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# **CACP Professional Standards Committee**

## **McNeil Decision Online Survey Project**

# **FINAL REPORT**

## CACP Professional Standards Committee

### McNeil Decision Online Survey Project

## FINAL REPORT

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## I. EXECUTIVE SUMMARY

The Canadian Association of Chiefs of Police (CACP) Executive Committee tasked the CACP Professional Standards Committee (PSC) to develop a position paper which could be used to inform chiefs and police leaders across Canada as to the impact of the Supreme Court of Canada decision in the McNeil case and to prepare for appropriate police service responses to this decision. The PSC has undertaken the examination of national trends, “best” practices, and departmental experiences with respect to this decision in order to develop a position on this matter for consideration by the CACP, including any relevant recommendations.

The primary methodology was to gather the requisite data through the use of an online survey instrument and to conduct a thematic analysis of the data in consideration of relevant case law, provincial legislation and identified policies. Fifty-six (56) questions were included in the online survey which went to one hundred and ten (110) police organizations. Forty-eight (48) police agencies from across Canada participated in the survey. This represents a response rate of 43.6%

The survey results were consolidated into the following seven (7) categories for analysis:

- Process;
- Positions Involved;
- Policy/Guidelines;
- Legislation/Case Law/Agreement(s);
- Data Management;
- Organizational Impacts;
- Training, Education, & Information.

The analysis of the data received suggested three (3) particularly relevant areas of impact which could be used to classify or further concentrate the categorization of various conclusions and recommendations formulated for inclusion in this report. Those areas of impact are as follows:

- Public Interest Impact (PII);
- Organizational Policy Impact (OPI); and
- Police Officer Impact (POI).

Each of these areas of impact has been carefully considered with respect to the disclosure of police discipline records consistent with the McNeil Decision.

## **I.1 Conclusions & Recommendations**

This report puts forward ten (10) key conclusions that may require the attention of police leaders. These conclusions have been further utilized to formulate ten (10) major recommendations that may serve to enhance existing practice and lead to greater consistency across the nation's police services. A more detailed discussion of these conclusions and recommendations may be found in the full report.

### **I.1.1 Conclusion & Recommendation #1 – Engage Provincial Chiefs of Police Association (OPI)**

#### **Conclusion**

Further effort is indicated in order to ensure that approaches are aligned across each provincial jurisdiction with respect to the disclosure of police disciplinary records consistent with the McNeil Decision. The Committee sees an important role to be played by the provincial Chiefs of Police associations in this regard.

#### **Recommendation:**

**The Committee recommends that once this report has been directed to the provincial Chiefs of Police associations they are encouraged to strike a committee to discuss the full report in order to consider how consistencies may be achieved within each provincial jurisdiction.**

## **I.1.2 Conclusion & Recommendation #2 – Coordinated Internal Effort & Cooperation with Crown Attorney or Federal Public Prosecution Service (OPI)**

### **Conclusion**

There is wide variation in the existing practice among Canadian police services with respect to the McNeil Decision. Indeed, several departments have not had any substantial experience in this context, while others approach the disclosure of police officer disciplinary records exclusively on a case-by-case basis. In many instances, however, a proactive and agreed-upon framework has been developed to formalize a process that involves a close working relationship including the local Crown Attorney. The value of such a collaborative, and proactive, approach is apparent in many departments and clearly recommends itself as an example of good police practice.

The role of the Crown Attorney, or Public Prosecution Office, as the “gatekeeper” for final decisions with respect to the disclosure of disciplinary records pertaining to the McNeil Decision was clearly seen in responses to the online survey. There is considerable merit in having a designated individual (or, in certain circumstances, a committee) tasked with specific advisory responsibility for this purpose. It is also reasonable to ensure Crown, or Public Prosecution Service, engagement and insight is available at the earliest juncture for decision-making purposes consistent with this area.

It is also relevant to acknowledge that there may not be common processes in place for the determination of relevancy with respect to officer disciplinary records. Furthermore, it is useful to emphasize that the RCMP has a particular relationship to the federal Prosecution Services that require a consistent national approach that may vary in certain details from provincial practice. Also, there may be differences across jurisdictions as to how specific processes are implemented. However, there should be an important emphasis on consistency with respect to the documentation that is being provided to the Crown at all levels.

### **Recommendation:**

**Police services should move to develop a proactive disclosure regime and work closely with their local Crown Attorney to formalize a process for this purpose.**

**This Committee also recommends that there be enhanced communications among police agencies within a region, or province, in order to ensure a consistent approach to discipline records disclosure.**

**Some police services may consider the benefits of seeking the assistance of the Crown Attorney, or Public Prosecution Service, to make initial determinations with respect to the disclosure of records pertaining to the McNeil Decision. This may be particularly appropriate for smaller jurisdictions where human resources are limited.**

### **I.1.3 Conclusion & Recommendation #3 – Development of Tracking Process (OPI, POI)**

#### **Conclusion**

Several agencies indicated that they relied upon a specifically designed form (electronic or print format) to facilitate the tracking of officers' records that could potentially be disclosed under the McNeil regime. This approach often begins at the point of hire and was maintained throughout an officer's career to pinpoint elements that could be relevant in the context of the McNeil Decision and disciplinary matters<sup>1</sup>. This area of inquiry in the survey produced responses that allowed for variation in format and language that was often tied to the specifics of the provincial *Police Act* (or *Police Services Act*). However, the important consideration across all of the responses was to ensure some kind of mechanism for tracking officers and incidents that might trigger a McNeil disclosure.

#### **Recommendation:**

**Police services should consider the development of a process to track officers' records from the point of hire that could potentially be disclosed under the McNeil era. These records could be updated regularly with the local Crown Attorney.**

### **I.1.4 Conclusion & Recommendation #4 – McNeil Disclosure Review Process (OPI)**

#### **Conclusion**

While many police agencies approach (or plan to approach) McNeil Decision matters on a case-by-case basis, it is clear that some have established a committee specifically geared to this purpose to ensure consistency. Certainly, it remains an area of responsibility that resides ultimately with the Chief of Police or equivalent. Yet, this category of executive responsibility may be significantly informed through the assignment of a responsible member, or the creation of a formally mandated committee, tasked with review and recommendation authority. Also, in certain circumstances, it may be useful to consider the practical benefits of a regional and/or provincial advisory body that could provide consistent guidance to several police agencies. This approach would also include representation from the Crown Attorney, or Public Prosecution Office.

#### **Recommendation:**

**Police services should consider the establishment of a McNeil Disclosure process to review and make any necessary determinations consistent with matters relevant to the McNeil Decision within their organization. This may include an individual, or committee, that may liaise on a regular basis with the Crown Attorney or the Public Prosecution Service.**

<sup>1</sup> For example, the RCMP follows this type of approach.



### **I.1.5 Conclusion & Recommendation #5 – Reassignment of Officers and Dealing with Allegations of Deceit (OPI, POI, PII)**

#### **Conclusion**

There was considerable variation in the approach taken to any possible reassignment of officers who were subject to conditions discussed in the McNeil Decision. Indeed, many departments have no process in place whatsoever for this purpose. This is clearly an area that may have substantial impact on all areas of focus for the report (i.e., public interest, organizational policy, and police officer). It is also an area of considerable importance to several levels within each police organization, including senior executive, human resources, staffing, labour relations, and police associations (or unions). Therefore, the approach to officer reassignment easily suggests itself for clear and consistent practice. The responses received to this online survey tend to support the need for decision-making principles or guidelines that consolidate any approach taken to the reassignment of McNeil officers.

Also, deceit, lying and integrity issues were viewed as paramount by several police organizations responding to this online survey. These areas are among the most contentious and critical for police executives and are one of the most serious sources of concern for police chiefs across Canada. The discussions undertaken within this Committee have led to a concentrated focus on the final resolution of any (and all) allegations of deceit against police officers. This focus would also incorporate any aggravating features of such allegations.

#### **Recommendation:**

**Police services should consider the identification of an appropriate individual, or section (e.g., Human Resources or Staffing), within the service in order to undertake the development of a suitable process that will detail any reassignment of officers whose credibility has come into question. This policy may take into account matters pertaining to eligibility for promotional competition, special assignments (e.g., higher level investigative units), developmental opportunities, and other career matters.**

**Additionally, consistent with issues of officer reassignment, police services should consider making any allegation involving deceit a matter requiring formal resolution, depending on the aggravating features of the allegation(s).**

## **I.1.6 Conclusion & Recommendation #6 – Officer Challenge to Disclosure (OPI, POI)**

### **Conclusion**

There was some considerable degree of variation in terms of policy and/or process for officers to challenge the disclosure of a record made pursuant to the McNeil Decision. In some instances, police departments had no policy in place whatsoever. In other agencies, officers could advance their challenges through their police association. Certain other departments provided an opportunity for a written submission that would be forwarded to the Crown Attorney outlining any challenge of the decision to release disciplinary records for disclosure.

This area is closely tied to policies in place in specific jurisdictions (e.g., Ontario) where a set of requirements may influence the practice that would apply and the specific engagement of police associations. The concept of a “best” practice here leads to a recommendation that facilitates the articulation of an officer’s challenge to a decision to disclose a disciplinary matter without interfering with a court process.

### **Recommendation:**

**Officers should be notified of all decisions relating to disciplinary records disclosed to the Crown. When records are disclosed, police services should provide some formal mechanism by which an officer may challenge the disclosure of discipline records consistent with the McNeil Decision. This could include an “Objection to Disclosure” portion on any form prepared for this purpose. It is also worthwhile to include a clear timeline for the completion of this form. There may also be value in providing an officer with an opportunity to speak with a designated Senior Officer, or Crown Attorney, with respect to the officer’s challenge of the disclosure decision.**

### **I.1.7 Conclusion & Recommendation #7 – Dealing with Expunged, Purged, or Pardoned Records & Officer Notification (OPI, POI)**

#### **Conclusion**

The practice across those police services that responded to this online survey varied consistent with the legislation and regulation in place in those jurisdictions. Accordingly, the possibility of an explicit policy that would capture all relevant approaches to dated, expunged, purged, or pardoned records is remote in the extreme. However, a detailed statement of purpose that sets out any pertinent matters with regard to these categories of records would be beneficial and consistent with the principles of openness and accountability.

Furthermore, the involvement and engagement of officers in the full cycle of disclosure decisions relating to McNeil records is seen as good practice for all Canadian police organizations. Unless there are compelling reasons to prevent such an approach (for example, should notification of disclosure to a particular officer jeopardize an ongoing investigation), the practice of officer notification would serve to close the loop in a satisfactory manner.

