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RCMP



ROYAL CANADIAN MOUNTED POLICE

2009 - 2010

Annual Report Management of the RCMP Disciplinary Process

Adjudicative Services Branch



Royal Canadian Mounted Police
Gendarmerie royale du Canada

Canada

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Message from the Director General

The Royal Canadian Mounted Police (RCMP) and indeed all law enforcement agencies in Canada depend on public trust to do their job well. When citizens start to question the actions of the police and that public trust is shaken, police work becomes immeasurably more difficult. This is readily apparent to the RCMP which works in communities, both large and small, all across Canada. Since local Mounties are well-known within their communities, any questionable police conduct will likely have a direct impact on the reputation of the local detachment. Law enforcement agencies depend on the willingness of the public to share information and provide assistance; neither will be forthcoming when citizens do not trust the police.

Earning public trust may take years while its loss can take seconds. It is the foundation upon which rests the RCMP's ability to protect Canadians and to enforce the law. The RCMP fosters this trust by earning it, each and every day, through the service and commitment of its 22,600¹ members. These dedicated members serve Canadians under the statutory obligations of the *Royal Canadian Mounted Police Act*.²

The discipline system set forth in the *Royal Canadian Mounted Police Act* aims to correct the behaviour of those few whose actions fall below the standards set out in the RCMP *Code of Conduct* (see Appendix A). The RCMP is accountable for the acts of all of its members. Timely corrective action is of the utmost importance as it sends a clear message to the member that substandard behaviour is unacceptable. When the same message is received by the public, it serves to preserve and restore public trust.

In recent years, the RCMP's disciplinary system has been thoroughly studied.³ The recommendations resulting from those studies form the basis of the improvements being made to the disciplinary process. Last year's report described the creation of the Adjudicative Services Branch as the central point of accountability for formal discipline and detailed the structural changes that were adopted to facilitate monitoring, planning and managing the formal disciplinary system within the organization. During the current reporting period, the benefits of these structural changes have been manifested. This report will focus on the many improvements that have been made during the past year, namely:

- developing of policy in support of a Case Management System, leading to the

1 All figures with respect to the number of RCMP members are based on the on-strength establishment of the Force as of September 2009. For more information and the latest numbers, please visit www.rcmp-grc.ca/about-ausujet/organi-eng.htm. Of the 22,600 members, approximately 19,000 are regular members holding peace officer status. The remainder are civilian members.

2 *Royal Canadian Mounted Police Act, R. S. C. 1985, c. R-10*, [hereinafter the Act].

3 These studies include: 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); Royal Canadian Mounted Police, *Pay Council Review of RCMP Internal Discipline System; Final Report and Recommendations* (2005); Canada, *Rebuilding the Trust: Report of the Task Force on Governance and Cultural Change in the RCMP* (Ottawa, 2007). For a synopsis of the findings of these reports, please refer to the 2008-2009 *Annual Report on the Management of the RCMP Disciplinary Process*.

implementation of a Case Management System Pilot project on April 1, 2010;

- developing an Early Resolution Process in alignment with the Case Management System, which aims at resolving non-contentious cases quickly;
- redesigning the Independence Framework to ensure that Member Representatives, Appropriate Officer Representatives and adjudicators have operational autonomy, while remaining accountable to the new central management of the Branch;
- increasing training and professional opportunities for the Adjudicative Services Branch staff;
- generating initiatives to provide discipline-related training to different categories of RCMP employees;
- engaging regional/divisional discipline reviewers and managers in an effective manner at all levels of the disciplinary process; and
- renewing the human resource strategy with respect to the staffing of positions within the Adjudicative Services Branch.

These initiatives, and others mentioned in this report, highlight the ongoing efforts being made to increase efficiency and accountability within the disciplinary process.

The RCMP faced numerous challenges during the reporting period, including major operational priorities such as the 2010 Winter Olympic and Paralympic Games and planning for the G8 and G20 Summits. The Adjudicative Services Branch actively contributed to these efforts and, as a result, experienced a reduction of its resources. Furthermore, the implementation

of last year's structural changes obliged the Branch to deal with budget constraints and staffing issues. The Adjudicative Services Branch looks forward to stabilizing its resources and building its capacity to undertake projects such as trend analyses for both formal and informal discipline in the coming year.

The creation of the Office of Professional Integrity, as described at Chapter 2, constitutes another significant structural change within the RCMP. The intent of the new Office is to better address issues of conduct along a continuum that ranges from values and ethics to discipline and compliance. Although this will enable an integrated ethics and discipline regime, it is too early to report the projected impact on discipline. The Adjudicative Services Branch will be working with the Office of Professional Integrity to incorporate the management of formal discipline along this continuum.

In March 2010, the RCMP Reform Implementation Council recommended that progress on a wide range of discipline initiatives be reviewed and addressed in a comprehensive report.⁴ During the next reporting period, the Adjudicative Services Branch will collaborate with its partners in the Office of Professional Integrity to conduct this review and to produce a report detailing the full continuum of formal and informal responses to employee behaviour.

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

⁴ *Royal Canadian Mounted Police Reform Implementation Council: Fourth Report* (Ottawa: RCMP Reform Implementation Council, March 2010).

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*⁵ is the impetus for this report.

In addition to ordering that an annual report on the management of the RCMP disciplinary process be prepared, the Ministerial Directive calls for:

- the standardization of the application of, and enhancements to the transparency of the disciplinary process set out in the *Royal Canadian Mounted Police 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.⁶

The following report summarizes the management of the RCMP disciplinary system during the 2009-2010 reporting period.

1.2 Report Overview

Last year's report, the first of its kind on the management of the RCMP's disciplinary process, included a chapter which provided information about the origins and evolution of RCMP disciplinary practices and procedures. This background information in Appendix C of this report can be referenced for details pertaining to the interaction between the discipline regime requirements prescribed by the *Royal Canadian Mounted Police Act* and its Regulations, the Commissioner's Standing Orders, internal policies and case law.

This year's report includes information that explains how the management and function of the disciplinary process is shared between various components of the organization and how each of these components has enhanced the efficiency of the disciplinary process in 2009-2010.

⁵ Minister of Public Safety, Government of Canada, *Ministerial Directive on the RCMP Disciplinary Process* (January 24, 2008). The full text of the 2008 Ministerial Directive can be found in Appendix B.

⁶ *Ibid.*

Of note, during this reporting period, was the creation of the Office of Professional Integrity, which became operational on April 1, 2010. The mandate of this Office is to link values-based and compliance-based behavioural models for employee conduct and create a continuum of integrity and intervention options for management. More information about this change to the RCMP integrity regime is detailed in the following chapter. Chapter 3 outlines the various components of the RCMP disciplinary system and Chapter 4 describes how the system is working in practice and provides an update on initiatives that were ongoing in 2009-2010. The report will conclude with information on Branch priorities and challenges in the coming year.

The Creation of the Office of Professional Integrity

2.1 A “Continuum of Integrity”

Public trust is essential to the success of the RCMP and is as important as the internal trust in the integrity of its employees. In order to maintain the public’s trust, RCMP employees must undertake and perform their duties and responsibilities with the highest level of integrity. Rather than simply avoiding behaviour that could warrant discipline, individual integrity aspires to a higher level of ethical standards as set out in the *Royal Canadian Mounted Police Act*. Ethics underlie the RCMP core values of integrity, honesty, professionalism, compassion, respect and accountability. Also, ethics engender sound decision-making. A formalized ethics regime that can serve as a beacon to employees is a necessity for organizations such as the RCMP whose success is dependent on public trust.

Ethics underlie the very concept of law enforcement. The process leading to the amendment of the Act in 1988 generated a great deal of discussion about ethics. The process of formalizing an ethics structure within the RCMP began in 1995 with the establishment of the RCMP Mission, Vision and Values⁷ and the subsequent creation of the Office of the Ethics Advisor in June 1996. As the role of the Ethics Advisor evolved, along with federal policy⁸ and legislative

initiatives⁹, the Office began to operate in specialized niches rather than as an all-encompassing force-wide ethics administration. As a result, the ethics and discipline regimes of the RCMP have operated independently rather than along a common continuum.

The proposal for the creation of an Office of Professional Integrity was based on several factors, including:

- the need for the RCMP to advance and to be seen as advancing ethical decision-making by all employees;
- the desire to broaden the role of the Values and Ethics Office, which had become focused on the National Headquarters environment;
- the disconnect between the values-based ethics program and compliance-based regimes such as Professional Standards and External Review, Internal Audit and National Review Services, and Integrated Risk Management;
- the drive to increase the scope of influence of the Values and Ethics Office over the behaviour of Force employees and the RCMP’s corporate culture and management; and
- the need to align key programs and policies supported by the Values and Ethics Office, Employee and Management Relations, and the Adjudicative Services Branch while enabling these units to retain their relative autonomy over their respective mandates.

⁷ Information about the RCMP Mission, Vision and Values can be found at: <http://www.rcmp-grc.gc.ca/about-ausujet/mission-eng.htm>.

⁸ Treasury Board, *Policy on the Internal Disclosure of Information Concerning Wrongdoing in the Workplace* (2001); *Values and Ethics Code For the Public Service* (2003).

⁹ *Public Servants Disclosure Protection Act, S.C. 2005, c. 46* [PSDPA].

To address these issues and further strengthen the Force's ethics and discipline system, the RCMP Senior Executive Committee approved the creation of the Office of Professional Integrity in December 2009. The organizational structure of the Office of Professional Integrity is illustrated in Figure 1. The Office, located at National Headquarters, will be headed by a Professional Integrity Officer who will report to the Commissioner via the Senior Deputy Commissioner. The grouping of the Values and Ethics Office, Employee and Management Relations and the Adjudicative Services Branch under centralized management is intended to provide direction in the furtherance of the RCMP's continuum of integrity - a regime that will have a far-reaching impact across business lines and regions. Although the mandate of the Values and Ethics Office will be slightly altered, the services delivered by Employee and Management Relations and the Adjudicative Services Branch will, for the most part, remain unchanged.

(i) Function of the Office of Professional Integrity and the "Continuum of Integrity"

The Office of Professional Integrity has been created to comprehensively address professional integrity through a continuum that extends from a proactive approach to reactive intervention measures. This will facilitate effective management in relation to employee behavior. The Office of Professional Integrity has been tasked to:

- provide guidance at the outset of drafting policy;
- promote the expected levels of ethics and integrity;
- offer guidance and behavioural models for employees;
- reduce employee misconduct; and
- advocate an ethical culture.

This merged values-and compliance-based management approach for the RCMP disciplinary system is consistent with the 2008 Ministerial Directive.¹⁰

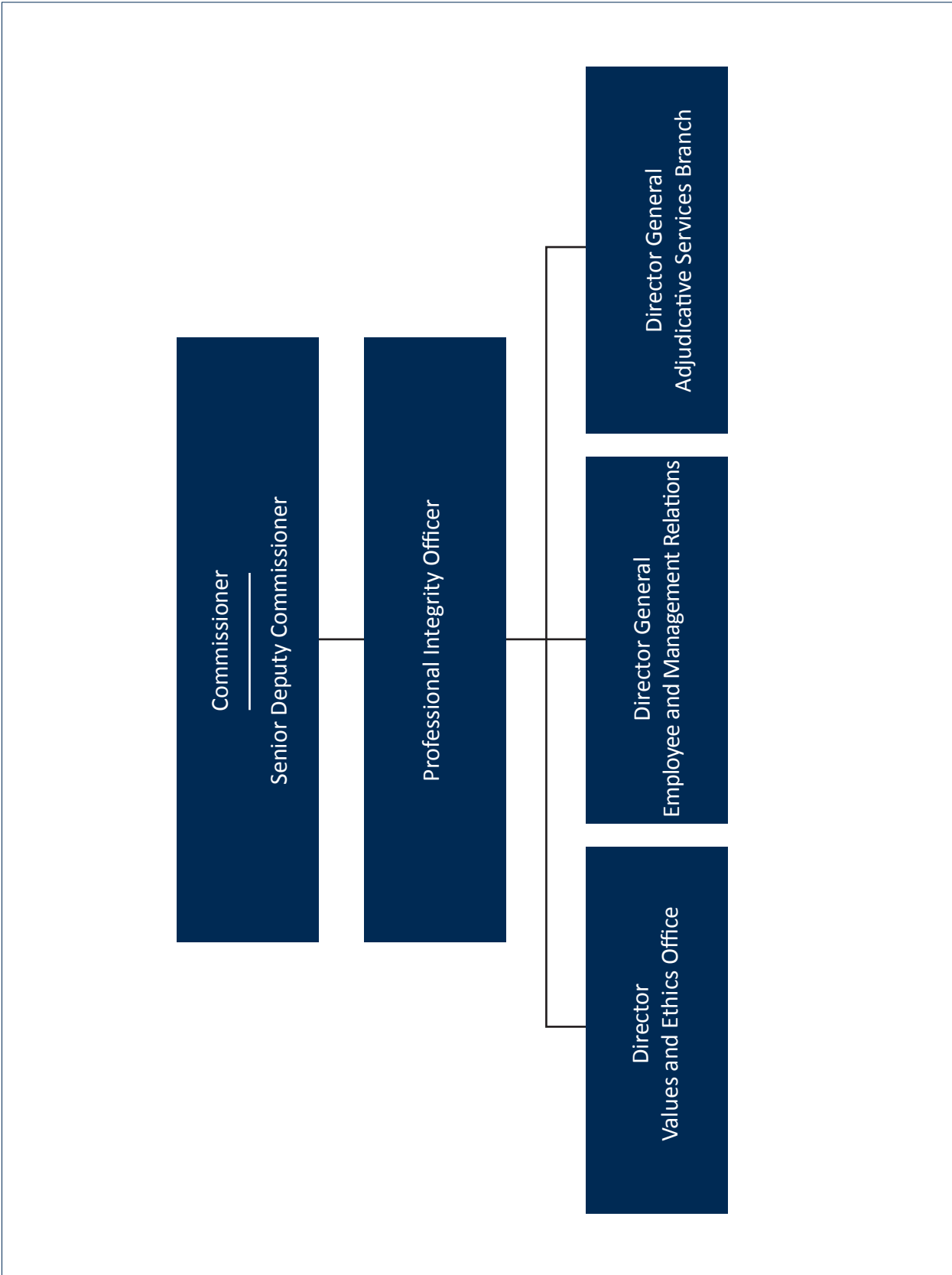
(ii) Impact of the Office of Professional Integrity Structure on the Management of the Disciplinary Process

The role of the Adjudicative Services Branch places it near the end of the continuum of integrity. The Branch is mandated to address formal discipline when more serious breaches of the *Code of Conduct* warrant such measures. In some instances formal discipline matters run parallel with criminal proceedings. The mandate of the Office of Professional Integrity touches upon that of the Values and Ethics Office and Employee and Management Relations, as well as the Adjudicative Services Branch. This will provide a comprehensive view of employee behaviour through all aspects of the continuum of integrity. In turn, it is expected that the Office of Professional Integrity, by virtue of its mandate, will positively impact employee behaviour. The structure of the Office of Professional Integrity will increase opportunities to identify, monitor and guide behaviour through the timely and focused intervention of management. Under this regime, the Adjudicative Services Branch will influence employee behaviour and optimize managerial responsibility through such means as training initiatives and policy enhancements. The goal will be to correct employee behavioural issues and to promote appropriate, timely managerial responses as soon as conduct issues are identified.

