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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

**Chair-Initiated Complaint Regarding the Public Disclosure by the  
RCMP of its Criminal Investigation of the Possible Breach of Security  
Regarding the Taxation of Canadian Corporate Dividends and  
Income Trusts**

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**Final Report**

**March 31, 2008**

## CHAIR'S FINAL REPORT

### OVERVIEW

On November 23, 2005, shortly after 5:00 p.m., then Finance Minister Ralph Goodale announced that he would not impose a tax on income trusts, and outlined changes to the taxation of Canadian corporate dividends. This announcement was preceded by increases in trading volumes and share prices of income trusts and dividend-paying stocks, prompting speculation that the contents of Mr. Goodale's announcement had been leaked.

On November 28, 2005, Ms. Judy Wasylycia-Leis, Member of Parliament for Winnipeg North and the New Democratic Party (NDP) Finance Critic, addressed a letter to then Commissioner Giuliano Zaccardelli (**Appendix A**). In that letter, she requested that the RCMP's Integrated Market Enforcement Team (IMET) "check into" the accuracy of speculation about the leak of Mr. Goodale's announcement.

On December 23, 2005, Commissioner Zaccardelli faxed Ms. Wasylycia-Leis a letter stating that the matter that she raised had been reviewed, and that the RCMP would be commencing a criminal investigation (**Appendix B**). On December 28, 2005, Ms. Wasylycia-Leis posted the Commissioner's letter on her website and the NDP issued a press release concerning the letter. In the evening of December 28, 2005, the RCMP issued its own press release stating that the RCMP was undertaking a criminal investigation into the matter (**Appendix C**). The RCMP's press release stated that there was no evidence of wrongdoing or illegal activity on the part of those associated to the investigation, including Mr. Goodale.

On February 1, 2007, as the Chair of the Commission for Public Complaints Against the RCMP, I initiated a complaint pursuant to subsection 45.37(1) of the *RCMP Act*. The complaint (**Appendix D**) questioned: whether the RCMP officers involved in the public release of information complied with all appropriate policies, procedures, guidelines and statutory requirements for the release of such information; and whether such policies, procedures and guidelines are adequate to address the situation wherein public disclosure of a police investigation may have an impact upon the democratic process and may call into question public confidence in the independence of the police.

As provided for in the *RCMP Act*, the complaints were investigated by the RCMP, who provided me with a Final Report dated February 5, 2008. The RCMP's Final Report (**Appendix E**), signed by Deputy Commissioner William Sweeney, stated that the RCMP "did not have a policy regarding notifying complainants of the RCMP's intention to conduct a criminal investigation into allegations brought to their attention" and that the investigation "failed to identify any contravention of statutory authority." Nonetheless, the RCMP acknowledged that "including the name of a specific individual, that is Mr. Goodale, was not consistent with past practice." With respect to my second allegation, "Whether such policies, procedures and guidelines are adequate to address the situation wherein public disclosure of a police investigation may have an impact upon the democratic process and may call into question public confidence in the independence of the police," Deputy Commissioner Sweeney challenged the Commission's jurisdiction to examine this issue by stating: "As you are aware, Part VII of the *RCMP Act* provides for

investigation into complaints regarding the conduct of members while performing duties under the Act. There is no provision for complaints/requests to review and/or amend policy.”<sup>1</sup>

The Commission has in the past made findings wherein officers complied with policy, but the policy was inconsistent with the current state of the law and in some instances, the policy referred to sections of the *Criminal Code* that had been repealed many years before. In other cases in response to our recommendations, the Commissioner had undertaken to amend policy to address specific conduct issues identified by the Commission but then failed to follow up such undertakings resulting in a continuation of inappropriate conduct by RCMP members. To adopt the proposition as advanced by Deputy Commissioner Sweeney would be to ignore the governing role that policy plays in the conduct of officers and the impact that an absence of or weaknesses in policy has upon the appropriateness of such member conduct.

Like all large organizations, the RCMP guides the conduct of its members through a combination of broad policy statements and detailed operational guidelines. Adherence to these policies, guidelines and procedures ensures the appropriate level of professionalism, adherence to law and quality of service to the public. Policy drives training, which in turn controls the conduct of individual members. To shelter policy from review would leave individual members accountable for management’s failure to develop and maintain appropriate policy and to update training in support thereof. I accordingly do not accept the proposition as advanced by Deputy Commissioner Sweeney.

Nonetheless, Deputy Commissioner Sweeney also advised: “I am concerned that the RCMP does not have an established practice or applicable policies or guidelines with respect to the publication of information regarding investigations” and that the Commissioner had “directed that the matter be reviewed and that proposals to address this shortcoming be developed and brought forward to the RCMP’s Senior Executive Committee.” One may ask whether such action would have taken place but for the complaint that I launched questioning the existence and adequacy of such policies. It should be noted that this is not the first time that allegations have been publically aired that the RCMP improperly interfered during the electoral process.

Pursuant to subsection 45.42(1) of the *RCMP Act*, the Commission is required to review any complaint initiated pursuant to subsection 45.37(1) of the Act. This report constitutes my review of the RCMP’s investigation into the issues raised in my complaint, and the associated findings and recommendations.

## **COMMISSION’S REVIEW OF THE COMPLAINT**

It is important to note that the Commission for Public Complaints Against the RCMP is an agency of the federal government, distinct and independent from the RCMP. As Chair of the Commission, my role is to reach conclusions after an objective examination of the evidence and, where judged appropriate, to make recommendations that focus on steps that the RCMP can take to improve or correct conduct by RCMP members.

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<sup>1</sup> For a condensed timeline of relevant events, refer to **Appendix F**.

My findings, as detailed below, are based on a careful examination of the following materials: the RCMP's public complaint investigation into my complaint, including some material associated with a complaint filed by the British Columbia Civil Liberties Association that I deemed relevant; the RCMP's responses to the Commission's questions and concerns identified through the Chair-initiated complaint process; the RCMP's Final Report; and applicable law and RCMP policy.

**FIRST ALLEGATION: Whether the RCMP officers involved in the public release of information complied with all appropriate policies, procedures, guidelines and statutory requirements for the release of such information; and**

**SECOND ALLEGATION: Whether such policies, procedures and guidelines are adequate to address the situation wherein public disclosure of a police investigation may have an impact upon the democratic process and may call into question public confidence in the independence of the police.**

During the course of her public complaint investigation, the public complaint investigator, Sergeant Lise Noiseux, contacted at least eighteen people, both regular members and civilian members of the RCMP. I would note that as the legislation is currently drafted, no member is compelled to give a statement in the context of a public complaint investigation under Part VII of the *RCMP Act*, and retired members do not fall within that part of the statute. In fact, Sergeant Lise Noiseux's written correspondence in which she sought an interview with the witnesses was accompanied by the following statement: "As you are aware, RCMP members are under no obligation to provide a statement under Part VII of the RCMP Act. If you wish to provide a statement, understand that Part VII of the RCMP Act does not offer any protection to this statement. Your statement may be used for the purposes of Part VII of the RCMP Act or for any other purposes."

While most of those individuals provided statements to Sergeant Noiseux, there were some notable exceptions: retired Commissioner Zaccardelli declined to provide a statement, as did Deputy Commissioner Pierre-Yves Bourduas, Assistant Commissioner Raf Souccar and Chief Superintendent Denis Constant.<sup>2</sup> An overview of the positions occupied by the witnesses within the RCMP organization at the relevant time may be found in **Appendix G** and **Appendix H**. Accordingly, no senior member of the RCMP policy centre responsible for the conduct of the income trust investigation and intimately involved in the approval process for communications relating to that investigation provided any information regarding the RCMP's decisions to issue the letter to Ms. Wasylycia-Leis and the subsequent press release. I would also note that Commissioner Zaccardelli cited the existence of a civil suit as the reason for his refusal to provide a statement; however, he also declined to provide a statement in an earlier public complaint investigation into the present issue, which was initiated prior to the legal action in question.

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<sup>2</sup> Although Chief Superintendent Constant refused to provide a statement to Sergeant Noiseux, he did provide a statement in a previous public complaint investigation relating to this matter.