#### **Recommendation:**

**All police services should have a clear statement with respect to the disclosure of expunged, deleted, or purged records. And, in addition, when such records are disclosed to the Crown police services should ensure that officers are fully notified when a decision has been made to disclose disciplinary records consistent with the McNeil Decision.**

### **I.1.8 Conclusion & Recommendation #8 – Protection of Personal Information (OPI, POI)**

#### **Conclusion**

The maintenance of secure records pertaining to personal information, including the protection of personnel files that relate to McNeil disclosure records, is a significant organizational responsibility. Accordingly, it was noted by several police agencies that they have strictly controlled access to such records, often including storage of original forms and digital information in a secure location. This may also include storage of records in a separate physical location and on separate servers to ensure proper control, adequate protection, and limited access.

Several departments also maintain directories of personnel authorized to access such files and/or records. Specific practice in this area will necessarily be dependent on the resources available to individual departments, as well as, to precise organizational needs.

#### **Recommendation:**

**Police services should consider keeping original copies and digital information on file in a secure location. This may include a separate physical location and/or on separate servers. Also, it may be beneficial to maintain a directory of authorized personnel who may access these files.**

### **I.1.9 Conclusion & Recommendation #9 – Training, Education & Development (OPI, POI)**

#### **Conclusion**

Many police agencies indicated that they had developed formal approaches to the training of personnel with regard to the McNeil Decision. This included in-service training, presentations by staff lawyers, or Professional Standards personnel, on the decision and its implications, and roll-call training sessions. However, quite a number of departments indicated that they had no formal training with respect to this decision. Others pursued a more informal approach with information bulletins, communiqués, and brief presentations which attempted to provide some level of awareness.

There are clear and obvious benefits that may be derived from the more formal approach to this matter, not the least of which pertains to risk management on behalf of the organization and its members. As a corporate, and individual officer, responsibility it is reasonable to ensure that some continuum of detailed information and instruction be offered with regard to the McNeil Decision and its impact.

#### **Recommendation:**

**All police services should ensure that they have undertaken a comprehensive approach to the dissemination of information pertaining to the McNeil Decision and its organizational impacts. This may include information bulletins, communiqués, workshops, in-service & roll-call training, and detailed presentations on this topic. Staff lawyers, Professional Standards personnel, and departmental trainers may all be useful resources for this range of options.**

## **I.1.10 Conclusion & Recommendation #10 – Financial Considerations (OPI, PII)**

### **Conclusion**

A wide range of responses was provided to the questions that related to the actual costs associated to achieving compliance with the requirements of the McNeil Decision. Some police services have seen these costs as “minimal” while others have indicated that the costs related directly to the establishment of positions having carriage for McNeil Decision determinations and disclosure are high.

It is the considered view of this Committee that a fiduciary responsibility exists for all services to have a clear picture of the direct, and associated, costs that relate to the decision-making and documentation processes that relate to this area of disciplinary disclosure. Certainly, within the prevailing conditions of significant economic constraint, it is sound business practice to assess how these policies, procedures, processes and practices impact upon existing police resources. It is also reasonable to measure the financial impact(s) of the McNeil Decision in order to facilitate the potential sharing of “best” practices across Canada’s police services.

### **Recommendation:**

**All police services should ensure that they maintain records that will assist in measuring the financial impact of the McNeil Decision on their organization.**

## II. BACKGROUND

Police services across Canada have been challenged by the recent decision in the *R v. McNeil* case<sup>2</sup>. In order to understand the impact of this decision and to prepare for appropriate police service responses to this decision, the Professional Standards Committee (PSC) of the Canadian Association of Chiefs of Police (CACP) has undertaken the task of examining national trends, “best” practices and departmental experiences with respect to this decision.

Accordingly, the PSC has undertaken the completion of a national survey of Canadian police services dealing with elements of this decision. The survey was delivered in an online format<sup>3</sup> which allowed for ease of participation and completion. It is anticipated that the responses and feedback generated by this means provide a database of information that will be of assistance to all police services across Canada. Specifically, the online survey requested details of police service policies, practices, and procedures developed in response to the McNeil decision. Also, the survey was utilized to identify contact persons within each police service who may be considered Subject Matter Experts (SMEs) on matters relevant to this decision. The McNeil Decision Online Survey instrument was distributed under the auspices of the CACP. The design, dissemination, collection and analysis of this McNeil Decision Online Survey were facilitated by *Public Safety Innovation, Inc.* (PSI, Inc.).

The data from this online survey have been used to prepare this analysis. The responses from participating Canadian police services, including supplementary materials developed within individual departments relevant to the McNeil Decision may be further utilized to inform detailed responses on this matter on behalf of the CACP<sup>4</sup>.

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<sup>2</sup> *R v. McNeil* 2009 SCC 3, [2009] 1 S.C.R. 66

<sup>3</sup> The survey instrument was designed and disseminated using *Survey Monkey* software services.

<sup>4</sup> **N.B.: Several documents pertaining to the McNeil Decision have been prepared by Perly-Robertson and shared with the CACP by Ms. Lynda Bordeleau. These documents, along with additional relevant resources, will be made available through links provided on the CACP website as an accompaniment to this report.**

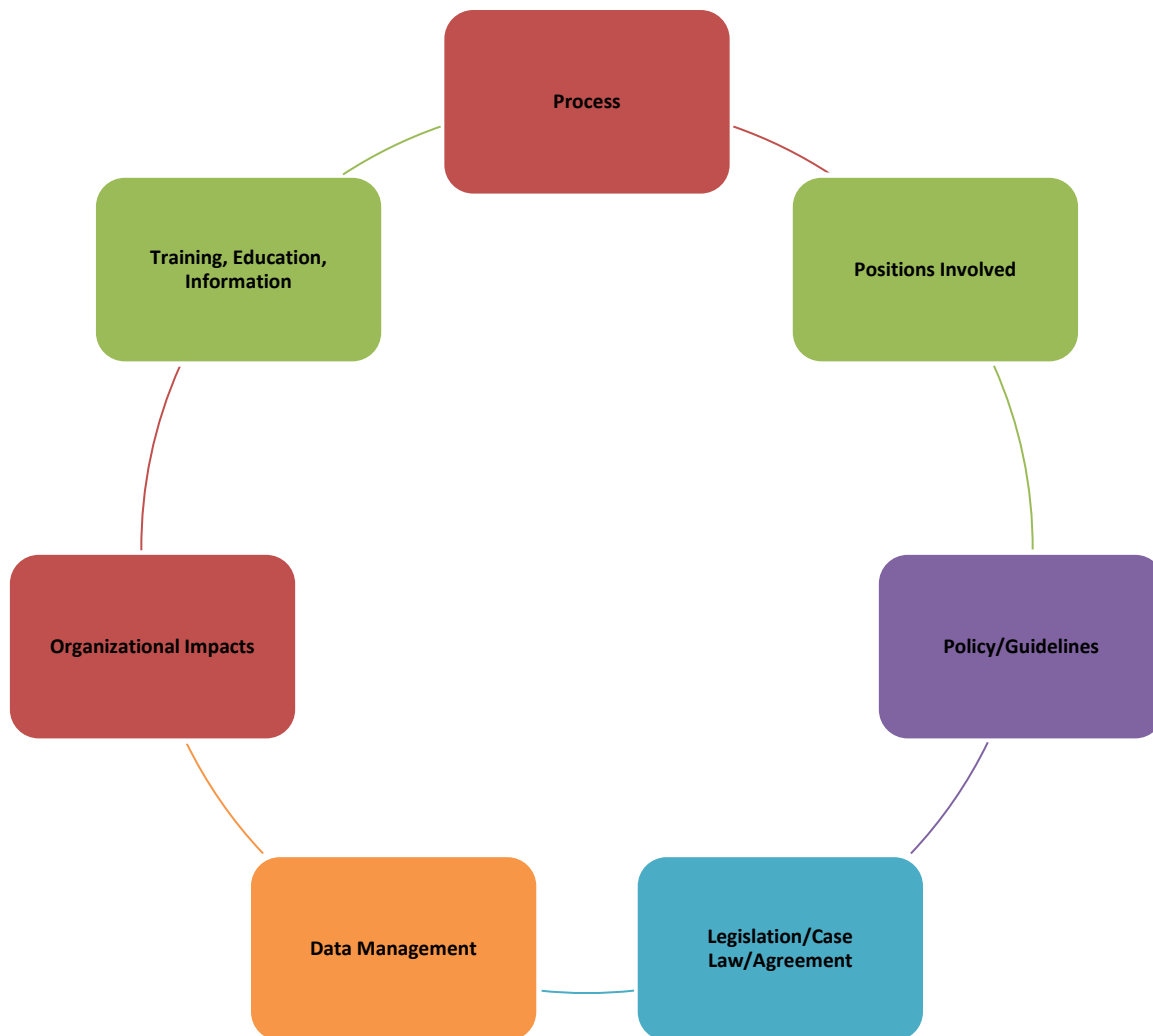
### III. SUMMARY & ANALYSIS OF THE SURVEY DATA

#### III.1 OVERVIEW OF QUESTIONS

There were fifty-six (56) questions included in this survey document (see Appendix #1 for the English version of the online survey instrument and Appendix #2 for French version).

Figure 2, below, provides an overview of the categories dealt with in this survey:

**FIGURE 2**



Within each of the above categories, specific questions were developed to provide respondents with an opportunity to elaborate on their experience with this decision. A more detailed breakdown of each of the above categories follows:



### III.2 PROCESS

In this category are found all questions which seek background on the processes in place in each police service pertaining to their handling of McNeil decision matters. This included these areas of exploration:

- Disclosure of Records;
- Determination of “Serious Misconduct”;
- Relevance for Disclosure;
- Assessing Officer Integrity or Credibility;
- Differences between Formal & Informal Discipline;
- Disclosure of Absolute or Conditional Discharges;
- Continued Confidentiality of Disclosed Records;
- Officer Notification of Decision to Disclose to Crown;
- Officer Challenge of Disclosure Decision;
- Officer NOT Aware of Ongoing Matter Disclosed to Crown;
- Ensure Disclosed Record Considered for other Matters before Court; and
- Removal or Retrieval of Disclosed Records that have been Expunged, Purged or Pardoned

### III.3 POSITIONS INVOLVED

In order to gain some clear understanding of the various positions involved in the decision-making, preparation and physical dissemination of discipline records for disclosure, the survey asked a number of structured questions. Specific areas of focus are as follows:

- Deciding on Information Disclosed to Crown;
- Preparation for Disclosure; and
- Disclosure of Records

### III.4 POLICY & GUIDELINES

The survey sought to discover the level of policy and/or guidelines developed for the purposes of the disclosure of records consistent with the McNeil Decision. Specifically, the questions in this category pertain to the records-keeping aspects of disclosure around discipline files. This area includes the following elements:

- Level of Detail in Disclosed Records;
- Disclosure of Dated, Expunged, Purged or Pardoned Records;
- Internal Discipline, Labour Law, or Employment Incidents Outside of *Police Act* Disclosure;
- Disclosure of Other Records under Investigation or Review but NOT Part of Disciplinary Process;
- Retention Period for Disciplinary Records; and
- Ensure Crown does not Disclose Police Records Inappropriately

### III.5 LEGISLATION, CASE LAW & AGREEMENTS

This section was intended to collect information on all statutes that may be relevant to the decision to disclose disciplinary records. Clearly, the “Ferguson Five”<sup>5</sup> categories are central to this aspect of the survey. The obligation to observe the requirements of this component of the McNeil Decision remains in place. Also, the survey sought to gather feedback on post-McNeil Decision judgments that may provide additional guidance on the disclosure of personnel files. The elements of this category of survey questions include:

- Federal/Provincial Statutes/Regulations where Conviction Requires Disclosure;
- Court Decisions Providing Guidance on McNeil; and
- Agreements/Memoranda of Understanding with Crown Re: McNeil

### III.6 DATA MANAGEMENT

This section was designed to determine if any data management systems were in place for the ongoing tracking of disclosed police records.

