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# RCMP



ROYAL CANADIAN MOUNTED POLICE

2008 - 2009

## Annual Report Management of the RCMP Disciplinary Process

Adjudicative Services Branch



Royal Canadian Mounted Police  
Gendarmerie royale du Canada

Canada



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# 2008-2009

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## Message from the Director General

All 22,000 regular and civilian members<sup>1</sup> of the Royal Canadian Mounted Police (RCMP) fall under the organization's disciplinary process. This process is intended to administer the RCMP *Code of Conduct*, which requires members to adhere to the high standards of behaviour Canadians expect of their national police force. The RCMP is committed to continuously improving the management of its disciplinary process. This first annual report will serve as a baseline against which to measure future efforts.

The logic behind this commitment is simple. The RCMP's mission of preserving the peace, upholding the law and providing quality service requires the public's trust if it is to succeed. Conduct jeopardizing that trust must be corrected as fully and expeditiously as possible. This requires an open, accountable, timely and consistent disciplinary system.

In recent years, key reports have identified areas requiring improvement and made useful recommendations for moving forward. These have included: eliminating procedural delays; recommitting to a less adversarial approach to discipline; greater focus on prompt remediation at the appropriate supervisory level consistent with the principles of the RCMP's statutory framework; and establishing a centralized disciplinary authority to ensure integration, planning, monitoring and accountability across the organization.

<sup>1</sup> All figures with respect to the number of RCMP members are based on the on-strength establishment of the Force as of April 1, 2009. For more information and the latest numbers, please visit [www.rcmp-grc.gc.ca/about-ausujet/organ-eng.htm](http://www.rcmp-grc.gc.ca/about-ausujet/organ-eng.htm). Of the 22,000 members, approximately 18,500 are regular members holding peace officer status. The remainder are civilian members.

In March 2008, these positive changes began in earnest. The RCMP's Senior Executive Committee approved the establishment of Adjudicative Services Branch in order to oversee and coordinate the consistent delivery of formal disciplinary services. This structural change will serve as the catalyst for stronger leadership, a single point of accountability, enhanced program management and improved efficiency.

Changes since the creation of Adjudicative Services Branch in 2008-2009, which are described in more detail later in this report, include:

- a comprehensive review of formal disciplinary files, that reduced the caseload by just over 28 per cent to 85 cases in the system as of March 31, 2009;
- establishing a process to monitor cases in order to better understand how the disciplinary system is functioning at any time;
- introducing enhanced case management systems on a national level for all three components of the formal disciplinary system (Adjudications Directorate, Member Representative Directorate, and Appropriate Officer Representative Directorate);

- the ongoing renewal of the disciplinary process's accountability framework to set out roles and responsibilities of the three above-mentioned directorates within the parameters of a Commissioner's Standing Order giving it force in law;<sup>2</sup>
- developing a draft national policy that formalizes the Early Resolution Project, to accelerate disciplinary hearings where there is agreement between parties on the facts and the dismissal of the member is not being sought;
- additional training for members with respect to the RCMP disciplinary system (a necessary step given ongoing work towards increasing the involvement of managers in the disciplinary system); and
- restoring and enhancing the role of regional and divisional management at the onset of conduct and performance issues through greater reliance upon regional/divisional professional standards units and discipline reviewers.

While it will take time to realize the results of these initial changes, the disciplinary system is clearly moving in the right direction.<sup>3</sup>

The commitment by senior leadership toward expeditious reform and a fair and effective disciplinary system will drive further projects in the coming year. Initiatives for 2009-2010 will build on current momentum and include work to eliminate delays, schedule hearings more efficiently, finalize national disciplinary policies, improve data collection and management with respect to informal discipline, and

increase training. Together, these initiatives will help build a disciplinary system that is more effective, less adversarial and more efficient.

These efforts will require central monitoring and support in concert with a simultaneous emphasis to managers at all levels that informal discipline is an important management tool. As we continue to move forward in improving the management of the RCMP's disciplinary system, we will also seek greater standardization in its application.

Improvements to this system will be in line with the RCMP's vision for change, as an adaptive, accountable, trusted organization of fully engaged employees demonstrating outstanding leadership and providing world-class police services.

Above all, the changes we are implementing will help introduce greater transparency and accountability into the RCMP's disciplinary process while enhancing efficiency and maintaining fairness and due process for our members.

**Chief Superintendent Richard Evans**  
**Director General, Adjudicative Services Branch**  
**Royal Canadian Mounted Police**

<sup>2</sup> *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, s. 21 [hereinafter *RCMP Act*].

<sup>3</sup> *Royal Canadian Mounted Police Reform Implementation Council: Second Report* (Ottawa: RCMP Reform Implementation Council, March 2009) at pg. 21.

## Ministerial Directive and Requirement to Report

### 1.1 Introduction

In 2008, the Minister of Public Safety issued direction to the Commissioner of the RCMP regarding the Force's disciplinary process. The aim was to bring about additional clarity and enhanced accountability. The *Ministerial Directive on the RCMP Disciplinary Process* is the impetus for this report.

Beyond calling for an annual report on the management of the RCMP disciplinary process, the directive requires:

- the standardization of application and enhancements to the transparency of the disciplinary process set out in the *Royal Canadian Mounted Police Act (RCMP Act or the Act)*;
- the maintenance and ongoing monitoring of comprehensive records on all disciplinary files;
- the effective coordination and efficient administration of the RCMP disciplinary system;
- nationally consistent policies and protocols to inform RCMP members of the requirements and procedures associated with the disciplinary process;
- regular training for appropriate staff to promote awareness of and compliance with the above requirements and procedures; and

- a designated representative of the Commissioner, having regard for legal and operational considerations, to inform the Minister in a timely manner of significant disciplinary matters.<sup>4</sup>

The following report summarizes the management of the RCMP disciplinary process during fiscal year 2008-2009.

### 1.2 Report Overview

As the first of its kind, this report takes steps to familiarize readers with the historical basis of the RCMP's disciplinary process before examining how that process is currently administered. It then looks at progress over the 2008-2009 fiscal year and concludes with a discussion of the initiatives and priorities that will define the coming year's management of RCMP discipline.

<sup>4</sup> The full text of the 2008 Ministerial Directive can be found in Appendix B.



## Historical Overview

The RCMP's disciplinary process has evolved from careful consideration of appropriate legislative measures during the 1970s and 1980s. The provisions now under Part IV of the *RCMP Act*, including those for informal and formal disciplinary actions, were generally a response to the analysis and recommendations outlined in the 1976 *Report of the Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedures within the Royal Canadian Mounted Police*.<sup>5</sup>

The commission of inquiry behind the report was established on June 6, 1974, and chaired by Mr. Justice René Marin of the then-County and District Courts of Ontario. It came to be known as the Marin Commission and was mandated:

*... to investigate and report upon the state and management of that part of the business of the Solicitor General pertaining to:*

- (a) the current methods of handling complaints by members of the public against members of the Royal Canadian Mounted Police;*
- (b) the question whether existing laws, policies, regulations, directives and procedures, relating to discipline and the grievance procedure within the Royal Canadian Mounted Police, are susceptible of improvement should be effected (sic) and, if so, by what means such improvement should be effected; and*
- (c) any matters incidental or relating to any of the matters referred to in paragraphs (a) and (b).*<sup>6</sup>

<sup>5</sup> Canada, Report of the *Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedures within the Royal Canadian Mounted Police* (Ottawa: Minister of Supply and Services, 1976) [hereinafter *Marin Report*].

<sup>6</sup> *Ibid.*, at 3.

### 2.1 Internal Discipline Prior to 1988

The Marin Commission found the disciplinary system it had been mandated to examine was essentially punitive.<sup>7</sup>

The penalties available were:

- cautioning – a formal oral admonishment by an officer;
- warning – a written reprimand by an officer;
- charging with a service offence; and
- compulsory discharge.

Disciplinary charges alleging major and minor service offences were tried within a Service Court presided over by a single commissioned officer. The accused member was permitted to request the representation of another member, however, there was no entitlement to professional counsel. Service Court proceedings used the same adversarial process and rules of evidence as criminal trials. Punishments included imprisonment for up to one year, fines, loss of pay, reduction in rank, loss of seniority, a reprimand or compulsory discharge.<sup>8</sup>

All disciplinary proceedings were reviewed at National Headquarters to ensure they conformed to the existing requirements and that penalties administered were legal and consistent with current standards. In cases where the member was not convicted by the Service Court, Headquarters could still direct that a cautioning or warning be delivered.

### 2.2 Marin Report (1976)

The Marin Report concluded that the RCMP needed to look at the causes of the problems it dealt with and what could be done to rectify them:

<sup>7</sup> *Ibid.*, at 134.

<sup>8</sup> *Ibid.*, at 115-116.

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*... While a remedial approach to discipline recognizes that sanctions may sometimes be necessary, it also recognizes that there are many situations in which punishment is not only inappropriate, but unfair.*

*Problems of performance and conduct may be due to inconsistencies between rules, regulations and directives and the operational requirements of policing. In other cases, local conditions such as a shortage of adequate manpower, ineffective leadership and supervision or a protracted stress situation may give rise to problems of either conduct or performance ....*

*Only if a supervisor is assured that a particular difficulty relates primarily to the individual concerned should punishment of any sort be imposed. Corrective action, indeed disciplinary action of any kind, is self-defeating if it is misdirected. The accurate identification of a problem is the necessary first step of any remedy.<sup>9</sup>*

In arriving at this conclusion, the report identified a number of problematic issues in the RCMP's disciplinary system, including:

- non-punitive disciplinary measures were unavailable to address a member's behaviour issue or unsatisfactory job performance;
- members were not afforded sufficient procedural protection of their rights; and
- the central review process at Headquarters restricted the authority of members' direct supervisors to tailor discipline in order to correct behaviour and encourage the good conduct of others.

The Marin Report was the foundation for the amendments made to the Act in 1988, which became the framework of the RCMP's current disciplinary system. These key findings merit close attention when one considers the RCMP's renewed commitment to improving the efficiency of the system by administering discipline at the lowest level wherever possible:

(i) **Unavailability of Non-Punitive Disciplinary Measures**

The Marin Report stressed that a disciplinary system seeking solely to blame and exact punishment is inadequate and a preferable approach is one in which there is the availability of both punitive and corrective measures in addressing conduct and job performance issues. In this sense, once the accurate identification of a problem is made, consideration can be given to the appropriate corrective action. Such corrective action can be non-punitive or punitive depending on the problem identified.

One conclusion reached in the Marin Report was that those responsible for discipline must be provided with a full complement of alternatives and directions for their implementation so as to approach discipline with a view to educating members as opposed to assigning blame and imposing punishment where it is unnecessary.<sup>10</sup> At the same time, there was recognition that a punitive approach is required in certain cases.

(ii) **Procedural Rights for Members**

The Marin Report emphasized that the Service Court proceedings were patterned on the adversarial system. The member and the prosecutor could call, examine and cross-examine witnesses, evidence was given under oath and the presiding officer determined law and fact. There was "ambiguity, equivocation, misunderstanding and mistrust" through the inconsistent application of rules of evidence and standards of proof (i.e. "balance of probabilities" as in a civil trial or "beyond a reasonable doubt" as in a criminal trial).<sup>11</sup> The report's recommendations aimed to define and clarify the rights, obligations, rules and procedures of the RCMP's formal disciplinary system.<sup>12</sup>

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<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*, at 111-131.

<sup>12</sup> *Ibid.*, at 133-160.

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<sup>9</sup> *Ibid.*, at 135.

### (iii) Lack of Authority to Discipline at the Local Level

The Marin Report acknowledged the need for a centralized approach to aspects of the RCMP's disciplinary system, however, it found a highly centralized framework denies those directly responsible for the conduct of members the autonomy they need to manage effectively:

*While a central review is necessary to ensure uniformity across the Force and to protect against local abuse of authority, the current administrative practices restrict the authority to those responsible for the day-to-day conduct of members. By placing the authority to discipline in the hands of those least acquainted with the member and least able to closely monitor the effects of sanctions on members and their peers, the system fails to allow a supervisor to tailor discipline to a member in such a fashion as to correct his behaviour and encourage the good conduct of others.<sup>13</sup>*

## 2.3 Changes to the Management of the Disciplinary System, 1976-1988

Following the analysis by the Marin Commission, the RCMP recognized its disciplinary system lacked impartiality and procedural rights. To address this and in advance of legislative change, the Adjudications Branch was created in 1981 in an attempt to bring consistency and professionalism into the administration of the Service Court process.

In 1981, the Federal Court of Canada released its judgment in *Re Husted*, dealing with the question of whether section 33 of the *Royal Canadian Mounted Police Regulations*<sup>14</sup> was *ultra vires*. Section 33 stated a member was not entitled to have professional counsel appear on his or her behalf at an investigation or a disciplinary trial. In his reasons, Mr. Justice Addy determined it was not Parliament's intention "to absolutely deny to all accused the benefit of counsel of their choice" and so that section was declared

<sup>13</sup> *Ibid.*, at 121.

<sup>14</sup> C.R.C., (Vol. XV) c. 1301 (1978) issued pursuant to s. 21 of the *Royal Canadian Mounted Police Act*, R.S.C. 1970, c. R-9.

to be of no effect "in so far as a trial for a major service offence".<sup>15</sup>

From that point, those who were the subject of formal discipline began using legally trained members or professional counsel to represent them in Service Court. However, this led to a growing concern that delays were occurring in setting hearing dates. The appointment of permanent defence staff was then seen as a solution.

In 1985, the Adjudications Branch became the Professional Standards Directorate, which was created as a centralized unit that had dedicated personnel with legal training to act as trial officers, defence and prosecution counsel. The objectives were: the development of expertise; more efficient, consistent and timely processes; and more control over the process.

## 2.4 Changes to the Management of the Disciplinary System After 1988

The 1988 amendments created a wider range of disciplinary options and removed the penalty of imprisonment. Service Court proceedings before the trial officer became hearings before a board of three adjudicators. Representatives of the parties involved in the proceedings became "Appropriate Officer"<sup>16</sup> Representatives and "Member Representatives". Until 1994, the director of the Professional Standards Directorate was the officer designated by the Commissioner to appoint adjudication boards and retained responsibility for managing the adjudication process including oversight of Member Representatives and Appropriate Officer Representatives.

<sup>15</sup> *Re Husted*, [1981] 2 FC 791, [1981] F.C.J. No. 48 at paras. 16-20.

<sup>16</sup> "Appropriate Officer" means an officer designated by the Commissioner as the appropriate officer in respect of a member for the purposes of the *RCMP Act*. In practical terms, the appropriate officer is normally the commanding officer of a division of the RCMP.

In 1994, the Professional Standards Directorate was eliminated due to a perception that housing Member Representatives and Appropriate Officer Representatives in a single unit made them less independent and less able to fully represent their respective clients. Appropriate Officer Representatives became answerable to the Internal Affairs Branch while Member Representatives reported to the Staff Relations Program Officer. Adjudications Branch, consisting only of board officers, was re-created. The responsibility of “designated officer”, as described above, was given to the officer in charge of the External Review and Appeals Section.

Another transformation occurred in the late 1990s, when the Member Representative Unit was created and the Internal Affairs Branch moved the Appropriate Officer Representatives to the divisions (the RCMP’s provincial level); see Figure 9. It was not until recently that the Member Representatives and the Appropriate Officer Representatives would begin to report to a full-time, legally trained director.

## 2.5 Reports of the Pay Council and Task Force

### (i) Pay Council (2005)

In the summer of 2004 in the wake of concerns about member representation and delays in the system, the RCMP Pay Council was asked by the Staff Relations Representatives and RCMP management to undertake a review of the RCMP’s internal disciplinary system. Mr. Paul Lordon, a former chair of the Canada Industrial Relations Board and the RCMP Pay Council, was appointed to undertake the review. In June 2005, after a thorough examination of all available documentation and studies dealing with RCMP discipline as well as extensive consultations with those directly involved, the final report of the Pay Council Review of RCMP Internal Discipline System (*Pay Council Report*) was released.<sup>17</sup>

<sup>17</sup> Royal Canadian Mounted Police, *Pay Council Review of RCMP Internal Discipline System; Final Report and Recommendations* (2005)[hereinafter *Pay Council Report*].

The key findings of the *Pay Council Report* related to undue delays within the disciplinary system, particularly at the investigative and adjudicative stages of the process. Another issue was the perceived failure of the system to meet the legislative intent that it be positively oriented, expeditious and informal, rather than overly formal and punitive.<sup>18</sup>

The statutory role of the unit commander in handling disciplinary issues within his or her own unit as they arose was acknowledged as central. Delays by these commanders in administering informal discipline were found to be a critical problem in the sense that if discipline is not clearly in response to the action of concern, it is impossible to improve behaviour.<sup>19</sup> Indeed, open hearings during the Pay Council’s review revealed that, by failing to ensure matters were expeditiously dealt with at the appropriate level, the system became clogged and formalized.<sup>20</sup>

One source of these delays, according to the report, was the specialization and fragmentation of components of the system:

*The decrease in management and operational involvement and the delegation to more specialized functions of a larger number of disciplinary matters has led to an increasing fragmentation, formalization and legalization of the disciplinary process. The process has in consequence deviated from the mandated statutory path that it be as expeditious and informal as possible. The legalization and formalization of the RCMP system, together with a general social trend toward more ready reliance on legal processes has led to a far greater number of matters being referred to the adjudication boards for determination.*<sup>21</sup>

The *Pay Council Report* further stressed internal investigations into alleged breaches of the *Code of Conduct* were far too slow and there was a failure to advise members of their progress.<sup>22</sup>

<sup>18</sup> *Ibid.*, at 22.

<sup>19</sup> *Ibid.*, at 25.

<sup>20</sup> *Ibid.*, at 31.

<sup>21</sup> *Ibid.*, at 59.

<sup>22</sup> *Ibid.*, at 60.

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The report found another source of delay at the adjudicative phase of the process. There was a lack of program management. Matters referred for adjudication were not monitored to ensure timely scheduling and conclusion:

*While the Adjudication Boards previously controlled the timing of matters, after encountering numerous delays due to the lack of readiness of the parties, the Adjudications Directorate adopted a policy of only scheduling matters after the Appropriate Officer Representatives and Member Representatives signaled their readiness to proceed... the backlog in adjudications, which has grown steadily for the past few years, reflects the delays which persist throughout the system.<sup>23</sup>*

The report suggested a renewed commitment to managing the disciplinary system as an integrated program with unified responsibility, oversight and coordination. This new approach would help ensure discipline was administered as a single, continuous program in a prompt, effective manner while maintaining the autonomy of investigations and the adjudications and representative programs. The report suggested doing this by way of an accountability framework precisely setting out where investigations and programs were and were not answerable to RCMP management.<sup>24</sup>

It was recommended that the role of unit and divisional command, particularly with respect to administering informal discipline at the lowest possible level, be re-emphasized. At the investigative level, it was stressed that investigations must be conducted expeditiously and be continuously supervised and monitored. Finally at the adjudicative level, the process called for a more direct involvement by the boards in scheduling and concluding matters in a timely manner.<sup>25</sup>

#### (ii) Task Force Report and Ministerial Directive

The Pay Council recommendations were revisited in December

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<sup>23</sup> *Ibid.*, at 20, 59-60.

<sup>24</sup> *Ibid.*, at 60.

<sup>25</sup> *Ibid.*, at 59-60.

2007 when the Task Force on Governance and Cultural Change in the RCMP submitted its final report, *Rebuilding the Trust*,<sup>26</sup> to the Minister of Public Safety and to the President of the Treasury Board. Chaired by former Ontario Securities Commission Chairman and CEO Mr. David Brown, the Task Force had been struck six months prior on a recommendation arising from Mr. Brown's report into matters related to the RCMP pension and insurance plans.

The Task Force had been given a mandate to report and make recommendations on numerous aspects of the RCMP, discipline being one. With respect to the disciplinary system, it recommended that the RCMP:

- implement the *Pay Council Report* recommendations with whatever amendments management felt appropriate;
- establish a centralized disciplinary authority;
- eliminate backlogs existing in its disciplinary system;
- re-commit itself at the highest levels to the expeditious and informal resolution of disciplinary matters at the lowest-possible levels; and
- establish reasonable time frames for the commencement and completion of disciplinary investigations with these only rarely exceeding six months and, at the outside limit, held to one-year time limits subject to the ability of the RCMP to apply for extensions to facilitate contemporaneous criminal investigations.