Despite the non co-operation of the aforementioned members, statements provided by the other witnesses coupled with e-mails and other documentation, provide a detailed narrative of events as they unfolded sufficient for the purposes of my report.

#### The Commissioner's letter to Ms. Wasylycia-Leis

Ms. Wasylycia-Leis' letter was received by the RCMP on November 28, 2005. The next day, Deputy Commissioner Bourduas passed the letter to Assistant Commissioner Souccar for assessment regarding the need and grounds for an investigation. On November 30, 2005, the letter was passed to Inspector Dean Buzza, the Officer in Charge of Policy and Management Program for the Integrated Market Enforcement Team, for his action.

On December 1, 2005, media lines prepared by Ms. Nadie Martin, a Communications Strategist with Public Affairs and Communications Services, were finalized. The media lines indicated that the RCMP confirmed receiving Ms. Wasylycia-Leis' letter, and that the information therein would be reviewed to determine if further steps should be taken.

On December 13, 2005, Inspector Barbara Kelly, the lead investigator in the income trust matter, was directed to open a file into the alleged income trust leak. Six days later, on December 19, 2005, Inspector Kelly received further information pertaining to the alleged leak. On December 21 or 22, 2005, Deputy Commissioner Bourduas advised Assistant Commissioner Bernie Corrigan, the Director General of Public Affairs and Communications Services, that due to information obtained during the review of the alleged leak, the review had become a criminal investigation. Assistant Commissioner Corrigan, Deputy Commissioner Bourduas and Commissioner Zaccardelli met the same day or the day after to discuss that change in status. At that meeting, Commissioner Zaccardelli decided to write a letter to Ms. Wasylycia-Leis advising that a criminal investigation had been commenced. He indicated that he would sign and send the letter.

On December 23, 2005, Commissioner Zaccardelli and Chief Superintendent Denis Constant, the Director General of Financial Crime, met privately to discuss the income trust file.<sup>3</sup> Following that meeting, Commissioner Zaccardelli asked his Executive Assistant, Superintendent Mike McDonald, to have the letter to Ms. Wasylycia-Leis finalized for his signature. There is some suggestion that Ms. Martin drafted the letter and sent it to Assistant Commissioner Souccar for review and approval, with copies to Inspector Tim Cogan (Director of Media Relations), Assistant Commissioner Corrigan, Staff Sergeant Paul Marsh (Senior Media Relations Officer), Ms. Nancy Sample (Acting Director of Corporate Communications), and Ms. Lori Simpson (Director, Executive Services Ministerial Liaison). While it is unclear to what extent Ms. Martin's first draft resembled the final version or who might have reviewed the original draft, it is apparent that Commissioner Zaccardelli did approve and sign the version of the letter sent out. He then told Superintendent McDonald to have the letter faxed to Ms. Wasylycia-Leis.

Superintendent McDonald called Ms. Wasylycia-Leis' offices in Winnipeg and Ottawa at approximately 3:15 p.m. on December 23, 2005. He found that both offices would be closed

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<sup>3</sup> As previously noted, although Chief Superintendent Constant refused to provide a statement to Sergeant Noiseux, he did provide a statement in a previous public complaint investigation relating to this matter. In that statement, he indicated that he had no part in drafting or sending the letter to Ms. Wasylycia-Leis.

until January 3, 2006. Accordingly, he left messages at both offices stating that he was faxing the letter from Commissioner Zaccardelli, and proceeded to fax the letter.

#### The press release of December 28, 2005

On December 28, 2005, media lines regarding the Commissioner's letter and the income trust matter were finalized. The media lines indicated that the RCMP's general position was to be that the review had been completed, that Ms. Wasylycia-Leis had been advised in writing of the outcome of that review, and that the RCMP could not comment on specifics of the review at that time. The media lines were prepared on the basis that once confirmation of the receipt of the Commissioner's letter by Ms. Wasylycia-Leis had been obtained, the RCMP could state that sufficient information existed to commence a criminal investigation. The media lines stated that the investigation would be undertaken by Financial Crime investigative units, and would determine whether sufficient evidence existed to support criminal charges.

Later that day, Ms. Wasylycia-Leis posted the Commissioner's letter on her website. In addition, the NDP issued a press release stating that Commissioner Zaccardelli had confirmed that the RCMP had launched a criminal investigation into the Liberal government related to the income trust issue. The press release indicated that Ms. Wasylycia-Leis called on Mr. Goodale to step down from his role as Minister of Finance until the criminal investigation had been completed. In response to these events, media began calling RCMP Headquarters, where Sergeant Nathalie Deschênes of Media Relations and Ms. Sample, the Acting Director of Corporate Communications, were the only staff capable of answering the calls due to the number of people away over the holiday period.

After the media calls began, Chief Superintendent Constant told Sergeant Deschênes to accompany him to the Commissioner's office. Once there, Commissioner Zaccardelli told Sergeant Deschênes to have Ms. Sample attend as well, as he wanted a press release to address what was occurring. Sergeant Deschênes left the Commissioner's office and contacted Ms. Sample. Sergeant Deschênes also telephoned her direct supervisor, Staff Sergeant Marsh, who was away from the office, to tell him of the situation. She advised Staff Sergeant Marsh that it was not necessary to return to the office, as she believed that she could handle things. Sergeant Deschênes then returned to the Commissioner's office accompanied by Ms. Sample. Chief Superintendent Constant was also present, and Mr. Gilbert Groulx, Counsel from Legal Services, may also have been present. The Commissioner proceeded to dictate what he wanted in the press release to Ms. Sample.

After the meeting, Ms. Sample returned to her office to prepare the press release requested. Ms. Sample initially prepared the release without Mr. Goodale's name, but was subsequently told, likely by Chief Superintendent Constant, that the Commissioner requested Mr. Goodale's name be added. Ms. Sample completed and forwarded two versions of the press release, one with Mr. Goodale's name and one without. Commissioner Zaccardelli approved the version containing Mr. Goodale's name, and the press release was issued.

## RCMP policy relating to disclosure

At the time of the letter and press release, discussed above, other than the general guidelines outlined below, no RCMP policy dealt specifically with the issues of who should properly be considered a complainant nor when and to what extent complainants should be advised of criminal investigations, nor the appropriate content of news releases.

The RCMP has a number of very general administrative policies that deal with disclosure of information. These policies together with certain media relation practices such as “confirm the obvious” were referenced by the RCMP either at the time of release of information or in the days and weeks following the releases of December 23<sup>rd</sup> and 28<sup>th</sup> to justify the decisions that had been taken.

The RCMP’s national administrative policy provided that the RCMP’s communications community should provide “timely, accurate, clear, objective” information, ensure that the RCMP is “visible, transparent, accountable, and accessible,” and that communications should be continuously assessed and evaluated “through two-way exchange of information” with stakeholders. In addition, the policy provided that communications service should be “prompt, courteous and responsive” and “sensitive to the needs and concerns of the public and respectful of their rights and values.”

The RCMP’s national operational policy respecting media releases provided that any information released should not: interfere with investigations or arrests; result in “injury, injustice or embarrassment to the victims of the accused”; contravene any relevant statutes; or compromise the “confidentiality and privacy” of investigations or individuals. The policy states that names of suspects should never be released prior to charges being laid.

Finally, the RCMP’s Service Standards (**Appendix I**) provided for the release of information unless such information would compromise statutes, investigations, or the rights of suspects, and also stated that complainants should be kept apprised of progress. The Service Standards also provided for follow-up contact with complainants in need. Here, Ms. Wasylycia-Leis, although merely reflecting media speculations, was elevated to the status of a complainant and was provided with written confirmation of the criminal investigation.

