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Commission for Public
Complaints Against the
Royal Canadian Mounted Police



Commission des plaintes
du public contre la
Gendarmerie royale du Canada

REVIEW OF YUKON'S POLICE FORCE

SUBMISSION OF THE COMMISSION FOR PUBLIC
COMPLAINTS AGAINST THE RCMP

AUGUST 2010

Canada 

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EXECUTIVE SUMMARY

The Yukon Government and the RCMP announced they would conduct a review of the RCMP's police services in the Yukon aimed at maintaining and enhancing the public's confidence in the RCMP in the Yukon Territory. The "Review of Yukon's Police Force" (the Review) was initiated in the wake of expressions of concern regarding the manner in which some members of the RCMP were interacting with the communities they serve. One of the priorities of the Review is to "review how public complaints relating to the RCMP in the Yukon are currently dealt with and to make recommendations on any required improvements." On April 19, 2010, the Yukon Government and the RCMP invited the Commission for Public Complaints Against the RCMP (the Commission), to participate in the Review based upon the Commission's expertise in regard to public complaints.

The Commission's approach to contributing to the Review included three interrelated yet distinct phases in order to obtain a fulsome picture of the existing public complaint process in the Yukon. The Commission:

- carried out on-site detailed reviews of RCMP public complaint files lodged between January 1, 2005 and May 31, 2010;
- met with a number of community stakeholders in the Yukon, recognizing that many do not engage the formal public complaint process; and
- obtained input from individual RCMP members stationed in the Yukon.

REVIEW OF PUBLIC COMPLAINT FILES

The first aspect of the Commission's submission relates to findings identified from a review of the "M" Division public complaint files for the years 2005 to 2010. First and foremost, the review of the public complaint files confirmed that while there is room for improvement in certain areas, the RCMP's public complaint system in the Yukon, to the extent that it is engaged, is not "broken." Overall, the RCMP handles public complaints appropriately and in accordance with policy and law.

Notable observations include:

- public complaint files that were informally resolved or withdrawn without sufficient supporting information to determine whether or not the action taken was proper;
- public complaint files that were terminated where sufficient information existed to prepare a letter of disposition to the complainant; and
- the identification of various members with multiple public complaints against them.

There were also other minor observations made regarding:

- timely communication with complainants; and
- the potential for the perception of bias with respect to the impartiality of investigations.

In addition, the number of public complaints lodged with the CPC versus the RCMP has increased significantly in 2009 and the first half of 2010.

The most common complaint allegations in the Yukon closely reflect the most common national complaint allegations previously noted by the Commission in its *Review of RCMP Public Complaint Records*. These include improper attitude, oppressive conduct, neglect of duty and improper use of force. While there were complainants from vulnerable groups of people, there was no indication that they were treated in a less professional manner.

While the system appears to be working overall, the RCMP could address these observed areas by:

- implementing a formal early warning system for public complaints to identify potential developing problems with individual members;
- better complying with RCMP policy which requires that reasons be provided for informal resolutions and withdrawals, for example, by completing letters of disposition where sufficient information exists to do so;
- strictly adhering to the legislated time frames for update reports;
- having public complaint investigators complete an impartiality questionnaire, similar to the type employed by the CPC/RCMP Independent Observer Program; and
- dedicating public complaint internal investigators, as demonstrated in other RCMP divisions. There was a noticeable difference in overall quality of public complaint investigations when “M” Division utilized one particular member to conduct a significant number of public complaint investigations in 2006 and 2007.

COMMUNITY STAKEHOLDER ENGAGEMENT

The Commission engaged with a number of stakeholders in the Yukon in order to understand their experiences with the RCMP and ascertain their level of satisfaction with and confidence in the RCMP and the public complaint process. While the examination of the “M” Division public complaint files shows that the system is generally functioning appropriately, the perspectives of a number of Yukon community organizations spoke to a troubled relationship between the RCMP and segments of the communities it serves.

While they raised a number of concerns about the RCMP, the prevailing sentiment from the community stakeholders was to seize the opportunity to be heard and offer up tangible ideas to help improve policing in the Yukon. Having the benefit of the thoughtful input of these community stakeholders, the Commission is able to pose a number of key questions regarding the RCMP and the public complaint process:

Why are some members of the public not accessing the public complaint process?

We heard from many clients of these organizations that they have little knowledge of or confidence in the complaint process. The fear of “retribution” was alluded to and many did not see the Commission as independent of the RCMP.

Are RCMP members prepared for the unique challenges of policing in Canada's North and should they be provided with a detailed orientation to the Yukon prior to commencing their duties in the territory?

Yukon RCMP members were largely described as being disconnected from the communities in which they serve. Moreover, the RCMP members being sent to the Yukon are seen as too young and too inexperienced, with a very limited understanding of the environment in which they will have to work. There were complaints about the constant turnover of RCMP members which, in the opinion of many participants, leads to inconsistency in levels of engagement with communities. The quality of policing services, it is felt, is determined more by an individual member's personality than actual RCMP policies and procedures.

All of the organizations that were engaged recommended that training specific to the Yukon be undertaken before any member ventures out into the community. The high levels of social problems related to alcohol consumption and mental health issues are seen as presenting any police officer with huge challenges for which most Yukon RCMP members are perceived as being ill-equipped to deal with. Most organizations are very willing to participate in training for new members arriving in the Yukon.

Should there be more formal liaison with and communication between the RCMP and community groups?

It was quite evident from the input received, that the RCMP should enhance its engagement of community stakeholders. We heard from some organizations that with improved communication between themselves and the RCMP, many issues could be resolved. For instance, we were told that in light of concerns regarding dealing with people with high blood alcohol levels,

enhanced communication and regular liaison with the Whitehorse General Hospital would greatly benefit the public as well as both organizations.

Is it possible for the Commission to enhance its presence in the territory to better inform the public and improve the level of service to Yukoners?

We heard from a number of sources that the Commission is misunderstood or not even known. Despite extensive outreach programs and efforts at communicating with remote communities, the realities of the Canadian geography are that some people will be more difficult to reach. The Commission acknowledges that its presence in the territory could be enhanced and will be discussing options for doing so in the coming months.

RCMP MEMBER INPUT

The Commission also sought the input of RCMP members currently serving in the Yukon. Members expressed their frustrations with the existing system and in particular with respect to frivolous or unfounded complaints being lodged against them as well as the protracted manner in which complaints are sometimes resolved. Members also felt that the Commission can be confrontational and does not recognize the good work members of the RCMP do. These members stated that the Commission has work to do in order to build trust with the RCMP.

In terms of their work, RCMP members communicated that the RCMP in the Yukon should prioritize giving police officers the resources necessary to do their jobs. The implication was that they are being asked to be "everything to everyone all the time."

CONCLUSION

The amendments to the *RCMP Act* recently tabled in the House of Commons in Bill C-38 may help alleviate several of the concerns raised during this Review, particularly with respect to timelines and dealing with groundless complaints. It is hoped that this will ensure that the Commission keeps pace with public expectations regarding civilian oversight of the RCMP.

Chief amongst the themes which emerged during the meetings with community stakeholders was the desire to see “the return of community policing” to the Yukon. In essence, those consulted echoed the guiding principles of Sir Robert Peel that “...the ability of the police to perform their duties is dependent upon public approval of police actions.”

The notion that the police are the public and the public are the police ought to be a guidepost for modern policing, reinforcing that the police are acting as our agents in carrying out a social obligation to preserve the peace.

From the outset of the complaint file review, the Commission paid particular attention to determining if any complaints contained evidence of bias based on race. The file review did not substantiate this concern. However, throughout the Commission’s interactions with the various stakeholders in this process, a strong perception emerged that at times the RCMP shows bias when interacting with certain members of the community. Warranted or not, these perceptions have led to a degree of mistrust of the RCMP.

The RCMP earns the public trust by being held to a high standard of transparency and accountability. That standard is achieved through processes such as this Review which involves a partnership between the RCMP, the Yukon Government and the Council of Yukon First Nations. The Commission commends all parties for embarking on this initiative and hopes that its submission will contribute to an ongoing dialogue leading to a more positive relationship between the RCMP and all Yukoners.

THE COMMISSION FOR PUBLIC COMPLAINTS AGAINST THE RCMP

WHO WE ARE

The Commission for Public Complaints Against the RCMP (the Commission) is an independent agency created to provide civilian oversight of RCMP members' conduct in performing their policing duties so as to hold the RCMP accountable to the public. The Commission strives for excellence in policing through accountability.

The mandate of the Commission is set out in Part VII of the *RCMP Act*. The Commission receives complaints against RCMP members, conducts reviews, and in certain circumstances can carry out investigations. The Commission has the ability to report findings and make recommendations in response to complaints relating to RCMP member conduct.

OVERVIEW OF OUR ROLE

In April 2010, the Commission received a joint request from the Yukon Minister of Justice and the Commanding Officer for the RCMP's "M" Division to assist in the Review of the Yukon's Police Force¹ (the Review). The Review was initiated following high profile matters involving members of the RCMP which received a great deal of negative attention. As a result of those incidents, concerns were expressed by some Yukon citizens about the relationship between the RCMP and the community.

The catalyzing cases included the in-custody death of Raymond Silverfox. In December 2008, Mr. Silverfox died while in hospital, after being detained by the RCMP for 13 hours at the Whitehorse Detachment. It was widely

reported that the lack of care and concern from RCMP members was a direct contributor to Mr. Silverfox's death. On December 15, 2008, the Commission Chair initiated a complaint into Mr. Silverfox's death. The Coroner's Inquest, which took place in April 2010, resulted in extensive media coverage and criticism of the RCMP. The Commission is currently conducting an independent probe of the RCMP's conduct in relation to Mr. Silverfox's death.

In order to provide a factual basis to any findings of the Review team, a thorough statistical analysis of the Commission's complaint database was conducted, as were in-depth interviews with several community stakeholders. The statistical analysis provided factual data enabling the Commission to identify several key features, such as:

- detachments of interest;
- common allegations;
- members with multiple complaints;
- allegations concerning force used; and
- complaint resolution.²

Additionally, the Commission contacted a range of community, health-care and Aboriginal organizations in order to gather their perceptions regarding the RCMP in the Yukon. The organizations that were interviewed were:

- Immigration Crossroads;
- Yukon Legal Services;
- Salvation Army;
- Whitehorse General Hospital;

¹ Appendix A.

² It should be noted that there are four methods of resolving complaints: 1) investigation, 2) informal resolution, 3) withdrawal and 4) termination.

- Council of Yukon First Nations;
- Champagne & Aishihik First Nations;
- Skookum Jim Friendship Community Centre;
- Women's Transition Home;
- Mental Health Clinic;
- Fetal Alcohol Syndrome Society;
- Yukon Status of Women Council; and
- local media.

The Commission's report is comprised of two main sections. The first addresses the results of the Commission-led review of complaint files against members of "M" Division.

The second section describes the Commission's analysis of the submissions of the various stakeholders who were interviewed. The stakeholders consistently made constructive recommendations to enhance the RCMP's relationship with the community, which are included in that section.

METHODOLOGY

In order to obtain a full assessment of the complaints system in "M" Division, a time frame of January 1, 2005 to May 31, 2010 was established. During the selected period, there were a total of 155 complaints filed either directly with the RCMP or with the Commission.

With the cooperation of the RCMP, two Commission representatives conducted the review of complaint files during the week of June 13, 2010.³ The files were physically reviewed in Whitehorse at the RCMP's "M" Division headquarters and were assessed according to relevant criteria identified by the Commission.⁴

³ This review was not intended to be a substitute for the formal review function employed by the Commission when a complainant is dissatisfied with the RCMP's disposition of a public complaint. Accordingly, the file review was limited to identifying key information for analysis using the assessment criteria identified by the Commission.

⁴ See Appendix B.

A basic overview of the data from the file reviews is contained in Appendix C.

For the second section of this report, organizations were engaged in face-to-face meetings. These meetings were conducted in Whitehorse and Haines Junction. The organizations were selected based on the likely degree of interaction between the police and their client bases.

As critical stakeholders in the process, the Commission also sought to obtain RCMP members' perspectives with respect to the complaints system and policing in the Yukon.

To promote candour and facilitate feedback, during each Commission engagement, individuals spoke without personal attribution. Therefore, unless otherwise indicated, comments, observations and recommendations are assigned to the organizations themselves.

REVIEW OF THE “M” DIVISION PUBLIC COMPLAINT FILES

RCMP LAW AND POLICY

The RCMP is governed by the *RCMP Act* and the various regulations that apply to the RCMP including the *Commissioner's Standing Orders (CSOs)*. In addition to the *RCMP Act* and regulations, the RCMP also has national policy that provides direction on various matters.⁵ “M” Division also has divisional policy that applies to public complaints.⁶

The RCMP has prepared a National Internal Investigation Guidebook (Guidebook) to assist investigators with understanding and applying the various procedures applicable to each type of investigation. The Guidebook resulted from a 2001 collaboration of RCMP internal investigative units across the country and was based on an existing guidebook in use in “E” Division in British Columbia. Many practices of the Guidebook are reflective of national and divisional policy related to the respective areas.

The *RCMP Act* provides that any person who has a concern about the conduct of an RCMP member can make a complaint either with the Commission or directly with the RCMP or with a provincial authority. The legislation prescribes that in most cases the RCMP conducts the first investigation into complaints, after which the Commission is involved when requested by a complainant who is dissatisfied with the RCMP's disposition of his or her complaint.

Significant amendments to the *RCMP Act* were tabled in the House of Commons on June 14, 2010. Bill C-38 includes a number of amendments aimed at enhancing the powers of the Commission and oversight of the RCMP.

5 A copy of the RCMP's national policy is attached as Appendix E.

6 A copy of the divisional policy is attached as Appendix F.

FILE REVIEW

NATURE AND NUMBER OF ALLEGATIONS

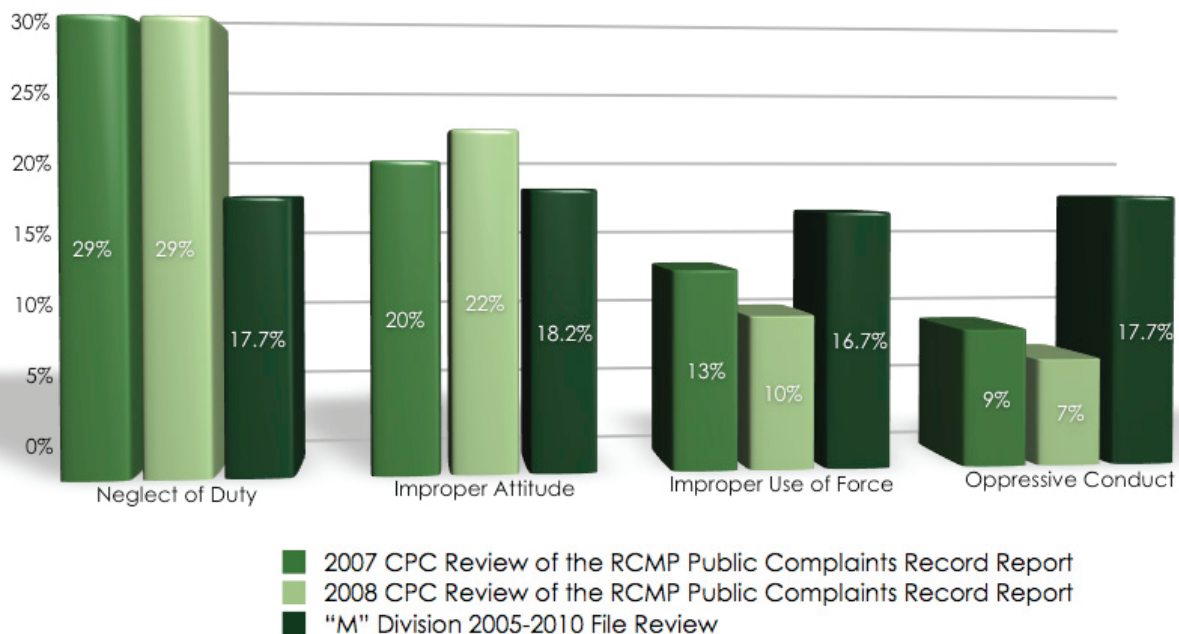
“M” Division is composed of approximately 129 RCMP members who work in 13 RCMP detachments, the largest being Whitehorse with 39 members. An additional 10 to 12 RCMP members work in “M” Division headquarters, also located in Whitehorse.

