



Commission for
Public Complaints
Against the RCMP

Commission des
plaintes du public
contre la GRC

RECLAIMING OUR VISION

VISION



EXCELLENCE IN POLICING THROUGH ACCOUNTABILITY

The Honourable Lawrence MacAulay, P.C., M.P.
Solicitor General of Canada
House of Commons
Ottawa, Ontario
K1A 0A6

Dear Mr. MacAulay,

Pursuant to section 45.34 of the *Royal Canadian Mounted Police Act*, I hereby transmit the annual report of the Commission for Public Complaints Against the RCMP (CPC) for the 2000–2001 fiscal year, for tabling in Parliament.

Yours very truly,



Shirley Heafey
Chair

June 2001



Minister of Public Works and Government Services

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MESSAGE FROM THE CHAIR

In the past year, we have completed a long, arduous journey that began three years ago. The greatest challenge, as well as the greatest triumph, has been the elimination of a backlog of unresolved cases that has, for so long, prevented us from fulfilling our mandate effectively. Thanks to the hard work of dedicated Commission staff, we can now reclaim our vision as a motivating force in our work, and move forward with new energy, confidence and enthusiasm.



Through our strategic planning exercise, we discovered that we had been consumed by the backlog and had lost sight of our vision. Yet we also discovered that the foundation for new directions lies in the past

AS HUMAN BEINGS, OUR GREATNESS LIES NOT SO MUCH IN BEING ABLE
TO REMAKE THE WORLD... AS IN BEING ABLE TO REMAKE OURSELVES.

MAHATMA GANDHI

Thirteen years ago, after a decade of impassioned public debate, Parliament created this civilian oversight agency. Its main purpose was to hold the Royal Canadian Mounted Police (RCMP) accountable to the public it serves, for the use of its extraordinary powers. Until 1988, public complaints about the RCMP were handled exclusively by the RCMP. In creating this Commission, Parliament acknowledged a need for a fair, impartial and independent agency that would ensure that the rights of both complainants and RCMP members are respected.

It is therefore appropriate that our vision encompasses our mission, mandate and core values and captures Parliament's intended goal by simply stating: *Excellence in policing through accountability.*

Since my arrival at the Commission, I have repeatedly stated my commitment to raising public awareness about important policing issues, and my dedication to providing a complaints process that is both accessible and transparent. This process must maintain the confidence of the public, members of the RCMP and Parliament, and reflect a clear understanding of the diversity and complexity of Canadian society. The public release of my two reports on public interest investigations, a first for the Commission, was intended to serve such purposes. The report

concerning the detention of Mr. Kim Erik Nielsen of Kamloops, British Columbia, who died after being taken into RCMP custody, as well as the report on events in May 1997 in the Acadian communities of Saint-Simon and Saint-Sauveur in New Brunswick, have had a definitive impact on the RCMP and have been well received by the local, national and international communities. This new commitment to transparency bears witness to our dedication to our vision.

Recent triumphs do not signal the end of the challenge. Rather, we can now dedicate more time to finding new ways of effectively serving the Commission's clientele and contributing to improved policing practices. For example, the development of an alternative dispute resolution process illustrates the progressive thinking of the Commission's staff and my continued commitment to promoting the principle of civilian oversight. We can now focus on the implementation of improved policies and procedures that will breathe life into our vision.

In the coming year, I will continue to monitor the treatment of people in RCMP detention and the tragic deaths that can occur. In the case I noted above, that of Mr. Nielsen, the RCMP Commissioner supported many of the recommendations of my investigation report. In two previous hearing reports dating back to July 1990 and January 1997, the Commission made recommendations to the RCMP addressing inadequate police training. In my final report on the death of Mr. Nielsen, I urged the RCMP to update training to ensure that police officers are better equipped to assess the need for medical assistance for persons in their custody. Furthermore, coroners' inquests across the country have echoed many of the same recommendations. The Nielsen report generated widespread interest in Canada and abroad. The magnitude of this problem is such that it demands my continued attention. As such, I hope to open a dialogue with the RCMP in an effort to fully address this issue.

With the crippling weight of the backlog behind us, we are evolving into a mature, cohesive organization with a clear sense of purpose. With this renewed commitment to our mandate and vision, I am confident that with the cooperation of the RCMP and the public we serve, this Commission's contribution to excellence in policing will be distinct and palpable.

Shirley Heafey

Chair, Commission for Public Complaints Against the RCMP

COMMISSION STATEMENT

VISION

EXCELLENCE IN POLICING THROUGH ACCOUNTABILITY

MISSION

To provide civilian oversight of RCMP members' conduct in performing their policing duties so as to hold the RCMP accountable to the public.

MANDATE

- *To receive complaints from the public about the conduct of RCMP members*
- *To conduct reviews when complainants are not satisfied with the RCMP's disposition of their complaints*
- *To hold hearings and carry out investigations*
- *To report findings and make recommendations*

CORE VALUES

The following core values guide our work and reflect the work environment for which we strive:

- | | | |
|-----------------------|----------------------------------|--------------------------|
| • <i>Independence</i> | • <i>Effective communication</i> | • <i>Respect</i> |
| • <i>Objectivity</i> | • <i>Excellence</i> | • <i>Integrity</i> |
| • <i>Fairness</i> | | • <i>Professionalism</i> |
| • <i>Timeliness</i> | | • <i>Teamwork</i> |



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ACKNOWLEDGEMENTS

The greatest triumph about which I spoke in my Message, that of conquering the backlog of cases, could not have happened without the extraordinary dedication and hard work of the Vice-Chair of the Commission, Mr. John Wright. Mr. Wright is a part-time Vice-Chair whose home is in Whitehorse, Yukon. For the past two and a half years, he has travelled to Ottawa every month and remained two and sometimes three weeks away from his family. John reviewed, revised and signed reports at a back-breaking rate and rarely looked up while remaining ever mindful of the need for excellence. His support and increased presence has meant a lot. I am very grateful.

The Commission underwent a renewal in the past two years—a renewal of its energy and its vision. We started on this journey by going through a gruelling review and planning exercise that involved the participation of all Commission employees. Looking inward and remaking ourselves can be a very difficult journey but it is often necessary in order to move forward. Commission employees were hopeful but perhaps a little sceptical, at first, of this endeavour. However, thanks to the determined efforts of the Commission’s Executive Director, Ms. Kimber Johnston, this meaningful step into the future was a success and a turning point for the Commission. I am very grateful.

The theme of each of my Annual Reports has been very important and I have always given it a lot of thought. It is a way of making the public aware of where we are and where we are going. This year, the credit for the title “Reclaiming Our Vision” goes to a very creative and valuable member of the Commission’s Review Unit, Mr. Glenn Gilmour. I am very grateful.

Shirley Heafey
Chair

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ABOUT THE COMMISSION

ROLE OF THE COMMISSION

The Commission is an independent agency. It is not part of the RCMP. The Commission receives complaints from members of the public about the conduct of RCMP members who are acting in the course of their policing duties. In accordance with the *RCMP Act*, the Commission refers complaints to the RCMP for investigation. The RCMP disposes of most public complaints at this stage. If, however, a complainant is not satisfied with how the RCMP has handled the complaint, the complainant may ask the Commission to conduct an independent review of the complaint. The Commission Chair can also initiate a complaint if she is satisfied that there are reasonable grounds to investigate an RCMP member's conduct.

**PARLIAMENT ESTABLISHED THIS
COMMISSION TO ADDRESS ALLEGATIONS
OF INAPPROPRIATE CONDUCT BY RCMP
MEMBERS AND TO REINFORCE GOOD POLICE
CONDUCT BY THOSE MEMBERS.**

Parliament established this Commission to address allegations of inappropriate conduct by RCMP members and to reinforce good police conduct by those members. The Commission carries out its functions objectively. When reviewing or investigating a complaint, the Commission does not act as an advocate for either the complainant or for RCMP members. Rather, its role is to conduct an independent inquiry and to reach objective conclusions based on the available information.

The Commission is not a court. Its power lies in its ability to persuade the RCMP Commissioner to take action based on the Commission's findings and recommendations. Findings and recommendations may address conduct by specific RCMP members or they may deal with broader issues involving RCMP policies and practices. The RCMP Commissioner is required to respond in writing to the Commission's findings and recommendations and to indicate what further action will be taken regarding the complaint. If the RCMP Commissioner decides not to act on the Commission's findings or recommendations, he is required to provide a rationale for his decision. Copies of the Commission's recommendations and findings are forwarded to the Solicitor General, who is the Minister responsible for the RCMP.

COMPLAINT AND REVIEW PROCESS

Complaints may originate from any of the following sources:

- a member of the public may complain directly to the RCMP;
- a member of the public may complain to the Commission or to provincial policing authorities;
or
- the Commission Chair may initiate a complaint.