In addition to these general administrative policies, reference was made by managers and staff at Public Affairs Communications Services that they would “confirm the obvious.” By this, they meant that if information was publically disclosed by a credible source, the RCMP would confirm the information. In the facts of this particular case, the public disclosure by the NDP finance critic of the Commissioner’s letter of December 23<sup>rd</sup>, was for RCMP purposes considered to be from a credible source, hence the media lines prepared following the sending of the fax on December 23<sup>rd</sup>. It is evident from the material on file that the RCMP was aware that its actions of December 23<sup>rd</sup> would directly lead to a public confirmation by the RCMP that it had launched a criminal investigation in respect of the income trust matter. Despite its integral role in such disclosure and the creation of a scenario that foresaw Ms. Wasylycia-Leis making the contents of the letter of December 23<sup>rd</sup> public, the RCMP in the following months refused to accept responsibility for its role. Rather, it advanced the proposition that Ms. Wasylycia-Leis had made the disclosure public and the RCMP merely confirmed the obvious.



### The decisions to issue the letter and news release

The evidence provided is clear in that former Commissioner Zaccardelli made, at the very least, the final decision to issue the letter and news release, and that he likely also provided the impetus and direction for the production of those documents. In light of his refusal to provide a statement, it is impossible to determine what factors former Commissioner Zaccardelli may have considered in support of his decision to write the letter of December 23<sup>rd</sup> nor the particular urgency to communicate to Ms. Wasylycia-Leis the change in status from review to criminal investigation. However, there is no evidence that Commissioner Zaccardelli relied on any improper considerations in coming to his decisions.

The RCMP's policies and standards relating to the issue of the release of information, as laid out above, are not comprehensive. Their interpretation and application are largely discretionary, as is desirable in many circumstances. However, they are not capable of addressing sensitive situations in which it is necessary to weigh competing public interests, such as was the case here. This policy gap will be addressed in my comments below. Nonetheless, it is clear that as a result of those policy deficiencies, it cannot be said that either the release of information in the letter or the news release contravened applicable policies then in existence.

#### **FINDINGS:**

- 1. No RCMP policies, procedures or guidelines, or any statutory requirements specifically address the public release of information in highly sensitive situations, such as that existing in this instance.**
- 2. Given the absence of any such specific policy, procedure or guideline, I cannot find that any RCMP officer failed to comply with applicable standards.**
- 3. I concur with the RCMP that its policies, procedures and guidelines are inadequate to address the situation wherein public disclosure of a police investigation may have an impact upon the democratic process and may call into question public confidence in the independence of the police.**

### Déjà vu

It is clear that criminal investigations such as the present one are highly sensitive. This particular investigation involved the actions of elected officials and senior public servants and occurred contemporaneously with an imminent federal election. Due to its multiple mandates at the national, provincial and municipal level, the RCMP, more so than any other Canadian police service, has found itself required to investigate political figures. The current facts are evocative of an incident that had occurred during the 1988 federal election during which Mr. Phil Edmonston, an NDP candidate in Quebec, brought allegations to the RCMP concerning his opponent, Mr. Richard Grisé, a Progressive Conservative candidate. The RCMP proceeded to investigate the allegations. However, the investigating officer decided to delay execution of two search warrants, ostensibly to avoid influencing the election. The investigating officer stated that he had informed his superiors of the decision, but then Commissioner Norman Inkster stated that he had never received such information. In addition, then Prime Minister Brian Mulroney's

principal secretary had sent a letter to the RCMP discussing the allegations against Mr. Grisé less than two weeks prior to the election. Mr. Grisé won the election, and the search warrants were executed the subsequent day. Mr. Grisé pled guilty some three months later and was sentenced to one day in jail, three years' probation and a \$20,000 fine. Mr. Edmonston won the federal by-election following Mr. Grisé's resignation. Contemporaneous media coverage noted Mr. Edmonston's criticism of the RCMP's decision to delay the searches, raised concerns regarding potential political interference in RCMP investigations, and highlighted views regarding fears of the influence of RCMP actions on the federal election.

### Unfettered discretion versus the public interest

What is readily apparent from a consideration of the events surrounding decisions taken by the RCMP in respect of the 1988 federal election and those that formed the basis of this case is the reliance by the RCMP members upon their unfettered discretion in the absence of legislation or specific policy guidelines. Such exercise resulted in two distinctly different decisions. It is to be noted nevertheless that each decision generated similar expressions of concern; specifically that the RCMP failed to discharge its responsibilities in an impartial manner and its acts or omissions negatively influenced the conduct of a free and democratic election.

These criticisms are rooted in a concern for two public interests that are at the heart of a democracy. One is the principle that everyone is equal before the law and that the police will discharge their mandate to protect public safety by enforcing the law in a fair and professional manner. This fundamental duty to not only act in an impartial manner but to be perceived as carrying out such duties in an impartial manner is a hallmark of the role played by the police in a democracy. An actual or perceived deviation from this standard diminishes not only the police as an institution but democracy itself.

The second public interest is the importance of elections. The Law Commission of Canada, in its report "Voting Counts Electoral Reform for Canada," notes that "elections are a cornerstone of our modern democracy. Healthy political systems should allow voters to engage in an ongoing dialogue with government decision makers, informing them of the policies and programs that they deem essential and rendering judgement on the effectiveness or desirability of the government's decisions. Regular fair elections, conducted in a political climate that encourages the free exchange of ideas and opinions, are a crucial element of the relationship between citizens and their government."<sup>4</sup> These sentiments are not unique to Canadians. The United Nations' *Declaration of Principles for International Election Observation*<sup>5</sup> states in part that "genuine democratic elections are an expression of sovereignty, which belongs to the people of a country, the free expression of whose will provides the bases for the authority and legitimacy of government. The rights of citizens to vote and to be elected are internationally recognized human rights. Genuine democratic elections are central for maintaining peace and stability, and they provide the mandate for democratic governance" (emphasis added).

### Perceived harm

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<sup>4</sup> Law Commission of Canada, *Voting Counts: Electoral Reform for Canada* (Ottawa: Public Works and Government Services Canada, 2004) at 1.

<sup>5</sup> Commemorated October 27, 2005.

Various polls were conducted during the course of the January 2006 Federal Election. The EKOS Voting Polls for the period of November 26, 2005 to January 18, 2006 reflected a dramatic shift in popular support from the Liberal party in favour of the Conservative party (for a Commission consolidation of the EKOS polling numbers, refer to **Appendix J**). The shift of support from one party to the other took place in a time frame concurrent with the RCMP disclosures of December 23 and December 28, 2005. The fact that the RCMP had launched a criminal investigation was immediately introduced into the various political debates as is evident by the NDP press release of December 28, 2005. The loss of public support for the Liberal party as evidenced by the EKOS Voting Polls carried through to election day and resulted in the defeat of the governing party. It is impossible to state with certainty that the RCMP disclosure was the sole factor contributing to this dramatic shift in voter support. It is not unknown for the fortunes of contending political parties to rise and fall drastically even during the relatively short duration of a federal election. It is equally clear that members of the general public, media and those involved in the political process believed that the RCMP disclosures of December 23<sup>rd</sup> and 28<sup>th</sup> had an influence and, in the absence of a rational and justifiable basis for such disclosure, questioned the motives of the RCMP and its Commissioner in making such disclosure.

It is clear that acts or omissions by the police may intentionally or otherwise have an influence upon the electoral process, which would subvert democracy. Any such real or perceived negative influence could also break the trust between citizens and the police that is essential to maintaining the rule of law in a civilized society.

Police officers are invested with a significant amount of discretion in the discharge of their duties. This discretion is jealously guarded and a “system that attempted to eliminate discretion would be unworkably complex and rigid.”<sup>6</sup> However, it must be recalled and acknowledged that discretion should not be unfettered, and should be exercised reasonably and justified rationally.<sup>7</sup> Likewise, “the justification offered must be proportionate to the seriousness of the conduct and it must be clear that the discretion was exercised in the public interest.”<sup>8</sup>

#### Accommodation of competing public interests

It is inevitable that the RCMP, in light of its various enforcement mandates, will find itself facing the type of dilemma that presented itself in respect of the income trust investigation and that which surfaced in the 1988 general election. In recognition of this inevitability and being sensitive to the need to accommodate two important public interests, impartial police investigations and free elections, both of which are essential cornerstones of our democracy, it is imperative that the RCMP issue specific policy to shape any future exercise of discretion relating to the disclosure of the existence of highly sensitive investigations such as those that touch upon the federal electoral process.

