cross-Cultural Roundtable and also general issues of mutual concern. The CPC Chair and BC Police Complaint Commissioner also explored the possibility of the two jurisdictions establishing a common approach to complaints intake, multi-language public information materials and outreach. Next year, the Chair plans to initiate discussions with his provincial counterparts regarding means of improving access by Aboriginal communities to complaints bodies.

Reviews

If a complainant is not satisfied with the disposition of his or her complaint by the RCMP, he or she can request that the Commission conduct an independent review. The Commission received 159 requests for review in 2005–2006, more than half of them from British Columbia and Alberta, where the majority of RCMP members are deployed (see Figure 1).

Figure 1 Requests for review by province, 2005-2006

PROVINCE	REQUESTS
British Columbia	70
Alberta	20
Saskatchewan	17
New Brunswick	10
Nova Scotia	10
Manitoba	8
Northwest Territories	7
Ontario	6
Yukon	5
Quebec	3
Newfoundland and Labrador	1
Nunavut	1
Prince Edward Island	1
TOTAL	159

In 2005–2006, the Commission completed 260 review reports, the most productive year in the past five years. In 82% of the reviews the Commission was satisfied with the conduct of the members. In the remaining 18% the Commission made adverse findings that resulted in 67 recommendations for remedial action. Although the Commission recommendations are not binding, the RCMP Commissioner agreed to implement the vast majority of the Commission's recommendations. As a result, individual members received additional training or operational guidance and important changes have been made to RCMP policy and training practices. Our leading cases, which are summarized below, covered a wide range of issues, including policing large public demonstrations, in-custody deaths, serious injuries to suspects, use of choke holds, warning shots and pepper spray, and incidents that touch on the RCMP's core values.

Summit of the Americas

The RCMP and the Sûreté du Québec were primarily responsible for assuring the security of the participants in the 2001 Summit of the Americas, held in Québec City. Thousands of people came to the site of the Summit to protest, and numerous confrontations between police and protestors ensued. In anticipation of conflict between members of the public and the police, the Quebec Minister of Public Safety mandated a group of independent observers to monitor the actions of police forces and to document their observations.

Based on the report prepared by the independent observers, the complainant made several allegations against unidentified members of the RCMP. The complainant alleged that the members resorted needlessly to the use of tear gas, inappropriately used rubber bullets, and kept demonstrators too far from the conference site for reasons other than security considerations.

The Commission's review included the study of more than 24 volumes of documentation.

The Commission recommended that:

- an enhanced accountability process be put in place regarding the use of less than lethal impact weapons;
- a thorough investigation be conducted to determine why members of the RCMP carried and used sock rounds (Teflon® bags filled with lead shot and discharged from a shot gun) when such rounds had been specifically excluded from the RCMP's list of authorized weapons due to safety concerns; and
- the officers in charge of the troop using sock rounds be given operational guidance regarding the importance of respecting RCMP decisions concerning public safety.

The Commission found the report of the independent observation team quite positive in its assessment of the RCMP's conduct during the Summit. The Commission also noted that members were faced with extremely difficult circumstances in which many well-organized and well-equipped demonstrators were intent on breaching the security perimeter and harassing, provoking and endangering the police. The Commission cited numerous examples of exemplary patience and restraint on the part of RCMP members and agreed with the independent observers that, in most cases, the RCMP did not limit, without reasonable cause, the rights of the public to freedom of expression and personal safety.

The RCMP Commissioner supported all recommendations made by the Commission, highlighting in his response the RCMP's willingness to act on earlier Commission findings and recommendations, including, for example, its recommendations following the Commission's public interest hearing

chaired by Justice Ted Hughes into the 1997 Asia-Pacific Economic Cooperation Conference. In response to the Hughes report (www.cpc-cpp.gc.ca/DefaultSiteRep/pub/index_e.aspx?articleid=100), the RCMP reviewed and amended its public order management policy and enhanced the Public Order Unit Commander's Course through the inclusion of Commission observations.

In-custody death

A BC resident was arrested for being intoxicated in a public place. He died later that evening at the RCMP detachment from respiratory depression associated with multiple drug use and methadone toxicity. The prisoner had been checked about every 15 minutes, but the Commission concluded that he should have been "more closely monitored by waking and communicating with him on each check" as required by detachment policy. The Commission also concluded that the prisoner should have been given cardiopulmonary resuscitation, and recommended that the RCMP policy in this regard be amended. The RCMP Commissioner acknowledged this and noted that since this incident, the policy had been amended to substantially reflect the Commission's concerns. He also committed to ensuring that the current policy conforms with the intent and spirit of the 2005 Resuscitation Guidelines as published by the Heart and Stroke Foundation of Canada.