Each complaint is dealt with as follows:

- first, the RCMP conducts an investigation, unless the Commission Chair deems it advisable in the public interest to investigate the complaint;
- then, the RCMP reports the results of the investigation to the complainant and the police member(s) involved.

If the complainant is not satisfied with the RCMP report and has asked for a review by the Commission, the Commission Chair may:

- review the complaint without investigating further;
- ask the RCMP to investigate further;
- initiate her own further investigation; and/or
- hold a public hearing.

Following the review, if the Commission Chair is satisfied with the RCMP's disposition of a complaint, she reports this in writing to the complainant, the RCMP member(s) involved, the RCMP Commissioner and the Solicitor General.

If the Commission Chair is not satisfied, she sends an interim report to the RCMP Commissioner and to the Solicitor General. This report is treated as follows:

- the RCMP Commissioner informs the Commission Chair and the Solicitor General in writing of any action to be taken in response to the Commission Chair's findings and recommendations, including the rationale for a decision not to take any further action; and, following this,
- the Commission Chair prepares a final report that includes the text of the Commissioner's response, known as the Commissioner's notice, as well as the Commission Chair's final recommendations, and sends it to the complainant, the RCMP member(s) involved, the RCMP Commissioner and the Solicitor General.

INVESTIGATIONS

As previously mentioned, during the review of the RCMP disposition of a complaint, the Commission Chair may inquire further into the complaint. She can ask the RCMP to carry out a more complete investigation or she can have the Commission conduct the investigation.

In addition, the Commission Chair can conduct an investigation when she considers it advisable in the public interest, regardless of whether the RCMP has investigated or disposed of the complaint. The Commission Chair then delivers to the RCMP Commissioner and the Solicitor General a written report setting out her findings and recommendations concerning the investigation of the complaint. The RCMP Commissioner is required to respond, after which the Commission Chair prepares a final report that is distributed to all parties, the RCMP Commissioner and the Solicitor General.

HEARINGS

The Commission Chair may also institute a public hearing to inquire into a specific complaint at any time she considers further inquiry warranted, but usually does so after weighing the information gathered during an RCMP or Commission investigation. She can also call a public interest hearing, when she deems it advisable in the public interest, whether or not there was a prior investigation by the RCMP.

A hearing panel seeks to establish the facts of a complaint by considering all evidence it deems necessary to its inquiry. A report by the hearing panel may contain findings and recommendations designed to improve RCMP operations or to correct inadequacies that have led to the complaint. The findings and recommendations of the hearing panel are sent to the RCMP Commissioner, the Solicitor General, the complainant and the RCMP member(s) complained about, and are made publicly available.

The RCMP Commissioner is required to respond to the report in a Commissioner's notice indicating whether the RCMP will act on the report's findings and recommendations. If the RCMP Commissioner decides not to act on the recommendations in the report, he must include the reasons for not doing so. After considering the Commissioner's notice, the Commission Chair issues a final report, which is distributed in the same manner as the panel's hearing report.

COMPOSITION OF THE COMMISSION

Commission Members

The legislation establishing the Commission provides for a Chair, a Vice-Chair, and a maximum of 29 other members and alternates. The Chair serves full time; other members may serve full time or part time. The Commission has representatives from each province or territory that contracts with the RCMP to provide policing services, that is, all provinces and territories except Ontario and Quebec. The federal government appoints the Chair and Vice-Chair for a fixed term of up to five years. The members of the Commission representing each province and territory are appointed by the federal government following consultation with the minister responsible for police affairs in that province or territory.

Commission Staff

In addition to Commission members, who serve on panels in public hearings, Commission staff are responsible for providing administrative support to the hearing process and for managing the complaint, review and investigation processes. It is the joint efforts of Commission members and staff that ensure the Commission functions effectively for the public and the RCMP.

Commission staff who are responsible for the hearing, investigation and review functions work primarily out of a head office in Ottawa. The Commission office in Surrey, British Columbia, is responsible for taking all enquiries and complaints in either official language and is the first point of contact for members of the public who want to complain about the conduct of RCMP members.

Appendix A provides an organization chart setting out the reporting relationships of the Commission.

**THE COMMISSION OFFICE
IN SURREY, BRITISH COLUMBIA,
IS RESPONSIBLE FOR TAKING ALL
ENQUIRIES AND COMPLAINTS IN
EITHER OFFICIAL LANGUAGE, AND IS
THE FIRST POINT OF CONTACT FOR
MEMBERS OF THE PUBLIC WHO WANT
TO COMPLAIN ABOUT THE CON-
DUCT OF RCMP MEMBERS.**

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YEAR IN REVIEW — UPDATE ON ACTIVITIES

CORPORATE ACHIEVEMENTS

Strategic Plan

For the first time in its history, the Commission has a strategic plan that is the result of an extensive review and planning exercise during the 1999–2000 fiscal year. The strategic plan clearly identifies the Commission's priorities over five years. This Commission-wide exercise has been a basis for renewal and a source of key initiatives.

During the 2000–2001 fiscal year, the Commission focused on the top two priorities identified for the first year of the strategic plan—eliminating the backlog of review cases and establishing internal standards to improve and expedite the review process. The Commission's achievements concerning those two priorities are discussed on pages 20 and 21.

New English Name

Effective January 1, 2001, the Commission was registered under the Federal Identity Program as the Commission for Public Complaints Against the RCMP (CPC). Since the inauguration of the Commission in 1988, members of the public have often been unclear about the Commission's independence from the RCMP. The new English title, an exact translation of the Commission's existing French title, reinforces the fact that the Commission is an independent agency and is not part of the RCMP.

Commission Statement

Another key accomplishment, spearheaded by our Planning Committee, is the completion of the Commission Statement, which is a declaration of our vision, mission, mandate and core values.

This important statement is the product of widespread consultation among Commission staff. The statement provides the public with a clear understanding of the Commission vision: *Excellence in policing through accountability*. In its entirety, the statement is a useful daily reminder of why we exist, what we do and how we achieve our objectives. It clearly reflects the Commission's commitment to its work. The complete statement is provided on page 6 of the annual report and on our Web site.

Communications

Improving communications at the Commission, both internally and externally, was also identified as another of the agency's top priorities. During the first year of our strategic plan, the Commission focused on improving internal communications. In our view, the better informed our staff members are, the better they can serve the public. Through a variety of initiatives, Commission staff were kept informed of key agency files and projects.

The Commission also completed an external communications plan. The plan focuses on improving communications with complainants, the RCMP, and other agencies, organizations and members of the public interested in our work. In this way, the Commission hopes to share information about its efforts to improve the review process, to contribute to the development of policing policies, and to increase access to and understanding of Commission services.

**THE STATEMENT
IS A USEFUL DAILY
REMINDER OF WHY WE
EXIST, WHAT WE DO
AND HOW WE ACHIEVE
OUR OBJECTIVES.**

ENQUIRIES AND COMPLAINTS

Enquiries

Commission staff respond daily to many enquiries concerning the public complaints process. Staff members also routinely receive enquiries unrelated to the Commission's mandate. As public servants, enquiries and complaints analysts are committed to assisting the public with all calls, including redirecting callers to other organizations, where appropriate.

Complaints

The Commission's office in Surrey, British Columbia, receives all complaints that are made directly to the Commission. The Surrey office has had enormous success with a new alternative dispute resolution (ADR) initiative during the last two fiscal years. Consequently, fewer of the many complaints received are being marshalled through the formal process defined in the legislation.

**THE
COMMISSION
HAS HAD ENORMOUS
SUCCESS WITH A NEW
ALTERNATIVE DISPUTE
RESOLUTION INITIATIVE
DURING THE LAST TWO
FISCAL YEARS.**

Through this ADR initiative, as soon as complainants raise concerns, Commission employees assist in dispute resolution by bringing the individuals and the RCMP into contact. The focus remains on addressing the complainants' concerns. This approach gives complainants and the RCMP member(s) about whom the

concern was raised an opportunity to resolve the issue before invoking the formal public complaints process under Part VII of the *RCMP Act*. It allows both the Commission and the RCMP to provide better and more timely service to the public and to the RCMP member(s) involved. The prompt and professional response from RCMP members, particularly supervisory RCMP members, has been a major factor in the success of this service. As a result of its resounding success to date, ADR is now an integral part of the Commission's processes.