The absence of such guidelines and the seemingly contradictory decisions taken by members in respect of individual cases has and will continue to invite speculation as to an improper

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<sup>6</sup> *R. v. Beare*, [1987] S.C.J. No. 92 at para. 51, *per* La Forest J.

<sup>7</sup> *R. v. Beaudry*, [2007] S.C.J. No. 5 at para. 37.

<sup>8</sup> *Ibid.* at para. 40 *per* Charron J.

motivation on the part of the police. Accordingly, any such guidelines ought to be publicly available.

The existence of guidelines would acknowledge that there are two competing public interests that must be accommodated in order to preserve and advance the overall public good. Such guidelines, by necessity, would be neither overly prescriptive nor rigid. Rather, they would constitute a framework within which the officer would exercise discretion and against which the officer's conduct could be more objectively assessed.

The elements of that framework as listed below are designed to address the particular facts of this case, i.e. a general federal election or a by-election. They may, with some modification, be applied in other areas wherein public disclosure of the existence of a criminal investigation would have a foreseeable disproportionate negative impact upon the individual or entity concerned.

In light of the central role played by the electoral process in a democracy and the short period of time during which an election unfolds, there should be a presumption in favour of non-disclosure of the existence of a criminal investigation. This reverse onus could be overcome by a weighing of the various factors outlined below. Decisions in support of disclosure or non-disclosure should be taken by a member occupying a level of seniority within the RCMP commensurate with the importance of the interests at stake. In any instance where a disclosure occurs during the electoral process concerning participants in that process, the Commissioner of the RCMP ought to be the decision maker. A written record recording the rationale in support of disclosure ought to be created and maintained in the interest of transparency and accountability.

#### A rebuttable presumption of non-disclosure

As Chair of the Commission for Public Complaints Against the RCMP, I am recommending that the RCMP develop a specific policy concerning disclosure of information relating to highly sensitive investigations. This policy should include clear guidelines and be based upon a *rebuttable presumption against disclosure*. The following factors should be addressed within the policy:

1. Assess whether or not the investigation can be classified as highly sensitive. This includes:
  - a. investigations that could impact the electoral process,
  - b. investigations concerning senior public servants or politicians,
  - c. investigations concerning senior managers of a large publicly-traded company.
2. Assess whether or not there is a legal or public interest obligation to disclose information.
  - a. Consideration for disclosure must take into account the different types of criminal investigations that may be undertaken, and the different kinds of potential victims.
    - i. Offences of a more general nature, such as a breach of trust, may involve the general public or a large class therein.
    - ii. Specific personal injury offences, such as assault, may have a readily identifiable victim(s) in respect of whom there is a legislative obligation to disclose specific kinds of information.

3. Determine what harm may be occasioned by the RCMP disclosure. Determination must include an assessment of the nature of the harm flowing from the potential disclosure. Is it harmful to a specific public interest or to an individual's reputation or financial interest?
4. Determine who is entitled to receive the information.
5. Determine the nature and extent of the information to be disclosed.
6. Determine the appropriate time to make the disclosure with a view to minimizing the potential harm.
7. Assess the likelihood that the recipient would inappropriately use or publicly release the disclosed information.
8. Assess the nature and extent of harm that may be occasioned by the inappropriate use or subsequent public disclosure by the recipient.
9. Ensure that the level of the decision maker who authorizes the disclosure in the first instance is commensurate with the degree of perceived harm that may result from any disclosure.
10. The Commissioner of the RCMP is the only appropriate decision maker in cases where disclosure of a criminal investigation involving politicians may occur during an electoral process.
11. Create a written record of the rationale surrounding all decisions relating to disclosure or non-disclosure to ensure accountability and transparency.

A disclosure policy that embodies at a minimum the above-described features will allow the RCMP to exercise its discretion reasonably and to rationally justify the decision.

Discussions as to the propriety of decisions taken by the RCMP would take place within a framework of known expectations thus avoiding unwarranted allegations either that the police were subjected to inappropriate influence or direction by any outside party or that the police themselves improperly sought to influence a political outcome, including an election. As the onus in favour of non-disclosure of an investigation in such specified circumstances can be overturned where justified, the police would also be able to demonstrate that they have neither refrained, nor have they been perceived to have refrained, from pursuing an investigation for any reason connected to politics.

Pursuant to subsection 45.42(2) of the *RCMP Act*, I respectfully submit my Final Report and, accordingly, the Commission's mandate in this matter is ended.

A handwritten signature in cursive script that reads "Paul E. Kennedy".

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Paul E. Kennedy  
Chair

## Appendix A

Letter of November 28, 2005



*Judy*  
**Wasylycia-Leis**

*MP for Winnipeg North*

November 28, 2005

Commissioner Giuliano Zaccardelli  
Royal Canadian Mounted Police  
1200 Vanier Parkway  
Ottawa Ontario  
K1A 0R2

Dear Commissioner,

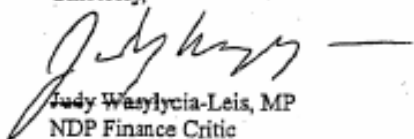
It is with great concern that I am writing to request that the RCMP Integrated Market Enforcement Team conduct an investigation into a possible breach of security or the illegal transfer of information in advance of the federal government's announcement of changes to the taxation of Canadian corporate dividends on November 23rd, 2005.

The media has reported a sharp and unusual increase of trading in income trust investments in the hours immediately preceding the Finance Minister's announcement resulting in considerable benefit to certain persons. There has been speculation in the press that a leak about the government's decision could be responsible. As New Democratic Party Finance Critic, I am obliged to pursue this type of allegation to ensure that no-one illegally benefits from the advantage of insider knowledge of government decisions.

I would therefore request that the Integrated Market Enforcement Team check into the accuracy of this speculation in a timely way and determine if further investigation is appropriate.

Thank you for your assistance in this matter.

Sincerely,

  
Judy Wasylycia-Leis, MP  
NDP Finance Critic

Constituency Office: 573 Mountain Avenue, Winnipeg, Manitoba R2W 1K8  
Tel: (204) 984-1767 Fax: (204) 984-1766 Email: [wasylj@parl.gc.ca](mailto:wasylj@parl.gc.ca)  
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Tel: (613) 996-6417 Fax: (613) 996-9713 Website: [www.judywl.ca](http://www.judywl.ca)



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## Appendix B

### Letter of December 23, 2005

DEC 23 2005 9:31PM COMMISSIONER'S OFFICE

NO. 687 P.2/2

Royal Canadian Mounted Police



Gendarmérie royale du Canada

G. Zaccardelli  
Commissioner / Le Commissaire

DEC 23 2005

Ms. Judy Wasylciak-Leis, M.P.  
Winnipeg North  
Room 710, Justice Building  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Ms. Wasylciak-Leis:

Further to your letter of November 28, 2005, in which you express your concerns regarding a possible breach of security or illegal transfer of information in advance of the federal government's announcement of changes to the taxation of Canadian corporate dividends and Income Trusts November 21, 2005.

We would like to advise you that a review of this matter has been completed. Based on the information obtained during the review, the RCMP will be commencing a criminal investigation.

Sincerely,

A handwritten signature in black ink that reads "G. Zaccardelli".

G. Zaccardelli

1200 Victoria Parkway  
Ottawa, Ontario  
K1A 0R2

1200, promenade Victoria  
Ottawa (Ontario)  
K1A 0R2



# Appendix C

## News Release of December 28, 2005

 Royal Canadian Mounted Police / Gendarmerie royale du Canada



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<a href="#">Home</a>	<a href="#">A-Z Index</a>	<a href="#">Scams/Fraud</a>	<a href="#">Detachments</a>	<a href="#">Publications</a>



### Safe Homes Safe Communities



ROYAL CANADIAN MOUNTED POLICE

--Provinces--

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### **RCMP institutes a criminal investigation following allegations brought forward by Ms. Wasylycia-Leis**

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**Ottawa, December 28, 2005** - The Royal Canadian Mounted Police (RCMP) has completed its initial review of the allegation by Ms. Wasylycia-Leis regarding a possible breach of security or illegal transfer of information in advance of the federal government's announcement of changes to the taxation of Canadian corporate dividends and Income Trusts of November 23, 2005.