The Office of Professional Integrity will support the Adjudicative Services Branch in the fulfillment of its role. It will also strive to improve the overall management of the disciplinary system, as set forth in the Ministerial Directive.

¹⁰ *Supra* note 5.

FIGURE 1:
The Office of Professional Integrity (Effective 2010-04-01)



The Components of the RCMP Disciplinary Process

The RCMP's disciplinary process regulates the conduct of approximately 19,000 regular members and 3,600 civilian members operating from coast to coast to coast at all levels of policing, from municipal to provincial/territorial to national and international.¹¹ In practice, the management and function of the disciplinary process is shared between various components of the organization. This chapter provides information on the mandate and function of these components.

3.1 Adjudicative Services Branch

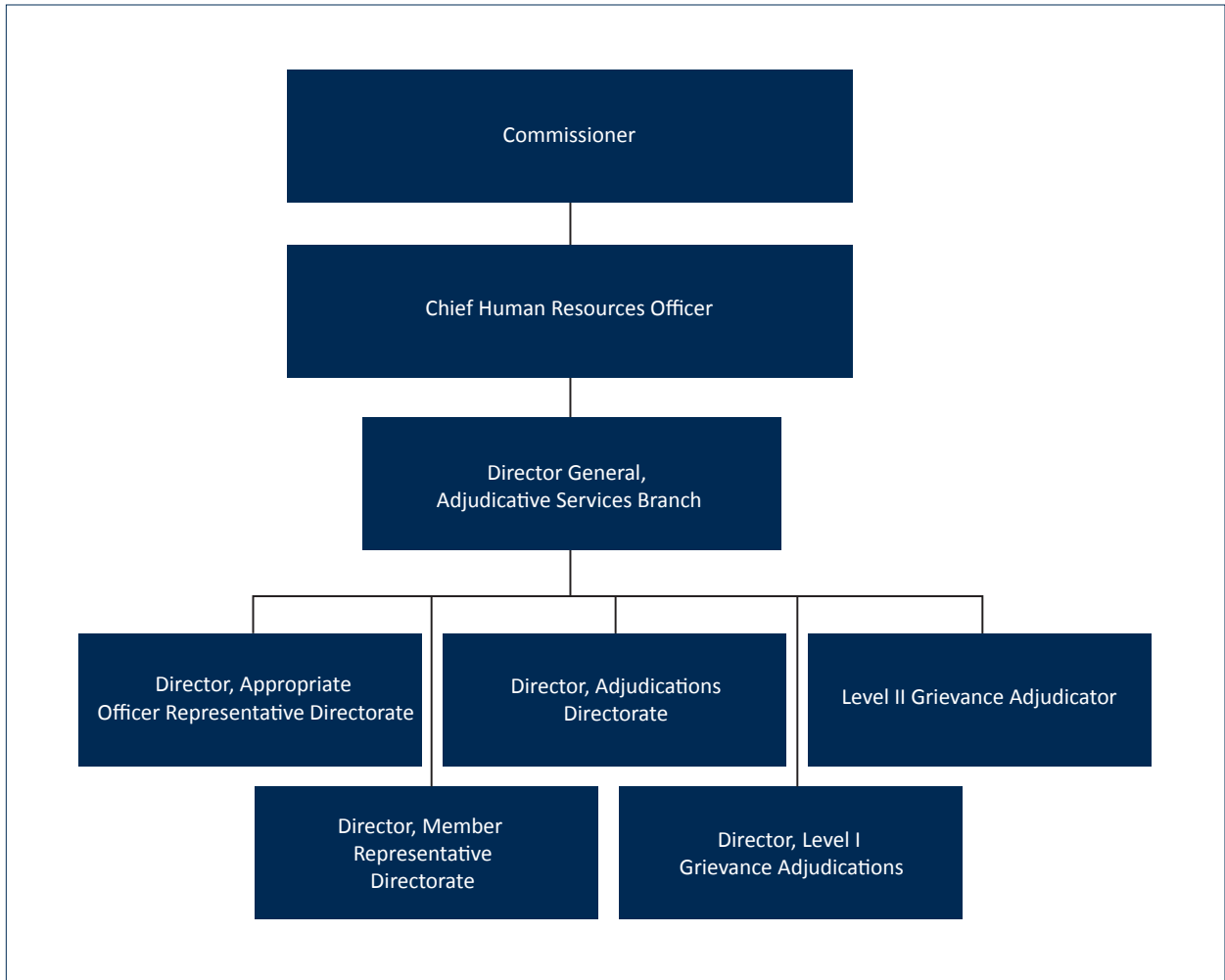
The Adjudicative Services Branch was created in March 2008. The Branch is headed by a director general and is composed of five directorates, three of which directly relate to the RCMP's disciplinary system.¹² The structure of the Branch is shown in Figure 2. The three directorates playing a significant role in formal discipline are the Adjudications Directorate, the Appropriate Officer Representative Directorate and the Member Representative Directorate. They are reviewed in more detail in section 3.2.

In addition to its role as the central disciplinary authority for formal discipline, the Adjudicative Services Branch seeks to engage and support other key components of the disciplinary process, such as the Professional Standards and External Review Directorate, and regional/divisional managers and discipline reviewers. Information about these components of the disciplinary system can be found in sections 3.3 and 3.4.

¹¹ 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.

¹² The two not directly related to the disciplinary system are the Level I and Level II Grievance Adjudications Directorates.

FIGURE 2:
Adjudicative Services Branch



3.2 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 3.

The role of the Adjudications Directorate is vital in maintaining public trust and in 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.

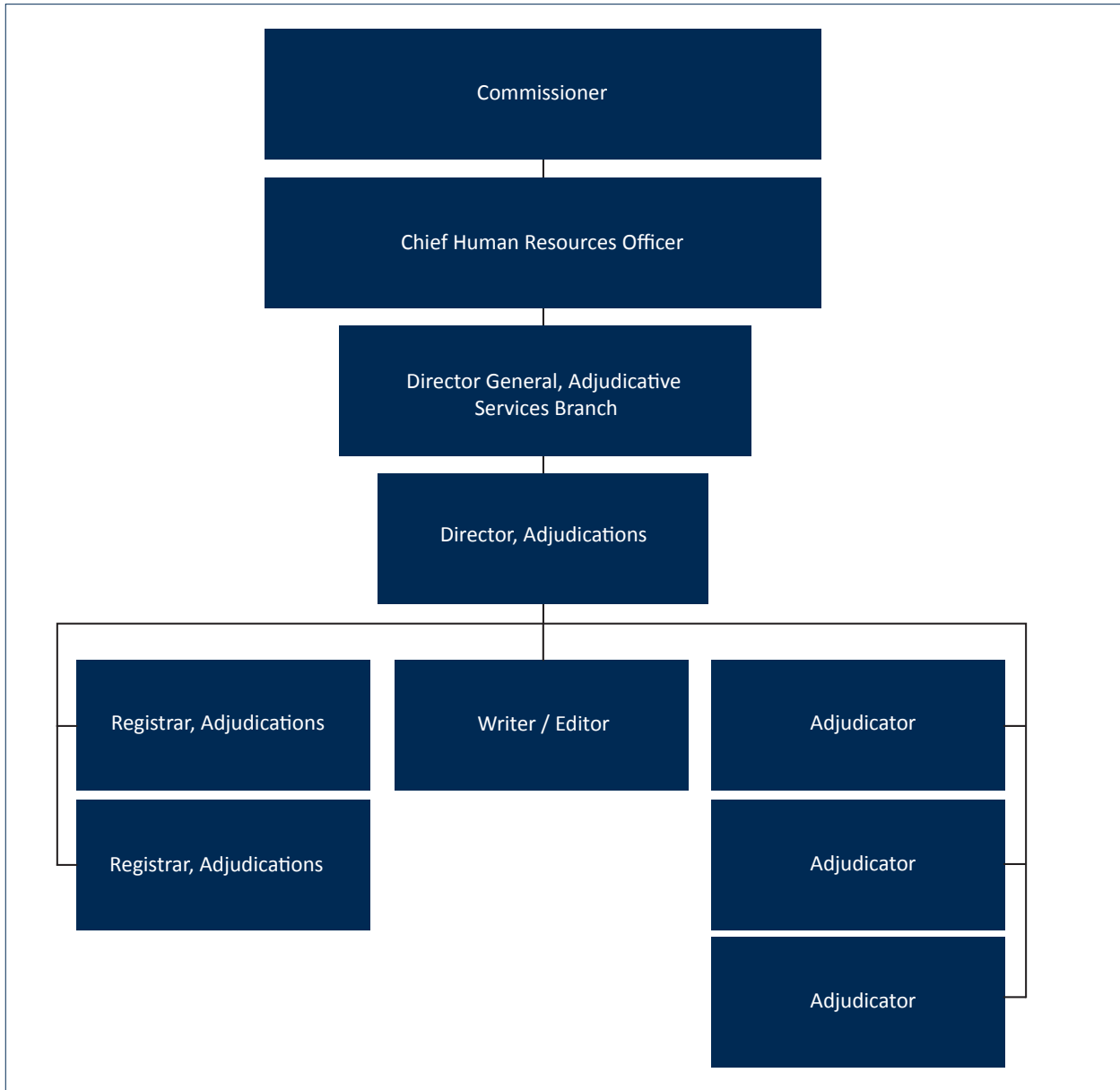
As part of its efforts towards the fair and equitable treatment of members, the Adjudications Directorate maintains an intranet site accessible to members and other employees¹³ of the RCMP. Along with hearing schedules and statistical data, the site publishes boards' written decisions. This assists in 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 publication ban order.

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 registrars are responsible for scheduling hearings, booking hearing and meeting rooms, coordinating board appointments and issuing summonses. Its writer/editor takes care of editing and posting decisions to the intranet site, writes summaries of decisions and manages the database through which the Directorate tracks formal disciplinary statistics.

¹³ The total establishment of the RCMP is 28,700 employees. In addition to 22,600 regular and civilian members, there are 6,102 Public Servants. These figures are as of September 1, 2009. For more information and the latest numbers, please visit www.rcmp-grc.ca/about-ausujet/organi-eng.htm.

FIGURE 3:
Adjudications Directorate



(ii) Appropriate Officer Representative Directorate

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

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

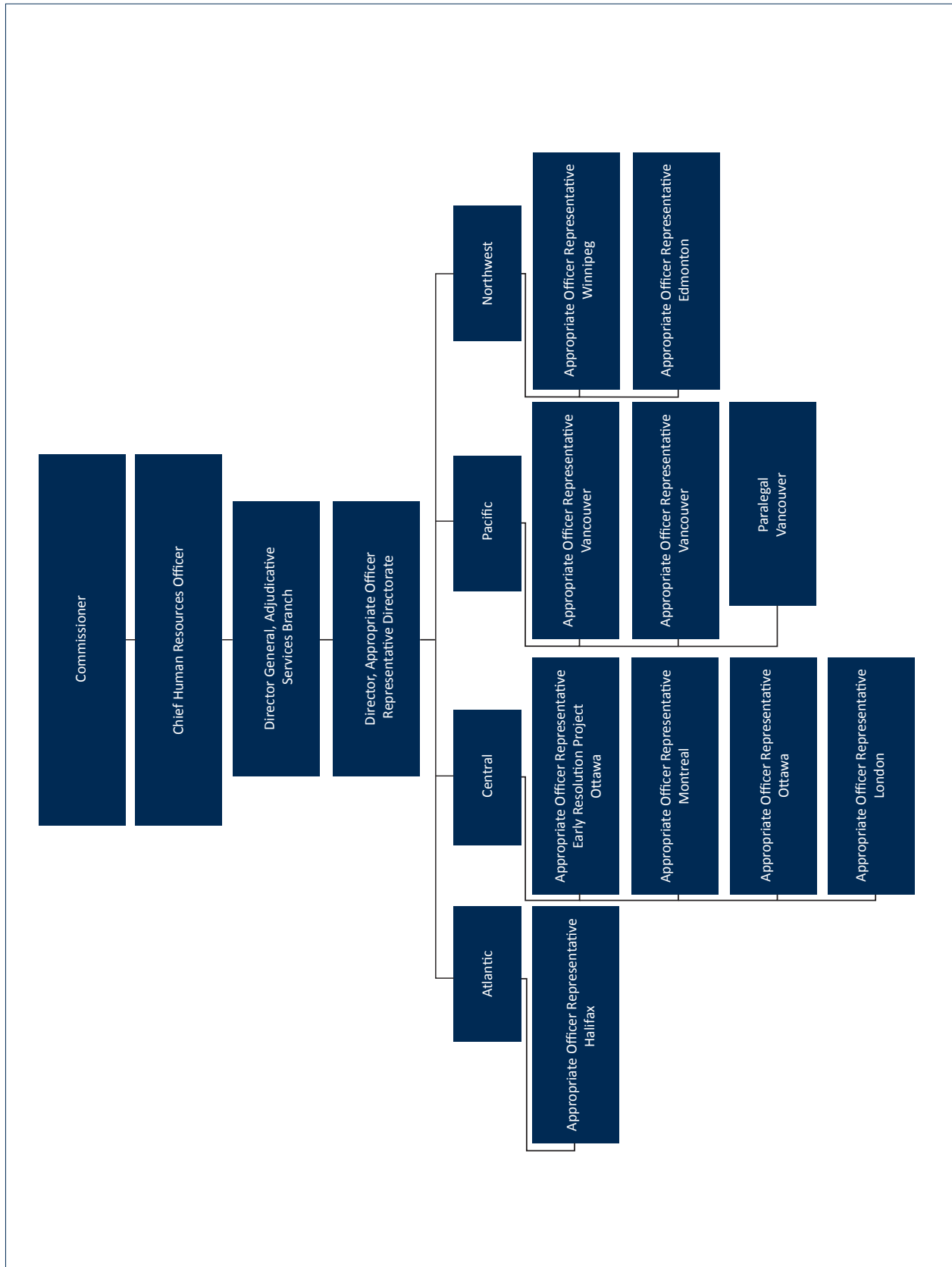
Specific activities include:

- providing advice, policy analysis, opinions and interpretations to Appropriate Officers and senior regional and divisional management with respect to RCMP disciplinary and discharge/demotion proceedings, including appeals of such proceedings;
- representing Appropriate Officers in RCMP formal disciplinary hearings and discharge/demotion hearings;
- 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 a 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 any outstanding issues. Figure 4 illustrates the structure of the Appropriate Officer Representative Directorate.