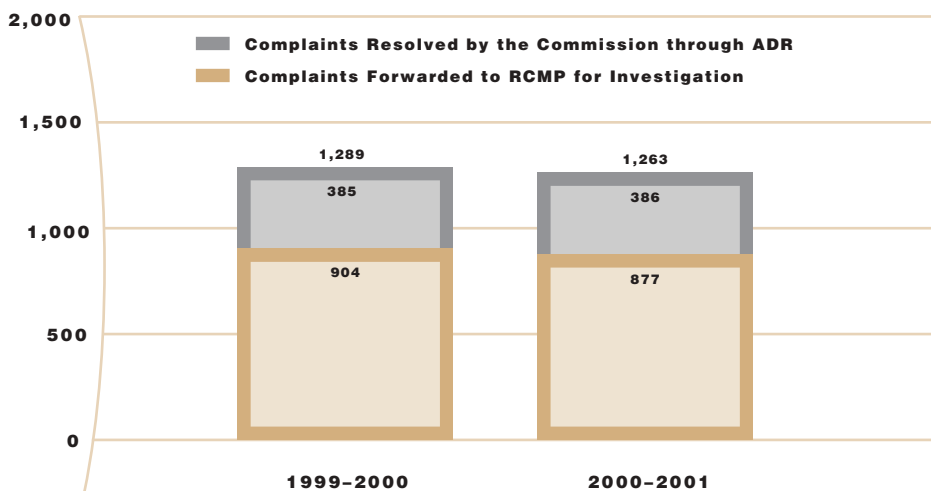
The following examples illustrate how the ADR initiative continues to work to quickly resolve complainants' concerns:

- The complainant's brother died suddenly at home. RCMP members, who routinely attend the scene of sudden deaths, had removed the deceased's personal effects from his body for temporary safe keeping. The attending coroner generally instructs RCMP members to do

this. The complainant wanted to use some of his brother's personal effects during the memorial service. The complainant told the Commission that an RCMP member refused to release these personal effects without providing reasons. A Commission enquiries and complaints analyst contacted the RCMP supervisor, who then informed the complainant that the RCMP could release the effects only to the person who was handling the deceased's estate. The complainant confirmed that he was handling the estate and was able to pick up his brother's effects immediately. The memorial service proceeded as planned. Consequently, no formal complaint was laid, as the complainant was satisfied.

- The mother of a nine-year-old boy complained that a group of boys was bullying her son at school. When her concerns were not addressed at the school, she asked the RCMP to investigate. The RCMP informed her that it could not lay charges because youths must be at least 12 years old before charges can be laid under the *Young Offenders Act*. The mother contacted the Commission to complain about the RCMP's refusal to take action. The Commission contacted the RCMP detachment involved and the officer in charge of crime prevention arranged for an officer to attend the school to make a presentation to the children on the consequences of bullying. This resolution was satisfactory to all concerned because it highlighted the existence of the problem and proposed remedies. Consequently, no formal complaint was laid, as the complainant was satisfied.

COMPLAINTS RECEIVED BY THE COMMISSION, 1999-2000 AND 2000-2001



Note: The RCMP was unable to provide statistics to show the number of complaints received directly by the RCMP during the past fiscal year.

- A dog attacked four of the complainant's sheep. As a result, three of them had to be destroyed. The complainant called the RCMP at the time, but the RCMP did not investigate the incident. He indicated that the RCMP told him to conduct his own investigation. He called the Commission the next day to complain, and alleged that the RCMP did not conduct an appropriate or timely investigation of the incident. The Commission raised the complainant's concerns with the appropriate RCMP member, who followed up immediately. The RCMP later advised the Commission that it had located the dog owner and that the two parties had reached an agreement. Consequently, no formal complaint was laid, as the complainant was satisfied.
- The complainant contacted the RCMP when she feared someone was breaking into her home. She alleged that the police never attended her home to investigate her call and she contacted the Commission to complain about inadequate RCMP service. The Commission contacted the RCMP, who immediately began a police investigation. The RCMP later apologized to the woman for its initial lack of service. Consequently, no formal complaint was laid, as the complainant was satisfied.

JURISDICTION OF THE COMMISSION

The Commission continues to analyse complaints upon receipt to determine if the allegations of improper conduct fall within the Commission's jurisdiction. When an enquiries and complaints analyst in the Surrey office, with the assistance of legal counsel, where appropriate, concludes that a proposed complaint is not a public complaint within the meaning of Part VII of the Act, the complainant is advised immediately. The analyst may suggest an alternative course of action to the member of the public.

The Commission generally defines its jurisdiction in the following way: When the complaint concerns the conduct of an RCMP member in the performance of a policing duty or function under Part VII of the *RCMP Act*, the Commission must receive or review the complaint. However, when the complaint concerns the conduct of a member that is not related to the performance of a policing duty or function under the Act, or when it relates to the administration of the affairs of the RCMP, the Commission does not have the jurisdiction to receive or review the complaint.

Historically, complaints outside the Commission's jurisdiction were often received and processed before it was determined that the complaint met the definition of a public complaint under Part VII of the *RCMP Act*. Frequently, therefore, the RCMP investigated complaints and

reported to the complainant, and the Commission's review process was invoked. As a result, both RCMP and Commission resources were sometimes devoted to matters that should not have been received as public complaints. In addition, complainants were often frustrated to learn, sometimes long after the complaint was made, that the Commission did not have the jurisdiction to review their concerns.

The Commission is making concerted efforts to determine jurisdiction at the beginning of the public complaints process. Consequently, the number of complaints outside the Commission's jurisdiction that reach the review stage is declining. Nevertheless, some cases that fall outside the Commission's jurisdiction are still reaching the review stage before being discovered because some public complaints are made directly to the RCMP. Improved communication between the Commission and the RCMP is required to provide the RCMP with a better understanding of the Commission's jurisdiction. Last year's annual report described in considerable detail the Commission's jurisdictional limits to assist the RCMP in developing a better working understanding of the Commission's jurisdiction.

The following examples best illustrate the Commission's approach to jurisdictional issues:

- A civilian jail guard at an RCMP detachment was accused of removing a small amount of money from a coffee fund. He was fired. The jail guard tried to file a complaint with the Commission, alleging that the RCMP had failed to investigate the matter "fairly and honestly" prior to termination of his employment. In the Commission's view, the RCMP was not investigating this alleged transgression in its capacity as a police force; it was dealing with the matter in its capacity as an employer who decides whether or not the contract for services should be terminated. This was not a criminal investigation. The investigation leading to the guard's termination involved "the administration of the affairs of the Force" and therefore was not a public complaint within the meaning of Part VII of the Act. The Commission was not established to oversee RCMP management decisions.

**IMPROVED
COMMUNICATION BETWEEN
THE COMMISSION AND THE
RCMP IS REQUIRED TO PROVIDE
THE RCMP WITH A BETTER
UNDERSTANDING OF
THE COMMISSION'S
JURISDICTION.**

- The proprietor of a janitorial service visited an RCMP detachment prior to bidding on a janitorial contract. The proprietor was bonded and experienced, but he alleged that an RCMP member indicated he would not be permitted to work in the building. No explanation was given. His bid on the contract was returned, unopened. The proprietor complained to the Commission about his treatment by the RCMP. The Commission concluded that the RCMP decision regarding this janitorial contract involved a decision in “the administration of the affairs of the Force” and therefore was not a public complaint within the meaning of Part VII of the Act.
- A member of the public complained to the Commission that an officer in charge of a detachment had written a letter on RCMP letterhead supporting an application for a private commercial development. In the letter, the RCMP member indicated that he was writing “on behalf of” his detachment and that the detachment “fully support[ed]” the development. The complainant alleged to the Commission that this was “an abuse of ... power” by the RCMP member and “an attempt to use the influence of his position in the community to obtain a benefit.” By writing the letter, the RCMP member was certainly not performing a traditional policing function. The question arose as to whether or not this was a valid public complaint. Taking the allegation at face value, the Commission determined that the member was purporting to act in an official capacity and was invoking his status as a member of the RCMP. The Commission concluded that it had jurisdiction over this complaint and forwarded it to the RCMP for investigation and disposition in the usual manner.
- About one hundred people contacted the Commission to complain about a warning that was issued by the RCMP through the media. In the warning, the RCMP described the marketing venture in which the people were participating as an “illegal pyramid scheme.” The RCMP was investigating the Web-based business venture and had warned the public to stay away from the scheme because it contravened the *Criminal Code*. Participants in the scheme were concerned that their businesses would be negatively affected by the RCMP warning. The Commission determined that the RCMP, in issuing such a warning, was discharging its obligation to protect the public and to prevent crime. Since protecting the public and preventing crime are traditional policing functions, the Commission assumed jurisdiction of the complaints and processed them in the usual manner.

The Commission will continue to refine its jurisdictional limits and to foster greater understanding with the RCMP regarding these limits.

REVIEWS

Eliminating the backlog of review cases has been the most significant achievement of our agency during the past fiscal year. As a result of major procedural and structural changes, the Commission completed over 1,000 review files during the past three years, compared with nearly 2,000 review cases in the previous 10 years.

