



Commission for  
Public Complaints Against the  
Royal Canadian Mounted Police

Commission des  
plaintes du public contre la  
Gendarmerie royale du Canada

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COMMISSION FOR PUBLIC COMPLAINTS  
AGAINST THE RCMP

2006–2007

ANNUAL REPORT

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## WHO WE ARE AND WHAT WE DO

The Commission for Public Complaints Against the RCMP is an independent body established in 1988 to receive and review complaints about the conduct of RCMP members — both regular and civilian members — in the performance of their policing duties. Its mission is to contribute to excellence in policing through civilian review.

The Commission 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.

**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:** As set out in Part VII of the *Royal Canadian Mounted Police Act*, the mandate of the Commission is to:

- 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

### STRATEGIC OBJECTIVES — 2006–2009

- Strengthen the complaints and review processes.
- Improve access to and the openness of the public complaints process.
- Create and maintain a workplace of choice.

## HOW TO GET IN TOUCH WITH US

You can find the Commission on the Internet at [www.cpc-cpp.gc.ca](http://www.cpc-cpp.gc.ca)

To contact us by e-mail:

- for complaints [complaints@cpc-cpp.gc.ca](mailto:complaints@cpc-cpp.gc.ca)
- for reviews [reviews@cpc-cpp.gc.ca](mailto:reviews@cpc-cpp.gc.ca)
- for general inquiries [org@cpc-cpp.gc.ca](mailto:org@cpc-cpp.gc.ca)

Telephone from anywhere in Canada: 1 800 665-6878

TTY: 1 866 432-5837

Minister of Public Works and Government Services  
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The Honourable Stockwell Day, P.C., M.P.  
Minister of Public Safety  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Mr. Day,

Pursuant to section 45.34 of the *Royal Canadian Mounted Police Act*, I hereby submit the annual report of the Commission for Public Complaints Against the RCMP for the 2006–2007 fiscal year, for tabling in Parliament.

Yours very truly,



**Paul E. Kennedy**  
Chair

**June 2007**



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# MESSAGE FROM THE CHAIR

The Commission for Public Complaints Against the RCMP has worked diligently this year within the constraints of its statutory mandate to enhance its own effectiveness and credibility. By facilitating greater access to the complaints process, expediting the resolution of complaints, clearing the backlog of review cases and publicizing the results of its reviews of police conduct, the

## **[...] the Commission has fostered a spirit of collaboration and contributed to positive changes in RCMP operational policies.**

Commission has sought to strengthen both citizen involvement and public confidence in the complaints process. By enhancing its relations with the RCMP and offering constructive guidance in its review reports, the Commission has fostered a spirit of collaboration and contributed to positive changes in RCMP operational policies.

What the Commission can accomplish within its existing legislative mandate, however, is not enough. As I noted in the annual report last year, a complaints-driven model can no longer provide adequate oversight

of a national policing organization whose wide-ranging mandate confers jurisdiction over matters as diverse as traffic tickets, trans-national organized crime and global terrorism. Although it remains true that police conduct is subject to judicial review when policing activities result in criminal charges and public trials, the RCMP is increasingly achieving its objectives through covert operations aimed at preventing or disrupting criminal activities. Such activities are rarely subject to public scrutiny since they remain below the radar of both the criminal courts and the public complaints machinery.

Like the RCMP, the Commission is a creation of Parliament. But unlike the RCMP, the Commission's two-decades-old statutory toolkit has become antiquated as the legislative authority, financial resources and ranks of the RCMP have expanded to keep pace with a changing world. Repeated attempts to modernize the powers of the Commission have been unsuccessful, even as provincial review agencies have evolved in response to the retooling of Canada's various other police forces, contributing to disparities in police review across the country and within the provinces.

This year the Commission developed and shared draft model legislation for consideration by the Minister for Public Safety, Parliament and the Canadian public. Incorporating the 2003 recommendations of the Auditor General of Canada, which sought to equip the Commission with powers more closely aligned with the level of intrusiveness exercised by the RCMP, the Commission's proposal was later echoed in the recommendations of Mr. Justice Dennis O'Connor in his second report of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar. In February 2007 the Senate Committee on the *Anti-terrorism Act* issued a report on the review of national security activities in Canada and recommended that the government implement more effective oversight of the RCMP's national security functions through an oversight body with powers akin to those enjoyed by the Security Intelligence Review Committee.

**[...] a better-equipped Commission [...] would go a long way to reassuring the public that Canada's national police force continues to conduct itself in the public interest.**

Effective policing relies on a supportive public that recognizes and values the role of the police in fostering safe communities. In an era of declining deference to authority and

heightened suspicion of police, a better-equipped Commission, with powers more closely aligned with the level of intrusiveness exercised by the RCMP, would go a long way to reassuring the public that Canada's national police force continues to conduct itself in the public interest. Parliament and the Minister of Public Safety can accomplish this by amending the law. Their response must go beyond the narrow issue of national security investigations to address the needs of all Canadians policed by the RCMP.

In the meantime, the Commission will continue to do all that is possible within its existing mandate to make the Commission an increasingly credible and effective review body. The RCMP has undertaken to work with us voluntarily to address public concerns about policing in Canada. Canadians are aware of and are availing themselves of the review process — as evidenced by a 20-per cent increase in requests for review — reviews are being completed in record time, and the Commission intends to continue improving its outreach programs to foster a fuller and more representative exercise of citizen rights.



**Paul E. Kennedy**  
Chair

## THE YEAR IN REVIEW

Over the past year the Commission for Public Complaints Against the RCMP significantly improved its efficiency, effectiveness and service to the public, on several fronts.

Thanks to the focused and intense efforts of Commission staff and the more strategic use of technology, the chronic backlog of review cases has been cleared for the first time in more than 15 years. In addition, the Commission met its commitment to complete 80 per cent of final and interim review reports in less than 120 days.

The professional working relationship between the Commission and the RCMP improved significantly. In response to public concerns about police investigating the police, an innovative pilot project, launched in collaboration with the RCMP's Office of Investigative Standards and Practices, assigns Commission staff to observe and assess the impartiality of RCMP investigations involving high-profile and serious incidents such as in-custody deaths. The RCMP has also begun sharing information on complaints received that have been resolved without Commission intervention. This is giving the Commission more robust data on current policing issues of concern to the public. Moreover, the RCMP has pro-

vided an opportunity for the Commission to be consulted on proposed changes to RCMP policies on Taser weapons and the deployment of police dogs.

We have expanded our outreach to client communities. The Chair and Vice-Chair have met with representatives from diverse communities to gain a deeper understanding of how the Commission can enhance its effectiveness. Commission personnel have appeared on radio stations that serve various ethnic communities, to explain the role and activities of the organization. We have been consulting Aboriginal organizations, including friendship centres, to determine how to make the complaints intake process more accessible. The Commission has collaborated with provincial civilian review organizations to address common challenges. We have initiated a pilot project with the Office of the Police Complaints Commissioner of British Columbia to provide seamless customer service to citizens with complaints about any police service in that province. The project includes joint development of complaint forms and posters, which will be available in languages commonly spoken in several ethnocultural communities.



Operational accomplishments also include:

- establishing a formal strategic plan<sup>1</sup> that enunciates our direction over the next few years;
- introducing electronic document transmission to expedite communication both internally and with the RCMP; and
- enhancing information security through new departmental and information technology security policies and related training on information security.