FIGURE 4:
Appropriate Officer Representative Directorate



(iii) Member Representative Directorate

The Member Representative Directorate (illustrated in Figure 5) is a unit within the Adjudicative Services Branch that, through its Member Representatives, provides representation and assistance in accordance with the Act and the *Commissioner's Standing Orders (Representation)*¹⁴ 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 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*;¹⁵
- subject to the process for temporary loss of pay under the *Commissioner's Standing Orders (Loss of Basic Requirements)*¹⁶;
- 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 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
- parties to a hearing before the Commission for Public Complaints Against the RCMP under section 45.45 of the Act.

Consistent with the *Representative's Code of Ethics*¹⁷, 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 given 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.

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 the member to do so (see the *Representative's Code of Ethics* – Appendix D).

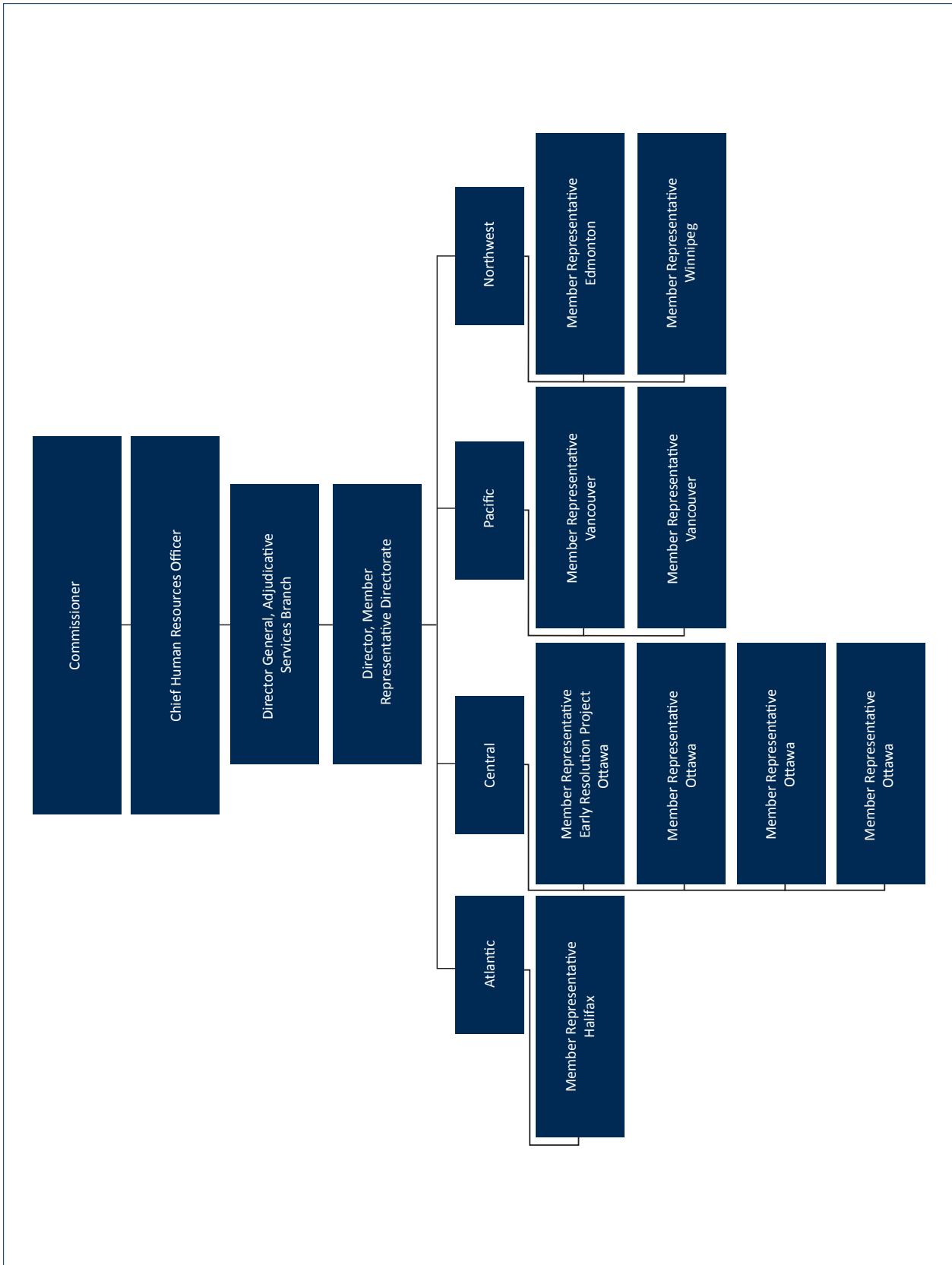
¹⁴ 1997, SOR/97-399.

¹⁵ SOR/84-866, as amended by SOR/88-649, current up to June 28, 2010.

¹⁶ *Commissioner's Standing Orders (Loss of Basic Requirements)*, 1995, [RI-11], (Not published, signed by the Commissioner on November 28, 1995, as amended on July 21, 1997).

¹⁷ See Appendix D.

FIGURE 5:
Member Representative Directorate



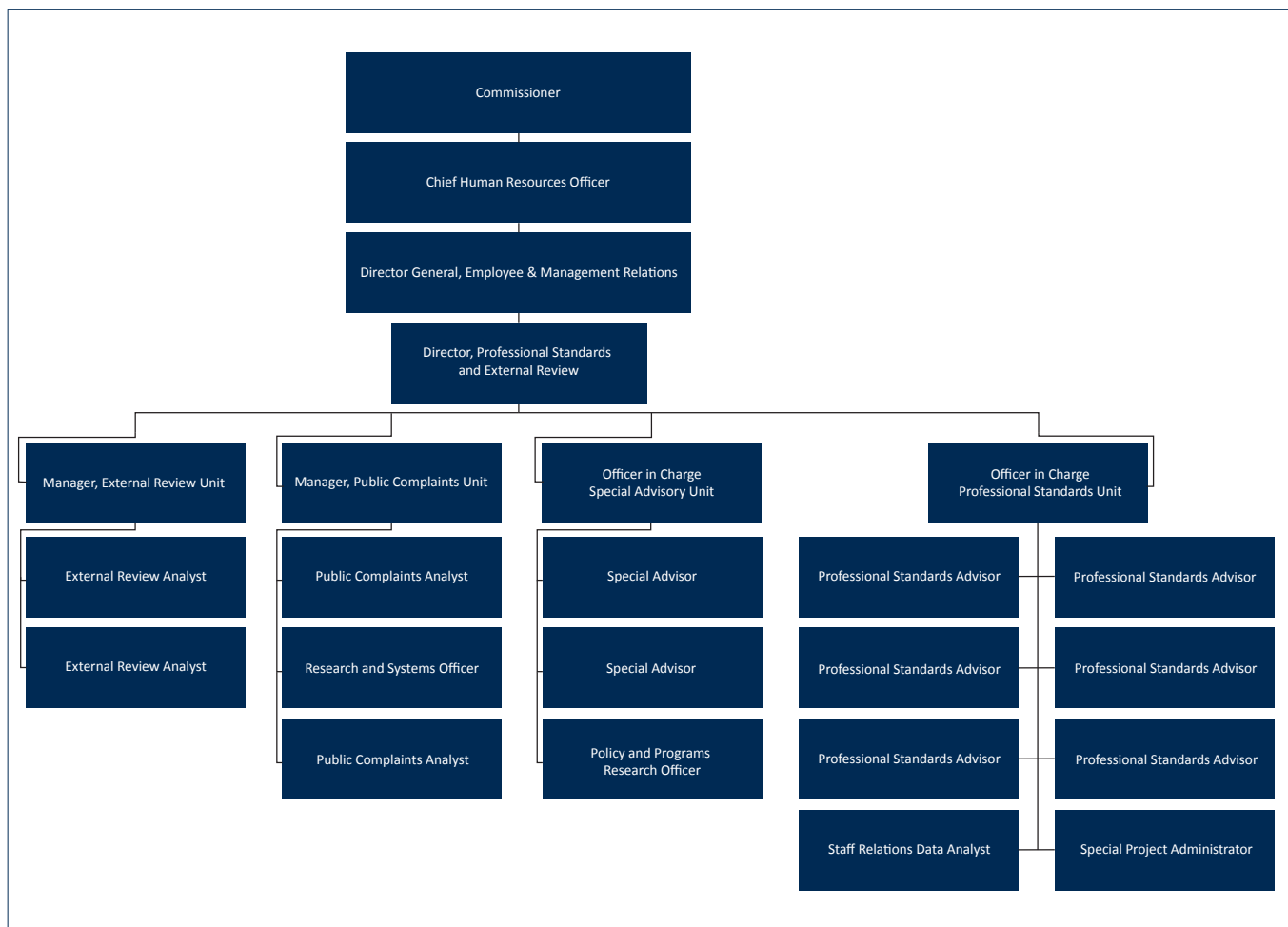
3.3 Professional Standards and External Review Directorate

The 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 the Adjudicative Services Branch and reports to the Director General of Employee and Management Relations; however, both components now fall under the newly created Office of Professional Integrity.

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 6.

FIGURE 6:
Professional Standards and External Review Directorate



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, Commissioner's Standing Orders and policies.

The External Review Unit provides advice to the Commissioner in relation to his or her 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 or her 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.

3.4 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 7. 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 investigations involving suspended members or where the allegations, if substantiated, would likely result in formal discipline. As set out in RCMP discipline policy¹⁸, 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.¹⁹ 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.²⁰

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.

The key role of discipline reviewers is to bring greater consistency to 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.”²¹

Discipline reviewers may assist in the preparation of allegations of misconduct, and also review, draft and 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 play a key role in ensuring access to such information is appropriate.

¹⁹ 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.

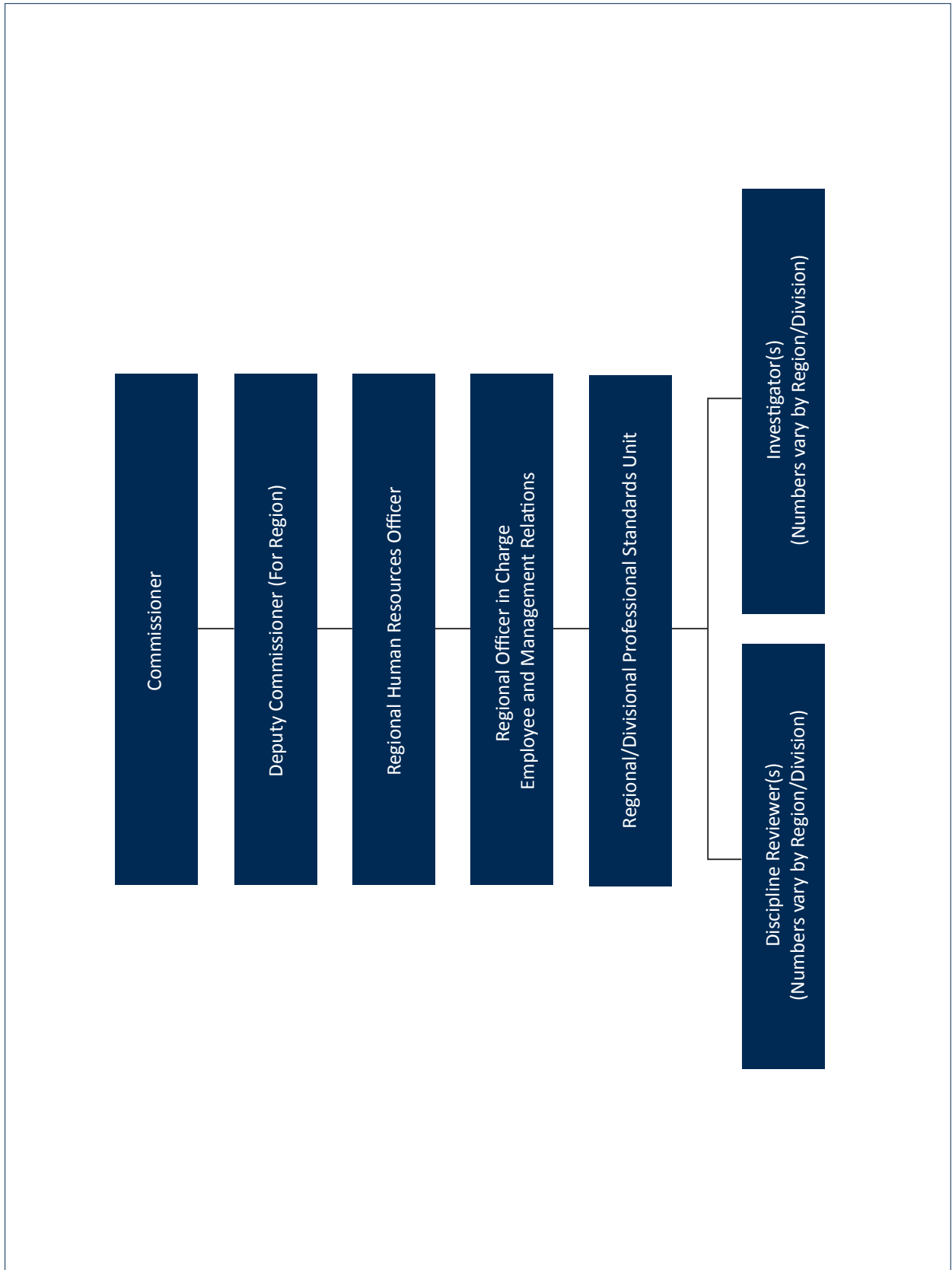
²⁰ Royal Canadian Mounted Police, *Pay Council Review of RCMP Internal Discipline System; Final Report and Recommendations* (2005) [hereinafter *Pay Council Report*].

