

Commission for Public Complaints Against the
Royal Canadian Mounted Police



Commission des plaintes du public contre la
Gendarmerie royale du Canada

Presentation by
Paul E. Kennedy, Chair
Commission for Public Complaints Against the RCMP

at
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of Law Enforcement Conference

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Police organizations are accountable to civilian oversight bodies. Likewise, those civilian bodies are accountable to the Canadian public. Today's presentation is a means for me to help fulfill that obligation on behalf of the Commission for Public Complaints Against the RCMP.

I would like to update you on activities that we have undertaken during the past 24 months which are part of our strategic objectives of facilitating access to the complaints process and enhancing the quality and credibility of our reviews. The work that we have undertaken is evolutionary in nature and will continue to unfold in response to new challenges.

In an ideal world, an enhanced legislative mandate and financial resource base would assist the Commission to better address the increasing public demands for greater transparency and accountability of policing in Canada. We don't live in an ideal world and as managers, we have an obligation to be innovative and ensure that our resources and efforts deliver the highest possible value to the public.

With that objective in mind, along with my Vice-Chair and my colleagues at the Commission, we undertook a series of activities to:

- 1) increase our effectiveness;
- 2) increase accessibility by the public;
- 3) enhance the credibility of our reports;
- 4) foster outreach to partners; and
- 5) find creative ways of responding to new pressures in the absence of a new legislative mandate.

One of our first challenges was to address a chronic backlog of reviews that stretched back some six years and which undermined the effectiveness and the credibility of findings and recommendations that the Commission would make. We adopted the position that justice delayed is justice denied.

In the 14 months between November 1, 2005 and December 31, 2006, we processed 490 reviews, eliminating the review case backlog for the first time in more than 15 years.

To ensure that the backlog did not recur, we instituted a 120-day service standard for new review cases and achieved our target of completing 80 per cent of final or interim reports within 120 days. What this means in real terms is that the average time for completing new review cases dropped to just 91 days from a previous five-year average of 527 days.

Our goal is to work with the RCMP such that the entire cycle from complaint intake to investigation and first instance ruling followed by appeal takes no longer than one year for 80 per cent of complaints.

Having eliminated our backlog, we directed our energies to new value added initiatives. Two projects that I would like to share with you are: the Independent Observer Pilot Project that we have established with the RCMP in British Columbia and a Review of the Record that has been launched in respect of all complaints filed during the course of the current calendar year.

There have been general expressions of concern across Canada regarding the impartiality of police investigations of their fellow officers who have used force which has resulted in either death or serious injury.

On March 21st of this year, the Commission launched with the RCMP “E” Division in British Columbia, a pilot program pursuant to the terms of which Commission staff will be assigned to observe and report to me on high profile or sensitive cases including ones involving serious injury or death. The CPC staff representative would attend and receive case briefings within the first 24 hours, 72 hours, 7 days and every 30 days thereafter. The role of the CPC staff representative would be to assess the impartiality of the RCMP investigation against a set of defined criteria including: whether there are any real or perceived conflict of interests, whether appropriately qualified investigators have been assigned, whether the investigative team responded in a timely fashion and whether the officers conduct themselves in a manner consistent with the terms of section 37 of the *RCMP Act* (Professionalism). We hope that this arrangement will help address public concerns about real or perceived lack of impartiality.

There are approximately two thousand complaints filed against the RCMP annually. Of these, some 200 are appealed to the Commission for a further review. Of these 200, approximately 25 per cent result in findings or recommendations adverse to the RCMP’s disposition in the first instance. From these 50 or so files, we extract certain significant issues which we report upon in our Annual Report. This raises the question as to the 1,800 cases that are not appealed to the Commission. In my view, if there is truly civilian oversight of police conduct, we have a responsibility to ensure that the entire mechanism that has been put in place to address civilian complaints is functioning properly—not just the process that deals with appeals.

Many of the individuals who come into contact with the police have significant social, medical and educational challenges. It is not reasonable to assume that they fully appreciate the adequacy or appropriateness of the disposition of their complaint in the first instance. For the calendar year 2007, we have undertaken

a review of the file for each complaint that has been filed. Together with CPC staff, I will be looking at some of the following concerns:

- Are inappropriate matters being referred to informal resolutions? It is my belief that allegations of excessive use of force, for instance, are not appropriate for informal resolution.
- Are complaints appropriately documented or are they being treated outside the system or withdrawn, i.e. people use the 2,000 complaints a year as a measure of the overall health of the citizen-police relationship. Canada's population has grown by several millions since 1988. Yet, the 2,000 figure has held constant. Is this likely? And more importantly, is the 2,000 complaints figure a reliable indicator?
- Are investigations and the decisions rendered in the first instance being carried out in a timely fashion?
- Are individual complainants being advised as to their right of appeal to the CPC as is provided for in the legislation?
- What are the trends in terms of complaints and do they indicate problems that may be different than those reflected in the 10 per cent of the files that are appealed to the CPC?
- Are the decisions rendered in the first instance by the police adequate and responsive to the complainants?

