



ARCHIVED - Archiving Content

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

ARCHIVÉE - Contenu archivé

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.



Royal Canadian Mounted Police External Review Committee

Disciplinary Dismissal - Consultation Report



Disciplinary Dismissal

- Consultation Report

**Royal Canadian Mounted Police
External Review Committee**

Chairman

Honourable René J. Marin, OMM, QC, LLD

Vice-Chairman

F. Jennifer Lynch, QC

Members

Joanne McLeod, CM, QC

William Millar

Mary Saunders, QC

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:

Simon Coakeley
Executive Director
RCMP External Review Committee
Postal Box 1159
Station 'B'
Ottawa, Ontario
K1P 5R2
FAX: (613) 990-8969

Other publications

Discussion paper 1

Suspensions - A Balanced View

Suspensions - Consultation Report

Discussion paper 2

Relocation - A Painful Process?

Relocation - Consultation Report

Discussion paper 3

Medical Discharge - A Police Perspective

Medical Discharge - Consultation Report

Discussion paper 4

Post-Complaint Management -

The Impact of Complaint Procedures on Police Discipline

Post-Complaint Management -

Consultation Report

Discussion paper 5

Employee Assistance Programs -

Philosophy, theory and practice

Employee Assistance Programs -

Consultation Report

Discussion paper 6

Disciplinary Dismissal - A Police Perspective

Discussion paper 7

Off-Duty Conduct

Discussion paper 8

Sanctioning Police Misconduct

- General Principles

FOREWORD

The sixth discussion paper published by the RCMP External Review Committee entitled “Disciplinary Dismissal - A Police Perspective” 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 those who took time to comment on the issues raised in the discussion paper. The information provided in the responses was extremely interesting and very useful to the Committee. As in previous consultation reports, all comments published in this report remain anonymous.

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

Simon Coakeley
Executive Director
RCMP External Review Committee

DISCIPLINARY DISMISSAL CONSULTATION REPORT

1. Consultation

(a) Method and Objective

In preparing the report on its sixth research topic, Disciplinary Dismissal - A Police Perspective, the RCMP External Review Committee has again used an approach consisting of two phases.

The first phase consists of the preparation of a study by a consultant, following which 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. In order to preserve confidentiality, the sources of quotations remain anonymous. The role of the Committee's Research Directorate in these consultations is to gather feedback on the form and content of the discussion paper and to complete its comparative analysis of the issues discussed. As well, it may learn of models and options other than those presented in the discussion paper.

To gather the material for this consultation report, the Committee consulted the Deputy Attorneys General and the Deputy Solicitors General of the provinces and territories, the Commissioner and other senior officers of the RCMP and the National Executive of the 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 Department of National Defence, the Department of the Solicitor General and the Department of Justice.

As with other reports, the Committee did not limit its consultation solely to police organizations as this would have limited the variety of responses and ideas. Selected Canadian corporations were also canvassed for their views or comments. The Committee considers it important to get feedback from all types of organizations to broaden the views explored in the paper. In all, 165 individuals and organizations, representing both employers and employees, were provided a copy of the discussion paper for consultation purposes.

(b) Response Rate

In publishing its series of research papers, the Committee is attempting to stimulate discussion, not to take a position on the issue. Because of this, when research is conducted on a problem touching many police forces, the material will not meet the objectives of all forces at all times. As a result, the rate of responses varies considerably from paper to paper, as does the amount of detail in the replies.

The response rate in this consultation process was average, not as high as with some

topics, but higher than others. The largest number of respondents, by far, were from police forces, indicating that this is a topic of interest to the police community more than to any other group. Responses were received from the RCMP, provincial police forces, municipal police forces, provincial government officials and senior officials in federal government departments.

While the responses varied somewhat in the amount of detail provided, most included substantive comments. Many respondents provided a considerable amount of detail on the practices and procedures in their organizations, which resulted in lengthy replies.

Response figures were as follows.