Serious injury to suspect

A BC detachment received a complaint about the theft of liquor from a local bar. The member encountered the four suspects in a parked vehicle and proceeded to arrest them before calling for assistance. One of the suspects, who had been put into the back seat of the member's cruiser, climbed through the unlocked "silent patrolman" window. He commandeered

the cruiser and drove away in a dangerous manner, ramming one of the other police vehicles that had since arrived on the scene. Two shots were fired by the member. The escaping vehicle was disabled when another cruiser rammed into it. The suspect sustained serious injuries that resulted in the loss of a limb.

The Commission concluded that the member did not properly assess the risks he faced in arresting the suspects. It also concluded that his initial decision to approach the suspect vehicle alone and proceed with the arrest of the four intoxicated men without calling and waiting for back-up was contrary to RCMP incident management policy. The Commission further found that the member neglected his duty by not removing his cruiser keys from the ignition, not handcuffing the suspect and not ensuring that the silent patrolman window was locked before leaving the suspect alone in his cruiser. The RCMP Commissioner agreed with all CPC findings and recommendations.

Choke hold

At about 2:30 a.m., the RCMP in Nunavut received a call from a woman alleging that her estranged spouse was threatening to kill her. The woman, albeit still quite terrified, indicated that she had gone to another residence and was now safe. Two members went to the home of the accused to investigate. An altercation erupted. One member grabbed the accused by the throat and pinned him against the wall until he blacked out. When the accused recovered, he again began to struggle and was once more choked into submission. He was escorted to the police cruiser without proper clothing or shoes for a very cold winter morning.

The Commission concluded that the use of an unauthorized neck restraint and the carotid control hold was an improper and

excessive use of force that was contrary to established RCMP policy. The RCMP Commissioner accepted the Commission's findings and recommendations in respect of this allegation. The members will receive additional training to ensure that they understand the prohibition on the use of choke holds and the restriction on the use of the carotid control hold to life-threatening situations. The members will also receive training on how to properly apply the RCMP's Incident Management/Intervention Model to respond to a situation effectively without causing unnecessary harm or damage.

The Commission also recommended that the Commissioner consider taking disciplinary measures against the members. The Commissioner did not agree because "the conduct of the members was not premeditated, deliberate or punitive." In its final report, the Commission reiterated its concerns that, contrary to long-standing RCMP policy, some members continue to use these inherently dangerous neck/choke holds. The Commission found disconcerting the fact that both the RCMP's own public complaints investigator and the RCMP's letter of disposition condoned the use of a banned neck/choke hold and an unauthorized carotid control hold.

Warning shot

At 4:00 a.m., a member of a Manitoba RCMP detachment was investigating a complaint about a broken window when four youths suddenly emerged from the apartment building. One, who was bleeding profusely from the mouth, was waving a hockey stick over his head. Another, who was also bleeding, was carrying a baseball bat. The member ordered them to stop, but when they kept coming at him, he pulled his pistol. Two of the youths dropped to the ground and two ran off. When back-up officers arrived, the member went into the apartment building, where he encoun-

tered two youths and their mother. With the mother clinging to his protective vest, the youths punched and kicked the member, landing several hard blows to his head. He pulled his gun and fired a warning shot.

It is the Commission's position that firing a weapon is a high-risk response that can have unintended and tragic consequences. Fortunately, nobody was injured in this case. The Commission concluded that the member's use of his firearm was appropriate under the circumstances. However, the Commission also proposed that the members review the circumstances of the event to study how the incident might have been handled without discharging the weapon. For example, would it have been possible for the member to reposition his telescopic baton to a more accessible location on his duty belt? Could the member have used his hands, fists or feet to immobilize his assailants? What ground fighting techniques had the member been trained in? What consideration was given to tactical repositioning? As the member was close to the entrance doorway, could he have repositioned himself outside, where the other three members could have helped? The Commission's comments have also been sent to the RCMP's Central Divisional Training and Development Centre for incorporation into its training programs as a learning tool.

