

## *news release*

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### **Proper review will help, not hinder, RCMP's ability to do its job, Commissioner tells Arar Inquiry**

**Ottawa, Nov. 18, 2005** — Canadians deserve effective and appropriate review of RCMP national security activities that does not detract from the organization's ability to carry out its mandate, Commissioner Giuliano Zaccardelli stated this afternoon before a federal inquiry.

"Both the organization and the Canadian public want review that strengthens our investigations and enhances our ability to achieve our mission," Commissioner Zaccardelli told the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar.

"I acknowledge the key importance of review that, when designed and implemented appropriately, can reassure the public that its police are acting as they should, and that corrections will be made if and when they are needed. This will, of course, assist us in doing our job better. More importantly, it will lead to us maintaining our covenant with citizens: to serve, protect and be held to account by them and for them."

The Commissioner's remarks were part of a full day of hearings that also included morning appearances by the Office of the Communications Security Establishment Commissioner, the B.C. Civil Liberties Association, and a panel comprised of the Commissioner himself, Ontario Provincial Police Commissioner Gwen Boniface and Ottawa Police Service Chief Vince Bevan.

Led by Justice Dennis O'Connor, the Commission of Inquiry is examining the issue of independent, arm's-length review of the RCMP's national security activities. It is expected to provide its recommendations to the Government of Canada by the end of March.

While the Commissioner did not express a preference for any specific form of review mechanism, his afternoon appearance did address the importance of proper review.

Among other things, the Commissioner said in the afternoon that review should incorporate an open and transparent process. He also said that review should not interfere with active, ongoing investigations. It should protect Canada's secrets. It should not distract investigators from their operational duties. It should also respect the principle of police operational independence, allow for integration with other

enforcement agencies, and take into consideration Canada's unique legal, political and cultural systems, traditions and context. Finally, it should not needlessly duplicate the RCMP's other mechanisms of review.

For more information, please see the RCMP backgrounder on the Commissioner's appearance. The Commissioner's opening remarks are also available on our Web site.

The Royal Canadian Mounted Police is Canada's national policing organization. Its ultimate goal is safe homes, safe communities for Canadians.

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## *backgrounder*

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### **RCMP Commissioner's appearance before Justice Dennis O'Connor to discuss independent, arm's-length review of RCMP national security activities**

#### ***Context***

Besides investigating and reporting the actions of Canadian officials in relation to Maher Arar, Justice Dennis O'Connor, head of the Commission of Inquiry into the Actions of Canadian Officials in Relation to Maher Arar, has also been tasked with making recommendations concerning an independent, arm's-length review mechanism for the Royal Canadian Mounted Police's national security activities.

This policy review has run concurrently with the factual inquiry. As part of it, the Commission of Inquiry invited RCMP Commissioner Giuliano Zaccardelli to discuss the issue of independent, arm's-length review.

#### ***The review so far***

The Inquiry's policy review is taking place in three stages:

1. The Commission of Inquiry's discussion paper and eight background papers are published. These papers describe the security/intelligence landscape in Canada, focusing on the RCMP and looking at domestic and foreign review models.
2. The Commission calls for and receives relevant written submissions from interested parties including government institutions.
3. Consultations are held at which submissions dealing with the policy review are heard.

Since last fall, the Commission has released a total of 13 consultation and background papers. It has also called for written submissions. More than 20 people and organizations, including the RCMP, have provided their thoughts on review and review mechanisms to the Commission.

Commissioner Zaccardelli's appearance represented the final segment of the consultations that make up stage three of the policy review. The Inquiry heard from

more than 15 people before the Commissioner. They represented such diverse organizations as the Ontario Provincial Police, the Commission for Public Complaints Against the RCMP and Amnesty International.

With the policy review's public consultations now over, it is expected Justice O'Connor will consider what he has heard, along with written submissions received and the Inquiry's own research, in arriving at his recommendations. Justice O'Connor has let it be known he expects to submit a report on the policy review before the current fiscal year ends on March 31.

***Summary of and excerpts from Commissioner Zaccardelli's opening remarks to Justice O'Connor (Please check excerpts against delivery)***

Commissioner Zaccardelli began by stating that he welcomed the opportunity the Inquiry offered to examine how the RCMP might meet expectations for independent, arm's-length review while maintaining the integrity of its national security operations.

The Commissioner pointed out that his organization has a long and honourable history. Its motto, *Maintiens le droit*, spells out its obligation those it serves. The RCMP, he said, recognizes the importance of review in showing Canadians that their rights, freedoms and shared values are respected, and in maintaining the public trust on which police work is based. In short, he said, the RCMP and those it serves both depend upon effective, appropriate review.