In short, the Commission has taken a multifaceted approach to building public confidence in civilian accountability of the RCMP despite inadequate resources and an overly restrictive statutory mandate.

## CIVILIAN REVIEW OF RCMP POLICING ACTIVITIES

The Commission reviewed RCMP policing activities using various mechanisms last year. It processed and resolved numerous complaints from members of the public, pursued five Chair-initiated complaints, and concluded a major public interest investigation. The Commission also completed hundreds of reviews of RCMP investigations and launched a pilot project to observe RCMP investigations of sensitive or high-profile cases.

### Chair-initiated Complaints

The Chair initiated several major complaints this year and implemented new practices to ensure that the investigations are comprehensive and timely. A brief overview of these cases follows. More detail can be obtained from the Commission's website.

### *Shooting Death of Ian Bush*

On October 29, 2005, Ian Bush died of a gunshot wound at the Houston RCMP Detachment in British Columbia. The RCMP completed a criminal investigation into the shooting death of Mr. Bush. The investigation was reviewed by the New Westminster Police Department and forwarded to the Crown Prosecutor's Office, which determined that no criminal charges would be laid.

The Chair determined that there were reasonable grounds to investigate the circumstances surrounding the shooting death of Mr. Bush and initiated a complaint relating to the conduct of the RCMP officers involved in this incident from their first contact with Mr. Bush until his death. The complaint also pertains to the criminal investigation related to Mr. Bush's death. Specifically, the Commission investigation is looking into whether the officers complied with all the relevant policies and procedures, whether such policies and procedures are adequate, and whether the investigation was adequate and timely. The Chair will issue his report later in 2007.

**Link:** [http://www.cpc-cpp.gc.ca/DefaultSite/Whatsnew/index\\_e.aspx?articleid=1230](http://www.cpc-cpp.gc.ca/DefaultSite/Whatsnew/index_e.aspx?articleid=1230)

### *Taxation of Canadian Corporate Dividends — Public Disclosure by the RCMP of the Investigation*

In December 2005 during a federal election campaign, members of the RCMP disclosed to a member of Parliament and, days later, to the public through a news release, that the police intended to launch a criminal investigation relating to a possible breach of security or illegal transfer of information

<sup>1</sup> Go to [http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1316](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1316) for the full text of the Commission's Strategic Plan.

in advance of the federal government's announcement of changes to the taxation of Canadian corporate dividends and income trusts.

Concerns centre on whether the public release of such information was consistent with normal police practice and policies and whether it may have interfered with the democratic process during the election. In February 2007, the Chair initiated a complaint into the conduct of the RCMP officers involved in this incident.

The investigation will determine:

- whether the RCMP officers involved in the public release of such information complied with all appropriate policies, procedures, guidelines and statutory requirements for the release of such information; and
- whether such policies, procedures and guidelines are adequate to address the situation wherein public disclosure of a police investigation may have an impact on the democratic process and may call into question public confidence in the independence of the police.

**Link:** [http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1331](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1331)

#### *Shooting Death of Kevin St. Arnaud*

On December 19, 2004, Kevin St. Arnaud, an unarmed robbery suspect, was shot and killed by a member of the Vanderhoof RCMP Detachment in British Columbia.

Three investigative processes were undertaken in this case: a criminal investigation; an independent review by an RCMP officer; and a provincial coroner's inquest. On February 23, 2006, the Regional Crown Counsel announced that the criminal investigation had been concluded and no criminal charges would be laid. However, the Chair determined that there were reasonable

grounds for the Commission to investigate the circumstances and events surrounding the shooting death of Mr. St. Arnaud and, in March 2006, he initiated a complaint looking at whether members of the RCMP improperly entered into a situation with Mr. St. Arnaud that resulted in his death and whether a member of the RCMP improperly discharged his firearm in the incident. The report will be issued later in 2007.

**Links:** [http://www.cpc-cpp.gc.ca/DefaultSite/Investigations/index\\_e.aspx?articleid=1119](http://www.cpc-cpp.gc.ca/DefaultSite/Investigations/index_e.aspx?articleid=1119)

[http://www.cpc-cpp.gc.ca/DefaultSite/Investigations/index\\_e.aspx?articleid=1377](http://www.cpc-cpp.gc.ca/DefaultSite/Investigations/index_e.aspx?articleid=1377)

#### *Review of the RCMP's Treatment of Maher Arar*

In late 2003, the former Chair of the Commission initiated a complaint into the RCMP's conduct in relation to the deportation and detention of Maher Arar. The complaint sought to examine whether members of the RCMP improperly encouraged U.S. authorities to deport a Canadian citizen to Syria (or failed to discourage such action) and impeded the efforts of the Canadian government and others from securing Mr. Arar's release from a Syrian prison. It also planned to explore whether members of the RCMP improperly divulged information and/or conveyed inaccurate or incomplete information about Mr. Arar to U.S. and/or Syrian authorities.

The Commission started its review but decided to suspend it when the public inquiry (Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, hereafter called the O'Connor Inquiry) was launched in early 2004. Mr. Justice Dennis O'Connor led the inquiry into the actions of Canadian officials dealing with the deportation and detention of Mr. Arar. In late 2006, the O'Connor Inquiry issued two reports on the actions of Canadian officials. Satisfied that the report addressed

the issues identified in the 2003 complaint, the current Chair immediately terminated the complaint.

### *Shooting Death of Dennis St. Paul*

An RCMP member arrested Dennis St. Paul on a parole apprehension warrant. Mr. St. Paul was initially cooperative and was not handcuffed by the member; however, when he reached the police vehicle, he fled. The member called for back-up and pursued Mr. St. Paul, again apprehending him and attempting to handcuff him a short distance away. When Mr. St. Paul fled again, the member returned to his police vehicle and resumed his search by car. The member soon located Mr. St. Paul again, pursued him and overtook him. The member then applied pepper spray, but to no effect. The two men became involved in a physical altercation. The member used his expandable baton to strike Mr. St. Paul on the thigh, but Mr. St. Paul pushed the member down and took away the baton, hitting the member on the head with it. Believing his life to be in danger, the member shot Mr. St. Paul, who later died from his injuries. Following the incident, the Chair initiated a public complaint. Upon its review, the Commission concluded that the member had been justified in using lethal force in this instance.

**Link:** [http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1214](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1214)

### **Public Interest Investigation — Kingsclear Youth Training Centre**

The Commission continued its public interest investigation into the former Kingsclear Youth Training Centre in New Brunswick. The investigation was announced on May 27, 2004, and launched in the fall of 2005.

The investigation centres on complaints related to the RCMP's investigation of

alleged sexual abuse at Kingsclear Youth Training Centre. The abuse is said to have occurred throughout the 1960s and as recently as the 1980s.

The Commission is examining allegations that the RCMP failed to adequately investigate reports of criminal misconduct by former Kingsclear staff, residents and former RCMP Staff Sergeant Clifford McCann against residents of the centre. It is also investigating allegations that the RCMP endeavoured to cover up these acts of criminal misconduct.

Approximately 150 complainants and witnesses were interviewed between September 2005 and March 2007. Cooperation from the RCMP, its active and non-active members, the Attorney General of New Brunswick and other civilians has been encouraging. The investigation will be completed later in 2007 and documented in a final report before the end of the year.