	<u>Organizations</u>	<u>Percentage of Respondents</u>
Government		
	· Federal	11.1%
	· Provincial	11.1%
	· Municipal	0.0%
Police		
	· Commissions	0.0%
	· Forces	77.8%
	· Members' Associations	0.0%
Private Sector		0.0%

(c) General Comments

Many of those who provided feedback commenced their discussion with general observations on the paper, its overall quality or its interest to their organizations. These general views are very useful to the Committee because they reinforce the Committee's perception of the value of its research program to the police community. A number of these comments follow.

I found this to be a very comprehensive paper on this subject and it should provide police agencies with some very relevant observations by which their current policies and practices can be assessed.



I appreciate the work that has gone into the production of this paper and the opportunity to review same.



C'est avec intérêt que nous avons constaté les différences pouvant exister et imputables à des législations et régies disciplinaires

découlant de philosophies diverses.



I have reviewed the conclusions respecting disciplinary dismissal with considerable interest.



Analysis of the various Police Acts, regulations and codes of offenses was insightful.



I found your discussion paper on disciplinary dismissal very interesting.



It is clear that the dismissal of police officers is both a complex and a politically sensitive issue.



... I have found the research to be factual and interesting.

A number of respondents commented on the usefulness of the paper to their organizations and to others.

... the discussion paper will be circulated amongst staff involved in administering discipline policy and procedures, then it will be placed in our Reference Centre.



It was a most interesting and helpful paper in as much as it assisted us in reflecting on our own disciplinary process.



Your research should also assist other police forces who do not have adequate legislation at this time or who are in the process of amending their proceedings in relation with police disciplinary dismissals.



The comparison of the characteristics and practices of the different types of disciplinary dismissal provisions in place across Canada will make this Discussion Paper useful to Justice Counsel. In the event amendments are contemplated to ... legislation regarding policing, the issues raised by this Discussion Paper will be a valuable contribution to the debate.



Ce document nous visualise des approches différentes dans l'application de la discipline interne et nous permettra, en cette période où nous nous préparons à la mise en place d'un nouveau code de discipline propre à notre corps policier, d'y envisager avec plus d'assurance certaines règles visant à utiliser la discipline, non pas comme moyen de punition seulement, mais aussi comme outil de gestion.

Comments were also made on the overall usefulness of the External Review Committee's research program and on topics suggested for examination in future discussion papers.

The research papers provided to date are relevant and the format adequate from a management perspective.



On page 45, you write:

"There is a strong and growing need to rationalize the system."

After reading this paper, this statement seems to me to be a bit of an understatement. This points to the need, perhaps, of a follow-up paper that provides us with a more detailed comparative analysis and an in-depth discussion of issues.

More specific comments related to interest in reading this consultation report.

I look forward to reading the consultation report which will be published concerning this important subject.

Respondents expressed a continuing interest in being involved in the consultation process.

2. Commentary on Content

Most of the respondents commented on substantive elements of the paper. The greatest number of comments related to the role of discipline in police management. Many comments were also received on more specific aspects of the text. Others gave interesting details on discipline and dismissal procedures in their particular organizations and clarified portions of the text which applied to them.

(a) Role of Discipline in Police Management

A sampling of the commentary relating to the role of discipline in police management follows.

Although I subscribe to the "non-punitive" progressive discipline model, its application as a means by which the standards of operational performance can be maintained is severely limited in the context of a Police Service. This is because the disciplinary process is, in large measure, mandated by legislation. The relevant legislation ... is based on an essentially punitive model and provides for a relatively inflexible system of discipline -- especially when a citizen complaint is involved. It is unlikely this punitive approach will change, given the desire to assuage public concerns with respect to the issue of police discipline.



I would agree that there are many different procedures and methods in various parts of the nation dealing with discipline and dismissal. However, given the many different regions in Canada and their diversity of population and interests, I do not believe this is necessarily a negative phenomenon but more consistency across the nation would probably serve the public and the police as well.



Indeed, I might argue that a sensible disciplinary regime sensibly executed is very likely to contribute to the salvaging of police employees providing the regime is fairly but consistently applied.