Pepper spray

After a winter storm in New Brunswick, the complainant was shovelling snow onto the city street. When two snow removal workers asked him to stop, he threatened them with his shovel. When the RCMP members arrived, he was uncooperative and resistant. The complainant's behaviour contributed significantly to the escalation of a simple municipal by-law infraction into a confrontation that culminated in the use of pepper spray and a criminal conviction for threatening and obstruction. The

Commission concluded that the members did not use excessive force during the arrest of the complainant, but it did question whether the incident might have been managed without the use of pepper spray.

RCMP policy allows for the use of intermediate devices such as pepper spray in situations where the subject is resistant. According to the CPC Vice-Chair, this policy cannot be interpreted to mean that resistance in and of itself justifies the use of devices such as pepper spray or a Taser weapon. It is an exercise of judgment requiring common sense. When considering how much force is appropriate, the member should consider the principle of proportionality, that is, the amount of force used should be proportionate to the resistance encountered and should be appropriate in the circumstances. It is preferable that situations involving neither a major offence nor a demonstrably dangerous individual be defused without the use of intermediate devices such as pepper spray. Once a situation is under control, police effort should be directed to calming the situation. The Commission's comments have been sent by the RCMP to its Depot Division and the Ethics Advisor for training purposes.

Breach of core values: professionalism

A motorcyclist was driving in Alberta when he observed a serious accident involving another motorcyclist. He stopped, ensured that 9-1-1 was called, waited for the ambulance and, because he had been the only witness, waited until the RCMP arrived. When questioned by the attending RCMP officer, he said he did not know whether the victim had been speeding. The member accused him of lying, asked to see the "paperwork" for his motorcycle, and indicated that the motorcyclist's plate validation tag had expired. The

CORE VALUES OF THE RCMP

Recognizing the dedication of all employees, we will create and maintain an environment of individual safety, well-being and development.

We are guided by:

- integrity
- honesty
- professionalism
- compassion
- respect
- accountability

member advised the motorcyclist that the expiry carried a \$230.00 fine and that the motorcycle could be ordered towed away, but he would wait until he saw the complainant's final statement before determining how lenient he would be.

The Commission concluded that the complainant was a Good Samaritan, going out of his way to assist an injured motorist and the RCMP with its investigation. The member used the threat of a ticket to get a "suitable" statement. Such behaviour tarnishes the reputation of the RCMP and discourages ordinary citizens from voluntarily assisting the RCMP.

In his response, the RCMP Commissioner wrote: "this was a remarkable case in which the treatment of one of our citizens does not compare favourably with the RCMP's values. I strongly believe that most members would have handled it differently. This will be a good case study for cadets, and others. As such, I will be sharing it with the Commanding Officer, Depot Division, and the RCMP's Ethics Advisor for use in their training and outreach programs." The Commissioner sent a personal letter of thanks to the complainant and a copy of the letter to the relevant RCMP detachment and member.

Breach of core values: respect and compassion

On the afternoon of Christmas Eve, an RCMP member stopped a female motorist for speeding in a park near Banff, Alberta. Determining that the woman's licence had expired, the member advised her that she could not drive. He left a message for her husband, who was more than two hours away in Calgary, to arrange transportation. By the time the woman's husband arrived, it was dark and the woman and their two young children had been parked on the shoulder of an isolated stretch of highway for five and a half hours. Under the relevant RCMP policy, it was the member's duty to "take all reasonable care to ensure the safety and well-being of the driver, passengers and vehicle and, if necessary, transport to a place of safety." The Commission concluded that the member should have driven the woman and her children to a nearby town to wait for her husband. The RCMP Commissioner endorsed the Commission's finding and asserted that the member's handling of the situation was not consistent with the core values of the RCMP. The Commission's findings have been sent by the RCMP to its Depot Division and Ethics Advisor for training purposes.

PART III: CHALLENGES AND OPPORTUNITIES

Clearing the backlog

The Commission, throughout its history, has experienced a chronic backlog of cases to be reviewed, a reality that has tended to undermine the effectiveness and credibility of its oversight function. Following his appointment on October 24, 2005, the new Chair found himself confronted with an inventory of 363 files, some of which had been appealed to the Commission six years previously. Such prolonged delays significantly curtail the nature, scope and relevance of the recommendations that may be made.