**Link:** [http://www.cpc-cpp.gc.ca/DefaultSite/Investigations/index\\_e.aspx?ArticleID=969](http://www.cpc-cpp.gc.ca/DefaultSite/Investigations/index_e.aspx?ArticleID=969)

### **Observer Program Pilot Project**

To address public concerns about the police investigating the police, the Commission has developed, in conjunction with the RCMP, a pilot program in which Commission staff will observe selected RCMP investigations into the conduct of its own members.

Commission staff will be assigned to observe and report to the Chair on selected RCMP investigations of high-profile or sensitive cases in British Columbia, including ones involving serious injury or death or possible public allegations of conflict of interest. The Chair will convey the Commission's observations and recommendations for improvement to the RCMP, and this should enhance the transparency of these investigations, enable more effective reviews of RCMP policing

and, hence, strengthen public confidence in the impartiality of police investigations of police conduct.

## Complaints

While the number of enquiries and complaints received by the Commission increased slightly this year, the Commission reduced by half the average time it takes to forward complaints to the RCMP from about eight days last year to about four days this year. In 2006–2007, the Commission responded to 998 general enquiries from the public relating to a wide range of issues including RCMP conduct, child custody disputes, the authority of sheriffs or bailiffs, government social services and crisis hotlines. The Commission also processed 1,124 public complaints by resolving them informally or forwarding them to the RCMP for investigation.

As in 2005–2006, in-custody deaths and excessive use of force were the most serious complaints brought to the Commission by members of the public.

The most common complaints were related to reluctance or unwillingness of RCMP members to do their duty, inappropriate responses or comments, and bias. These issues are generally amenable to informal resolution. Often, the complainant is merely seeking the immediate resolution of an ongoing problem or has had a

misunderstanding with his or her local RCMP detachment. The Commission facilitates the informal resolution of such cases and more than 90 per cent of them are resolved within five days. See Appendix 3 for more information about informal resolution.

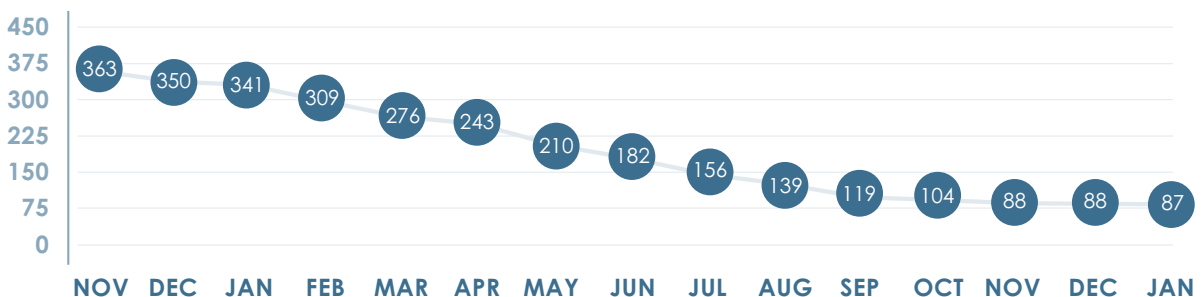
## Reviews

If a person who lodges a formal complaint is not satisfied with its disposition by the RCMP, the complainant can ask the Commission to conduct an independent review. The Commission received 197 requests for review in 2006–2007, compared with 159 the previous year. Despite this 20-per cent increase in incoming review cases, the Commission managed to clear its sizable backlog and implement a 120-day performance-based service standard for new cases.

### *Elimination of the Backlog*

A major challenge for the Commission in recent years has been a chronic and growing backlog of review cases. Lengthy delays were eroding the credibility of the Commission and severely restricting its capacity to exercise the review and investigative powers established by Parliament. As shown in Figure 1, there were 363 review cases in the Commission's inventory in November 2005. With the appointment of a new Commission Chair and Vice-Chair in October 2005,

**Figure 1: Inventory of Review Cases, November 2005 to January 2007**



eliminating the backlog became a priority and continued to top the Commission's priority list throughout 2006–2007. In the 14 months between November 1, 2005, and December 31, 2006, the Commission processed about 490 reviews, eliminating its case backlog for the first time in more than 15 years. By the start of 2007, only 87 files remained in the review inventory. Twenty-three of these awaited a response from the Commissioner of the RCMP.

To ensure that backlogs don't recur, the Commission implemented a 120-day service standard for new review cases and achieved its target of completing 80 per cent of final or interim reports within 120 days. In fact, the average time for completing new review cases dropped to just 91 days from the previous five-year average of 527 days.

This year, the Commission issued 48 interim reports containing 184 findings, about half of them adverse. Much of the Commission's contribution to improvements in policing and to public confidence in the RCMP derives from the constructive recommendations contained in these interim reports. It is here that the Commission exercises a key aspect of its mandate, highlighting problematic issues and proposing remedial measures. It is therefore important that the RCMP respect these findings and take appropriate remedial action.

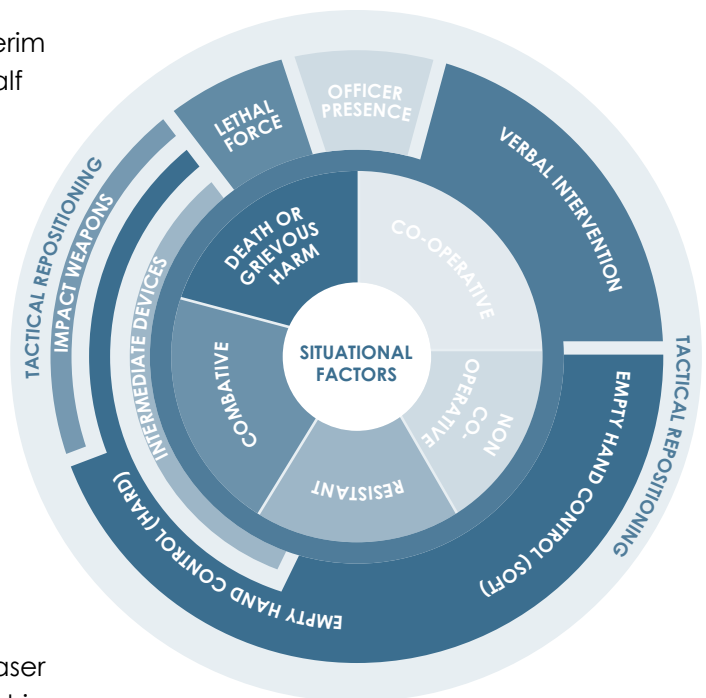
### Use of the Taser

In recent years police use of the Taser weapon, which administers an electric shock, has attracted much public attention and generated significant debate. This device has two modes. When the Taser is used in "touch stun" mode, the intent is to gain compliance by causing pain to the sensory nervous system. In "probe" mode, the device fires two probes attached to

the Taser by wires. If these imbed properly, they may override the recipient's sensory and motor nervous systems, causing pain and muscle contractions leading to the recipient's temporary incapacitation.

Police officers are authorized to use as much force as is necessary to enforce the law. The RCMP Incident Management/Intervention Model establishes guidelines for the appropriate level of force to be used by members. Figure 2 is a schematic representation of the model, illustrating the stages in a policing incident and the interventions considered appropriate for each stage.