- Crown or Defense Databases for Tracking Police Disclosure of Records

### III.7 ORGANIZATIONAL IMPACTS

The questions in this section of the survey were included to discover if there were broad organizational impacts resulting from the McNeil Decision. While this Supreme Court of Canada decision is still relatively recent, the survey was seeking any indications of repercussions in terms of officer assignment, related challenges and specific costs associated with the decision. The specific areas examined in this context include the following:

- Investigation of Criminal Conduct of Officers;
- Investigation of Professional Misconduct of Officers;
- Specific Assignment of Personnel with McNeil Records;
- Significant Problems or Challenges; and
- Costs of Compliance

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<sup>5</sup> “Ferguson Five” refers to a series of conviction categories that should trigger the disclosure of information pertaining to an officer. These derive from the 2003 review and recommendations prepared by The Honourable George Ferguson and completed on behalf of the Toronto Police Service concerning several aspects of police misconduct. The “Ferguson Five” are: any conviction or finding of guilt under the *Canadian Criminal Code* or *Controlled Drugs and Substances Act* (for which a pardon has not been granted); any outstanding charges under the *Canadian Criminal Code* or the *Controlled Drugs and Substances Act*; any conviction or finding of guilt under any other federal or provincial statute; any finding of guilt for misconduct under the *Police Services Act*, and any current charge; and any current charge of misconduct under the *Police Services Act* for which a hearing has been directed. Ferguson’s report was written in an Ontario context and, therefore, certain variations may occur in the practice within other jurisdictions.

### III.8 TRAINING, EDUCATION, & INFORMATION

This section was included to determine the extent to which police services have provided training, education and/or information to their membership (and others) with respect to the McNeil Decision. It was expected that some degree of variation would be discerned here that may contribute to “best practice” in these areas, including:

- Provided to Membership-at-Large;
- Provided to Crown;
- Legal Advice Sought;
- Additional Information Available; and
- Identification of Subject Matter Experts (SMEs)

### III.9 OVERALL ONLINE SURVEY RESULTS

A total of one hundred and seven (107) police organizations received an invitation to participate in the McNeil Decision Online Survey, based upon a mailing list maintained by the CACP Office in Ottawa. However, to ensure appropriate coverage of all regions of the RCMP, the survey link was also sent to additional RCMP regions for completion. Accordingly, a total of one hundred and ten (110) locations were in receipt of this survey, with the following response results:

Source of Response	Number	Percentage
English	36	75
French	12	25
<b>TOTALS</b>	<b>48</b>	<b>100</b>

A further breakdown by Province/Region is also provided for background purposes as follows:

Province/Region	# of Responses	Percentage
Newfoundland & Labrador	1	2.0
New Brunswick	2	4.1
Nova Scotia	1	2.0
Québec	12	25
Ontario	13	27
Manitoba	3	6.25
Alberta	4	8.3
British Columbia	7	14.6
Federal	5	10.4
<b>TOTALS</b>	<b>48</b>	<b>100</b>

The responses originated from police services of varying sizes as outlined below:

<b>Police Service Size</b>	<b>Number</b>	<b>Percentage</b>
Under 100	12	25
100 to 500	20	41.7
501 to 1000	4	8.3
1001 to 5000	9	18.75
5001 +	3	6.25

Overall, the submissions received from this online survey represent a **43.6%** response rate. This constitutes quite a healthy response rate, particularly given the length and complexity of the survey instrument.

## **IV. DETAILED ONLINE SURVEY RESULTS**

The analysis of the various categories, outlined above, results in useful information and insights relevant to the manner in which Canadian police services have responded to the McNeil Decision. It is immediately evident that there are a range of legislative requirements, policies, procedures, practices and principles that guide police organizations as they approach professional standards and disciplinary measures. The following provides some detailed examination of these results consistent with the categories established for this purpose.

### **IV.1 PROCESS**

#### **IV.1.1 Disclosure of Records**

The range of responses covered the following main approaches:

<b>Response(s)</b>	<b>Number</b>	<b>Percentage</b>
<b>Agreed framework established for disclosure</b>	<b>19</b>	<b>39.6</b>
Case-by-case approach	6	12.5
Officers self-report	14	29
Disclosure upon request by Crown	5	10.4
No process	1	2
Disclosure of records has not been an issue to date	3	6.25

While there were few police services indicating that they had no process in place for the disclosure of officer discipline records, a number of departments reported that they operated on a largely case-by-case basis. Several of those indicated that they were planning to move to a more “proactive” disclosure regime that would formalize their organizational approach to this matter. Some departments are presently in discussion with their local Crown Attorney’s office to develop such a formalized approach.

Also of note is the approach which has allowed some departments to move to an automated method for disclosure to the Crown for every charge file and every officer involved in that file. This automated means of dealing with disclosure is occasionally tied to search engines which allow the department to send electronic messages, which are secure and encrypted, to the Crown based on structured search results.

Several departments have developed and designed relevant checklists that pertain to the McNeil Decision. For example, a “Police Witness Disclosure Form” and a “Member Conduct Disclosure Form” have been introduced to facilitate officer self-reporting and the provision of consistent information to the Crown. In such cases, officers are responsible for keeping these forms updated.

#### IV.1.2 Determination of “Serious Misconduct”

This area of consideration generated the following key responses:

Response(s)	Number	Percentage
<b>All discipline is disclosed</b>	<b>8</b>	<b>16.6</b>
Any Police Services Act matter is disclosed	2	4.1
Any matter where the discipline exceeds 24 hours	1	2
Case-by-case determination	7	14.6
Chief of Police decides	4	8.3
Committee decides	1	2
Conviction at hearing	1	2
Criminal conduct	4	8.3
Crown decides	5	10.4
Follow “Ferguson Five” criteria	6	12.5
No process in place	3	6.25
Policy table	3	6.25
Possible impact on testimony	2	4.1

In many instances, police services view any *Police Act* (or *Police Services Act*) charge as “serious” with some of the following exceptions:

- Political activity;
- Resignation during emergency;
- Trade union membership;
- Absent without leave from, or late for, any duty without reasonable excuse;
- Improperly dressed;
- Dirty or untidy in person, clothing or equipment while on duty; and
- Wilfully or carelessly causes loss or damage to any article of clothing.

Of importance to many police services was the possible impact which any discipline might have on an officer's ability to testify in court. Clearly, the focus for police executives is on a combination of elements that speak to officer credibility, integrity and honesty. Often the process in place rests with the Chief of Police and will include matters of deceit or violence and officer reliability. However, other delegated means have been implemented to facilitate this process on behalf of the Chief of Police.

#### IV.1.3 Relevance for Disclosure

With regard to relevance for disclosure respondents provided feedback which can be divided into the following categories:

Response(s)	Number	Percentage
All discipline is disclosed	3	6.25
Case-by-case analysis makes determination on relevance	10	20.8
Where conduct and/or credibility of office is relevant	3	6.25
<b>Crown makes necessary determinations</b>	<b>27</b>	<b>56.25</b>
Ministry of Public Security criteria	3	6.25
Review Board makes determination	1	2
No process in place	1	2

The pre-eminent emphasis in the responses to this question indicates that the Crown is clearly the "gatekeeper" when it concerns matters of relevance. Again, a simple concept of officer credibility guides these determinations. Several police departments noted that this needs to be a matter for local determination. It typically does not include matters which pertain, in essence, exclusively to an employee/employer relationship (e.g., absent without leave, late for duty and related items). Some departments have developed an "Employee Misconduct Disclosure for Crown Attorney" form to guide this aspect. While it is clear that most agencies acknowledge Crown as the gatekeeper for disclosure in the context of what Crown discloses to defence, it is less clear as to the processes and practices used to determine what Crown is made aware of to fulfil their gatekeeper role.

#### IV.1.4 Assessing Officer Integrity or Credibility

This area of consideration included the following key categories:

Response(s)	Number	Percentage
Entirely based upon the McNeil Decision	6	12.5
<b>Case-by-case assessment(s)</b>	<b>21</b>	<b>43.75</b>
Crown makes assessments	6	12.5
Officer self-disclosure relied upon	4	8.3
Decision tree	1	2
No process in place	8	16.6
RCMP policy	1	2

The largest proportion of responses in this category indicates that a case-by-case approach is taken by police services. It was noted that officer integrity has been an issue of importance since the release of the O'Connor<sup>6</sup> Decision.

Some departments noted that they will reassign officers whose credibility may be questioned. Also, officers with dishonesty disclosures may have this weighed against them in promotional competitions. Often the department will ask the question: Does the issue impact upon the public trust? Police executives will consider the potential impact on the organization's "ethics" and how the behaviour reflects upon the officer's Oath of Office.

Several departments noted that issues of officer integrity and credibility will certainly influence an officer's career advancement, especially with regard to higher level investigative units where court credibility is an essential aspect of doing the job. Accordingly, depending on the seriousness of any breach, an officer will be assigned to areas where they will not be in a position to testify in court. Some noted that they will work toward rebuilding an officer's credibility through training, proactive measures leading to successful, unchallenged court cases.

The question of dismissal was not discussed in responses provided to this question; however, since the survey closed it has become clear that some agencies are considering termination of officers who can no longer testify. The discussion is based on the ability or inability to place an officer in non-operational roles, which may be more difficult for smaller agencies, the notion that public trust may be eroded when it is made public that an agency retains an officer with integrity issues, and the issue of the potential negative internal messaging that indicates it is okay to give up integrity as the organization will find a way to support such an officer. These discussions will be more common place as agencies have more experience with officers whose operational usefulness is spent as a result of impugning their integrity.