In January 2008, the Minister of Public Safety directed the Commissioner to standardize application of the RCMP's disciplinary process and enhance its transparency.

The remainder of this document will focus on the current disciplinary process, on modifications made in fiscal year 2008-2009 and on changes to be made in the years to come.

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<sup>26</sup> Canada, *Rebuilding the Trust: Report of the Task Force on Governance and Cultural Change in the RCMP* (Ottawa, 2007).

## Current Disciplinary Process

This chapter provides an overview of the source and organization of the RCMP's disciplinary process. The best way to understand this process is by examining the interaction between the regime prescribed by the Act, Regulations, Commissioner's Standing Orders, internal policies and case law.

### 3.1 Jurisdiction

Every member alleged to have contravened the *Code of Conduct* may be disciplined under the Act regardless of where the alleged contravention took place or where the member is deployed currently. Additionally, the member may be dealt with whether charged with an offence relating to the alleged contravention or tried, acquitted, discharged, convicted or sentenced by a court in respect of such an offence.<sup>27</sup>

Unlike matters intended to promote public order and welfare such as cases within the criminal justice system, disciplinary matters are concerned with regulatory and/or corrective action to maintain professional standards by members of the RCMP. As such, alleged contraventions under the *Code of Conduct* may only be dealt with while one is a member of the RCMP. There is a loss of jurisdiction to deal with a person who is no longer employed under the Act.<sup>28</sup>

<sup>27</sup> *RCMP Act*, *supra* note 2, s. 39.

<sup>28</sup> *Royal Canadian Mounted Police Administration Manual* at XII.6.E.5.b [hereinafter *Admin Manual*].

### 3.2 Investigations into Alleged Contraventions of the *Code of Conduct*

As illustrated in Figure 1, the disciplinary process begins with the supervisor's response to an alleged contravention of the *Code of Conduct*. Upon becoming aware of the alleged conduct, the supervisor will make or initiate whatever investigation he or she deems necessary to determine whether a contravention has occurred.<sup>29</sup>

### 3.3 Informal Disciplinary Action

Once it is established to the satisfaction of the supervisor that a violation of the *Code of Conduct* has occurred, the supervisor can initiate the informal disciplinary process. This can only be done if he or she is of the opinion that, having regard to the gravity of the contravention and to the surrounding circumstances, the action is sufficient.<sup>30</sup>

Informal disciplinary actions specify a corrective or remedial approach to a member's conduct. The particular actions that may be taken are:

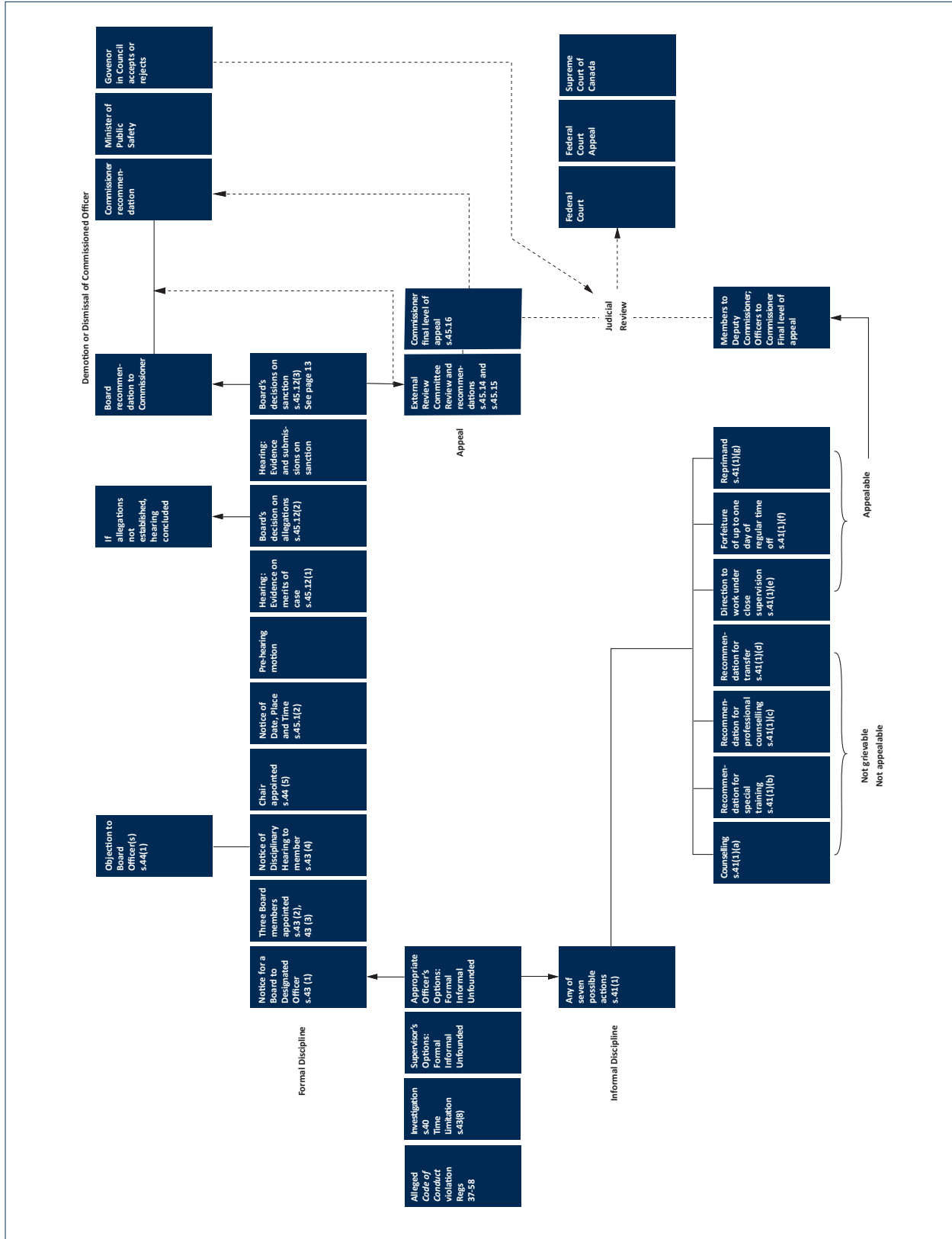
- counselling;
- a recommendation for special training;
- a recommendation for professional counselling;
- a recommendation for a transfer;
- a direction to work under close supervision;

<sup>29</sup> See *RCMP Act*, *supra* note 2, s. 40(1): Where it appears to an officer or to a member in command of a detachment that a member under the command of the officer or member has contravened the *Code of Conduct*, the officer or member shall make or cause to be made such investigation as the officer or member considers necessary to enable the officer or member to determine whether that member has contravened or is contravening the *Code of Conduct*.

<sup>30</sup> *RCMP Act*, *supra* note 2, ss. 41(8), 41(2).

FIGURE 1:

Disciplinary Process as per Part IV of the *Royal Canadian Mounted Police Act*



- subject to such conditions as the Commissioner may prescribe by rule,<sup>31</sup> a forfeiture of regular time off for a period not exceeding one day; and/or
- a reprimand (it is to be noted, that only a commissioned officer or an appropriate officer may impose a reprimand).<sup>32</sup>

It is RCMP policy that informal disciplinary action under subsection 41(1) of the Act must be taken against members within a year from the time the alleged contravention and identity of the member became known to his or her supervisor.<sup>33</sup>

### 3.4 Formal Disciplinary Action

#### (i) Initiating a Hearing

If a supervisor encounters an apparent *Code of Conduct* violation and believes informal disciplinary action would be insufficient, the matter must be referred to the Appropriate Officer.<sup>34</sup> If the Appropriate Officer likewise decides informal action would not suffice, he or she then initiates a hearing into the alleged contravention.<sup>35</sup> Only an Appropriate Officer can initiate formal disciplinary action against a member. Hearings cannot be initiated where informal discipline by way of a reprimand has already been imposed.<sup>36</sup>

By statute, formal disciplinary proceedings must be initiated before the expiration of one year from the time the contravention and the identity of the member became known to the Appropriate Officer.<sup>37</sup>

31 Section 4 of the *Commissioner's Standing Orders (Disciplinary Action)* provides that forfeiture of regular time off shall be used in circumstances where it is reasonable that the member compensate time (a) that the member has spent, while on duty, on activities not associated with the member's duties; or (b) that the member has not spent when the member was required to be on duty.

32 *RCMP Act*, *supra* note 2, s. 41(1).

33 *Admin Manual*, *supra* note 29 at XII.6.D.1.

34 See *supra* note 17

35 *RCMP Act*, *supra* note 2, s. 43(1).

36 *RCMP Act*, *supra* note 2, s. 43(7).

37 *RCMP Act*, *supra* note 2, s. 43(8).<sup>47</sup>

The Federal Court of Appeal clarified the law with respect to this limitation period in its judgment in *Thériault v. Royal Canadian Mounted Police*.<sup>38</sup> It determined the purpose of the limitation period is to provide for a starting point reconciling protection of the public and credibility of the institution with fair treatment for members and others involved. The Appropriate Officer acquires knowledge of a contravention and the identity of the member when he or she has enough credible and persuasive information to reasonably believe the contravention was committed by the member to whom it is attributed.<sup>39</sup> He or she then has one year to initiate the disciplinary hearing. Once the process has begun, further limitation periods are not imposed by statute or policy.

#### (ii) Adjudication Boards

When the Appropriate Officer initiates a hearing, he or she notifies the officer designated by the Commissioner. On being notified, the designated officer appoints three officers as members of the adjudication board to conduct the hearing. As this is an internal system, and members of the board are themselves members, there are guidelines in the Act and policy to ensure the independence of the board. The board officers must have the appropriate adjudicative training and not be in a real or perceived conflict of interest with respect to the subject member. At least one must be a graduate of a recognized law school.<sup>40</sup> The officers must take the *Adjudicator's Oath of Office* (see Appendix C). Additionally, they must comply with the *Adjudicator's Code of Ethics*, namely they are to (a) render justice within the framework of the law; (b) perform the duties of their office diligently and with integrity, dignity and honour; (c) avoid

38 See *Thériault v. Canada (Royal Canadian Mounted Police)*, 2006 FCA 61 at para. 47: "[T]he appropriate officer acquires knowledge of a contravention and the identity of its perpetrator when he or she has sufficient credible and persuasive information about the components of the alleged contravention and the identity of its perpetrator to reasonably believe that the contravention was committed and that the person to whom it is attributed was its perpetrator."

39 *Ibid.*

40 *RCMP Act*, *supra* note 2, ss. 43(2)-43(3).



any conflict of interest and refrain from placing themselves in a position where they cannot faithfully carry out their functions; and (d) be, and appear, impartial and objective.<sup>41</sup>

Once the appointments have been made, the Appropriate Officer must serve a notice of hearing on the member whose conduct is in question (the “subject-member”). The notice must identify and explain the particulars of each alleged contravention. It must also state the name of each member of the adjudication board and inform the subject-member of his or her right to object to the appointment of any of these members<sup>42</sup> as well as the sanction being sought by the Appropriate Officer.

### (iii) Hearings

The disciplinary hearing is a quasi-judicial proceeding. As a result of the evolution of administrative law, RCMP adjudication boards apply the rules and function in accordance with the principles of natural justice and procedural fairness. Among other things, this means:

- (1) the adjudication board must meet established criteria for institutional independence;
- (2) the individual who will be affected by the decision is provided with sufficient disclosure to allow him or her the opportunity to know the case that must be met;
- (3) the parties must be provided with a full opportunity to be heard;
- (4) the decision must be made free from a reasonable apprehension of bias by an impartial decision-maker; and
- (5) a written explanation for the decision must be provided.<sup>43</sup>

41 *Admin Manual*, *supra* note at AMXII.11.E.6.

42 *RCMP Act*, *supra* note 2, s. 43(5).

43 See *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817; *Kinsey v. Canada (Attorney General)*, 2007 FC 543; *Bell Canada v. Canadian Telephone Employees Association*, [2003] 1 S.C.R. 884; *Ocean Port Hotel Ltd. v. British Columbia (General Manager, Liquor Control and Licensing Branch)*, [2001] 2 S.C.R. 781; *May v. Ferndale Institution*, [2005] 3 S.C.R. 809. A tribunal has a duty to provide clearly articulated reasons for its decisions: *R. v. Sheppard*, [2002] 1 S.C.R. 869. A recent case applying the Supreme Court’s approach in *Sheppard* in the context of administrative rather than criminal law is *Lee v. College of Physicians and Surgeons* (2003), 66 O.R. (3d) 593 (Div. Ct.).

Disciplinary hearings are audio recorded and adjudication boards must provide written decisions that include statements of findings of fact material to the decision, reasons and statements of sanctions imposed (where allegations have been established).<sup>44</sup> A decision of a majority of the board constitutes the decision of the board and the final decision may include a dissenting opinion.<sup>45</sup>

The parties to the proceeding are the Appropriate Officer who initiated the hearing and the member whose conduct is the subject of the hearing. However, an intervenor who claims to have a substantial and direct interest in the subject-matter of a hearing may also be granted standing before an adjudication board.<sup>46</sup> Testimony is under oath or affirmation.<sup>47</sup> The parties may also present evidence in an agreed statement of facts<sup>48</sup> and, where the contravention is established, jointly propose a sanction.

The Appropriate Officer is represented by an Appropriate Officer Representative. The member facing the disciplinary action may choose to self-represent, be represented by any other member, be represented by outside legal counsel or retain the services of a Member Representative. The Act does not stipulate Appropriate Officer Representatives and Member Representatives must be lawyers or hold a law degree, however, in practice this is the case by fact of their work description. The responsibilities of all members representing or assisting other members in disciplinary matters are similar to those of lawyers before courts and they are therefore expected to conduct themselves to the same standards.<sup>49</sup> All must comply with the *Representative’s Code of Ethics* (see Appendix D), which includes such requirements as holding in strict confi-

44 *RCMP Act*, *supra* note 2, ss. 45.1(15), 45.12(2).

45 Sections 24 and 25 of the *Commissioner’s Standing Orders (Practice and Procedure)*.

46 *RCMP Act*, *supra* note 2, s.45.1(1) and s.11 of the *Commissioner’s Standing Orders (Practice and Procedure)*.

47 Section 18 of the *Commissioner’s Standing Orders (Practice and Procedure)*.

48 Section 10 of the *Commissioner’s Standing Orders (Practice and Procedure)*.

49 *Admin Manual*, *supra* note at XII.9.E.2.

dence all communications relating to the representation of the client received from that client, and serving the client in a conscientious, diligent and efficient manner.<sup>50</sup>

It is the responsibility of the adjudication board to set the place, date and time for the hearing<sup>51</sup> in consultation with the parties. Generally, hearings are held in Federal Court facilities across the country. If the board is unable to hear the matter expeditiously, its chairperson may ask the designated officer to appoint another board.<sup>52</sup>

While the Act states adjudication hearings shall be held in private,<sup>53</sup> since 1997 they have in practice been open to the public unless the board makes an order for a closed hearing on a motion brought by a party. This is the result of the judgment in *Southam Inc. v. Canada (Attorney General)*, where Mr. Justice Douglas Rutherford stated:<sup>54</sup>

*Because of the public nature of a peace officer's duties and the broad powers given by law to a peace officer in the execution of those duties, and because formal adjudication board proceedings can affect an R.C.M.P. member's rights so significantly, the public has a very strong interest in such a hearing.*

Mr. Justice Rutherford declared subsection 45.1(14) of the Act to be invalid and of no force of law or effect on the basis it infringed paragraph 2(b) of the *Canadian Charter of Rights and Freedoms*. At the same time, he left open the possibility that, when no specific power to proceed in camera is provided in a statute, a tribunal may nonetheless decide to do so in appropriate circumstances under its power to control its own processes. Examples would be where the disclosure of the information would be expected to be injurious to the defence of Canada or to law enforcement, or where the privacy interest of an individual's information

50 *Admin Manual*, supra note at App. XII-9-1.1.

51 *RCMP Act*, supra note 2, s. 45.1(2).

52 *Admin Manual*, supra note at AMXII.11.F.3.

53 *RCMP Act*, supra note 2, s. 45.1(14).

54 See *Southam Inc. v. Canada (Attorney General)*, (1997) 36 O.R. 721 at para. 20.

respecting his or her financial or personal affairs outweighs the public's interest in the information.<sup>55</sup>

#### (iv) Sanctions

Where an adjudication board decides on a balance of probabilities an alleged contravention of the *Code of Conduct* is established, it will then hear arguments and impose one or more of the following sanctions:

- dismissal or, in the case of an officer,<sup>56</sup> a recommendation for dismissal;
- direction to resign and, in default of resigning within fourteen days after being so directed, dismissal from the force (or, in the case of an officer, recommendation for dismissal);
- demotion or, in the case of an officer, a recommendation for demotion; or
- a forfeiture of pay for not more than 10 work days.

The board may also impose one or more of the informal disciplinary actions or recommendations mentioned on p.9 in substitution for or in addition to the sanctions listed above.

### 3.5 Appeals

#### (i) Informal Discipline

The Act allows the RCMP Commissioner to regulate the practice and procedure for appeals of informal disciplinary action.<sup>57</sup> Appeals are heard internally by a senior officer designated by the Commissioner. This officer's decision is rendered in writing and includes his or her reasons.<sup>58</sup>

The officer may dismiss the appeal and confirm the informal disciplinary action being appealed, or allow it and either rescind or vary the action.<sup>59</sup>

55 *Ibid.* at paras. 31, 49.

56 Since RCMP commissioned officers are appointed by Order in Council, a Board can only recommend a dismissal. It does not have the authority to rescind an Order in Council appointment.

57 *RCMP Act*, supra note 2, s. 42(8)(c).

58 Section 8 of the *Commissioner's Standing Orders (Disciplinary Action)*

59 *RCMP Act*, supra note 2, s. 42(2).

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In the case of informal disciplinary actions, only a direction to work under close supervision, a forfeiture of regular time off of a period not exceeding one work day and a reprimand (under paragraphs 41(1)(e) to (f) of the Act) may be the subject of an appeal.<sup>60</sup>

(ii) Formal Discipline

Both parties to the disciplinary hearing (the member and the Appropriate Officer) can appeal findings by the board as to whether a contravention of the *Code of Conduct* is established. However, only the member facing the discipline may appeal the sanction(s) imposed.<sup>61</sup> The Appropriate Officer can only appeal a sanction on the ground that it is not provided for by the Act.

Appeals of formal discipline go to the Commissioner. However, before considering them, he or she must refer them to the RCMP External Review Committee unless the member facing discipline requests otherwise. (In the event of such a request, the Commissioner may still decide to refer the case if he or she considers it appropriate.)<sup>62</sup> The External Review Committee is an independent, arm's-length organization established under the Act. The Commissioner must consider its findings and recommendations but is not bound by them.<sup>63</sup>

On an appeal against an adjudication board's finding, the Commissioner may dispose of the appeal by:

- dismissing it and confirming the adjudication board's decision;
- allowing it and ordering a new hearing into the allegation; or
- where the appeal is taken by the member who was found to have contravened the *Code of Conduct*, allowing it and substituting a different finding.<sup>64</sup>

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<sup>60</sup> *RCMP Act*, *supra* note 2, s. 41(9).

<sup>61</sup> *RCMP Act*, *supra* note 2, ss. 45.14(1), 45.14(3).

<sup>62</sup> *RCMP Act*, *supra* note 2, ss. 45.15(1), 45.15(3).

<sup>63</sup> *RCMP Act*, *supra* note 2, s. 45.16(1).

<sup>64</sup> *RCMP Act*, *supra* note 2, s. 45.16(2).

On an appeal against a sanction imposed by the adjudication board, the Commissioner can either:

- dismiss the appeal and confirm the decision being appealed; or
- allow the appeal and either vary or rescind the sanction.<sup>65</sup>

### 3.6 Suspension from Duty and Stoppage of Pay and Allowances

Suspension is not itself a disciplinary sanction. However, it may be imposed to protect the RCMP's integrity and processes pending the outcome of a disciplinary matter. Suspensions may be with or without pay and allowances.<sup>66</sup>

(i) Suspension from Duty

Every member who has contravened or is suspected of contravening the *Code of Conduct* or a federal or provincial law may be suspended from duty.<sup>67</sup>

Suspension is only ordered where not suspending the member would seriously jeopardize the integrity of the RCMP.<sup>68</sup> The decision to suspend a member takes into account public expectations and may be based on:

- the member having been imprisoned for any reason;
- the alleged misconduct being so reprehensible as to require removal from duty;
- reasonable grounds to suspect the member's involvement in the commission of an offence against an act of Parliament or a breach of the *Code of Conduct*, so serious that, if substantiated, it would significantly affect the proper performance of his or her duties under the Act; or
- pending the execution of the decision by a board to dismiss the member (or a recommendation

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<sup>65</sup> *RCMP Act*, *supra* note 2, s. 45.16(3).