A total of 155 public complaint files were reviewed but nine of the files were not considered to be “M” Division public complaint files.⁷ The most common complaint allegations made in the “M” Division public complaint files reviewed related to:

- improper attitude;
- oppressive conduct;
- neglect of duty; and
- improper use of force.

These are the same allegations most common to complaints against the RCMP as a whole as noted by the Commission in its *Review of the RCMP Public Complaint Records* reports.⁸

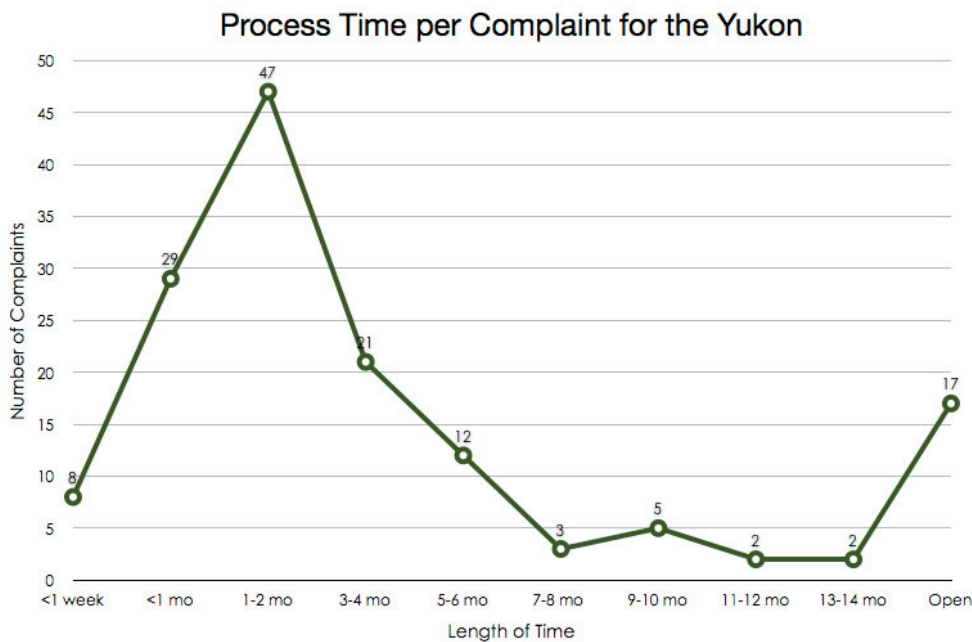
Common Allegations



⁷ See Appendix C for further details.
⁸ <http://www.cpc-cpp.gc.ca>

The Whitehorse Detachment, which comprises 30% of all members posted in the Yukon,⁹ had 77 complaints, the highest number, representing almost half of all public complaints in “M” Division for the years 2005-2010. Watson Lake, Haines Junction and Carmacks had the next highest number of complaints at 13, 11 and 10 respectively.

One quarter of all public complaints in the Yukon were disposed of (completed) in one month or less from the time of lodging, and another third were completed in two months or less. Approximately 80% of public complaints were completed in six months or less. While some delays were due to the complexity of the complaint investigations, there were examples where a change in investigators caused a delay. In addition, there were several examples where delays were due to the difficulty in meeting with the complainant, including for the purpose of informally resolving or withdrawing the public complaint.



Nationally, in 2008, the average time taken by the RCMP to issue a disposition once a complaint was lodged was 103 days.¹⁰

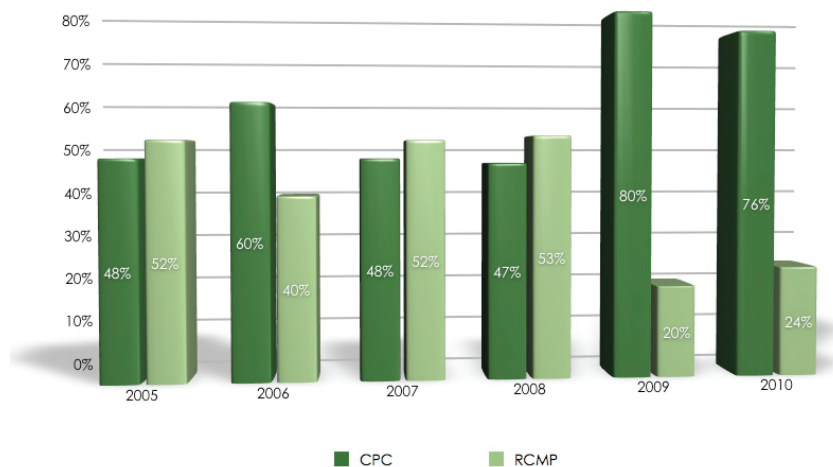
⁹ This does not take into consideration the members who work at “M” Division headquarters, which would bring the total number of RCMP members working out of Whitehorse to 38%.

¹⁰ <http://www.cpc-cpp.gc.ca>

RECEIPT OF COMPLAINTS: RCMP OR CPC

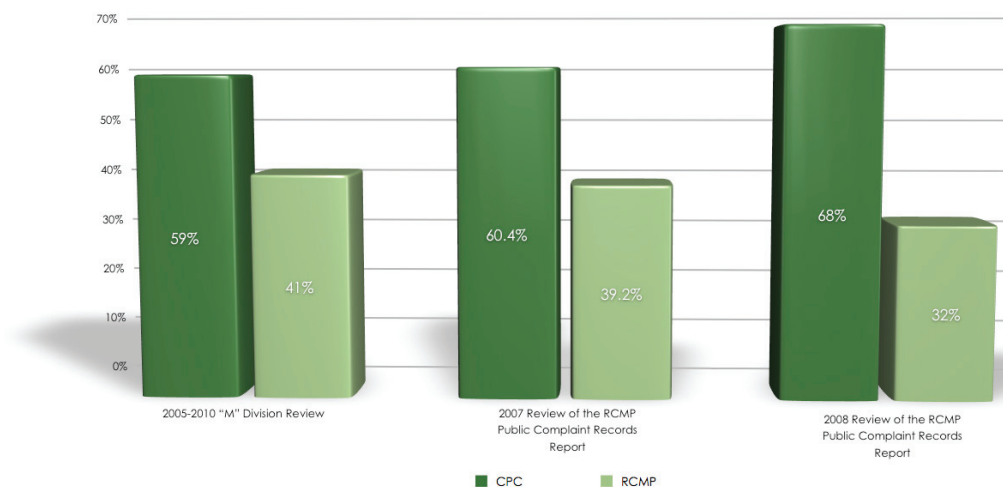
Over the five and a half year period assessed, approximately 59% of the complaints were lodged with the Commission and 41% were lodged directly with the RCMP. For the years 2005-2008, the number of public complaints lodged with the Commission and the RCMP was approximately equal. However, since 2009 there has been a noticeable shift towards an increasing number of public complaints lodged with the Commission versus with the RCMP. The number of public complaints lodged with the Commission increased to 80% for 2009 and 76% for the first half of 2010.

Receipt of "M" Division Public Complaints: RCMP or CPC



Nationally, the Commission's *Review of the RCMP Public Complaint Records* reports demonstrate that in 2007 and 2008, an average of 64.2% of complaints were filed with the Commission and 35.6% of complaints were lodged with the RCMP.¹¹

Receipt of Public Complaints: RCMP or CPC



¹¹ It should be noted that in both the 2007 and 2008 *Review of the RCMP Public Complaint Records* reports there were 0.4% of complaints lodged with "other" bodies (i.e. the Federation of Saskatchewan Indian Nations).

INFORMAL RESOLUTION AND WITHDRAWAL

A significant portion of the public complaints made in the Yukon are dealt with by way of informal resolution.¹² In addition, there are many instances in which the complainant subsequently withdraws his or her complaint.¹³ A withdrawal is a type of informal resolution and both actions are recorded on the same form, which is to be signed by the complainant. Similar to other public complaint regimes both domestically and internationally, the RCMP's "M" Division policy encourages the informal resolution of public complaints:

Informal resolution should be considered as an option, in the first instance, to dispose of a public complaint. However, if it is in the best interests of the Force to conduct an investigation (ie: warranted allegations), then one should be completed. Conversely, determine if an investigation is really warranted. If not, then every effort should be made to resolve the complaint or terminate the investigation. Factors to be considered include availability of resources, the nature of the allegation, the reasons why an investigation may or may not be warranted, etc.¹⁴

The National Internal Investigation Guidebook encourages detachment commanders and investigators to informally resolve complaints in the first instance except "those where the allegations or circumstances are serious or statutory in nature and would therefore warrant an investigation."¹⁵ In addition, the Guidebook identifies the following as benefits of informal resolution:

- There is no investigation and no recording of statements and admissions required. DO NOT ask

¹² There were 44 (30%) complaints resolved informally.

¹³ There were 21 (14%) withdrawn complaints.

¹⁴ "M" Div AM XII.2.H.1.

¹⁵ National Internal Investigation Guidebook at p. 28.

for or record/report admissions, statements or remarks made during the Informal Resolution process. They are considered to have been made "without prejudice." No inference should be drawn as to the veracity or actual validity of the complaint.

- The complaint is dealt with expediently and to the satisfaction of all parties.
- There is no discipline associated with this process and no record or inference as to findings.
- Once concluded, the matter cannot be reopened or reconsidered.
- There is no avenue to appeal to the Commission or CO.¹⁶

There is great value in resolving appropriate types of public complaint informally, as such resolutions provide a quick response to the public complaint in a manner with which the complainant is satisfied.¹⁷

There are two primary issues that arise when reviewing the Yukon RCMP's use of informal resolution and instances where public complaints have been withdrawn. The first relates to the sufficiency of reasons for the action and the second relates to the proper application of the RCMP's policy relating to their use.

Sufficiency of Reasons

Subsection 45.36(3) of the *RCMP Act* provides that "[w]here a complaint is disposed of informally, a record shall be made of the manner in which the complaint was disposed

¹⁶ National Internal Investigation Guidebook at p. 29.

¹⁷ There is nothing that would prevent the matter from being reopened or reconsidered if it was necessary in the interests of justice. In addition, the CPC can express disagreement after notification is received of informal resolution in serious cases which can prompt the RCMP to proceed with an investigation.

of, the complainant's agreement to the disposition shall be signified in writing by the complainant and the member or other person whose conduct is the subject-matter of the complaint shall be informed of the disposition." The National Internal Investigation Guidebook provides that the documentation must contain "sufficient information that outlines what action was taken in response to the complaint" and "exactly what the parties agreed to."¹⁸

The issue regarding the sufficiency of reasons has been considered by the Commission in its *Review of the RCMP Public Complaint Records* reports. The Commission noted that "there appears to be little compliance with the intent of informal resolutions to the extent that it is often difficult to determine how a resolution was achieved and if both parties have agreed to the outcome."¹⁹ This issue was examined in the "M" Division public complaint files reviewed. Of the 44 public complaint files that were informally resolved, only four did not contain sufficient information to determine whether or not the resolution was appropriate. In most cases, however, the information was considered to be sufficient.

The absence of sufficient reasons was noted to be much more prevalent in public complaints that were withdrawn. Of the 21 public complaint files withdrawn, eight did not contain sufficient information to determine whether or not the action was appropriate. While there is not the same direct language in RCMP policy, the "M" Division policy does require that if a complainant wishes to withdraw his or her complaint the RCMP should "[h]ave the complainant indicate the reason for withdrawing the complaint" and "[d]epending on the allegations or circumstances, investigation may still be required despite the wishes of the complainant."²⁰

Failing to document the reasons for the complainant wanting to withdraw a complaint is potentially problematic and can lead to the criticism that the complainant may have been improperly persuaded by the RCMP to withdraw his or her complaint. For example, in one file involving a complaint alleging an arbitrary detention, the complainant withdrew his complaint after nine months following one phone call from a senior officer (not the investigator). No reasons were given why the complainant withdrew his complaint, and no information was included regarding what was discussed.

The requirement for sufficient reasons is highlighted due to the power imbalance inherent in the relationship between the police and members of the public. Every effort must be made to avoid any perception of impropriety in the process resulting in the informal resolution or withdrawal of a public complaint. Sufficiently documenting the reasons for informal resolution and withdrawal will help avoid any negative perception and will allow meaningful review of the action.

Proper Application of Informal Resolution and Withdrawal

Another critical issue relates to the proper application of the policy provisions governing informal resolution and withdrawals. In other words, the issue is whether or not the policy identifies appropriate circumstances in which informal resolution or withdrawal may be considered. Not every situation should be subject to informal resolution or withdrawal; certain allegations are so serious that they must proceed to a formal investigation regardless of the wishes of the complainant.

The RCMP's national policy provides that complaints alleging serious misconduct or those involving a situation where a member is arrested or a warrant to arrest is issued should not be informally resolved.²¹ In addition, the

¹⁸ National Internal Investigation Guidebook at p. 30.

¹⁹ *Review of the RCMP's Public Complaint Records - 2007*, at p. 30.

²⁰ "M" Div AM XII.2.I.1.a.

²¹ AM XII.2.I.1.a.

policy provides that if there is more than one related allegation and at least one of the allegations is serious, then all of the allegations will be formally investigated.²² The RCMP's National Internal Investigation Guidebook further provides:

Where there are significant or serious allegations against an employee (ie: statutory allegations or those incidents which are disgraceful and which may necessitate disciplinary action), informal resolution should not be considered.²³

With regard to withdrawal, the Guidebook provides:

Regardless of the complaint's wishes, if the allegations and subsequent investigation suggest evidence to support the need for further investigation or where statutory and/or Code of Conduct contraventions exist, then investigation will continue in the usual manner and reporting procedure.²⁴

There were two examples where complaints involving allegations of serious misconduct were informally resolved. In one file, the Commission expressed concern with the action and an investigation was conducted followed by a letter of disposition. In the other file, the complaint involved allegations of choking and improper use of force in cells where cell block video apparently confirmed that the alleged actions had not occurred. Despite that video evidence, the allegation involved serious misconduct and should have been dealt with through a letter of disposition.