One of the top priorities for the new Chair was eliminating the backlog. Therefore, he tasked the Vice-Chair to develop and implement a 12-month action plan to eliminate the backlog and put in place management practices to ensure that backlogs would not occur in the future. Five months later, at fiscal year end, 260 reports had been completed, the highest level of production in the past five years. The production of monthly reports had almost quadrupled from about 10 to 38 (see Figure 2).

Figure 2 Review reports completed, 2005-2006

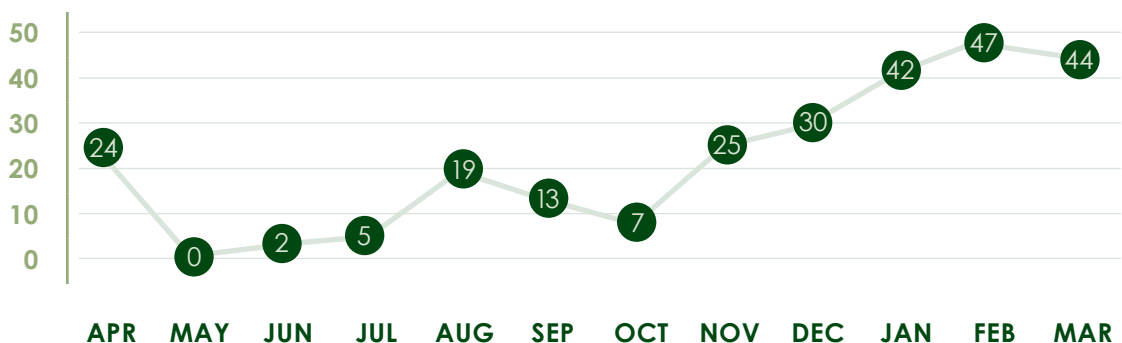
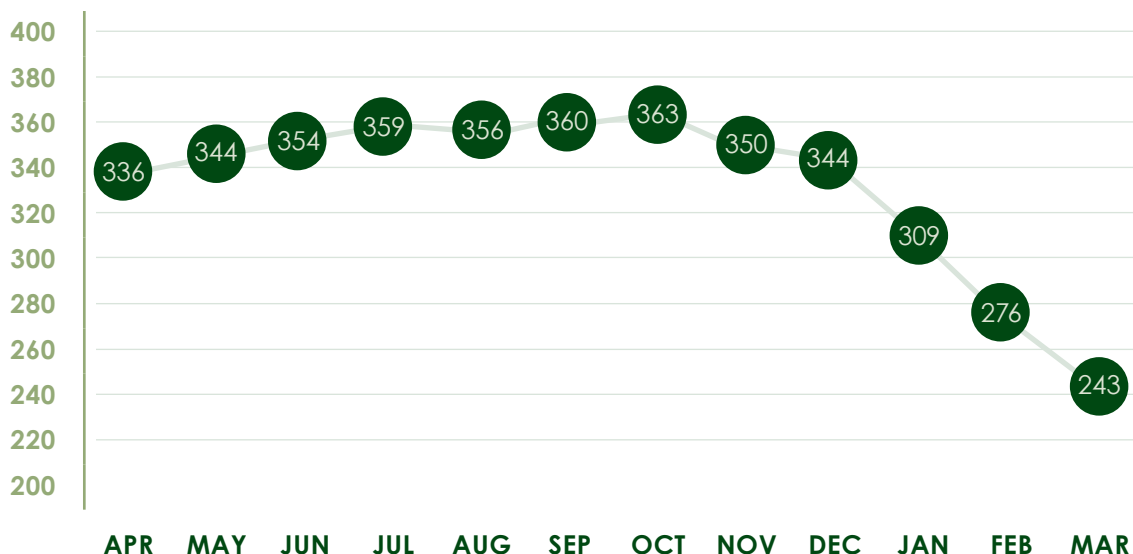


Figure 3 Inventory of review files, 2005-2006



With its increased productivity, the Review Unit reduced its inventory of cases every month for the five last months of the fiscal year. By the end of March 2006, the inventory of review cases to be processed was at its lowest in five years (see Figure 3). Moreover, 120 pre-2005 reviews had been completed, with the balance of these legacy cases slated for completion by the fall.

When its backlog of review cases is eliminated in the autumn of 2006, the Commission will implement a service standard of 120 days from the request for a review by the complainant to the completion of an interim or final report by the Commission. Improved tracking of cases from the initial complaint to the final decision after review will integrate timeliness as a key component of the Commission's business practices.