²¹ *Admin Manual*, *supra* note 18 at X11.6.F.2.D.2.

¹⁸ *Royal Canadian Mounted Police Administration Manual* at XII.4.4.1.7. [hereinafter *Admin Manual*].

FIGURE 7:

Organization of a Typical Regional/Divisional Professional Standards Unit



The Disciplinary System in Practice 2009-2010

During the 2009-2010 reporting period, management of the formal disciplinary process continued to focus on improving the efficiency, effectiveness and consistency of the process within the parameters of existing legislation. In 2008-2009, a significant transformation of the disciplinary structure was brought about following the creation of the Adjudicative Services Branch by giving it a mandate to facilitate centralized program management. This new structure provided a better means to improve a disciplinary system that was seen to be overly legalistic, adversarial and slow. During the 2009-2010 reporting period, improvements to the system continued and the impact of the structural change became clearer. This Chapter provides an update on the various Branch and Directorate initiatives that began in 2008-2009.

4.1 Adjudicative Services Branch

The Adjudicative Services Branch continued its efforts throughout 2009-2010 to improve the formal disciplinary process. Since its creation, the Branch has had increased opportunities to centrally monitor the progress of cases, remove barriers and provide direction regarding proceeding in a timely fashion. As noted in Figure 8 on page 24, there were 43 formal discipline cases concluded by the end of this reporting period. The number of cases moving through the formal discipline system at any given time fluctuates. This can be attributed to the fact that as cases are adjudicated, other cases are regularly entering the system. As illustrated in Figure 12 on page 26, 89 new matters were commenced

during the past reporting period, in comparison with 69 cases in 2008-2009; this equates to a 20 percent increase of new cases entering the system. In spite of this, with more effective practices, the Branch was able to improve the timeliness of its case management by 10 percent.²²

Some of the key initiatives undertaken by the Branch in 2009-2010, as outlined in the following sections, include the Case Management System Pilot, early resolution initiatives, development of an Independence Framework, development of policy, maintenance and monitoring of records as well as training.

(i) Case Management System Pilot

In the 2008-2009 reporting year, the Branch developed a policy to support a potential Case Management System which would form part of the enhanced centralized coordination of formal discipline cases. During the 2009-2010 reporting year, an extensive consultation process was undertaken where Branch stakeholders and subject-matter experts were consulted in the development of a model Case Management System for formal discipline. The stated objectives of the Case Management System included:

- increasing the accountability of participants in the formal disciplinary process by tracking and overseeing case-related procedures;
- enhancing the transparency of the disciplinary process in light of the RCMP's goal to uphold public trust;
- promoting the resolution of formal disciplinary matters as quickly as circumstances permit; and

²² As illustrated in Figure 11 on page 26, cases were concluded in 369 days, on average, during the 2009-2010 reporting period. This compares to an average of 403 days to conclude a case during the 2008-2009 reporting period.

- incorporating in this process the RCMP's overarching obligations and commitments under the *Royal Canadian Mounted Police Act* by applying the rules of natural justice and procedural fairness in the adjudicative process.

The Branch finalized the development of the model Case Management System at the end of this reporting period, implemented it on April 1, 2010 as a one-year pilot project and appointed a Case Manager. A copy of the Case Management framework is attached at Appendix E. While the Member Representatives and Appropriate Officer Representatives remain responsible for providing confidential advice to their clients, the role of the Case Manager is to identify opportunities for a timely resolution of discipline matters.

While complete details of the Case Management System pilot are outlined in Appendix E, some of its main features include the following:

- Parties to a hearing must file regular status reports with the Case Manager outlining pre-hearing activities. This will allow the Manager to monitor the progress of cases, identify any departure from the normal course of a matter and promote the resolution of issues in a timely fashion;
- In appropriate cases, the Case Manager will facilitate settlement discussions between the parties and encourage them to participate in pre-hearing conferences if this approach is conducive to greater efficiency; and
- The parties are required to file a Certificate of Readiness six weeks before the start of a scheduled hearing. This will also allow the adjudication board to identify problems or issues that can be resolved before the hearing begins, further reducing delays and the need for adjournments.

The Branch is finalizing an assessment tool to measure the impact of the pilot project.

(ii) Early Resolution

The early resolution of formal discipline cases was implemented as a project in 2005 in accordance with a memorandum issued by the Chief Human Resources Officer. Since that time, the early resolution of cases has become an integral part of the formal disciplinary process and has continued to evolve. Efforts to formalize the Early Resolution Process into policy have been underway for a few years. This initiative has been overtaken by the Case Management System. As part of the implementation of the Case Management System Pilot, the early resolution principles have been formally incorporated into the case management of discipline cases. All processes will be assessed at the conclusion of the Pilot. Further policy refinements will be required so that the early resolution of cases and the Case Management System appropriately align, while maintaining the same underlying philosophy - flexibility and timely resolution of cases with a modern, problem-solving approach rather than an adversarial one.

(iii) Independence Framework

Following the establishment of the Adjudicative Services Branch, a need to formalize the framework that would clearly define the operational autonomy, expectations and reporting relationships of the Branch directorates was identified. This reporting period saw ongoing work in developing this framework (formerly entitled "Accountability Framework"), which included research, drafting and consultation with stakeholders and subject matter experts within the organization.

The recent implementation of the Case Management System Pilot and the appointment of the Case Manager as the central actor in the system will support further work in the next year to finalize the Independence Framework.

The Independence Framework is premised on the recognition that directorates within the Branch must operate with the required autonomy and perform various quasi-judicial and distinct functions. The framework will recognize that the Director General of the Branch is accountable for the effective working of the formal disciplinary system and the general supervision of the management of the directorates. The appropriate role and reporting relationship for a Case Manager will also be addressed to ensure that a balance is maintained between protecting the role of a representative and refining procedures to maximize program effectiveness.

(iv) Policy Development

Throughout the 2009-2010 reporting period, the Adjudicative Services Branch continued to provide policy support to other components of the discipline process.

The Branch is contributing expertise to ongoing research and analysis for proposed legislative reforms. On June 17, 2010, Bill C-43, the *Royal Canadian Mounted Police Labour Relations Modernization Act* was tabled in the House of Commons. The proposed legislation confers to the Commissioner authority in human resource management similar to that of Deputy Heads in the federal Public Service and to those who head large police services in Canada. This includes the authority to appoint, promote, discipline, demote or terminate the employment of all members, including commissioned officers. Furthermore, it gives the Commissioner the authority to implement a restructured discipline system. Consistent with discipline systems found throughout other Canadian police services and the broader Public Service, the new system will enable the RCMP to address and resolve conduct issues transparently, consistently and promptly should the Bill pass into legislation. It would give RCMP members the right to refer certain decisions or actions of management to the Public Service Labour Relations Board, which is an

impartial, external decision-making body. The proposed legislation would enable the Public Service Labour Relations Board to act as an independent, external third party that would make final and binding decisions in relation to discipline issues and some grievances raised by RCMP members. To fulfill its role, the Public Service Labour Relations Board would take into account the unique responsibilities of the RCMP as a law enforcement agency as it relates to the protection of Canadians and national security.

The Adjudicative Services Branch will work in collaboration with the RCMP Labour Relations Initiative group to develop the processes necessary for future legislative implementation.

(v) Maintenance and Monitoring of Records

As part of the centralization of the discipline process and in accordance with the Ministerial Direction, the Adjudicative Services Branch is enhancing the management of formal discipline records. The collection and use of formal discipline statistics is being regulated and improved as part of the implementation of the Case Management System Pilot. During the Pilot, information will be gathered and analyzed to ascertain how data can be defined and captured more precisely. Upon conclusion of the project, improvements will be made as required.

It was identified in the last reporting period that current practices with respect to the collection and analysis of data pertaining to informal discipline statistics need to be reviewed. The Adjudicative Services Branch is solely responsible for formal discipline statistics; however, in its role as the central discipline authority it is collaborating with the Professional Standards and External Review Directorate to standardize the maintenance of both formal and informal discipline statistics.

(vi) Training

The Branch-wide focus on training continued throughout 2009-2010. Full-time Adjudicative Services Branch adjudicators and representatives were engaged in a variety of on-going learning initiatives. As in previous years, employees completed and updated their individual learning plans. Efforts were made to ensure that the members of the Branch met their professional training requirements. Professional learning opportunities included the annual Federation of Law Societies' National Criminal Law Program Conference which emphasized evidentiary law; training sponsored by the Quebec Bar on discipline related issues; the annual Council of Canadian Administrative Tribunals Conference, which focused on administrative law; and the Canadian Institute's Conference on the Law of Policing.

In addition to formal discipline training, the Adjudicative Services Branch continued to focus on in-house training. One of these initiatives is the drafting of best practices guidelines, which will take the form of learning modules tailored to the specific nature of the RCMP's disciplinary system. These modules will serve as training tools to assist adjudicators, Member Representatives and Appropriate Officer Representatives. The development of the modules is underway and will continue during the next reporting period.

Members of the Adjudicative Services Branch were also actively engaged in providing discipline training to employees at all levels, including instruction on the Officer Orientation Development Course and the Manager Development Program.

The Adjudicative Services Branch held one "Discipline, Demotion and Discharge Adjudicators" course, which trained 30 officers. This course provides officers with the requisite knowledge and skills to effectively participate in the adjudication/discharge and demotion process. The Directorate maintains a list of trained officers to assign to adjudication

boards, when required. In addition, officers are provided training as part of this course with respect to their duties as line officers under the *Royal Canadian Mounted Police Act*. Such instruction enables line officers to return to their home units with a better understanding of the technical and legal aspects of their responsibilities as well as the philosophy underlying the discipline regime of the RCMP.

This past year saw additional training being provided by the Adjudicative Services Branch staff to Operational Communications Centre personnel and Staff Relations Representatives. In addition, the Branch added a new element to its training. Information sessions on discipline and ethics were facilitated by the Branch to groups of Canadian police officers bound for a variety of United Nations and European Union missions abroad. Lastly, the Adjudicative Services Branch provided a speaker at the Public Service Adjudication Training course offered by the Public Service Labour Relations Board.

As mentioned in last year's report, the appointment of adjudication boards is governed by statute.²³ The panel of adjudicators must consist of commissioned officers and "at least one of the officers appointed as a member of an adjudication board shall be a graduate of a school of law recognized by the law society of any province."²⁴ Moreover, current practice requires that the full-time Member Representatives and Appropriate Officer Representatives working within the Adjudicative Services Branch hold law degrees. As such, the RCMP must retain legally trained employees. At the present time, a framework for subsidized education is under development by the Learning and Development Branch. The Adjudicative Services Branch continued to support this endeavour during the last reporting period. When implemented, this program will provide important opportunities for the RCMP to augment its pool of members with legal training.

²³ *Supra* note 2, s. 43(2).

²⁴ *Supra* note 2, s. 43(3).

4.2 Branch Directorates

(i) Adjudications Directorate

Throughout this reporting period, the Adjudications Directorate continued to concentrate its efforts on the timely movement of cases through the system.

Figures 8-12 provide an overview of the Directorate's activities during the 2009-2010 reporting period.

As illustrated in Figure 8, the caseload activity in 2009-2010 totalled 72 cases. Of those, 43 were adjudicated: 11 were conducted by way of a regular board and 32 were finalized using the Early Resolution Process. Figure 9 illustrates the 2009-2010 caseload activity by month.

FIGURE 8:
Discipline Caseload Activity, FY 2009-2010

Cases Adjudicated		Allegations withdrawn	Member Resigned	Total
Regular Board	Early Resolution Process			
11	32	16	13	72
43				

FIGURE 9:
Monthly Discipline Caseload Activity, FY 2009-2010

Month	Regular Board	Early Resolution Process	Allegations withdrawn	Member Resigned	Total
APRIL 2009	0	5	0	1	
MAY 2009	0	1	2	0	
JUNE 2009	2	2	2	1	
JULY 2009	0	1	0	1	
AUGUST 2009	1	3	2	2	
SEPTEMBER 2009	1	0	1	2	
OCTOBER 2009	1	3	2	0	
NOVEMBER 2009	1	2	0	3	
DECEMBER 2009	1	2	3	0	
JANUARY 2010	1	3	1	1	
FEBRUARY 2010	2	3	1	2	
MARCH 2010	1	7	2	0	
TOTAL		43	16	13	72

FIGURE 10:

Formal Discipline for Code of Conduct Violations by Division, FY 2009-2010

Discipline Cases by Division, FY 2009-2010															
Division	Adjudicated cases	Dismissals	Order to resign	Pay forfeitures (1 to 10 days' pay)										Allegations not established	Reprimand only
				1	2	3	4	5	6	7	8	9	10		
A	2	1									1				
B	1												1		
C	4		1		1								2		
D	1													1	
DEPOT	1				1										
E	5	1		1								1	2		
F	10		1			1	2				1		4	1	
G	1									1					
H	3				1								2		
HQ	4						1		1				2		
J	2											1	1		
K	8		1	1	1	1	1	1						2	
L	0														
O	1				1										
M	0														
V	0														
TOTALS		2	2		3	3	2	3	4	0	3	1	2	14	
TOTAL ADJUDICATED CASES	43														
									35				3	1	

FIGURE 11:
Formal Discipline for Code of Conduct Violations, FY 2009-2010

	Total hearings	Average days to conclusion	Min/Max days
Disposition – Established	40	390	3/2016
Not Established	3	206	107/385
Reprimand only	1	373	
1 days' pay	3	944	65/2016
2 days' pay	2	726	16/924
3 days' pay	3	320	174/414
4 days' pay	3	195	110/297
5 days' pay	4	206	71/302
6 days' pay		0	
7 days' pay	3	270	248/284
8 days' pay	1	414	
9 days' pay	2	238	225/251
10 days' pay	14	370	3/1036
Order to resign	2	425	203/647
Dismissal	2	418	337/499
Total Average		369	3/2016

FIGURE 12:
Discipline Caseload Activity Year-to-Year Comparison, FYs 2000-2010

Fiscal year (FY)	Carried over from previous FY	New Cases	Cases Adjudicated	Allegations Withdrawn	Member Resigned	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
2009-2010	85	89	43	16	13	102

(ii) Appropriate Officer Representative Directorate

The 2009-2010 reporting period was the first full year of operation for the new Appropriate Officer Representative Directorate. This year, the Directorate began the centralization of Appropriate Officer Representative management in Ottawa, thus promoting increased consistency, transparency and accountability in the discipline process. While the clients of the Appropriate Officer Representative remain the Appropriate Officers, who are divisional Commanding Officers, these services are increasingly delivered in a more centralized manner.