There were a total of 12 complaints out of 65, or 18%, that were informally resolved or withdrawn that did not contain sufficient information to determine whether or not the

provisions were properly applied. Given the lack of sufficient information on those files, it is not possible to discern how they might have impacted this assessment.

TERMINATION

Subsection 45.36(5) of the *RCMP Act* provides that the RCMP may terminate a public complaint investigation in the following circumstances:

- (a) the complaint is one that could more appropriately be dealt with, initially or completely, according to a procedure provided under any other Act of Parliament;
- (b) the complaint is trivial, frivolous, vexatious or made in bad faith; or
- (c) having regard to all the circumstances, investigation or further investigation is not necessary or reasonably practicable.

The RCMP's "M" Division policy further provides that "if sufficient evidence exists to recommend a finding with respect to a particular allegation (i.e. Unfounded, Unsubstantiated or Substantiated), then the termination provisions would not apply."²⁵

The Commission has repeatedly reported that the termination provisions are not always properly applied by the RCMP. In 2007, the *Review of the RCMP Public Complaint Records* report included an "M" – Yukon Divisional Report which considered various data including those public complaints where the investigation had been terminated. Only one file was noted to have been terminated in "M" Division in 2007 and there was no indication that the termination provisions had been incorrectly applied.

²² AM XII.2.J.1.b.

²³ National Internal Investigation Guidebook at p. 29.

²⁴ National Internal Investigation Guidebook at p. 32.

²⁵ "M" Div AM XII.2.J.1.b.3.

Upon reviewing the 15 “M” Division public complaint files for the years 2005 to 2010 that were subject to the termination provisions, there were instances of the misapplication of the termination provisions. In particular, in over half of the complaints where the public complaint investigation was terminated, there was sufficient information to deal with the complaints, yet the RCMP did not produce a letter of disposition. This problem was particularly prevalent for public complaint files in 2008 when five out of nine public complaint investigations were terminated where sufficient information existed to complete a letter of disposition.

This issue, including the fact that the RCMP did not need to rely on the termination provisions, was drawn to the attention of the “M” Division RCMP in four Commission reviews (two from 2005 and two from 2008). In each case, the Commission review confirmed that the conduct of the RCMP members was proper. It should be noted that in most of the cases, the decision to terminate the complaint investigation was made after the investigation had been conducted, and there clearly existed sufficient evidence to dispose of the complaint. A letter of disposition was similarly not issued as appropriate in two more files, one in late 2008 and one in 2009, where reviews were not requested by the complainants.

RCMP policy is clear that the termination provisions should not be used where sufficient evidence exists to dispose of the complaint. In these instances, a formal disposition lends certainty to the evidence and provides support for a review. It is important to note that there was no suggestion on the face of the public complaint files that the termination provisions were being used by the RCMP to avoid member accountability for alleged misconduct. On the contrary, the files that were reviewed by the Commission confirmed that the members in each case had acted appropriately.

Adherence to the policy and guidelines regarding termination is critical to ensuring that there is no perception of bias on the part of the RCMP in dealing with public complaints. Failing to dispose of a complaint where sufficient information exists to do so could increase the risk of the complainant holding a negative perception concerning the termination of the investigation. Regardless of any finding related to misconduct, the RCMP should be loathe to terminate an investigation where there is sufficient information to proceed.

The Commission has recommended that the Professional Standards and External Review Directorate at RCMP Headquarters issue a directive clearly articulating when it is appropriate to terminate a public complaint under the *RCMP Act* and what information must be included in a notice of direction. In addition, the Commission has posted its position on the proper use of these provisions to its public website.²⁶

MULTIPLE COMPLAINTS AGAINST MEMBERS

There are various members who have had multiple public complaints made against them. To some degree, this is not unexpected in a small division where the RCMP members work in small communities. It is also not uncommon to see multiple complaints made by one complainant, which is also reflected in the data.

While there are specific RCMP members who can be identified as being subject to multiple public complaints, there is no obvious trend on the face of the data that would suggest that any of these specific RCMP members are repeatedly engaging in improper behaviour. That is not to say that the public complaint data may not reveal areas where specific RCMP members can improve in the performance of their policing duties. However, it is difficult to

²⁶ <http://www.cpc-cpp.gc.ca>

draw firm conclusions due to the limited data available related to public complaints that are informally resolved, withdrawn or terminated, as will be discussed later in this report.

While informal resolution may be a suitable way to resolve a given matter, a closer look at the circumstances in each file may reveal that the member would benefit from some type of operational guidance to prevent future similar public complaints. A proactive system that examines complaints at the time they occur in order to determine if there is a potential problem developing could be beneficial. It is this type of “early warning” approach that the RCMP has been examining on a national level (although it has not been implemented²⁷) and that is utilized in some divisions. For example, “K” Division employs a form of early warning system.²⁸

“M” Division does not have a formal early warning system in place but does reportedly take notice when a member is subject to multiple public complaints.²⁹ Depending on the circumstances, this information would, in theory, also be noted by the member’s detachment commander or line officer for suitable action. At a minimum, there should be an attempt to understand the reasons for the member being subject to multiple complaints—they may simply be a practical manifestation of the nature of policing where the member is duty-bound to take action in difficult circumstances. It may also, however, offer a glimpse into an emerging problem where the member would benefit from some intervention.

BIAS/CONFLICT OF INTEREST

Section 8 of the *Commissioner’s Standing Orders (Public Complaints)* provides that public complaint investigators should conduct the investigation “in an objective and neutral manner consistent with recognized investigative procedures” and “impartially and diligently gather evidence with a view to bringing the investigation to a conclusion.” Section 9 provides that “[a] member shall not investigate a complaint where that member may be in a conflict of interest situation.” These provisions direct that a public complaint investigator should be free from bias, both actual and perceived. These admonitions are repeated in the National Internal Investigation Guidebook and in the RCMP’s national policy.

One of the most obvious areas engaging issues related to bias and conflict of interest is the relationship of the investigator to the incident and to the subject member. Where an investigator is involved in the incident that led to the complaint or where the investigator is a direct supervisor of the subject member, there is an obvious conflict of interest and likely a perception of bias. Such circumstances amount to a lack of impartiality that has been recognized by both the Commission and the Commissioner of the RCMP. The Commission and the RCMP’s Independent Observer Program (IOP) was developed, in part, to address this very issue and the resulting negative impact on the perceived integrity of the investigation.

There was only one example (from 2005) in the public complaint files reviewed which directly raised the above issues where the investigator was both involved in the incident (by providing advice to the subject member that resulted in the complainant being charged with a criminal offence) and the direct supervisor of the subject member. The RCMP upheld the subject member’s conduct in its letter of disposition but did not address the

27 There is little information known regarding the extent of the national early warning initiative at this time.

28 According to the CO of “M” Division who was previously posted in “K” Division as a District Officer for Southern Alberta District.

29 According to the Admin NCO.

issue of the investigator's conflict of interest.³⁰ The complainant requested a review by the Commission, which identified the issue of the investigator's conflict of interest in an interim report. The Commissioner of the RCMP agreed that the investigator was in a conflict of interest situation.

While it is normally relatively simple to determine if the investigator was involved in the incident that resulted in the public complaint, absent knowledge of the investigator's rank, posting and position in the reporting structure on the day of the incident, it can be difficult to determine on the basis of a file review whether or not an issue regarding conflict of interest on the part of the investigator exists. While the answer may be readily known as a matter of corporate knowledge, this does not enable the issue to be assessed on the basis of a file review.

Some guidance can be drawn from the IOP, in place in "E" Division.³¹ The IOP was created "in response to rising public interest and concern regarding the independence and impartiality of RCMP internal investigations where the actions of RCMP members have resulted in serious injury or death, and for other investigations that are high profile and sensitive in nature."³² In appropriate cases, the Commission sends an Independent Observer to attend the criminal investigation and monitor the issue of impartiality. To assist with assessing the impartiality of the RCMP investigative team, each of its members completes a questionnaire designed to identify any associations between the investigator and subject member.

A similar questionnaire completed by public complaint investigators would be helpful and would allow the issue of impartiality to withstand scrutiny during any type of file review. This would enhance the integrity of the RCMP's investigation by providing positive action designed to avoid real and perceived conflicts of interest and, by extension, bias. It should be acknowledged that the extent of the efforts to avoid any association between the investigator and subject member would be dependent on the circumstances. It may be difficult from a practical perspective to have someone who has no association with the subject member assume the role of public complaint investigator. Not every public complaint would require such action, but some may.

Aside from the obvious value in having a complete disassociation between the investigator and subject member in certain cases, a significant benefit of an "impartiality questionnaire" for public complaint investigations is that it would increase the awareness of the issue and militate against complacency. While complete disassociation may not be possible depending on the circumstances, an impartiality questionnaire would provide clear and supporting evidence for those instances where there is some association between the investigator and subject member. A mechanism to include such evidence on "M" Division public complaint files does not currently exist.

Regardless of the existence of actual bias, even a perception of bias can be fatal to the integrity of an investigation and will erode public confidence. Accordingly, any perception of bias is to be avoided at all costs. Although there were few examples in the public complaint files reviewed where an objective person might perceive the presence of bias, even a hint of possible bias can raise questions about the *bona fides* of the RCMP's public complaint investigation.

30 Interestingly, the investigator advised the RCMP that the complainant would probably object to him as the investigator because he was involved in making the decision to charge the complainant.

31 The Program has been used twice in the Yukon.

32 <http://www.cpc-cpp.gc.ca>

COMMUNICATING WITH COMPLAINANTS

Maintaining a regular and meaningful dialogue with a complainant is critical to the integrity of the public complaint process. Section 45.39 of the *RCMP Act* provides that the RCMP must notify the complainant and subject member of the status of the investigation within 45 days of the complaint being made and every 30 days thereafter.

Overall, “M” Division appropriately maintained regular contact with complainants. The regular contact included update letters and telephone communication, as well as in-person contact with the investigator. Where there was a significant event in the investigation, for example a delay due to a change in investigator, this was communicated to the complainant. Although there were some examples of missed update letters or letters sent outside the prescribed time frames, this was not considered to be an area of concern.

FILE REVIEW FINDINGS AND CONCLUSIONS

The analysis of the previous data outlined a generally positive handling of public complaints by the RCMP in “M” Division. While some issues were raised as needing improvement, no particular mishandling of complaint files is apparent.

A vast majority of complaints, i.e. 53%, in the Yukon concern the Whitehorse Detachment, while the detachment counts 30% of members stationed in the Yukon. This is not unusual, nor is it of concern, given the nature of the territory. Almost 58% of complaints were dealt with within two months or less, and 80% of complaints were disposed of in under six months. Following the analysis of these complaints, no particular pattern was evident with respect to particular members. It bears mentioning that “M” Division does not have an early warning system in place to raise

concerns with particular members, should the need ever arise.

Further, it was noticed that a great number of complaints are dealt with informally or withdrawn by the complainant. This raises certain concerns on account of the fact that many of these informal resolutions or withdrawal files contained too little information to permit the Commission to conclude on the reasonableness of these dispositions. This information is crucial in order to avoid raising the perception of bias or impropriety in the disposition of public complaints. With respect to files that were terminated, the termination provisions of the *RCMP Act* were generally misapplied; in over half of the terminated complaints, there was sufficient information to dispose of the complaint without relying on the termination provisions.

With respect to the issue of bias in dealing with public complaints, no particular concerns were raised. However, it is important to note that in many files, it was impossible to determine the relationship between the subject member and the public complaints investigator because that information was not on file.

Of note, the internal process for handling public complaints in the Yukon merits comment. The investigation of public complaints falls under the larger heading of internal investigations. Some RCMP divisions contain specific units with dedicated investigators to investigate internal matters, including public complaints. “M” Division does not have such a unit and relies on ad hoc appointments of investigators to investigate internal matters, including public complaints. Public complaints in “M” Division are overseen by the Administrative Non-Commissioned Officer for the Division.

There was a wide variety of investigators tasked to investigate the public complaint files that were reviewed. The quality of the documentation and overall investigation varied among the files. There was one investigator, who was posted to a federal

enforcement team, who conducted a significant number of public complaint investigations in 2006 and 2007. This particular investigator conducted 16 of 51 total public complaint investigations for the years 2006 and 2007. The quality of the investigations conducted by this particular member was noticeably high and included well-documented investigative materials.

Although the member was not a dedicated internal investigator, he clearly exhibited an aptitude for conducting investigations. The success in utilizing this member in this capacity demonstrates the value of having a dedicated investigator for internal matters. Of course, this presupposes that a dedicated investigator would be a competent internal investigator. Assuming that is the case, having a dedicated internal investigator would undoubtedly increase the overall quality and consistency of public complaint investigations.

One of the particular issues that the Commission focused on during the file review portion of this report was the existence of race-based bias or whether the RCMP treated any group in a different manner. There was no indication that this was the case. On the contrary, there were examples where the RCMP made extra effort to communicate with Aboriginal complainants.

COMMUNITY AND MEMBER ENGAGEMENT*

In order to assess their experiences with the RCMP and gauge their level of satisfaction and confidence in the RCMP and the public complaints process, the Commission engaged with a number of stakeholders in the Yukon.

In the course of the Commission's face-to-face meetings with Yukon community groups and organizations which provide services to the public, six questions were used as a general guide to solicit feedback.³³ In every meeting, participants communicated openly and spoke with candour. The prevailing sentiment was to seize the opportunity to be heard and offer up tangible ideas to help improve policing in the Yukon.

There were noticeable common themes which emerged during the meetings. Chief amongst them was the desire to see the return of community policing to the Yukon and better engagement of community organizations by the RCMP. Yukon RCMP members were largely described as being disconnected from the communities in which they serve. Moreover, the RCMP members being sent to the Yukon are seen as too young and too inexperienced, with a very limited understanding of the environment in which they will have to work.

There were complaints about the constant turnover of RCMP members which, in the opinion of many participants, leads to inconsistency in levels of engagement with communities. The quality of policing services, it is felt, is determined more by an individual member's personality than actual RCMP policies and procedures.

All of the organizations that were engaged recommended that training specific to the Yukon be undertaken before any member ventures out into the community. The high levels of social problems related to alcohol consumption and mental health issues are seen as presenting any police officer with huge challenges for which most Yukon RCMP members are seen as being ill-equipped to deal with. Most organizations are very willing to participate in training for new members arriving in the Yukon. Several organizations strongly recommended that the RCMP "stop sending inexperienced RCMP members to the Yukon."

Many clients of the organizations the Commission met with apparently have little confidence in the complaints process. The fear of "retribution" was alluded to throughout many of the meetings. Further, little distinction is made between the Commission and the RCMP. At-risk women and Aboriginal communities in particular have expressed serious confidence issues with the Yukon RCMP. This stems in large part from the poor treatment and lack of respect members of these groups allege they have experienced at the hands of the RCMP.

