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Royal Canadian Mounted Police External Review Committee

Off-Duty Conduct - Consultation Report



Off-Duty Conduct

- Consultation Report

**Royal Canadian Mounted Police
External Review Committee**

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The Committee is publishing a series of discussion papers to elicit public comments to assist the Committee in the formulation of recommendations pursuant to the *Royal Canadian Mounted Police Act* (1986). The views expressed in this paper are not necessarily the views of the Committee.

Comments are invited; they should be addressed to:

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Disciplinary Dismissal - Consultation Report

Discussion paper 7

Off-Duty Conduct

Discussion paper 8

Sanctioning Police Misconduct - General Principles

FOREWORD

The RCMP External Review Committee's seventh discussion paper, "Off-Duty Conduct", was distributed for consultation in 1991 to several federal and provincial government agencies, federal, provincial and municipal police forces and selected Canadian corporations.

The Committee thanks the many respondents for their insightful comments on the issues expressed in the discussion paper, as well as for the valuable information provided on the various approaches to off-duty conduct. As previously, all comments published in this report remain anonymous.

In the Committee's ongoing research program, work is underway on discussion papers on occupational health and safety, conflict of interest and secondary employment.

Simon Coakeley
Executive Director
RCMP External Review Committee

OFF-DUTY CONDUCT CONSULTATION REPORT

1. Consultation

(a) Method and Objective

In preparing the report on its seventh research topic, off-duty conduct, the RCMP External Review Committee used, as in the past, a process divided into two phases.

In the first phase a study is prepared by a consultant; from this study the Research Directorate of the Committee produces a discussion paper dealing with issues raised by the consultant.

The second phase of the process is a report on the views, ideas and impressions of a predetermined readership on the contents of the discussion paper. A consultation report is written, based on the comments received, which completes the comparative analysis of the issues in the discussion paper. The sources of quotations used in the consultation report remain anonymous to preserve confidentiality.

To gather the material for this consultation report on off-duty conduct, the Committee consulted the Deputy Attorneys General and the Deputy Solicitors General of the provinces and territories, the Commissioner of the RCMP and the National Executive of the RCMP's division staff relations representatives. A large number of police forces, as well as a representative number of members of the Canadian Association of Chiefs of Police and the Canadian Police Association, were also consulted. In the federal sector, the Committee sought the views of the Public Service Commission, the Canadian Centre for Management Development, the departments of Justice, the Solicitor General and National Defence. In all, 213 individuals and organizations, representing both employers and employees, were given a copy of the discussion paper for consultation purposes.

As with previous reports, the Committee did not limit its consultation solely to police organizations as this would have limited the variety of responses and ideas. It is always important to receive feedback from different types of organizations to broaden the views explored in the paper.

(b) Response to Discussion Paper

The response rate in the consultation phase of the research program varies considerably from paper to paper, as does the amount of detail provided in the replies. Such diversity is to be expected because of the variation in the topics under discussion.

The response to the off-duty conduct discussion paper was excellent, both in terms of the number of replies and of the quality of responses. Respondents made insightful, detailed comments on the issues presented in the paper. Many also stressed the enlightenment that comes from sharing experiences.

In addition, many respondents provided interesting material on how their organizations handle cases relating to the off-duty conduct of their members. In some cases, they believed that the policies and procedures within their forces were well designed to provide a good balance between the rights of the member and the needs of their departments. In some, they were in the process of drafting new provincial legislation relating to the police, which would be assisted by information in the discussion paper relating to off-duty conduct. In others, respondents expressed frustration that their departments involved themselves in matters that they saw as strictly private ones with no obvious implications for the department. In all cases, they stressed the need for a very important balance to be established and maintained.

The sources of the comments cover a wide range. While on some previous topics, the overwhelming majority of correspondence was from the senior management of police forces, on the topic of off-duty conduct substantive responses have been received from a wider variety of organizations. Half were from police forces, while others were from governments, members' associations and the private sector. The benefit derived from the wide range of sources is that we receive a combination of practical, detailed comments and objective, general views.

Response figures were as follows.