**Figure 2: RCMP Incident Management/Intervention Model**



In the RCMP Incident Management/Intervention Model, the Taser is classified as an intermediate device. It is generally accepted as a "less lethal" intervention technique. It is considered beneficial in

interventions where an RCMP member might otherwise have to resort to lethal force (i.e., firing a pistol). However, questions about the propriety of its use often arise as a result of RCMP interventions with subjects whose behaviour might be classified as merely uncooperative or resistant and, consequently, amenable to control by less intrusive techniques that pose less risk than the Taser.

In one case reviewed this year, the Commission report addressed broader policy considerations, recommending that the RCMP:

- review the classification of the Taser as an intermediate weapon in the use-of-force model;
- redefine what constitutes resistant behaviour;
- continue to review training policies on Tasers;
- ensure that training on the appropriate situational application of Tasers is provided only by people who are experts in the use of force; and
- use new reporting requirements to track all types of use of force.

The Commission and the RCMP are continuing their dialogue in the context of an RCMP policy review of the use of Tasers, and the Commission remains hopeful that its policy concerns will be seriously considered. For an example of a Taser case reviewed by the Commission this year, see Appendix 4, page 24.

### *Use of Police Dogs*

Police service dogs are highly trained and provide valuable support for the public and police officers. In their tracking role, they can assist in search-and-rescue operations or in locating evidence. In their attacking role, they can be effective weapons for

protecting public and officer safety. Over the years, the Commission has reviewed numerous cases in which police dogs have inflicted serious injuries when used to attack suspects. The Commission urges the RCMP to review its policy on the use of dogs so that it is consistent with the RCMP's Incident Management/Intervention Model. It also recommends that police dogs used for attack be classified as impact weapons to ensure that such dogs are never used to attack suspects that are merely uncooperative or resistant. One case reviewed by the Commission this year involved a 22-year-old B.C. resident who suffered serious leg injuries when a police dog bit him. The dog inflicted several puncture wounds, one deep laceration and two gouges measuring 10 by 5 centimetres, which left the man's leg muscle deformed. Further details on this case can be found in Appendix 4, page 25.

### *Status of Commission Findings in Interim Reports*

One significant issue that emerged in cases reviewed by the Commission this year strikes at the core of civilian accountability of the RCMP. The issue is whether adverse findings in the Commission's interim reports are binding on the complainant, the RCMP members involved in the case and the Commissioner of the RCMP. In a review of responses by the Commissioner of the RCMP to interim reports since July 2006, the Commission noted a persistent practice of the substitution of findings by the RCMP Commissioner. Both the current and former RCMP Commissioner have responded to interim reports by providing their own assessments of witness credibility, reweighing evidence, considering additional evidence and substituting their own findings of fact. More than half of the Commission's adverse findings have been overruled by the RCMP Commissioner, enabling the RCMP, in effect, to ignore the merits of

the Commission's recommendations. This significantly undermines civilian review of the RCMP and is inherently biased against the complainant. A case summary can be found in Appendix 4, page 26.

### *Inconsistency of Public Complaint Investigations by the RCMP*

In the current model of policing review, the RCMP is required to conduct a thorough and impartial investigation of any complaint brought against it by a member of the public. In the Commission's view, such investigations generally meet the highest standards of professionalism. For example, in a complaint about an inadequate investigation and the use of excessive force during an improper arrest, the Commission not only found that the members acted properly, but it also commended the investigator for her professional and thorough public complaint investigation.

However, a few extremely poor investigations have demonstrated that there is a need to improve the consistency and quality of public complaint investigations. In one case reviewed, a man complained that he had suffered torn rotator cuff injuries to both shoulders and a broken bone while in police custody. Contemporaneous notes were not taken by the members involved and key witnesses were not interviewed during the public complaint investigation. The Commission concluded that the investigation's failure to determine how the complainant was injured and by whom raised a cloud of suspicion and undermined the public complaints process. See Appendix 4, page 26, for more details about this case.

### *Observance of RCMP Core Values*

Recognizing the difficulties inherent in criminal investigations and the need to detect and deter criminal activity, the courts and society generally have provided latitude to the police in the conduct

of their investigations. This is not a grant of unlimited discretion to abuse suspects or innocent third parties. Apart from any legal consequences that may flow from such conduct, such acts have a corrosive effect on the reputation and credibility of the justice system, of which the police are a key component. It is therefore essential that police remain impartial and professional when employing investigative techniques and strategies.

One case that illustrates the failure of an RCMP member to meet this standard involved a man suspected of sexually assaulting a 10-year-old girl. The man in question had agreed to undergo a voluntary polygraph examination and attended the RCMP office in the company of his mother, wife and five-week-old baby daughter. While his family waited in another room, the suspect was advised at the beginning of the interview of his right to counsel. He exercised this right and was advised by his lawyer not to take the polygraph test. Although the suspect declined to undergo the polygraph examination, he did engage in a lengthy discussion about the allegations and this discussion was captured in a 33-page transcript. The content of the conversation was consistent with the suspect's innocence.

The officer accompanied the suspect to the waiting area, where the suspect's mother, wife and daughter were waiting. The suspect explained that, on the advice of his lawyer, he would not be undergoing the polygraph examination. The suspect then left the building and a brief exchange took place between the RCMP member and the two women during which the member said: "You be sure to look after that baby. I believe him to be guilty." The suspect was subsequently charged and, following a trial, at which he testified, was found not guilty. The two women filed a complaint against the RCMP member.

The Commission found that the RCMP member engaged in a deliberate stratagem to enlist the aid of the suspect's mother and wife in persuading the suspect, contrary to legal advice, to undergo the polygraph examination.

Police officers have a duty that is both important and difficult to fulfil. They have to ferret out the truth to detect or deter crime, but, like medical doctors, they must be guided by the principle, first, to do no harm. Police investigative techniques and strategies must be employed with discretion and balance. Some types of criminal investigations provoke a strong emotional response and are cause for heightened public concern; allegations of sexual assault against young persons fall into this category. By their very nature, they place the greatest demands on police to be impartial and professional at every turn.

Unfortunately, the RCMP rejected the Commission's findings. The Commission invited the RCMP Commissioner to reflect further on the position that the RCMP has adopted in this matter. For more details, visit the Commission's website at [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1321](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1321).

### *Observance of Protocols in Police Exchange Operations*

As criminal activity has become increasingly transnational, police forces in Canada and other jurisdictions have stepped up their collaborative efforts. It is important that cooperative policing on Canadian soil respect the rights of citizens and the rule of Canadian law.

One case that illustrates the Commission's concerns in this regard began in May 2004, when RCMP members participated in Operation Pipeline — an exchange program with Texas state troopers. Police officers on both sides of the border shared best practices in the areas of training, crime

detection and methods for apprehending criminals who use highways and other transportation routes to move contraband and illegal drugs. In its review, the Commission determined that Texas state troopers had been engaged in direct policing activities, contrary to RCMP policy.

In light of the rise of integrated policing, it seems likely that exchanges of this type will become increasingly common. If the RCMP intends to allow law enforcement personnel from jurisdictions outside Canada to participate in policing activities on Canadian soil, then it should formalize their status.

In its review report on this case, the Commission recommended a program review of Operation Pipeline to ensure compliance with the *Canadian Charter of Rights and Freedoms*, as well as modifications to the program to ensure that foreign exchange participants are made aware of their roles and responsibilities. It also recommended that in cases where the RCMP seeks to allow program participants from other countries to engage in policing activities, that it first obtain formal policing status on their behalf. For more information on this file, see Appendix 4, page 27.