<sup>6</sup> The O'Connor decision, *R. v. O'Connor*, [1995] 4 S.C.R. 411, dealt with the disclosure of medical and counselling records and appropriate procedures to be followed in the production of documents in the hands of third parties. This decision may be accessed at: <http://www.canlii.org/en/ca/scc/doc/1995/1995canlii51/1995canlii51.html>

In essence, it was noted that integrity and credibility “...are the hallmarks of an officer’s ability to testify...” (**Note:** this is an extract from a police service response) and they have a direct impact on the police service’s reputation.

#### IV.1.5 Differences between Formal & Informal Discipline

There were thirty-eight (38) departments that differentiate between formal and informal discipline (79.1%). Where departments made this distinction, the following considerations were considered relevant:

Response(s)	Number	Percentage
<b>Informal discipline relates to “non-serious” matters</b>	<b>10</b>	<b>20.8</b>
Anything which has an Informal Resolution	5	10.46
Where discipline imposed is not on file	8	16.6
Objective analysis of the matter is conducted	5	10.4
<i>Police Act</i> criteria applied	6	12.5
Application of a Discipline Matrix	1	2
Notice of Hearing has been served is formal	1	2

It was noted by several police organizations that the criteria for “serious” and “non-serious” matters is clearly set out in the relevant *Police Act*. Basically, discipline that is imposed outside of a hearing is considered “non-serious” and would not need to be disclosed under the McNeil Decision.

#### IV.1.6 Disclosure of Absolute or Conditional Discharges

- A majority of departments (i.e., 23 or 47.9%) disclose absolute or conditional discharges; and
- Of that number, eighteen (18) make that disclosure decision in consultation with the Crown

This discrepancy is worth noting in that this equates to 52.1% of agencies not disclosing such records. This type of inconsistent practice, especially if within the same province, has the potential for the courts to weigh in to clarify further as to what should and should not be disclosed.



#### IV.1.7 Continued Confidentiality of Disclosed Records

Thirty-one (31) or 64.5% of respondents have in place some process whereby the continued confidentiality of disclosed records is maintained. Primarily this rests with the Professional Standards office, or, with the Crown.

It was noted by several police agencies that only individual officers have access to their McNeil report which provides the basis for any continued confidentiality of such records. Several responses noted that once records have been disclosed to the Crown/Defence, they are effectively out of the police agencies' control. However, it was emphasized that the Crown is bound by ethical and legal obligations of confidentiality. In some instances one identified Crown Attorney receives all McNeil Decision-type disclosures.

#### IV.1.8 Officer Notification of Decision to Disclose to Crown

Thirty-three (33) or 68.75% of participating agencies indicated that they have in place some mechanism for officer notification regarding disclosure. This may indicate a “best” practice that will be reflected in the recommendations.

#### IV.1.9 Officer Challenge of Disclosure Decision

Thirty (30) respondents (i.e., 62.5%) indicated that they have some process for officers to challenge the disclosure of a record made pursuant to the McNeil Decision. Of that number, the following provides an outline of the various approaches:

Response(s)	Number	Percentage
Appeal(s) to the Professional Standards Office	5	10.4
Objection form completed by officer	3	6.25
Police Association engagement	2	4.1
<b>Written Crown submission</b>	<b>20</b>	<b>41.6</b>

Some police departments indicated that they use a McNeil Report form which includes space for an “Objection to Disclosure” for officers to complete. Additionally, a timeframe of twelve (12) days was established by one department for officers to oppose any disclosure decision. Other departments encourage officers to speak directly with the Deputy Chief of Police or the Crown on this point. Upon review of the data there are some concerns that when an officer’s objection is given to the Crown in writing there may be the potential for this to be disclosed to defense if the record is to be disclosed. Caution is offered to ensure that police fully understand what Crown’s policy is before engaging in this practice.

#### IV.1.10 Officer NOT Aware of Ongoing Matter Disclosed to Crown

This refers to a situation whereby an agency becomes aware of conduct that should be disclosed to Crown, however the matter is still under active investigation or some other process which precludes the ability of the agency to advise the officer of the finding. There are various approaches to dealing with this matter across all the respondents.

Response(s)	Number	Percentage
<b>Case-by-case approach</b>	<b>6</b>	<b>12.5</b>
Crown notified	4	8.3
Disclosure may jeopardize ongoing investigation	2	4.1

#### IV.1.11 Ensure Disclosed Record Considered for other Matters before Court

This refers to the process by which any matters that are already before the court, at the time an officer's record is deemed to fall within McNeil, are considered to determine if the conduct should be disclosed in that matter as well. Twenty-four (24) or 50% of respondents have some process in place that ensures continuity with respect to other matters. This includes a broad range of approaches that may involve the Crown, Detachment Commanders, and officer self-disclosure.

#### IV.1.12 Removal or Retrieval of Disclosed Records that have been Expunged, Purged or Pardoned

Many respondents have no process in place for this purpose. Several departments rely upon the Crown Office to request this removal or retrieval. One department assigns this task to their IAPro Administrator. Some areas are awaiting specific direction from their Provincial authorities in this area. The British Columbia *Police Act* contains section(s) dealing with the expunging of records for *Police Act* purposes but this does not place a burden on the Crown to return or retrieve physical records. The reality exists that once a record is disclosed there are no mechanisms, requirements, or limitations as to how that record may be used in the future. Once defense knows of a record disclosed in one matter, they may be in a position to cross examine an officer on that record in another subsequent matter, whether it has been expunged, purged or pardoned. It will be for the Court to decide the appropriateness and admissibility of such questions. No police leader should be operating on the assumption that after a record is expunged it will never be brought up again in court. This is important to consider when one is pondering the future operational effectiveness of an officer who is subject to disclosure under McNeil, and in consideration of future assignments. Prior to making such decisions it will be important that police agencies understand how the Crown anticipates handling such situations.

## IV.2 POSITIONS INVOLVED

### IV.2.1 Deciding on Information Disclosed to Crown

There was a broad array of positions within the various departments as to the positions assigned responsibility for making disclosure of information to the Crown, including:

Response(s)	Number	Percentage
Chief or Deputy Chief of Police	5	10.4
Bureau Commander	4	8.3
Detachment Commander	1	2
Inspector	8	16.6
<b>Professional Standards</b>	<b>18</b>	<b>37.5</b>
Staff Lawyers/Legal Counsel	5	10.4
Ministry Policy	1	2
Sergeant, Staff Sergeant or Detective Sergeant	2	4.1
Officer Self-Disclosure	1	2
No position(s) identified for this purpose	3	6.25

### IV.2.2 Preparation for Disclosure

Those positions tasked with specific aspects relating to the preparation of documentation for disclosure were also wide-ranging, as follows:

Response(s)	Number	Percentage
Captain	2	4.1
Chief or Deputy Chief of Police	4	8.3
Constable	1	2
Court Services Section	3	6.25
Crown	1	2
Crown Liaison	2	4.1
Detective Sergeant	2	4.1
Discipline Reviewer	1	2
Director	3	6.25
Human Resources Inspector	1	2
Lieutenant Detective	1	2
<b>Professional Standards Section</b>	<b>21</b>	<b>43.75</b>
Operational Commander	2	4.1
Inspector, Human Resources or Support Services	7	14.5
Records Department	1	2
Sergeant or Staff Sergeant	4	8.3
Staff Lawyers or Legal Counsel	2	4.1
Subject Officer	6	12.5

### IV.2.3 Disclosure of Records

The actual disclosure of relevant records for this purpose was assigned to the following positions:

Response(s)	Number	Percentage
Captain	2	4.1
Chief or Deputy Chief of Police	4	8.3
Court Case Manager	5	10.4
Crown Office	1	2
Director	3	6.25
Individual Officer	8	16.6
Inspector	5	10.4
Internal Affairs	1	2
Officer-in-Charge, Case Management	1	2
Operational Commander	1	2
<b>Professional Standards</b>	<b>13</b>	<b>27</b>
Records Department	1	2
Staff Lawyer or Legal Counsel	2	4.1
Sergeant or Staff Sergeant	3	6.25
No specific position(s) designated for this purpose	2	4.1

### IV.3 POLICY & GUIDELINES

#### IV.3.1 Level of Detail in Disclosed Records

This is an area that demonstrates the inconsistencies in practice. A review of the data should cause one to reflect on the opportunities that are being presented to defense in relation to asking the courts to establish common disclosure requirements for the level of detail to be disclosed, the types of records to be disclosed, and the timelines around disclosure of various records. The question looms as to whether police, especially within a province, should ensure consistency in this regard so that Crown and defense receive consistent information thereby eliminating the need to have the Court weigh in on such matters. Respondents provided a range of information pertaining to the following categories:

Response(s)	Number	Percentage
Summary of the details of incident in writing	28	58
Description of default & disposition as noted in relevant legislation, without details of incident	13	27
Summary of details of incident, orally	5	10.4
Copy of complete file on incident in writing	3	6.25
Complete description of facts of incident, orally	1	2

#### IV.3.2 Timelines for Disclosure of Absolute or Conditional Discharge

Response(s)	Number	Percentage
Practice varies considerably in this area	31	64.5
No policy in place respecting timelines	33	68.7
One (1) year, absolute discharge	5	10.4
Three (3) years, on conditions prescribed in probation order	8	16.6
Conditions still outstanding	2	4.1

#### IV.3.3 Disclosure of Dated, Expunged, Purged or Pardoned Records

Twenty-eight (28) or 58.3% of respondents indicate that their organization has some policy or guidelines with regard to the above. These policies and/or guidelines vary considerably across the full range of respondents.

#### IV.3.4 Internal Discipline, Labour Law, or Employment Incidents Outside of Police Act Disclosure

Of all respondents, seventeen (17) or 35.4% had policy or guidelines that related to the above matter.

#### **IV.3.5 Disclosure of Other Records under Investigation or Review but NOT Part of Disciplinary Process**

In this area, twenty-four (24) or 50% of respondents indicated that there was policy in place. Specific practice varied considerably and is difficult to summarize briefly.

#### **IV.3.6 Retention Period for Disciplinary Records**

Thirty-one (31) or 64.5% of respondents have a specific retention period for these records. These retention periods vary considerably across all responding police organizations.