The drive toward increased consistency in the disciplinary process has led to the development of standardized job descriptions, performance agreements and accountability standards for Appropriate Officer Representatives. This standardization reflects the structure and accountability of the newly created centralized discipline authority without interfering with the professional obligations of Appropriate Officer Representatives to instruct their clients, namely the Appropriate Officers whom they represent before RCMP boards, or with their ability to provide legal representation.

Other program modifications were implemented during the reporting period in support of the improved delivery of the discipline process. These include enhancing the capacity of Divisions to review disciplinary matters within their purview, thus allowing Appropriate Officer Representatives to better focus on their specialized role and become more involved in the Early Resolution Process. This increased involvement has had a positive effect in that it has provided opportunities to expand the experience of Appropriate Officer Representatives in disciplinary matters. As well, the Appropriate Officer Representative Directorate participated in a consultation group in conjunction with the Member Representative Directorate to finalize the Case Management System Pilot. Once the reporting on the pilot is completed

at the end of the next reporting period, it will be possible to assess the extent to which this new approach to Case Management has facilitated the formal board process and promoted the delivery of timely disciplinary measures.

(iii) Member Representative Directorate

During 2009, the Member Representative Directorate opened 185 files, as shown in Figure 13.

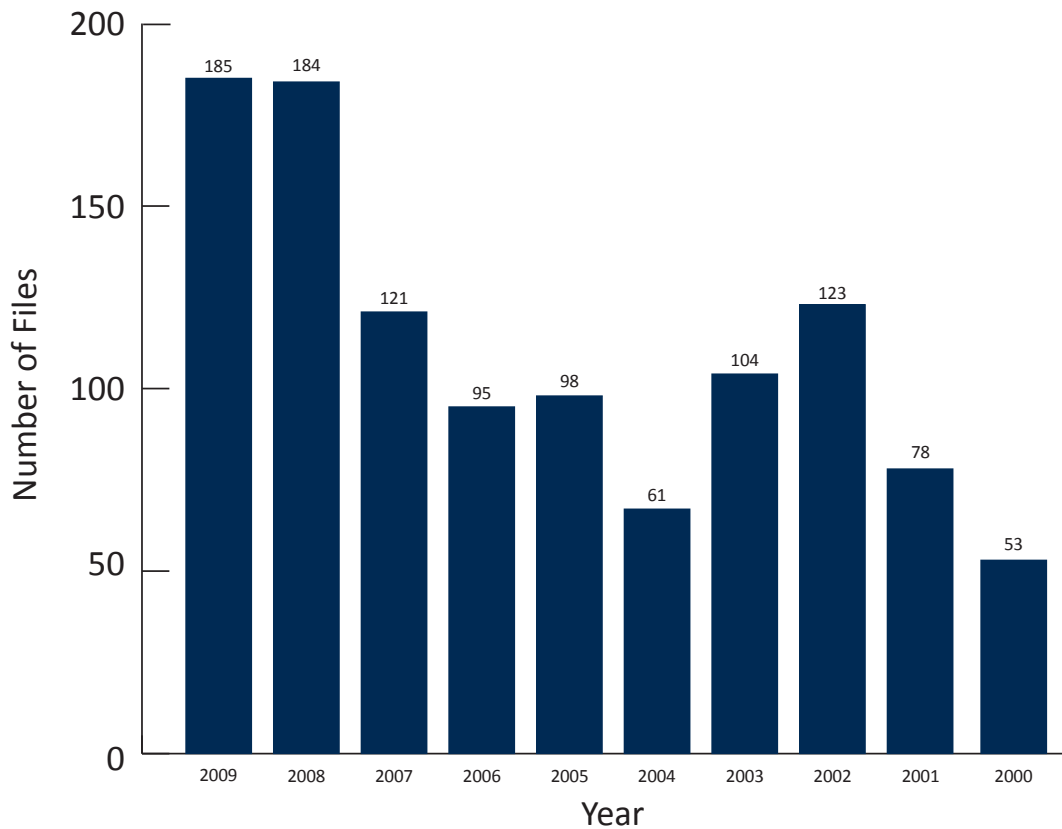
As a result of a change in file management practices in 2008, the Member Representative Directorate undertook steps to capture data on consultative work. Member Representatives began opening consultative files when members first sought advice on a matter within the Directorate's mandate, regardless of whether it ultimately proceeded to a hearing. This accounts for a significant increase of opened files in 2008. In 2009, the number of files opened is similar to 2008. An overview of incoming files in 2009, by type, is shown in Figure 14.

Work on the existing *Commissioner's Standing Orders (Representation)* is ongoing. The goal is to update the standing order so that it better reflects and defines the duties and responsibilities of the Member Representative Directorate. This work coincides with the ongoing review of the Directorate's mandate to ensure that the roles of Member Representatives are consistent with the program and that of the Appropriate Officer Representatives.

One of the most significant initiatives undertaken by the Member Representative Directorate during the past reporting period was the development and implementation of a Mentorship Program. This program creates an opportunity for legally trained members to work on a part-time basis with the Member Representative Directorate. It facilitates opportunities for prospective Member Representatives to gain familiarity with the Directorate and gain exposure to the responsibilities without having to transfer perma-

FIGURE 13:

Member Representative Directorate, Incoming Files 2000-2009



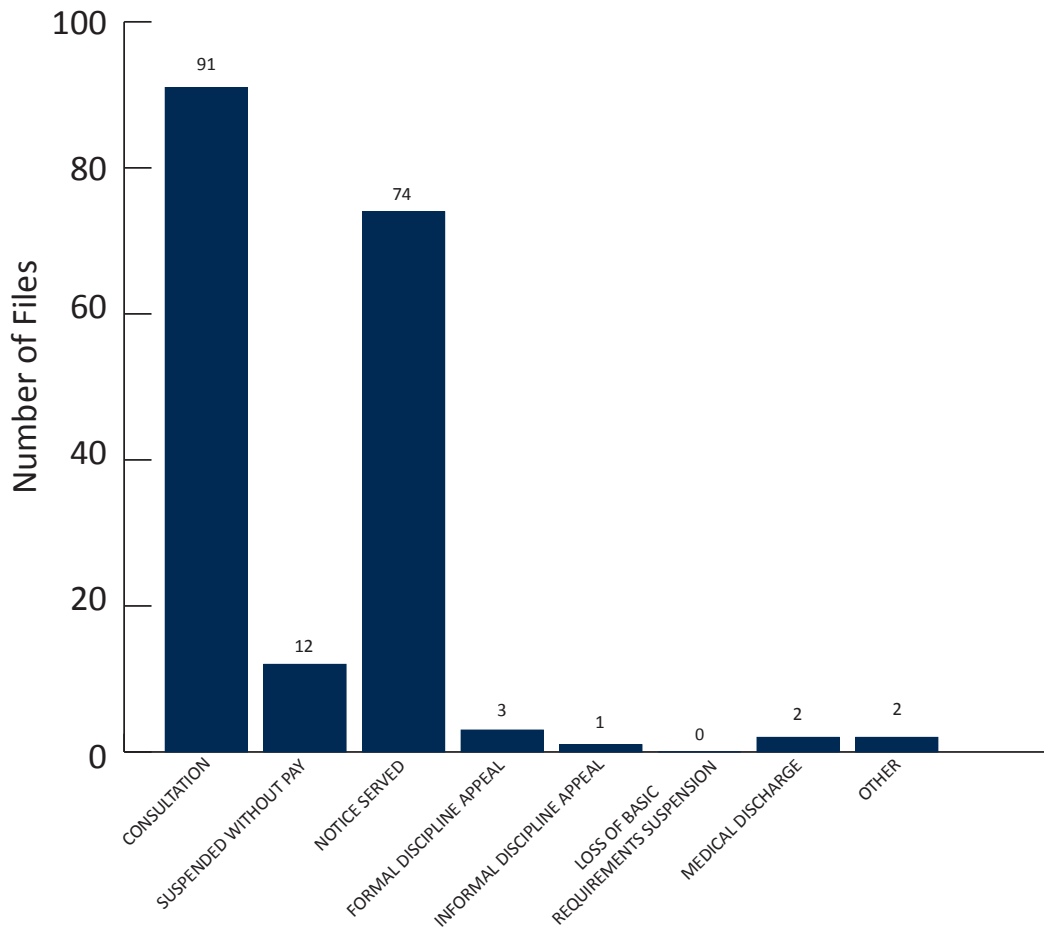
Data Synopsis	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000
NUMBER OF FILES	185	184	121	95	98	61	104	123	78	53

nently. More importantly, for the Member Representative Directorate as well as for the Adjudicative Services Branch, the Program provides management with the opportunity to observe a potential candidate’s individual strengths and weaknesses before a formal transfer is authorized. The Mentorship Program also creates a pool of qualified and legally trained members, who have gained some initial work experience, from which to select when future vacancies arise. One of the most significant ongoing challenges faced by the Member Representative Directorate has been to fill vacant positions. It can take up to six months to find a functional replacement who will be able to contribute in a meaning-

ful way. The program has been extended nationwide with members being identified in three of the four Regions. Additional candidates are now in line for potential consideration. Since its implementation, the program has made significant inroads to address the number of cases in the queue.

The Member Representative Directorate has also encouraged the use of the Early Resolution Process and other early resolution initiatives before matters progress to a contested hearing. Early resolution initiatives have been included as measures of performance within Member Representatives’ performance agreements.

FIGURE 14:
Member Representative Directorate, Types of Incoming Files 2009



Incoming 2009	
CONSULTATION	91
SUSPENDED WITHOUT PAY	12
NOTICE SERVED	74
FORMAL DISCIPLINE APPEAL	3
INFORMAL DISCIPLINE APPEAL	1
LOSS OF BASIC REQUIREMENTS SUSPENSION	0
MEDICAL DISCHARGE	2
OTHER	2
TOTAL RECEIVED FILES	185

4.3 Professional Standards and External Review Directorate

During 2009-2010, the Professional Standards and External Review Directorate continued its review of the member suspension policy as well as the *Commissioner's Standing Orders (Appropriate Officer)*.²⁵

(i) Review of Suspension Policy

Three key areas of the RCMP suspension policy are currently being examined. Firstly, the officer who has the authority to suspend a member from duty will have to review the circumstances justifying the suspension every thirty days. Secondly, the criteria for suspension from duty are to be clarified. Finally, the need to reassign a member to more appropriate duties will be emphasized when a suspension is not ordered or is revoked where the nature of the alleged misconduct calls for the member to perform other duties.

(ii) Review of *Commissioner's Standing Orders (Appropriate Officer)*

In keeping with Recommendation 28 of the Task Force on Governance and Cultural Change in the RCMP, a Commanding Officer for Headquarters was appointed on October 21, 2008. With a Commanding Officer for Headquarters as well as a Commanding Officer for "A" Division (the operational component of the RCMP in the National Capital Region), the need arose to clarify the interpretation and application of the *Commissioner's Standing Orders (Appropriate Officer)* with respect to the roles and responsibilities of both the Appropriate Officers for "A" Division and for Headquarters. The Professional Standards and External Review Directorate is presently examining this issue to clarify the authority of the Appropriate Officer for the approximately 3,500 members stationed in the National Capital Region.

4.4 Regional/Divisional Professional Standards Units

Throughout this reporting period, concerted efforts have been made by the Adjudicative Services Branch to work with regional/divisional Professional Standards Units to effectively manage the discipline process. In particular, efforts to clarify the roles and responsibilities of discipline reviewers continue and work has been undertaken to finalize the staffing of these positions in every Region. To this end, positions have been classified, established and staffed in all but one Region. During the next reporting period, the Adjudicative Services Branch will provide the required training in support of these important elements of the disciplinary process.

(i) Informal Disciplinary Action

During 2009-2010, 254 instances of informal disciplinary action were recorded. This constitutes a slight increase from the 231 occurrences recorded during the 2008-2009 reporting period and close to the 256 that arose in 2007-2008. Figure 15 illustrates informal disciplinary actions, by Division, during the past ten years. Given the size of the organization and the number of interactions with the public in any given year, this difference is not considered to be statistically significant.

²⁵ *Commissioner's Standing Orders (Appropriate Officer)*, 2004, [RI-1], (Not published, signed by the Commissioner on May 29, 2004, as amended on July 15, 2004.).

Figure 16 illustrates informal disciplinary action between 2000-2010, grouped by type of violation and Division. The raw data gathered in 2008-2009 will be assessed against the data gathered during this reporting period. The purpose of gathering this information is to facilitate the completion of a trend analysis, the progress of which will be updated in the next reporting period.

The newly created Office of Professional Integrity will be better positioned to oversee matters that relate to the management of informal discipline. This will include a continued emphasis on the responsibilities of discipline reviewers in the Regions and their compilation of comprehensive informal discipline statistics.

FIGURE 15:
Informal Discipline by Division, FYs 2000-2010²⁶

Division	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10	Total
A	6	3		2		1	2		1	2	17
B	1	2		1		1		1		3	9
C	9	8	5	15	10	11	14	7	7	4	90
D	3	9	19		3	18	7	20	16	10	105
E	60	80	90	58	40	34	100	112	90	125	789
F	9	10	15	10	4	10	13	11	19	37	138
G	2	3		3	2	3	2			0	15
H	2		2	3	1	10	9	10	21	17	75
HQ	13	20	22	4	5	14	11	25	11	7	132
J	11	5	8	11	7	23	22	25	14	7	133
K	31	42	69	27	30	17	26	26	22	25	315
L							2		1	0	3
M		2				3	2	1	4	0	12
O	2	24	3	11	6	11	14	12	15	10	108
T		8				3	1	5		2	19
V	1		1	3	1	8	1	1	10	5	31
Total	150	216	234	148	109	167	226	256	231	254	1,991

²⁶ The data published in the 2008-2009 Annual Report has been revised and updated.