## **COLLABORATION, ACCESSIBILITY AND OUTREACH**

Among the Commission's objectives this year was a commitment to strengthen the integrity and effectiveness of civilian review of policing in Canada by facilitating access to the complaints process, especially for members of Aboriginal and ethnocultural communities, who have historically tended not to avail themselves of their rights under the *Royal Canadian Mounted Police Act*.

In 2006–2007, the Commission launched a plan of action to enhance public awareness of the complaints process in various underrepresented communities and to facilitate access to the public complaints



machinery. Initiatives included the simplification of the Commission's complaints form and its translation into 12 languages. The Commission also improved access by adding telecommunications capability for people who are deaf and hard-of-hearing.

Another Commission initiative this year was a pilot project with the Office of the Police Complaint Commissioner of British Columbia (OPCC) to determine the feasibility of harmonizing the complaints intake process in British Columbia and to develop a common approach to communications with the public about policing review.

#### *Commission–OPCC Collaboration Highlights*

- The Commission and the OPCC now accept one another's complaint forms to start the complaints process.
- A protocol has been established whereby complainants from British Columbia are provided with the telephone number of both the Commission and the OPCC and any correspondence received in error by either group is forwarded immediately to the other organization.
- Commission and OPCC personnel participated in a radio presentation on a Vietnamese language program and talked about the civilian review of policing.
- The Commission and the OPCC websites include links to each other's websites, providing citizens easy and rapid access to information on both organizations and their respective complaints processes.
- Joint training sessions for Commission and OPCC staff were held in Victoria and Surrey.

Moreover, the Commission Vice-Chair held meetings with officials from Aboriginal friendship centres to discuss more effective ways of communicating with Aboriginal organizations and facilitating access to the complaints process.

The proposed new model for civilian review of policing that was formulated by the Commission Chair was circulated for review and comment to the Cross-Cultural Roundtable on Security, a group of leaders from ethnocultural communities in Canada that advises the Ministers of Justice and Public Safety on the potential impacts of emerging national security matters. The Chair later met with Roundtable members to discuss the proposed legislative model and obtain their feedback.

The 2006 Canadian Association of Civilian Oversight of Law Enforcement National Conference in Vancouver provided Commission staff with valuable opportunities for learning and networking. Greater collaboration among the various members of the policing review community has helped raise the profile of civilian review bodies and improved their outreach efforts, as well as facilitating seamless service to the public.

Within government, the Commission has approached other departments and agencies such as Canadian Heritage and Service Canada to explore opportunities for data sharing and program partnerships.

## **ORGANIZATIONAL AND BUSINESS IMPROVEMENTS**

### **Improving Business Processes**

In addition to clearing the inventory backlog and expediting the review process this year, the Commission began identifying new ways to improve service to complainants. To this end, the Commission introduced new internal business protocols and practices and better methods for coordinating the

review of complaints. More efficient routing of telephone enquiries, the introduction of secure electronic transmission of review requests between Commission offices and improved tracking of case files all contributed to improved service to the public this year.

The introduction of a new scanning, encryption, image processing and electronic document management facility (see E-Workspace below) expedited the preparation, processing and delivery of documents and facilitated accurate reporting to Commission senior management and the RCMP on the status of every file.

The acquisition of video-conferencing facilities in both the Surrey and Ottawa offices this year will enable staff to communicate cost effectively with greater speed and efficiency.

## Managing More Effectively

### *E-Workspace*

Greater electronic document management capability is being implemented throughout the Commission, reducing duplication, streamlining document development and facilitating document sharing.

A new scanning, image processing and collaborative workspace, integrated with the electronic document management facility, has enabled Commission staff to store and manage a wide variety of documents in a full-text searchable database, contributing to the Commission's research and analytical capability.

### *Corporate Management and Administration*

The Commission made significant improvements to corporate management this year, completing implementation of the policy, procedure and training requirements of the *Public Service Modernization Act* and continuing, despite its small size and limited resources, to provide all central agencies with the requisite and increasing number of accountability reports.

### *Continuing to Foster a Workplace of Choice*

Following on the heels of last year's efforts to create a healthy and respectful workplace, the Commission conducted a second employee satisfaction survey and held a second staff retreat. Labour-management relations continued to improve, as priority issues identified in the employee survey were addressed in the organization's 2007–2008 business plan.

Other workplace improvements this year included the drafting of a rewards and recognition policy and program and the installation of on-site security and safety equipment.

# CHALLENGES AND OPPORTUNITIES

## IMPROVING RESEARCH AND POLICY DEVELOPMENT CAPACITY

In its 2005–2006 annual report the Commission expressed a desire to undertake more focused and intensive research and policy development initiatives. As improvements in operational efficiency liberated resources in 2006–2007, some of these were reallocated to strengthening the Commission's capacity in this area. For example, the Commission analyzed survey data to assess public awareness of the Commission and its role, and public opinion about its client service performance. The Commission also continued to gather information on national and international policing issues by visiting other organizations and attending conferences and meetings.

Senior management continued to monitor high-profile and significant cases, identifying trends and issues for further examination. Meanwhile, new administrative resources intended to facilitate interoffice communication and case management began yielding data and analytical information that have contributed to process monitoring, decision-making, trend analysis and policy development.

<sup>2</sup> Go to [www.ararcommission.ca/eng/EnglishReportDec122006.pdf](http://www.ararcommission.ca/eng/EnglishReportDec122006.pdf) for the full report.

The Commission has also examined in detail the record of RCMP response to Commission recommendations, including the manner in which the recommendations have been implemented. This analysis is expected to provide the Commission with valuable information to help shape policies and recommendations and improve operational effectiveness.

A redesign of the Commission last year added to the organization chart a new business line dedicated to research and policy development. Although the groundwork to establish such a function has been completed, additional resources will have to be sought before the business line can be staffed.

## A NEED FOR LEGISLATIVE REFORM

In his report to Parliament in December 2006, Justice O'Connor recommended that the mandate of the Commission be expanded to include civilian review of the RCMP's national security activities.<sup>2</sup> The recommendations in Justice O'Connor's report echo those of the Commission, reflected both in the Commission's 2005–2006 Annual Report

and in the Chair's oral submission before Justice O'Connor in November 2005.

The Commission Chair has consistently called for the reform of the Commission's governing legislation to address the growing gulf between RCMP powers and the Commission's authority to review police conduct. Much has changed in the two decades since the Commission was created. The advent of intelligence-led, integrated policing and the RCMP's growing role in national security, among other developments, have changed the nature of police work in Canada. Recent public opinion polls suggest that citizens are becoming more questioning of the increased emphasis on police powers at the expense of individual liberties.<sup>3</sup>

At the same time, 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. The absence of a comprehensive national regime creates a lack of consistency in the treatment of complaints and in the level of recourse provided to citizens.

We look forward to the government's response to Justice O'Connor's report.

## PROPOSED LEGISLATIVE MODEL

On November 7, 2006, the Chair released to the public the text of a draft legislative model for the civilian review of RCMP activities.

To further underline its civilian nature and independence from the RCMP, the draft legislative model envisages the introduction of new legislation that would see the current Commission subsumed within a new entity that would be known as the Federal Law Enforcement Review Board.

Entitled the *Federal Law Enforcement Review Board Act*, the proposed model of civilian review of policing seeks to restore the balance between collective security and individual rights. The proposed legislative model provides for several enhancements to civilian review powers.