<u>Organizations</u>	<u>Percentage of Respondent</u>
Government	
· Federal	13.6%
· Provincial	18.3%
· Municipal	0.0%
Police	
· Review Bodies	9.1%
· Forces	50.0%
· Members' Associations	4.5%
Private Sector	4.5%

(c) General Comments

The comments received during the consultation process provide a great deal of valuable information both to the Committee and more generally to the police community. With each consultation report published by the Committee, more responses stress the value of sharing in the experiences of others.

In addition to the RCMP, the Committee samples many police forces and other interested parties. Most respondents appreciate the benefit they receive from the wider sample that looks across the Canadian policing community.

As is always the case, a large number of the comments received by the Committee were general in nature. A sampling of those views follows.

With regard to form, we have nothing but praise, and as to content, we believe that the information in the report will be very useful to us, given the interest in this matter within our police force.



The discussion on the need to identify bona fide occupational requirements for police officers was particularly useful, as was the emphasis on establishing criteria by which the different types of off-duty conduct may be regulated and violations assessed.



I read it with interest and indeed it focuses on a number of areas ... that needed some illumination.



In my view the paper illustrates a degree of commonality in how police forces across Canada approach some of the issues associated with off-duty conduct and may provide the impetus for some further standardization.



Its publication was timely and the topic of great interest.



Thank you once more for giving us the opportunity to read this

document, which is of great interest and relevance to our Service.



I must commend the authors of this very comprehensive paper. I see nothing which requires further enlargement other than that which has been identified by the authors.



I have read the document with interest.



I have reviewed with interest the discussion paper on “Off-Duty” Conduct and commend you and your associates for producing, in my opinion, a good overview of the issue, using several examples to illustrate your points.



I consider the content both interesting and informative.



I must congratulate you and ask you to pass on my congratulations to the other members of your team.



I noted with interest the work you have produced on this timely topic and I look forward to reading the reaction to it from the police community and other interested parties in the consultation report that you plan to produce based on comments you receive.

The Committee is always pleased to receive correspondence indicating that police departments have received a direct practical benefit from its discussion papers.

I would like to compliment you and your staff for this comprehensive and informative report which I believe will assist this Force in dealing with this contentious issue.



We have received the comments of our detachment supervisors

and Headquarters management; they are unanimous in viewing this document as a guide for policy formulation by our Department.



This discussion paper has proved to be a good source of information in this area and has been referred to ... assist in ... drafting of the (police) Act and Regulations....

In addition to comments on its most recent discussion paper, the Committee has received endorsement of its ongoing research program.

The Committee is to be complimented for its initiative in the production of informative research papers. A valuable contribution has been made to the knowledge available in Canada on police matters.



It is indeed beneficial to me to have illustrations of how other police forces in Canada and elsewhere see the issues and react to them.



In closing, I would like to commend you on this paper and encourage you to continue with this type of insightful research.

The Committee is pleased to receive comments of this nature because one of the reasons for its research program is that, when the Committee was created, its members found that there was virtually no information available on human resource management in the Canadian policing community. Police forces and other interested organizations and individuals across Canada have been extremely helpful since the commencement of the Committee's series of research documents in ensuring the success of the program. Cooperation in providing material for the discussion papers and active participation in the consultation phase has provided the Committee with valuable information and ideas to which it would otherwise not have access.

Judging by the comments received, there are benefits gained by those participating as well as by the Committee.

2. Commentary on Issues

The off-duty conduct of police officers is clearly a topic of interest and ongoing concern to all those with an involvement in the police community. The following quotations provide an idea of the types of concerns expressed by those who responded.

Since police officers hold positions of power and privilege, every effort possible should be made to ensure the conduct of law enforcement personnel is exemplary.



Your paper clearly illuminates an area of increasing concern amongst the rank and file members of the ... and I'm sure other Police Forces. While most Police Officers recognize and accept their conduct both on and off-duty is subject to scrutiny by all, we are nevertheless entitled to privacy and any festering of that privacy should be judiciously applied under clearly defined and meaningful procedures.



I would not be in favour of any policy statement on the implementation of guidelines which might result in a diminution of the public trust or respect for law enforcement.



In general, off-duty conduct may have undesirable effects in two broad areas. The first is those situations which diminish the performance and effectiveness of our officers. Chief among these are secondary employment and alcohol or drug addiction problems. The second category is those activities which may tarnish the reputation of the force or of the individual officer. Under this heading are political activities, sexual or social conduct and certain unacceptable domestic behaviours.