Addressing administrative and organizational issues

The Commission faced numerous organizational challenges in 2005–2006, some old, some new.

Two key events injured workplace morale, precipitated employee departures and strained labour-management relations. A highly publicized Public Service Commission (PSC) staffing audit report was issued in October 2005 and, around the same time, the Public Service Human Resources Management Agency of Canada undertook a classification monitoring exercise at the CPC.

The PSC audit report singled out specific employees and led to an investigation of CPC appointments, covering the period from April 2001 to September 2004. Although the report acknowledged that the Commission had made significant progress in rectifying staffing problems, several issues remained. Central agencies and staff alike have since acknowledged the success of the measures taken this year to address the auditor's concerns.

To address problems identified in the job classification monitoring report and to determine the adequacy of administrative support in the organization, the Commission undertook an administrative services review

and developed an action plan. It also began an organizational redesign process, which will continue into the next fiscal year.

To make the CPC a workplace of choice and to improve employee morale, a number of initiatives continued and others began:

- vacancies in CPC management were filled by the beginning of the fiscal year and, in mid-year, a management retreat was held to build an effective and cohesive management team;
- developing and instituting an effective governance model continued as a priority for the Executive Director from the beginning of his tenure in 2004: committees are established with clear mandates, policies and guidelines are being developed as required, an effective business planning cycle has been devised and is being implemented, and the management committee is focusing on decision-making and strategy;
- a labour-management Workplace Health and Safety Committee was established;
- a framework for a workplace of choice was developed and endorsed by the management committee, to articulate the Commission's principles on human resources management, accountability and values, which will underpin the organization's new human resources regime;
- personal learning plans are being developed for all staff, accompanied by a reasonable budget for training;
- management committee champions for official languages, employment equity, continuous learning, and rewards and recognition were designated; and

- the staffing and housing of operations for the Kingsclear public interest investigation was completed.

The CPC took advantage of the requirement to implement the new *Public Service Modernization Act* (PSMA) to further improve human resources management and employee morale. The CPC developed and approved a new set of staffing policies and processes based on the PSMA implementation guidelines and communicated these and the broader implications of the PSMA to all employees well within the target dates set for the implementation of the Act. Staff were also briefed on the formation of a new Labour-Management Consultation Committee and the availability of confidential services for informal conflict resolution.

A professional facilitator helped to improve internal communications by working with groups of employees and then with all employees at an all-staff retreat with management. The retreat brought together employees from Ottawa and Surrey, facilitated an exchange of ideas, experiences and expectations, and increased understanding of one another's roles and responsibilities. The retreats were universally lauded as a progressive step that went a long way to improving labour-management relations and increasing workplace morale.

As reported in last year's annual report, the Commission assessed its information management capacity in early 2005 to identify gaps, risks and priorities. As a result of this study, the Commission developed an action plan in the fall of 2005 and launched several initiatives. It created and staffed the position of Chief Information Officer, responsible for all aspects of information management and information technology. The organization also conducted a threat and risk assessment and completed the

Treasury Board's Management of Information Technology Security compliance questionnaire, which assesses how well federal departments and agencies are meeting the government's baseline security requirements for information and information technology assets under their control. The Commission also developed and began implementing an action plan to address shortcomings identified through the assessment and questionnaires. The completion of these assessments puts the Commission in a favourable position to manage information more strategically.

The Commission passed its Management Accountability Framework assessment with flying colours and has taken steps to address a Treasury Board suggestion that it begin measuring client satisfaction with the complaint and review process. The CPC made substantial progress in establishing good governance, business planning, human resources management, and information and technology management this year, and sees these developments as a starting point for even more effective working relations with employees and an even more focused approach to managing information as a valuable corporate asset.

Shortcomings in the current CPC mandate

Although the Commission has a mandate and resources to address individual complaints of wrongdoing and to identify some larger systemic problems, there are frailties in the current model.

First, the complaints-based nature of the model carries some intrinsic limitations. A complaints-driven process is reactive rather than pre-emptive, relying on a complainant to come forward to engage the review machinery. The concerns of vulnerable populations tend to be under-reported for cultural, linguistic or literacy-related reasons. What's more, the Act does not authorize

investigations of complaints about RCMP policies, practices or guidelines unless such review is part of a complaint about the conduct of a member of the Force.