Given the seriousness of the allegations, the RCMP is now undertaking a criminal investigation of this matter.

In particular, the RCMP wishes to note that at this time there is no evidence of wrongdoing or illegal activity on the part of anyone associated to this investigation including the Minister of Finance Ralph Goodale.

For media inquiries, please contact: RCMP Public Affairs and Communication Services Directorate at (613) 993-2999.

---

Content created: 2005-12-28

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[Important Notices](#)

## Appendix D

### Chair's Complaint

#### CHAIR-INITIATED PUBLIC COMPLAINT

File No. PC-2007-0216

**SUBJECT: Public Disclosure by the RCMP of its Criminal Investigation  
Regarding the Taxation of Canadian Corporate Dividends  
and Income Trusts**

---

As Chair of the Commission for Public Complaints Against the RCMP, I am initiating a complaint into the public disclosure by members of the RCMP to Ms. Judy Wasylycia-Leis, M.P. on December 23, 2005, that it would be commencing a criminal investigation in relation to a possible breach of security or illegal transfer of information in advance of the federal government's announcement of changes to the taxation of Canadian Corporate Dividends and Income Trusts. I will also look at the additional disclosure contained in an RCMP press release dated December 28, 2005.

Concerns have been expressed that the public release of such information was inconsistent with normal police practice, procedures and policies and interfered with the democratic process during the general federal election of 2005.

I am satisfied that there are reasonable grounds to investigate the circumstances surrounding the disclosure of such information. Accordingly, pursuant to subsection 45.37(1) of the *RCMP Act*, I am initiating a complaint into the conduct of the RCMP officers involved in this incident, specifically:

1. whether the RCMP officers involved in the public release of such information complied with all appropriate policies, procedures, guidelines and statutory requirements for the release of such information,
2. whether such policies, procedures and guidelines are adequate to address the situation wherein public disclosure of a police investigation may have an impact upon the democratic process and may call into question public confidence in the independence of the police.

# Appendix E

## RCMP Final Report

Royal Canadian Mounted Police



Gendarmerie royale du Canada

February 5, 2008

Mr. Paul Kennedy  
Chair  
Commission for Public Complaints Against  
the Royal Canadian Mounted Police  
P.O. Box 3423, Station "D"  
Ottawa, Ontario K1P 6L4

Dear Mr. Kennedy:

This correspondence is in reference to the complaint you lodged, as Chair of the Commission for Public Complaints Against the RCMP (CPC), on February 1, 2007, pertaining to the Public Disclosure by the RCMP of its Criminal Investigation Regarding the Taxation of Canadian Corporate Dividends and Income Trusts. The Commissioner has delegated the authority to me for the purpose of issuing this report pursuant to Subsection 45.4 of the *Royal Canadian Mounted Police Act*.

You initiated a complaint into the conduct of RCMP officers involved in this matter, specifically:

1. *whether the RCMP officers involved in the public release of such information complied with all appropriate policies, procedures, guidelines and statutory requirements for the release of such information;*
2. *whether such policies, procedures and guidelines are adequate to address the situation wherein public disclosure of a police investigation may have an impact upon the democratic process and may call into question public confidence in the independence of the police.*

The investigation of your complaint was assigned to Sergeant Lise Noiseux, a senior investigator within our Professional Standards Unit (PSU).

.../2

1200 Vanier Parkway  
Ottawa, Ontario  
K1A 0R2

1200, promenade Vanier  
Ottawa (Ontario)  
K1A 0R2

Shortly after we received this complaint, representatives of the CPC requested a meeting between our organizations to further discuss your concerns. On March 29, 2007, a meeting was held between Mr. Jon Holland and Ms. Lisa Marie Inman of the CPC and members of the PSU, Staff Sergeant Michael Robineau and Sergeant Lise Noiseux.

During this meeting, Mr. Holland and Ms. Inman provided a document entitled "Points of Interest", which detailed ten questions they wished to have further investigated with respect to this complaint:

1. *Determine:*
  - i. *"normal practice" (informal practice);*
  - ii. *"normal procedure" (informal procedure);*
  - iii. *relevant policy;*
  - iv. *statutory requirements; and,*
  - v. *situation-specific guidelines,**with respect to disclosures of the existence of criminal investigations.*
2. *Determine whether normal practice and procedure are consistent with the applicable formal policy and statutory requirements.*
3. *Determine how, when and why normal practice and procedure were developed.*
4. *Who was involved in the decision to send the letter to Ms. Wasylycia-Leis disclosing the existence of a criminal investigation? Have those individuals been interviewed?*
5. *Why was the decision made to send the letter disclosing the existence of a criminal investigation? Have those individuals been interviewed?*
6. *When was the decision to send the letter disclosing the existence of a criminal investigation made? Any relevant information should be indicated and investigated.*
7. *Who was involved in the decision to issue the press release of December 28, (2006), disclosing information concerning the criminal investigation? Have those individuals been interviewed?*
8. *Why was the decision made to issue the press release on December 28, (2006), disclosing information concerning the criminal investigation? Any relevant information should be indicated and investigated.*

.../3

9. *When was the decision to issue the press release of December 28, (2006), disclosing information concerning the criminal investigation made? Any relevant information should be indicated and investigated.*
10. *Have there been any relevant changes in policy, procedure, etc. since this disclosure took place?*

Subsequent to this meeting, Mr. Holland sent an e-mail to Staff Sergeant Robineau, on April 18, 2007, indicating that he would expect the following questions to also be addressed:

1. *Who knew what when? In other words, which RCMP members were involved in the subject decisions? What discussions were had? What were the positions of various people involved? Were legal opinions sought? What was the level of engagement of senior members?*
2. *(Was there) any documentary evidence regarding the subject decisions?*
3. *(Is there) information on whether policy was specifically consulted at the time the decisions were taken?*

In the course of her very extensive investigation, Sergeant Noiseux interviewed or consulted with 19 witnesses/information sources regarding this matter. The investigator also examined relevant correspondence, policies and guidelines, as well as the *RCMP Act*.

I am now in receipt of a comprehensive investigation report submitted by Sergeant Noiseux, and wish to share with you the results of this investigation.

The following is a brief summary of background information as it relates to the circumstances surrounding your complaint.

On November 28, 2005, Member of Parliament, Ms. Judy Wasylycia-Leis, the New Democrat Party (NDP) Finance Critic, sent a letter to Commissioner G. Zaccardelli in which she outlined her concerns in relation to a possible breach of security or illegal transfer of information in advance of the federal government's announcement of changes to the taxation of Canadian Corporate Dividends and Income Trusts.

Ms. Wasylycia-Leis requested that the RCMP Integrated Market Enforcement Team (IMET) check into the accuracy of this allegation and determine whether an investigation was warranted.

.../4

On December 23, 2005, Commissioner Zaccardelli responded to Ms. Wasylycia-Leis by letter, indicating that based on a review of the information, the RCMP would be commencing a criminal investigation.

On December 28, 2005, after the Commissioner's letter was found on the NDP Website, the RCMP Headquarters Media Relations Unit began receiving numerous phone calls from journalists inquiring into the situation. A decision was made to issue the following press release:

*The Royal Canadian Mounted Police (RCMP) has completed its initial review of the allegation by Ms. Wasylycia-Leis regarding a possible breach of security or illegal transfer of information in advance of the federal government's announcement of changes to the taxation of Canadian corporate dividends and Income Trusts of November 23, 2005.*

*Given the seriousness of the allegations, the RCMP is now undertaking a criminal investigation of this matter.*

*In particular, the RCMP wishes to note that at this time there is no evidence of wrongdoing or illegal activity on the part of anyone associated to this investigation including the Minister of Finance Ralph Goodale.*

Subsequent to this press release, the RCMP received its first public complaint, from the British Columbia Civil Liberties Association (BCCLA). The BCCLA felt the Commissioner's decision to notify Ms. Wasylycia-Leis and the public through a press release was inappropriate and possibly affected the outcome of the federal election, thereby compromising and undermining public confidence in the independence of the RCMP.