#### **IV.3.7 Ensure Crown does not Disclose Police Records Inappropriately**

Most respondents indicated that they have no process in place for this aspect. Several respondents noted that they rely upon, and trust in, the integrity of the Crown Office to act appropriately in such circumstances. The specific responses supplied to this query included:

<b>Response(s)</b>	<b>Number</b>	<b>Percentage</b>
Development of a Crown letter or directive	4	8.3
<b>Discussion with Crown/Attorney General</b>	<b>6</b>	<b>12.5</b>

## IV.4 LEGISLATION, CASE LAW & AGREEMENTS

### IV.4.1 Federal/Provincial Statutes/Regulations where Conviction Requires Disclosure

There were several statutes/regulations included with the following predominating:

- *Criminal Code*;
- *Controlled Drugs and Substances Act*;
- “Ferguson Five” components; and
- Any Provincial Act, while on, or off, duty

### IV.4.2 Court Decisions Providing Guidance on McNeil

There were several decisions suggested by the respondents for this purpose as follows<sup>7</sup>:

- [Washington v. Toronto Police Services Board, 2009 HRT0 640 \(CanLII\)](#);
- [R. v. Kennedy, 2010 NLTD 52 \(CanLII\)](#);
- [R v Perrault, ABQB 2010.pdf](#)
- [R. v. Steele, 2010 ABQB 39 \(CanLII\)](#);
- [R. v. Steele, 2010 ABQB 161 \(CanLII\)](#);
- *R. v. Shane Haley*;
- [Bordo c. R., 2010 QCCS 4560 \(CanLII\)](#);
- [R. v. Polny, 2009 CanLII 81890 \(AB QB\)](#);
- [Regina v. Bell, 2009 BCPC 202 \(CanLII\)](#);
- [R. v. Yip, 2010 ABPC 292 \(CanLII\)](#)

### IV.4.3 Agreements/Memoranda of Understanding with Crown Re: McNeil

Twenty-three (23) or 47.9% of respondents indicated that they had some form of agreement or memoranda of understanding with the Crown in this area. The specific details of these arrangements vary considerably and include protocols or ongoing liaison between the Crown Office and Professional Standards personnel.

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<sup>7</sup> Electronic versions of the above noted cases have been made available to the Sub-Committee. An additional case has been noted from Ontario; *R. v. Atchison et al.* (Ontario Superior Court) involving the Stratford Police Service.

## IV.5 DATA MANAGEMENT

### IV.5.1 Crown or Defense Databases for Tracking Police Disclosure of Records

This question sought to understand an assertion that Crown and defense are maintaining databases to track officer's McNeil records. This was reportedly being done for Crown to ensure any files before the courts received proper consideration, and by defense to ensure that they were aware of McNeil records even if police through Crown opted not to disclose them. There were concerns expressed to the PSC prior to this study that such databases existed and that police should be prepared to address the issue. Respondents indicated the following with respect to the above-noted category:

Office	Database	#	%
Crown	Yes	8	16.6
	No	9	18.75
Defense	Yes	0	0
	No	1	2
<b>Unknown</b>		<b>32</b>	<b>66.6</b>

Clearly with nearly 67% of responding agencies not knowing of such databases exist it is difficult to draw any conclusions in this regard. That said, as noted previously, police should operate under the assumption that any record that has been disclosed may be referred to in subsequent matters and the Court will have to address the appropriateness of such actions. Accordingly, individual officers should always expect to be confronted with disciplinary records disclosed under McNeil, whether or not it was disclosed for the case before the courts. This point has important training and education aspects that should be appropriately addressed within each department (**see Recommendation #9**)



## **IV.6 ORGANIZATIONAL IMPACTS**

### **IV.6.1 Investigation of Criminal Conduct of Officers**

Thirty-eight (38) or 79.1% of respondents indicated that the McNeil Decision has had no impact on how their organization investigates the criminal conduct of officers.

### **IV.6.2 Investigation of Professional Misconduct of Officers**

Six (6) or 12.5% of respondents indicated that the McNeil Decision has had some impact on how their organization investigates the professional misconduct of officers. The key focus is on matters relating to officer deceit and same case incidents.

### **IV.6.3 Specific Assignment of Personnel with McNeil Records**

Most respondents have had no issues with regard to this aspect within their organization to date. However, some officers have been assigned to areas that do not involve any criminal investigations, or, will not result in them having to appear in court. It was also noted that officers who have been involved with dishonesty are impacted when it comes to promotional consideration, transfers, or staff development requests. Major concerns were registered with regard to officers who have been accused of criminal matters, misconduct or items that touch on integrity. Some departments have had to place officers in a peripheral role as a result of such accusations.

### **IV.6.4 Significant Problems or Challenges**

Twenty-six (26) or 54.1% of respondents indicated that the McNeil Decision has created significant problems or challenges for their organization. Primarily this relates to workload considerations, as well as, achieving agreement on the process involved in managing aspects of the decision.

### **IV.6.5 Costs of Compliance**

Thirteen (13) or 27% of respondents indicated that they could estimate the costs associated with the McNeil Decision. These responses varied from minimal to a maximum of \$150,000 for the creation and staffing of a dedicated position for this purpose. It follows that the remaining respondents were not able to offer this information, bringing into question whether organizations track such information, and whether this is important information. When costs are tracked there may be an ability to build a business case for additional resources to meet demands placed on police as a result of Court decisions.

## IV.7 TRAINING, EDUCATION, & INFORMATION

### IV.7.1 Provided to Membership-at-Large

Twenty-two (22) or 45.8% of survey respondents indicate that they have instituted formal training and/or education for this purpose. Eleven (11) or 22.9% of respondents have prepared and disseminated information bulletins across the organization on this matter. Four (4) or 8.2% of respondents have made some form of presentation on the McNeil Decision. Twelve (12) or 25% of respondents indicated that they have no training, education or information in place to address the McNeil Decision. Three (3) or 6.25% of respondents have policy or directives in place that consider the organizational impact of the decision.

One of the primary impact considerations is Police Officer Impact. For those agencies that do not provide education or training, police leaders should ask how are staff to understand the long-term impacts of their actions and how will staff be able to meet the expectations of the organization in relation to McNeil in the absence of such discussions.

### IV.7.2 Provided to Crown

Six (6) or 12.5% of respondents have provided some form of training or education to the Crown on this decision. Primarily this takes the form of policy or an informal training engagement.

### IV.7.3 Legal Advice Sought

Thirty-three (33) or 68.75% of respondents have sought some form of legal advice pertaining to the McNeil Decision. Of that number, the majority, fourteen (14) or 29.1% have approached their organization's Legal Counsel for this purpose. Seven (7) or 26% of respondents have gone to their local Crown for advice, while five (5) or 10.4% of the respondents have appealed to their government's Legal Services Branch for guidance. Two (2) or 4.1% of respondents have taken their questions to private legal counsel. Two (2) respondents made reference to a "Table" (i.e., "une charte" – an extract from a police service response) that was consulted. One (1) department consulted with another police service. One (1) respondent noted that their department has an officer who is legally-trained and this individual provided advice on this decision.

### IV.7.4 Additional Information Available

Eight (8) respondents indicated that they had further information that would be of use in the context of the McNeil Decision. This largely related to policy directive(s) developed within those departments and offered for this purpose. One respondent made reference to a Public Security Guide that may be useful for this matter.

#### **IV.7.5 Identification of Subject Matter Experts (SMEs)**

A listing of SMEs (previously distributed to members of the Sub-Committee) is included as Appendix #3. It is recommended that all police services be provided with this listing of SMEs for further consultation on issues relevant to the McNeil Decision.

## V. CONCLUSIONS & RECOMMENDATIONS

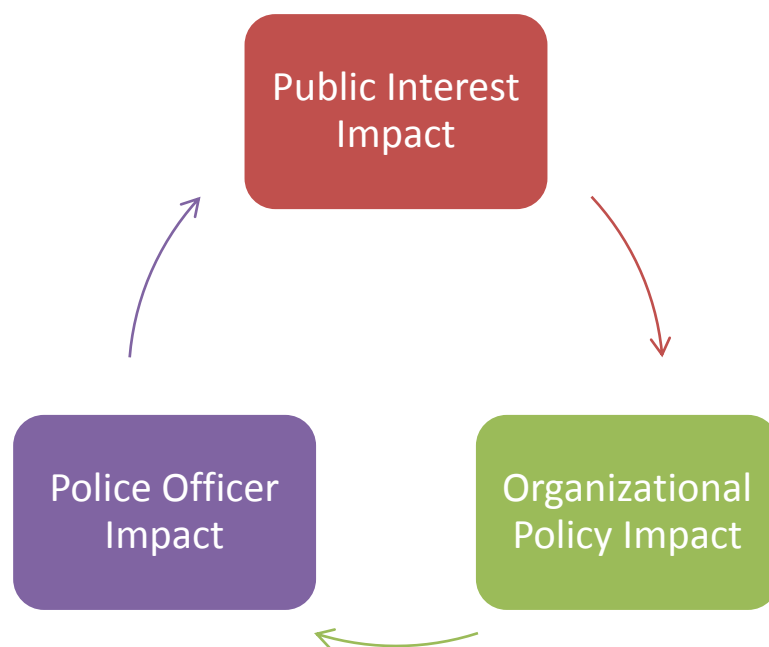
### V.1 Conclusions

This online survey has provided the CACP Professional Standards Committee with an opportunity to create a national platform for detailed feedback on several matters pertaining to the McNeil Decision and its impact on the entire process relating to the disclosure of officer discipline records. The responses received from a wide range of CACP members has provided the Committee with a useful vantage-point from which to make some potentially valuable recommendations that will facilitate the management of the processes and practices associated with the McNeil Decision.

As expected, there is a wide variety of practices relating to police agency response to the McNeil decision. In part, this results from the different requirements of police-related legislation which directs how police organizations will consider and process office conduct issues. Other differences exist as a result of interpretation as to the intent of the Supreme Court when this decision was rendered and in the interpretation of terms used in the decision such as “serious misconduct” and “officer reliability and credibility.” A third area of inconsistency relates to the relationships between police and Crown and associated policies. These vary between federal and provincial crown, between provinces, and even between regions within provinces. Many police and Crown have yet to develop mutual policies to clarify expectations arising from McNeil; however, there is a trend to move in this direction. The inconsistencies identified create a potential for the inappropriate application of the McNeil decision which could have further negative impact in all three areas of impact discussed in this report. Steps should be taken to resolve this.