FIGURE 16:

Informal Discipline by Violation Type, by Division, FYs 2000-2010²⁷

Violation Type	Division																Total
	A	B	C	D	E	F	G	H	HQ	J	K	L	M	O	DEPOT	V	
Absences	1	0	2	3	19	2	0	1	3	4	7	0	0	2	0	2	46
Alcohol related	2	0	6	5	32	11	1	3	8	5	9	0	2	1	0	4	89
Care and handling of prisoners	0	0	0	4	6	3	0	0	3	2	4	0	0	1	2	3	28
Conflict of interest	0	0	2	0	3	0	0	0	0	0	1	0	0	0	0	0	6
Dereliction or neglect of duty	2	1	7	7	75	6	1	6	7	13	45	0	1	9	0	1	181
Discriminatory conduct	0	0	0	0	2	0	0	0	0	0	1	0	0	0	0	0	3
Disgraceful conduct	2	2	10	46	234	52	5	31	43	43	117	3	6	37	7	12	650
Disobeying orders or oaths	0	0	0	2	10	0	0	2	2	4	4	0	0	2	0	0	26
Excessive use of force	0	0	1	1	15	1	0	1	2	3	5	0	0	0	3	0	32
Statutory offences	0	0	2	5	14	7	0	2	0	0	3	0	0	1	0	0	34
Falsehoods	0	1	2	6	38	9	0	1	11	8	4	0	0	5	1	2	88
Firearms	2	1	7	0	26	6	0	3	3	2	2	0	0	1	0	1	54
Harassment	0	0	1	3	10	3	0	0	3	0	4	0	0	7	0	0	31
Improper attitude or language	2	0	7	4	47	6	0	2	3	9	9	0	1	10	2	0	102
Inadequate case investigation	0	0	0	0	13	3	0	2	2	2	0	0	0	1	0	0	23
Leadership	1	1	3	2	19	1	1	1	4	10	13	0	0	1	0	1	58
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	46	4	0	6	4	5	4	0	1	4	2	4	86
Misuse of equipment	0	1	10	7	33	6	0	2	5	5	14	0	1	10	0	0	94
Misuse of systems	4	0	7	2	44	3	1	1	5	3	8	0	0	2	0	0	80
Other violations	1	1	13	5	78	13	5	8	16	10	47	0	0	7	1	1	206
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	2	0	0	0	0	0	2	0	0	0	0	0	4
Publicly representing the Force without authority	0	0	0	0	3	0	0	0	0	0	2	0	0	0	0	0	5
Uniform and dress violations	0	0	0	3	0	0	0	1	1	0	0	0	0	0	0	0	5
Uttering threats	0	0	2	0	8	0	0	0	3	3	1	0	0	1	0	0	18
Violations for personal or financial gain	0	1	1	0	10	1	1	2	3	0	7	0	0	4	1	0	31
Witness Protection Program Violation	0	0	0	0	0	0	0	0	0	0	1	0	0	0	0	0	1
Total:	17	9	90	105	789	138	15	75	132	133	315	3	12	108	19	31	1,991

27 The data in the 2008-2009 Annual Report has been revised and updated.

The Way Forward

It appears to the Council that there has been significant progress in this area. We fully endorse the principles being followed by the RCMP...

- *Royal Canadian Mounted Police Reform Implementation Council: Fourth Report, March 2010*

The RCMP has continued, throughout this reporting period, to standardize and enhance the disciplinary process as set out in the *Royal Canadian Mounted Police Act*. In view of the fact that the RCMP's disciplinary regime is governed by existing legislation, there are limitations to the extent of reforms that can be achieved. The Act regulates many facets of the system including such matters as process and sanctions. The only way to change these procedures is through legislative reform. The tabling of the *Royal Canadian Mounted Police Labour Relations Modernization Act* suggests that potentially significant changes will be forthcoming. The proposed legislation may have a far-reaching impact on the existing discipline system. In the interim, the Branch will continue to focus on making improvements within the parameters of the current system. The Case Management System Pilot, the Early Resolution Process, the Independence Framework, policy development, the maintenance and monitoring of records as well as training initiatives are all slated for further improvements during the next reporting period.

(i) Case Management System Pilot

The implementation of the Case Management System Pilot will provide data enabling the Branch to evaluate the impact of this system on the progress of cases. The system will increase

the reporting obligations by representatives. During the next reporting period, the Branch will evaluate whether this increased scrutiny achieves the anticipated effectiveness.

The Pilot also raises issues related to the authority, mandate and responsibilities of the Case Manager with respect to adjudication boards, representatives and involved parties. Experience with the system will identify whether the policy framework needs to be adjusted.

Finally, an overall evaluation will determine whether the Case Management System Pilot will be extended as is, modified or terminated. Data for this final evaluation will be collected throughout the next reporting year and it is intended that the determination will be made by the spring of 2011.

(ii) Early Resolution

The Early Resolution Process has played an important role in the resolution of cases as illustrated in Figure 8 on page 24. As such, any modification or alignment with the Case Management System must be carefully considered during the next reporting period. A committee of stakeholders will conduct this evaluation and provide recommendations to ensure that all interests can be properly weighed and considered.

(iii) Independence Framework

The Independence Framework will be finalized in light of the experience gained from the centralization of discipline, the Case Management System pilot, and the review of the Early Resolution Process. Steps will be taken to examine the best way to ensure the autonomy of the respective parties. This may lead to incorporation in policy, Commissioner's Standing Orders or other formalized instruments.

(iv) Policy Development

The Adjudicative Services Branch will continue to expand its capacity to develop policies. One such initiative involves the release and publication of board decisions. As mentioned on pg 10, the Adjudications Directorate, as a matter of practice, releases the board's written decisions following the conclusion of hearings conducted in public and publishes them on the RCMP intranet. The written decisions can only be accessed by RCMP employees. The posting of the decisions is justified by the need for increased transparency and accountability and to instill confidence within and towards the organization. This practice is currently being examined in light of concerns raised by the Office of the Privacy Commissioner. The Adjudicative Services Branch is working with the RCMP Access to Information and Privacy Branch to clarify the implications surrounding the publication of board decisions and to draft acceptable policy guidelines.

With respect to policy development, the Branch is also providing support in the realm of legislative reform. The proposed *Royal Canadian Mounted Police Labour Relations Modernization Act* would provide for a new labour relations regime for the RCMP. It introduces or enhances several human resource management processes that would include discipline. The Adjudicative Services Branch will be called upon to provide advice as to what form the new processes and procedures should take. At the same time, the Branch must ensure that adequate resources are maintained to support the existing program. These competing interests underscore the requirement for the Adjudicative Services Branch to build a robust policy capacity.

The entire discipline regime now falls under the stewardship of the Office of Professional Integrity. As this new Office becomes fully functional, existing structures and budgets will be re-evaluated and formalized. During the course of this transformation, the immediate goal for the Adjudicative Services Branch will be to secure and stabilize adequate

resources to proceed with current and planned initiatives. Of note, the Branch will collaborate with its partners in the Office of Professional Integrity to assess how it can best contribute to initiatives which may be mutually beneficial and of common interest.

(v) Maintenance and Monitoring of Records

The Adjudicative Services Branch is facilitating the consolidation and examination of data pertinent to both the informal and formal components of the disciplinary process. An improved database has been developed for the implementation of the Case Management System Pilot and this will serve as a repository to collate formal discipline data. An improved system to gather informal discipline data is still under consideration.

The RCMP recognizes that a better understanding of the type and frequency of disciplinary actions will enable the Force to assess what proactive and preventative measures might be implemented in response to trends. Efforts to build this capacity will continue during the next reporting period.

(vi) Training

The Adjudicative Services Branch will continue its work to develop a formal plan to provide a comprehensive and consistent approach to disciplinary training. The Adjudicative Services Branch will work with the Employee and Management Relations Officers in the Regions to identify training opportunities aimed at providing employees with pertinent information regarding the *Royal Canadian Mounted Police Act* and related discipline policies.

It is anticipated that the Office of Professional Integrity will play a critical role in overseeing training initiatives associated with the continuum of integrity. The Adjudicative Services Branch will take steps to collaborate with the Office so that information pertaining to the formal disciplinary process forms part of its educational focus.

5.1 Conclusion

The RCMP has embarked on a new course with respect to the management of employee behaviour. The Office of Professional Integrity will bring a strong, coordinated approach to this effort. Some aspects of employee conduct and resulting managerial responses will be linked through a continuum of integrity, with formal discipline constituting one component of the scale. The Adjudicative Services Branch will work within this new ethics-led continuum so that it may better fulfill its mandate of addressing conduct that requires formal disciplinary action.

No organization is immune from employee misconduct. Matters pertaining to police conduct will always present challenges for modern policing. From an organizational perspective, the *Royal Canadian Mounted Police Act*, including the *Code of Conduct* establishes the standards for all members of the RCMP. It is the responsibility of every member to uphold these standards. The organization must ensure that its response to misconduct is effective, appropriate and timely. Informal discipline must be resolved in a prompt manner for it to be effective and must be administered at the lowest possible level. Formal discipline must be investigated expeditiously and comprehensively with the goal to resolve the matter through fair and prompt adjudication, when required. The disciplinary process must be effectively managed, efficient, transparent and accountable. These are the basic tenets of a well-managed disciplinary process and constitute the basic principles which will steer the course of the Adjudicative Services Branch in the year ahead.

The RCMP's reputation as one of the best police organizations in the world is, for the most part, based on the conduct of its members. An important aspect of that reputation is based on the RCMP's ability to maintain the trust and confidence of the public it serves. The RCMP is aware that the Force and the conduct of its members are under increased public scrutiny. The recent publication of the findings of the *Braidwood Commission on the Death of Robert Dziekanski*²⁸ and the *Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182*²⁹ brought focus on RCMP operations and the conduct of its members.

The RCMP must ensure that public confidence does not waver and that public trust is sound. Without public trust, the operational effectiveness of the organization will be greatly affected. The RCMP will maintain this trust by responding quickly to contraventions of the behavioral standards as laid out in the *Code of Conduct*. It must also make certain that the public is not only kept informed about disciplinary actions but is also assured that steps have been taken to address misconduct and that measures will be taken to prevent its recurrence.

The public and RCMP members must have confidence in established disciplinary processes. The RCMP will engender the requisite public trust and employee trust, in part, through the effective and transparent management of its disciplinary process.

28 Braidwood Commission on the Death of Robert Dziekanski (B.C.), *Why? The Robert Dziekanski Tragedy*, Library and Archives Canada Cataloguing in Publication, May 20, 2010. (Commissioner: The Honourable Thomas R. Braidwood, Q.C.): Available: <http://www.braidwoodinquiry.ca/report/P2Report.php> [May 20, 2010].

29 Canada. Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182. (Online). Ottawa: Public Works and Government Services Canada, 2010. (Cat. No. CP32-89/2-2010E). (Commissioner: The Honourable John C. Major, Q.C.). Available: <http://www.majorcomm.ca/en/reports/finalreport> [June 17, 2010].

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 *Royal Canadian Mounted Police 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.³⁰

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.

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.

³⁰ Section 3 of the *Commissioner's Standing Orders (Disciplinary Action)*.

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.³¹

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.

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.

³¹ Section 3.1 of the *Commissioner's Standing Orders (Disciplinary Action)*.

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.

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

The RCMP Disciplinary Process

This Appendix 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.

1.1 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.¹

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.²

¹ *Royal Canadian Mounted Police Act*, R.S.C. 1985, c. R-10, s. 39. [hereinafter the Act].

² *Royal Canadian Mounted Police Administration Manual* at XII.6.E.5.b [hereinafter *Admin Manual*].

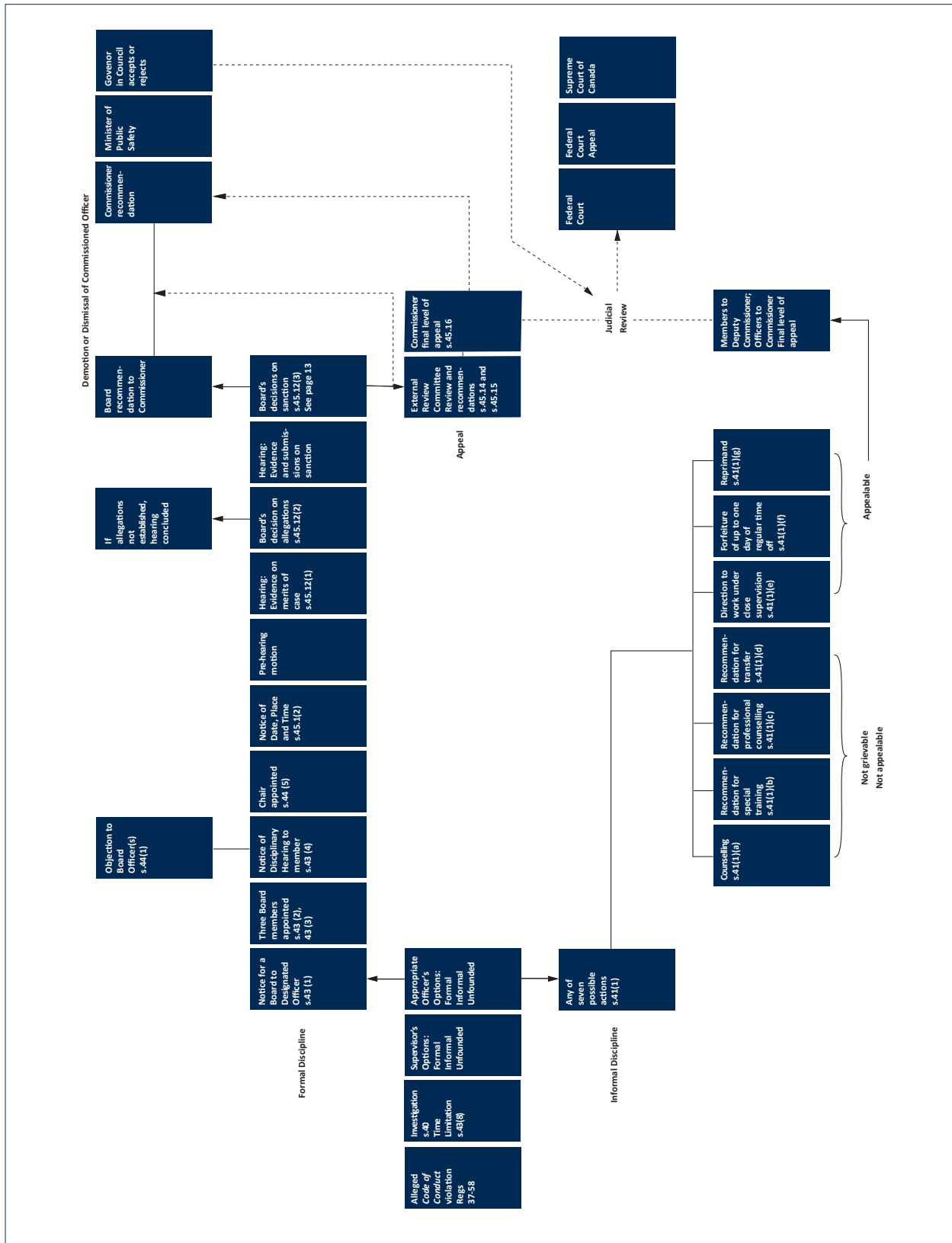
1.2 Investigations into Alleged Contraventions of the *Code of Conduct*

As illustrated in Figure 17, 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.³

³ *Supra* note 1, 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*.