<sup>66</sup> *Admin Manual*, *supra* note at XII.5.D.1.

<sup>67</sup> *RCMP Act*, *supra* note 2, s. 12.1.

<sup>68</sup> *Admin Manual*, *supra* note 29 at XII.5.D.2.a.

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for dismissal if the member is an officer) or to order the member to resign.<sup>69</sup>

The decision to suspend a member rests with the Commanding Officer.

(ii) Stoppage of Pay and Allowances

Subsection 22(3) of the Act provides that the Treasury Board may make regulations respecting the stoppage of pay and allowances of members suspended from duty. The Treasury Board adopted the *Royal Canadian Mounted Police Stoppage of Pay and Allowances Regulations*,<sup>70</sup> which stipulate that the Commissioner, a Deputy Commissioner or any Assistant Commissioner may order the stoppage of pay and allowances of a member suspended from duty. These regulations were declared valid by the Federal Court of Appeal in *Kindratsky v. Canada*.<sup>71</sup>

On June 14, 2006, the Commissioner of the RCMP designated any Assistant Commissioner at National Headquarters to be the officer responsible for ordering the stoppage of pay and allowances of a member suspended from duty.

Considerations in deciding whether to stop a member's pay and allowances are found in the *RCMP's Administration Manual*.<sup>72</sup> Stoppage of pay and allowances will only be invoked in extreme circumstances when it would be inappropriate to pay a member. Each case is dealt with on its own merits and will be considered when the member:

- is in jail awaiting trial;
- is clearly involved in the commission of an offence that contravenes an act of Parliament or the *Code of Conduct*, and is so outrageous as to significantly

affect the proper performance of his or her duties under the Act; or

- has been absent without authority from his/her post for seven entire days or more in contravention of section 49 of the *Code of Conduct*; or
- has failed to report for duty on a specified date to a post to which he or she has been transferred by order, in contravention of section 40 of the *Code of Conduct*.<sup>73</sup>

Stoppage of pay and allowances will not apply to summary convictions, provincial statutes or minor *Criminal Code* offences.<sup>74</sup>

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<sup>69</sup> *Admin Manual*, supra note at XII.5.D.3.

<sup>70</sup> SOR/84-886, as amended by SOR/88-649.

<sup>71</sup> *Kindratsky v. Canada* (Attorney General), 2007 FCA 332.

<sup>72</sup> *Admin Manual*, at XII.5.D.8- XII.5.D.21.

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<sup>73</sup> *Ibid.*, XII.5.D.9, XII.5.D.9.a.

<sup>74</sup> *Ibid.*, XII.5.D.10.

## Disciplinary System in Practice, 2008-2009

The RCMP's disciplinary process regulates the conduct of approximately 18,500 regular members and 3,500 civilian members operating from coast to coast to coast at all levels of policing, from municipal to provincial to national and international.<sup>75</sup> In practice, the management and function of the disciplinary process is shared between various components of the organization. Each of these components has made progress with respect to enhancing the efficiency of the disciplinary system in 2008-2009.

Today the RCMP is improving the efficiency and coordination of its disciplinary system through central program management in order to better meet its primary disciplinary objective of correcting behaviour. While Adjudicative Services Branch has assumed the role of central authority for formal discipline, it has sought to engage and support other key components of the disciplinary system, such as the Professional Standards and External Review Directorate, and Regional/Divisional managers and reviewers. This chapter provides a snapshot of Adjudicative Services Branch and these other key sections, their organization and functions, and highlights some of the activities undertaken during the 2008-2009 fiscal year.

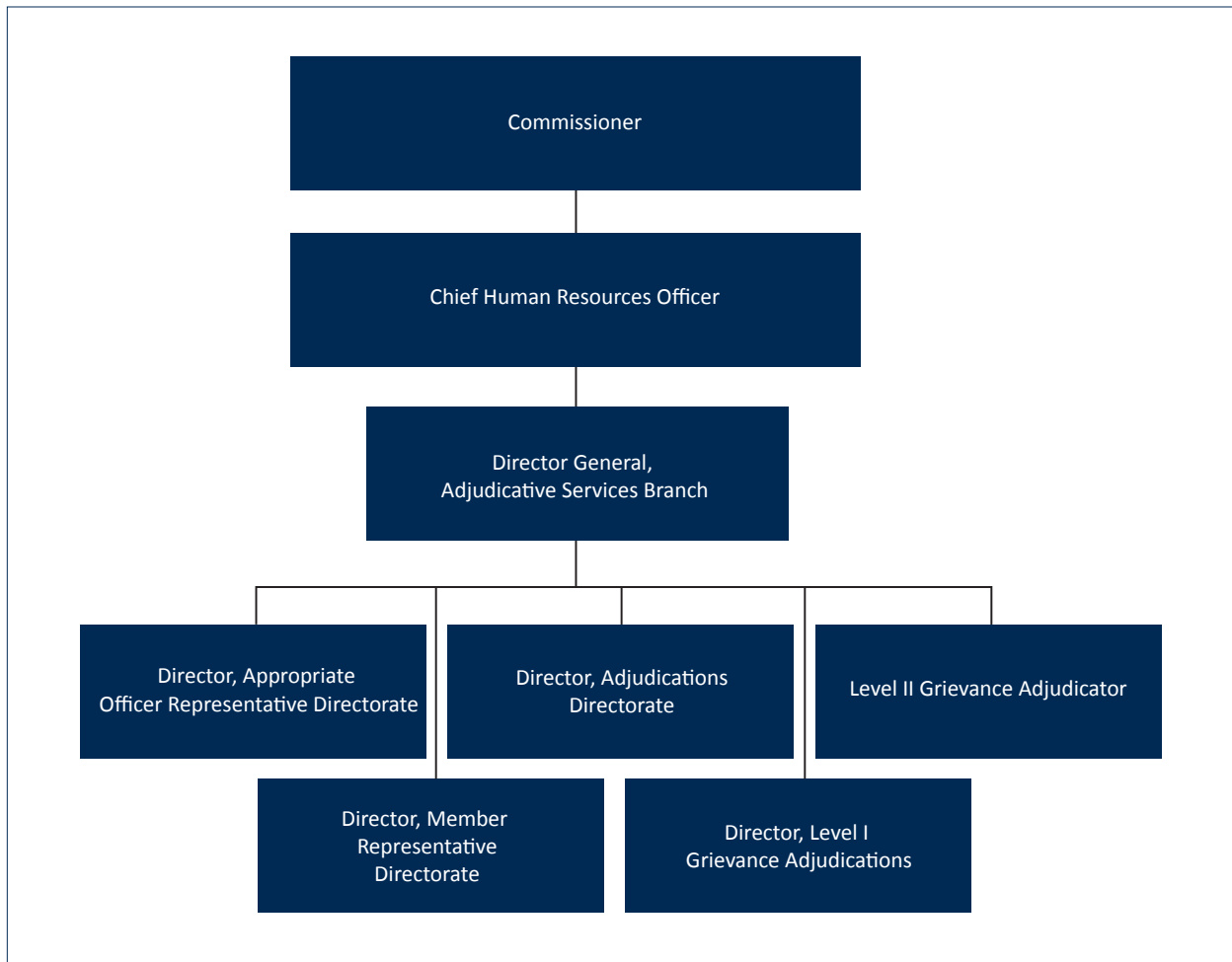
### 4.1 Adjudicative Services Branch

The creation of Adjudicative Services Branch was approved in March of 2008. As of April 1, 2009, it is headed by a director general and comprises five directorates, three of which directly relate to the RCMP's disciplinary system.<sup>76</sup> The structure of the branch is shown in Figure 2. The three directorates playing a significant role in discipline are the Adjudications Directorate, the Appropriate Officer Representative Directorate and the Member Representative Directorate. They are reviewed in more detail in section 4.2.

<sup>75</sup> Where, for instance, the RCMP has been dispatched by the Government of Canada to provide personnel in support of the United Nations or another international entity.

<sup>76</sup> The two not directly related to the disciplinary system are the Level I and Level II Grievance Adjudications.

**FIGURE 2:**  
**Adjudicative Services Branch - 2009-04-01**



The primary focus of Adjudicative Services Branch in fiscal year 2008-2009 was on formalizing its structure and establishing its role as the central authority for formal discipline within the RCMP. The intent has been to coordinate efforts with respect to productivity, performance standards and staffing. More generally, it has served as a catalyst for stronger national leadership, creating a single point of accountability, enhanced program management and improved efficiency.

Within this structure, the staffing over the past year of the director positions in both the Appropriate Officer Representative Directorate and Member Representative

Directorate has provided increased opportunities to identify problems and discuss cases with a view to resolving them in an expeditious and informal manner.

Managers at the regional level, with the assistance of discipline reviewers, have been encouraged to undertake a more active role in consulting with front-line supervisors and examining all cases prior to them being referred to an Appropriate Officer Representative and processed in the formal system. The goal is to allow for increased managerial involvement in the channeling of those cases best resolved informally, cases which might previously have unnecessarily tied up formal adjudicative resources.

**FIGURE 3:**  
**Discipline Caseload Activity, FY's 00-01 to 08-09**

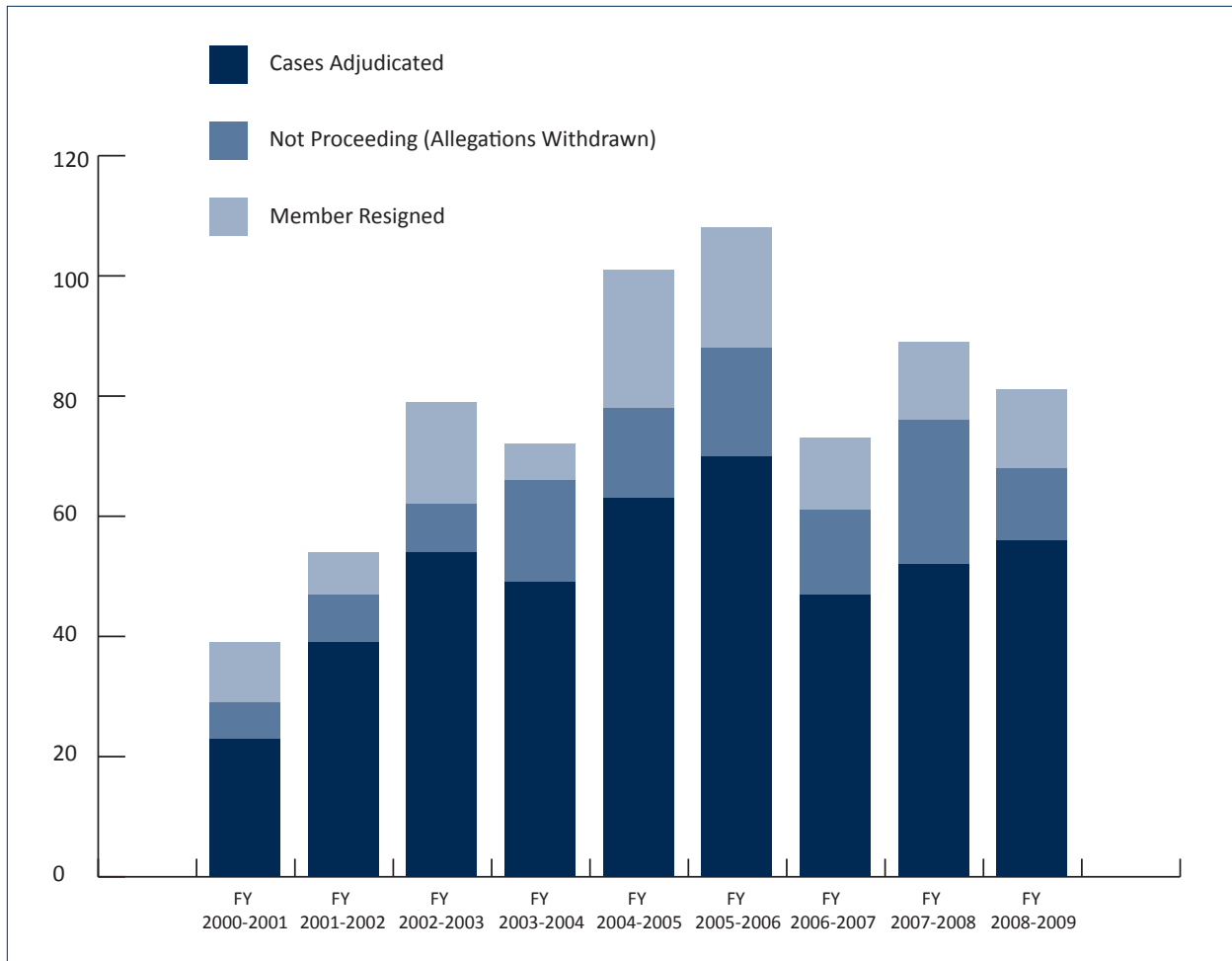


Figure 3 shows formal discipline over the past nine fiscal years. Additional information is presented in Appendix E. In 2008-2009, cases adjudicated increased to 56 from 52 and 49 respectively for the previous two years. While the number of cases last year did not reach the peak levels of 2004-2005 and 2005-2006, it remained greater than the overall nine-year average of approximately 50 cases adjudicated per year.

Some of the key initiatives undertaken by Adjudicative Services Branch in 2008-2009 have included:

(i) **Improved Case Management**

More rapid scheduling and conclusion of formal disciplinary hearings has been one of the main priorities of Adjudicative Services Branch. With its creation, there has been a greater ability to centrally monitor progress, identify opportunities to resolve barriers and emphasize to the parties the importance of proceeding in a timely fashion. Significantly in 2008-2009, an analysis of the formal disciplinary process, which included a review of practices related to the scheduling of hearings, was undertaken as an essential step in developing a strategic initiative to aggressively reduce delays with respect to matters referred for adjudication.

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The branch has drafted a case management system that will, in the coming fiscal year, be submitted to stakeholders for consultation prior to finalization and implementation.

**(ii) Early Resolution Project**

The Early Resolution Project is designed to take advantage of the Act's provision that all proceedings before an adjudication board be dealt with as informally and expeditiously as possible.<sup>77</sup>

First implemented in September 2005, the Early Resolution Project accelerates formal disciplinary hearings where allegations are of a nature that would not reasonably result in an adjudication board considering dismissal from the force as a sanction. The underlying philosophy is flexibility and the expeditious resolution of appropriate cases with a modern, problem-solving approach rather than through adversarial means.

The Early Resolution Project hearings remain part of the formal disciplinary process and, where an alleged contravention is established, a formal sanction is imposed on the member just as in the case of a contested hearing. In practice, Early Resolution Project hearings proceed with the filing of an agreed statement of facts constituting the evidence supporting the alleged contravention. Time is saved and, almost without exception, witnesses are not called. Moreover, members proceeding with their hearing through the Early Resolution Project commonly appear before boards by video conference to avoid delays and costs associated with travel.

Over the past four years, 134 files have been concluded using the Early Resolution Project. Incoming and concluded files are represented in Figure 4. Since 2005

the Early Resolution Project has become a mainstay of the adjudicative process. In fact, of 56 cases heard in 2008-2009, 37 were done within the Early Resolution Project.

**(iii) Accountability Framework**

In order to ensure an appropriate level of institutional independence of the directorates, Adjudicative Services Branch undertook to create a framework that will clearly define their operational autonomy, expectations and reporting relationships. Extensive consultations are required to formalize the necessary operational autonomy of adjudicators, Member Representatives and Appropriate Officer Representatives while balancing it within the context of enhanced central program management. This work is continuing.

**(iv) Policy Development**

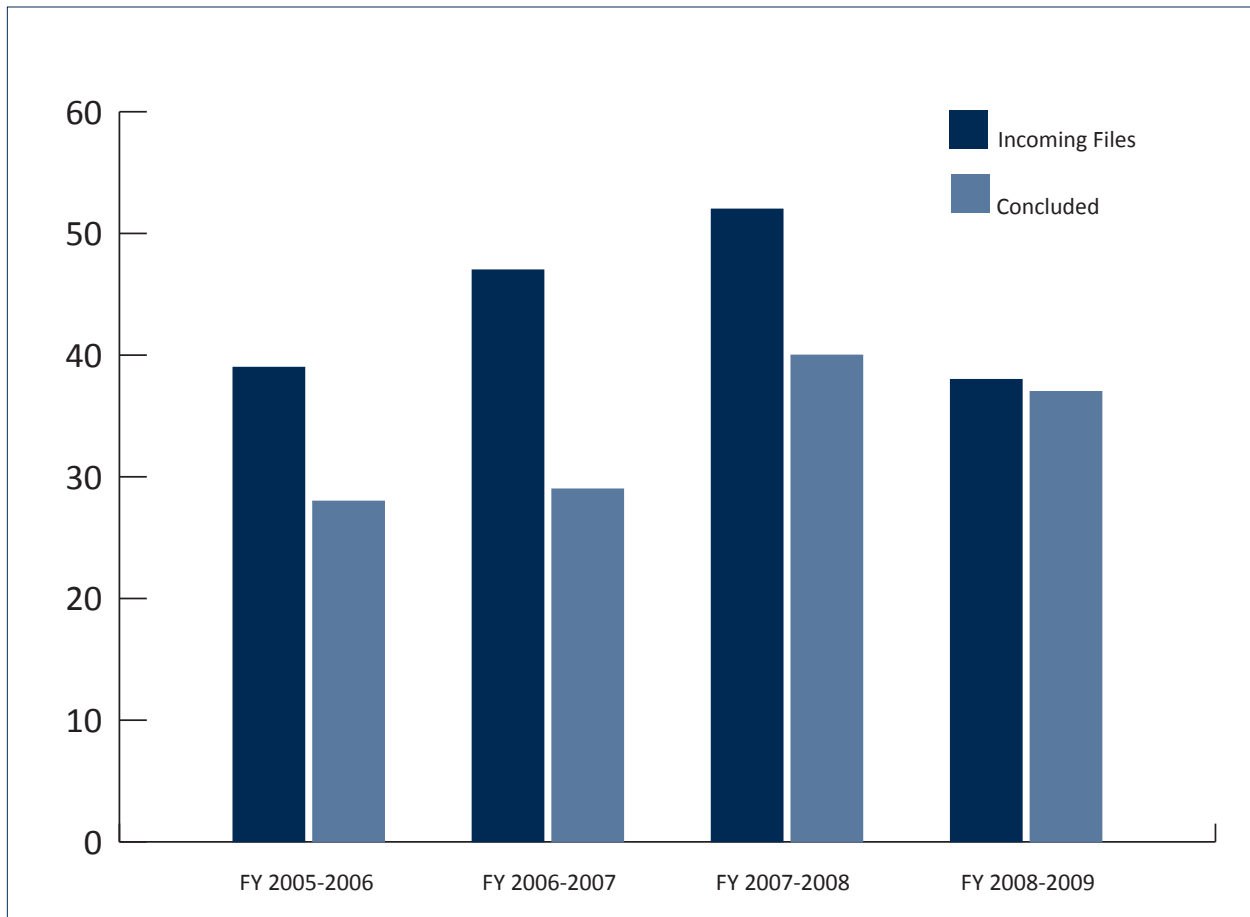
Adjudicative Services Branch played a key role in 2008-2009 in supporting other policy initiatives pertaining to discipline led by other sections. At the same time, a modest research and policy capacity was developed within the branch. While Professional Standards and External Review Directorate remains the appropriate policy centre for matters pertaining to the disciplinary system, 2008-2009 activities within Adjudicative Services Branch highlighted the need for the branch to develop its own policy capacity. This allows it to deal with such issues as revisions to rules of practice and procedure, case management, Early Resolution Project policy and the accountability framework where a complete separation of policy development from the service delivery that is the mainstay of Adjudicative Services Branch would be neither practical nor efficient.

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<sup>77</sup> *RCMP Act, supra* note 2, s. 46(2).