In all cases, it is important to detect any behaviour either indicative of impaired performance or prejudicial to the reputation of the force and to counsel the officer in question before the problem reaches the stage where dismissal is called for.



I note with interest your position on the inherent conflict between the community policing philosophy and the officer's individual political rights. Without a doubt, this very issue will cause us more concern in the future.

The following quotations give an idea of the care that must be taken in any regulation of the off-duty conduct of police officers.

... my Executive and I are mindful that a delicate balance does, and we believe should, exist between any Police Department's inherent right to hold its employees to higher standards of private, as well as public, conduct than the public at large, and its obligations, when developing and instituting policy and standards of behaviour, to respect those rights and freedoms afforded every citizen through the Charter.



You correctly reported that the Supreme Court of Canada has upheld the right of a police agency to impose a higher standard of off-duty conduct on the part of their officers than those imposed on other citizens. However, we must be ever-vigilant that the limits of unacceptable conduct do not substantially reduce the basic rights that we all enjoy as citizens of Canada.

This fine line as you so wisely indicate, must be more clearly defined in the future.

There were other comments relating to the handling of situations involving off-duty conduct when they do occur.

There appears to be a move away from a punitive approach to these issues in favour of remedial solutions.

(a) Instilling Strong Ethical Standards

The following quotations suggest that the most effective method of ensuring the appropriate off-duty conduct of police officers is to instill in them strong ethical standards.

It is the policy of the ... to encourage self discipline in its members and in many cases this has proven to be successful. We believe it is in the interest of the Service, its members and the community we serve to recover employees rather than sever them from the Service.

The Service is committed to Community Based Policing which requires we give our officers a great deal of discretion; however, implicit in this freedom is the expectation of accountability for conduct.

We believe that public expectation for police behaviour is higher than that for other segments of society because of the power that is granted to the office.



If, as I believe to be the case, it is necessary that highest standards of behaviors be achieved and maintained, then it will be necessary to provide the police with a clean and comprehensive code of ethics, supported by administrative and disciplinary measures that will reward good behaviour, correct that which is modestly deviant and punish that which seriously departs from the accepted norms.

It has been suggested that by instilling higher ethical standards in police officers, they will be led as well to have certain expectations of how they will be treated.

What could be agreed is that the disciplinary and administrative regimes applicable to the police should focus more on the remedial than the punitive aspects of police discipline and police administration. If we are to have higher expectations of the police, they will have greater expectations of the way that their employer responds to off-duty conduct on the part of the police.

b) Training

As important as the idea of instilling strong ethical standards in police officers is the training to reinforce the standards. Sessions on ethics in the training received by police officers throughout their careers have been recommended.

We hold the view that police training programs, especially at the Recruit level, should include time set aside for a meaningful examination and understanding of ethics, much in the same way this subject has found its way into college curricula for students pursuing careers on Wall Street, ...



If all instructors in the Police Community had the advantage of working from a lesson plan, which included a "universally" accepted Code of Ethics for Police sector employees, and which

specified the principles and criteria upon which disciplinary decisions might be reached, surely everyone would benefit.



I read with interest the portion of your report on police training with respect to off-duty conduct. I can assure you that I found your comments on the subject informative and most helpful and will undertake a review of our training in this regard.

To aid in this training, it has been suggested that a consolidation be made of file summaries of disciplinary cases from across the country. This would serve as a training aid as well as a resource base for police departments.

Some consideration might also be given to having Internal Investigation Units forward annually to the Canadian Police College file résumés detailing their enforcement activities relating to specific types of disciplinary defaults.

In this way a body of resource material could be compiled and distributed upon request so those involved in training can offer factual examples of situations where members have been charged and describe the specific circumstances which lead to their disciplinary proceedings. Departments could draw from this library and never be in a position where they are directly or indirectly disclosing members' identifies or investigative techniques used in their own jurisdictions.

(c) Regulation of Off-Duty Conduct

Many respondents commented on the benefits and disadvantages of regulating the off-duty conduct of police officers.

The following responses call for greater regulation and point out aspects of the issue which would have to be addressed in the development of regulations.