The concept of positive discipline is discussed and I agree with this in a general way. If we are dealing with employees who are receptive to positive discipline, as the majority are, this is obviously the way to go.



... it is helpful that you point out that a criminal process and a labour relations process are both used in police discipline. The models you describe certainly reflect this variation. What really complicates the issue is when police officers, who are not lawyers, adjudicate a case in a non-criminal process where the accused may be represented by a lawyer and in which the arbitration process on appeal adopts a court process. It is all very confusing and demoralizing for police management. I find the consistence of approach used in Quebec interesting and helpful.

There were a number of comments relating to the applicability of private sector procedures to the police community. Some felt that much could be learned from the private sector while others expressed views that the practices used successfully in the private sector could not be easily transposed to the police community.

In spite of the obvious differences between the private sector and the police, I believe we have a great deal to learn about the subject from such successful companies as IBM.



The main principles in discipline I believe that must be served are fairness to the employee and to be consistent with the public interest. I believe that we are moving toward a system where labour practices as found in the private sector are having a more direct effect, whether they are always consistent with the public interest is a matter that must be pursued further.



"Out-placement" counselling is another means used in industry to provide employees with counselling and guidance in choosing new jobs or careers. This implies, of course, that we have the ability to discharge that person in the first place and this is where our system fails down.



Any manifestation of indiscipline on the part of the police should be regarded with greater concern than with which similar indiscipline on the part of some other worker might be regarded.



In essence many of our responsibilities differ greatly from those of employees from outside the police sector. Our greatest concern is to ensure that the proper screening procedures take place when people engage within the (police force) to guarantee that those individuals whose psychological make-up is not conducive to being a police officer are in fact not engaged. A lot of difficulties are experienced in this area to ensure that we are not in violation of the individual's Canadian human rights. The future would seem to require an undertaking by individuals who are engaged to participate in additional screening processes such as the submission to a polygraph examination or perhaps psychological testing as a condition of employment.



I question whether progressive discipline can be applied to policing to the same extent it can be applied in industry where we are manufacturing shoes or people are operating computers. In those trades and professions the relationship that exists is a relationship between the employer and his employee. In policing, a third person is brought into this equation, namely the public. Policing is a "people based" profession where our clients are the public. We can have a person who operates very well within the organization (internally), but interacts miserably with the public. We may not be able to afford the luxury of progressing one through the discipline process as the transgression, if it is public, may demand dismissal in the first instance.

(b) Discharge

The following comments were made in reaction to the discussion of discharge in the paper.

I note, in the opening paragraph of the introduction, you caution that discharge should only be used as a fast resort because of the consequences to the discharged employee and the disruption that it caused within the organization. While I don't disagree with what is said, such a statement needs to be carefully balanced. Experience has shown that the improper retention of an employee causes an equally disruptive environment.



Disciplinary dismissal should, of course, be a response of last or extreme resort. There should also be provisions made for employee appeal and redress in respect to inappropriate dismissal action by employers.



On page 3, chapter 2, under "Management Theory", it states, "Dismissal of an employee, however, also represents a failure of the disciplinary process." I do not agree with this philosophy as it implies that all employees are salvable, when this is not so. ... there is very little pre-screening done before someone is hired and we commonly hire people who are not suited to be peace officers. Some act out and, as they are not suited to a police role, they should be dismissed.

(c) Public Accountability

One respondent commented on the relationship between public accountability and the disciplinary process.

Generally speaking, I think too much of the burden of public accountability has been placed on the shoulders of the disciplinary process. The fault lies in the general style of policing which historically has isolated the police from the community. I believe community policing, not the disciplinary process, will address the need for public accountability.

(d) Clarifications

As anyone who has read the discussion paper would realize, during the period in which that paper was being written and published there were major changes occurring in both Ontario and Quebec with respect to disciplinary dismissal, amongst other things. Respondents from the Ontario Provincial Police and the Montreal Urban Community Police provided the Committee with clarifications of the details presented in the discussion paper. We appreciate their efforts in this regard.