Legislative reform is needed more than ever to enhance the powers of the Commission to assure Canadians that Canada's national police force is being held to an appropriate standard of accountability. The leadership of Parliament and the Minister of Public Safety is key to realizing these reforms.

## INADEQUATE RESOURCE BASE

When it was created in 1988, the Commission had a budget of \$3.6 million and a staff of about 33 employees to review the conduct of the RCMP with its estimated 18,000-member work force and \$1.4-billion budget.

Today, the RCMP is an organization of 26,000 employees, 20,000 of whom are regular or civilian members subject to the public complaints machinery. In addition to being Canada's national security force, the RCMP is also the provincial/territorial police force in 11 of Canada's 13 jurisdictions and a municipal police force in more than 200 towns and cities. Accordingly, the current RCMP budget of nearly \$4 billion is more than two and a half times what it was in 1988; yet the Commission's budget and human resources have barely kept pace with inflation, increasing to only \$5.1 million over the same period. Meanwhile, provincial policing review organizations, especially in Quebec, Ontario and British Columbia, find themselves two to three times better endowed with financial and human resources than the Commission, creating disparities in civilian oversight capability across the country.

<sup>3</sup> Ninety-five percent of respondents in a recent EKOS survey said they believed it was important or somewhat important to have an independent police review body to monitor the activities of the RCMP.

## PROPOSED LEGISLATIVE MODEL — THE FEDERAL LAW ENFORCEMENT REVIEW BOARD ACT

*Enhanced RCMP accountability and transparency will be provided by:*

- empowering a Federal Law Enforcement Review Board to establish criteria to ensure the impartiality and integrity of investigations conducted by the RCMP of its members;
- authorizing the Board to monitor such investigations and, where it deems appropriate, to direct that the Commissioner refer the matter for investigation by a different police force;
- providing the Board with unfettered access as of right to all information except Cabinet confidences;
- creating a positive obligation on law enforcement officers to account for their actions;
- enlarging the scope of civilian review to include actions of retired law enforcement officers and non-officers who act under the direction or supervision of such officers; and
- creating a new audit/review power and a new right to complain about the inadequacy or inappropriateness of the policies, procedures, guidelines, and the ability to respond or provide a service or training programs.

*Stronger ministerial accountability will be achieved by:*

- providing the Minister of Public Safety with the right to request special reports concerning any matter; and
- authorizing the sharing of Board reports with provincial ministers who contract for RCMP services.

*Oversight authority that is more closely aligned with modern law enforcement practices will be made possible by:*

- authorizing the Board to conduct joint investigations and to share information with review bodies that have powers, duties and functions that are similar to those of the Board.

*Safeguards include prohibitions on:*

- improper disclosure of sensitive information;
- introduction of testimony from an investigation as evidence in any other criminal, civil or administrative proceeding;
- harassment or intimidation of witnesses; and
- obstruction or interference with the Board's functions.

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.” In addition, Justice O’Connor has recommended that the Commission “have an adequate budget to fulfill its mandate in relation to the RCMP’s national security activities...”<sup>4</sup>

An effective national civilian review regime needs a resource base that signals a credible capacity to provide legitimate oversight of police activities in Canada.

<sup>4</sup> Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, *A New Review Mechanism for the RCMP’s National Security Activities*, recommendation 8, page 605; go to <http://www.ararcommission.ca/eng/EnglishReportDec122006.pdf>.

## CHAIR'S RECOMMENDATIONS

The Commission has worked diligently this year to fulfil its role as the “people's watchman” and to contribute to policing excellence by keeping the RCMP accountable to the people of Canada. However, despite growing demands for greater police accountability, the Commission's resources and powers have failed to keep pace with those of the RCMP and have become increasingly misaligned with the powers exercised by provincial policing review bodies.

An effective civilian review regime needs a resource base that provides a credible capacity to carry out civilian review. More important, an effective regime requires legislative authority to provide a level of review that is proportionate to the degree of intrusiveness exercised by the RCMP and consistent with the authorities provided by current provincial regimes and other federal review agencies, including the Security Intelligence Review Committee and the offices of the Information Commissioner and Privacy Commissioner.

To this end, the Commission Chair recommends that Parliament review the Commission's legislative mandate to provide

the Commission with statutory authority to generally review RCMP activities, including practices, policies, procedures, guidelines, applicable law and ministerial directives. The new mandate should also oblige RCMP officers, on request by the Commission, to provide an explanation of their actions in regard to a particular incident. The Commission should be accorded power to summon witnesses, take evidence under oath and compel the production of documents. The new Act should include a statutory provision authorizing the Commission to obtain access to all information except Cabinet confidences, as well as a provision naming the Chair as the final arbiter of information relevant to a Commission review. It should authorize the sharing of information with provincial ministers who contract for RCMP services. It should also authorize the new review body to conduct joint investigations and to share information with other review bodies that have powers, duties and functions similar to its own. Finally, the amended legislation should include a provision mandating a review of the statute every five years to help keep the accountability machinery responsive to society's evolving expectations.

# APPENDIX 1: FINANCIAL STATEMENT

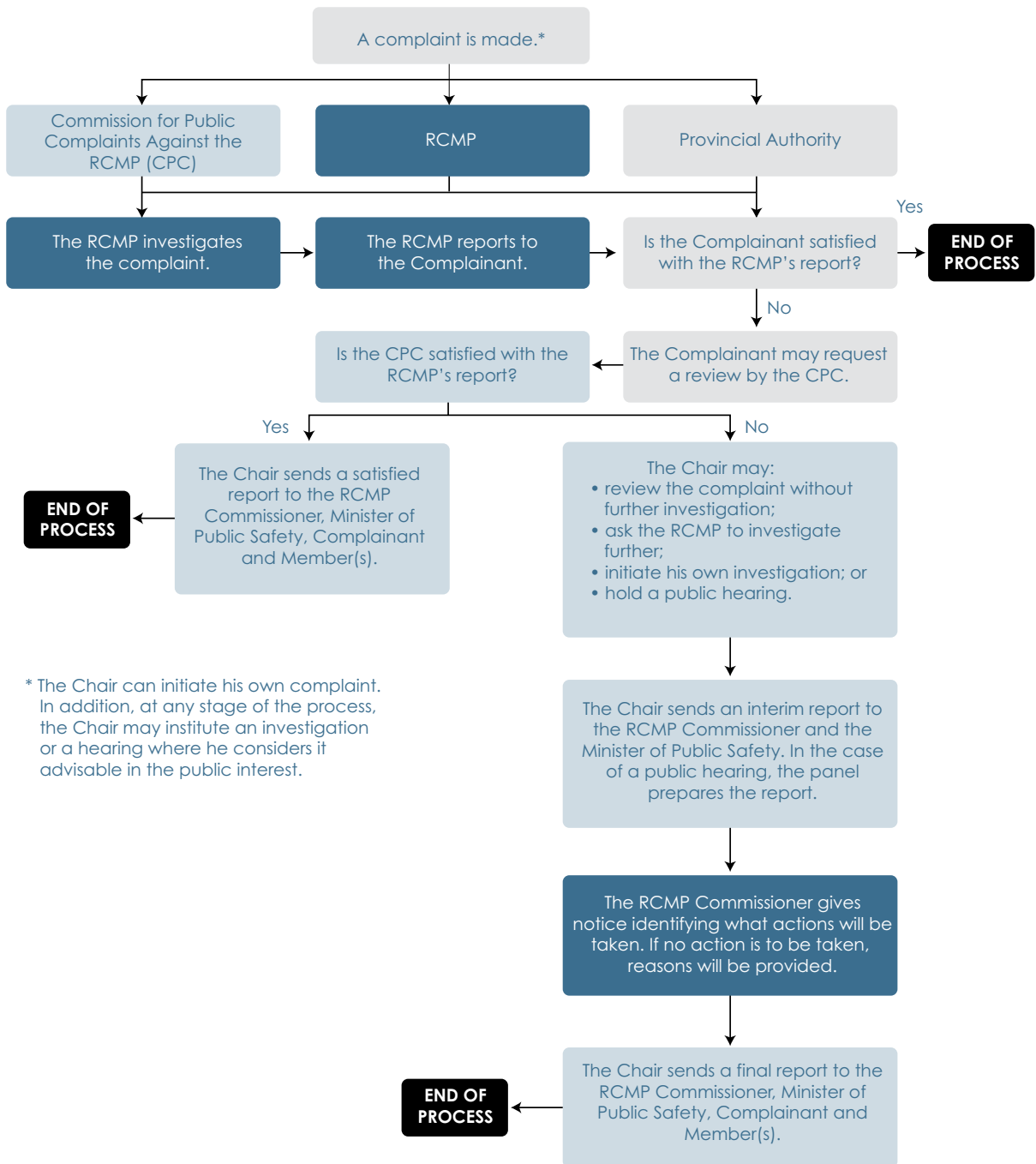
## Commission for Public Complaints Against the RCMP Budget and Expenditures