**FIGURE 4:**  
Early Resolution Project Incoming and Concluded Files, FYs 05-06 to 08-09



Adjudicative Services Branch also began work in 2008-2009 in conjunction with the divisions to clarify the role of the discipline reviewers in the monitoring of disciplinary cases before they reach the branch. As indicated earlier, the aim of these ongoing efforts is to increase the involvement of managers at the earliest stages and ensure that discipline is undertaken in a manner which is swift and informal when appropriate. To be truly effective and consistently applied in a large organization, it is important to ensure such procedures are reflected in policy and their implementation monitored.

On another front, Adjudicative Services Branch began working with Professional Standards and External Review Directorate last fiscal year as it undertook research and policy

development on an Early Intervention System, disclosure of discipline records in the context of criminal trials, and work relating to the *Public Servants Disclosure Protection Act*. These three initiatives will be expanded on later in this chapter.

In addition, recent studies such as the Pay Council and Task Force reports have raised questions about the adequacy of the existing legislative regime. A thorough review and analysis began last fiscal year in conjunction with other stakeholders to determine the requirements for potential legislative reform in respect of disciplinary processes. Adjudicative Services Branch is engaged in the initiative in a consultative role along with other stakeholders.

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(v) **Maintenance and Monitoring of Records**

Adjudicative Services Branch began efforts in 2008-2009 to analyze current practices with respect to the gathering, storing, managing and making use of disciplinary records. The RCMP utilizes an information management system to record formal and informal discipline. Disciplinary information is entered into this system at the divisional level once the disciplinary process in question is completed. While the formal adjudication process is consistently documented and the information is readily available, informal discipline is less consistently captured. To address this, Adjudicative Services Branch has begun working with the Professional Standards Unit at National Headquarters towards the implementation of a consistent and comprehensive means of tracking and monitoring formal and informal disciplinary records. This will result in information being more readily accessible to front-line supervisors.

Adjudicative Services Branch also took the first steps in 2008-2009 to better align records management practices within the branch. For example, the creation of the Appropriate Officer Representative Directorate will necessitate the development of a new system of capturing and tracking data. Improved record-keeping through consistent, comparable directorate-wide statistics and branch-wide statistics will be a key Adjudicative Services Branch objective as it continues to establish itself through 2009-2010.

(vi) **Training**

The Ministerial Directive requires the Commissioner to ensure nationally consistent policies and protocols are in place and updated when necessary to inform members of the requirements and procedures associated with the disciplinary process. The directive also requires regular training be provided to appropriate RCMP staff to promote awareness and compliance with such requirements and procedures.

Training was thus another branch-wide focus in 2008-2009.

During the year, for instance, there was a renewed focus on the importance of continued training for current full-time Adjudicative Services Branch adjudicators and representatives. Branch members must complete and update individual learning plans each fiscal year. Last fiscal year members of the branch participated in a number of courses and professional training opportunities in addition to fulfilling mandatory re-qualifications. Some of these included The Canadian Institute's Fundamentals of Administrative Law & Practice and its Advanced Administrative Law & Practice conferences, the Federation of Law Societies of Canada's 2008 National Criminal Law Program, and the 2008 conference of the Council of Canadian Administrative Tribunals.

By statute, each panel of adjudicators consists of commissioned officers with at least one holding a degree from a recognized Canadian law school. By work description, the Member Representatives and Appropriate Officer Representatives appearing before them must likewise hold law degrees.<sup>78</sup> Ensuring an adequate supply of qualified employees is challenging. Last year, Adjudicative Services Branch assisted with other RCMP stakeholders on a framework for subsidized education. These efforts are continuing and are described in the next chapter.

Coinciding with the increased emphasis on formal training, Adjudicative Services Branch has undertaken to draft best practices guidelines to assist adjudicators, Member Representatives and Appropriate Officer Representatives. These modules will be tailored to the specific nature of the RCMP's disciplinary system and serve as in-house training tools.

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<sup>78</sup> In the case of civilian Appropriate Officer Representatives and Member Representatives, work descriptions also require they be members in good standing of the law society of a province.

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Adjudicative Services Branch is also assisting RCMP Learning and Development in providing more disciplinary training to the wider RCMP community through more formal training programs such as the Supervisor Development Program, the Manager Development Program, and the Officer Orientation and Development Course. In addition, the branch is also identifying opportunities to provide ad hoc local training. In order to better account for all training commitments, new protocols were implemented across Adjudicative Services Branch in 2008-2009 to encourage, monitor and track the numbers of formal and ad hoc training sessions that are being provided by branch personnel. As part of this protocol, branch directors now report to the Director General regarding training sessions which have been given by branch members.

## 4.2 Branch Directorates

### (i) Adjudications Directorate

The Adjudications Directorate administers disciplinary hearings under Part IV of the Act as well as discharge and demotion board hearings for unsuitability under Part V of the Act. The directorate's structure is illustrated in Figure 5.

The role of the Adjudications Directorate is vital in maintaining public trust and the pursuit of the mission and strategic goals of the RCMP. The overarching responsibility of the adjudicators is to ensure the integrity of the process over which they preside by providing fair and equitable treatment for the subject-member.

The directorate also facilitates pre-hearing conferences, which are presided over by an independent adjudicator who is not a member of the adjudication board of the disciplinary hearing in question. The purposes of a pre-hearing conference include: exploring the chances of settling the case expeditiously; settling or narrowing the issues in dispute; ensuring disclosure of the relevant

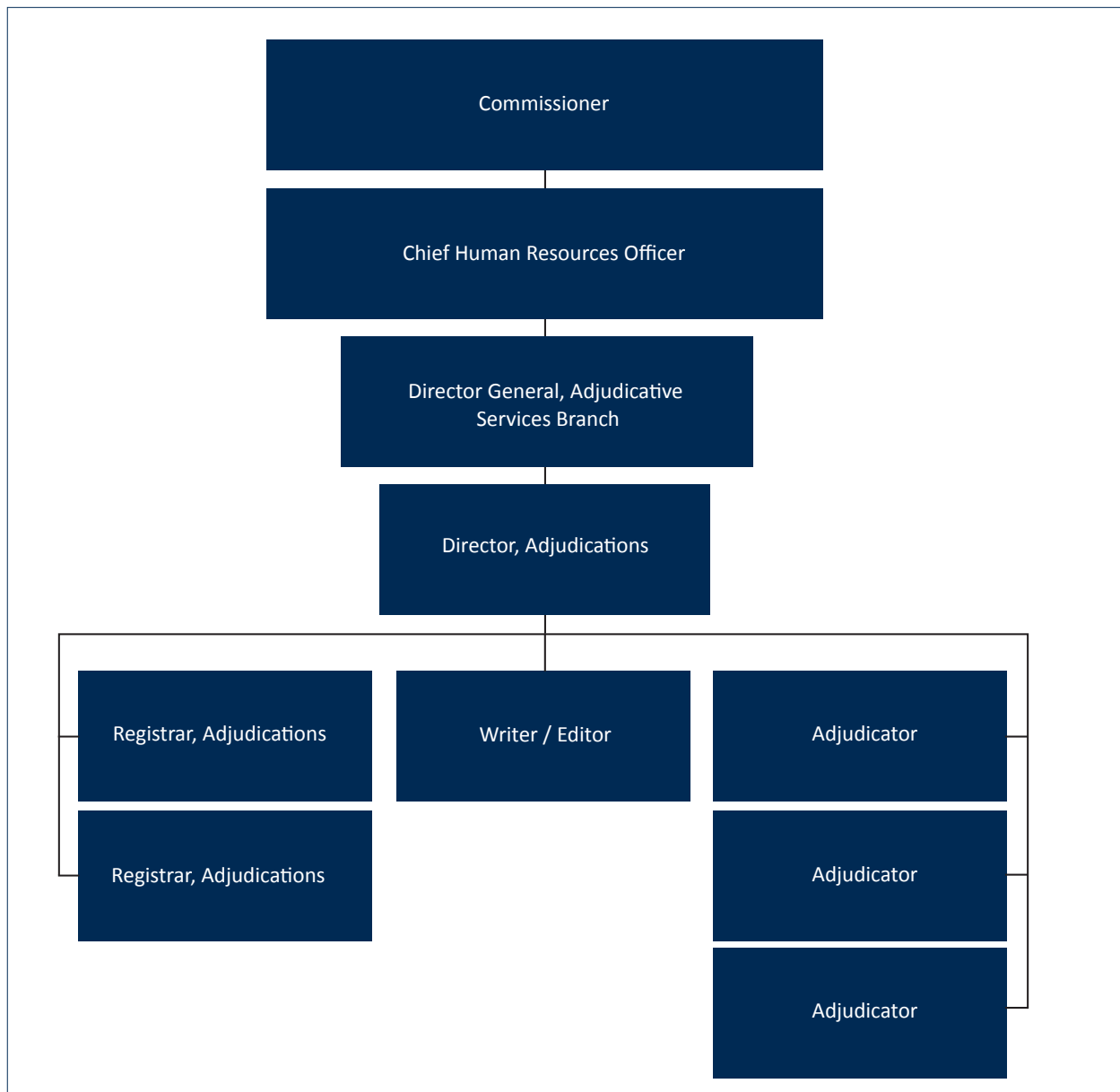
evidence; noting admissions that may simplify the case; considering other worthwhile matters and fair conclusion of the case; and, if the case is not settled, identifying Appropriate Officer's witnesses and other evidence, and estimating the time needed for the hearing.

As part of its efforts towards the fair and equitable treatment of members, Adjudications Directorate maintains an intranet site accessible to members and other employees of the RCMP. Along with hearing schedules and statistical data, the site publishes boards' written decisions. This assists in maintaining transparency, accountability and confidence within the organization. Giving internal stakeholders access to decisions and other information allows, for instance, those facing disciplinary measures to consult previously decided cases. It also serves as a learning tool in dissuading conduct similar to that identified in decisions where *Code of Conduct* violations were established. Given the increased number of regional and divisional members involved in the administration of the disciplinary process, this database has taken on added significance. Though the site is not accessible to the public, board decisions and hearing transcripts are available to all upon request, subject to any public order bans.

Besides conducting hearings, the directorate serves an important administrative function in managing processes that keep the Force's formal disciplinary system functioning. For example, its two registrars are responsible for scheduling hearings, booking court and meeting rooms, coordinating board appointments and issuing summonses. Its writer/editor takes care of editing, translating and posting decisions to the intranet site, writes summaries of decisions and manages the database through which the directorate tracks formal disciplinary statistics.

Figures 6-8 provide an overview of the Adjudications Directorate's activities over the 2008-2009 fiscal year.

**FIGURE 5:**  
**Adjudications Directorate**



**(ii) Appropriate Officer Representative Directorate**

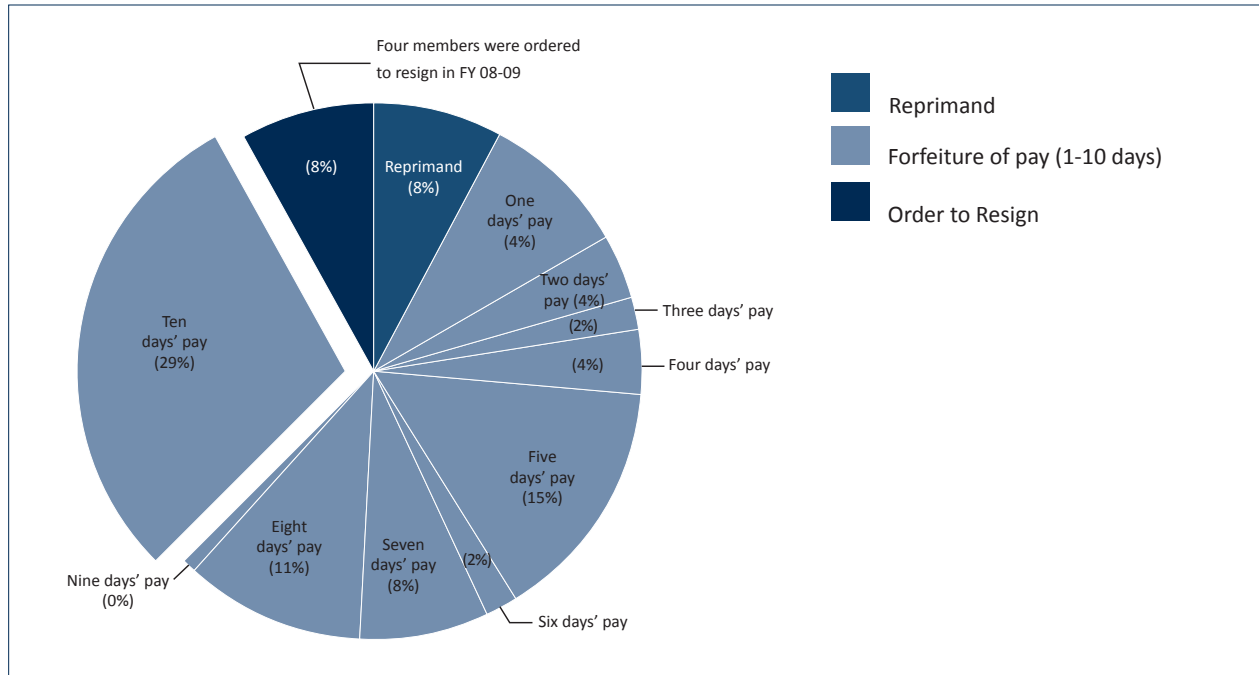
Appropriate Officer Representatives assist and represent Appropriate Officers who are parties to adjudication hearings under Part IV of the Act (Discipline) and Part V (Discharge and Demotion).

In carrying out their mandates, Appropriate Officer Representatives provide research, analysis and representation services to Appropriate Officers.

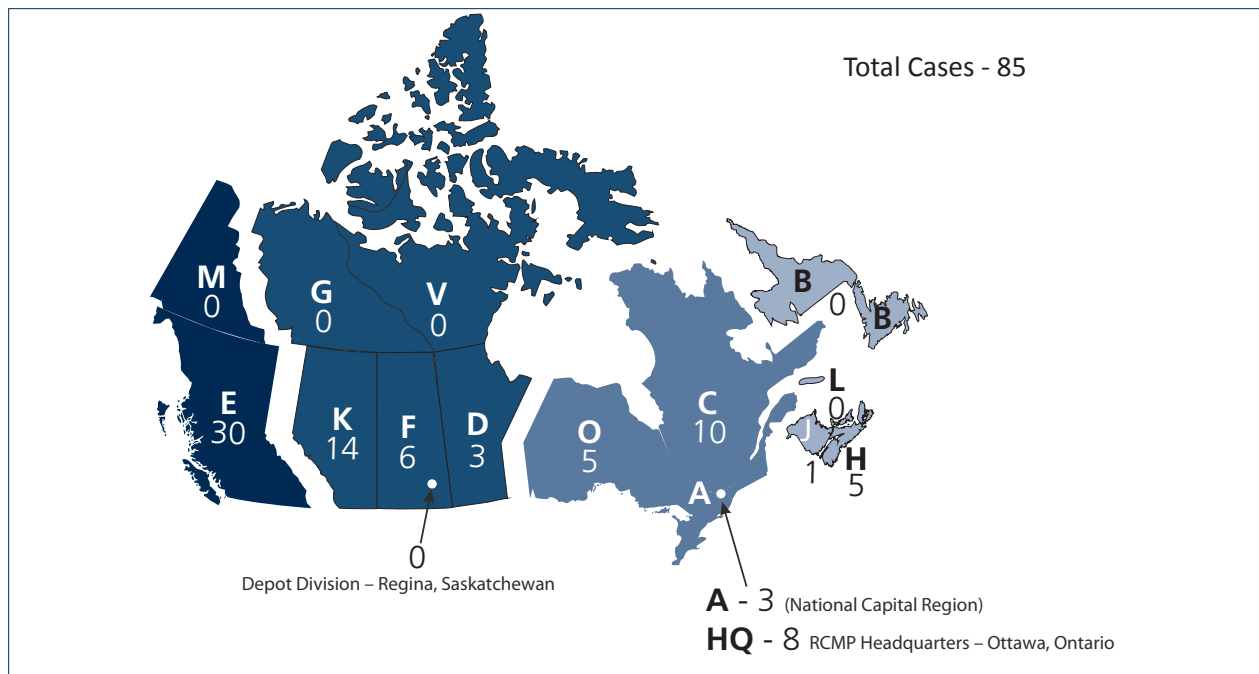
Specific activities include:

- providing advice, policy analysis, opinions and interpretations to appropriate officers and senior regional and divisional management with respect to RCMP disciplinary and discharge and demotion proceedings, including appeals of such proceedings;
- representing appropriate officers in RCMP formal disciplinary hearings and discharge/ demotion hearings;

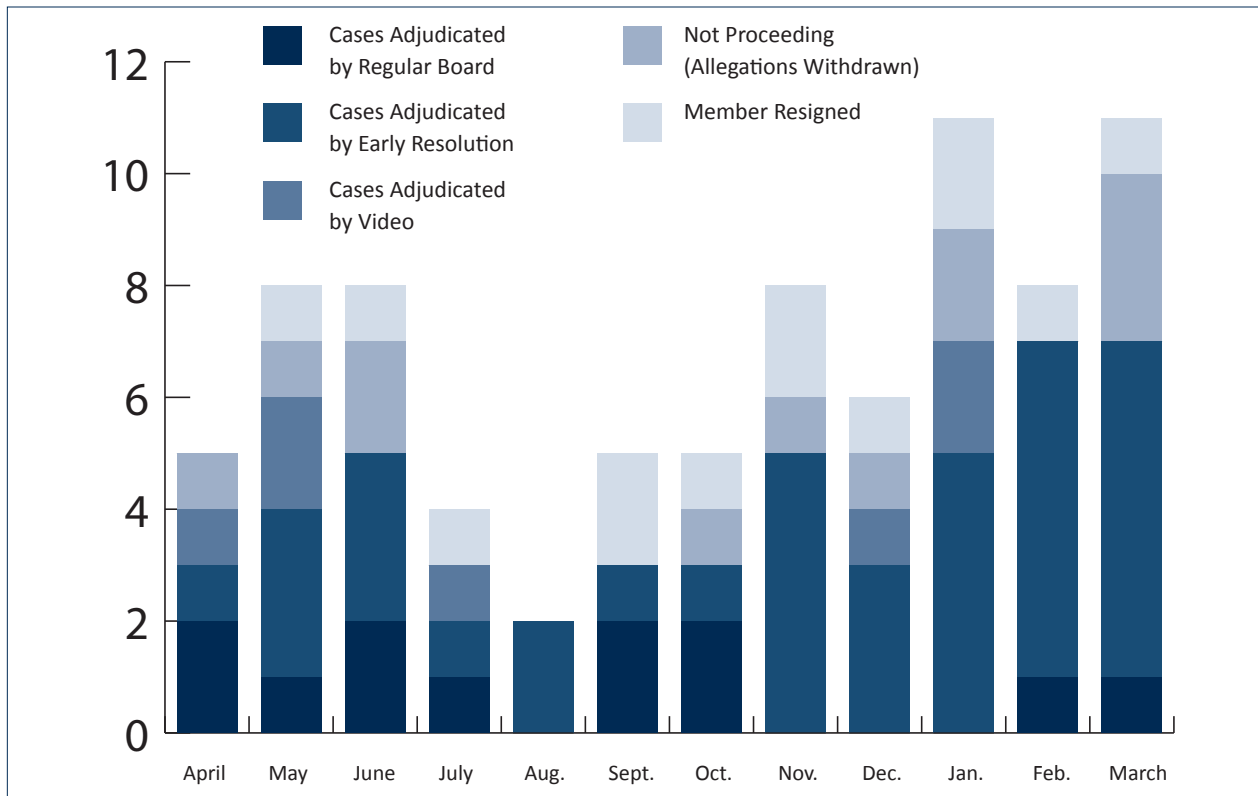
**FIGURE 6:**  
**Formal Discipline for Established *Code of Conduct* Violations, FY 08-09**



**FIGURE 7:**  
**Discipline & Discharge/Demotion Cases by Division - 2009-04-01**



**FIGURE 8:**  
**Monthly Discipline Caseload Activity, FY 08-09**



Monthly Activity	Boards Appointed	Hearings Held					Balance
		Contested	Early Resolution	Video	Withdrawn	Resigned	
<b>CARRY OVER</b>							97
<b>APRIL</b>	9	2	1	1	1	0	101
<b>MAY</b>	10	1	3	2	1	1	103
<b>JUNE</b>	5	2	3	0	2	1	100
<b>JULY</b>	2	1	1	1	0	1	98
<b>AUG</b>	12	0	2	0	0	0	108
<b>SEPT</b>	5	2	1	0	0	2	108
<b>OCT</b>	4	2	1	0	1	1	107
<b>NOV</b>	3	0	5	0	1	2	102
<b>DEC</b>	9	0	3	1	1	1	105
<b>JAN</b>	2	0	5	2	2	2	96
<b>FEB</b>	5	1	6	0	0	1	93
<b>MARCH</b>	3	1	6	0	3	1	85
<b>TOTAL 08-09</b>	69	12	37	7	12	13	

- providing advice and opinions on the Act and Regulations, Commissioner’s Standing Orders, and RCMP policies; and
- preparing appeals from decisions of RCMP disciplinary boards and discharge and demotion boards.