The past decade has witnessed the emergence of a host of public safety challenges running the gamut from transnational organized crime to crimes on the Internet and global terrorism. New legislation and police practices have been developed to address these challenges. The sophisticated nature of the threats and the response thereto can result in multi-year investigations involving an array of domestic and international partners. Not everyone who falls within the scope of an investigation is charged, nor are Canadian courts necessarily the ultimate forum of choice to determine questions of guilt or innocence. There is, therefore, an increasing range of police conduct that is not subject to review by Canadian courts; nor is this conduct likely to give rise to a complaint under the legislation. Suspects who are not charged are not likely to know that they have been subject to a range of covert intrusive techniques, from surveillance and covert search to the interception of private communications.

Effective and credible oversight requires access to all the information that the oversight body believes is required for it to render its decision. Under current legislation, the RCMP Commissioner may refuse to disclose to the Commission confidential information that is relevant to the Commission's review. In the past, access to such information has been determined on a case-by-case basis. Rather than relying on the interpersonal compatibility of the various players, a credible civilian oversight mechanism must be anchored in a clear legislative right of access.

As the Auditor General of Canada noted in her 2003 report, "the legislation does not provide for the random access to RCMP

files and operations that would allow the Commission to provide Parliament with broad assurance relating to compliance with the law, especially in terms of appropriate use of intrusive powers... This falls short of the explicit powers given to the Inspector General and Security Intelligence Review Committee, who can access all information held by the Canadian Security Intelligence Service and request explanations from staff." Concluding that similar powers of intrusion should be subject to similar levels of review, the Auditor General recommended that the level of external review and disclosure of an agency exercising intrusive powers be made proportionate to the strength of those powers.

Finally, the current legislative regime restricts the purview of the Commission to the activities of the RCMP and that of provincial commissions to the activities of non-federal police agencies. This restriction hinders the ability of all complaint commissions to provide effective civilian oversight in this era of integrated policing in which the exchange of strategic and criminal intelligence and the sharing of tactical and operational knowledge among police and other law-enforcement agencies at home and abroad has become the norm.

An outdated resource base

As the Auditor General observed in her 2003 report, "having the ability to review the work of security and intelligence agencies depends on two things: the legal authority to conduct reviews and to gain access to necessary information and the possession of resources required to do the work."

The Commission began its "work" in 1988 with a budget of \$3.6 million and a staff of 33. By 2006, the Commission had grown to 44 employees with a budget

of \$5.1 million, but the Force that it was authorized to oversee now includes more than 22,000 employees and a budget of more than \$3 billion, providing national and provincial police services in ten provinces, three territories and more than 200 municipalities.

An effective national civilian oversight regime needs a resource base that signals a credible capacity to provide genuine oversight of police activities in Canada. There is some doubt as to whether the Commission's current budget sends the right signals.

The need for legislative enhancements

Much has changed in the 18 years since the Commission for Public Complaints Against the RCMP was created. Not only has the RCMP significantly enhanced the role that it plays in national security, but the very nature of police work has also changed. Society has evolved too, and citizens have become more questioning of the increased emphasis on police powers at the expense of individual liberties.

While intelligence-led policing, integrated policing and the RCMP's re-emergence on the national security scene have accentuated the CPC's underlying limitations, the provinces have been busy strengthening the powers of civilian agencies charged with monitoring the conduct of provincial and municipal police and other law-enforcement organizations under their jurisdiction.

Federal law reform initiatives designed to similarly enhance the powers of the CPC would go a long way to ensuring Canadians that Canada's national police force is being held to an appropriate standard of accountability.

PART IV: CHAIR'S RECOMMENDATION

The public safety environment has changed considerably since Parliament created the Commission for Public Complaints Against the RCMP in 1988. Transnational organized crime, money laundering, crimes on the Internet and global terrorism have spawned new legislation, larger budgets for national security and public safety organizations, and new approaches to law enforcement. Parliament has responded to these new and emerging threats to public safety with measures such as stronger police powers, greater interagency cooperation, the creation of a federal public safety portfolio, and the allocation of additional human and financial resources. Numerous inter-governmental agreements and domestic and international treaties have also positioned governments to better address the transnational dimension of these threats. Leaders in Canada's policing communities have matched these initiatives with greater emphasis on intelligence-led policing, the creation of multi-agency integrated enforcement teams and enhanced information sharing.