The results of our research will be made available to the Minister of Public Safety, to the Commissioner of the RCMP and to the public.

Under our current legislation, the RCMP, which conducts the investigation and renders a disposition in the first instance, is a partner with the CPC in addressing public complaints. This research, I anticipate, will allow us to identify the strengths and weaknesses of the management of this process across Canada and formulate recommendations to strengthen that process. In serious cases, I may intervene and launch a Char-initiated complaint or public interest investigation to address a failure that has been identified.

Beyond these internal challenges, we have looked to improve access to the complaints process. As I pointed out earlier, there has been generally 1,800 to 2,000 complaints filed per year. This figure has held fairly constant despite a significant increase in Canada's population and an expansion of RCMP presence at the municipal level. Two communities in particular that would appear to be under-represented in the complaints process are the Aboriginal community and the new Canadians who have arrived during the past 20 or 30 years. Do they ever know that a complaints process exists? Are there language, cultural or other obstacles that may be impeding their access to the complaints process? Are they potentially confused by the existence of a federal and a provincial civilian review system? The problem is not unique to the CPC and I know this is a concern shared by my colleagues. This is where we

have to ask ourselves what we, as civilian oversight agencies, can do to facilitate and simplify access to our complaints process. Some actions that we are undertaking include:

- a) enabling complaints to be filed in person, in writing, over the Internet or by phone;
- b) simplification of the complaint form;
- c) development of a new bilingual brochure which includes our complaints intake form;
- d) providing a special telephone service for hard-of-hearing persons; and
- e) providing translation and interpretation to enable complaints intake in 11 languages other than French and English.

In recognition of the reality that we coexist across Canada with our provincial counterparts and that a dual civilian review complaints system may confuse some members of the public, I asked my former Executive Director, Mr. Greg Hunter, to contact each of our provincial counterparts to see how we could more effectively work together to ensure that, for the public, there would be no wrong door. Simple things that we can jointly do to enhance service to the public are to receive complaints regardless of whether they pertain to the RCMP or another police force and direct them to the appropriate office for follow-up action, provide one another with contact points, and update our respective websites with hot links that enable a complainant to be easily transferred to the appropriate site for additional information.

Our efforts in this regard with British Columbia are more advanced than in other provinces. In addition to the initiatives that I have already discussed, we have conducted a number of joint outreach activities, joint training sessions, and are looking at ways to provide a similar level of accountability despite differences that may exist in our legislative mandates. For example, if there was a police shooting that resulted in death or serious injury, the Office of the Police Complaint Commissioner of British Columbia could monitor the investigation or direct that another police force conduct the investigation. I do not have that power regarding the RCMP but I have, in cooperation with the RCMP, established the Independent Observer Program to assess and comment upon the impartiality of RCMP investigations. I also have the power, following a criminal investigation, to launch a Chair-initiated complaint to address issues beyond impartiality. My ability to access both of these tools should diminish public concerns about the police investigating the police.

To further address these public concerns, we are jointly looking at the capacity to randomly monitor police investigations of complaints in British Columbia as had been recommended by Justice Woods and we are exploring the development of an interim protocol to address complaint investigations involving integrated police units or events that engage the conduct of RCMP

and non-federal police activities. I believe that there is great potential for enhanced cooperation and the leveraging of resources, experience and ideas to meet increasing public expectations whilst respecting regional differences.

It may very well be that a marginalized community in the Maritimes and the means employed to address its needs would be different than for the Prairie Region or the West Coast. We are prepared, as your federal partner, to accommodate these differences.

We recognize, however, that one cannot be busy simply for the sake of being busy. Our efforts must be meaningful to our clients by whom I mean the complainant, the RCMP member whose conduct is complained of, the RCMP as an institution and the general public. With that in mind we plan to introduce a client survey that will provide feedback as to the quality of the service that we provide including such matters as the timeliness of our work, its readability, etc. We have set service standards for ourselves such as the commitment to complete 80 per cent of our final and interim reports within 120 days. We will continue to publicly report as to our compliance with that standard and to make increased use of the Web to publicly distribute more of our decisions and the RCMP's response to our recommendations. The Canadian public has a right to know how its money is being spent and what kind of work is being performed on its behalf.

We have been fortunate to have enjoyed excellent co-operation from the RCMP in terms of establishing programs such as the Independent Observer Program and for facilitating access to many community leaders through their previously established outreach programs. With a network of some 24,000 or 25,000 members throughout Canada, they can be of invaluable assistance to the CPC as it carries out its work. Likewise, we look forward to increased collaboration with our provincial police oversight counterparts with a view to creating a seamless system of oversight of police in Canada.

I would also like to express my thanks to Dirk Ryneveld and his deputy Bruce Brown for their excellent collaboration as we work together to address these challenges in British Columbia.

Some materials providing more background on the areas that I have discussed are available at our booth.

I would like to turn the floor over to my colleague Mr. Bruce Brown, Deputy Commissioner of the Office of the Police Complaint Commissioner of British Columbia.