Though several organizations expressed scepticism about the Review, all were keen to see effective policing which meets the unique needs of the Yukon. The Review is seen by many as a golden opportunity for positive change.

* The Commission has made every effort to accurately reflect the comments provided by the community groups and organizations interviewed. Many anecdotal examples were provided which the Commission has in no way substantiated. The opinions and recommendations remain those of the stakeholders.

³³ See Appendix D.

FIRST NATIONS COMMUNITIES

INTRODUCTION

In the context of this review, Commission staff met with the Grand Chief and Justice Manager of the Council of Yukon First Nations, representatives of the Champagne and Aishihik First Nations and staff and clients of the Skookum Jim Friendship Centre.

The Council of Yukon First Nations (CYFN) is the central political organization for the First Nation people of the Yukon. It has been in existence since 1973 and continues to serve the needs of First Nations within the Yukon and the MacKenzie Delta. The main office for the CYFN is located in Whitehorse.³⁴

The Champagne and Aishihik First Nations (CAFN) are located in and around Haines Junction. The CAFN works towards preserving and enhancing the culture and environment of the First Nation people in the community. The CAFN has a range of self-government organizations focused on social well-being, health and mental awareness and education.³⁵

The Skookum Jim Friendship Centre (SJFC) is a non-profit organization focused on promoting spiritual, physical, emotional and mental well-being of First Nation peoples. The goal of this organization is to foster understanding and friendship between people. The SJFC offers programs and information regarding health, education, leisure and support. The center was built in 1962 in Whitehorse.³⁶

The CAFN expressed a high level of cynicism and skepticism regarding this Review. It feels it has been through all this before, only to see no changes being made. As a result, there is limited faith in the process. At the same time, it is hopeful that this initiative will prove to be

different and is looking for long-term change. The organization expressed the desire to see the RCMP embrace and accept the need for change and see this review as an opportunity for improvement in community policing. According to the organization, the community must have a larger say in its policing.

KEY ISSUES

The Public Complaint System

The CYFN believes that there is very little knowledge amongst First Nation communities with respect to resources available to complain about police services and there is a widespread belief that a complaint would result in no concrete action.

Further, it believes that there is an absolute need for more outreach. It was suggested that awareness is key in order for members of the First Nations to come forward with a sense that their voice will be heard. An additional barrier that was mentioned is that First Nations peoples are raised not to complain and that it goes against their teachings. This makes it very hard to complain to an organization like the Commission or the RCMP. The Council believes that the complaints process is not geared towards First Nation communities' needs and practices and the use of tools such as Justice Circles would improve relationships and potential complaint resolutions.

The CAFN submits that cultural differences will prevent First Nation communities from complaining, in addition to fears of retribution. Akin to the first two organizations, the SJFC also believes that Aboriginal people silence themselves and do not avail themselves of complaints processes due to fear, resignation and a sense of hopelessness. Furthermore, there is a sense amongst First Nation communities that they cannot complain against the RCMP, as they would not get a fair review regardless of where they complained.

34 <http://www.cyfn.ca>

35 <http://www.cafn.ca>

36 <http://www.skookumjim.com>

The CYFN suggests that the RCMP seek First Nations participation in the complaint resolution process, including recommendations for alternative disciplinary processes such as a Justice Circle.

The CYFN suggests that a list of at least 10 civilian Independent Observers, drawn from the First Nation communities, be prepared in order to help in the resolution of informal complaints. A local Commission storefront presence in the Yukon must be considered. It should be independent from any other Yukon organization and should be conveniently located and accessible. The CYFN as well as the SJFC believe that there is a serious need for the Commission's presence in the territory, in the form of a complaints office run by a Yukon-based person, which would permit face-to-face communication. According to these organizations, this satellite office should have the ability to make assessments and determinations on complaints.

Discrimination and Racism

The SJFC recognizes that in general, the RCMP is present when needed and there are good police officers who uphold the law. However, many Aboriginal people fear the RCMP and do not want to find themselves in their presence.

The CYFN denounced the fact that First Nation families, complainants or communities do not get adequate, if any, investigation updates. The Council itself submits that it never receives updates on high-profile investigations such as those involving women who have disappeared; cases like the Watson Lake sexual assault case; or the Raymond Silverfox death. It suggests that First Nation communities, especially the elders, ultimately seek closure on cases involving members of their community. For this they require information on the status of investigations.

The CAFN also raised issues of concern relating to perceived racism within the RCMP. It feels there is a problem within the RCMP and that there is a refusal to discuss or even admit that this situation exists. There was a strong sentiment expressed that there is a general lack of respect shown by the RCMP towards First Nation communities. The CAFN also expressed its dissatisfaction at not receiving investigation updates pertaining to issues of concern for the community.

As for the SJFC, its members referred to a perceived lack of cultural sensitivity on the part of RCMP members. There is a widespread belief that Aboriginals are treated differently. The perception is that traditional rules don't seem to apply to First Nation people and that in the opinion of attendees, they are "considered guilty before proven innocent."

Some expressed the view that if an Aboriginal person is found murdered, there is "no real investigation," whereas if the victim is non-Aboriginal, the investigation would be "thorough until the case is solved." Another example cited was that if 9-1-1 is called by an Aboriginal person, the police are first sent to evaluate the incident. Ambulance services then arrive far too late. This appears to be standard procedure in the opinion of the attendees. Members of the SJFC also noted that when 9-1-1 is dialed to report an impaired person on the street who may be a danger to himself or herself, standard procedure appears to be for dispatch to enquire if the person is Aboriginal.

According to the CAFN, orientation workshops upon arrival into a community would be a useful tool for RCMP members. This should include cross-cultural training involving the First Nation community.

Excessive Use of Force

Concerns were raised with respect to the excessive use of force by RCMP members on citizens who are arrested or brought to cells in what is commonly referred to as the “drunk tank.”

Some young people shared their perspective by adding that the RCMP is much too quick to use violence to resolve issues with youth. They submit that most young people are not willing to talk about it; however, these negative interactions with the RCMP lead to lifelong challenges when it comes to the trust between the RCMP and people of the community.

Staffing Issues

All representatives expressed concerns with respect to staffing issues at the RCMP, in that the two-year rotation of police officers assigned to work in the Yukon makes it difficult to maintain a cohesive force focused on community policing. The situation translates into no real involvement or continuity within the community and handicaps the need for long-term change. The CAFN expressed the need for additional members in detachments. With this comes the need for more experienced police officers, as the CAFN expressed concern that young officers are often unable to relate to the people of the community. Furthermore, it was mentioned that they do not believe that the RCMP has time to properly see through the process of a complaint. The SJFC emphasized the need for police training on issues specific to the Yukon. New arrivals should receive this training both before and during their time in the Yukon.

Community Policing

The need to return to “community policing” was raised by all the organizations that were interviewed.

The SJFC mentioned that the RCMP is not involved in community events, but doing so would enable the members to engage with youth. This would certainly lead to a change in behaviour. It was pointed out that some time ago, a Corporal in Carmacks involved himself in many youth and community events. Consequently, according to the attendees, the youth crime dropped. The Centre members also named another officer as being one of the most respected and loved police officers in the Yukon. While he is no longer in the Yukon, during his time in the community, he started the Young Riders Club which was joined by most of the youth. The Centre felt the issue of community policing depends more on the personality and approach of individual officers than any RCMP policy.

The CAFN also emphasized this point by adding that community involvement should be general RCMP policy, rather than individual police officers' choices. There is a strong desire that RCMP detachment members attend more community events, as part of detachment policy and not based on the personality of the detachment corporal alone.

The SJFC called attention to the fact that First Nation communities want to be treated in accordance with Aboriginal traditions, such as fairness, respect, love and equality. There is, however, a sense of despair, as they do not feel the RCMP understands the community and as such, is not able to police properly. Changing an institution like the RCMP would involve changing its core beliefs, which is a difficult task.

First Nations Police

The CYFN observed that many Yukon First Nations now have jurisdiction over policing. However, the CYFN noted that it is not at the negotiating table for upcoming policing contracts.

The CYFN felt this Review may be the Yukon RCMP's last chance to properly address deficiencies.

Both the CAFN and the SJFC submitted that RCMP detachments should have at least one member of the community who has an auxiliary or similar status to act as liaison. This would allow for continuity in the community when other officers move on. The CAFN expressed dismay over the abolition of the First Nations liaison officer role which previously existed in the Yukon.

Social Services

The SJFC mentioned that the Yukon is challenged by a number of social issues, including a serious lack of social and mental health services. A new treatment center, for example, would diminish the number of Aboriginals who find themselves in RCMP cells and would consequently lessen the burden on RCMP members to act as social service providers. The members recognized that the RCMP is overwhelmed by the inordinate amount of work and the lack of social services in the community. However, the lack of training and the inadequate number of police officers were also cited as predominant issues which need to be addressed.

The organization also wished for a better capability by the RCMP to make the call that someone needs medical attention rather than just "throwing them in the drunk tank."

A client of the Salvation Army Shelter, who claims to have "spent many nights in the drunk tank" has strong concerns with the apparent policy to keep a person in cells for a pre-determined amount of time regardless of their level of alcohol consumption. He submitted that being kept in the cells while experiencing alcohol withdrawal had the effect of making a person feel like a "caged animal."

WOMEN'S GROUPS

INTRODUCTION

While in the Yukon, Commission representatives met with staff and clients of the Women's Transition Home, also known as Kaushee's Place. The Commission also spoke extensively with a representative of the Yukon Status of Women Council.

Located in Whitehorse, Kaushee's Place provides shelter, care, outreach, support and advocacy for women and children who have fallen victim to violence and abuse. The transition home allows for women and children to escape their violent and abusive situations and start fresh by providing access to second stage housing in a secure environment at a reasonable price.³⁷

The Yukon Status of Women Council (YSWC) is an organization which advocates for the awareness for women's issues and which strives to achieve women's equality through research, advocacy, education and public policy work. The group works with various other women's organizations in the Yukon and was able to report on a wide variety of issues that came to its attention. It should be noted that a representative from the Council also sits on the Review of the Yukon's Police Force Advisory Committee.³⁸

KEY ISSUES

Violence Against Women

Kaushee's Place expressed concern with what is perceived as a systemic problem with the treatment of women by the RCMP in the Yukon, especially the treatment of First Nation women. A representative of the YSWC expressed similar concerns.

³⁷ <http://www.womensdirector.gov.yk.ca/shelters.html#kaushees>

³⁸ <http://yukonstatusofwomenscouncil.blogspot.com/>

As such, they are left with the impression that RCMP members do not understand the dynamics of family violence nor the concept of a woman's role and dynamic in a relationship where there is domestic violence. This conclusion is based on the experience of women who have sought shelter at Kaushee's Place. The expressed sentiment was that the RCMP tends to blame women who fight back and defend themselves, rather than assigning blame to the violent behaviour of their male partners.

Kaushee's Place representatives submit that violent male partners, under the Domestic Violence Treatment Option (DVTO),³⁹ are now calling the police, accusing their wives or partners of being drunk and attacking them. They believe that there has been a higher incidence of RCMP members arresting the abused woman rather than the male perpetrator. The contention of Kaushee's Place representatives is that the violent male partners are "learning the lingo" of what to say in order to gain control of the situation to the disadvantage of the real victims, the women. In many instances, women provide financial support for the family and as such, this situation leads to loss of jobs and financial stress, in addition to the domestic violence situation.

One woman, who is a Kaushee's Place client, stated that she would not call the police if faced with domestic violence because she felt she would rather suffer the violence than be arrested and accused of attacking her attacker while defending herself. The YSWC representatives described similar incidents and further submit that domestic violence incidents are largely under-reported.

This lack of trust between the shelter, its clients and the RCMP has negative and potentially

harmful results. Many women will call the shelter's 24-hour crisis line before calling the police, believing that they will be better treated. Shelter staff have reported that they have even received calls from children, who would rather interact with the shelter than the RCMP.

Further, the trust of women's groups was badly shaken following the alleged sexual assault in Watson Lake. The danger with this situation is the negative impact it has had on the community, especially on women and women's organizations. The RCMP must work on the trust relationship between its members and women's organizations. This effort is necessary in order to permit RCMP members to adequately execute their functions with credibility, regardless of the fact that the basis of the distrust may or may not be warranted.

The Public Complaint Process

There was a strong perception amongst shelter users and staff that they would be subjected to harsh treatment and would be blamed if they reported the incidents of violence.

The women who were interviewed acknowledged that they have dealt with compassionate RCMP officers, naming several members who were at local detachments in the past. However, they note that some members are extremely judgmental. Staff members allege that they have been called "men haters" by RCMP members.

Because of this, and in order to preserve relationships between the police and the shelter, staff members are reluctant to complain about police conduct. They feel that the need for police intervention is too important at times; complaining would strain the relationship and lead to repercussions.

A representative for the YSWC submits that she has heard from women who have complained to the RCMP, either for themselves or to assist

³⁹ In response to high rates of domestic violence, the Domestic Violence Treatment Option (DVTO) project was created in 2000. Please see the website for more information: <http://www.yukoncourts.ca/courts/territorial/dvtoc.html>.

others. These women allege that following the complaint, they have been harassed by RCMP members including members "following them around the community, proceeding to do traffic stops and falsifying the reasons for the stop."

This same representative finds the complaints process confusing, lengthy and unsatisfactory. She believes that the RCMP has misinformed people about the complaints process, which leads to a low number of people complaining about the RCMP.

Staffing and Training Issues

Akin to the other organizations who were interviewed in the context of this review, the issue of RCMP detachment staffing was also raised. They believe that the two-year rotation of police officers does not work in the Yukon. This results in a lack of continuity of community policing, and the loss of good police officers.

Kaushee's Place recommends that workshops be put into place with its collaboration to provide RCMP members with a better understanding of domestic violence, as well as the shelter's activities and priorities. This would ideally encourage open communication and a better relationship between the RCMP and Kaushee's Place's clients. Furthermore, it recommends that RCMP members posted in the Yukon receive sensitivity training in order to prepare them to interact with the population.

Accordingly, Kaushee's Place believes that there needs to be policy changes in the RCMP, in order to ensure that members posted to the Yukon receive proper training on the particularities of the territory. When members are trained and have worked in the Yukon for a certain period of time, they should be able to continue their work in the territory after completing just two years (outside of Whitehorse Detachment) rather than being reassigned elsewhere in Canada.

Social Services

The bigger issue in the Yukon, according to the staff, is the lack of social services and housing in the Yukon. This situation in turn affects the work of the RCMP, as it is called upon to act as social services. While more social services in the territory would help address some of the issues, members must also be trained to use compassion in the execution of their duties.

SOCIAL AND MEDICAL SERVICES

INTRODUCTION

In the context of the Commission's report, Commission staff met representatives of the Salvation Army, the Whitehorse General Hospital, the Mental Health Clinic, the Fetal Alcohol Syndrome Society of the Yukon, Yukon Legal Services and Yukon Immigration Services.