FIGURE 17:

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



1.3 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.⁴

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;
- subject to such conditions as the Commissioner may prescribe by rule⁵, a forfeiture of regular time off for a period not exceeding one day; and/or
- a reprimand (it is to be noted, only an officer in command or an appropriate officer may impose a reprimand).⁶

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.⁷

⁴ *Supra* note 1, ss. 41(8), 41(2).

⁵ Section 4 of the *Commissioner's Standing Orders (Disciplinary Action)*, SOR/88-362, 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.

⁶ *Supra* note 1, s. 41(1).

⁷ *Admin Manual*, *supra* note 2 at XII.6.D.1.

1.4 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.⁸ If the Appropriate Officer likewise decides informal action would not suffice, he or she then initiates a hearing into the alleged contravention.⁹ 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.¹⁰

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.¹¹

The Federal Court of Appeal clarified the law with respect to this limitation period in its judgment in *Thériault v. Royal Canadian Mounted Police*.¹² 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.¹³ 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.

⁸ *Royal Canadian Mounted Police, Pay Council Review of RCMP Internal Discipline System; Final Report and Recommendations* (2005) [hereinafter *Pay Council Report*].

⁹ *Supra* note 1, s. 43(1).

¹⁰ *Ibid.*, s. 43(7).

¹¹ *Ibid.*, s. 43(8).

¹² 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".

¹³ *Ibid.*

(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. 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.¹⁴ The officers must take the *Adjudicator's Oath of Office* (see Appendix F). 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 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.¹⁵

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 members¹⁶ 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.¹⁷

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).¹⁸ A decision of a majority of the board constitutes the decision of the board and the final decision may include a dissenting opinion.¹⁹

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

¹⁷ 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.).

¹⁸ *Supra* note 1, ss. 45.1(15), 45.12(2).

¹⁹ Sections 24 and 25 of the *Commissioner's Standing Orders (Practice and Procedure)*(SOR/88-367).

¹⁴ *Supra* note 1, s. 43(2) to 43(3).

¹⁵ *Admin Manual*, *supra* note 2, at AM XII.11.E.6.

¹⁶ *Supra* note 1, s. 43(5).

before an adjudication board.²⁰ Testimony is under oath or affirmation.²¹ The parties may also present evidence in an agreed statement of facts²² 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.²³ All must comply with the *Representative's Code of Ethics* (see Appendix D), which includes such requirements as holding in strict confidence all communications relating to the representation of the client received from that client, and serving the client in a conscientious, diligent and efficient manner.²⁴

It is the responsibility of the adjudication board to set the place, date and time for the hearing²⁵ 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.²⁶

While the Act states adjudication hearings shall be held in

private²⁷, 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:²⁸

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 2b) 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 respecting his or her financial or personal affairs outweighs the public's interest in the information.²⁹

(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 officer³⁰, a recommendation for dismissal;

²⁰ *Ibid.*, and *supra* note 1, s. 45.1(1) and s. 11.

²¹ *Supra* note 19, s.18.

²² *Ibid.*, s.10.

²³ *Admin Manual*, *supra* note 2 at XII.9.E.2.

²⁴ *Ibid.*, at App. XII-9-1.1.

²⁵ *Supra* note 1, s. 45.1(2).

²⁶ *Admin Manual*, *supra* note 2 at AM XII.11.F.3.

²⁷ *Supra* note 1, s. 45.1(14)

²⁸ *Southam Inc. v. Canada (Attorney General)*, (1997) 36 O.R. 721 at para. 20.

²⁹ *Ibid.*, at paras. 31, 49.

³⁰ 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.

- 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 in Section 1.3 in substitution for or in addition to the sanctions listed above.

1.5 Appeals

(i) Informal Discipline

The Act allows the RCMP Commissioner to regulate the practice and procedure for appeals of informal disciplinary action.³¹ 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.³²

The officer may dismiss the appeal and confirm the informal disciplinary action being appealed, or allow it and either rescind or vary the action.³³

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.³⁴

(ii) Formal Discipline

Both parties to the disciplinary hearing (the member and the Appropriate Officer) can appeal findings by the board

31 *Supra* note 2, s. 42(8)(c).

32 Section 8 of the *Commissioner's Standing Orders (Disciplinary Action)*, (SOR/88-3620).

33 *Supra* note 1, s. 42(2).

34 *Ibid.*, s. 41(9).

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.³⁵ 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.)³⁶ 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.³⁷

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.³⁸

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 or action.³⁹

1.6 Suspension from Duty and Stoppage of Pay and Allowances

35 *Ibid.*, ss. 45.14(1), 45.14(3).

36 *Ibid.*, ss. 45.15(1), 45.15(3).

37 *Ibid.*, s. 45.16(1).

38 *Ibid.*, s. 45.16(2).

39 *Ibid.*, s. 45.16(3).

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.⁴⁰

(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.⁴¹

Suspension is only ordered where not suspending the member would seriously jeopardize the integrity of the RCMP.⁴² 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 for dismissal if the member is an officer) or to order the member to resign.⁴³

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,⁴⁴

which stipulate in section 2 the Commissioner, a Deputy Commissioner or an 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*.⁴⁵

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*.⁴⁶ 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*.⁴⁷

Stoppage of pay and allowances will not apply to summary convictions, provincial statutes or minor *Criminal Code* offences.⁴⁸

40 *Admin Manual*, supra note 2 at XII.5.D.1.

41 *Supra* note 1, s. 12.1.

42 *Admin Manual*, supra note 2 at XII.5.D.2.a.

43 *Admin Manual*, supra note 2 at XII.5.D.3.

44 SOR/84-866, as amended by SOR/88-649.

45 *Kindratsky v. Canada (Attorney General)*, 2007 FCA 332.

46 *Admin Manual*, supra note 2 at XII.5.D.8 - XII.5.D.21.

47 *Ibid.*, XII.5.D.9, XII.5.D.9.a.

48 *Ibid.*, XII.5.D.10.

Representative's Code of Ethics¹

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;

¹ Royal Canadian Mounted Police Administration Manual, App. XII-9-1.

- b. knowingly assist or permit the client to do anything dishonest or dishonorable;
 - 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.

RCMP Case Management System (Formal Discipline)

Preamble

WHEREAS the *Royal Canadian Mounted Police Act* (“Act”) prescribes disciplinary hearings into alleged contraventions of the *Code of Conduct* in accordance with Part IV of the Act;

WHEREAS the Royal Canadian Mounted Police (“RCMP”) strives to ensure that members facing disciplinary hearings under Part IV of the Act are afforded the opportunity to have their cases heard in a timely and efficient manner;

WHEREAS the RCMP commits to applying the rules of natural justice and procedural fairness;

WHEREAS the RCMP respects the professional obligations of representatives governed by provincial and territorial law societies and/or the *RCMP’s Representatives’ Code of Ethics*;

WHEREAS the RCMP commits to upholding the public’s trust in its members by ensuring that disciplinary cases are dealt with as expeditiously as circumstances permit;

NOW, THEREFORE, the RCMP’s formal discipline cases shall be case managed as follows.

Notice of Disciplinary Hearing

1. In conjunction with the Notice of Disciplinary Hearing, the Appropriate Officer Representative (“AOR”) will provide to the member, in writing, information on the Case Management System, including notice that the member will be contacted by the Case Manager within 15 days of being served; information on the Early Resolution Process (“ERP”); contact information for the Case Manager, the Member Representative Directorate (“MRD”), the Divisional Health Services, the Member/Employee Assistance Program and the Staff Relations Representative Program.
2. The AOR will confirm with the Case Manager and the Adjudications Registrar the date the member was served with the Notice of Disciplinary Hearing and the information referred to in section 1 forthwith.

Case Management System - Timetable

3. The AOR and the member will comply with the following timetable of pre-hearing phases:

confirm that a follow-up meeting with the Case Manager will take place 15 days after the initial case management meeting.

CASE MANAGEMENT SYSTEM - TIMETABLE

STEP IN CASE	MAXIMUM TIME FOR COMPLETION FROM DATE MEMBER IS SERVED	TIME CALCULATED FROM PREVIOUS STEP
Initial Case Management Meeting	15 days	15 days
Follow-up Meeting	30 days	15 days
First Status Report	60 days	30 days
Second Status Report	90 days	30 days
Facilitation	120 days	30 days
Pre-hearing Conference	165 days	45 days
Reporting Date (Certificate of Readiness)	N/A	45 days in advance of the hearing

4. The Case Manager may waive the times required for the completion of a step if he or she determines that there are exceptional circumstances preventing the case from proceeding in accordance with the timetable established in section 3.
7. The initial case management meeting may be held in person, by videoconference, or by telephone conference, depending on the needs and circumstances of the member.

Step 1 – Initial Case Management Meeting

5. The Case Manager will conduct the initial case management meeting with the member within 15 days of the member being served with the Notice of Disciplinary Hearing and the information referred to in section 1.
6. In conducting the initial case management meeting, the Case Manager will explain the Case Management System to the member, inform the member that he or she has a right to be represented for his or her disciplinary hearing, familiarize him or her with the steps he or she must take if he or she wishes to retain a Member Representative (“MR”), inform him or her of the availability of the ERP and

Step 2 - Follow-up Meeting

8. If a MR, external counsel or representative is already retained at the time the initial case management meeting is held or before a follow-up meeting is held, the Case Manager has the discretion to waive the follow-up meeting.
9. The Case Manager will conduct a follow-up meeting with the member 15 days after the initial case management meeting to confirm whether or not he or she is represented and, if represented, the name and contact information of the MR, external counsel or representative.

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10. The follow-up meeting may be held in person, by videoconference, or by telephone conference, depending on the needs and circumstances of the member.
 11. The Case Manager will inform the Board and the AOR in writing of the status of representation of the member forthwith.

Step 3 - First Status Report

12. The AOR and the member must provide a status report to the Case Manager no later than 30 days after the follow-up meeting, or 30 days after the initial case management meeting in the case where the follow-up meeting is waived by the Case Manager.
13. The MR's first status report must confirm the following information:
 - (a) that the AOR provided him or her with the initial disclosure package;
 - (b) that the MR reviewed the initial disclosure package;
 - (c) that the MR identified outstanding disclosure issues and has addressed them with the AOR in writing;
 - (d) whether the MR intends on requesting that the case be dealt with within the ERP and, if so, whether the MR has taken steps to initiate that process;
 - (e) whether discussions with the AOR have commenced with a view to narrowing the issues and/or resolving the case with respect to the allegations, the sanction or both; and
 - (f) whether there are parallel proceedings that may require the parties to request to the Board that it grant a delay in setting a hearing date.
14. The AOR's first status report must confirm the following information:
 - (a) that the AOR has reviewed the Appropriate Officer's evidence and witness list;
 - (b) that the AOR is acting on any outstanding disclosure issues brought forward by the member;
 - (c) whether there are any outstanding disclosure issues brought forward by the MR that the AOR does not with the MR agree on;
 - (d) where the MR has requested that the file be dealt with within the ERP, whether the AOR has taken steps to initiate that process;
 - (e) whether discussions with the MR have commenced with a view to narrowing the issues and/or resolving the case with respect to the allegations, the sanction or both; and
 - (f) whether there are parallel proceedings that may require the parties to request to the Board that it grant a delay in setting a hearing date.
15. The AOR and the MR may choose to submit a first status report jointly if it is agreed by the parties that it would contribute to efficiency and is in the interests of both the Appropriate Officer and the member.
16. The Case Manager will submit reports to the Director of the Appropriate Officer Directorate ("AORD") and, except in cases where the member is self-represented or is represented by external counsel, the Director of the MRD outlining any issues that, if not addressed in a timely manner, may cause delays in the case management process and/or in setting a hearing date.

Step 4 - Second Status Report

17. The AOR and the MR must provide a second status report to the Case Manager not later than 30 days after the date the first status report was submitted.
18. The MR's second status report must confirm the following information:
 - (a) whether any outstanding disclosure or other issues remain that he or she has not been able to resolve with the AOR;
 - (b) whether there is a reasonable justification for a delay in setting a hearing date and, if so, whether the adjudication board has granted the parties permission to delay setting a hearing date.
19. The AOR's second status report must confirm the following information:
 - (a) whether any outstanding disclosure or other issues remain that he or she has not been able to resolve with the member;
 - (b) whether there is a reasonable justification for a delay in setting a hearing date and, if so, whether the adjudication board has granted the parties permission to delay setting a hearing date.
20. The AOR and the MR may choose to submit a second status report jointly if it is agreed by the parties that it would contribute to efficiency and is in the interests of both the Appropriate Officer and the member.
21. The Case Manager will submit reports to the Director of the Appropriate Officer Directorate ("AORD") and, except in cases where the member is self-represented or is represented by external counsel, the Director of the MRD outlining any issues that do not appear to

be resolved and that will be the subject of discussions between the parties as facilitated by the Case Manager.

Step 5 - Facilitation

22. If the AOR and/or MR identify outstanding issues that do not appear from the second status report to be resolved, the Case Manager will facilitate discussions between them within 30 days of submitting his or her reports to the Director of the AORD and/or the Director of the MRD referred to in section 21.
23. The purposes of the facilitation are the same as those for a pre-hearing conference as listed in section 30.
24. The discussions facilitated by the Case Manager may take place in person, by videoconference or by telephone conference, depending on the circumstances and needs of the parties.
25. The Case Manager will submit reports to the Director of the Appropriate Officer Directorate ("AORD") and, except in cases where the member is self-represented or is represented by external counsel, the Director of the MRD outlining the results of the facilitation.
26. The Case Manager will communicate with the adjudication board to inform it that a facilitation was completed.
27. Where the parties failed to participate in the facilitation, the Case Manager will inform the adjudication board of this fact. The parties retain the discretion to make submissions to the adjudication board if they deem it is appropriate.