The survey results suggest three (3) particularly relevant areas of impact which may be used to classify or categorize the various recommendations formulated for inclusion in this report. These areas should each be considered with respect to the disclosure of police discipline records consistent with the McNeil Decision. They are highlighted in Figure I, below:

Figure I



- **Public Interest Impact (PII)** – policing constitutes a vital public service that concerns itself with aspects of law enforcement, crime prevention, emergency response, public order maintenance, and assistance to victims of crime. Accordingly, there is a substantial public interest in the quality of police services that is often expressed through levels of trust and confidence in those services. Several recommendations outlined in this report directly address the need to ensure that the public interest is expressly acknowledged and extensively addressed through police policies and processes;
- **Organizational Policy Impact (OPI)** – police services are organizations that function to achieve their legislated mandates in ways that are considered adequate and effective. In doing so the various components of these organizations, including administration, specialized services, operational, investigative, and support services, must be highly interrelated and substantially influenced by cross-functional concerns. From a risk management perspective issues of integrity, reliability, and credibility are central to the overall professional standards of every police organization;
- **Police Officer Impact (POI)** – the conduct of every individual officer is a matter of significant importance for Canadian police services. The attention devoted to officer selection, orientation, training, qualification, and education is reflective of that pre-eminent commitment to this dimension of human resource development. This, combined with a substantial degree of discretion vested in the decision-making authority of individual officers, requires that high levels of integrity be seen as a hallmark of police officer performance. Police officers function to maintain the guiding principles of the justice system and this role is particularly in evidence when an individual officer conducts an investigation, interacts with members of the public, or offers testimony before the

courts. Police generally embrace the accountability linked to the authority with which they have been entrusted. However, when an officer's integrity, credibility or competence are called into question, it can be a stressful event that, over time or recurring events, results in a cumulative negative impact on an officer. Therefore, careful attention must be given to how such matters are addressed. Several of the recommendations presented in this report are intended to ensure or enhance the balance between procedural fairness to individual officers and processes that maintain the highest standards for officer accountability, credibility, and integrity.

These areas of potential impact for matters relating to McNeil Decision disclosure of officer disciplinary records may form something of a logic model that will allow individual police services to design, deploy, and monitor their approach to this challenge. A logic model method would elaborate upon the priorities, inputs, outputs, outcomes and impacts of the organization's approach to the McNeil Decision. It would also incorporate assumptions and external factors influencing the department's approach and include specific evaluation processes to analyze, interpret and report on related activities and processes.

As a result of an analysis of the responses provided by those police services participating in this online survey, it is possible to put forward several key conclusions. These conclusions have been further utilized to formulate ten (10) major recommendations that may serve to enhance existing practice and lead to greater consistency across the nation's police services.

Certainly, there will be variations due to the size and scale of various police operations, as well as, the level of involvement with matters pertaining to the release of officer disciplinary records. However, it is valuable to reflect on departmental experience as expressed through these survey responses in order to pinpoint national trends that may lead to good practice, quality assurance, and sound risk management in these areas.

In order to assist in clarifying the centres of focus for the following conclusions and recommendations, Figure 2 (below) set out each of the three (3) areas of impact which resulted from an analysis of the results of the online survey:

**Figure 2**



Another approach to summarizing the recommendations resulting from the Committee's analysis of the online survey data is presenting in Table I, below:

<b>Recommendations</b>	<b>Organizational Policy Impact</b>	<b>Police Officer Impact</b>	<b>Public Interest Impact</b>
#1 – Engage Provincial Chiefs of Police Association	✓		
#2 – Coordination Internal Effort & Cooperation with Crown Attorney or Federal Public Prosecution Service	✓		
#3 – Development of Tracking Process	✓	✓	
#4 – McNeil Disclosure Review Process	✓	✓	
#5 – Reassignment of Officers & Dealing with Allegations of Deceit	✓	✓	✓
#6 – Officer Challenge to Disclosure	✓	✓	
#7 – Dealing with Expunged, Purged or Pardoned Records	✓	✓	
#8 – Protection of Personal Information	✓	✓	
#9 – Training, Education & Development	✓	✓	
#10 – Financial Considerations	✓		✓



## V.I.I Conclusion & Recommendation #1 – Engage Provincial Chiefs of Police Associations (OPI)

### Conclusion

Further effort is indicated in order to ensure that approaches are aligned across each provincial jurisdiction with respect to the disclosure of police disciplinary records consistent with the McNeil Decision. The Committee sees an important role to be played by the provincial Chiefs of Police associations in this regard.

### Recommendation:

**The Committee recommends that once this report has been directed to the provincial Chiefs of Police associations they are encouraged to strike a committee to discuss the full report in order to consider how consistencies may be achieved within each provincial jurisdiction.**

## V.1.2 Conclusion & Recommendation #2 – Coordinated Internal Effort & Cooperation with Crown Attorney or Federal Public Prosecution Service (OPI)

### Conclusion

There is wide variation in the existing practice among Canadian police services with respect to the McNeil Decision. Indeed, several departments have not had any substantial experience in this context, while others approach the disclosure of police officer disciplinary records exclusively on a case-by-case basis. In many instances, however, a proactive and agreed-upon framework has been developed to formalize a process that involves a close working relationship including the local Crown Attorney. The value of such a collaborative, and proactive, approach is apparent in many departments and clearly recommends itself as an example of good police practice.

The role of the Crown Attorney, or the federal Public Prosecution Service, as the “gatekeeper” for final decisions with respect to the disclosure of disciplinary records pertaining to the McNeil Decision was clearly seen in responses to the online survey. There is considerable merit in having a designated individual (or, in certain circumstances, a committee) tasked with specific advisory responsibility for this purpose. It is also reasonable to ensure Crown, or Public Prosecution Service, engagement and insight is available at the earliest juncture for decision-making purposes consistent with this area.

It is relevant to acknowledge that there may not be common processes in place for the determination of relevancy with respect to officer disciplinary records. Furthermore, it is useful to emphasize that the RCMP has a particular relationship to the federal Prosecution Services that require a consistent national approach that may vary in certain details from provincial practice. Also, there may be differences across jurisdictions as to how specific processes are implemented. However, there should be an important emphasis on consistency with respect to the documentation that is being provided to the Crown at all levels.

### Recommendation:

**Police services should move to develop a proactive disclosure regime and work closely with their local Crown Attorney to formalize a process for this purpose.**

**This Committee also recommends that there be enhanced communications among police agencies within a region, or province, in order to ensure a consistent approach to discipline records disclosure.**

**Some police services may consider the benefits of seeking the assistance of the Crown Attorney, or Public Prosecution Service, to make initial determinations with respect to the disclosure of records pertaining to the McNeil Decision. This may be particularly appropriate for smaller jurisdictions where human resources are limited.**

### V.1.3 Conclusion & Recommendation #3 – Development of Tracking Process (OPI, POI)

#### Conclusion

Several agencies indicated that they relied upon a specifically designed form (electronic or print format) to facilitate the tracking of officers' records that could potentially be disclosed under the McNeil regime.. This approach often begins at the point of hire and was maintained throughout an officer's career to pinpoint elements that could be relevant in the context of the McNeil Decision and disciplinary matters<sup>8</sup>. This area of inquiry in the survey produced responses that allowed for variation in format and language that was often tied to the specifics of the provincial *Police Act* (or *Police Services Act*). However, the important consideration across all of the responses was to ensure some kind of mechanism for tracking officers and incidents that might trigger a McNeil disclosure.

#### Recommendation:

**Police services should consider the development of a process to track officers' records from the point of hire that could potentially be disclosed under the McNeil era. These records could be updated regularly with the local Crown Attorney.**

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<sup>8</sup> For example, the RCMP follows this type of approach.

#### V.1.4 Conclusion & Recommendation #4 – McNeil Disclosure Review Process (OPI, POI)

##### Conclusion

While many police agencies approach (or plan to approach) McNeil Decision matters on a case-by-case basis, it is clear that some have established a committee specifically geared to this purpose to ensure consistency. Certainly, it remains an area of responsibility that resides ultimately with the Chief of Police or equivalent. Yet, this category of executive responsibility may be significantly informed through the assignment of a responsible member, or the creation of a formally mandated committee, tasked with review and recommendation authority. Also, in certain circumstances, it may be useful to consider the practical benefits of a regional and/or provincial advisory body that could provide consistent guidance to several police agencies. This approach would also include representation from the Crown Attorney, or Public Prosecution Office.

##### Recommendation:

**Police services should consider the establishment of a McNeil Disclosure process to review and make any necessary determinations consistent with matters relevant to the McNeil Decision within their organization. This may include an individual, or committee, that may liaise on a regular basis with the Crown Attorney or the Public Prosecution Service.**

## V.1.5 Conclusion & Recommendation #5 – Officer Reassignment & Dealing with Allegations of Deceit (OPI, POI, PII)

### Conclusion

There was considerable variation in the approach taken to any possible reassignment of officers who were subject to conditions discussed in the McNeil Decision. Indeed, many departments have no process in place whatsoever for this purpose. This is clearly an area that may have substantial impact on all areas of focus for the report (i.e., public interest, organizational policy, and police officer). It is also an area of considerable importance to several levels within each police organization, including senior executive, human resources, staffing, labour relations, and police associations (or unions). Therefore, the approach to officer reassignment easily suggests itself for clear and consistent practice. The responses received to this online survey tend to support the need for decision-making principles or guidelines that consolidate any approach taken to the reassignment of McNeil officers.

Also, deceit, lying and integrity issues were viewed as paramount by several police organizations responding to this online survey. These areas are among the most contentious and critical for police executives and are one of the most serious sources of concern for police chiefs across Canada. The discussions undertaken within this Committee have led to a concentrated focus on the final resolution of any (and all) allegations of deceit against police officers. This focus would also incorporate any aggravating features of such allegations.

### Recommendation:

**Police services should consider the identification of an appropriate individual, or section (e.g., Human Resources or Staffing), within the service in order to undertake the development of a suitable process that will detail any reassignment of officers whose credibility has come into question. This policy may take into account matters pertaining to eligibility for promotional competition, special assignments (e.g., higher level investigative units), developmental opportunities, and other career matters.**

**Additionally, consistent with issues of officer reassignment, police services should consider making any allegation involving deceit a matter requiring formal resolution, depending on the aggravating features of the allegation(s).**

## V.1.6 Conclusion & Recommendation #6 – Officer Challenge of Disclosure (OPI, POI)

### Conclusion

There was some considerable degree of variation in terms of policy and/or process for officers to challenge the disclosure of a record made pursuant to the McNeil Decision. In some instances, police departments had no policy in place whatsoever. In other agencies, officers could advance their challenges through their police association. Certain other departments provided an opportunity for a written submission that would be forwarded to the Crown Attorney outlining any challenge of the decision to release disciplinary records for disclosure.

This area is closely tied to policies in place in specific jurisdictions (e.g., Ontario) where a set of requirements may influence the practice that would apply and the specific engagement of police associations. The concept of a “best” practice here leads to a recommendation that facilitates the articulation of an officer’s challenge to a decision to disclose a disciplinary matter without interfering with a court process.