The Salvation Army, established in 1882, is an international Christian non-governmental organization that provides social services to members within the community. The Whitehorse branch offers shelters, halfway houses, church groups and thrift stores. This organization aims at helping those marginalized, overlooked groups within our society.⁴⁰

Since 1901, the Whitehorse General Hospital (WGH) has provided medical services to members of the community. The WGH is covered under the Yukon Hospital Corporation, which ensures that all Yukoners receive access to quality health care. This hospital provides both inpatient and outpatient services.⁴¹

The Mental Health Clinic (MHC) provides a wide range of services to those who suffer from emotional and behavioural problems as well as mental illnesses; programs such as group and individual therapy, counselling and assessments are offered. The main office

⁴⁰ <http://www.salvationarmy.ca/about/>

⁴¹ <http://movingcloser.ca/about/>

is located in Whitehorse, but counsellors regularly travel to communities outside of Whitehorse.⁴²

The Fetal Alcohol Syndrome Society of the Yukon (FASSY) offers services to those who are suffering or who have family members suffering from fetal alcohol syndrome (FAS) and fetal alcohol effects. The society provides a wide range of services from pre-natal care to prevention workshops. The FASSY provides services to all community members in Yukon but its main office is located in Whitehorse.⁴³

Yukon Legal Service Society (YLS) is a legal aid provider based out of Whitehorse that allows low-income individuals access to quality legal aid. This society promotes that all individuals deserve justice and equality therefore their services are done at a low cost or no cost. All those who meet the eligibility guidelines have access to eight lawyers located at four different branches throughout Whitehorse.⁴⁴

Yukon Immigration Crossroads is a non-governmental organization that was established in 2005 in order to provide services and programs such as language training and social integration to new immigrants. This branch, which is located in Whitehorse, works in collaboration with Citizens and Immigration Canada as well as the Association franco-yukonnaise. This program strongly encourages local residents to help integrate new immigrants in the community to eliminate discrimination and promote cultural diversity.⁴⁵

KEY ISSUES

Member Professionalism and Training

RCMP member professionalism was raised as an issue. Salvation Army representatives underlined that there have been some outstanding RCMP members posted to the Yukon over the years. However, these police officers were generally older, more experienced members who made a genuine effort to assist the community. It was raised that newer recruits often do not demonstrate the same skills. As such, there is no interaction between the RCMP and clients served by the shelter, beyond the police responding to calls for assistance with difficult clients.

The emergency room and admissions units of the Whitehorse General Hospital have a very close working relationship with the RCMP and feel that they have been well served by the Force. They recognize that individual RCMP members can and do make a difference.

The MHC does not have a lot of dealings with the RCMP. For the most part, its dealings have been very positive. However, one concern is apparent inconsistencies in RCMP detachment responses to mentally ill patients. Despite having previously agreed community plans in place to respond to mentally ill patients, the RCMP sometimes follows its own path in dealing with these individuals. MHC clients need to be managed in certain ways in order to de-escalate a situation.

The FASSY staff does not deal directly with the RCMP, but in general, their impression of them is positive. However, their clients have complained about interactions with the RCMP. Staff reported that there were (and are) some incredible police officers but there are too many who have zero tolerance towards people dealing with FAS or street people in general and do not treat them with dignity. The FASSY also underlined that there is a high turnover of officers, there is no community

42 http://www.hss.gov.yk.ca/mental_health.php

43 <http://www.manyrivers.yk.ca/localprograms.html>

44 <http://www.legalaid.yk.ca/>

45 <http://www.afy.yk.ca/secteurs/main/en/index.php?site=immigration>

policy, and a serious lack of knowledge of living in small Northern communities. The FASSY workers have also reported that they believe the RCMP views them as the enemy. For example, some staff members reported that RCMP officers have accused them of “enabling clients.”

Immigration Crossroads has not received complaints or concerns from its clients with respect to interaction with the RCMP. However, the organization said that many of its clients were unlikely to raise concerns to the police for fear of jeopardizing their visa status.

In the past, police officers being stationed in the Yukon would receive an orientation session at the Hospital. These sessions have been interrupted for reasons unknown to them; the Hospital believes that it would be pertinent to resume them, as new police officers need an adjustment period when arriving in Whitehorse. The MHC agreed and added that it would be helpful to have a mental health first aid course for the RCMP in the Yukon. There is a first aid course that can be taken by officers, in order to be able to identify people with mental health issues, and know how to care for them in a first aid context.

The FASSY also submitted that there exists a model for FAS training that is available through its organization as well as one program available through the Justice Department, which it believes would be helpful for police officers who interact with clients.

The FASSY staff also alleged that women in relationships who are subjected to domestic violence are poorly treated by RCMP members. Women get criminally charged for domestic violence-related crimes, while they are simply attempting to defend themselves against their violent partners. As such, many women are reluctant to call on the RCMP for assistance.

Further, the FASSY believes that RCMP members exercise undue pressure on clients accused of criminal offences, leading these people to plead guilty to various offences. In order to be eligible for services through the Community Wellness Court or DVTO Court systems, the accused must plead guilty to the crimes with which they are charged. The FASSY feels that this forces clients to be in a situation where they will have a criminal record, otherwise they cannot access help.

There was a general agreement between these organizations that RCMP members who are posted to the Yukon rarely receive adequate and necessary training in order to deal with the particularities of the Yukon and its population.

The FASSY suggested that members receive cultural training before and when they arrive in the North. Further, the FASSY and the YLS expressed the need for more experienced officers to be sent to the North. The YLS also noted that the RCMP members being sent to the Yukon are too young and lack the experience necessary to ensure consistency in policing the territory. Yukon is a unique territory, and with that come particular challenges. The organization also questioned the financial costs associated with constantly rotating members through the Yukon.

The YLS also emphasized the need for training for RCMP members sent to the Yukon as a priority. This training should emphasize First Nations sensitivity training, particular issues related to the North and how to handle crises. The FASSY suggested that most RCMP members have a poor, if non-existent, understanding of FAS and that it would be helpful to receive specific training on how to deal with people with FAS. Multi-stage training is necessary in the North, especially where FAS numbers are so high.

The FASSY expressed the need to have a person who knows and understands FAS present when police members are interrogating a

person dealing with FAS, in order to keep the interview fair, as regular conversation is not easy for FAS clients.

As for Immigration Crossroads, they also mentioned the need for a better understanding of the immigration community. Immigration Crossroads recommended that when interacting with citizens who do not speak English as a first language, RCMP members should speak slower, be patient and attempt to find different words in order to communicate. As well, a Francophone should be able to receive services in French.

In conclusion, there was a general perception that there should be a much larger training component for new RCMP officers who come to the Yukon. Culturally and geographically, the Yukon has its own special issues and concerns which most interviewed organizations felt individuals RCMP members were not adequately prepared for prior to their arrival in the Yukon.

Social Services Availability

The YLS is satisfied with the members of the Yukon RCMP. The organization recognizes that the Yukon has a deep-seated alcohol and drug problem. It is also a destination for “drifters trying to make a last go of it.” As such, the YLS expressed empathy for the challenges involved in policing in the Yukon, underlining that RCMP members are often providing taxi services for people under the influence of alcohol.

The Salvation Army recognized that a bigger issue in the Yukon is the lack of housing units, which places tremendous strain on the various resources of the community, namely ambulance services, police services and the shelter itself. As there are only 10 beds at the Salvation Army, which offers services only to the male population, the only other option for chronically inebriated clients is the “drunk tank” at the RCMP detachment. While the

shelter understands that the RCMP has call priorities, the delays in response often means the staff members are left trying to handle a volatile client for some time by themselves. As such, they only call the RCMP when the situation is extreme.

The FASSY also recognizes that RCMP members can become frustrated and weary of the revolving door situation. However, it suggests that the solution is not to lump everyone in one category of alcoholics. In the same vein, the MHC recounts a situation in Watson Lake where a mentally ill boy was taken to the drunk tank when he should have been brought to the hospital. The MHC believes that there is a lack of education amongst RCMP members on how to deal with mentally ill people. While some members are professional with people suffering from mental health disabilities, some are not. Unfortunately, the police are utilized much more in rural communities, because of the lack of mental health services in these areas. However, until this situation changes, the police must be given the resources to adequately deal with people with mental health issues. For example, the RCMP could receive training from a nurse working with people dealing with mental health issues.

The MHC also recognizes that the bigger issue is with funding of mental health programs and that this situation will worsen next year, as temporary federal government funding for the rural health program will end. The RCMP may bear the brunt of the consequences due to this lack of funding.

Excessive Use of Force

The Salvation Army representative submits that RCMP members are very professional in their interaction with them and the clients when they arrive at the shelter. However, concerns were raised over client allegations that they are sometimes subjected to excessive use of force while in cells. Staff members have been shown severe bruising as well as TASER® burns

on clients. Staff noted that claims of excessive use of force have declined over the past year. TASER® burns have not been evident in the past three years.

The FASSY submitted a few examples of clients who complain that they were subjected to excessive use of force when in cells. Staff members recount the story of one client who came to the FASSY with cuts and bruises, alleging to have been beaten in cells. This client, however, would not complain because he alleged that members threatened him that the situation would get worse for him if he did.

Another FASSY client in Haines Junction who was arrested when under the influence of alcohol claims that she was handcuffed and roughly put into a police vehicle. The member did not secure a seat belt around her, and during transit, he slammed on the brakes and her face hit the glass partition. She ended up with two black eyes and broken glasses as a result. She refused to file a complaint, feeling resignation at the situation.

In the community of Pelly Crossing, the FASSY clients have reported being mistreated and ridiculed when they report for probation at the RCMP detachment. However, they receive better treatment when accompanied by a FASSY staff member. As a consequence, clients do not want to attend and therefore risk violation of their probation.

Complaints System

The YLS does not lodge formal complaints with the RCMP or the Commission on behalf of clients, as the organization uses complaints about police conduct during the plea bargaining process in the Court system. They believe, however, that Aboriginals would be reticent to complain about the RCMP to the Commission given the perception that it may be affiliated with the RCMP and that the Commission is too disconnected from their reality. There is a perception that the

Commission is “just another federal office out east.” There is a general sense of resignation amongst First Nation communities with respect to the RCMP. In the experience of the YLS, the RCMP treats First Nations differently than non-native people. It is counter-intuitive for Aboriginal people to lodge a complaint with the RCMP, as there is a feeling that there will be no results from complaining to the same organization they perceive as being the source of the problem. Without a presence in Whitehorse, the Commission is irrelevant to the people of the Yukon.

The Salvation Army reports that its clients would not consider making a complaint against an RCMP member for fear of “street justice” or “getting it worse next time.” In other words, the fear of reprisal is the main reason their allegations do not see the light of day. The Salvation Army emphasized the need for an independent complaints process that would be helpful in addressing concerns from clients that a complaint would raise the potential for retribution against them.

The FASSY staff reports that clients complain to them about how they are treated by RCMP members, but that they would never lodge an official complaint out of fear of mistreatment or retribution by the RCMP.

Immigration Crossroads was not aware of the Commission's existence, nor of the complaints process.

Community Engagement

The FASSY submitted that there is a need to return to community policing, as it once existed in the Yukon. It expressed concern that police response depends entirely on the individual police officer rather than the Force-wide policy. As such, it believes that there is a lack of policy regarding police conduct and response. Further, the FASSY had set up a workshop and invited the RCMP to participate. The RCMP has never attended.

The Immigration Crossroads' representative noted that the RCMP has been responsive when asked to participate in workshops organized by the organization; however, it also noted that there was no other engagement with the organization otherwise.

As for the Hospital, staff submit that in the past, "M" Division used to engage the Hospital by way of regular meetings to discuss policy issues and daily concerns. These meetings no longer occur for reasons unknown to the Hospital. This is of particular importance, as several policy issues have arisen in the recent past which have caused confusion at the worker level and bring into question where the responsibilities of the RCMP and Hospital begin and end.

For instance, the RCMP now requires written doctor's orders to comply with staff requests at the Secure Medical Unit to assist in holding down patients who need to be medicated. The Secure Medical Unit is a secure unit for Yukon residents who require psychiatric care. This development arose suddenly, without consultation with the hospital staff and administrators.

Additionally, RCMP members have asked to be informed when certain Secure Medical Unit patients are to be released. The staff is not legally allowed to comply with these requests because of privacy laws, and conflict has arisen as a result. RCMP members have expressed frustration at the lack of information.

Adding to the strained relationship, the RCMP has at times questioned the Secure Medical Unit staff's medical assessments of patients. The Unit admits only patients who are deemed unfit to be released due to mental health reasons. As such, when a patient does not fit the criteria, he or she cannot be admitted, which leaves the RCMP no other choice but to take the person to cells. The Hospital recognizes that there is great difficulty in dealing with intoxicated people and that this situation puts a strain on both medical and

police services. However, it submits that there is an insufficient number of police officers on shift in Whitehorse, given the heavy challenge of recurring issues dealing with intoxication. This creates an unfair situation for both the police and the community.

The Hospital also suggests that once a person with a high level of intoxication has been released from RCMP custody, he or she automatically ends up at the Hospital, significantly increasing emergency room workloads.

Furthermore, Whitehorse City Council used to have a committee to provide a forum for information sharing within the community, involving City Council, Health and Social Services (including the Hospital) as well as the police, called the "Whitehorse Area Police Advisory Committee." With so many different members, this was a very useful committee to hear the concerns and issues of the day. However, the committee has not met for the past 17 months. The Hospital is eager to see it reactivated.

Hospital staff suggest that regular liaison meetings between "M" Division and the Whitehorse General Hospital would greatly benefit both organizations and should also resume. Roles and procedures related to the *Mental Health Act* should be clarified from an operational perspective. The liaison meetings should also address the RCMP's policy and/or procedure on releasing prisoners with high blood alcohol levels from cells.

As well, the Whitehorse General Hospital recommends that the RCMP seek its professional advice and input when evaluating the need for medical-related services such as the potential employment of a nurse who would serve RCMP cells.

Salvation Army staff suggest that the establishment of an ongoing liaison relationship between them and the RCMP's "M" Division would facilitate RCMP interaction

with clients of the shelter. The Salvation Army staff often deal with clients venturing into the extreme cold during winter to look for missing friends. Because of the inherent danger of this situation, the shelter would like to have access to information about who is being detained in RCMP cells, with the prior permission of clients through signed *Privacy Act* waivers.

Language

Immigration Crossroads raised concerns with respect to potential interaction between its clients and the police, as for many of its clients English is not their first language. As well, concerns were raised with respect to immigrants' unfamiliarity with police protocols and applicable laws.

Immigration Crossroads representatives noted that the Yukon is home to a thriving Francophone population,⁴⁶ and they believe there are not enough police officers who speak French and interact with this population.

Immigration Crossroads is open to engagement with the RCMP in order to help remove the barriers or limitations with non-English speaking communities in the Yukon.

VETERAN JOURNALISTS

According to veteran journalists in the Yukon, the RCMP is neither loved nor hated, but simply accepted. They do not report hearing of many complaints about the RCMP and while they expected the Raymond Silverfox incident to change the perception of the RCMP, it has had no noticeable effect. While there is widespread concern that the police would cover up misconduct, citizens would still call the RCMP for help.