Step 6 - Pre-Hearing Conference

28. In conjunction with the Adjudications Registrar, the Case Manager will arrange the scheduling of the pre-hearing conference within 45 days of the completion of the facilitation where there are outstanding issues that the AOR and MR are unable to resolve, either in their own discussions or in discussions facilitated by the Case Manager, and they agree to participate in one.
29. If the AOR and MR decide not to participate in a pre-hearing conference to resolve the outstanding issues, the Case Manager will inform the adjudication board of this fact and the parties will set the hearing date unless the adjudication board permits a delay in setting it.
30. An adjudicator who is not already appointed to the adjudication board that will hear the case (“independent adjudicator”) will chair the pre-hearing conference.
31. The purposes of a pre-hearing conference include, but are not limited to:
 - (i) exploring the chances of settling the case with respect to the facts or the sanction or both;
 - (ii) settling or narrowing the issues in dispute;
 - (iii) identifying admissions that may simplify the case;
 - (iv) if the case can be settled, in whole or in part, preparing an agreed statement of facts;
 - (v) ensuring disclosure of evidence;
 - (vi) reaching an agreement on the next steps to be taken in the case before it gets to the hearing; and
 - (vii) if the case is not settled, confirming the AO’s witnesses and other evidence to be presented, determining the motions that will be brought, reaching an agreement on a timetable for the notice(s) of motion and response(s) to be served on the opposing party and estimating the time required for the hearing.
32. The AOR and MR must provide the independent adjudicator with a copy of the Notice of Disciplinary Hearing and all other relevant material prior to the pre-hearing conference to ensure the independent adjudicator’s preparedness.
33. The member’s MR, external counsel or representative (if one is retained) and the AOR must attend the pre-hearing conference with updated instructions from their respective clients and must have the authority to make decisions and/or settle issues.
34. The settlement discussions in the course of the pre-hearing conference are on a without prejudice basis.
35. The independent adjudicator chairing the pre-hearing conference will submit a report to the Case Manager and to the adjudication board outlining the results of the pre-hearing conference
36. Notwithstanding section 35, the independent adjudicator chairing the pre-hearing conference shall not disclose to the adjudication board any settlement discussions and/or admissions made by the parties at the pre-hearing conference.

Step 7 - Reporting Date (Certificates of Readiness)

37. The AOR and the MR will each submit a Certificate of Readiness to the Case Manager no later than six weeks prior to the commencement of the disciplinary hearing.
38. The Case Manager will file the Certificates of Readiness on the Adjudications file.
39. If the AOR and/or the MR fail to file their Certificate of Readiness on time or if it is filed on time and outstanding hearing issues are identified, the Case Manager will inform the adjudication board and, if the adjudication board requests it, refer the matter to the Registrars to coordinate the scheduling of an appearance before it in order to determine how it will proceed.
40. If the AOR and the MR are unable to resolve outstanding issues that are identified in their Certificates of Readiness and it is felt that the case will not be ready to proceed on the scheduled hearing date, the parties have the responsibility of formally requesting an adjournment of the hearing from the adjudication board as soon as possible.

Disciplinary Cases Where Board Grants Delay

41. Where the Board grants the parties permission to delay setting a hearing date at any time during the case management process and the Case Manager determines that a facilitation and/or a pre-hearing conference would be premature, the Case Manager may waive those steps.
42. Where the adjudication board grants the parties permission to delay setting a hearing date as outlined in section 46, the parties must submit status reports in 30-day intervals starting from the time the Board permitted the delay.

43. The status reports referred to in section 47 must confirm the following information:
 - (a) that the same circumstances that led to the adjudication board's decision to permit the parties to delay setting a hearing date still exist; and
 - (b) that the AOR and the MR have informed the adjudication board of any material change in the circumstances that led to the adjudication board's decision to permit the parties to delay setting a hearing date.
44. Where the adjudication board decides that further delays in setting a hearing date will not be permitted and that a hearing date must be set, the Case Manager will encourage the parties to participate in a facilitation or a pre-hearing conference.
45. If the parties do not choose to participate in a facilitation or a pre-hearing conference, the Case Manager will inform the Board of this fact and the parties will set the hearing date.

Transition Period for Pre-Existing Disciplinary Cases

46. For disciplinary cases that pre-exist the effective date of the Case Management System and that have not yet been set down for hearing, the parties must provide a first status report within 30 days of the effective date of the Case Management System and steps 4 through 7 must be followed thereafter.
47. For disciplinary cases that pre-exist the effective date of the Case Management System and that are set down for hearing, the parties must follow step 7 (reporting date/filing Certificates of Readiness).

48. Notwithstanding section 47, where a case pre-existing the effective date of the Case Management System is set down for hearing and the hearing is scheduled to take place in less than six weeks from the effective date, the AOR and MR are not required to file a Certificate of Readiness unless the adjudication board otherwise directs.

Records Keeping/Reporting to Director General of the ASB

49. The Case Manager is responsible for the monitoring of the progress of each formal disciplinary case.

50. The Case Manager will maintain general statistics demonstrating that a justification exists for any delays in setting a hearing date in a given case.

51. The Case Manager shall report the information referred to in section 50 to the Director General of the Adjudicative Services Branch (“ASB”) on a monthly basis.

General Provisions

52. The Case Manager shall not have *ex parte* communications with the Board.

53. The Case Manager must copy the AOR and the MR on any communications with the adjudication board.

54. The Case Manager must copy the MR on any communications with the Director of the MRD.

55. The Case Manager must copy the AOR on any communications with the Director of the AORD.

56. The Case Manager shall not disclose to the Director General of the ASB or to the AOR the discussions and any statements made by the member at the case management meeting and follow-up meeting with the Case Manager.

57. The Case Manager shall not disclose to the Director General of the ASB the settlement discussions that he or she facilitated between the parties or any settlement matters or admissions outlined in the pre-hearing conference report submitted by the independent adjudicator who chaired the pre-hearing conference.

58. In the event that the member is self-represented or is represented by external counsel, the Case Management System remains applicable and any reference in this document to a step to be taken by the Member Representative should be construed as referring to the member personally (if self-represented) or the external counsel (if represented by external counsel), with any necessary modifications.

*Adjudicator's Oath of Office*¹

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 *Royal Canadian Mounted Police 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 _____, 20_____.

Commissioner of Oaths/Justice of Peace

Affiant

¹ *Royal Canadian Mounted Police Administration Manual*, App. XII-11-1.

APPENDIX G

2009-2010

Digest Table of Formal Discipline Cases, 2009-2010

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
1	April 1, 2009	Constable	K	Section 39	Inappropriate comments to a detainee	Reprimand and forfeiture of 3 days' pay
2	April 1, 2009	Constable	F	Subsection 39(1) – x3	Assault (domestic) – x2 Unsafe storage of firearm	Reprimand and forfeiture of 10 days' pay Reprimand and forfeiture of 3 days' pay
3	April 6, 2009	Civilian Member	HQ	Subsection 39(1) – x23	Improper use of government resources	Reprimand, forfeiture of 10 days' pay and a recommendation for continued counselling
4	April 16, 2009	Constable	H	Subsection 39(1)	Impaired driving	Reprimand, forfeiture of 10 days' pay and recommendation for continued professional counselling
5	April 18, 2009	Constable	HQ	Section 49 and subsection 39(1)	Absent from duty without authority Improper use of government resource	Reprimand and forfeiture of 5 days' pay Reprimand and forfeiture of 2 days' pay
6	May 13, 2009	Constable	C	Subsection 39(1) – x2	Unwanted sexual advance Inappropriate comment of a sexual nature to a colleague	Reprimand and forfeiture of 2 days' pay Reprimand and forfeiture of 1 days' pay
7	June 8, 2009	Constable	C	Subsection 39(1)	Improper use of RCMP resources	Reprimand and forfeiture of 1 days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
8	June 8, 2009	Constable	E	Subsection 39(1)	Driving a motor vehicle while under the influence of prescription medication/ fail to remain at the scene of accident	Reprimand and forfeiture of 10 days' pay
9	June 12, 2009	Constable	K	Section 39 – x2	Excessive force Excessive force	[Allegation not established] Reprimand and forfeiture of 2 days' pay
10	June 30, 2009	Constable	HQ	Subsection 39(1)	Driving a motor vehicle while under the influence of alcohol Damage to property (domestic) Uttering threats (domestic)	Reprimand and forfeiture of 10 days' pay Reprimand and forfeiture of 3 days' pay Reprimand and forfeiture of 4 days' pay
11	July 3, 2009	Constable	J	Subsection 39(1) – x3 Section 45(c)	Damage to property and inappropriate comment of a sexual nature Misleading statement to a member superior in rank Misleading statement to a member of another police force Driving a motor vehicle while under the influence of alcohol	Reprimand and forfeiture of 7 days' pay Reprimand and forfeiture of 3 days' pay Reprimand and forfeiture of 5 days' pay Reprimand and forfeiture of 10 days' pay
12	August 11, 2009	Corporal	E	Section 39	Driving a motor vehicle without due care and attention/ fail to remain at the scene of an accident	Reprimand and forfeiture of 9 days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
13	August 28, 2009	Corporal	D	Section 39	Inappropriate comment to a neighbour	Reprimand
14	August 28, 2009	Constable	K	Section 39	Improper use of government credit card	[Allegation not established]
15	August 31, 2009	Constable	F	Subsection 39(1)	Inappropriate comment to a member of the public	[Allegation not established]
16	September 16, 2009	Constable	F	Subsection 39(1)	Access to child pornography (not for personal gratification)	Reprimand, forfeiture of 8 days' pay and recommendation for transfer
17	October 11, 2009	Inspector	F	Section 39 – x3	Intoxicated in a public place	Reprimand and forfeiture of 3 days' pay
					Assault	Reprimand and forfeiture of 10 days' pay
					Fail to comply with the orders of a member of another police force	Reprimand and forfeiture of 4 days' pay
18	October 27, 2009	Staff Sergeant	C	Subsection 39(1)	Driving a motor vehicle while under the influence of alcohol and attempting to use peace officer status to avoid criminal charges	Reprimand and forfeiture of 10 days' pay
19	October 29, 2009	Constable	C	Subsection 39(1)	Use of public funds for personal benefit; false or misleading statement to a member superior in rank	Reprimand and forfeiture of 10 days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
20	October 30, 2009	Constable	E	Subsection 39(1) and section 45(c)	Theft False or misleading statement to a member superior in rank	Dismissal Dismissal
21	November 12, 2009	Constable	K	Section 39	Hunted without a provincial license	Reprimand and forfeiture of 1 days' pay
22	November 12, 2009	Sergeant	K	Section 39	Fail to act in a courteous, respectful and honourable manner	Reprimand and forfeiture of 5 days' pay
23	November 19, 2009	Constable	F	Section 40 – x2	Fail to obey lawful order	Order to resign from the Force within 14 days, in default of which the member to be dismissed from the Force
24	December 18, 2009	Constable	K	Section 39 and section 45	Sexual intercourse (consensual) with a person seeking assistance; false or misleading statement to a member superior in rank	Order to resign from the Force within 14 days, in default of which the member to be dismissed from the Force
25	December 22, 2009	Constable	K	Section 39	Criminal offence of assault	Reprimand, forfeiture or 4 days' pay and recommendation for continued professional counselling
26	December 23, 2009	Constable	O	Subsection 39(1)	Criminal offence of assault	Reprimand and forfeiture of 2 days' pay
27	January 26, 2010	Constable	F	Section 39	Unsafe storage of firearm, ammunition and Conducted Energy Weapon	Reprimand and forfeiture of 5 days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
28	January 26, 2010	Constable	J	Section 45 – x3	False or misleading statement to members superior in rank	Reprimand and forfeiture of 3 days' pay x3
29	January 28, 2010	Constable	A	Subsection 39(1) – x5	Uttering death threats; improper use of government assets; willfully disobeying a court order; contempt of court	Dismissed
30	January 29, 2010	Constable	E	Subsection 39(1) – x4	Reporting for duty under the influence of alcohol; improper use of police vehicle; driving a motor vehicle (police vehicle) while under the influence of alcohol; assisting a minor in entering an licensed establishment/ assisting a minor in purchasing an alcoholic beverage	Reprimand and forfeiture of 10 days' pay
31	February 1, 2010	Corporal	E	Subsection 39(1)	False or misleading statements in relation to an insurance claim	Reprimand and forfeiture of 10 days' pay
32	February 2, 2010	Civilian Member	HQ	Subsection 39(1)	Impaired driving	Reprimand and forfeiture of 7 days' pay
33	February 3, 2010	Constable	F	Subsection 39(1) – x2	Discharging service weapon while under the influence of alcohol (off duty)	Reprimand and forfeiture of 10 days' pay
					Possession of open alcohol in vehicle	Reprimand and forfeiture of 5 days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
34	February 1, 2010	Constable	F	Section 39	Uttering a threat and fail to respect wishes of estranged spouse	Reprimand and forfeiture of 4 days' pay
35	February 19, 2010	Constable	K	Section 39 and section 45	Failing to properly investigate a complaint; false or misleading statement to a member superior in rank	[Allegations not established]
36	March 1, 2010	Constable	H	Subsection 39(1) – x3	Improper use of police transportation Failing to call for assistance Improper use of government assets	Reprimand and forfeiture of 1 days' pay [Allegation not established] Reprimand and forfeiture of 1 days' pay
37	March 11, 2010	Civilian Member	B	Subsection 39(1)	False or misleading statements in relation to the non-payment of taxes and duty	Reprimand and forfeiture of 10 days' pay
38	March 18, 2010	Constable	K	Subsection 39(1)	Driving a motor vehicle while under the influence of alcohol	Reprimand, forfeiture of 10 days' pay and recommendation for continued professional counselling
39	March 26, 2010	Constable	G	Section 39	Sexual intercourse (consensual) while off duty within the detachment	Reprimand and forfeiture of 7 days' pay
40	March 26, 2010	Constable	Depot	Section 39	Improper use of government credit card	Reprimand and forfeiture of 4 days' pay

DATE	RANK OF MEMBER	DIVISION	CODE OF CONDUCT ALLEGATION(S)	DESCRIPTION	DISPOSITION	
41	March 29, 2010	Corporal	F	Section 39	False or misleading statements in relation to the non-payment of taxes and duty	Reprimand and forfeiture of 5 days' pay
42	March 30, 2010	Constable	F	Section 39 and paragraph 51(1) (a)	Driving a motor vehicle (police vehicle) while under the influence of alcohol (on duty)	Reprimand and forfeiture of 10 days' pay
43	March 30, 2010	Corporal	HQ	Subsection 39(1)	Criminal offence of assault	Reprimand and forfeiture of 5 days' pay