The cumulative effect of these initiatives has been to increase the level of intrusion by the state into the realm of individual privacy rights. Such intrusion for the sake of the public interest is acceptable in a democracy to the extent that it enjoys public support. Maintaining that support requires that police be held genuinely accountable for the use of extraordinary powers of surveillance, arrest and lethal force. Civilian oversight is an essential feature of an effective accountability regime.

Not surprisingly, public expectations regarding police accountability in general, and civilian oversight in particular, have also evolved in the nearly 20 years since the Commission was created; citizens are demanding a more effective, visible and critical mechanism for overseeing law enforcement activities in Canada.

The nature and scope of the mandate exercised by the Commission has not kept pace with the expansion of RCMP powers. The Commission has reflected at length about how it might more effectively respond to the realities of today's public safety environment and the heightened expectations of citizens.

We believe that an effective national civilian oversight regime needs:

- a resource base that signals a credible capacity to conduct civilian oversight; and
- a modern legislative framework that embodies the elements currently found in provincial regimes, elements that already reside in other federal review agencies, including the Security Intelligence Review Committee and the offices of the Information Commissioner and the Privacy Commissioner.

Key features of that legislative regime would include:

- statutory authority for the Commission to generally review RCMP activities, including practices, policies, procedures, guidelines, applicable law and ministerial directives;
- an obligation on RCMP officers to provide an explanation of their actions in regard to a particular incident;
- Commission power to summon witnesses, take evidence under oath and compel the production of documents;

- a statutory provision authorizing the Commission to obtain access to all information except Cabinet confidences and a provision making the CPC Chair the final arbiter of what information is relevant to a Commission review;
- authority to disseminate Commission reports to a wider audience than is currently allowed (when the Chair of the Commission considers that it is in the public interest to disclose its findings and recommendations to the public and to other federal or provincial review agencies); and
- a legislative provision mandating a review of the legislation every five years to help keep the accountability machinery responsive to society's evolving expectations.

To this end, the Commission Chair recommends that Parliament review the legislative mandate of the Commission for Public Complaints Against the RCMP to ensure that the level of review the Commission can exercise is proportionate to the level of intrusion permitted to the RCMP.

PART V: THE WAY FORWARD

Notwithstanding its desire for a larger resource base, there is much the Commission can accomplish within its 2006–2007 budget allocation.

To better fulfill its mandate, the Commission plans to eliminate its remaining backlog of review cases and stabilize its caseload inventory at a level roughly equal to the average number of review requests received every four months. This plan was well on its way to realization by the end of 2005–2006. A new performance-based service standard of 120 days from receipt to disposition of a review file will be in place before the end of 2006.

Once the review case backlog is cleared, the Commission expects to be able to devote more resources to the analysis of new and emerging policing trends and to the development of a greater capacity to provide strategic policy advice. This shift toward a more proactive role will be achieved in part by better exploiting the large volume of information flowing through the Commission. The information

will be used to build a body of knowledge on past practices and best practices in policing and to comment on the public policy implications of domestic and international trends, developments and events.

The Commission also plans to begin examining all RCMP dispositions of complaints, not merely those referred to it by a complainant for review. Rather than yield to a system where the same complaints recur and the Commission is perennially addressing problems after the fact, the Commission hopes to assume a more anticipatory and pre-emptive role in civilian oversight, moving strategically to resolve shortcomings in policing policy and practice before they lead to complaints.

Finally, the Commission will continue to seek innovative ways, including through new partnerships and collaborative arrangements, to fulfill the public's expectation for a credible, accessible and impartial regime to ensure police accountability and an appropriate balance between police powers and individual rights.

APPENDIX: FINANCIAL STATEMENT

CPC Budget and Expenditures

	ACTUAL SPENDING 2005-2006			PLANNED SPENDING 2006-2007		
	(thousands of dollars)					
	Commission	Kingsclear	Total	Commission	Kingsclear	Total
Salaries, wages and other personnel costs	2,644	195	2,839	2,942	641	3,583
Contributions to employee benefit plans	521	37	558	560	128	688
Subtotal	3,165	232	3,397	3,502	769	4,271
Other operating expenditures	1,601	800	2,401	1,598	434	2,032
TOTAL NET SPENDING	4,766	1,032	5,798	5,100	1,203	6,303

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