The backlog of review cases began developing in the early 1990s and grew over the ensuing years. This was partially due to the growing pains of a new organization. Slow, cumbersome procedures also played a significant role in the accumulation of cases. The Commission was receiving more requests for reviews every year than it was able to complete. By the 1997–1998 fiscal year, the backlog consisted of over 500 outstanding review files pending completion; in addition, the Commission received about 250 new files for review. The sheer number of outstanding review files awaiting completion was daunting, but the backlog was also challenging because many of the review cases were now several years old. Understandably, some complainants and RCMP members lost confidence in the Commission's ability to fulfil its review function effectively and efficiently. Loss of public confidence became a key impetus for change within the Commission.

In her 1998–1999 report to Parliament, the Chair vowed to eliminate the backlog by March 31, 2001, and to make the review process more efficient by improving procedures. In January 1999, the Chair delegated signing authority to the Vice-Chair so that he could assist her in reviewing complaints. Under the new procedures, one reviewer/analyst, guided by a senior analyst and senior management, is assigned to each review file and then drafts a report. Previously, a committee would meet to examine each draft report.

The Commission has also streamlined other review procedures and adopted a more concise approach to the writing of reports. These reforms, among others, have speeded up the review process without sacrificing the thoroughness and fairness that each case demands. The Commission achieved its goal of eliminating the backlog of review cases by March 31, 2001.

Several issues remain for the Commission to address, including:

- issues in cases that involve complex and evolving constitutional questions;
- issues regarding access to relevant materials in cases where the complainants are also the subjects of ongoing criminal investigations; and
- issues in cases that are also the focus of further investigations by the Commission or the RCMP.

The elimination of the backlog of review cases signals a new era for this Commission. Generally, complainants and RCMP members will no longer experience unacceptably long delays. In the future, the parties can expect that reviews affecting them will be completed in a timely manner. By completing reviews within an acceptable time frame, the Commission can restore responsiveness to the review process and look forward to renewed public confidence. The Commission will continually reassess and refine its procedures where necessary. Moreover, the Commission plans to complete new requests for reviews in an average period of 120 days. To achieve this goal, the Review Unit has begun developing internal standards to streamline the review process. These standards will ensure the quality and the timeliness of the public complaints process.

Examples of review cases can be found in Appendix C of this report.

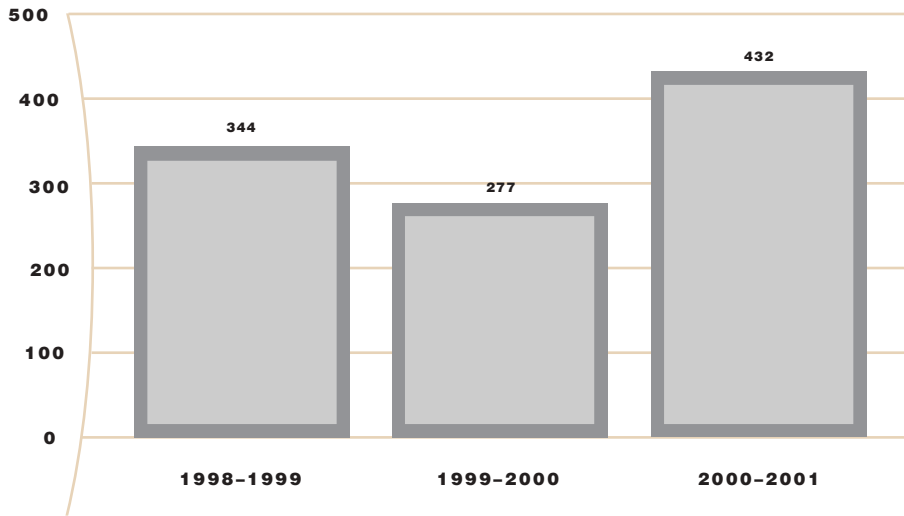
COMMISSION REVIEW REPORTS COMPLETED IN 2000-2001

Final Reports after Commissioner's notice	16
Final Reports after Review	358
Interim Reports	45
Non-Jurisdiction Reports	5
Withdrawals of Requests for Review	8
Total Number of Reports Signed	432

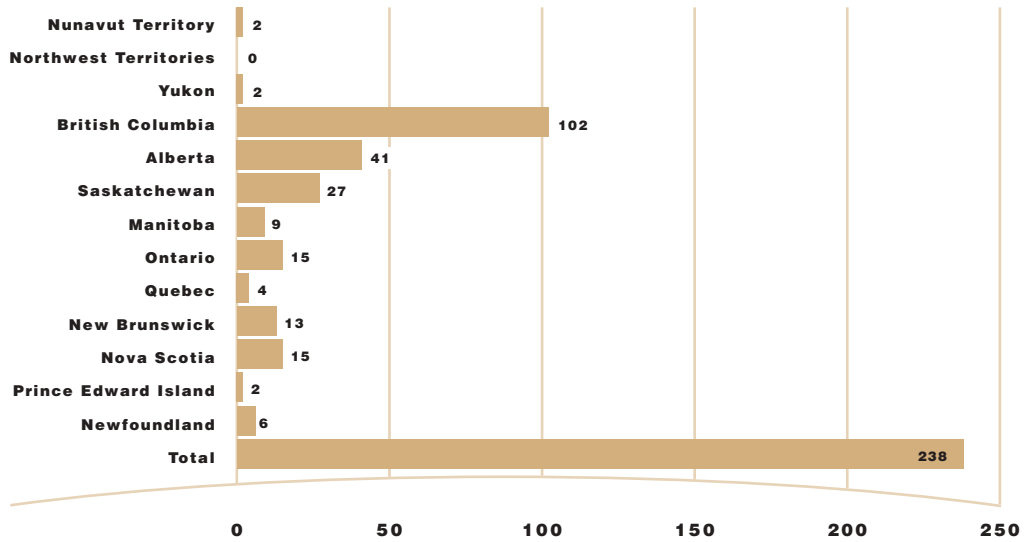
FURTHER INVESTIGATIONS UNDERTAKEN BY THE COMMISSION IN 2000-2001

Commenced	17
Completed	4
Outstanding at Year End	13

REVIEWS COMPLETED BY THE COMMISSION, 1998-1999 TO 2000-2001



REQUESTS FOR REVIEW RECEIVED BY THE COMMISSION BY PROVINCE AND TERRITORY, 2000-2001



INVESTIGATIONS

New Brunswick Investigation

On March 26, 2001, the Chair released her final report to the public following an investigation into the conduct of RCMP members during events in the Acadian communities of Saint-Sauveur and Saint-Simon in New Brunswick. The public release of the report followed the most extensive public interest investigation in the Commission's history.

In May 1997, a provincial government decision to close schools in both communities prompted demonstrations by some residents. The Commission received a total of 170 complaints containing some 400 allegations regarding the conduct of RCMP members during these demonstrations. Having received almost 100 complaints by March 20, 1998, the Chair decided, in the public interest, to conduct an investigation. Commission investigators interviewed more than 300 people—complainants, independent witnesses and members of the RCMP—and analysed many thousands of pages of relevant records.

The then commanding officer, now Deputy Commissioner G. Loepky, and his successor were cooperative and helpful in providing the Commission with all available documentation during this investigation. However, a large number of RCMP members involved in these incidents disregarded orders and simply did not submit incident reports, as required.

On March 28, 2000, the Commission Chair submitted her interim report to the RCMP Commissioner and to the Solicitor General of Canada. The Commission Chair's interim report contains 31 recommendations on a range of issues, including excessive use of force, attacks by police service dogs, unjustified detention and arrests, and inadequate medical assistance to injured demonstrators. In addition, the interim report contains recommendations about inadequate documentation of incidents by RCMP members, refusal of members to obey orders and provide such documentation as ordered by their superiors, and the complete absence of identification tags by some RCMP members who wore masks and riot gear and were consequently never identified. The Commission Chair also recommended that the RCMP Commissioner take corrective action regarding the conduct of the members involved in the incidents, arrange for written apologies to a

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number of individuals and, of equal importance, re-establish communications between the RCMP and residents of these two New Brunswick communities.

In her final report, the Commission Chair expressed overall satisfaction with the RCMP Commissioner's response to her findings and recommendations, which she received on January 12, 2001. She noted that the RCMP Commissioner agreed with most of the recommendations and that the RCMP had made some efforts to implement a few of the recommendations at the national level, as well as in New Brunswick. She also noted that the RCMP Commissioner had undertaken to address the issues of inadequate communications, irregular detention practices, injuries and property damage, as well as certain RCMP policies and procedures relating to the absence of identifying badges or markings for tactical squad members.

The Commission Chair expressed concern, however, that the RCMP had not issued the written apologies to all of the individuals named in her recommendations, and that the RCMP Commissioner did not address her finding that many RCMP members who participated in the events in the two communities refused to obey orders. The Commission Chair recommended that the RCMP Commissioner ensure that a process be introduced through the chain of command to prevent such a situation from recurring. She requested that the RCMP Commissioner keep her apprised of developments in implementing her recommendations.