An Appropriate Officer Representative must review evidence and interview witnesses that will be presented to the adjudication board in contested formal disciplinary hearings in order to advance the position of the Appropriate Officer. The Appropriate Officer Representative does not primarily seek to obtain a finding of contravention of the *Code of Conduct* (see the *Representative’s Code of Ethics* – Appendix D). Rather, the Appropriate Officer Representative fairly presents the Appropriate Officer’s case for the board’s decision.

In proceedings that may be settled to the satisfaction of the Appropriate Officer, the Appropriate Officer Representative and Member Representative will consult to resolve outstanding issues.

The Appropriate Officer Representative Directorate came into existence and its director position was staffed on April 1, 2009. Previously, Appropriate Officer Representatives were part of the RCMP’s regional and divisional structure, reporting operationally to the commanding officers of each division. During 2008-2009 a realignment took place as part of efforts to better coordinate and more efficiently administer and monitor Appropriate Officer Representative activities. (See Figure 9 for an illustration of how the new directorate is structured.) The Director, Appropriate Officer Representative Directorate, has now assumed responsibility for Appropriate Officer Representative management services such as staffing vacant positions and playing a consultative role in file management. The Appropriate Officer Representatives, in turn, remain situated in the regions providing representative

services to the Appropriate Officers while part of the nationally managed branch. Further re-orientation and direction is expected in the months to come.

Statistical data for this newly created directorate will be available during the next reporting period.

### (iii) Member Representative Directorate

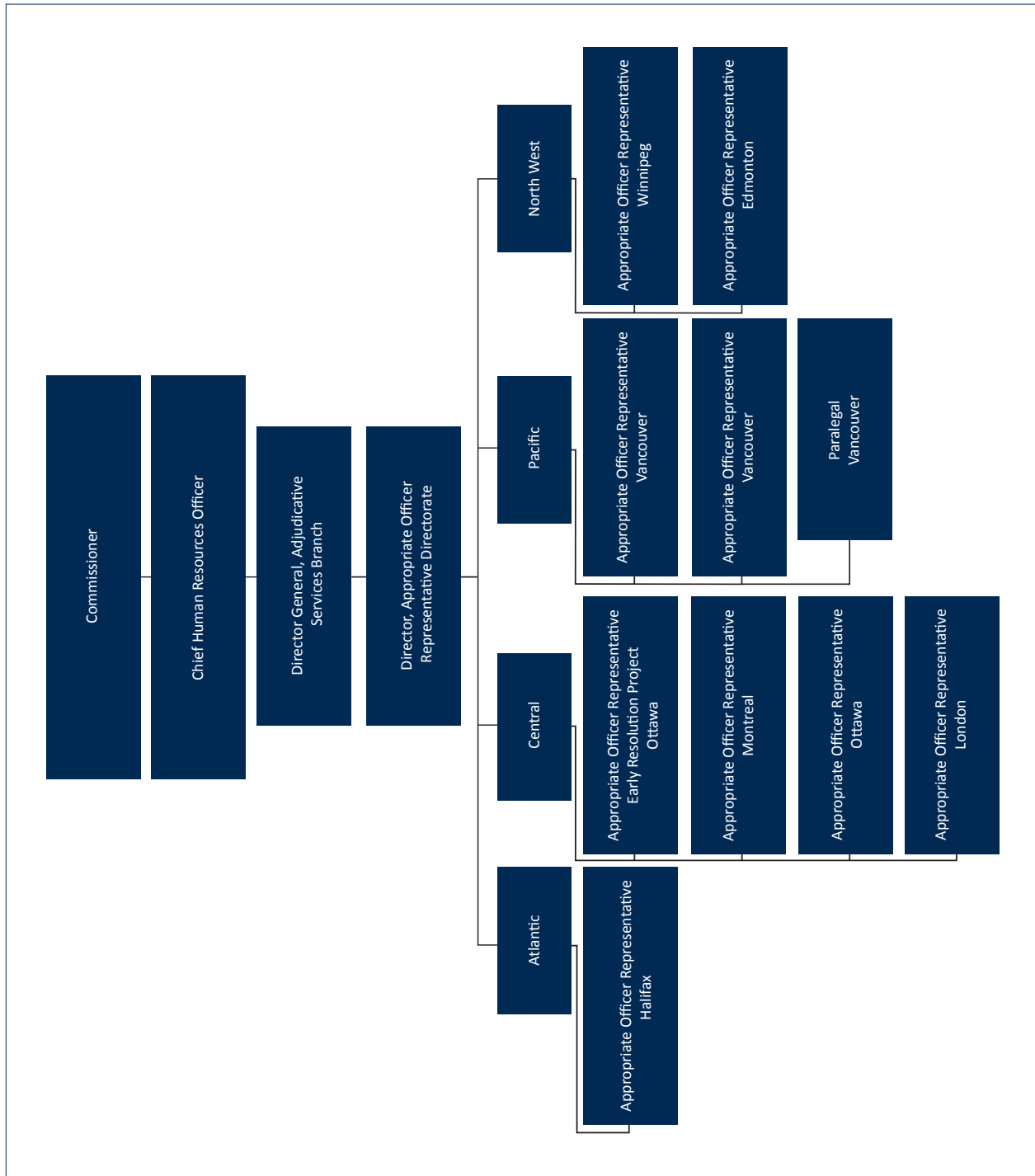
The Member Representative Directorate, (Illustrated in Figure 10) is a unit within Adjudicative Services Branch that, through its Member Representatives, provides representation and assistance in accordance with the Act and the *Commissioner’s Standing Orders (Representation)* to any member who:

- is subject to formal disciplinary action under Part IV of the Act;
- is subject to discharge and demotion proceedings under Part V of the Act; or
- is presenting a grievance relating to their administrative discharge for grounds specified in paragraph 19(a), (f) or (i) of the *Royal Canadian Mounted Police Regulations, 1988*.

Member representatives are also currently providing representation to an additional group of members who are:

- subject to suspension from duty without pay under section 12.1 of the Act and the *Royal Canadian Mounted Police Stoppage of Pay and Allowances Regulations*;
- subject to the process for temporary loss of pay under the *Commissioner’s Standing Orders (Loss of Basic Requirement)*;
- subject to a security clearance revocation (and representation and assistance is approved by the Director);
- subject to a *Code of Conduct* investigation under section 40 of the Act in relation to a serious allegation that could result in formal

**FIGURE 9:**  
**Appropriate Officer Representative Directorate**





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discipline (and representation and assistance is approved by the Director);

- appealing informal disciplinary action under section 42 of the Act (and representation and assistance is approved by the Director); or
- party to a hearing before the Commission for Public Complaints Against the RCMP under section 45.45 of the Act.

During a proceeding, the Member Representative will discourage the subject-member from presenting frivolous or vexatious motions and objections. When the case can be settled to the satisfaction of the subject-member, the Member Representative will encourage them to do so (see the *Representative's Code of Ethics* – Appendix D).

Work is underway to update the existing *Commissioner's Standing Orders (Representation)* to more appropriately reflect and define the duties and/or responsibilities of the Member Representative Directorate. This work coincides with the ongoing review of the Member Representative's mandate, to ensure the roles played by Member Representatives are consistent with the program as well as the roles of the Appropriate Officer Representatives.

Consistent with the *Representative's Code of Ethics*,<sup>79</sup> Member Representatives must maintain the confidentiality of information provided by the members they assist, obtain necessary information from them and from other sources in order to fully assess their situation, provide preliminary and ongoing professional advice and, where applicable, communicate and negotiate with the Appropriate Officer Representatives to resolve issues relating to a particular file.

In the case of formal disciplinary hearings, the Member Representative will represent the subject-member before the adjudication board. The Member Representative will complete legal research, review evidence and interview witnesses that will be presented to the adjudication board in order to advance the subject-member's position. In some instances, an expert must be retained to obtain relevant evidence to be presented to the adjudication board.

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79 See appendix D.

FIGURE 10:  
Member Representative Directorate

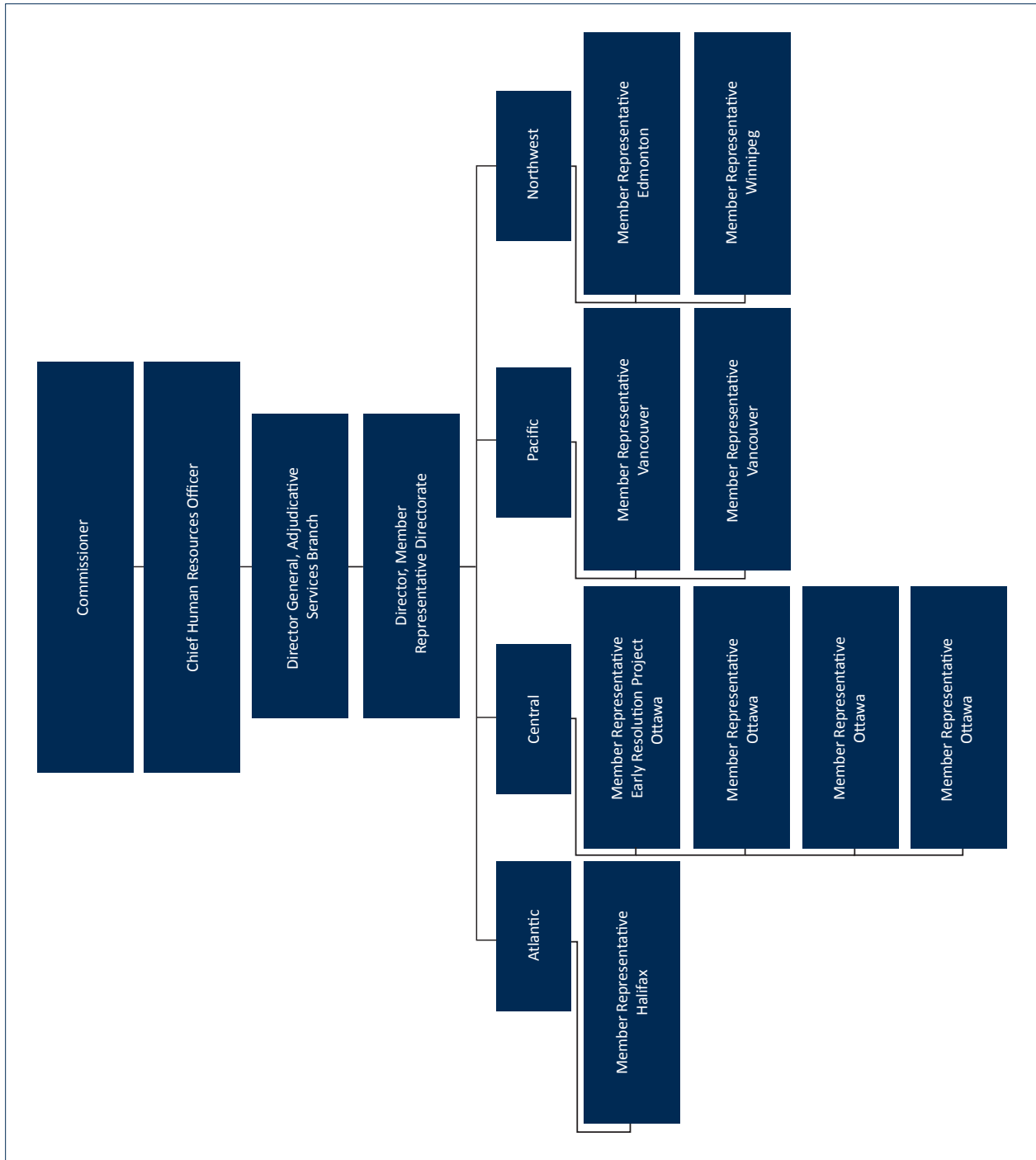


FIGURE 11:

Files Opened by Member Representative Directorate, FYs 00-01 to 08-09

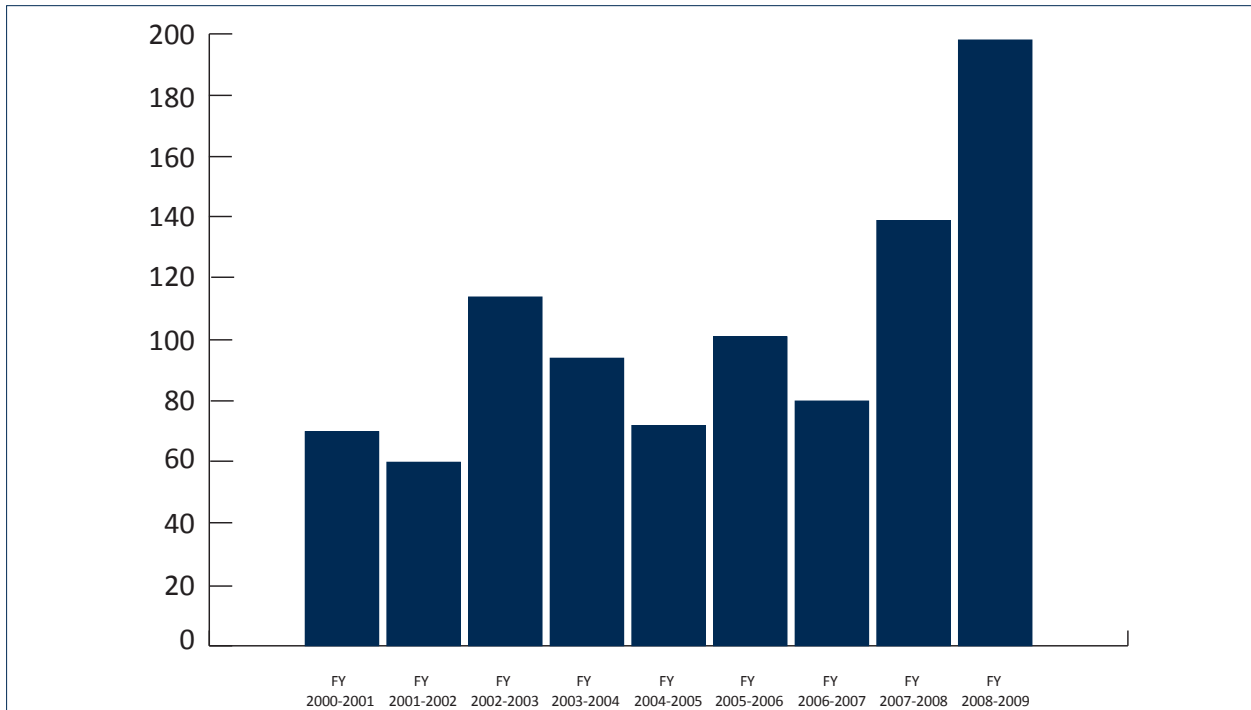
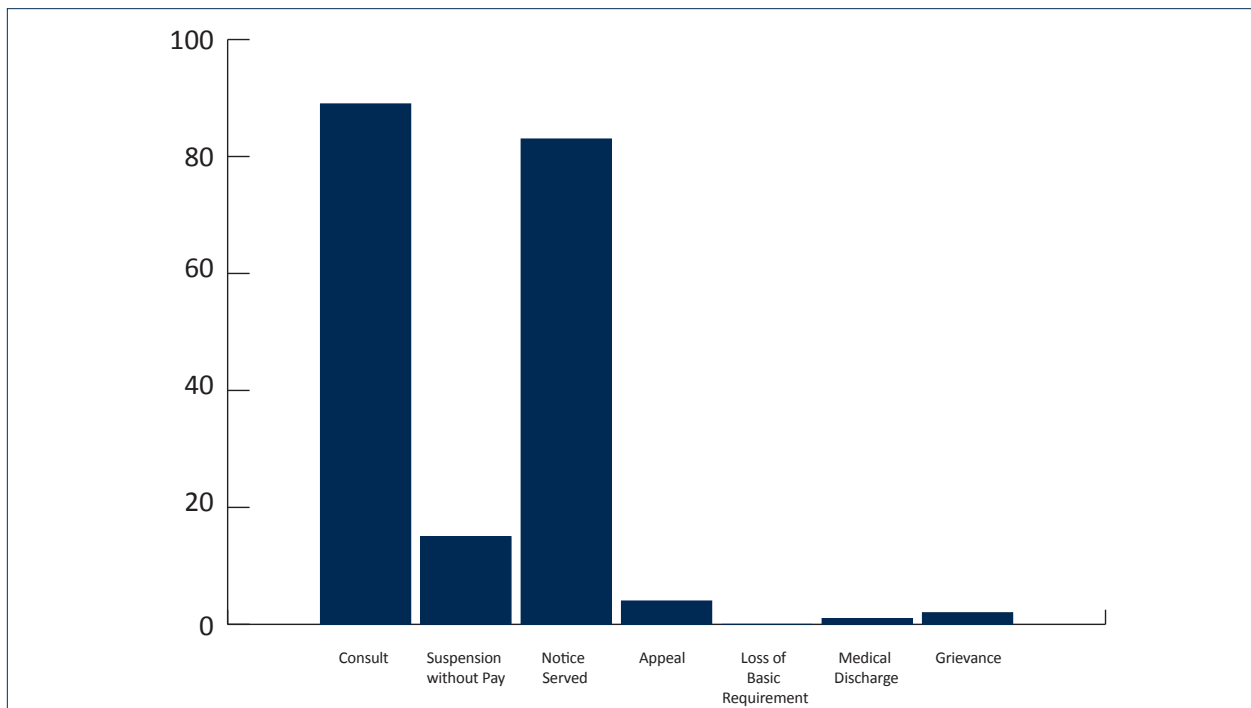


FIGURE 12:

Categories of Member Representative Files



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Over the course of the 2008-2009 fiscal year, the Member Representative Directorate opened 198 files, a significant increase over past years, as shown in Figure 11.

The reason for the increase was largely due to a change in file management practices in 2008 and 2009. To accurately capture data on consultative work performed, Member Representatives began opening consultative files when members first sought advice on a matter within the Member Representative Directorate's mandate, regardless of whether it ultimately proceeded to a Notice of Hearing. An overview of the nature of incoming files over the 2008-2009 fiscal year is provided in Figure 12.

### 4.3 Professional Standards and External Review Directorate

Professional Standards and External Review Directorate is the national policy centre for grievances, discipline, *Code of Conduct* investigations, public complaints, suspension (with or without pay and allowances), conflict of interest (including outside activities/secondary employment and reporting of assets) and legal assistance at public expense to RCMP employees. In addition, the directorate advises and assists the Commissioner with respect to public complaints, grievances adjudicated by the Commissioner, and appeals of decisions reached by RCMP adjudication boards in discipline and demotion/discharge matters. The directorate is not part of Adjudicative Services Branch and reports to the Director General, Employee and Management Relations, also within the Human Resources Sector.

Professional Standards and External Review consists of four units, all of which have roles related to the RCMP's disciplinary system: the Professional Standards Unit, the Special Advisory Unit, the External Review Unit and the Public Complaints Unit. This structure is shown in Figure 13.