⁴⁶ Statistic Canada reported that according to the 2006 census, 4% of the population in the Yukon is Francophone. Of those, 83% reside in Whitehorse.

The journalists submit that in the past they received direct complaints about the RCMP's excessive use of force; however, they no longer receive these complaints. According to them, this is a result of the RCMP's improved treatment of Aboriginal communities. They submit that trust issues with the police have improved; however, there are still issues with the justice system.

With respect to the RCMP, the biggest trust deficiency is within Whitehorse and it tends to get better in smaller communities, such as in Old Crow. Watson Lake still remains a significant concern for historical and contemporary reasons. It is believed that is a consequence of the RCMP not engaging with the community in Whitehorse beyond its actual policing activities. Further, it is perceived that the RCMP has a very difficult time dealing with people who are under the influence of alcohol. On the other hand, the RCMP's engagement with media has improved significantly.

With respect to the public complaint process, the journalists believe that the process is well-known but that there is a resignation that it does not result in positive action. Further, there is a serious fear of retribution and intimidation by the RCMP should someone complain.

RCMP MEMBERS

The Commission believed that receiving input from RCMP members was crucial to the integrity of the analysis of the complaint system in the Yukon. A process was undertaken by the Commission to receive member input through the RCMP's Staff Relation Representative (SRR). Comments were received by the SRR by email and approximately 10 members from "M" Division responded.

Some members who were interviewed expressed doubt about this process and were unconvinced that their answers were going to carry much weight.

With respect to the public complaint process, members expressed frustration that members of the public may make complaints about anything they perceive as being “wrong,” even if the alleged conduct dates a few years back and that there is no mechanism to prevent this from happening. Further, members raised the issue that the Commission depends too much on news clippings and third-hand information rather than on the facts. Members are also concerned that countless hours are wasted in investigating complaints, which cripples the organization.

RCMP members perceive that the Commission uses confrontational methods to deal with complaints and does not recognize or emphasize the good work done by RCMP members. According to the members, the Commission must do more to publicly support RCMP members and be less unsympathetic towards misconduct or errors committed by members. A need for more effort on the part of the Commission to build trust with members was also mentioned.

One member stated that in smaller communities, members of the public speak directly to the detachment commander and can air their complaints. According to him, in larger communities, the police may be unfamiliar with the members of the public, and as such, the public will tend to go to the Commission with complaints. It was felt that both processes lead to the same resolution and that one-on-one discussions are better suited to resolve conflict, other than complaints of a serious nature. This member believed that no other agency outside of a police agency has the expertise to investigate complaints against the police.

In the same vein, one other member expressed the feeling that the Commission is trying to “build an empire,” rather than really being preoccupied by the resolution of complaints, because the Commission has indicated that complaints should be filed with the Commission. He believes that all complaints that can be

resolved locally should be. According to this member, sending complaints to senior management or to the Commission removes the local detachment's ability to resolve issues.

RCMP members felt that a permanent Commission office in the North would improve the way the Commission offers services to the people of the Yukon. As such, these Commission staff members would have in-depth knowledge of the area, the culture and policing issues from the perspective of those engaged in policing in the Yukon.

Frustration was expressed at the fact that complaints which are perceived as being “fictitious,” vindictive or without basis should not be received or investigated. It was suggested that steps be taken to diminish the number of complaints that are deemed fictitious and slow down the number of complaints made in bad faith. Members expressed going through a great deal of stress when they are being investigated for a public complaint, whether the complaint is founded or not.

RCMP members are confident that members of the public are comfortable using the complaints system against them and some members expressed the feeling that the complaints process is too accessible as it currently exists.

Finally, RCMP members felt that the RCMP in the Yukon should prioritize giving the police officers the resources necessary to do their jobs and cease “being everything to everyone all the time.”

STAKEHOLDER FINDINGS AND CONCLUSIONS

Much of the concerns expressed by the stakeholders that were interviewed in the context of this review relate to a deficit of trust between the RCMP members in “M” Division and the public. Distrust of the RCMP is not a new phenomenon,⁴⁷ and requires a great deal of commitment to eradicate. The difficulties inherent in the complaints process and perception of bias were raised by the Commission in its report on *Police Investigating Police*.⁴⁸

The RCMP earns the public trust by being held to a high standard of transparency and accountability. That standard is achieved through processes such as this Review initiative which involves a partnership between the RCMP, the Yukon Government and the Council of Yukon First Nations. The Commission commends all parties for embarking on this initiative and hopes that its submission will contribute to an ongoing dialogue leading to a more positive relationship between the RCMP and all Yukoners.

47 http://www.justice.gov.yk.ca/fr/pdf/Yukon_Police_Review.pdf, page 15

48 <http://www.cpc-cpp.gc.ca>

APPENDIX A

LETTER FROM THE YUKON GOVERNMENT AND THE RCMP'S "M" DIVISION



Office of the Minister
Box 2703, Whitehorse, Yukon Y1A 2C6



April 19, 2010

Mr. Ian McPhail
Interim Chair
Commission for Public Complaints Against the RCMP
Chair's Office
Service Bag 1722, Station B
Ottawa, ON K1P 0B3

Dear Mr. McPhail:


RE: YUKON CITIZENS CONCERNS REGARDING RCMP


We are writing in order to convey to you the concerns that some citizens of the Yukon have expressed regarding the members of the Royal Canadian Mounted Police (RCMP). As you are no doubt aware, policing in the Yukon is considerably different from policing elsewhere in Canada. The unique nature of policing in the Yukon calls for a strong relationship between members of the RCMP and the citizens of the Yukon. Police officers in small, isolated communities are called upon to perform a variety of services in the community that extend well beyond the customary understanding of law enforcement. The relationships that officers in small communities develop with municipal and first nations leaders, teachers, health care workers and others in the community are critical to them in carrying out their duties.

While the majority of RCMP officers provide a valuable service and carry out their duties to the highest ethical standard, a few high-profile incidents in the Territory have tested the confidence that some members of the public have in the RCMP. Some citizens are concerned that, from time to time, some RCMP members might be characterized as indifferent to the well-being of those who they serve. The public has expressed that RCMP officers do not always demonstrate the duty of care expected when a person is arrested and/or detained by police.

In an effort to maintain the trust and confidence of the citizens of the Yukon, the Yukon Department of Justice and the Commanding Officer of "M" Division will initiate a *Review of Policing* in Yukon. We would like to meet with you in order to discuss to what extent your office might wish to contribute to this review in order to ensure it has factually based findings that would assist the Government of Yukon and the "M" Division to respond to the citizens' concerns so as to continue to hold their confidence.

Yours very truly,


Marian C. Horne
Minister of Justice


Superintendent Peter Clark
Acting Commanding Officer
RCMP "M" Division

APPENDIX B

ASSESSMENT CRITERIA

**Commission for Public Complaints Against the RCMP
Review of Yukon's Police Force**

File Review Criteria Assessment Form

RCMP File Number :		CPC File Number:	
Detachment :			
Reviewer :		Date :	
File Investigator : (Name, rank and detachment)			
Subject member(s)			
	Name & rank:		
	Reg. #:		
	Section/Watch:		
	Supervisor:		
	Name & rank:		
	Reg. #:		
	Section/Watch:		
	Supervisor:		
	Name & rank:		
	Reg. #:		
	Section/Watch:		
	Supervisor:		
	Name & rank:		
	Reg. #:		
	Section/Watch:		
Supervisor:			
Name of Complainant:			
Date of complaint:			

**Commission for Public Complaints Against the RCMP
Review of Yukon's Police Force**

Complaint location	RCMP	CPC
Nature of complaint:		
Was this complaint terminated?	YES NO	If yes, was it appropriate and done in accordance to the RCMP Act, including reports to be filled out?
Was this complaint informally resolved?	YES NO	If yes, what was the outcome of the informal resolution and was that resolution adequate?
Was this complaint withdrawn prior to or during investigation?	YES NO	If yes, were there reasons to continue investigating the complaint?
Are the allegations clearly articulated in the complaint?	YES NO	If no, were efforts made to clarify the allegations?

**Commission for Public Complaints Against the RCMP
Review of Yukon's Police Force**

<p>Does the complaint disclose potential statutory or code of conduct contraventions?</p>	<p>YES NO</p>	<p>If yes, where those investigated in a timely manner?</p>	
<p>Where steps taken to advise the complainant about, and assist the complainant with, lodging a public complaint?</p>	<p>YES NO</p>		
<p>Was the complainant interviewed?</p>	<p>YES NO</p>	<p>If yes, was the information obtained sufficient? If no, are reasons given?</p>	
<p>Was contact maintained with the complainant throughout the investigation?</p>	<p>YES NO</p>	<p>Were the 45 day and 30 day letters sent to complainant? Did they contain sufficient detail to indicate the progress of the investigation?</p>	

**Commission for Public Complaints Against the RCMP
Review of Yukon's Police Force**

Was a Professional Standards investigator consulted?	YES	If yes, name and date?	Name:
	NO		Date:
Was Crown Counsel consulted?	YES	If yes, name and date?	Name:
	NO		Date:
Was a report to Crown Counsel submitted?	YES NO	If yes, date?	
Were charges approved?	YES	If yes, date?	
	NO	Comments	
Was a use of force expert consulted?	YES NO	If yes, what was the conclusion?	
Was the investigation report substantially complete?	YES NO	If no, what was lacking?	

**Commission for Public Complaints Against the RCMP
Review of Yukon's Police Force**

Was the investigator's report objective and professional?	YES NO	If no, comments?	
Was there any allegation or evidence of conflict of interest or bias by the investigator?	YES NO	If yes, did the complainant raise it? Additional comments	
Was the public complaint supported?	YES NO IN PART	Comments	
Did the LOD include findings and conclusions?	YES NO	If yes, were those findings and conclusions reasonable and articulated?	
Did the LOD contain the CPC's contact information?	YES NO		
Was the LOD objective and professional?	YES NO	Comments	

**Commission for Public Complaints Against the RCMP
Review of Yukon's Police Force**

Who reviewed the LOD prior to submission?				
	Name:			
	Rank:			
	Detachment:			
Were corrective measures warranted?	YES NO	If yes, was notice provided?	YES NO	
Were corrective measures documented?	YES NO	Comments:		
Was the investigation conducted in a timely manner?	YES NO	Date of LOD:		
Was a review of the public complaint requested?	YES NO	Comments:		

APPENDIX C

DATA ANALYSIS OVERVIEW

DATA ANALYSIS OVERVIEW

A total of one-hundred and fifty-five (155) “public complaint” files were reviewed. However, only one-hundred and forty-six (146) files were actually processed as “M” Division public complaints. Of the remaining nine (9) files, one (1) was an “E” Division public complaint that was investigated by “M” Division, two (2) were assistance files to other divisions to obtain statements for non-“M” Division public complaints, one (1) was a response to provide information to the CPC for a public interest investigation related to the use of the taser in “M” Division, two (2) were dealt with as alternative dispute resolutions with the assistance of the CPC’s Surrey Intake Complaint Office, one (1) dealt with advice related to a non-public complaint issue, one (1) was essentially dealt with as an informal resolution on a minor issue (but could have been recorded as a public complaint) and one (1) was taken as information only (but should have been dealt with as a public complaint).

Of the one-hundred and forty-six (146) actual public complaints reviewed, seventeen (17) were still open and under investigation. Accordingly, there were a total of one-hundred and twenty-nine (129) completed public complaint files reviewed. Sixty (60) of the public complaints were lodged with the RCMP and eighty-six (86) were lodged with the CPC.

Public Complaints by Year

Year	Number		Year	Number		Year	Number
2005	21		2007	31		2009	20
2006	15		2008	30		2010	29

Public Complaints by Where Lodged – CPC or RCMP

Year	CPC	RCMP		Year	CPC	RCMP		Year	CPC	RCMP
2005	10	11		2007	15	16		2009	16	4
2006	9	6		2008	14	16		2010	22	7

Public Complaints by Detachment

Detachment	Number		Detachment	Number
Whitehorse	77		Pelly Crossing	3
Watson Lake	13		Teslin	3
Haines Junction	11		Mayo	2
Carmacks	10		Old Crow	2
Dawson City	7		Beaver Creek	2
Ross River	5		Stewart Crossing	1
Carcross	4		General	1
Faro	4		Not Specified	1

Public Complaints by Outcome

CPC-CIC*	LOD	Informal Resolution	Withdrawn	Terminated	Statutory Investigation	SUI**
2	49	44	21	15	2	13

*CPC Chair Initiated Complaint

**Still under investigation

*Public Complaints by Length**

<1wk	<1mo	1-2mo	3-4mo	5-6mo	7-8mo	9-10mo	11-12mo	13-14 mo	Open
8	29	47	21	12	3	5	2	2	17

*Not including one complaint held in abeyance at the request of the complainant's lawyer and then withdrawn.

Allegations

Allegation	Number	Allegation	Number
Improper Attitude	38	Mishandling Property / Exhibits	7
Oppressive Conduct	36	In Custody Death*	5
Neglect of Duty	35	Improper Search	4
Improper Use of Force	35	Improper Disclosure of Information	2
Improper Arrest	14	Improper Use of Firearm	1
Irregularity of Procedure	9	Perjury	1
Unlawful Entry	8	Unlawful detention	1
Improper Seizure	7	Tampering with Evidence	1

*Includes duplicate complaints, total in custody deaths = 3.

Sufficiency of Information

Informal - Insufficient Info	Withdrawal - Insufficient Info	Sufficient Info but Terminated
4	8	8

Public Complaints by CPC Review

Final Report	Interim Report	Termination not Required, Conduct Proper
9	2	5

APPENDIX D

QUESTIONS POSED TO STAKEHOLDERS


COMMUNITY AND MEMBER ENGAGEMENT YUKON POLICE REVIEW 2010

QUESTIONS POSED TO STAKEHOLDERS

1. What is your organization's perception of the Yukon RCMP?
2. What do your clients/members/community say about the Yukon RCMP?
3. Do you believe people feel confident they can complain about the Yukon RCMP if they ever need to do so?
4. What is your perception of the complaints process?
5. What issues should be a priority for the RCMP in the Yukon?
6. What, if anything, does the Yukon RCMP need to change about the way it provides police services to Yukoners?

APPENDIX E

RCMP'S NATIONAL POLICY

ADMINISTRATION MANUAL
 **TABLE OF CONTENTS**
XII.2. PUBLIC COMPLAINTS

- A. ORIGINATOR
- B. REFERENCES
- C. COMMISSIONER'S STANDING ORDERS
- D. POLICY
- E. GENERAL
- F. ACCESS TO PERSONAL INFORMATION
- G. DISCLOSURE OF DISCIPLINE AS A RESULT OF A PUBLIC COMPLAINT
- H. PUBLIC MISCHIEF
- I. DISPOSITION OF SERIOUS COMPLAINTS/STATUTORY OFFENCES
 - 1. General
 - 2. Commander
 - 3. Immediate Officer/OC

APPENDIX SUBJECT
XII-2-1 Positions Authorized to Act on Behalf of the Commissioner

Chapter Rewrite 2003-12-31



2. PUBLIC COMPLAINTS

A. ORIGINATOR

A. 1. Public Complaints Unit, Professional Standards and External Review Directorate.

B. REFERENCES

- B. 1. *RCMP Act*, Part VII.
- B. 2. *Privacy Act*, Section 8.
- B. 3. I.3., Duties and Responsibilities.
- B. 4. III.11., Information Access.
- B. 5. VIII.4., Civil Actions and Statutory Offences.
- B. 6. *Operational Manual* II.1.
- B. 7. *Informatics Manual* IV.3.
- B. 8. National Public Complaints Investigators Guidebook.