The Commission Chair's final report is available from the Commission, on request, or through the Commission's Web site.

Nielsen Investigation

On December 4, 2000, the Commission Chair released her final report concerning the public interest investigation into the incidents surrounding the detention and death of Mr. Kim Erik Nielsen of Kamloops, British Columbia.

On May 21, 1997, Mr. Nielsen was taken into custody by an RCMP member. At the time, Mr. Nielsen was unable to talk or walk, and his breath smelled strongly of mouthwash. Four hours after being placed in an RCMP cell, Mr. Nielsen was discovered not breathing. He was taken to the hospital and put on life support. He died 10 days later.

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On September 21, 1998, the Commission Chair initiated a public interest investigation to examine the RCMP's care and handling of Mr. Nielsen from the time he was detained by the RCMP until he was placed in a "drunk tank" at the Kamloops RCMP Detachment.

Despite a policy that accurately states the RCMP's general obligation of care to people in its custody, the Commission Chair found that RCMP members and the guards under their supervision were inadequately trained to ensure that Mr. Nielsen received the medical assistance that he clearly required.

After considering the RCMP Commissioner's response, the Commission Chair reiterated in her final report her concern with "...the continued and widespread failure to understand and implement the policy dealing with medical assistance for detainees." The Commission Chair was encouraged by the RCMP Commissioner's commitment to improving the Cadet Training Program by providing cadets with additional information about the combined use of drugs and alcohol. However, she noted the importance of ensuring that sufficient action be taken to ensure current members and civilian guards can understand and implement existing policy. The Commission Chair recommended in her interim report that a straightforward assessment aid like the Glasgow Coma Score or the 4R's of Rousability be posted in the guardroom and/or booking area of all RCMP detachments to permit quick assessment of a prisoner's condition. In response to that recommendation, the RCMP Commissioner indicated that a "check-off" list would be developed and made available to members via the RCMP's Web site. The Commission Chair supported this idea, and requested that such a list be posted in the booking area of all RCMP detachments so that it is readily visible and seen daily by front-line members.

The final report is available from the Commission, on request, or through the Commission's Web site.

PUBLIC INTEREST INVESTIGATIONS: A MORE OPEN APPROACH

As previously mentioned, the Commission Chair can conduct a public interest investigation when she deems it advisable in the public interest. The current Commission Chair has instituted three public interest investigations during her tenure: APEC, which ultimately became the APEC hearing; the investigation into the detention and the death of Mr. Kim Erik Nielsen; and the investigation into events in Saint-Sauveur and Saint-Simon in New Brunswick.

Traditionally, the Commission has not released the results of public interest investigations to the public. As a result, work undertaken by the Commission in the public interest often did not attract public attention and did not generate public debate. In the past fiscal year, however, the Commission Chair has released both the Nielsen report and the New Brunswick report, signalling a departure from past practice at the Commission.

The change in direction was partly evolutionary and partly inspired by the Commission Chair's long-standing concern that the public was not being given an opportunity to assess the work of the Commission or the RCMP conduct that prompted the investigation. This Commission was established because Parliament concluded that an independent civilian oversight agency with the power to make findings and recommendations is the best means to ensure that the extraordinary powers vested in RCMP members are used properly and fairly. Clearly, the public interest in the Commission's mandate would not be well served if the public could not assess the results of the Commission's work.

All government agencies are required by law to adhere to two fundamental, but sometimes conflicting, principles: the right of citizens to have access to the information upon which government bases its decisions (*Access to Information Act*), and the right of citizens to be assured that private information they entrust to government remains confidential (*Privacy Act*). Given the nature of the Commission's work, these principles frequently collide. On the one hand, it may be inappropriate to compromise the privacy interests of complainants or witnesses by describing their actions in detail in a public document. On the other hand, the public interest is not completely served if a Commission report fails to name individuals involved.

In the case of Mr. Nielsen, the Commission Chair concluded that the privacy of the late Mr. Nielsen, his family, the members of the RCMP involved and the witnesses must give way to the public's right to know about the treatment of some members of our society while in detention. Releasing this

report was an opportunity for the Commission Chair to increase public awareness about this important policing issue.

In the case of the New Brunswick investigation, the Commission Chair's decision to publicly release the report was taken in part because of the public's right to know how the RCMP reacted to the demonstrators in the communities of Saint-Simon and Saint-Sauveur.

The Commission Chair has decided that she will consider making all final reports following public interest investigations available to the public in the future. The decision to release a final report will be made on a case-by-case basis and always after careful consideration of all relevant factors, including the public interest in the Commission's work and the privacy interests that may be affected.

HEARINGS

APEC Hearing: An Update

The longest and most controversial public interest hearing in the Commission's history was also concluded during this past fiscal year. The hearing examined the conduct of RCMP members during public demonstrations at the Asia-Pacific Economic Cooperation (APEC) conference, in November 1997, at the University of British Columbia. The Chair established a public interest investigation into the matter on December 9, 1997, and on February 20, 1998, she instituted a public interest hearing. During this hearing, various parties brought legal challenges to the Federal Court of Canada. The Federal Court eventually decided that it was necessary to suspend the hearing until the Court could consider some of the issues. Before these matters could be resolved, however, the chairman of the first hearing panel resigned. On December 23, 1998, the Chair re-established the public interest hearing. The Honourable Ted Hughes, member of the Commission for British Columbia, presided over the public hearing, which began in January 1999 and continued for 18 months. Mr. Hughes heard testimony from witnesses until March 31, 2000. Submissions on behalf of the parties were completed at the end of June 2000. Mr. Hughes is now preparing his report, including his findings and recommendations. In keeping with Commission practice regarding public hearings, this inquiry report will be made public. The Commission Chair will prepare and release her final report on this matter after the RCMP Commissioner responds to the findings and recommendations of the hearing panel.

PROFESSIONAL ACTIVITIES

The Commission remains an international leader in civilian oversight of police conduct. The Commission Chair and other Commission representatives regularly attend meetings with other oversight agencies, including annual conferences held by the International Association of Civilian Oversight of Law Enforcement (IACOLE) and the Canadian Association of Civilian Oversight of Law Enforcement (CACOLE). In September 2000, the Commission Chair attended the CACOLE annual conference in Winnipeg, where she presented a paper on high-speed police pursuits.

Representatives of foreign governments involved in law enforcement oversight and human rights, as well as Canadians with expertise or an interest in civilian oversight, regularly call on the Commission for support and information. During the past year, representatives from the Human Rights Commission in Madagascar met with the Commission, including Deputy Police Commissioner Jacky Mihasonanahary Rahaingo and Ministerial Inspector Lantoniaina Ruth Ralaimidona. Dr. Fazel Randera, recently appointed Inspector General of the Intelligence Service for the Republic of South Africa, also met with the Commission Chair to learn about the Commission's public complaints process.

In addition, the Commission met with representatives from Quebec's civilian oversight agency, the Commissaire à la déontologie policière, and the New South Wales Ombudsman's office.

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SPECIAL PROJECTS

As head of the Commission, the Commission Chair monitors existing and emerging issues involving police conduct that might be of public interest. By keeping abreast of such issues, the Commission Chair can contribute to public policy discussions on policing in Canada. For instance, the release of the Commission's report, *Police Pursuits and Public Safety*, in December 1999, prompted the RCMP to undertake a comprehensive examination and revision of its national policy and training related to police pursuits. The Commission has been invited to provide its perspective on several occasions during this major initiative, which is still under way. The Commission Chair is encouraged by the RCMP's enthusiasm for this important policing issue. However, after almost two years, the RCMP Commissioner has not responded to the specific recommendations in the report. The Commission Chair awaits his confirmation of the implementation of the recommendations during the next fiscal year.

Police Pursuits and Public Safety is available from the Commission, on request, and is also accessible through the Commission's Web site.

3

LOOKING TO THE FUTURE

The strategic plan will guide the Commission's work in the first years of the new millennium. Having successfully completed phase one of the plan, including the critical step of eliminating the review backlog, we are in a good position to tackle the following goals and priorities.

A principal focus over the next few years will involve developing and implementing standards for taking public complaints, for investigations of public complaints and for the Commission's review of these complaints. Such standards are essential to the efficient and effective operations of the public complaints process.

As previously noted, the legislation governing our public complaints process gives both the Commission and the RCMP the authority to receive complaints. At present, the manner in which complaints are received, recorded and categorized varies depending on who takes the complaint. Capturing the true nature and essence of a public complaint is crucial to the efficient resolution of the matter. Common standards governing complaint writing and categorization will help to ensure a more consistent approach to complaint intake for all agencies responsible for this function.