***“Effective and appropriate review is essential — not only for the public but for our organization as well. It reassures all of us that members are holding true to our shared values and standards. And it ensures that we continue to provide the high quality service that Canadians expect and that protects the reservoir of trust on which we all depend so much. Good review mechanisms also empower the RCMP to spot problems and take action to strengthen operations.”***

The Commissioner then briefly reviewed his organization's role in national security. As Canada's national police force, the RCMP has been involved in keeping Canada secure since it was created in 1873. Even after the creation of the Canadian Security Intelligence Service, the RCMP's mandate as the lead domestic agency for national security related criminal investigations and for protecting Canadian officials and internationally protected persons remained.

The Commissioner differentiated between RCMP and CSIS operations. CSIS collects, analyzes and retains information to advise the government or for immediate, responsive ends unrelated to law enforcement. The RCMP, on the other hand, collects, analyzes and retains information to prevent crime and prosecute criminals. The nature of the RCMP-CSIS relationship dovetails with the RCMP's commitment to integrated policing.

Canada's *Anti-terrorism Act* recognizes the role of police in national security, providing law enforcement with additional counter-terrorism tools with built-in checks and balances that are in every way proportional with the tools themselves – including the current, mandatory Parliamentary review of the entire act.

After discussing the RCMP's role in national security, the Commissioner turned to the force's current review mechanisms. All RCMP operations are subject to multiple levels of stringent review. Beyond the *Charter of Rights and Freedoms*, other laws and Ministerial authority, the farthest reaching is judicial review.

***“As you know, our legal system allows for the review of evidence prior to it being introduced in a criminal proceeding. If a court does not approve of the methods by which it was collected, it may be ruled inadmissible. Ultimately, judicial review means that at trial charges must be proven beyond a reasonable doubt. But long before charges are ever laid, judicial review comes into play at every significant point where intrusive investigative tools are exercised. Every step taken within the investigative prosecution model is made with the understanding that it could end up in open court, subject to judicial scrutiny and comment.”***

In the case of investigative tools under the *Anti-terrorism Act*, Attorney General approval is also required. Often, the more complex an investigation, the more pre-charge review and authorization it is subject to.

Beyond the courts, the definitive body for open and transparent review related to RCMP performance is the Commission for Public Complaints Against the RCMP (the CPC). The CPC has a clear mandate allowing it to investigate all complaints against RCMP employees including complaints related to issues of national security.

The Commissioner addressed the perception of some who argue the CPC cannot fulfill its mandate because it doesn't receive all relevant information and needs audit power.

He stated that the RCMP is legislated to provide all relevant information to the CPC regarding complaints it is investigating.

So far as audit power, he said, the CPC arguably already has it since the *RCMP Act* allows it to initiate its own complaints and therefore delve into areas where it feels it's in the public interest to look.

The Commissioner concluded his discussion of the CPC by stating that “the track record of CPC-RCMP cooperation in resolving complaints is exceptional.” The overwhelming majority of all complaints are resolved to the complete satisfaction of all parties. And when the CPC must make recommendations, they are almost always implemented.



Between the courts and the CPC, most RCMP operations fall under some form of review. However, there are RCMP activities that may escape the attention of the RCMP's regular checks and balances. Not all activities are reviewed through the courts. And the law forbids the RCMP to share some information with the CPC.

*“It is true therefore, that there is a thin slice of RCMP national security activities that at times may not be subject to full external review. I say “at times” because ad hoc review bodies — such as this Inquiry — can always be engaged. It must also be remembered that no RCMP activities ever stand outside the scope of our ultimate check and balance: the Canadian legal system and the Charter of Rights and Freedoms.”*

The Commissioner stated that both the RCMP and the Canadian public want review that strengthens the organization's investigations and enhances its ability to achieve its mission. He outlined nine other principles of truly effective and appropriate review:

1. **It recognizes the importance of information sharing and integration.**
2. **It does not interfere with active investigations.**
3. **It protects secrets whose disclosure could harm Canada.**
4. **It is free of red tape that could tie up investigators' time.**
5. **It is proportional with the limited scope and size of the RCMP's national security activities.**
6. **It acknowledges the common-law principle of police operational independence.**
7. **It takes Canada's unique legal, political and cultural systems, traditions and context into consideration.**
8. **It brings problems to the attention of Government without usurping Ministerial authority and responsibility.**
9. **It does not needlessly duplicate the RCMP's other mechanisms of review.**

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