Within the directorate, the Professional Standards Unit

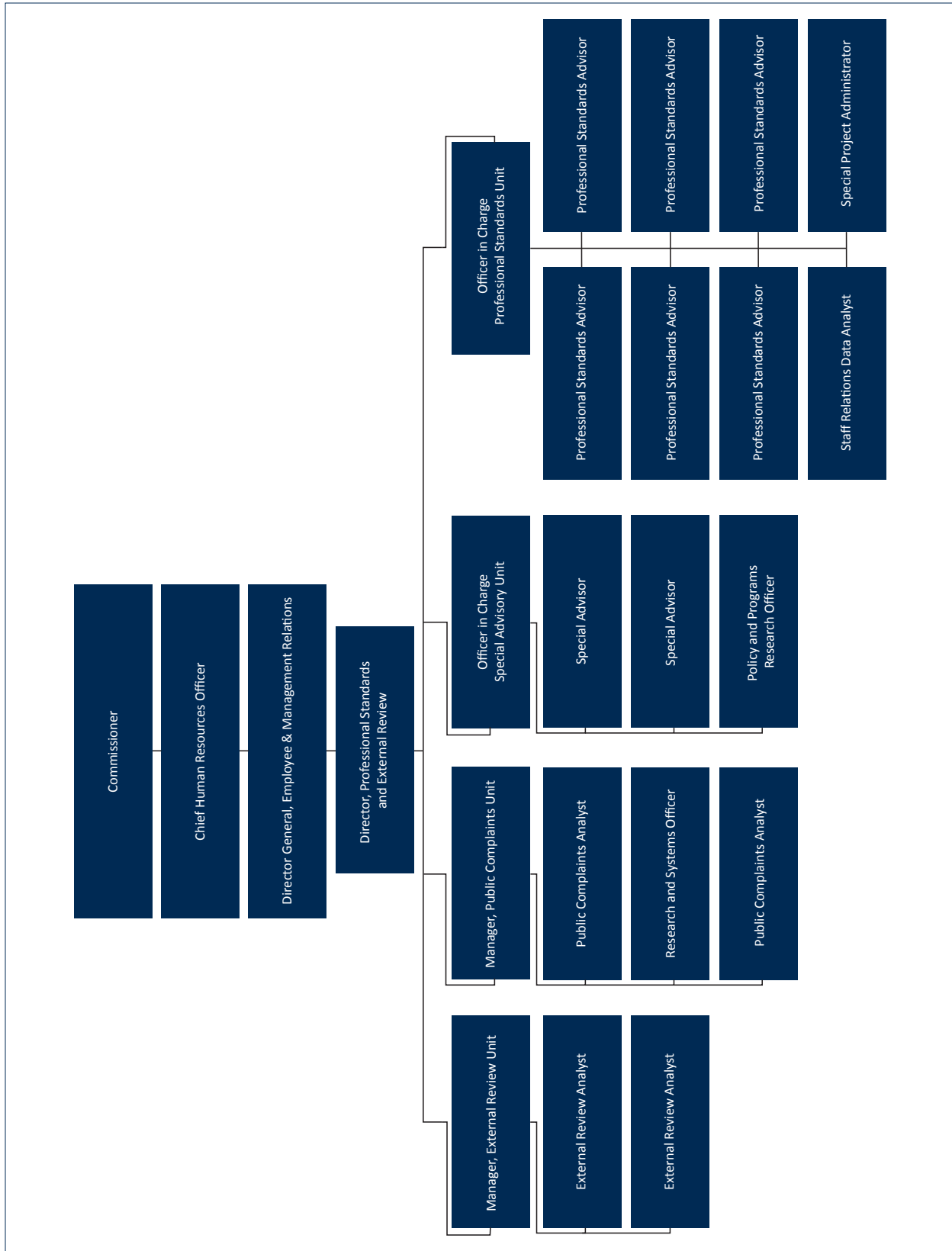
oversees policies including grievances and discipline. The unit is mandated to develop policies and monitor their application and implementation to ensure RCMP members receive fair treatment and maintain the high standards of conduct the public expects.

The Special Advisory Unit is responsible for strategic initiatives related to the Act and regulatory reform. This unit provides advice on recommendations for stoppage of pay and allowances and informal disciplinary appeals. The member in charge of the unit acts as the Registrar for appeals of informal discipline. He or she is also the coordinator for RCMP input into any proposed amendments to the Act, regulations under the Act, and Commissioner's Standing Orders.

The External Review Unit provides staff advice to the Commissioner in relation to his adjudicative function in disciplinary appeals, discharge and demotion appeals, Level II grievances (the final level of grievance adjudication in the RCMP), and certain administrative discharges. In addition, the unit instructs the Department of Justice on the Commissioner's behalf in judicial reviews of his decisions in the Federal Courts.

The Public Complaints Unit is tasked with providing integrated management of all aspects of public complaints pursuant to Part VII of the Act. On a national level, this means it is responsible for public complaints procedures, direction, advice, partnering, quality assurance, and tracking. The unit liaises extensively with the Commission for Public Complaints Against the RCMP, the independent, arm's-length review body that oversees investigations of complaints made by the public against the Force. The unit also acts as a clearing house for complaints, providing information and advice to RCMP members, including the Commissioner, and other employees. It also serves as a contact point for civilian advocacy groups interested in police conduct.

**FIGURE 13:**  
**Professional Standards and External Review Directorate**



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Key directorate activities which have had a bearing on discipline over the course of 2008-2009:

(i) Early Intervention System

The directorate's commitment to a remedial approach in the management of discipline was manifested through its efforts to develop an Early Intervention System.

An Early Intervention System is a data-based tool designed to identify conduct and/or performance which potentially create a higher risk to the organization or a member's career. The objectives are to create a risk-management strategy, reduce the chances of a member jeopardizing his or her career, ensure supervisory accountability, provide additional expert resources to supervisors and reduce organizational liability and risk exposure.

An Early Intervention System helps managers identify and address behaviour and performance issues before they become disciplinary issues. It assists in gathering and analyzing information, enabling intervention to prevent further incidents and significant consequences from occurring.

(ii) Public Servants Disclosure Protection Act

Over 2008-2009, Professional Standards and External Review Directorate worked with the RCMP's Office of the Ethics Advisor in support of consultations with central agencies regarding the impact of the *Public Servants Disclosure Protection Act*.

The *Public Servants Disclosure Protection Act* came into force on April 15, 2007, and applies to all RCMP employees including regular and civilian members and public service employees. It provides two specific mechanisms/processes:

1. disclosure of wrongdoings; and
2. protection from reprisals when disclosure is made in good faith.

Under it, the Treasury Board of Canada must establish a code of conduct applicable to the entire federal public sector. This process is not yet complete. When it is, the RCMP Commissioner, (the Chief Executive as defined under the *Public Servants Disclosure Protection Act*), will be required to establish an organizational code of conduct applicable to the portion of the public sector for which he or she is responsible. The goal will be to translate the values and commitments of the Federal Public Sector Code of Conduct into specific behaviours expected by the RCMP.

In view of the fact that RCMP members are already governed by a *Code of Conduct*, the consultations in which Professional Standards and External Review played a part in 2008-2009 sought to ensure consistency with the Federal Public Sector Code of Conduct. The *Public Servants Disclosure Protection Act* provides, in the event of a conflict between the new Treasury Board Code of Conduct and the *Code of Conduct* established under the *RCMP Act*, that the latter prevails to the extent of the conflict. While the *Public Servants Disclosure Protection Act* contains a number of provisions aimed at avoiding duplication of processes and recourse mechanisms with the Act, an analysis of the interaction of the Acts is ongoing.

(iii) Disclosure of Disciplinary Information

In January 2009, the Supreme Court released its judgment in *R. v. McNeil*,<sup>80</sup> a case which has had significant implications on police disciplinary regimes. *McNeil* involved the Crown's obligations with respect to disclosure in criminal proceedings. The Court held that records relating to findings of serious misconduct by police officers involved in the investigation of an accused must be disclosed where the misconduct either relates to the investigation or could reasonably impact on the accused's case.

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<sup>80</sup> *R. v. McNeil*, 2009 SCC 3 [McNeil].

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In consultation with other RCMP policy centres, the directorate issued interim guidelines to members on the handling of *McNeil*-type disclosures. Professional Standards and External Review is part of an internal RCMP Working Group examining the implications of the *McNeil* decision. Discussions on longer-term guidance, which started during 2008-2009, are ongoing.

#### 4.4 Regional/Divisional Professional Standards Units

Professional Standards Units are in place across the country and operate at the regional/divisional level as part of the human resource function of the RCMP. These units remain a decentralized component within the disciplinary system. Their structure varies but generally follows the outline given in Figure 14. Since the units report through the regional hierarchy, policy from Professional Standards and External Review is the primary means of ensuring consistency in their operations. Professional Standards Units are integral to RCMP discipline inasmuch as they operate as a support team, providing investigative services for both internal complaints of employee misconduct and public complaints as well as ensuring consistency, quality and timeliness of investigations.

Generally speaking, Professional Standards Units serve two functions. The first is the management of policy for all matters with respect to public complaints, *Code of Conduct* investigations and harassment investigations for their respective divisions. The second is the provision of investigative services for both internal and public complaints.

Investigations may also be done by a detachment commander, his or her designate, or any other designated person. Capacity, seriousness of the matter, skills, experience and other practical considerations are all factors in the decision as to which

component of the organization investigates a *Code of Conduct* or public complaint matter.

Certain Professional Standards Unit investigations are given priority and assigned to experienced investigators, such as those involving suspended members or where the allegations, if substantiated, would likely result in formal discipline. As mentioned earlier, according to policy, a *Code of Conduct* investigation should not take more than six months to complete unless exceptional circumstances exist.

The Professional Standards Units in the divisions play a vital role in providing advice and guidance to all employees, managers and members of the public on matters relating to internal investigations, discipline, harassment, human rights issues and performance management. The availability of such advice in the divisions is important in helping managers address conduct and performance issues, thereby meeting the objective of administering discipline at the most appropriate supervisory level.

##### (i) Discipline Reviewers

Another important component of the divisional Professional Standards Units within the disciplinary system is the role of the discipline reviewers.<sup>81</sup> Discipline reviewers provide advice on alleged *Code of Conduct* contraventions including whether they are likely to be proven, possible disciplinary measures, and how matters might appropriately be resolved.<sup>82</sup>

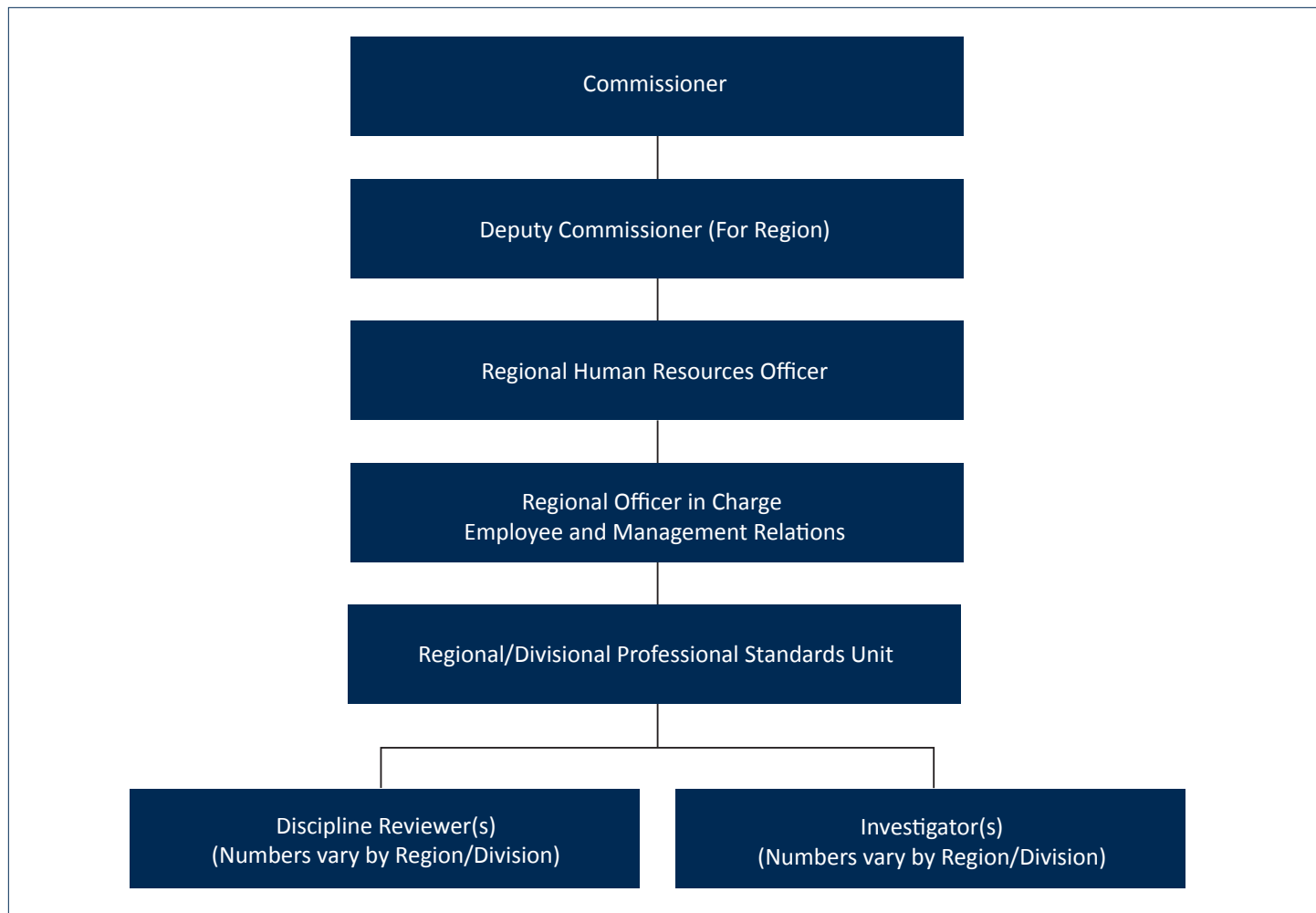
Where decisions are made to recommend formal discipline, discipline reviewers will turn the matter over to Appropriate Officer Representatives but may provide assistance in preparing matters for adjudication boards.

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<sup>81</sup> Across the RCMP, the terms “discipline reviewer”, “discipline advisor” and “discipline NCO” are used interchangeably. For the sake of consistency, discipline reviewer is used here.

<sup>82</sup> *Pay Council Report*, *supra* note 17 at 19.

**FIGURE 14:**  
**Organization of a Typical Regional/Divisional Professional Standards Unit**



The key role of discipline reviewers is to bring greater consistency in disciplinary matters and as such, supervisors are encouraged to consult them on the use of informal discipline or the need to recommend formal discipline. RCMP policy stipulates supervisors must consult with discipline reviewers for incidents involving serious statutory offences where formal discipline is not being considered. Supervisors are also encouraged to consult discipline reviewers in cases where “there is no contravention of the *Code of Conduct* or there is a contravention of the *Code of Conduct* but it does not warrant disciplinary action.”<sup>83</sup>

<sup>83</sup> *Admin Manual*, supra note 29 at XII.6.F.2.d.

Discipline reviewers may assist in the preparation of allegations of misconduct, and also review, draft and/or process reports and correspondence on disciplinary matters. In addition, they are responsible for monitoring the quality and timeliness of *Code of Conduct* investigations.

Within the RCMP, access to disciplinary records is carefully monitored and controlled. Discipline reviewers can provide access to such information when appropriate, for instance for use in disclosures to the Crown required as a result of *R. v. McNeil*, discussed above.



## The Way Forward

*The Council considers the disciplinary system to be moving in the right direction, and in particular we endorse the resolution of problems at the lowest possible level, preferably even before they become disciplinary matters. We recognize that it will take time for changes to become visible but we urge that every effort be made to accelerate reform in this area.*

*– RCMP Reform Implementation Council  
Second Report, March 2009*

The RCMP's disciplinary system underwent a significant transformation during the past fiscal year, such that by March 31, 2009, its management was more in keeping with the practices espoused in several reports, namely, that it should be more timely, more remedial and less adversarial. There is now greater recognition of how discipline should be administered at the most appropriate level, and how managers must play an active role in addressing behavioural problems before they are channelled into the formal discipline process. Compilation of this report has enabled the RCMP to showcase its disciplinary process in a consolidated and introspective manner, when public awareness of, and interest in, RCMP disciplinary matters is high. These changes can only help improve the accountability, transparency and effectiveness of the disciplinary system and, ultimately, public confidence in the Force.

The remarks of the Reform Implementation Council, as stated in its Second Report, have been duly noted: an acceleration of these reforms is necessary. The 2008 Ministerial Directive has provided clear direction which has assisted in laying a foundation for disciplinary change.

The RCMP will now move forward by continuing to build on this foundation and following through with additional changes to both the informal and formal disciplinary processes. Some of the work in the months ahead will involve initiatives which have been described:

(i) Case Management

Inherent in the formation of the new central disciplinary authority is the ability to better address issues with respect to handling cases and preventing a backlog in the system. Adjudicative Services Branch will continue to enhance case management and reduce delays in the formal disciplinary process through regular reviews of cases by the directors of the Appropriate Officer Representative Directorate and the Member Representative Directorate. The case management system drafted by Adjudicative Services Branch will, in the coming fiscal year, be submitted to stakeholders for consultation, finalization and implementation.

With research on its case management system largely complete, Adjudicative Services Branch will conclude consultations with a view to implementing, by winter 2009/spring 2010, a new process that will see a timetable followed in which the majority of cases will be completed within a fixed period of time.

(ii) Pre-Hearing Conferences

Pre-hearing conferences have proven their utility in focusing issues and improving efficiency. Adjudicative Services Branch will employ a greater use of pre-hearing conferences in the upcoming year and will track pertinent statistics for future reporting periods. The use of pre-hearing conferences will be formalized as part of the case management system outlined in the previous paragraph.

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(iii) **Early Resolution Project**

Given the success of Early Resolution as a pilot project, a need was identified in 2008-2009 to formalize the process through a national policy serving to:

- maintain consistency in the application of Early Resolution;
- inform RCMP members of the availability of Early Resolution and encourage them to utilize it;
- establish the centralization of Early Resolution policy with dedicated resources to administer it.

In the months ahead, Adjudicative Services Branch will continue consultations with respect to its draft national policy formalizing the Early Resolution Project. As with pre-hearing conferences, this policy will form an integral part of a comprehensive case management system.

(iv) **Accountability Framework**

In the coming fiscal year, Adjudicative Services Branch will complete modifications to its accountability framework begun in 2008-2009. The importance of this framework to Adjudicative Services Branch is evidenced by the intention to reconstitute it in the form of a Commissioner's Standing Order. It will serve to buttress the operational autonomy of Member Representatives, Appropriate Officer Representatives, and adjudicators in their efforts to fulfill their respective mandates, while ensuring they remain accountable within the centralized program management structure provided by Adjudicative Services Branch.

(v) **Policy Initiatives**

A number of significant policy initiatives will be examined in 2009-2010. Adjudicative Services Branch is directly responsible for some of these. For others, such as the organizational code of conduct required by the *Public Servants Disclosure Protection Act*, and the disclosure of disciplinary records for court proceedings, it will continue to work in

a supporting capacity to provide advice and expertise. In addition, Adjudicative Services Branch will provide assistance in the research and analysis anticipated with respect to legislative reform, as noted in Chapter 4. There may be reforms which can be accomplished internally through the use of Commissioner's Standing Orders; however, broader fundamental changes may require amendments to the legislative regime which governs the RCMP. Proposals are being developed to amend the *RCMP Act* to streamline the disciplinary process. Changes may, for example, include ways to expedite the hearing process and may also expand options for sanctions.

(vi) **Training**

Work will continue with RCMP Learning and Development to provide more disciplinary training through the Supervisor Development Program, Manager Development Program and Officer Orientation and Development Course in 2009-2010. Such training will soon also be provided through the RCMP's Executive Development Program. Adjudicative Services Branch will also be working with the divisions towards informing members at all levels of the organization about our disciplinary system.

At the same time, Adjudicative Services Branch will be concentrating on ensuring training opportunities are available to those members specifically involved in various aspects of the disciplinary process, be they Appropriate Officer Representatives, Member Representatives, or Adjudicators. The force-wide framework for subsidized education mentioned in the preceding chapter provides for advanced education for all categories of RCMP employees. It is hoped that its implementation, targeted for 2009-2010, will ensure the organization has enough regular members with law degrees to effectively serve its formal disciplinary process. The creation of Adjudicative Services Branch has facilitated a means to standardize training initiatives

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undertaken by branch members. In the next reporting period, efforts will focus on ensuring there is consistency in training materials across all directorates.

(vii) Maintenance and Monitoring of Records

It is vital for a well-functioning disciplinary system to have comprehensive, current and accessible records. The creation of a new branch brings timely attention to current and future record keeping practices. For example, work will be undertaken to amalgamate statistics for the new Appropriate Officer Representative Directorate and ensure consistency in directorate-wide and branch-wide recording of statistical data. A consistent and comprehensive approach will be taken to gathering and recording both formal and informal disciplinary records; while the first is largely in place, the latter requires a concerted focus given the decentralized nature of the informal disciplinary system.