Standards for the investigation of public complaints are also essential to the complaints process. As previously described, for the majority of public complaints, the RCMP conducts an investigation into the complaint, and the Commission reviews the matter if the complainant is dissatisfied with the RCMP disposition of the complaint. Improved standards for public complaint investigations by the RCMP should result in fewer requests for review and further investigations due to deficiencies in the RCMP's initial complaint investigation. In the next year, the Commission plans to assist the RCMP in developing these standards for public complaint investigations.

As well, the development of standards for the Commission's review of complaints is also under way. The Commission will be implementing internal guidelines governing the conduct of further investigations into public complaints, whether they are undertaken by the Commission or by the RCMP. Furthermore, we will be developing a protocol governing the review of a complaint when that complaint is also the subject of an ongoing criminal investigation. Such public complaints raise important procedural and legal considerations that require further analysis. The completion of standards is essential to our commitment to a fair and timely review process.

The implementation of the Commission's external communications plan will also begin in the next fiscal year. A greater awareness and understanding of our public complaints process, and the respective roles and responsibilities of the Commission and the RCMP, are vital to maintaining public confidence and to managing expectations regarding what we can or cannot accomplish. Outreach to isolated populations is also a key objective of our external communications strategy.

To date, the Commission's handling of public complaints has been limited to reviewing matters on a case-by-case basis. Yet the Commission's data bank of complaint, investigation and review files remains an untapped gold mine of information that could provide invaluable insight into policing trends. Thus, the final objective of the Commission's strategic plan is to upgrade its information management system. An improved information system will enable the Commission to better inform the public of our operations, better assess our performance in handling complaints and reinforcing good RCMP policing practices, and provide research and analysis to policy makers about policing issues.

Excellence in policing through accountability remains our continuing commitment.

A

APPENDIX A

COMMISSION CHAIR AND VICE-CHAIR

CHAIR

Shirley Heafey

Ms. Heafey was appointed Commission Chair on October 16, 1997, for a three-year term. She served as a member-at-large of the Commission from 1995 until 1997. Prior to her appointment as full-time Chair, Ms. Heafey was a barrister and solicitor in private practice in Ottawa and specialized in administrative and human rights law. She was also an *ad hoc* counsel to the Security Intelligence Review Committee and to the City Solicitor of Ottawa. In October 2000, she was reappointed for a five-year term.



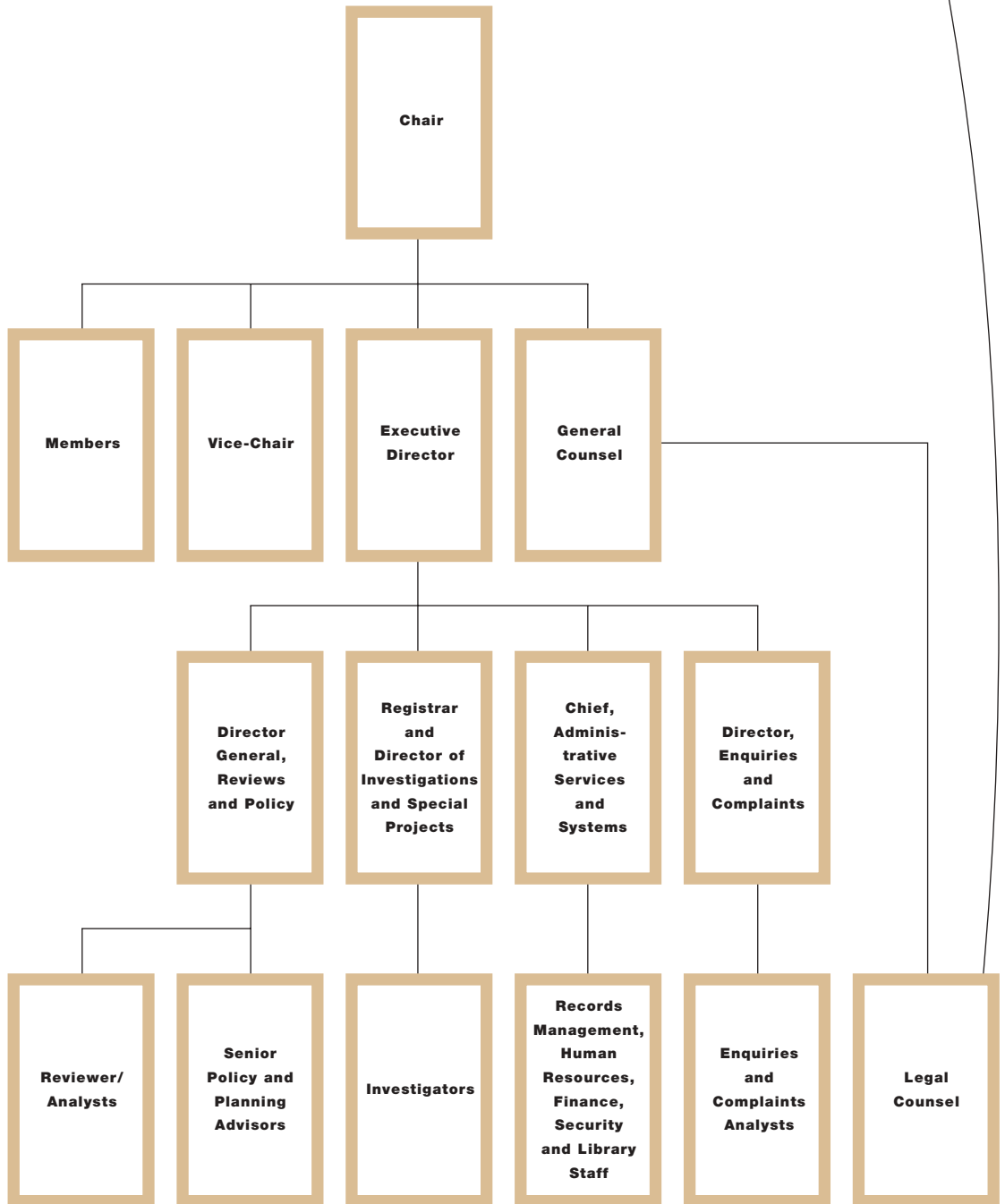
VICE-CHAIR

John Wright

Mr. Wright was appointed Vice-Chair of the Commission on August 26, 1998. He was a major in the Canadian Armed Forces, specializing in military policing. He has been involved in several community justice programs, and is a labour arbitrator and a mediator. Mr. Wright was the Chair of the Yukon Workers' Compensation Health and Safety Board for seven years. He has been a part-time member of the Commission since its establishment in 1988. He was reappointed for another two-year term on August 26, 2000.



ORGANIZATION CHART



B

APPENDIX B

COMMISSION BUDGET

(\$ THOUSANDS)	ACTUAL SPENDING 2000-2001	PLANNED SPENDING 2001-2002
Salaries, wages and other personnel costs	2,320	1,883
Contributions to employee benefit plans	405	367
Subtotal	2,725	2,250
Other operating expenditures	2,537*	1,580
Total net spending	5,262	3,830

* This amount includes additional funds provided to the Commission to cover the costs of the APEC hearing.

C

APPENDIX C

SUMMARY OF SELECTED REVIEW CASES

NEGLECT OF DUTY/INADEQUATE INVESTIGATION

- A man assaulted his former common-law wife; there was a history of spousal assault in the relationship. He fled the scene after the incident. The RCMP obtained a warrant for his arrest regarding this assault, but failed to locate him. Two weeks later, he brutally killed his ex-wife after drinking with her at a party. He later pleaded guilty to manslaughter. The victim's father complained that the RCMP had neglected its duty by failing to respond to telephone calls made by him and his late daughter, which provided information about the ex-husband's whereabouts, and by failing to take necessary action to locate and arrest the ex-husband before he killed the woman. The father also complained that the RCMP did not adequately investigate his daughter's homicide because they failed to locate a man identified as an accomplice to the crime.

In reviewing this complaint, the Commission examined the steps taken by the RCMP to locate and arrest the ex-husband before he killed his former spouse. The RCMP member who investigated the assault recognized its seriousness. He requested that, upon arrest, the ex-husband be remanded in custody because of his pattern of violent behaviour. Meanwhile, various RCMP members repeatedly checked for him without success at his residence, at his father's home and at other places that he frequented. A warrant for his arrest was obtained and placed on the police information retrieval system, which is known as the Canadian Police Information Centre (CPIC). The Victim Services Coordinator was advised of the investigation. She kept in contact with the abused woman and told her of a safe house that she could attend if she felt scared or threatened. All RCMP detachment personnel were briefed about the outstanding arrest warrant. All members were on the lookout for the ex-husband during their routine patrols. Considering all of the circumstances, the Commission concluded that the RCMP took all reasonable action to locate and arrest the ex-husband before he committed the killing.