An investigation was conducted and a Letter of Disposition (LOD) was sent to the BCCLA. Unsatisfied with the RCMP's response, the BCCLA requested a review by the CPC. The BCCLA expressed concern that the public release of such information was inconsistent with normal practice, procedures and policies and interfered with the democratic process during the general federal election of 2006.

Prior to receiving the appeal request from the BCCLA, you had already initiated your own complaint (i.e., this file) into the conduct of the RCMP officers involved in this incident. You felt that the LOD sent to the BCCLA lacked sufficient detail to address your concerns and that further investigation was required.

.../5

In the following pages, each of the allegations you raised, or raised by Mr. Holland, will be addressed.

**Allegation #1**

*Whether the RCMP officers involved in the public release of such information complied with all appropriate policies, procedures, guidelines and statutory requirements for the release of such information.*

The investigation conducted by Sergeant Noiseux revealed that there were several individuals involved in the process leading to the letter of response to Ms. Wasylcia-Leis dated December 23, 2005, and the press release, dated December 28, 2005.

The investigator conducted numerous interviews to determine the circumstances surrounding these issues, and also examined the applicable RCMP Operational and Administrative Manuals. Sergeant Noiseux also consulted with various experts throughout the country.

Sergeant Noiseux concluded that the RCMP did not have a policy regarding notifying complainants of the RCMP's intention to conduct a criminal investigation into allegations brought to their attention. The only authority Sergeant Noiseux located that somewhat addresses this issue is at section 45.39 of the *RCMP Act*. This authority is exclusively and specifically limited to public complaints against members of the RCMP and is therefore not applicable to the criminal complaints process. Sergeant Noiseux' research also failed to identify any contravention of statutory authority or RCMP policy with respect to the decision to issue, or the determination as to the contents of the press release.

The investigation revealed that in relation to both the letter and the press release, the final decision was taken by Commissioner Zaccardelli. Questioned regarding these events, Commissioner Zaccardelli informed the investigator that he has been named in a civil suit with respect to this matter and was counselled by his lawyer not to make any statements.

**Allegation #2**

*Whether such policies, procedures and guidelines are adequate to address the situation wherein public disclosure of a police investigation may have an impact upon the democratic process and may call into question public confidence in the independence of the police.*

.../6

As you are aware, Part VII of the *RCMP Act* provides for investigation into complaints regarding the conduct of members while performing duties under the Act. There is no provision for complaints/requests to review and/or amend policy.

However, several senior officers shared their thoughts with Sergeant Noiseux on this issue. Their views on the subject are clearly outlined in Sergeant Noiseux' investigation report, a copy of which is being provided for your review.

The following is offered in response to the document provided by Mr. Holland and Ms. Inman during their meeting with Staff Sergeant Robineau and Sergeant Noiseux on March 29, 2007, enumerating ten "Points of Interest" they wished to have further investigated regarding this complaint:

**1<sup>st</sup> "Point of Interest"**

*Determine: i. "normal practice" (informal practice); ii. "normal procedure" (informal procedure); iii. relevant policy; iv. statutory requirements; and v. situation-specific guidelines, with respect to disclosures of the existence of criminal investigations.*

**2<sup>nd</sup> "Point of Interest"**

*Determine whether normal practice and procedure are consistent with the applicable formal policy and statutory requirements.*

**3<sup>rd</sup> "Point of Interest"**

*Determine how, when and why normal practice and procedure were developed.*

Part VII of the *RCMP Act* is limited to complaints regarding the conduct of RCMP members. It does not provide for requests to review and/or amend current policy.

Sergeant Noiseux did, however, address this question by reviewing the RCMP's Operational and Administrative Manuals. It was determined that nothing exists in our present policy that deals specifically with this issue, and that there are no statutory requirements which direct the RCMP to notify complainants of the status of any criminal investigation other than provisions relating to victims' rights. These would not appear to be applicable in the case at hand.

..17



However, it is common practice for RCMP members to provide information to complainants if doing so would not compromise investigations.

One of the members contacted in regard to this matter indicated:

*It is sometimes a fine line as to what is and what is not included in policy. I hope we are not at the point yet where everything we do has to be written down. We have to keep the common sense aspect front and centre and not be reduced to only performing duties that are written down. Notifying a complainant is a basic common courtesy that we have always done. It was done even before our core values were written down, but I guess you can say today that it is a function of our core values.*

**4<sup>th</sup> “Point of Interest”**

*Who was involved in the decision to send the letter to Ms. Wasylycia-Leis disclosing the existence of a criminal investigation? Have those individuals been interviewed?*

A review of the circumstances surrounding this question revealed that the decision to send the letter to Ms. Wasylycia-Leis was made during a meeting on December 22, 2005, between Commissioner Zaccardelli, Deputy Commissioner Pierre-Yves Bourduas, and Assistant Commissioner Bernie Corrigan, Director General, Public Affairs and Communications Services. As Commissioner of the RCMP, the final decision remained with Commissioner Zaccardelli. Of these three witnesses, only Assistant Commissioner Corrigan agreed to provide a statement.

**5<sup>th</sup> “Point of Interest”**

*Why was the decision made to send the letter disclosing the existence of a criminal investigation? Have those individuals been interviewed?*

As indicated above, the only person who was willing to answer Sergeant Noiseux’ questions was Assistant Commissioner Corrigan, who indicated the following:

*In my experience in operations and, and you know often times where you will keep a complainant up-to-date on, on the status of a file as long as the information that you provide them doesn’t impede on the investigation itself.*

.../8

Assistant Commissioner Corrigan went on to explain that the RCMP had been getting regular requests for updates as to the status of this particular investigation. He also indicated that the scope of the investigation was widening and numerous witnesses were being interviewed.

**6<sup>th</sup> “Point of Interest”**

*When was the decision to send the letter disclosing the existence of a criminal investigation made? Any relevant information should be indicated and investigated.*

Questioned as to why the RCMP waited until the end of the review before responding to Ms. Wasylycia-Leis’ letter of November 28, 2005, Assistant Commissioner Corrigan said that from his understanding, there did not seem to be enough information to pursue this further and that it was either on December 21 or 22 that new evidence was brought forward to the RCMP, and that there was enough there to warrant a criminal investigation.

**7<sup>th</sup> “Point of Interest”**

*Who was involved in the decision to issue the press release of December 28, (2006), disclosing information concerning the criminal investigation? Have those individuals been interviewed?*

Sergeant Noiseux’ investigation revealed that Commissioner Zaccardelli made the final decision, but some individuals either provided advice to him (Chief Superintendent Denis Constant, Director General, Financial Crime, and Mr. Gilbert Groulx, Legal Services) or complied with his orders (Sergeant Nathalie Deschênes and Ms. Nancy Sample, both working within the National Communication Services). Chief Superintendent Constant and Mr. Groulx declined to be interviewed.

**8<sup>th</sup> “Point of Interest”**

*Why was the decision made to issue the press release on December 28, (2006), disclosing information concerning the criminal investigation? Any relevant information should be indicated and investigated.*

.../9

Ms. Sample explained that it was important for them to deal with this issue as quickly as possible as there was a perception out there, in the media, that the RCMP had announced a criminal investigation when, in fact, they had not. The RCMP had sent a letter to Ms. Wasylcia-Leis, and they (NDP) issued a news release which created a lot of “media jazz”. This is when the Commissioner asked them to issue a press release. The purpose was to calm things down and to confirm what was already out there.

When asked why they did not simply release their media lines, Ms. Sample stated that they had, but sometimes when you get so many calls and people are requesting an interview with the Commissioner, it is easier to issue a press release. Ms. Sample added that ultimately, this was the Commissioner’s decision.