C. COMMISSIONER'S STANDING ORDERS

RULES RESPECTING PUBLIC COMPLAINTS AGAINST THE ROYAL CANADIAN MOUNTED POLICE

Short Title

- 1. These Rules may be cited as the *Commissioner's Standing Orders (Public Complaints)*.

Interpretation

- 2. In these Rules,

"Act" means the *Royal Canadian Mounted Police Act*; (*Loi*)

Receipt of Complaint

- 3. A complaint received by the Force under paragraph 45.35(1)(b) or subsection 45.37(2) of the Act shall be recorded on a form approved by the Commissioner.
- 4. The appropriate officer shall be notified of all complaints made pursuant to subsection 45.35(1) of the Act.
- 5. (1) The Attorney General, Solicitor General or Minister of Justice responsible for

police affairs in a province shall be notified of all complaints concerning conduct of any member or other person appointed or employed under the authority of the Act that occurred in the course of providing services pursuant to an arrangement entered into under section 20 of the Act.

(2) Where a provincial government has entered into an arrangement under section 20 of the Act, the Attorney General, Solicitor General or Minister of Justice responsible for police affairs in the province shall be entitled to receive all information contained in any record established pursuant to paragraph 45.47(a) of the Act.

Transmission of Documents

6. (1) Any notice, report or other document in respect of a complaint, other than a complaint referred to the Commission, that is required by Part VII of the Act to be given to a complainant by the Commissioner or, in the case of a complaint made pursuant to paragraph 45.35(1)(b) of the Act, by the Force shall

(a) in the case of a report referred to in section 45.4 of the Act, be delivered by giving a copy of the report to the complainant or by sending a copy thereof by registered mail, addressed with the last known address of the complainant; and

(b) in any other case, be delivered by giving a copy of the notice, report or other document to the complainant or by sending a copy thereof by regular mail, addressed with the last known address of the complainant.

(2) Any notice, report or other document required by Part VII of the Act to be given to the member or other person whose conduct is the subject-matter of a complaint shall be delivered to the member or other person through normal Divisional distribution networks or by regular mail.

Investigation

7. A detachment commander shall conduct or cause to be conducted any investigation that is necessary to dispose of a complaint that has not been disposed of informally.

8. A member responsible for conducting the investigation of a complaint shall

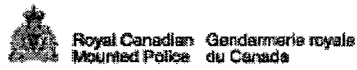
(a) conduct the investigation in an objective and neutral manner consistent with recognized investigative procedures; and

(b) impartially and diligently gather evidence with a view to bringing the investigation to a conclusion.

9. A member shall not investigate a complaint where that member may be in a conflict of interest situation.

10. An investigation into a complaint shall continue to conclusion whether or not the member or other person whose conduct is the subject-matter of the complaint resigns or terminates employment with the Force.

11. Interim reports made pursuant to section 45.39 of the Act shall contain sufficient

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The wordmark for Canada, featuring the word "Canada" in a stylized, serif font with a small crown over the letter 'a'.



Administration Manual **Bulletin**

Bulletin No.
AM-2254

Issued
2009-06-11

Retain in Front of Chap.
XII.2.

Subject - Public Complaint Reports

This bulletin replaces XII.2.D.1.

1. When a public complaint is received or immediately after, record it on form 4110.
2. Send the signed form 4110 and any supporting documents to the National Headquarters Public Complaints Unit by fax to 613-993-1226, or scan the form and supporting documents and e-mail them to Groupwise account: Public Complaints - Plaintes du public.
3. After the public complaint investigation has been completed, send a copy of the finalized form 4110, the Letter of Disposition and/or Notice of Direction, to the National Headquarters Public Complaints Unit.
4. Do not send copies to the Commission for Public Complaints Against the RCMP (CPC). The National Headquarters Public Complaints Unit is responsible for providing copies to the CPC.

EXCEPTION: For "E" and "B" divisions, send all documentation outlined in sec. 1 to 3, by fax, or scan and send them by e-mail to your divisional Professional Standards Unit as soon as possible.

ORIGINATED BY:

Professional Standards and External Review Directorate

[Important Notices](#)

detail to indicate the progress of the investigation.

12. The provincial authority shall be notified of the disposition of a complaint received under paragraph 45.35(1)(c) of the Act.

Chapter Rewrite 2003-12-31

D. POLICY

D. 1. Replaced by bulletin AM-2254 dated 2009-06-11.

Amended 2009-06-11

- D. 2. Complaints made against members or persons appointed or employed under the *RCMP Act* or against the RCMP will be examined promptly and impartially reported, recorded and disposed of in accordance with RCMP directives, specifically the National Public Complaints Managers Manual.
- D. 2. a. Non-Part VII Public Complaints, will be processed according to division procedures.
- D. 3. A progress report will be sent to the complainant and the person who is the subject of the complaint within 45 days from the time the complaint was received; and thereafter, monthly, until the final letter of disposition is sent.
- D. 4. A CO will immediately forward to National Headquarters, ATTN: National Operations Centre (NOC) and the National Headquarters Public Complaints Unit (PCU) details of any complaint made against the RCMP or a member of the RCMP that:
- D. 4. a. has resulted or may result in adverse publicity about the RCMP,
- D. 4. b. may be raised in the House of Commons,
- D. 4. c. involves corruption, or
- D. 4. d. may result in calls for an inquiry into the internal management of the RCMP.
- D. 5. If a complaint is initiated by the Chair of the Commission for Public Complaints (CPC), under subsection 45.37(1) of the *RCMP Act*, and if, during the CPC investigation, further details or clarification are required, all information with respect to the CPC's questions and concerns will be reported directly to the Public Complaints Unit.
- D. 6. If a division is notified that the CPC will be conducting an investigation or a hearing under subsection 45.43(1) of the *RCMP Act*, the RCMP, by virtue of subsection 45.43(2) is not required to investigate, report or otherwise deal with the complaint. However, for the RCMP to be aware of all the circumstances surrounding the incident, divisions will investigate sufficiently to inform management of the circumstances. Caution must be exercised not to interfere or give the appearance of interference with the investigation being conducted by the CPC.

- D. 6. a. In such cases, the reporting procedures under section 45.39 of the *RCMP Act* do not apply.
- D. 6. b. Copies of the investigation reports must be sent to the Public Complaints Unit.
- D. 6. c. When the CPC announces it will be holding a hearing or conducting an investigation under Part VII of the *RCMP Act*, the administration services officer will ask the Regional Corporate Management Officer (CMO) to obtain a collator code for the hearing/investigation from the OIC Finance Branch, Corporate Management and Comptrollership.
1. The request will include the case file number and caption and a brief description of the case. A copy must be sent to the Public Complaints Unit.
 2. In assigning the collator code, the OIC Finance Branch, will send a copy to the Public Complaints Unit, and the Director, Legal Services.
- D. 6. d. The administration and personnel office will immediately inform all members or other persons employed under the *RCMP Act* that are involved in the complaint that all costs associated with it, including overtime, must be charged against the assigned collator code.
- D. 7. For the purposes of Section 45.47, *RCMP Act*, the documents which constitute a record of a public complaint are stipulated in the *National Public Complaints Managers Manual*.

E. GENERAL

- E. 1. *Part VII, RCMP Act*, refers to the Royal Canadian Mounted Police Public Complaints Commission. The *RCMP Act* has not been amended, but the Commission has adopted the name Commission for Public Complaints (CPC) against the RCMP. That name, the Commission, or the CPC will be used in this and related documents.
- E. 2. For this list of positions authorized to act on behalf of the Commissioner, see App. XII-2-1.

F. ACCESS TO PERSONAL INFORMATION

- F. 1. Disclosure of personal information is strictly regulated and may only be granted to aid a specific enforcement or investigative activity.
- F. 2. A public complaint investigator does not have unfettered access to a subject member's personnel and service files.
- F. 3. Access to a member's files may be granted with the written permission of the member, or the Public Complaints Unit.
- F. 4. The investigator must specify the purpose of the request in detail and describe the information to be disclosed.

G. DISCLOSURE OF DISCIPLINE AS A RESULT OF A PUBLIC COMPLAINT

- G. 1. Pursuant to the decision in *Southam Inc. v. Canada (Attorney General)*, 36 O.R. (Rd) 721, any person lodging a public complaint may obtain information with respect to both formal and informal RCMP discipline administered as a result of that public complaint.
- G. 2. A Letter of Disposition with respect to a complaint which resulted in informal discipline should inform the recipient whether or not discipline has been initiated and, if discipline has been completed, the sanction that was imposed.
- G. 3. A Letter of Disposition with respect to a complaint which resulted in formal discipline should inform the recipient that a copy of the Adjudication Board record of decision or transcript of proceeds may be obtained by contacting the RCMP Adjudications Registrar, 1200 Vanier Parkway, Ottawa, ON K1A 0R2.

H. PUBLIC MISCHIEF

- H. 1. Public mischief charges may be appropriate in some public complaint cases. However, it is inappropriate to threaten complainants during the public complaint process, including the final report, that they could or will be charged with public mischief.
- H. 2. After a public complaint has been disposed of, and enough evidence exists to support a charge of public mischief, the RCMP may proceed with the charge.

I. DISPOSITION OF SERIOUS COMPLAINTS/STATUTORY OFFENCES

I. 1. General

- I. 1. a. The following will not be disposed of informally:
 1. a complaint alleging serious misconduct, or
 2. any situation in which a subject member is arrested or a warrant to arrest is issued.
- I. 1. b. If a complaint contains more than one related allegation and if any one of the allegations is serious, all allegations will be formally investigated.

I. 2. Commander

- I. 2. a. If a complaint involves a serious allegation, including any suggestion, allegation or inference of bribery, corruption or similar offence by a member, notify your immediate officer/OC.
- I. 2. b. If, as a result of an investigation, a member is believed to have committed a statutory offence:
 1. it is within RCMP primary jurisdiction, take the same action as you would for any other person;
 2. it is outside RCMP primary jurisdiction, immediately refer the matter to the police

department having primary jurisdiction; or

3. you are doubtful about prosecution, refer the matter to the senior prosecuting authority.

I. 2. c. Send a copy of form 4110 to the subject member unless such notification would likely hinder the investigation.

I. 3. **Immediate Officer/OC**

I. 3. a. When you are informed of a serious complaint against a member, including bribery, corruption or similar offence, inform the Cr. Ops. Officer, and follow division directives.

Chapter Rewrite 2003-12-31

APPENDIX F

RCMP'S "M" DIVISION POLICY

XII.2 Public Complaints

- A. Originator
- B. References
- C. Commissioner's
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- D. Policy
- E. Part VII Public
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Regular Members)
 - 1. General
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- F. Non-Part VII Public
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Administration Manual

Last Amended 2004-10-25 Rev. 65

XII.2 Public Complaints

A. ORIGINATOR

- A. 1. Admin Support NCO

B. REFERENCES

- B. 1. Rules Respecting Public Complaints Against the Royal Canadian Mounted Police - AM Appendix X-3-7
- B. 2. RCMP Act 1988 - Code of Conduct (Part IV) Investigations

C. COMMISSIONER'S STANDING ORDER

- C. 1. Commissioner's Letters of Delegation
- C. 1. a. The Commissioner has authorized Commanding Officers/Specific Officers to act on his behalf in specific circumstances concerning public complaints. In addition, the delegated authority is expanded (by interpretation of "unit and detachment commander") to include the list of designated OIC HQ Units.

D. POLICY**E. PART VII PUBLIC COMPLAINTS (CIVILIAN/REGULAR MEMBERS)**

- E. 1. General
- E. 1. a. A Part VII (Public Complaint) matter **must relate to the conduct (not performance), of a member or other person acting in the capacity to which they were appointed under the R.C.M.P. Act and while engaged in the performance of that duty.**
- E. 1. b. Complaints concerning the conduct of members or other persons appointed under the Act, who are not acting in the capacity of their appointment and are not engaged in the performance of their duty, lie outside the jurisdiction of Part VII (Public Complaints). They will be accepted and reviewed as either a statutory, Code of Conduct or administrative investigation.
- E. 1. c. Where a member is not acting in the capacity to which they were appointed and is not engaged in the performance of their duty, but subsequently engages in the performance of their duty by identifying themselves as a police officer in an effort to exercise authority, Part VII (Public Complaint) of the R.C.M.P. Act then applies.
- E. 1. d. Part VII (Public Complaints) do not include provisions for disciplining members. If an allegation is substantiated, the member could receive administrative or operational guidance but not discipline. However, a parallel Code of Conduct investigation can also be conducted which may result in discipline being administered.

NOTE: Where it becomes apparent to an investigator or a member, that an

Officer or NCO in command of a detachment may have committed a breach of the Code of Conduct, then the investigator or member will report that to the A. & P. Officer, who may authorize the Code of Conduct investigation. (See Division Supplement AM.XII.4.)

- E. 1. e. An inquiry may be made by a member of the public in which they are simply looking for information or an explanation as to why the police or another employee acted in a certain manner. If you are able to satisfy their inquiry, document your efforts in your notebook, and the Admin 380 general file.
- E. 2. Multiple Investigations
- E. 2. a. Public complaint investigations are separate and distinct from statutory or Code of Conduct investigations. These investigations must be kept separate because the administrative/legislative obligations, possible sanctions and disclosure provisions are unique and independent, and because the statement preambles are different.
- E. 2. b. Multiple investigations can be done simultaneously, with witness statements and evidence gathered in one type of investigation, being used in another one being conducted.
- E. 2. c. The implicated employee **must be aware** of the type of investigation being conducted.
- E. 2. d. Implicated employee statements should be taken at the end of the investigation. If multiple types of investigations are being conducted, then they should be obtained in the following order:
- Statutory (warned voluntary statement); PROS
 - Part VII Public Complaint (voluntary statement); Admin 380
 - Part IV Code of Conduct (obligated or ordered statements). Admin 392
1. Voluntary statements obtained from implicated employees can be used in any investigation.
2. Part IV, Section 40 statements must only be used in a Code of Conduct investigation, unless the implicated member authorizes its use for other investigations.
- E. 2. e. One administrative file should be generated for each type of investigation and documented by way of form 1624. A manual diary date system will be used to manage these complaints.
- E. 3. Statutory Investigations
- E. 3. a. When information is received indicating that an employee may have committed a criminal offence, then the first priority is to complete a criminal investigation.
- E. 3. b. If the alleged offence occurred outside of RCMP jurisdiction, the allegation must

be referred to the police department having primary responsibility. They may agree that the statutory investigation be conducted by RCMP investigators outside their normal jurisdiction.