With respect to the allegation that the RCMP failed to investigate the possibility that there was an accomplice to the crime, the Commission noted that the RCMP interviewed a witness four times before that witness mentioned the possibility of an accomplice. Ultimately, the Commission concluded that it had reservations about this witness's credibility given that he was very intoxicated at the time of the killing and highly traumatized by the event. Also, his leads proved to have no substance, whereas the available evidence overwhelmingly confirmed that the ex-husband had acted alone to kill the woman. The Commission concluded that the RCMP conducted a proper investigation into this homicide.

- An RCMP member learned that a woman had accused her father of sexually assaulting her when she was a child. The RCMP member interviewed the woman, who had recovered memories suggesting that she was abused by a large number of adults involved in an extensive network of clandestine ritualized child abuse. The RCMP member interviewed the victim and her father, among others. His superior determined that there was insufficient evidence to pursue the investigation. The member disagreed and resigned from the RCMP. Prior to the member's resignation, however, the father and his girlfriend complained that the RCMP member had conducted a flawed investigation, alleging that he had acted in a harassing manner and had predetermined the father's guilt. An RCMP Sergeant investigated the public complaint against the member and concluded that the RCMP member had displayed bias during the sexual assault investigation. The RCMP member then made his own public complaint, alleging that the RCMP Sergeant who investigated the public

complaint against him was biased, and that the investigation was inadequate because the Sergeant was not experienced in conducting child abuse investigations.

In reviewing the complaint of the ex-member, the Commission carefully examined the numerous interviews conducted by the RCMP Sergeant during his investigation into the public complaint against the subject member. It evaluated the investigation in light of RCMP policy, which requires that a public complaint investigator conduct an investigation in an objective and neutral manner consistent with recognized investigative procedures. The Sergeant asked approximately 400 questions. When these questions were examined in context, there was no basis to conclude that the Sergeant had pre-determined the results of his investigation. The Commission noted that the Sergeant's conclusions were well founded, and that he understood sexual assault issues based on several years' investigative experience. The Commission concluded that the Sergeant had conducted a thorough and unbiased public complaints investigation.

- The father of a young girl complained in part that an RCMP member failed to conduct an adequate investigation into possible child abuse. The father's relationship with the young girl's mother had ended. The mother and her children now lived with another man. Some of the children told the father that they had been spanked with a wooden spoon. He complained to the RCMP. The RCMP member, on receiving the allegation of child abuse, immediately interviewed the mother and her partner, who admitted that the spanking had occurred. The RCMP member believed that the child who had been spanked was the complainant's daughter, who was 14–17 months old at the time. The RCMP member concluded that no crime had occurred, however, and conducted no further investigation. The complainant contacted workers in social services. They conducted a more in-depth investigation and concluded that the mother and partner should be counselled, but that the spanking was not criminal.

In an interim report, the Commission examined the provincial protocol for child abuse investigations, and the case law concerning Section 43 of the *Criminal Code*, which creates a defence of parental discipline of children to an assault charge. The Commission concluded that the RCMP member failed to conduct an adequate investigation into the allegation of child abuse because he failed to interview the children. The Commission also found that he failed to ensure that immediate contact was made between the police and social services, which was required by provincial protocol. Moreover, in the Commission's view, the defence set out in Section 43 of the *Criminal Code* did not apply to this case. The Commission has not yet received the RCMP Commissioner's response to its findings.

TREATMENT OF PERSONS IN CUSTODY

- The complainant was wanted on a Canada-wide warrant for breach of parole, and was considered violent and an escape risk. RCMP members discovered where he was hiding and went to arrest him. They found him in the shower, naked. They handcuffed him and helped him put on a pair of underwear shorts. Wearing only his underwear, the complainant was escorted to the police car along a public street where he was seen by patrons in a local bar. The complainant alleged, in part, that he was intimidated by the actions of the RCMP members when they treated him in this way.

The Commission examined RCMP policy, which stated that a person in RCMP custody would be treated with decency and that law enforcement officials should respect human dignity. The Commission concluded that, at the time of his arrest, the complainant posed neither a flight risk nor a safety threat, since he was found naked, and that the RCMP members should have allowed the complainant the opportunity to put on a pair of pants. By not allowing him to do so, they failed to treat the complainant decently and with dignity, as RCMP policy required. The Commission recommended that the officer in charge of the detachment review with his members the obligation of RCMP members to treat persons in their custody with dignity. The RCMP Commissioner supported this finding and recommendation.

- The complainant, who had been a matron in the cell block of an RCMP detachment, made 45 allegations against various RCMP members generally relating to their failure to monitor the activities of, and care for, prisoners in the cells. For example, the complainant alleged the RCMP gave her insufficient training to enable her to properly ensure the safety and well-being of the prisoners; that some RCMP members watched videos and/or drank while on duty; that intoxicated prisoners were not fed; that RCMP members permitted a guard to wash police cars for additional pay while on duty; and that some RCMP members acted unprofessionally toward a suicidal female prisoner by insulting her and refusing to give her a blanket after she had removed all of her clothes. The RCMP, after its investigation, concluded in part that the complainant had been given sufficient training; that the practice of all detachments was not to feed intoxicated prisoners except where circumstances warranted it; that some RCMP members did watch videos while on duty; that some RCMP members did drink alcohol at the detachment; that a guard had washed police cars while on duty; and that the naked prisoner had been treated in a manner appropriate to “her suicidal state at the time.” The RCMP also said that it had taken appropriate action, where necessary, to correct and educate the RCMP members.

The Commission reviewed the allegations in light of RCMP national and divisional policy. As a result, the Commission made findings of inappropriate conduct where the RCMP had considered the conduct appropriate. For example, it concluded that the matron had not received adequate training as required by national and divisional policy; that the refusal to feed intoxicated prisoners violated national policy; and that the refusal to provide a blanket or gown to a suicidal prisoner who had taken off her clothes not only violated national and divisional RCMP policy on the treatment of prisoners, but was appalling and an affront to human dignity. The Commission was also concerned about the seriously inadequate investigation into the complainant's allegations. For example, witnesses were not asked obvious and important questions that would have enabled the Commission to make appropriate findings and recommendations. The Commission found that RCMP members permitted a guard to wash police cars for additional pay while on duty and failed to bring the matter to the attention of the officer in charge, thereby compromising the safety of detained prisoners. The Commission recommended that all detachment members be reminded that they are responsible for the care and well-being of detained individuals and, that, according to RCMP policy, they must ensure that the prisoners are continually monitored and supervised by the civilian guards and matrons. In his response to the Commission's interim report, the RCMP Commissioner agreed with all the findings except its finding that RCMP members permitted a guard to wash police cars for additional pay while on duty, thereby compromising the safety of detained prisoners. The RCMP Commissioner noted that there is no information to indicate that the members on duty would likely have been aware that the guard was washing vehicles rather than attending to his guard duties. In her final report, the Commission Chair acknowledged the RCMP Commissioner's point, but she maintained that, given the size of the detachment, the members on duty were likely aware of the guard's whereabouts and inappropriate activities.

IMPROPER CONDUCT

- An RCMP member was investigating a murder. He interviewed the suspect's sister. The interview included a discussion about the alleged incestuous relationship between her and her brother. The woman became emotional during the interview. The RCMP member disclosed his own sexual abuse as a child. They kissed and fondled. She then performed oral sex on the RCMP member. The woman later lodged a complaint against the RCMP member, alleging that he had taken advantage of her emotional state until she felt required to perform oral sex on him. In its correspondence, the RCMP apologized for the RCMP member's conduct,

which was disgraceful and unbecoming of an RCMP member, and advised that the RCMP member had been reprimanded and received counselling.

The Commission reviewed the RCMP's correspondence and found that the RCMP had already taken disciplinary action against the member and had apologized to the complainant. Therefore, the Commission concluded that it was satisfied with the RCMP's disposition of the complaint.

USE OF FORCE

- The complainant and a friend went drinking at a bar. As the complainant was leaving by the rear door, he got into a dispute with the doorman over a broken glass. An RCMP member arrived and told him that he was under arrest for being drunk in a public place. The complainant, a large, strong man, resisted arrest. He was pepper sprayed, which enraged him. Other RCMP members arrived to assist. While trying to subdue the complainant, one RCMP member applied the carotid control hold, which rendered the complainant unconscious for a short period. The complainant was handcuffed and taken to the local RCMP detachment. The complainant alleged, in part, that the RCMP members improperly used force on him.