(viii) Completion of Annual Report

The completion of this first annual report on the management of the RCMP's disciplinary processes facilitates and focuses its efforts to ensure the effective coordination and efficient administration of its disciplinary system. These annual submissions will assist in the formulation of consistent internal reporting procedures to ensure the ongoing monitoring of the disciplinary system. This, in and of itself, will require new systems and processes for tracking initiatives. Current practices with respect to data collection and records management are being examined to make sure requirements for future reporting objectives can be met.

## 5.1 Conclusion

While the legislative authorities and the internal administration of the RCMP disciplinary system have evolved over the years, one factor remains unchanged: to be an effective

police force, the RCMP must maintain the respect and trust of the public it serves. To do this, the conduct of its members must be above reproach.

Rigorous disciplinary standards must therefore be adhered to. Just as vitally, RCMP members themselves must understand their rights and obligations with respect to internal disciplinary practices. Lastly, members of the RCMP and the public must both view the RCMP disciplinary system as fair, transparent, timely, effective, and adhering to the principles of natural justice.

Many of the initiatives throughout the reporting period demonstrate the RCMP's progress toward a more centralized and efficient disciplinary system. The most significant change has been the creation of Adjudicative Services Branch. The branch has consolidated all the elements of formal discipline and grievance adjudications under a central authority, enhancing integration, planning, monitoring, transparency and accountability. It is the creation of this centralized authority which will facilitate further efforts to manage both formal and informal aspects of the disciplinary process. This, in turn, will ensure that the basic tenets of the RCMP's disciplinary processes are followed; namely that discipline remains, to the greatest extent possible, corrective and remedial in nature and delivered efficiently at the most appropriate level.

In 2008-2009, the transformation of the RCMP's disciplinary system began yielding positive results, but the renewal is far from complete. With the ongoing support of the Commissioner, senior executives and the Government of Canada, the Force's disciplinary management will continue to improve. This will, in turn, help make the RCMP a better police force in the eyes of its members and the public they serve.

## Glossary

**Appropriate Officer** – An officer designated by the Commissioner as the appropriate officer in respect of a member for the purposes of the Act. In practical terms, the appropriate officer is normally the commanding officer of a division of the RCMP.

**Code of Conduct** – The Regulations governing the conduct of RCMP members created by the Governor in Council pursuant to section 38 of the *Royal Canadian Mounted Police Act* (see Appendix A).

**Commissioner's Standing Order** – A rule from the Commissioner made according to subsection 21(2) of the *RCMP Act*. That part of the Act states how, subject to the Act and its Regulations, the Commissioner may make rules dealing with administrative discharge of members, as well as for the organization, training, conduct, performance of duties, discipline, efficiency, administration or good government of the Force, and generally for carrying out the purposes and provisions of the Act.

**Detachment** – For the purposes of sections 40 (Investigation) and 41 (Informal Disciplinary Action) of the Act, includes any organizational component within the Force commanded by a member, other than an officer, who reports directly to an officer.<sup>84</sup>

**Discipline Reviewers** – Discipline reviewers review, analyze and process reports and correspondence related to disciplinary matters. They make recommendations on disciplinary actions, appeals and discharges.

**Division** – As part of its structure, the RCMP organizes itself into 15 divisions roughly equivalent geographically to Canada's 10 provinces, three territories, the national capital region and the RCMP's training academy, known as Depot, in Regina. Each division with the exception of Depot is assigned a letter name, e.g. the RCMP's "A" Division comprises the National Capital Region. See Figure 7.

**External Review Committee** – An independent, arm's-length committee established under section 25 of the Act to make recommendations on discipline, discharge and demotion matters and certain types of grievances brought before it. The External Review Committee reports once a year to the Minister of Public Safety in accordance with section 30 of the Act.

**Grievances** – Grievances are complaints made by members related to decisions, acts or omissions in the administration of the affairs of the Force for which no other process for redress is provided. The grievance process provides a formal, consistent way of addressing these complaints by members.

**Member** – Any person who has been appointed as an officer or other member of the RCMP and has not been discharged or dismissed from the Force.

<sup>84</sup> Section 3 of the *Commissioner's Standing Orders (Disciplinary Action)*.

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**Officer** – A member appointed by the Governor in Council to the rank of inspector, superintendent, chief superintendent, assistant commissioner, deputy commissioner or commissioner. For the purposes of section 41 of the Act (informal disciplinary action), officer includes those civilian members, special constables and special constable members who are classified at the senior management or executive level.<sup>85</sup>

**Pay Council** – A council of five people established in May 1996 as an alternative to collective bargaining for resolving issues of pay, benefits and other working conditions. The council consists of an independent chairperson appointed by the Commissioner in consultation with, and with the approval of the Caucus of Staff Relations Representatives (SRRs); two management representatives appointed by the Commissioner; and two member representatives appointed by the SRR Caucus.

**Regions** – Beyond divisions, the RCMP is also organized into regions. There are four regions: Pacific, Northwest, Central and Atlantic. Each is headed by one of the RCMP's deputy commissioners.

**Service Court** – The forerunners of today's adjudication boards. Service Courts were quasi-judicial proceedings presided over by a single commissioned officer who heard and determined formal disciplinary matters. Service Courts were adversarial in nature and generally used the same rules of evidence as criminal trials. They were discontinued as a result of revisions to the Act in 1988.

**Staff Relations Program Officer** – The officer appointed by the Commissioner to be responsible for the administration and management of the Staff Relations Representative Program established under section 96 of the *Royal Canadian Mounted Police Regulations, 1988 (s. 1 of the Commissioner's Standing Orders (Representation))*.

**Staff Relations Representatives (SRRs)** – Members elected by the members within a particular division to represent them in dealings with RCMP management on issues impacting their welfare, dignity and operational effectiveness. SRRs also deal with issues of wider concern as members of divisional and regional caucuses and through their Regional National Executive Committee and National Executive. The program was established in 1974 to provide members of the RCMP with a formal system of representation.

**Unit Commander** – The commander of a unit. A unit is an organized body within the RCMP. Detachments, sections, branches, directorates, subdivisions and divisions are examples of units.

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<sup>85</sup> Section 3.1 of the *Commissioner's Standing Orders (Disciplinary Action)*.

## 7.1 Code of Conduct

(Extracted from the *Royal Canadian Mounted Police Regulations, 1988, S.O.R./88-361.*)

37. Sections 38 to 58.7 constitute the Code of Conduct governing the conduct of members.

38. A member shall promptly report any incident for which the member has been charged with an offence under an Act of Parliament or of the legislature of a province.

39. (1) A member shall not engage in any disgraceful or disorderly act or conduct that could bring discredit on the Force.

(2) Without restricting the generality of the foregoing, an act or a conduct of a member is a disgraceful act or conduct where the act or conduct

- (a) is prejudicial to the impartial performance of the member's duties; or
- (b) results in a finding that the member is guilty of an indictable offence or an offence punishable on summary conviction under an Act of Parliament or of the legislature of a province.

40. A member shall obey every lawful order, oral or written, of any member who is superior in rank or who has authority over that member.

41. A member shall not publicly criticize, ridicule, petition or complain about the administration, operation, objectives or policies of the Force, unless authorized by law.

42. A member, other than a civilian member, shall take appropriate police action to aid any person who is exposed to danger or who is in a situation where danger may be impending.

43. A member shall not, without lawful excuse, destroy, mutilate, alter or conceal any correspondence, report, record or other official document.

44. A member shall not misapply or unreasonably withhold, in whole or in part, any property, money or valuable security coming into the member's possession, or under the member's control, in the course of the member's duties or by reason of being a member.

45. A member shall not knowingly or wilfully make a false, misleading or inaccurate statement or report to any member who is superior in rank or who has authority over that member pertaining to

- (a) the performance of that member's duties;
- (b) any investigation;
- (c) any conduct concerning that member, or any other member;
- (d) the operation of the Force; or
- (e) the administration of the Force.

46. (1) Subject to subsection (2) a member shall report promptly, in accordance with procedures approved by the Commissioner, any contravention of the Code of Conduct by any other member.

(2) The following members are not required to report a contravention pursuant to subsection (1) where they have obtained the knowledge of the contravention in their professional capacity:

- (a) a physician, nurse or psychologist;
- (b) a Member Assistance Program referral agent;
- (c) a Division Staff Relations Representative who is providing assistance to a member; or
- (d) a member representative.

(3) For the purposes of this section, “referral agent” means a member who

- (a) has been recommended by the Health Services Officer;
- (b) has been appointed as a referral agent by the member’s Commanding Officer; and
- (c) is shown as active on the records of the Human Resources Directorate for the Member Assistance Program.

47. A member shall not knowingly neglect or give insufficient attention to any duty the member is required to perform.

48. (1) A member shall respect the rights of every person.

(2) Without restricting the generality of subsection (1), a member shall not by words or actions exhibit conduct that discriminates against any person in respect of that person’s race, national or ethnic origin, colour, religion, sex, age, mental or physical disability or family or marital status.

49. A member shall not, without authority, be absent from duty or leave any assigned duty.

50. A member shall not knowingly contravene or otherwise breach any oath taken by the member pursuant to section 14 of the Act.

51. (1) A member shall not

- (a) while on duty, consume, possess or be under the influence of alcohol or a drug or any other behaviour altering substance, except as required or permitted in the performance of a specific duty or as authorized for personal use pursuant to a medical prescription; or
- (b) report for duty while under the influence of alcohol or a drug or any other behaviour altering substance, except as authorized for personal use pursuant to a medical prescription.

(2) While off duty, a member shall refrain from consuming alcoholic beverages to the extent that that consumption may render the member unfit to report for scheduled duty.

52. A member shall not

- (a) use any controlled or restricted drug set out respectively in Schedules G and H to the *Food and Drugs Act*, or any narcotic set out in the schedule to the *Narcotic Control Act*, except as authorized for personal use pursuant to a medical prescription; or
- (b) possess any controlled or restricted drug set out respectively in Schedules G and H to the *Food and Drugs Act*, or a narcotic set out in the schedule to the *Narcotic Control Act*, except as required or permitted in the performance of the member’s duties or as authorized for personal use pursuant to a medical prescription.

53. A member shall not, while in uniform, except in the performance of a specific duty or to attend authorized Force functions, enter any licensed public premises the primary purpose of which is to serve or sell alcoholic beverages.

54. A member shall not accept or seek special privilege in the performance of the member's duties or otherwise place the member under any obligation that may prejudice the proper performance of the member's duties.

55. A member shall not, unless authorized by the Commissioner, accept any remuneration from any federal, provincial, regional, municipal or local government, department or agency or any Crown corporation.

56. (1) Members shall conduct themselves in public in relation to any political issue, party, candidate or election so that their impartiality in the performance of their duties is not affected and does not appear to be affected.

(2) Unless performing a specific duty on behalf of the Force, a member in uniform or on duty shall not attend a political meeting or take part in any social activity in relation to a political issue, party or candidate.

56.1 Any member who participates in political activities shall ensure that such participation does not compromise an ongoing criminal investigation in which the member is involved or seriously impair the impartiality or integrity of the Force.

57. (1) Subject to subsection 58(2), while a member is participating in a political activity, the member shall not indicate, nor shall the member permit anyone campaigning for the member to indicate, that the member's opinions or comments are made on behalf of the Force.

(2) A member who is running for nomination, or is standing as a candidate, in a federal, provincial or territorial election or in an election for the council

of a regional, municipal or local government or the council or other governing body of a band or first nation, or is standing as a candidate for the leadership of a political party, may, for identification purposes, disclose the member's rank or level, position and work experience in the Force.

58. (1) Subject to subsection (2), the Commissioner and all members holding any of the following ranks, officer equivalent level designations, or positions, namely, deputy commissioner, assistant commissioner or chief superintendent, commanding officer, director general or criminal operations officer, shall not participate in political activities.

(2) The Commissioner and the members holding the ranks, officer equivalent level designations, or positions referred to in subsection (1) may, on behalf of the Force, present information regarding the provision of policing services by the Force pursuant to municipal, provincial or territorial policing contracts when the provision of such services is the subject of a direct vote by the population.

58.1 In sections 58.2 to 58.7, "appropriate officer" means

- (a) for a member other than an officer, the officer in charge of the administration function for the region in which the member is posted;
- (b) for a member of the headquarters of the Force, other than an officer, the officer in charge of the administration function for the Central Region; and
- (c) for an officer, the Chief Human Resources Officer.



58.2 Subject to sections 58.3 and 58.4, a member who is a peace officer may, while off duty and not in uniform, participate in political activities.

58.3(1) Any member who is a peace officer may, only while on leave without pay granted for that purpose, solicit or receive funds for

- (a) a political party;
- (b) a person who is running for nomination, or standing as a candidate, in a federal, provincial or territorial election or in an election for the council of a regional, municipal or local government or the council or other governing body of a band or first nation;
- (c) a person who is standing as a candidate for the leadership of a political party; or
- (d) a person or association taking or proposing to take a position publicly for or against any question that is the subject of a direct vote by the population if the soliciting or receiving of funds is directly linked to the question that is the subject of the direct vote.

(2) On application by a member for leave without pay for the purpose of soliciting or receiving funds as described in subsection (1), the appropriate officer shall, subject to operational requirements, grant the member leave without pay for that purpose.

(3) A period of leave without pay granted under subsection (2) need include only the days or portions thereof during which the member solicits or receives funds.

58.4(1) A member who is a peace officer may, only while on leave without pay granted for that purpose,

- (a) run for nomination, or stand as a candidate, in

a federal, provincial or territorial election or in an election for the council of a regional, municipal or local government or the council or other governing body of a band or first nation; or

- (b) stand as a candidate for the leadership of a political party.

(2) On application by a member for leave without pay for any of the purposes described in subsection (1), the appropriate officer shall, subject to operational requirements, grant the member leave without pay for that purpose.

(3) A member may, during the period of leave without pay granted under subsection (2), solicit or receive funds as described in subsection 58.3(1).

(4) The period of any leave without pay granted under subsection (2) shall be continuous and shall include all time during which the member proposes to carry on an activity referred to in subsection (1). The period of the leave shall not be less than the cumulative total of all of the following that are applicable:

- (a) in the case of a nomination process referred to in paragraph (1)(a), beginning on the day on which the member enters the process and ending on the earlier of the day on which the member withdraws from the process and the day on which the process concludes;
- (b) in the case of a member who stands as a candidate in an election described in paragraph (1)(a), beginning on the day on which the member becomes a candidate and ending on the earlier of the day on which the member ceases to be a candidate and the day after the election;

- (c) in the case of a member who is elected in an election described in paragraph (1) (a), beginning on the day after the election and ending on the day before the day on which the member assumes the duties of the office to which the member is elected; and
- (d) in the case of a member who is campaigning for the leadership of a political party, the duration of the member's campaign.

58.5(1) Subject to subsection (2), a member who is not a peace officer may, while off duty, participate in political activities.

(2) A member shall advise the appropriate officer in writing before participating in any of the following activities:

- (a) running for nomination, or standing as a candidate, in a federal, provincial or territorial election or in an election for the council of a regional, municipal or local government or the council or other governing body of a band or first nation;
- (b) standing as a candidate for the leadership of a political party;
- (c) soliciting or receiving funds for a political party, for any person standing as a candidate in any type of election described in paragraph (a), or for a candidate for the leadership of a political party; or
- (d) soliciting or receiving funds for a person or association taking or proposing to take a position publicly for or against any question that is the subject of a direct vote by the population if the soliciting or receiving of funds

is directly linked to the question that is the subject of the direct vote.

58.6 A member who is elected in a federal, provincial or territorial election or who becomes the leader of a political party may not remain a member of the Force if the member decides to assume the duties of the office to which the member has been elected. The member must advise the appropriate officer, by notice in writing, if the member decides to assume the duties of the elected office and to retire or resign from the Force.

58.7 (1) Should the appropriate officer determine, at any time, that the discharging of the duties of elected office by any member who is elected to the council of a regional, municipal or local government, or the council or other governing body of a band or first nation, is seriously interfering with the performance of the member's duties in the Force, compromising an ongoing criminal investigation in which the member is involved, or seriously impairing the impartiality or integrity of the Force, the appropriate officer shall so advise the member by notice in writing.

(2) Within five days after receiving the notice referred to in subsection (1), the member shall inform the appropriate officer, in writing, of the corrective measures the member intends to take.

## 7.2 2008 Ministerial Directive

**MINISTERIAL DIRECTIVE  
ON THE RCMP DISCIPLINARY  
PROCESS**

A. This Directive provides ministerial direction to the Commissioner of the Royal Canadian Mounted Police (RCMP) with respect to standardizing the application and enhancing the transparency of the disciplinary process set out in the *RCMP Act*.

**Responsibilities and  
Accountabilities**

B. As per subsection 5(1) of the *RCMP Act*, the control and management of the RCMP, and all matters connected therewith, is the responsibility of the Commissioner of the RCMP, under the direction of the Minister of Public Safety.

C. To promote compliance and accountability, the Commissioner will ensure that comprehensive records of all disciplinary files are maintained and that these files are monitored on an ongoing basis.

D. To enhance accountability, the Commissioner will ensure there is effective coordination and efficient administration of the RCMP disciplinary system.

**DIRECTIVE MINISTÉRIELLE  
SUR LE PROCESSUS  
DISCIPLINAIRE DE LA GRC**

A. La présente directive vise à fournir l'orientation ministérielle au commissaire de la Gendarmerie royale du Canada (GRC) en ce qui a trait à la normalisation et à l'amélioration de la transparence du processus disciplinaire défini dans la *Loi sur la Gendarmerie royale du Canada*.

**Responsabilités**

B. En vertu du paragraphe 5(1) de la *Loi sur la Gendarmerie royale du Canada*, le commissaire de la GRC, sous la direction du ministre de la Sécurité publique a pleine autorité sur la GRC et tout ce qui s'y rapporte.

C. Afin de favoriser la conformité et la responsabilisation, le commissaire doit veiller à ce que des dossiers complets de tous les cas disciplinaires soient tenus, et à ce que ces dossiers soient suivis de près.

D. Afin d'accroître la responsabilisation, le commissaire doit veiller à la coordination efficace et à l'administration efficiente du régime disciplinaire de la GRC.

E. The Commissioner will ensure that an annual report on the management of the disciplinary process is provided to the Minister. The report is to be in a format that is suitable for public release in its entirety. The release of the report is at the discretion of the Minister.

F. The Commissioner will ensure that nationally consistent policies and protocols are in place and updated when necessary to inform members of the requirements and procedures associated with the disciplinary process. The Commissioner will also ensure that regular training is provided to appropriate RCMP staff to promote awareness of and compliance with such requirements and procedures.

G. In addition to the annual report, as part of the accountability process, a designated representative of the Commissioner will, having given due regard to legal and operational considerations, inform the Minister in a timely manner of matters of a significant nature pertaining to the disciplinary process.

E. Le commissaire doit s'assurer qu'un rapport annuel sur la gestion du processus disciplinaire est présenté au ministre. Le rapport entier doit être présenté dans une forme convenable à la diffusion publique. La publication du rapport est à la discrétion du ministre.

F. Le commissaire doit s'assurer que des politiques et des protocoles conformes à l'échelle nationale sont en place, et mis à jour au besoin, pour informer les membres au sujet des exigences et des procédures liées au processus disciplinaire. Le commissaire doit également s'assurer que des membres compétents de la GRC reçoivent de la formation afin de faire connaître ces exigences et procédures et de favoriser le respect de celles-ci.

G. En plus du rapport annuel et dans le cadre du processus de responsabilisation, un représentant désigné du commissaire, ayant dûment tenu compte des considérations juridiques et opérationnelles, informera le ministre en temps opportun des problèmes de nature importante ayant trait au processus disciplinaire.



Minister of Public Safety/Ministre de la Sécurité publique

JAN 24 2008

Date

APPENDIX C

2008-2009

7.3 *Adjudicator's Oath of Office*<sup>86</sup>

I, \_\_\_\_\_, who may be appointed as a member of a board from time to time, make oath or solemnly affirm, and say that I will faithfully, impartially, honestly, and to the best of my knowledge and abilities, fulfill all the duties and exercise all the powers of a member of a board appointed pursuant to Part IV or Part V of the *RCMP Act* in accordance with the *Adjudicator's Code of Ethics*.