	ACTUAL SPENDING 2006–2007*			PLANNED SPENDING 2007–2008		
	(\$ thousands)					
	Commission	Kingsclear	Total	Commission	Kingsclear	Total
Salaries, wages and other personnel costs	2,882	337	3,219	3,089	—	3,089
Contributions to employee benefit plans	560	128	688	571	—	571
Subtotal	3,442	465	3,907	3,660	—	3,660
Other operating expenditures	1,679	1,034	2,713	1,588	374	1,962
<b>TOTAL NET SPENDING</b>	<b>5,121</b>	<b>1,499</b>	<b>6,620</b>	<b>5,248</b>	<b>374</b>	<b>5,622</b>

\* Subject to adjustments reported in Public Accounts.



# APPENDIX 2: THE COMPLAINTS PROCESS



## APPENDIX 3: INFORMAL RESOLUTION OF COMPLAINTS

The Commission frequently encounters emotionally charged situations that can be informally resolved by enabling a would-be complainant to air his or her grievances and exchange information with the appropriate RCMP official. These informal processes nearly always satisfy the prospective complainant's need for answers and clarity without recourse to resource-intensive and comparatively lengthy formal complaints processes.

After the Commission understands the nature of the citizen's concern, the analyst explains the options available for addressing it. In appropriate cases, the analyst invites the citizen and the RCMP to work together informally to resolve the issue. The citizen always retains the right to file a formal complaint.

Where the citizen elects to resolve the concern by way of informal dispute resolution, the analyst serves as a facilitator, helping the citizen obtain accurate and complete 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 concerns expressed

by the citizen, normally on the same day that the citizen raises the concern.

The informal dispute resolution process has been highly successful, addressing the needs of citizens in a manner that is often more timely and more satisfying than the formal process.

The following examples illustrate the range of issues resolved informally by the Commission in 2006–2007.

- RCMP members stopped a sport utility vehicle during a routine check. The seven people in the vehicle included six intoxicated passengers, two of whom were instructed to disembark from the vehicle while the driver delivered the remaining passengers to town. The two young adults were left on a dark highway until the driver returned to retrieve them. The mother of one of these passengers contacted the Commission alleging that the members' actions endangered her son. She also alleged that the members had displayed an improper attitude. She was nevertheless willing to discuss the matter with the

RCMP. The Commission contacted the appropriate detachment and explained the situation to the officer in charge, who promised to look into the situation. The officer later reported to the Commission that he had spoken with the woman about the situation and agreed that the members had been wrong to leave people on the side of the road. He also conveyed his concerns to the members involved and the woman was satisfied.

- A man telephoned to complain that there had been several occasions when he and his staff had required RCMP assistance at a local hotel owned and managed by First Nations members. The man and his staff had been dissatisfied with the outcome of their requests for assistance and he wished to lodge a complaint. The Commission offered to facilitate a meeting between the hotel and the RCMP and the man agreed. A single face-to-face meeting with the RCMP left the man fully satisfied.

- A person's file with a provincial insurance corporation erroneously indicated the existence of unpaid traffic tickets, which barred him from renewing his driver's licence. The imposed six-month suspension threatened his livelihood as a carpenter since he was required to travel to remote locations. His only recourse was to contact the officer who had issued the tickets to verify the information on file regarding the tickets. The Commission intervened through the appropriate RCMP office, putting the citizen in touch with the responsible officer. The two met shortly after and the matter was resolved to the citizen's satisfaction.

## APPENDIX 4: REVIEW CASE SUMMARIES

The following summaries document a range of policing issues that have given the Commission cause for concern this year. Full details on each case are available on the Commission's website.

### *Use of the Taser*

One case reviewed this year involved the use of a Taser against an intoxicated woman, whose daughter, fearing for the physical safety of her sister, had called the RCMP to the house. When the RCMP member arrived at the residence, an altercation ensued in which the member used both pepper spray and one application of a Taser in "touch stun" mode to subdue the woman. The member then handcuffed the woman and transported her to the detachment, where she refused to go to the holding cell. The Taser was applied twice more while the woman was handcuffed with her hands behind her. Although she verbally refused to comply with the officer's direction to proceed to a holding cell, she posed no physical threat and offered no physical resistance. A second RCMP member arrived to assist and the woman was eventually put into the cell, but not before

being threatened with another application of the Taser.

The Commission found that the RCMP member's first use of pepper spray and the Taser in "touch stun" mode was justified, but that subsequent applications of the Taser were improper. It also found that the member had failed to comply with the policy requirements relating to the reporting of Taser use and the provision of medical treatment. Its report recommended that the member receive operational guidance on RCMP policy pertaining to the use of conducted energy weapons and the application of the policy in the context of the Incident Management/Intervention Model. It also recommended that the member or the RCMP apologize to the woman.

The former Commissioner viewed the use of the Taser on a handcuffed woman and the failure of the member to follow policy as "totally inappropriate" and directed specific remedial measures for the member including denying him access to Tasers until he is fully retrained and provided with appropriate guidance. Thereafter for one full year, the member will provide a written report to his supervisor on each occasion

that he uses a Taser. The former Commissioner also directed that the member obtain operational guidance relating to timely and appropriate record keeping and offer an apology to the woman.

The former Commissioner responded to the Commission's broader policy recommendations, noting that:

- an expert panel had reviewed RCMP policy and determined that the use of conducted energy weapons was properly situated on the use-of-force continuum;
- the definition of resistant behaviour is already being reviewed by a national working group on incident management; and
- a course for instructors on Taser use had taken place in October 2005 "to ensure that our trainers are well-versed not only in the functionality of the device, but also in the philosophy of less than lethal interventions, the physiological and psychological effects of its use, and how, more precisely, its use fits into the Incident Management/Intervention Model use-of-force continuum."