### Recommendation:

**Officers should be notified of all decisions relating to disciplinary records disclosed to the Crown. When records are disclosed, police services should provide some formal mechanism by which an officer may challenge the disclosure of discipline records consistent with the McNeil Decision. This could include an “Objection to Disclosure” portion on any form prepared for this purpose. It is also worthwhile to include a clear timeline for the completion of this form. There may also be value in providing an officer with an opportunity to speak with a designated Senior Officer, or Crown Attorney, with respect to the officer’s challenge of the disclosure decision.**

## V.1.7 Conclusion & Recommendation #7 – Dealing with Expunged, Purged, or Pardoned Records & Officer Notification (OPI, POI)

### Conclusion

The practice across those police services that responded to this online survey varied consistent with the legislation and regulation in place in those jurisdictions. Accordingly, the possibility of an explicit policy that would capture all relevant approaches to dated, expunged, purged, or pardoned records is remote in the extreme. However, a detailed statement of purpose that sets out any pertinent matters with regard to these categories of records would be beneficial and consistent with the principles of openness and accountability.

Furthermore, the involvement and engagement of officers in the full cycle of disclosure decisions relating to McNeil records is seen as good practice for all Canadian police organizations. Unless there are compelling reasons to prevent such an approach (for example, should notification of disclosure to a particular officer jeopardize an ongoing investigation), the practice of officer notification would serve to close the loop in a satisfactory manner.

### Recommendation:

**All police services should have a clear statement with respect to the disclosure of expunged, deleted, or purged records. And, in addition, when such records are disclosed to the Crown, police services should ensure that officers are fully notified when a decision has been made to disclose disciplinary records consistent with the McNeil Decision.**

## V.I.8 Conclusion & Recommendation #8 – Protection of Personal Information (OPI, POI)

### Conclusion

The maintenance of secure records pertaining to personal information, including the protection of personnel files that relate to McNeil disclosure records, is a significant organizational responsibility. Accordingly, it was noted by several police agencies that they have strictly controlled access to such records, often including storage of original forms and digital information in a secure location. This may also include storage of records in a separate physical location and on separate servers to ensure proper control, adequate protection, and limited access.

Several departments also maintain directories of personnel authorized to access such files and/or records. Specific practice in this area will necessarily be dependent on the resources available to individual departments, as well as, to precise organizational needs.

### Recommendation:

**Police services should consider keeping original copies and digital information on file in a secure location. This may include a separate physical location and/or on separate servers. Also, it may be beneficial to maintain a directory of authorized personnel who may access these files.**



## V.I.9 Conclusion & Recommendation #9 – Training, Education & Information (OPI, POI)

### Conclusion

Many police agencies indicated that they had developed formal approaches to the training of personnel with regard to the McNeil Decision. This included in-service training, presentations by staff lawyers, or Professional Standards personnel, on the decision and its implications, and roll-call training sessions. However, quite a number of departments indicated that they had no formal training with respect to this decision. Others pursued a more informal approach with information bulletins, communiqués, and brief presentations which attempted to provide some level of awareness.

There are clear and obvious benefits that may be derived from the more formal approach to this matter, not the least of which pertains to risk management on behalf of the organization and its members. As a corporate, and individual officer, responsibility it is reasonable to ensure that some continuum of detailed information and instruction be offered with regard to the McNeil Decision and its impact.

### Recommendation:

**All police services should ensure that they have undertaken a comprehensive approach to the dissemination of information pertaining to the McNeil Decision and its organizational impacts. This may include information bulletins, communiqués, workshops, in-service & roll-call training, and detailed presentations on this topic. Staff lawyers, Professional Standards personnel, and departmental trainers may all be useful resources for this range of options.**

## V.I.10 Conclusion & Recommendation #10 – Financial Considerations (OPI, PII)

### Conclusion

There were a wide range of responses provided to the questions that related to the actual costs associated to achieving compliance with the requirements of the McNeil Decision. Some police services have seen these costs as “minimal” while others have indicated that the costs related directly to the establishment of positions having carriage for McNeil Decision determinations and disclosure are high.

It is the considered view of this Committee that a fiduciary responsibility exists for all services to have a clear picture of the direct, and associated, costs that relate to the decision-making and documentation processes that relate to this area of disciplinary disclosure. Certainly, within the prevailing conditions of significant economic constraint, it is sound business practice to assess how these policies, procedures, processes and practices impact upon existing police resources. It is also reasonable to measure the financial impact(s) of the McNeil Decision in order to facilitate the potential sharing of “best” practices across Canada’s police services.

### Recommendation:

**All police services should ensure that they maintain records that will assist in measuring the financial impact of the McNeil Decision on their organization.**

## **APPENDIX #I**

McNeil Decision Online Survey (English)

1. Describe the process used by your organization/division to disclose records consistent with the McNeil Decision
2. How does your organization/division determine if a matter is considered “serious misconduct”?
3. How does your organization/division determine if a matter is “relevant” for disclosure before the courts?
4. How does your organization/division assess issues of officer integrity and/or credibility in the context of the McNeil Decision?
5. Does your jurisdiction differentiate between formal and informal discipline?
  - Yes
  - No
6. If yes, how is this differentiation made?
7. If yes, how does this difference impact on McNeil Decision responses?
8. Does your organization/division disclose Absolute or Conditional Discharges?
  - Yes
  - No
9. If yes, was this decision made in consultation with the Crown?
  - Yes
  - No
10. Identify timelines associated with process described in Question #8 (above)
11. Identify any position(s) within your organization/division responsible for deciding what information is disclosed to the Crown as McNeil Disclosure.
12. Identify all positions in your organization/division involved in the preparation of McNeil Disclosure.
13. Identify any position(s) within your organization/division responsible for the disclosure of these records.
14. Does your organization/division have any process in place to ensure continued confidentiality of records disclosed?
  - Yes
  - No
15. If yes, please describe below:
16. Does your organization/division have any process in place for officers to challenge the disclosure of a record made pursuant to the McNeil Decision?
  - Yes
  - No
17. If yes, please describe below:

18. When your organization/division makes a decision to disclose records to the Crown, what level of detail is included? Select from the categories listed below:
- Copy of the complete file on the incident (in writing);
  - Summary of the details of the incident (in writing);
  - Complete description of the facts of the incident (orally);
  - Summary of the details of the incident (orally);
  - Description of the default and disposition as noted in the relevant legislation (e.g., *Police Act, Police Services Act*) without details of the incident;
  - Other (please specify):
19. Does your organization/division have any policy or guidelines to assist in determining whether dated, expunged, purged or pardoned records will be disclosed?
- Yes
  - No
20. If yes, please describe below:
21. Are internal disciplinary, labour law or employment incidents examined outside of your provincial *Police Act* part of your organization's/division's disclosure process?
- Yes
  - No
22. If yes, please describe below:
23. Does your organization/division disclose records with respect to matters that are either under investigation or for some other reason has not been addressed as part of a disciplinary process?
- Yes
  - No
24. If yes, please describe below:
25. Does an officer receive notification of what information has been disclosed to the Crown?
- Yes
  - No
26. If an officer is not aware of an ongoing matter that your organization/division has decided should be disclosed to the Crown, how does this impact your organization's/division's process in relation to disclosure under McNeil?
27. Once it is determined that an officer has a record that may be disclosed as per McNeil, does your organization/division have in place processes to ensure that this record is considered or disclosed for any other matters that the officer already has before the courts?
- Yes
  - No

28. If yes, please describe below:
29. Under what different federal or provincial statutes or regulations would a conviction require your organization/division to make disclosure under the McNeil Decision relating to an officer's disciplinary record?
- Please identify specifics below, including relevant section(s):
30. Are there any court decisions in your jurisdiction that have provided guidance on what does or does not need to be disclosed to the Crown pursuant to the McNeil Decision?
- Yes
  - No
31. If yes, please list below:
32. Does your organization/division have any agreements or memoranda of understanding with the Crown to manage issues relating to the McNeil Decision?
- Yes
  - No
33. If yes, please describe below:
34. Do Crown or Defense personnel in your jurisdiction maintain any systems or databases for tracking police disclosure of records relating to the McNeil Decision?
- Crown – Yes
  - Crown – No
  - Defense – Yes
  - Defense – No
  - Unknown
35. Has the McNeil Decision had any impact on how your organization/division investigates the criminal conduct of police officers?
- Yes
  - No
36. If yes, please provide details below:
37. Has the McNeil Decision had any impact on how your organization/division investigates the professional misconduct of police officers?
- Yes
  - No
38. If yes, please provide details below:
39. What process is in place to remove or retrieve disclosed police records that have subsequently been expunged, purged, or pardoned?
40. Does your organization/division have a limitation on its retention period for disciplinary records?
- Yes
  - No

41. If yes, please describe below:
42. What safeguards or processes are in place to ensure that the Crown does NOT disclose police records inappropriately?
43. What implications has the McNeil Decision had on the specific assignment or placement of personnel with McNeil records?
44. What type of information or training has been provided to the membership at large regarding the McNeil Decision?
45. Does your organization/division provide any training or education for the Crown with regard to the McNeil Decision?
  - Yes
  - No
46. If yes, please describe below:
47. Does your organization/division solicit legal advice with respect to the disclosure of police records under the McNeil Decision?
  - Yes
  - No
48. If yes, from whom? Please provide details below:
49. Has the McNeil Decision presented your organization/division with significant problems or challenges?
  - Yes
  - No
50. If yes, please describe below:
51. Are you able to estimate the annual cost to your organization/division for complying with the McNeil Decision?
  - Yes
  - No
52. If yes, please describe below:
53. Does your organization/division have any additional information that may be useful for this Committee as it examines the McNeil Decision?
  - Yes
  - No
54. If yes, please describe below:

55. Please provide the following organizational and contact information:

- Name of Police Organization:
- If completing on behalf of an association or committee, please provide name of group represented:
- City/Municipality/District:
- Province:
- Number of Sworn Members:
- Name of Person to Contact:
- Rank of Contact Person:
- Phone number of Contact Person:
- Contact Person Email Address:

It is our intention to compile a list of subject matter experts (SME) who may act as contacts for participating agencies if anyone wishes to discuss your agency's practices or policies. Please indicate below if you are willing to have your contact information shared with other CACP agencies.