- E. 3. c. Implicated employees are afforded all rights entitled under the Charter of Rights and Freedoms and in Common Law (ie: police warning) and, depending on the member's role and duties being performed at the time of the alleged offence, legal fees may be covered at public expense. (AM VIII.4)
- E. 3. d. "Witness" statements and "voluntary warned" statements from implicated employees can be used in all investigations (Part VII (Public Complaint) and Part IV (Code of Conduct), without having to obtain a waiver.
- E. 4. Investigator
 - E. 4. a. Document your full criminal investigation on form 1624 as you would any other statutory investigation. Form C237 reports are only required for complex matters.
 - E. 4. b. Depending on the seriousness of the allegations, notify the Admin. Support NCO.
 - E. 4. c. Where there is sufficient evidence that an employee has breached a statute, a report to Crown Counsel **must** be forwarded to determine if a charge is warranted.
 - 1. Present all the evidence and refrain from offering recommendations.
 - 2. If the decision is made to not forward a report to Crown Counsel (ie: trivial in nature or there is sufficient independent evidence to support a finding of "Unfounded"), then the reasons must be fully documented.
 - E. 4. d. If the statutory allegation surfaced as a result of a Public Complaint, a Part VII (Public Complaint) investigation is necessary.

F. NON-PART VII PUBLIC COMPLAINTS (EMPLOYEES OTHER THAN RM/CMs)

- F. 1. A complaint made which implicates a public service employee, municipal employee, guard, matron or an auxiliary member of the RCMP does not fall under the provisions of Part VII of the RCMP Act, but rather an administrative investigation may be undertaken.
- F. 2. Any complaint received that concerns off duty conduct, but which may impact on the employee's continued employment or their ability to fulfill his/her employment responsibilities, will be accepted and reviewed as either a statutory or administrative investigation.
- F. 3. Non-Part VII investigations, upon appeal, are not reviewable by the Commission for Public Complaints Against the RCMP (C.P.C.), but are referred to the CO instead, if the complainant is not satisfied with the results of the investigation. They should direct their correspondence to:

Commanding Officer
RCMP "M" Division
4100 - 4th Avenue
Whitehorse, YT, Y1A 1H5

F. 4. Statements from implicated employees are voluntary and Sec. 40 does not apply. Employees, at common law, are obligated to account to their employer for their actions.

F. 5. All other provisions as noted in this chapter apply.

G. PUBLIC COMPLAINT

G. 1. Public complaints are to be recorded on form 4110 outlining full details of the incident. Form 4110 can be used to record up to four (4) subject members and or complainants. All allegations must be specifically listed and included on the form. If sufficient space is not available, then attach a supplemental sheet. Ensure that the complainant signs the form and provide them with the top copy.

G. 2. Depending on the seriousness of the allegations, the officer or NCO i/c of the unit/detachment should be promptly notified of any Public Complaint involving a member/employee under their command.

G. 3. Pursuant to Part VII, Section 45.35(1)(b) of the R.C.M.P. Act, public service employees, or temporary civilian employees are not authorized to receive Public Complaints against members of the Force.

G. 3. a. Should a public service employee, municipal employee or a temporary civilian employee be made aware of information regarding a Public Complaint, then the information must be passed immediately to a CM or RM according to the Act.

G. 4. Section 45.39 of the R.C.M.P. Act requires that both the implicated employee(s) and complainant be notified within 45 days of the initiation of a Public Complaint and every 30 days thereafter with regards to the status of the investigation (form MDiv 184-2).

G. 4. a. This notification can be delayed if notifying the implicated employee could adversely affect or hinder the investigation.

G. 5. Copies of form 4110 are to be forwarded immediately to the Admin Support NCO.

H. INFORMAL RESOLUTION BY A MEMBER

H. 1. Informal resolution should be considered as an option, in the first instance, to dispose of a public complaint. However, if it is in the best interests of the Force to conduct an investigation (ie: warranted allegations), then one should be completed. Conversely, determine if an investigation is really warranted. If not, then every effort should be made to resolve the complaint or terminate the investigation. Factors to be considered include availability of resources, the nature of the allegation, the reasons why an investigation may or may not be warranted, etc.

H. 2. Attempt to resolve the matter by meeting separately or jointly, with the complainant and

implicated employee(s). This can be done by the detachment commander or the assigned investigator, prior to the completion of form 4110, at the time of completion or during the initial stages of the investigation (ie: when the complainant is being interviewed by the investigator).

- H. 3. Do not record admissions, statements or remarks made by the complainant or implicated member(s) during this process in the file, as they are considered to have been made "without prejudice".
- H. 4. If the resolution is satisfactory to the parties involved and the Force then have the complainant and the implicated employee sign Section 9 of form 4110. Their signatures simply indicate that the matter was informally resolved and no inference should be made with respect to the validity of the complaint.
 - H. 4. a. Explain to the complainant that the matter is now closed and that further investigation will not be done,
 - H. 4. b. Document this conversation in your notebook and in the file in the event that the complainant subsequently alleges lack of understanding of this process, misinformation or coercion in signing the 4110 and,
 - H. 4. c. Complete the statistical report on form 4110 and forward to the Admin. Support NCO for review.
 - H. 4. d. Appropriate administrative or operational guidance can be provided to the implicated employee even though the matter has been resolved informally.
 - H. 4. e. If the complaint came in from the Commission for Public Complaints Against the RCMP (C.P.C.) then a copy of the 4110 informally resolving the matter is to be sent to the C.P.C., in order for them to conclude their file.
 - H. 4. f. A copy of the form 4110 will be forwarded by the Admin Support NCO to the Public Complaints Management Unit HQ Ottawa for their attention.

I. WITHDRAWING A COMPLAINT

- I. 1. A complainant may wish to withdraw a complaint after an investigation has been initiated.
 - I. 1. a. Have the complainant indicate their reason for withdrawing the complaint, in Section 9 of the 4110, and have them sign the form. Depending on the allegations or circumstances, investigation may still be required despite the wishes of the complainant. Conclude the investigation and forward to the Admin. Support NCO.
 - I. 1. b. The Admin. Support NCO will prepare a final letter of disposition outlining the complainant's wishes to withdraw and utilize the termination provisions as provided under s. 45.36(5) of the Act.

NOTE: Where a complainant refuses to meet with or be interviewed by the investigator or cannot be located, the investigator must determine the full scope of the incident and any possible ramifications arising from it. If there is sufficient

information to proceed with an investigation then it should be concluded and the findings outlined. If there is insufficient information with which to proceed then the investigation may be terminated according to Section 45.36(5) of the R.C.M.P. Act.

J. INVESTIGATING A PUBLIC COMPLAINT

J. 1. Termination Provisions

J. 1. a. Before undertaking a full investigation or during the investigation itself, consider whether the investigation is suitable for termination pursuant to Section 45.36(5) of the RCMP Act, namely:

1. the complaint is one that could appropriately be dealt with, initially or completely, according to a procedure provided under any other Act of Parliament;
2. the complaint is trivial, frivolous, vexatious or made in bad faith;
3. having regard to all the circumstances, investigation or further investigation is not necessary or reasonably practicable.

J. 1. b. The termination provisions provided by the Act are not catch all legislation to preclude an investigation. A complaint must be determined, by whatever steps may be reasonably necessary, to fall into one of the categories suitable for termination. The OIC Internal Affairs Branch, HQ Ottawa has issued an interpretation and guidelines to assist in this regard. If the termination provisions apply, supporting rationale which justifies termination must be provided in the letter of disposition to the complainant.

Terminology which states that the complaint is being terminated is incorrect and constitutes inappropriate use of the termination provisions. A complaint, in itself, cannot not be terminated. An investigation into a complaint may not be commenced or, the investigation which has been undertaken into the complaint may be terminated. These provisions should be used only in the clearest of cases. The complainant has a right to have the C.P.C. review the complaint/decision, so it is imperative that termination is fully justified and the wording accurately reflects the rationale.

1. When exercising this prerogative, the exact wording from the provision used under s. 45.36(5) must be quoted in the letter.
2. Where a complaint has multiple allegations, the investigation into some of them may be suitable for termination, while others will result in a finding. (eg. With respect to 45.36(5)(a), the lawfulness of an arrest or charge of a person may be addressed by the court; whereas alleged rude behaviour by our member will not. In this case, the rude behaviour allegation will need to be reviewed and commented on in the final letter of disposition).
3. If sufficient evidence exists to recommend a finding with respect to a particular allegation (ie: Unfounded, Unsubstantiated Or Substantiated), then the

termination provisions would not apply.

J. 2. Statements

- J. 2. a. Statements obtained pursuant to Part VII (Public Complaints) are voluntary. Use form MDiv 184-4.
- J. 2. b. Although employees are not required to provide a statement, once the complainant has established a "case to meet" (credible evidence to substantiate the allegation based on the civil "balance of probabilities" standard), then the onus shifts to the implicated person to provide evidence to the contrary. There is a "tactical compulsion" to provide evidence to the contrary; otherwise the risk of the allegation(s) being supported is substantial. The findings of the Public Complaint will be based on the relevant material contained in this file. Obligated statements obtained pursuant to Part IV (Code of Conduct) will not be used nor considered, unless the member expressly authorizes its use under a Part VII (Public Complaint) investigation by signing a waiver (form MDiv 184-4).
- J. 2. c. Depending on the circumstances and the seriousness of the allegations, formally prepared statements, paraphrased statements, transcribed audio or video recorded interviews, may be sufficient.

1. If a paraphrased statement is obtained from a witness, it must accurately reflect the conversation on form 1624 or C-237.
2. If a statement is recorded, it may not be necessary to have it transcribed. The investigator can complete the investigation, paraphrase the statement and if required, listen to the tape. If a disclosure request is made, a copy of the tape can be forwarded to the C.P.C. in lieu of a typed transcript.

J. 3. Detachment/Unit Commanders

- J. 3. a. Ensure that form 4110 is properly completed and immediately forwarded to the Admin Support NCO. If a public complaint is lodged against a detachment/unit commander or if the commander finds himself/herself in a conflict, notify the Admin. Support Officer immediately. The Admin. Support NCO will then direct the complaint to a neighbouring detachment or other appropriate unit for investigation.
- J. 3. b. Assign an impartial investigator, one who is not in a conflict of interest position (ie: directly supervises the implicated employee) and define the scope of the investigation (ie: statutory, Code of Conduct, Public Complaint, etc.).
1. Send a copy to both the investigator and implicated employee(s). Implicated employees may waive right to receive interim letter by signing waiver.
- J. 3. c. Authorize and encourage informal resolution of the complaint if appropriate. Since the investigation is still at the preliminary stages, follow the Informal Resolution process as noted in AM.XII.2.H.

- J. 3. d. It should be noted that the resolution of public complaints is a 2 step process, which includes the investigator and the decision maker.
- J. 3. e. Admin. Support NCO will maintain a suitable HRMIS diary date system:
 - 1. which allows for a review on the progress of the investigation, and
 - 2. ensures that the complainant and the subject member receives 30 day notifications on the progress of the investigation, as required by the RCMP Act.
- J. 4. Investigators
 - J. 4. a. Document the entire investigation on form 1624 by accurately paraphrasing witness statements and outlining other evidence that is available. No other independent reporting format is required.
 - J. 4. b. Upon completion of the investigation, list each specific allegation on form 1624 and, based on a balance of probabilities, recommend findings and provide brief rationale or remarks. A separate report is not required. The following definitions are provided for reference:
 - 1. Substantiated - A complaint which is verified or held true by the existence of competent supportive evidence.
 - 2. Unsubstantiated - A complaint which is not specifically verifiable: a decision based on a balance of probabilities cannot be reached. The complaint investigation lacks credible "independent evidence"(ie.tapes, forensic, non-police witnesses, corroborating reports, etc.)

NOTE: With a finding of Unsubstantiated, "no inference" shall be drawn regarding the veracity of the allegations. If the case is submitted to an adjudication board, then the credibility of witnesses would become a factor for consideration.
 - 3. Unfounded - One which is lacking a solid basis of fact and is therefore groundless or unwarranted.
 - J. 4. c. It is the role of the Admin. Support NCO to prepare, for the decision maker, a concise Letter of Disposition to the complainant.

NOTE: Do not use substantiated, unsubstantiated or unfounded in the final letter of disposition. They are used for employee notification only. Use other phrases which outline the findings and simply indicate whether or not the allegation is supported or not.

- 1. In cases where discipline or operational guidance is provided to the subject member, the corrective measures taken must be identified. This is to be included in the final letter, as the complainant must be notified as to what measures were taken.

NOTE: The preamble, subtitles and appeal paragraph must be included. In the case of RM/CMs, the appeal is to the C.P.C.; and with all other employees, the appeal is to the CO. Avoid the use of police jargon and acronyms.

2. If an apology is warranted, then use the following, "On behalf of the R.C.M.P., I apologize for the actions of _____. Remedial action (or discipline) in the form of _____ has been taken to ensure that this behaviour does not reoccur."
3. If one of the allegations pertains to a criminal offence and a Crown Counsel report has been submitted, then do not comment on the criminal allegation, but rather state: "As a result of our investigation, a report to Crown Counsel was submitted to determine if criminal charges are warranted against _____. You will be advised accordingly once we receive their decision (or, indicate the decision that Crown Counsel has made).

- J. 4. d. Complete the statistical report on form 4110 for each complainant and employee involved and forward copies to the OIC A & P for statistic preposes.
- J. 4. e. Forward the complete admin file and the diskette. Retain a file copy at the detachment.

K. APPEAL OF DECISION BY COMPLAINANT (REGARDING RM/CM)

- K. 1. Disclosure Requests from the C.P.C.
 - K. 1. a. If a complainant is dissatisfied with the investigation or findings, they can request that the C.P.C. review their complaint.
 - K. 1. b. The C.P.C. will subsequently request a "relevant material disclosure package" which is to contain all relevant material gathered during the Part VII (Public Complaint) investigation. The information to be disclosed must be relevant and will not include the following:
 1. Part IV, section 40 statements (without the release of the member);
 2. Privileged correspondence, miscellaneous file material, inter-office correspondence; or
 3. Correspondence that is personal or private to our employees, such as assessments and correspondence which is gathered during Code of Conduct investigations.
 - K. 1. c. Upon receiving a request for disclosure from the C.P.C., the Admin. Support NCO will forward the document directly to them.
 - K. 1. d. The Chairman of the C.P.C. will then complete a review and prepare an Interim Report which is forwarded to the Commissioner. Once the Commissioner has responded to the report, the Chairman will prepare a Final Report and forward a copy to the implicated member.
 - K. 1. e. 90 day interim notices will not be provided to members for a C.P.C. review.

- K. 2. Appeal of Decision by Complainant (Non Part VII Complaints)
- K. 2. a. If a complainant is dissatisfied with the investigation or the findings in regard to non-Part VII complaints, then he/she can request a review by the CO.
- K. 2. b. The CO will appoint an independent officer to review the investigation and prepare appropriate correspondence for the CO's Review and signature.