The Commission continues to engage in dialogue with the RCMP about addressing our concerns during its policy review of the use of Tasers by members.

**Link: [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1363](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1363)**

#### *Use of Police Dogs*

One case reviewed by the Commission this year began as a domestic confrontation involving a young man and his father. The father telephoned the RCMP complaining that his son had assaulted him. The man told RCMP dispatch that his son was suicidal.

Asked about weapons, he acknowledged that his son might have knives. The young man fled the house and hid under the family's motor home, which was parked in the driveway. When the police dog arrived, the young man ran and hid in bushes at his grandmother's house next door. One of the five members conducting the search spotted the complainant in the bushes and advised the dog handler. According to the dog handler, when the complainant began to run away, he was ordered to stop a couple of times. When he did not comply, the handler released the police dog.

This incident occurred just before noon so visibility was not obscured by darkness. There were five police officers, several police cruisers and a police dog involved in the search. Neighbours were reporting to RCMP dispatch by phone their observations about the movements of the young man. There were several RCMP members nearby when the suspect was spotted. Apart from the father's initial observation that the young man might have knives, there is no evidence that any of the members actually observed a knife or other weapon when they spotted the young man, who, as it later turned out, did not have a knife. Nor is there any evidence that the young man was making any threatening gestures toward himself or anyone else.

The RCMP Commissioner believes that the decision to release the dog was justified because the young man could have had a knife, was reportedly suicidal and was running away. The Commission is of the view that justifiable conduct is not necessarily reasonable. One of the fundamental principles of the RCMP Incident Management/Intervention Model is that "the best intervention causes the least harm or damage." In this case, the least harmful strategy would have been to continue tracking the suspect once he had been spotted until the other members, who were nearby, were

able to apprehend him. In the Commission's view, attacking the young man with the police dog was not reasonable given all the circumstances of this case because it did not properly consider the principle of proportionality when determining the appropriate response.

**Link: [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1389](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1389)**

### *Status of Commission Findings in Interim Reports*

One case that demonstrates the RCMP's proclivity for substituting its own findings for those of the Commission involved an Alberta man who required seven stitches because of an injury he sustained from a police dog in the course of an arrest relating to a car theft. The Commission found that the use of the police dog had amounted to excessive force. The former Commissioner of the RCMP, however, substituted his own findings of credibility and his own factual findings and determined that the statements of the RCMP member in question were "as credible, if not more so," as those of the two young men apprehended. (The second man was not injured.) The Commissioner did not, however, provide any rationale for preferring the RCMP officer's statement over that of the two young men. In its interim report, the Commission expressed concerns about the member's statement and preferred the version of facts provided independently by the two young men, who had no opportunity to collaborate over their version of events.

The Commissioner also found that the member "after two hours of searching the area in the dark, had reason to suspect that these two individuals were those that he was pursuing." But the Commission's interim report said the member had acknowledged that when he discovered the two young men in the bush, he did not know who they were, nor did he have any grounds for arresting them.

Police have limited power to detain individuals for investigation when there are reasonable grounds to do so. The detention must be reasonably necessary in the circumstances and the officer must have good reason to suspect that there is a clear connection between the person being detained and a criminal offence in progress. The police officer must also have good reason to suspect that the particular individual being detained is implicated in the criminal activity under investigation. An officer's hunch is not good enough.

The Commission concluded that since the officer had no more than a hunch that the two males in question might be involved in the vehicle theft, the member had no authority to detain, let alone arrest, them. Under these circumstances, it was not reasonable to release the police dog to attack the young man even when he began to run.

**Link: [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1367](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1367)**

### *Inconsistency of Public Complaint Investigations by the RCMP*

In one case reviewed, two RCMP members attended the home of a B.C. resident and arrested him for breaching a restraining order barring him from contacting his wife. The man's previous criminal record indicated that he was potentially a very volatile and violent person to deal with. The man admitted to losing his temper when two members arrived at his home and there was a scuffle during his arrest. One member drove him to the detachment. En route, the man threatened the member and kicked at the protective Plexiglas panel in the police car. The man's behaviour escalated from difficult to dangerous and the member called for assistance.

Four members removed the man from the police cruiser. The man complained that, while he was handcuffed, four members

held him down while one member pulled his arms up behind his back by the handcuffs, causing injuries to his shoulders. Four days after his release, the man sought medical attention. The medical report indicated that the individual had suffered torn rotator cuff injuries to both shoulders and a broken bone in his left shoulder.

The Commission reviewed the RCMP's investigation of the man's complaint and found it severely wanting. Among its shortcomings, the investigation report failed to identify two of the four members on duty that night. The Commission observed in its review report that, given the serious nature of the injuries and the allegation that they had been inflicted intentionally, the investigation's failure to determine how the complainant was injured and by whom raised a cloud of suspicion and undermined the public complaints process.

As part of its review, the Commission supplemented the RCMP investigation by obtaining additional evidence from a medical expert. The Commission concluded that the injuries were consistent with the complainant's version of the events and found that the members used excessive force in their dealings with the prisoner.

The former Commissioner of the RCMP also expressed his concern about the extremely poor quality of the investigation and indicated that he would ask the Commanding Officer of the Division to "take the necessary steps to ensure that all future public complaint investigations are carried out thoroughly to prevent any reoccurrence." The former Commissioner concluded: "Unfortunately, given the passing of time, I am now statute-barred from proceeding with any disciplinary measures."

**Link: [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1373](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1373)**

### *Observance of Protocols in Police Exchange Operations*

In the case at issue, the RCMP and Texas state troopers were conducting roadside spot checks of vehicles near Hope, British Columbia, as part of Operation Pipeline on May 11, 2004, when a motorist approached the check zone and was pulled over by a person in plain clothes wearing a bullet-proof vest and a high-visibility jacket. The motorist was asked to await the arrival of an RCMP member, who soon approached, questioned the motorist and requested his licence and vehicle registration. This member, who was also the coordinator of Operation Pipeline, conferred with the plainclothes officer while preparing a document at his police cruiser. Both men agreed that the motorist was acting suspiciously. The motorist was subsequently advised that he was free to go and departed.

The plainclothes officer was actually a Texas state trooper participating in Operation Pipeline. When the motorist departed, the trooper approached another state trooper, who was working with a second RCMP member, an Operation Pipeline instructor. The first trooper advised the second trooper of his concerns that the recently departed motorist might have been involved in criminal activity. This information was then relayed to the Operation Pipeline instructor, who, together with the second trooper, pursued the motorist and pulled him over a second time.

The Operation Pipeline instructor commenced an impaired driving investigation and requested a "consent search" of the vehicle to which the motorist agreed. The motorist was monitored by the state trooper at the front of the vehicle while the search was being conducted. The search was completed and yielded nothing.

In its review, the Commission determined that Texas state troopers had been engaged in direct policing activities, contrary to RCMP policy. The first trooper had arbitrarily detained the motorist and the second had restricted the motorist's movements during the search of his vehicle by the second RCMP member. In both instances, the troopers were carrying out policing functions under the supervision or direction of RCMP members.

**Link: [www.cpc-cpp.gc.ca/DefaultSite/Reppub/index\\_e.aspx?articleid=1383](http://www.cpc-cpp.gc.ca/DefaultSite/Reppub/index_e.aspx?articleid=1383)**