56. I wish to be identified as a Subject Matter Expert for the purposes of the McNeil Decision.

- Yes
- No

**N.B.: Please direct any additional documents, materials, or information that you have available within your Department that may be relevant to this review and analysis of the McNeil Decision. Such items may be sent as follows:**

**CACP Professional Standards Committee Co-Chairs:**

**Deputy Chief Constable Bob Downie**

**[BDOWNIE@saanichpolice.ca](mailto:BDOWNIE@saanichpolice.ca)**

**or**

**Commissioner Costa Labos**

**[Costa.Labos@spvm.qc.ca](mailto:Costa.Labos@spvm.qc.ca)**

**Subject Line: McNeil Decision Survey Project**

**Thank you for taking time to complete this Survey.**



## **APPENDIX #2**

McNeil Decision Online Survey (French)

1. Décrivez le processus qu'utilise votre organisation/division pour communiquer les dossiers conformément à l'arrêt *McNeil*.
2. Comment votre organisation/division détermine-t-elle si une affaire est un cas de « grave inconduite »?
3. Comment votre organisation/division détermine-t-elle si une affaire est « pertinente » et donc doit être communiquée au tribunal?
4. Comment votre organisation/division évalue-t-elle les questions entourant l'intégrité ou la crédibilité d'un agent dans le contexte de l'arrêt *McNeil*?
5. Votre administration fait-elle une distinction entre discipline formelle et informelle?
  - Oui
  - Non
6. Si oui, comment la différence est-elle faite?
7. Si oui, comment cette différence influe-t-elle sur les suites données à l'arrêt *McNeil*?
8. Votre organisation/division communique-t-elle les dossiers ayant fait l'objet d'une absolution inconditionnelle ou sous conditions?
  - Oui
  - Non
9. Si oui, la décision à ce sujet a-t-elle été prise en consultation avec la Poursuite?
  - Oui
  - Non
10. Indiquez les délais associés au processus visé par la question 8 (ci-dessus).
11. Indiquez le ou les postes au sein de votre organisation/division des personnes chargées de décider quelle information est communiquée à la Poursuite en vertu de l'arrêt *McNeil*.
12. Indiquez le ou les postes au sein de votre organisation/division des personnes participant à la préparation d'une communication en vertu de l'arrêt *McNeil*.

13. Indiquez le ou les postes au sein de votre organisation/division des personnes chargées de la communication de ces dossiers.

14. Votre organisation/division a-t-elle mis en place des processus pour assurer le respect de la confidentialité des dossiers communiqués?

- Oui
- Non

15. Si oui, veuillez donner des précisions :

16. Votre organisation/division a-t-elle mis en place des processus permettant aux agents de s'opposer à la communication d'un dossier en vertu de l'arrêt *McNeil*?

- Oui
- Non

17. Si oui, veuillez donner des précisions :

18. Quand votre organisation/division décide de communiquer des dossiers à la Poursuite, quel est le niveau de détail fourni? Choisissez parmi les catégories suivantes :

- Copie du dossier complet sur l'incident (par écrit)
- Résumé des détails de l'incident (par écrit)
- Description complète des faits de l'incident (verbalement)
- Résumé des détails de l'incident (verbalement)
- Description de la nature de l'acte et de la sanction selon la loi pertinente (p. ex., *Loi sur la police, Loi sur les services policiers*), sans détails sur l'incident
- Autre (veuillez préciser) :

19. Votre organisation/division a-t-elle adopté une politique ou des lignes directrices pour aider à déterminer si des dossiers périmés, radiés, expurgés ou ayant fait l'objet d'un pardon sont communiqués?

- Oui
- Non

20. Si oui, veuillez donner des précisions :

21. Les incidents relevant de la discipline interne, du droit du travail ou de l'emploi qui ont été examinés sans égard à votre loi provinciale sur la police font-ils partie du processus de communication de votre organisation/division?
- Oui
  - Non
22. Si oui, veuillez donner des précisions :
23. Votre organisation/division communique-t-elle des dossiers d'affaires qui ni ne font l'objet d'une enquête ni, pour quelque raison que ce soit, n'ont été examinées dans le cadre d'un processus disciplinaire?
- Oui
  - Non
24. Si oui, veuillez donner des précisions :
25. Un agent est-il informé de l'information qui a été communiquée à la Poursuite?
- Oui
  - Non
26. Si un agent n'est pas au courant d'une affaire en instance dont votre organisation / division a décidé qu'elle devrait être communiquée à la Poursuite, comment ce fait influe-t-il sur le processus suivi par votre organisation/division à l'égard d'une communication en vertu de l'arrêt *McNeil*?
27. Une fois qu'il est établi qu'un agent fait l'objet d'un dossier qui peut être communiqué en vertu de l'arrêt *McNeil*, votre organisation/division a-t-elle des processus pour s'assurer que ce dossier est examiné ou communiqué dans le cadre de toutes les affaires de l'agent qui sont déjà en instance devant les tribunaux?
- Oui
  - Non
28. Si oui, veuillez donner des précisions :
29. Une déclaration de culpabilité en vertu de quels lois ou règlements fédéraux ou provinciaux différents obligerait-elle votre organisation/division à communiquer le dossier disciplinaire d'un agent en vertu de l'arrêt *McNeil*?

Veillez indiquer les détails ci-dessous, y compris les dispositions pertinentes :

30. Y a-t-il des jugements rendus par les tribunaux de votre ressort qui ont apporté des précisions sur ce qui doit ou non être communiqué à la Poursuite en vertu de l'arrêt *McNeil*?

- Oui
- Non

31. Si oui, veuillez en dresser la liste ci-dessous :

32. Votre organisation/division a-t-elle conclu un accord ou protocole d'entente avec la Poursuite pour traiter des questions entourant l'arrêt *McNeil*?

- Oui
- Non

33. Si oui, veuillez donner des précisions :

34. Dans votre ressort, les avocats de la poursuite ou de la défense ont-ils des systèmes ou bases de données pour effectuer un suivi sur les dossiers policiers communiqués en vertu de l'arrêt *McNeil*?

- Avocats de la poursuite – Oui
- Avocats de la poursuite – Non
- Avocats de la défense – Oui
- Avocats de la défense – Non
- Ne sais pas

35. L'arrêt *McNeil* a-t-il eu une incidence sur la façon dont votre organisation/division fait enquête sur les cas de comportement criminel des agents de police?

- Oui
- Non

36. Si oui, veuillez donner des précisions :

37. L'arrêt *McNeil* a-t-il eu une incidence sur la façon dont votre organisation/division fait enquête sur les cas d'inconduite professionnelle des agents de police?
- Oui
  - Non
38. Si oui, veuillez donner des précisions :
39. Quels processus sont-ils en place pour retirer les dossiers policiers qui ont été communiqués et qui par la suite ont été radiés ou expurgés ou ont fait l'objet d'un pardon?
40. Votre organisation/division a-t-elle fixé une limite à la période de conservation des dossiers disciplinaires?
- Oui
  - Non
41. Si oui, veuillez donner des précisions :
42. Quels moyens de protection ou processus sont-ils en place pour s'assurer que la Poursuite ne communique PAS des dossiers policiers de façon inappropriée?
43. Quelles implications l'arrêt *McNeil* a-t-il eu sur les affectations précises ou le placement de membres du personnel possédant un dossier visé par l'arrêt *McNeil*?
44. Quel genre d'information ou de formation a-t-il été fourni à l'ensemble des membres au sujet de l'arrêt *McNeil*?
45. Votre organisation/division fournit-elle à la Poursuite de la formation ou de l'information à l'égard de l'arrêt *McNeil*?
- Oui
  - Non
46. Si oui, veuillez donner des précisions :

47. Votre organisation/division demande-t-elle des conseils juridiques au sujet de la communication de dossiers policiers en vertu de l'arrêt *McNeil*?

- Oui
- Non

48. Si oui, à qui les demande-t-elle? Veuillez donner des précisions :

49. L'arrêt *McNeil* a-t-il présenté à votre organisation/division des problèmes ou défis importants?

- Oui
- Non

50. Si oui, veuillez donner des précisions :

51. Pouvez-vous estimer le coût annuel qu'assume votre organisation/division pour se conformer à l'arrêt *McNeil*?

- Oui
- Non

52. Si oui, veuillez donner des précisions :

53. Votre organisation/division a-t-elle d'autres renseignements qui pourraient être utiles au Comité dans son examen de l'arrêt *McNeil*?

- Oui
- Non

54. Si oui, veuillez donner des précisions :

55. Veuillez donner les précisions suivantes sur votre organisation/division et une personne-ressource :

- Nom de l'organisme policier :
- Si vous remplissez le questionnaire au nom d'une association ou d'un comité, indiquez le nom du groupe représenté :
- Ville / municipalité / district :
- Province :
- Nombre de membres assermentés :
- Nom d'une personne-ressource :
- Rang de la personne-ressource :
- Numéro de téléphone de la personne-ressource :
- Adresse courriel de la personne-ressource :

Nous avons l'intention de dresser une liste d'experts en la matière qui agiront comme personnes-ressources auxquelles les organismes participants pourront s'adresser si elles souhaitent discuter des pratiques ou politiques d'autres organismes. Veuillez indiquer ci-dessous si vous acceptez que vos coordonnées soient communiquées à d'autres organismes de l'ACCP.

56. Je souhaite être désigné comme un expert en la matière dans l'optique de l'arrêt *McNeil*.

- Oui
- Non

**N.B. : Veuillez nous envoyer tout document, matériel ou information supplémentaire qu'utilise votre organisme et qui pourrait être pertinent à la présente analyse de l'arrêt *McNeil* :**

**Coprésidents du Comité de l'ACCP sur les normes professionnelles –**

**Chef adjoint Bob Downie**

**[BDOWNIE@saanichpolice.ca](mailto:BDOWNIE@saanichpolice.ca)**

**ou**

**Commissaire Costa Labos**

**[Costa.Labos@spvm.qc.ca](mailto:Costa.Labos@spvm.qc.ca)**

**Mention objet : Projet de recherche sur l'arrêt *McNeil***

**Merci d'avoir pris le temps de répondre à ce questionnaire.**



## **APPENDIX #3**

### Subject Matter Experts (SMEs) Listing

## CACP Professional Standards Committee -- Listing of McNeil Decision Subject Matter Experts

### FEDERAL

Inspector Alfredo Bangloy  
Officer in Charge  
Professional Standards Unit  
RCMP HQ, Ottawa  
[Alfredo.bangloy@rcmp-grc.gc.ca](mailto:Alfredo.bangloy@rcmp-grc.gc.ca)

### NEWFOUNDLAND & LABRADOR

Lynn Moore (Lawyer)  
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Rachel Huntsman (Lawyer)  
Royal Newfoundland Constabulary, NL  
709-729-8739  
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Staff Sergeant Paul MacIsaac  
RCMP "B" Division, NL  
702-772-2668  
[Paul.macisaac@rcmp-grc.gc.ca](mailto:Paul.macisaac@rcmp-grc.gc.ca)

### NOVA SCOTIA

Staff Sergeant Al Harding  
NCO/IC  
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