Sworn or affirmed before me at the City of \_\_\_\_\_, in the Province/Territory of \_\_\_\_\_, this \_\_\_\_\_, day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Commissioner of Oaths/Justice of Peace

\_\_\_\_\_  
Affiant

<sup>86</sup> *Admin Manual*, *supra* note 31 at App. XII-11-1.

#### 7.4 *Representative's Code of Ethics*<sup>87</sup>

1. In keeping with the principle stated at E.2., you should:

- a. discharge your duties to the client, the tribunal, fellow representatives and legal counsel with integrity;
- b. inform the client if, given the complexities of the case, you are not competent to perform the services required;
- c. serve the client in a conscientious, diligent and efficient manner;
- d. be candid and honest when advising the client;
- e. hold in strict confidence all communications relating to the representation of the client which are received from that client, and not divulge any such communication unless expressly or implicitly authorized by the client or required by law to do so;
- f. fairly advise the client of any known limitations in the law of client privilege;
- g. serve the client with loyalty, refrain from advising both sides in any matter subject of the act and refuse to represent or continue to represent the client when there is, or there is likely to be, a conflict of interest;
- h. strictly and scrupulously carry out any agreement, entered into personally or on the client's behalf, with a tribunal, a representative or legal counsel in the course of any matter subject of the act;
- i. encourage respect for and try to improve the administration of all matters subject of the act;
- j. represent the client in accordance with the law and this code, notwithstanding your private opinions as to the client's credibility or the merits of the case to be met;
- k. avoid presenting and discourage the client from presenting frivolous or vexatious motions and objections;
- l. when the case can be settled to the satisfaction of the client, encourage the client to do so rather than continue the proceedings;
- m. take particular care as a representative at an ex parte or uncontested hearing, to be accurate, candid and comprehensive when presenting the case, ensuring that you do not mislead the tribunal;
- n. when engaged as a representative of the appropriate officer, not primarily seek to obtain a finding of a contravention of the *Code of Conduct*, but to see that justice is done;
- o. when liaising with other representatives treat them with courtesy and deal with them in good faith; and
- p. observe the rules of conduct set out in this code in the spirit as well as the letter.

2. When representing or assisting a client, do so resolutely, honorably and within the limits of the law. In particular you should not:

- a. initiate any proceeding motivated only by malice on the part of the client;
- b. knowingly assist or permit the client to do anything dishonest or dishonorable;

<sup>87</sup> *Admin Manual, supra* note 31 at App. XII-9-1.

- 
- c. knowingly appear before a tribunal when you or the client has a relationship with a member of that tribunal which might reasonably appear to affect the impartiality of the tribunal;
  - d. knowingly attempt to deceive a tribunal by offering false evidence, misstating facts or law or suppressing what ought to be disclosed;
  - e. deliberately refrain from informing the tribunal of any law or jurisprudence which you consider to be directly binding on the tribunal and which has not been mentioned by the opposing representative;
  - f. needlessly abuse, hector, harass or inconvenience a witness;
  - g. appear as a witness in any proceedings in which you act as representative, except in matters not in dispute or purely formal in nature;
  - h. assert as fact anything that is properly subject to legal proof;
  - i. fail to disclose to a potential witness your role in the matter pending;
  - j. when speaking to a potential witness or controlling any relevant document or other evidence, subvert such evidence;
  - k. approach the member who is the subject of the proceeding, when that member is represented, except through the consent of that member's representative;
  - l. when engaged as a representative of the appropriate officer, fail to observe the requirements of law and RCMP policy for disclosure whether tending to favor the client or not;
  - m. suggest that some other person committed the contravention or call any evidence, if you know it to be false by reason of any admissions made by the client; and
  - n. discuss, prior to the hearing, the law, facts or circumstances of the client's case with an appointed member of the adjudication board, except in the presence of the other parties or their representatives, or in writing with copies to the other parties.
3. When representing a client and you have formed the opinion that an adverse finding is likely, you may discuss with the appropriate officer's representative a tentative admission of the allegation and the appropriate disposition of the matter, if you have:
- a. advised the client that an adverse finding is likely;
  - b. determined that the client is prepared to admit the necessary elements of the contravention;
  - c. advised the client of the implications and possible consequences; and
  - d. obtained the appropriate instructions of the client.

APPENDIX E

2008-2009

7.5 Discipline Caseload Activity,  
Year-to-Year Comparison

Fiscal year (FY)	Carried over fm previous FY	+ New Cases	- Cases Adjudicated	- Not Proceeding	- Resignation	= Year-end balance
2000/2001	21	61	23	6	10	43
2001/2002	43	78	39	8	7	67
2002/2003	67	87	54	8	17	75
2003/2004	75	96	49	17	6	99
2004/2005	99	106	63	15	23	104
2005/2006	104	81	70	18	20	77
2006/2007	77	99	47	14	12	103
2007/2008	103	83	52	24	13	97
2008/2009	97	69	56	12	13	85



APPENDIX F

2008-2009

7.6 Formal Discipline for Established *Code of Conduct* Violations, FY 08-09

	Total hearings	Average days to conclusion	Min/Max days
<b>Disposition – Established</b>			
Reprimand only	4	849	114/2277
1 days’ pay	5	547	114/1026
2 days’ pay	2	215	159/270
3 days’ pay	1	380	93/940
4 days’ pay	2	365	281/449
5 days’ pay	8	377	151/681
6 days’ pay	1	121	121/121
7 days’ pay	4	425	59/893
8 days’ pay	6	168	85/267
9 days’ pay			
10 days’ pay	16	423	7/1016
Order to resign	4	557	233/990
<b>Total Established</b>	<b>53</b>	<b>403</b>	<b>7/2277</b>

N.B.

- Fourteen (14) sanctions included a recommendation for counselling
- Two (2) sanctions included a recommendations for transfer

<b>Disposition – Other</b>			
Not Established	2	392	392/392
Time Limitation	1	688	688/688
<b>Grand Total</b>	<b>56</b>	<b>424</b>	<b>7/2277</b>

N.B.

- multiple allegations may have been heard at the same hearing
- pay forfeitures listed are the total per hearing
- maximum pay forfeiture is ten days per Notice of Disciplinary Hearing under the *RCMP Act*, therefore any sanctions exceeding ten days total are listed as 10 days’ pay

APPENDIX G

2008-2009

7.7 Formal Discipline, Digest of Cases

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
1	April 9, 2008	Constable	E	Subsection 39(1)	Criminal offence of assault causing bodily harm	Reprimand and forfeiture of 5 days' pay
2	April 14, 2008	Constable	E	Subsection 39(1) -x2	Improper disclosure of investigative information	Reprimand and forfeiture of 10 days' pay
3	May 15, 2008	Constable	E	Section 49 and subsection 39(1)	Absence from duty and making false statements in relation to those absences	Reprimand and forfeiture of 8 days' pay
4	May 15, 2008	Corporal	F	Subsection 39(1)	Criminal offence of communicating for purposes of soliciting a prostitute	Reprimand, forfeiture of 10 days' pay and recommendation for continued counselling
5	May 7, 2008	Constable	HQ	Subsection 39(1)	Excessive force	Reprimand and forfeiture of 1 day's pay
6	May 27, 2008	Civilian Member	E	Subsection 39(1)	Driving a motor vehicle while under the influence of alcohol	Reprimand and forfeiture of 8 days' pay
7	June 10, 2008	Corporal	D	Section 39	Harassment	Reprimand, forfeiture of 10 days' pay and a recommendation for transfer
8	May 28, 2008	Constable	C	Subsection 39(1)	Improper use of government credit card	Reprimand, forfeiture of 7 days' pay and a recommendation for professional counselling
9	June 3, 2008	Constable	D	Section 39	Unwanted touching	[Allegation not established]
10	June 27, 2008	Constable	E	Subsection 39(1)	Criminal offence of assault (excessive force)	Reprimand and forfeiture of one day's pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
11	June 27, 2008	Constable	HQ	Subsection 39(1)	Criminal offence of assault	Reprimand and forfeiture of 10 days' pay
12	June 13, 2008	Constable	K	Section 39 – x5	Assault; uttering threats; improper use of information systems; unauthorized attendance at private residence; harassing text messages	[Allegations of assault and unauthorized attendance at private residence not established]  Uttering threats – Reprimand, forfeiture of 8 days' pay and recommendation for professional counselling  Improper search of information systems – Reprimand and forfeiture of 3 days' pay  Harassing text messages – Reprimand, forfeiture of 10 days' pay and recommendation for professional counselling
13	May 22, 2008	Constable	K	Section 39	Disparaging remarks toward members	Reprimand, forfeiture of 3 days' pay and recommendation for continued professional counselling
14	July 31, 2008	Sergeant	O	Subsection 39(1)	Improper use of government credit card	Reprimand, forfeiture of 8 days' pay and recommendation for professional counselling
15	July 31, 2008	Constable	D	Subsection 39(1)	Improper use of police vehicle	Reprimand and forfeiture of 8 days' pay
16	August 7, 2008	Inspector	HQ	Subsection 39(1)	Abuse of police officer status	Reprimand and forfeiture of 5 days' pay
17	August 7, 2008	Civilian Member	O	Subsection 39(1)	Altering a prescription for medication	Reprimand, forfeiture of 5 days' pay and recommendation for continued professional counselling

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
18	July 16, 2008	Constable	F	Section 39	Uttering threats	Order to resign from the Force within 14 days, in default of which the member to be dismissed from the Force
19	September 11, 2008	Corporal	E	Subsection 39(1) – x2	Inappropriate comments during an arrest and toward a subordinate	Reprimand x2
20	September 12, 2008	Constable	F	Section 39 – x3	Improper expense claim x2; improper withdrawal of a criminal charge	[Allegations not established]
21	October 23, 2008	Constable	DEPOT	Subsection 39(1)	Improper use of government credit card	Reprimand and forfeiture of 6 days' pay
22	November 13, 2008	Constable	G	Section 39	Assault (domestic)	Reprimand and forfeiture of 3 days' pay
23	September 19, 2008	Constable	E	Subsection 39(1)	Offensive behaviour toward a member of the public	Reprimand and forfeiture of 5 days' pay
24	November 25, 2008	Constable	HQ	Section 39	Criminal offence of assault (excessive force)	Reprimand, forfeiture of 3 days' pay and recommendation for professional counselling
25	November 21, 2008	Constable	HQ	Section 39	Possession of anabolic steroids	Reprimand, forfeiture of 8 days' pay and recommendation for professional counselling
26	November 27, 2008	Constable	K	Section 39	Abuse of police officer status	Reprimand and forfeiture of 5 days' pay
27	November 12, 2008	Civilian Member	HQ	Subsection 39(1) – x2	Criminal offences relating to the manufacture and possession of prohibited weapons; possession of unregistered firearms	Reprimand x2; forfeiture of 10 and 7 days' pay respectively, recommendation for transfer, recommendation for continued professional counselling

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
28	December 4, 2008	Constable	E	Subsection 39(1) – x3	Impaired driving; failure to remain at the scene of a motor vehicle accident; failure to admit responsibility to investigating police force	Reprimand x3 and forfeiture of 10, 7 and 10 days' pay respectively
29	December 5, 2008	Constable	K	Section 47	Neglect of duty	Reprimand and forfeiture of 2 days' pay
30	January 15, 2008	Civilian Member	HQ	Subsection 39(1)	Impaired driving	Reprimand and forfeiture of 7 days' pay
31	January 21, 2009	Corporal	E	Subsection 39(1)	Improper use of RCMP computer (pornography)	Reprimand and forfeiture of 5 days' pay
32	December 11, 2008	Constable	D	Section 39	Neglect of duty; falsification of investigative notes	Reprimand* * Member accepted voluntary demotion and transfer prior to appearing before the adjudication board
33	October 9, 2008	Corporal	E	Subsection 39(1) – x2	Driving a motor vehicle while under the influence of alcohol; failure to cooperate with the investigation	Reprimand and forfeiture of 5 days' pay [Allegation of failure to cooperate with investigation not established]
34	October 30, 2008	Constable	E	Section 39	Sexual assault	Order to resign from the Force within 14 days, in default of which the member to be dismissed from the Force
35	January 9, 2009	Constable	F	Section 39	Unwanted sexual advances	Reprimand, forfeiture of 7 days' pay and recommendation for continued professional counselling
36	January 12, 2009	Constable	E	Section 39	Improper use of RCMP communications equipment	Reprimand and forfeiture of 10 days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
37	January 12, 2009	Constable	E	Section 39	Improper use of RCMP communications equipment	Reprimand and forfeiture of 10 days' pay
38	January 15, 2009	Constable	C	Subsection 39(1)	Improper use of government credit card	Reprimand and forfeiture of 2 days' pay
39	January 21, 2009	Constable	K	Section 39	Driving a motor vehicle while under the influence of alcohol	Reprimand and forfeiture of 7 days' pay
40	January 27, 2009	Constable	E	Subsection 39(1) – x2	Causing disturbances	Reprimand x2; forfeiture of 3 and 1 days' pay respectively
41	February 5, 2009	Inspector	O	Subsection 39(1)	Inappropriate remarks to a co-worker	Reprimand and forfeiture of 3 days' pay
42	October 24, 2008	Constable	H	Subsection 39(1) – x2	Failure to pay taxes / falsely asserting Status Indian; improper disclosure of confidential information	Reprimand and forfeiture of 10 days' pay [Allegation of improper disclosure of confidential information dismissed]
43	December 18, 2008	Constable	K	Section 39 – x3 Section 45 - x2	Improper use of police vehicle x3 False or misleading statement to a member who is superior in rank	Order to resign from the Force within 14 days, in default of which the member to be dismissed from the Force
44	February 5, 2009	Constable	D	Subsection 39(1)	Criminal offence of impaired driving	Reprimand and forfeiture of 10 days' pay
45	February 19, 2009	Civilian Member	E	Subsection 39(1)	Harassment	Reprimand and forfeiture of 10 days' pay
46	February 19, 2009	Constable	E	Subsection 39(1)	Improper use of RCMP information system and improper disclosure of information	Reprimand and forfeiture of 5 days' pay
47	February 26, 2009	Constable	O	Subsection 39(1) – x2	Abuse of police officer status; improper disclosure of information	Reprimand x2 and forfeiture of 10 and 3 days' pay respectively
48	February 26, 2009	Constable	O	Subsection 39(1)	Criminal offence of possession of unregistered firearm	Reprimand and forfeiture of one days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
49	March 10, 2009	Constable	E	Subsection 39(1)	Criminal offence of assault (excessive force)	Reprimand, forfeiture of 4 days' pay and recommendation for professional counselling
50	March 12, 2009	Constable	C	Subsection 39(1) – x4	False or misleading statements; obtaining information for an improper purpose; neglect of duty; masturbation in police vehicle	Reprimand, forfeiture of 10 days' pay and recommendation for continued professional counselling
51	March 18, 2009	Constable	F	Section 39	Harassment	[Allegation quashed for want of jurisdiction – expiration of limitation period pursuant to subsection 43(8) of the RCMP Act]
52	March 20, 2009	Constable	K	Section 39	Inappropriate comments made to a detainee	Reprimand
53	March 30, 2009	Constable	E	Subsection 39(1)	Driving a motor vehicle while under the influence of prescription medication; failure to remain at the scene of a motor vehicle accident	Reprimand and forfeiture of 10 days' pay
54	April 1, 2009	Constable	F	Subsection 39(1) x3	Criminal offence of assault (spousal) and restraining spouse; improper storage of firearm	Reprimand x2, forfeiture of 10 and 3 days' pay respectively and recommendation for continued professional counselling
55	February 27, 2009	Constable	E	Subsection 39(1)	Sexual relations while on duty; improper use of RCMP resources	Order to resign from the Force within 14 days, in default of which the member to be dismissed from the Force
56	March 26, 2008	Constable	C	Subsection 39(1)	Racist remarks to a member of the public; misleading statements	Reprimand, forfeiture of 8 days' pay and recommendation for professional counselling

APPENDIX H

2008-2009

7.8 Appendix H: Informal Discipline  
by Division  
FYs 00-01 to 08-09

Violation Type	Division																Total
	A	B	C	D	E	F	G	H	HQ	J	K	L	M	O	T	V	
Absences	1	0	2	2	17	2	0	1	3	4	7	0	0	2	0	2	43
Alcohol related	2	0	6	5	24	7	1	2	7	5	9	0	2	1	0	3	74
Care and handling of prisoners	0	0	0	4	6	2	0	0	3	2	4	0	0	1	2	2	26
Conflict of interest	0	0	2	0	2	0	0	0	0	0	1	0	0	0	0	0	5
Dereliction or neglect of duty	2	1	7	7	61	3	1	4	7	12	40	0	1	9	0	0	155
Discriminatory conduct	0	0	0	0	2	0	0	0	0	0	1	0	0	0	0	0	3
Disgraceful conduct	2	2	10	40	210	42	5	24	37	40	98	3	6	33	6	10	568
Disobeying orders or oaths	0	0	0	2	6	0	0	2	2	4	4	0	0	2	0	0	22
Excessive use of force	0	0	1	1	12	0	0	1	2	3	5	0	0	0	3	0	28
Statutory offences	0	0	0	2	7	1	0	2	0	0	3	0	0	1	0	0	16
Falsehoods	0	1	2	6	33	6	0	1	11	8	4	0	0	5	1	2	80
Firearms	0	1	7	0	22	3	0	3	3	2	2	0	0	0	0	1	44
Harassment	0	0	1	3	9	3	0	0	3	0	4	0	0	6	0	0	29
Improper attitude or language	2	0	7	4	38	4	0	1	3	8	9	0	1	10	2	0	89
Inadequate case investigation	0	0	0	0	13	2	0	2	2	2	0	0	0	1	0	0	22
Leadership	1	0	3	2	16	0	1	1	4	9	13	0	0	1	0	1	52
Malicious or wilful damage	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1
Mistreatment of others	0	0	6	0	40	3	0	6	4	5	4	0	1	4	2	4	79
Misuse of equipment	0	1	10	5	25	6	0	0	3	7	11	3	1	7	0	0	79
Misuse of systems	4	0	7	2	40	3	1	0	5	2	8	0	0	2	0	0	74
Other violations	1	0	11	5	62	13	5	6	15	10	46	0	0	6	1	1	183
Pornography	0	0	1	0	2	1	0	0	1	1	1	0	0	2	0	0	9
Publicly criticizing the Force	0	0	0	0	0	0	0	0	0	0	2	0	0	0	0	0	2



Violation Type	Division																Total
	A	B	C	D	E	F	G	H	HQ	J	K	L	M	O	T	V	
Publicly representing the Force without authority	0	0	0	0	1	0	0	0	0	0	2	0	0	0	0	0	<b>3</b>
Uniform and dress violations	0	0	0	3	0	0	0	1	1	0	0	0	0	0	0	0	<b>5</b>
Uttering threats	0	0	2	0	8	0	0	0	3	3	1	0	0	1	0	0	<b>18</b>
Violations for personal or financial gain	0	0	1	0	9	1	1	1	3	0	7	0	0	4	0	0	<b>27</b>
Witness Protection Program Violation	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	<b>1</b>
<b>Total:</b>	<b>15</b>	<b>6</b>	<b>86</b>	<b>93</b>	<b>665</b>	<b>102</b>	<b>15</b>	<b>58</b>	<b>123</b>	<b>128</b>	<b>286</b>	<b>6</b>	<b>12</b>	<b>98</b>	<b>17</b>	<b>26</b>	<b>1,737</b>

APPENDIX I

2008-2009

7.9 Informal Discipline by Division  
and Fiscal Year

Division	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	Total
A	6	3		2		1	2		1	15
B	1	2		1		1		1		6
C	9	8	5	15	10	11	14	7	7	86
D	3	9	19		3	18	7	20	16	95
E	60	80	90	58	40	34	100	112	90	664
F	9	10	15	10	4	10	13	11	19	101
G	2	3		3	2	3	2			15
H	2		2	3	1	10	9	10	21	58
HQ	13	20	22	4	5	14	11	25	11	125
J	11	5	8	11	7	23	22	25	14	126
K	31	42	69	27	30	17	26	26	22	290
L							2		1	3
M		2				3	2	1	4	12
O	2	24	3	11	6	11	14	12	15	98
T		8		3	1	5				17
V	1		1	3	1	8	1	1	10	26
<b>Total</b>	<b>150</b>	<b>216</b>	<b>234</b>	<b>148</b>	<b>109</b>	<b>167</b>	<b>226</b>	<b>256</b>	<b>231</b>	<b>1,737</b>