**9<sup>th</sup> “Point of Interest”**

*When was the decision to issue the press release of December 28, (2006), disclosing information concerning the criminal investigation made? Any relevant information should be indicated and investigated.*

According to witness interviews, National Communication Services employees started receiving calls from reporters late in the day on December 28, 2005, indicating that they had heard that the RCMP was launching a criminal investigation. The reporters were also aware of the Commissioner’s letter and said it was public information.

Ms. Sample explained that the RCMP had not issued any statements to that effect or made any announcements, and were searching to find out how this information got out when a journalist, Ms. Caroline Dunn of the CBC, sent them an email with the link to the NDP Website. According to Ms. Sample, the RCMP news release went out at around 7:00 p.m. that same day.

**10<sup>th</sup> “Point of Interest”**

*Have there been any relevant changes in policy, procedure, etc. since this disclosure took place?*

.../10

Asked if anything had changed since these events, Staff Sergeant Paul Marsh (National Communication Services) replied that it had not. He said that the only correspondence in the last period had been regarding the use of wording around the commencement of a criminal investigation in general, whether they should be using terms like "reviewing" or "commencing a criminal investigation". Staff Sergeant Marsh stated that this was not specific to this file, but rather addressed the problems they had with terminology when referring to commercial crime investigations.

Assistant Commissioner Corrigan indicated that one of his ongoing concerns was the question of how to identify or differentiate between a probe, a review or an investigation, especially in commercial crime-type investigations. After having discussed this with Assistant Commissioner Raf Souccar, they both agreed that the terminology was confusing and both thought that, as the RCMP was a law enforcement body, any information that is obtained and studied to determine the validity should be referred to as an investigation, right from the beginning, as soon as the information is made available.

The following is provided in relation to questions submitted by Mr. Holland in an email to Staff Sergeant Robineau dated April 18, 2007:

**Question #1**

*Who knew what when? In other words, which RCMP members were involved in the subject decisions? What discussions were had? What were the positions of various people involved? Were legal opinions sought? What was the level of engagement of senior members?*

**Question #2**

*(Was there) any documentary evidence regarding the subject decisions?*

**Question #3**

*(Is there) information on whether policy was specifically consulted at the time the decisions were taken?*

In her report, Sergeant Noiseux stated she remained cognizant of these questions throughout the investigation and addressed all those which could be answered, based on the information and statements made available to her.

.../11


In the final analysis, documentary evidence provided throughout this investigation, supported by the interviews, demonstrates that the RCMP members involved in the public release of this information complied with all applicable policies and statutory requirements.

Several high-ranking officers of the RCMP were actively involved. It was clear from the witnesses who provided statements that, under the circumstances, those involved felt they were doing the right thing. It was acknowledged that including the name of a specific individual, that is Mr. Goodale, was not consistent with past practice. The decision to do so was taken by Commissioner Zaccardelli.

After reviewing Sergeant Noiseux' report, I am concerned that the RCMP does not have an established practice or applicable policies or guidelines with respect to the publication of information regarding investigations. This has been raised with the Commissioner who has directed that the matter be reviewed and that proposals to address this shortcoming be developed and brought forward to the RCMP's Senior Executive Committee.

Please be advised that pursuant to section 45.4 of the *RCMP Act*, I am notifying you that the investigation into your complaint is now concluded. In order that you may, in accordance with subsection 45.42(1) of the Act, review the investigation of your complaint, I have enclosed a copy of the investigator's report.

Yours sincerely,

  
William Sweeney  
Special Advisor to the  
Commissioner

Enclosure

c.c.: Commissioner G. Zaccardelli (Ret'd)

## Appendix F

### Timeline

- November 28** Ms. Judy Wasylycia-Leis, Member of Parliament for Winnipeg North and the NDP Finance Critic, sends a letter to Commissioner Zaccardelli requesting that the Integrated Market Enforcement Team check into the accuracy of the speculation surrounding a potential leak of the income trust announcement.
- November 28** Ms. Wasylycia-Leis' letter is passed to Assistant Commissioner Souccar by Deputy Commissioner Bourduas for assessment of the need/grounds for an investigation.
- November 30** Ms. Wasylycia-Leis' letter is passed on to Inspector Buzza.
- December 1** Media lines are finalized confirming that the RCMP had received Ms. Wasylycia-Leis' letter and would review the information provided to determine further steps to be taken, if necessary.
- December 13** Inspector Kelly is directed to open a file into the alleged income trust leak.
- December 19** Inspector Kelly receives further information pertaining to the alleged income trust leak.
- December 21/22** Assistant Commissioner Corrigan is advised by Deputy Commissioner Bourduas that, because of information obtained during the review, the income trust matter is now a criminal investigation.
- Assistant Commissioner Corrigan meets with Commissioner Zaccardelli and Deputy Commissioner Bourduas to discuss the change of status. During that meeting, Commissioner Zaccardelli decides to write a letter to Ms. Wasylycia-Leis advising that there is a criminal investigation. The Commissioner says he will sign off and send the letter.
- Ms. Sample is told by Assistant Commissioner Corrigan and Inspector Cogan that Commissioner Zaccardelli's letter to Ms. Wasylycia-Leis will most likely be released on December 23, 2005.
- Media lines regarding the Commissioner's letter are provided to Ms. Sample by Assistant Commissioner Corrigan.
- December 23** Commissioner Zaccardelli and Chief Superintendent Constant meet privately to discuss the file.

Commissioner Zaccardelli asks Superintendent McDonald to have the letter to Ms. Wasylycia-Leis finalized for his signature.

Superintendent McDonald takes the letter to Ms. Simpson for review.

Commissioner Zaccardelli signs the letter to Ms. Wasylycia-Leis and tells Superintendent McDonald to fax the letter.

**3:15 p.m.** Superintendent McDonald calls Ms. Wasylycia-Leis' offices in Winnipeg and Ottawa and finds that the offices would be closed until January 3<sup>rd</sup>. He leaves messages at both offices stating that he is faxing the letter, and proceeds to fax the letter.

## **December 28**

Media lines are finalized indicating that general position was to be that the review had been completed, that the complainant had been advised in writing of its outcome, and that the RCMP could not comment on the specifics of the review at that time. Once the RCMP had received confirmation of receipt of notification to the complainant, it was to confirm that there was sufficient information for a criminal investigation, which would be undertaken by the Financial Crime investigative units to determine whether sufficient evidence existed to warrant criminal charges.

The NDP issues a news release stating that Commissioner Zaccardelli had confirmed that the RCMP had launched a criminal investigation into the Liberal government related to the income trust issue. Ms. Wasylycia-Leis calls on Minister Goodale to step aside from his Cabinet role until the completion of the criminal investigation.

**Late afternoon.** Sergeant Deschênes and Ms. Sample begin receiving media calls regarding Commissioner Zaccardelli's letter to Ms. Wasylycia-Leis.

Sergeant Deschênes is told to accompany Chief Superintendent Constant to Commissioner Zaccardelli's office.

Sergeant Deschênes calls Ms. Sample to attend Commissioner Zaccardelli's office along with Sergeant Deschênes, Chief Superintendent Constant, and possibly Mr. Groulx. Sergeant Deschênes also calls Staff Sergeant Marsh to apprise him of the situation and to inform him that it is not necessary that he return to the office.

Sergeant Deschênes leaves Commissioner Zaccardelli's office in order to deal with radio outlets waiting for interviews.

Commissioner Zaccardelli dictates what he wants in the news release.

Ms. Sample returns to her office to prepare the news release. Ms. Sample also telephones Assistant Commissioner Corrigan to apprise him of the situation.

Ms. Sample completes and forwards two versions of the news release, one with Minister Goodale's name and one without.

Commissioner Zaccardelli approves the news release containing Mr. Goodale's name, and it is issued in the late evening.