Off-duty conduct of police officers should be subject to regulation for one basic reason, the need to maintain respect for law and order and for those persons responsible for maintaining law and order.



Effective policing requires public trust and support, and this support cannot be secured by officers who temporize over their behavior off-duty. Worse, the public has a not unreasonable expectation that an officer off duty is really only at rest, and that he

or she is available to intervene promptly should this be required of them. Ultimately then, police conduct off-duty must be seen in the light of the simple principle that the appointment is not seriously constrained in terms of time and space, and cannot, therefore, be bound by a second and lesser standard of conduct.



The report correctly identifies the need for greater specificity in relevant regulatory control of off-duty conduct. Well articulated guidelines are easy to follow and easy to enforce. Furthermore, in the drafting process itself, careful attention would have to go into their true purpose and effect. Will they provide a good balance between the right of peace officers to private life and the right of a police service to insist that its members lead an exemplary life? In light of the Charter and other human rights legislation, where is the line between *bona fide* occupational requirements, the need to preserve the reputation of a police service, the need to preserve credibility and reputation of individual members of a police service and a right to a private life that is not unduly restricted by a number of rules? The remarks on the concluding pages of the Report provide an interesting commentary on such questions.



Community-based policing will be an illusionary will-o'-the-wisp if individual police are seen to have professional or personal standards of behavior that are other than the highest mean achieved in modern society. The prospect of a police officer who espouses one standard of behavior on duty and another off is analogous to that of a cleric preaching one set of commandments on Sunday and practising another Monday.

Other respondents disagreed with provisions to regulate off-duty conduct.

There is no question that the off-duty conduct of police officers may be subject to disciplinary provisions of the legislated powers of a police force, if the said conduct could bring discredit upon the reputation of the force or its members. This has long been accepted by police officers on the basis of the employer-employee relationship that exists and by virtue of their oath of office.

However, I would respectfully submit that it was never intended to apply to the private lives of police officers, but rather to govern

their conduct while acting or purporting to act in their official capacity as police officers when dealing with the public.

(d) Alcohol and Drug Addiction

A number of respondents saw off-duty misconduct related to or resulting from alcohol or drug addiction as a problem warranting special mention.

One respondent expressed his preference for the remedial approach to these problems.

The manner in which the Police Department treated the two police officers in the story on pages 22 and 23 is very commendable and I would like to see ... incorporate such a contract for our members who have drinking problems.

Another respondent expressed the view that the remedial approach should not totally replace the punitive approach.

I would like to comment on organizational responses to off-duty conduct concerning alcohol and drug addiction. While I do agree that addiction to either substance is a handicap/disability, I cannot agree that accommodating the offending member through a treatment program should take precedence over discipline, where the reputation of a Force is at stake. In my view, discipline and treatment for substance abuse should be dealt with from separate and distinct perspectives.

3. Conclusion

As the document clearly delineates, the subject matter for consideration is wide-ranging both in scope and complexity.

As this quotation implies, the issue of off-duty conduct is one which touches all police officers and is of importance to every police department. It is also one on which the opinions are as diverse as the police community itself.

However, what has emerged from the views expressed by respondents is a general agreement that there are certain types of behaviour that are viewed as totally inappropriate and should be sanctioned.

Where the divergence occurs is where to draw the line between acceptable and unacceptable off-duty conduct, and to what extent a police department should be permitted to regulate the lives of its members when they are not on duty.

One message that has emerged is that the focus should be on ensuring that the occurrences of misconduct by off-duty police officers become fewer by instilling in them strong ethical standards.

Some have suggested the creation of a universally accepted code of ethics, which would form the basis for training across the country. The importance of training on ethics has been stressed - from recruit training to courses throughout the careers of police officers.

To back up this training program and to bring about a standardization of the handling of off-duty conduct by police departments, the sharing of information and experiences among police forces is seen to be important. A national depository of case summaries has been suggested as one means of carrying this out. The External Review Committee is currently in the process of distributing summaries of its cases to interested parties. Copies are available on request from the Committee.

Further information and sources of reading material on ethics and codes of ethics may be found in an article on ethics and professionalism in policing written by the Chairman of the RCMP External Review Committee which appears in the December 1991 issue of the Canadian Police College Journal.

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