(e) Comments and Information Relating to Respondents' Organizations

The following commentary was received from respondents who wished to share experiences from their organizations.

... we allow for counselling as an alternative to having a disciplinary hearing. This is a positive first step. Another would be to allow for the possibility that there may be a structural problem and not just a personal problem when the disciplinary code has been breached.



... I receive citizen complaints regarding municipal police officers who may have committed a disciplinary default in the execution of their duties. After investigation of the complaint, my first mandate is to attempt to resolve the complaint by informal resolution. This is only successful when both the complainant and the respondent will sit and discuss their differences. On more than one occasion, a police officer has left the meeting with a greater appreciation of the other person's views and has become a more understanding and wiser officer because of the process.

One respondent made the point that a statement made in the general discussion on legal issues in the discussion paper does not apply to his organization.

Page 14 states that, "It is also possible for an employer to dismiss an employee for repeated minor breaches of standards of conduct, provided that the employee was made aware of the disapproval with which his conduct was viewed."

This does not really hold true under our *RCMP Act*. If there is a minor breach of the Code of Conduct and there is a counselling, there is no record of discipline on the member's file. If he is reprimanded, the reprimand remains on his file for one year. We cannot use retroactivity as is implied by the above statement.

Retroactivity disappears after one year. Our Act does not allow us to refer to informal discipline, which may have been handed out to deal with a minor breach of the standards of conduct beyond a one year period.

(f) Importance of Communication

One respondent had the following suggestion to improve the information exchange between individuals involved in disciplinary cases across the country.

Ce qui pourrait aider et faciliter la tâche des personnes qui appliquent ou dirigent les mesures disciplinaires dans les Services de police, serait de centraliser si possible le résultat de tous les cas majeurs disciplinaires afin qu'ils soient accessibles pour consultation par les différents intervenants dans la matière.

Other respondents talked about the importance of communicating with other interested parties.

In these times of change throughout the nation, it is important to have an open dialogue with all the various and interested parties and to this end I would lend my support.



Your conclusion identifying a need for a multi-consultation process concerning discipline involving management, employees and the public is a necessity if a more standardized approach is to occur.

3. Conclusion

The commentary received by the Committee indicates that the discussion paper on disciplinary dismissal elicited a good deal of interest within the Canadian police community.

The following comment received by the Committee captures the tone of the majority of respondents.

I found the discussion paper to be most informative. I heartedly concur that the age of Autocratic Leadership and Management is fast becoming a thing of the past. The ongoing social changes now occurring dictate we must continue to move towards a more open participatory style of management with greater emphasis placed on communication flowing in both directions between management and their employees.

A large number of comments contained elements of these thoughts. Many respondents, in addition to commenting specifically on the paper, expanded upon the information provided in it. Because the great majority of respondents were from police forces, the views expressed were from a practical outlook and the additional material provided was very informative on the procedures followed in a variety of organizations.

In some cases the paper assisted the readership in reflecting on their own disciplinary processes; in others, it was suggested that the paper will be useful when the time comes to review and amend existing legislation.

The comment was made by several respondents that it is valuable to have an insight into what is going on in other organizations, even if the procedures followed are somewhat different. In the same way, the views expressed during the consultation process add to this sharing of information which benefits the readership.

Conclusions which can be reached on the basis of the respondents' views are the following.

- i) While more managers are leaning towards non-punitive disciplinary measures, the disciplinary processes tend to be based on a punitive model.
- ii) While differences in procedure and methods of operation across the country are inevitable, somewhat more consistency would undoubtedly be better for both the police and the public.
- iii) Effective communication between managers and employees is a key element to improve disciplinary systems.
- iv) While there are obvious differences between the police environment and the private sector, there are nevertheless lessons to be learned from successful companies.

The purpose of this consultation process based on the discussion paper on disciplinary dismissal has been to promote the discussion and communication of views on this important human resource management issue within the police community.

- NOTES -

-13-

- NOTES -