## **Appendix G**

### **RCMP Members and Related Persons Involved in Events of December 23 and 28, 2005 (positions and ranks noted at the time of the events)**

**Commissioner Giuliano Zaccardelli**

**Superintendent Mike McDonald**, Executive Assistant to Commissioner Zaccardelli

**Deputy Commissioner Pierre-Yves Bourduas**, Central Region and Federal Operations

**Assistant Commissioner Raf Souccar**, Federal and International Operations

**Chief Superintendent Denis Constant**, Director General, Financial Crime

**Inspector Dean Buzza**, Officer in Charge of Policy and Management Program, IMET

**Inspector Barbara Kelly**, Project Leader, "A" Division Commercial Crime Section and lead investigator in the income trust matter

**Assistant Commissioner Bernie Corrigan**, Director General of Public Affairs and Communications Services

**Ms. Nancy Sample**, Acting Director, Corporate Communications

**Ms. Lori Simpson**, Director, Executive Services Ministry Liaison

**Inspector Tim Cogan**, Director, Media Relations

**Staff Sergeant Paul Marsh**, Senior Media Relations Officer

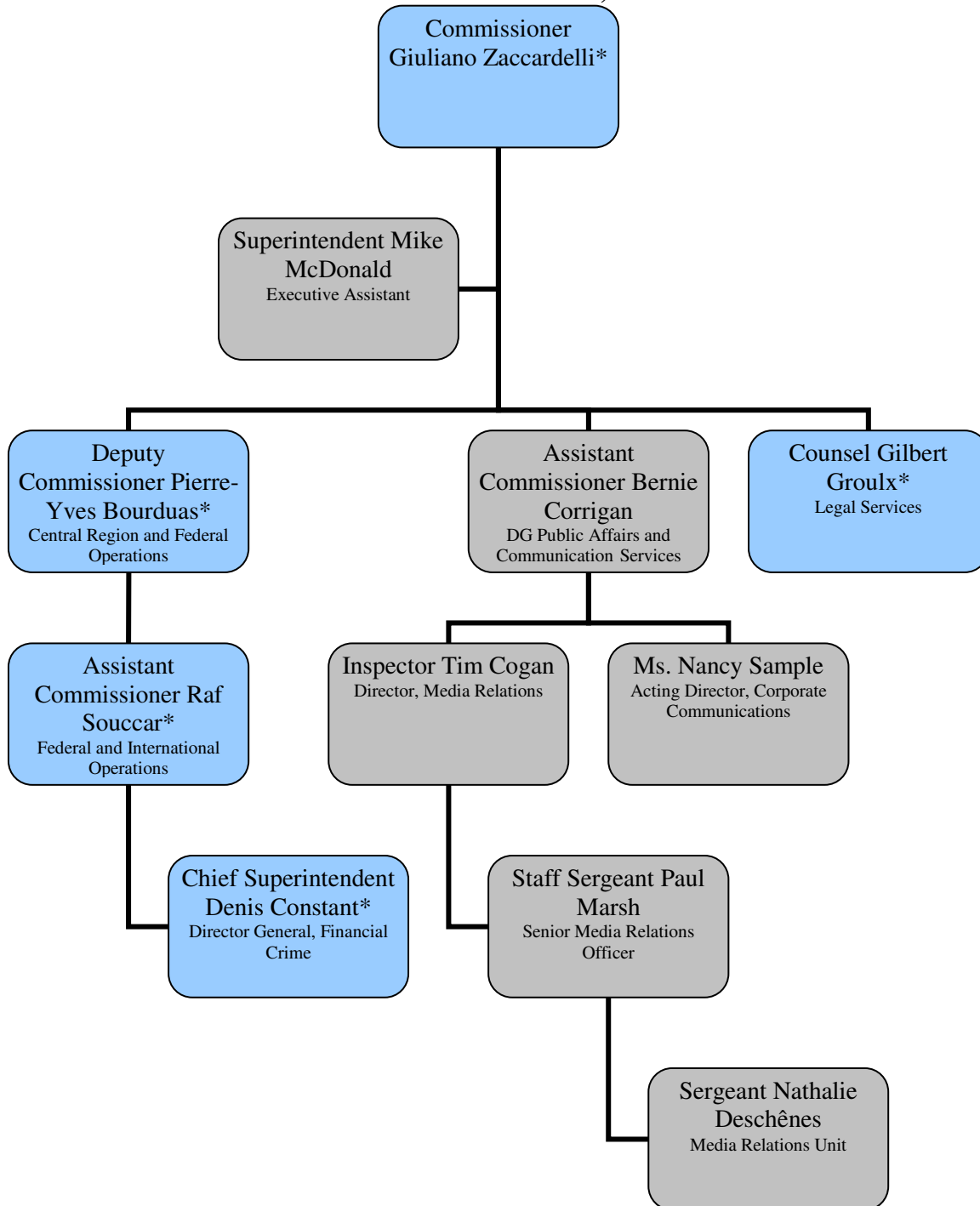
**Sergeant Nathalie Deschênes**, Media Relations Unit

**Ms. Nadie Martin**, Communications Strategist, Public Affairs and Communications Services

**Mr. Gilbert Groulx**, Counsel, Legal Services

## Appendix H

### Organizational Chart of RCMP Members and Persons Directly Involved in Events of December 23 and 28, 2005 (positions and ranks noted at the time of the events)



\* Refused to provide a statement to the public complaint investigator.

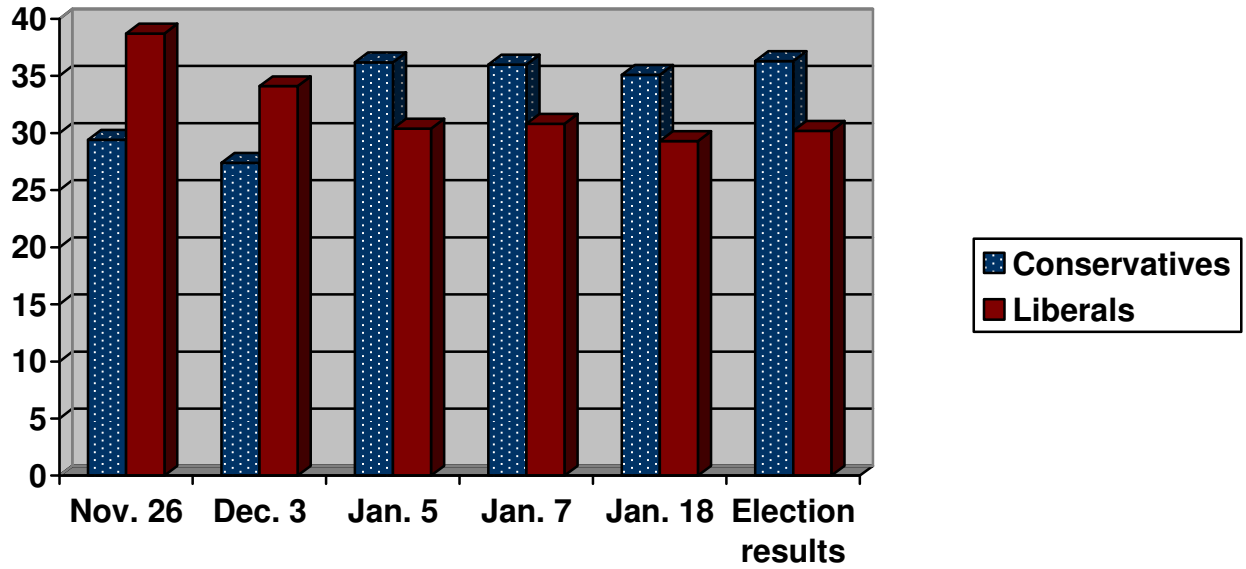
## **Appendix I**

### **Service Standards cited by the RCMP**

6. Information will be released unless it compromises privacy legislation, investigational information and techniques, suspects' rights or sources of confidential information.
7. The RCMP will willingly give advice and assist in the resolution of complaints against the RCMP or its employees, and all complainants will be kept informed of progress.
14. There will be at least one follow-up contact with a complainant, victim or witness in need.

## Appendix J

### Commission consolidation of EKOS polling numbers November 2005 - January 2006



	Nov. 26	Dec. 3	Jan. 5	Jan. 7	Jan. 18	Results
<b>Liberals</b>	38.7	34.1	30.4	30.8	29.3	30.2
<b>Conservatives</b>	29.4	27.4	36.2	36.0	35.1	36.3