The Commission examined the facts of this case in light of RCMP policy governing the use of pepper spray and the use of the carotid control hold. The Commission concluded that the use of pepper spray was proper in the circumstances. The Commission found, however, that the use of the carotid control hold was improper. According to RCMP policy, a carotid control hold may be used only when a person's life is at stake. This is because the carotid control hold, when used improperly, can be lethal. In this case, the RCMP member who applied the hold did so to calm the complainant. There was no evidence the RCMP member feared for his life. The Commission recommended that the officer in charge of the detachment review with the RCMP member who applied the carotid control hold the RCMP's national policy regarding the use of this hold. The RCMP Commissioner agreed with this recommendation.

DEFUSING CONFLICT

- The complainant alleged that an RCMP member had displayed an improper, unprofessional attitude, in part, by yelling at him and his wife when they were crossing the street against a red light, grabbing him by the jacket, knocking his driver's licence from his hand, and threatening to arrest him. The RCMP's review of the evidence concluded that the RCMP member saw the

complainant and his wife illegally crossing a street against a red light after attending a hockey game. Other hockey fans followed suit and also began crossing the street. The RCMP member said to the couple: “Go ahead and kill yourself.” The complainant replied that the RCMP member should get out and direct traffic. The RCMP member responded that it would give him a great deal of pleasure to ticket the complainant for jaywalking. The RCMP member also told the complainant several times that he would be arrested for obstruction if he did not produce identification. Eventually, the complainant produced his driver’s licence. The RCMP member was unable to give him a ticket because the member did not have any tickets with him, and returned the licence to the complainant. The RCMP stated in its letter of disposition that the complainant was verbally abusive and loud towards the RCMP member, while the RCMP member was calm and restrained. Accordingly, the RCMP did not support the complainant’s allegations.

The Commission reviewed the incident in light of the RCMP’s principles and guidelines, which encourage RCMP members to act in a manner that helps to defuse conflict. For example, the RCMP’s Incident Management/Intervention Model (IMIM) advises RCMP members not to accuse, use sarcasm or threats, and not to argue or place blame. CAPRA, a problem-solving model used by the RCMP, highlights the importance of communication and interpersonal skills during disputes. In the acronym CAPRA, the “C” stands for the clients the police serve, the “A” refers to acquiring and analysing information before deciding how to respond, the “P” stands for developing partnerships with individuals and groups who can assist the police in providing quality service, the “R” refers to selecting the best response to solve the problem or dispute, and the final “A” refers to the importance of ongoing assessment and evaluation of police actions to ensure continuous improvement in police service.

In its interim report, the Commission concluded that the RCMP member in this case behaved in a manner that raised tensions instead of defusing them. His initial comment, “Go ahead and kill yourself,” was impolite, sarcastic and unprofessional. The Commission concluded that it was impossible to reach conclusions about most of the allegations because the evidence was limited to the RCMP member’s word against that of the complainant. The Commission concluded, however, that the RCMP member’s overall comments to the complainant were inflammatory and not in keeping with the thrust and spirit of the verbal intervention skills promoted in the RCMP’s CAPRA and IMIM models. It recommended that the RCMP member receive training concerning the principles outlined in the CAPRA and IMIM models, and that he apologize to the

complainant and his wife for his attitude and conduct during the incident. The RCMP Commissioner fully supported the Commission's findings and recommendations.

- The complainant and his wife were stopped by an RCMP member at the roadside as part of a police roadcheck for impaired drivers. He alleged, in part, that the RCMP member ordered him, in an agitated and antagonistic voice, to get out of his car, that the RCMP member struck the complainant with his stomach, that he shouted at the complainant so loudly that his wife feared for his safety, that he yelled at her to get back into the car, and that he threatened to check the complainant's car with a fine-tooth comb. The RCMP, in its letter of disposition, said that the RCMP member smelled liquor from the complainant's car and had a duty to determine whether the complainant, who was driving, was impaired by alcohol. The RCMP concluded that this was a case of two strong-willed individuals having a difference of opinion and that, while abrupt, the RCMP member did not act unprofessionally.

As in the preceding example, the Commission reviewed the evidence in light of the RCMP's policy and procedures. Evidence from other RCMP members at the scene was that the RCMP member and the complainant were talking heatedly to each other. In fact, a senior RCMP member intervened so that a cooler head could prevail. Although there was no conclusive proof of many of the allegations, the Commission found in its interim report that the RCMP member raised his voice to the complainant and thereby acted in a manner that needlessly escalated the situation. The Commission recommended that the RCMP member receive training concerning the principles outlined in the CAPRA and IMIM models, and that he apologize to the complainant and his wife for his part in escalating tensions during the incident. The RCMP Commissioner has not yet responded to the Commission's findings and recommendations.

PROCEDURAL ERRORS

- A complainant alleged misconduct by an RCMP member. A second person made a complaint about the same incident. The RCMP wrote to the first complainant, advising him that the second complainant would be the person to whom the RCMP would send its final report following its public complaint investigation. The first complainant was informed that his allegation was a duplicate and that the investigation was therefore terminated under the provisions of the *RCMP Act*. The RCMP told the complainant that the second complainant could share the information contained in the final report with him, if he or she wished. The first complainant responded to the RCMP in a letter entitled "Appeal of Decision to Terminate Complaint." The RCMP forwarded this letter to the Commission.

The *RCMP Act* outlines the procedure to be followed when investigating and reviewing public complaints. Paragraphs 45.36(5)(a)(b) and (c) provide that the RCMP Commissioner may direct that an investigation of a public complaint be terminated if, in the RCMP Commissioner's opinion:

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

Where the RCMP Commissioner makes a direction concerning a complaint pursuant to subsection 45.36(5), the RCMP Commissioner must generally notify the complainant in writing of the direction, or the reasons for the direction, and of the right of the complainant to refer the complaint to the Commission for review if the complainant is dissatisfied with the direction.

The Commission concluded in this case that the RCMP's letter to the first complainant in response to his complaint did not satisfy these statutory requirements of the *RCMP Act*. First, the letter failed to refer to the specific paragraph of the *RCMP Act* upon which the RCMP relied to terminate the investigation. Second, it failed to state that the complainant had the right to request a review of the RCMP Commissioner's decision to terminate the matter by referring the complaint to the Commission for review. Third, there is no power under the law to terminate the investigation of a public complaint for the reasons provided to this complainant, namely that his complaint was a duplicate of another. The Commission recommended that, in future, the RCMP address the issue of duplicate complaints, not by terminating one of the investigations, but by ensuring that each complainant receives a letter of disposition that fully addresses the substance of the complaint. The RCMP Commissioner fully supported the Commission's findings and recommendation.

- A complainant alleged that an RCMP member had inadequately investigated an assault on a child. The investigation was assigned to a member at the same RCMP detachment as the member being investigated. The complainant informed the detachment that it was inappropriate for another member at the same detachment to investigate the complaint. He said he was contacting the Commission to ask for an outside investigator to be assigned. In its letter of disposition to the complainant, the RCMP advised the complainant that, in light of his views, any investigation done by the detachment would not be well received by him. The investigation into his complaint was therefore terminated under subsection 45.36(5)(a) of

the *RCMP Act*, because the RCMP stated that it was more appropriate for the Commission to consider the matter.

In its review of the complaint, the Commission concluded that the RCMP member did conduct a proper investigation into the assault allegation. The Commission concluded, however, that it was improper for the RCMP to terminate the public complaint investigation for the reason given. Paragraph 45.36(5)(a) of the *RCMP Act* provides that the RCMP Commissioner may direct that no investigation be commenced or that a public complaint investigation be terminated if the complaint could be more appropriately dealt with according to a procedure under any other Act of Parliament. The public complaints process, however, is not a procedure under any *other* Act of Parliament. It is a procedure under the *RCMP Act*. Furthermore, the *RCMP Act* does not provide for the termination of a public complaint investigation because the complainant lacks confidence in the ability of the RCMP to investigate the public complaint impartially. To permit the RCMP to terminate a public complaint investigation for that reason would undermine the public complaints process. The RCMP is generally obliged under the *RCMP Act* to conduct the initial investigation of the public complaint. If the complainant is dissatisfied with the manner in which the RCMP has disposed of the complaint, he or she may request that the Commission review the complaint. In his response to the Commission's interim report, the RCMP Commissioner agreed with the Commission's findings. The RCMP Commissioner also stated that a written notice of the RCMP policy concerning the termination of public complaints investigations would be sent to RCMP members involved in the internal investigation of this public complaint and to the appropriate supervisors.

IN MEMORIAM

Thérèse Agathe Angelina Dumoulin
1958–2001

On March 2, 2001, we learned with great sadness of the sudden and unexpected passing of a dear and respected colleague. Thérèse Dumoulin joined the Commission in 1997 to work in our information management systems. She soon became a valued member of the Commission team. Her warmth, enthusiasm and diligence were inspiring. Thérèse was not only a co-worker, she was our friend, and we miss her.

COMMISSION FOR PUBLIC COMPLAINTS AGAINST THE RCMP

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