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Canada

Commission for
Public Complaints Against the
Royal Canadian Mounted Police

Commission des
plaintes du public contre la
Gendarmerie royale du Canada

Kingsclear Investigation Report

Public Interest Investigation into RCMP Investigations of the New Brunswick Training School

Canada

Kingsclear Investigation Report:
Public Interest Investigation into RCMP Investigations of the New Brunswick Training School

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COMMISSION FOR PUBLIC COMPLAINTS AGAINST THE RCMP

CHAIR'S FINAL REPORT AFTER COMMISSIONER'S NOTICE

RCMP Act
Subsection 45.46(3)

KINGSCLEAR PUBLIC INTEREST INVESTIGATION REPORT

File No.: PC- 5710-200401

Canada

CHAIR'S FINAL REPORT AFTER COMMISSIONER'S RESPONSE

After concluding the public interest investigation, I forwarded my Interim Report to the Commissioner who responded to my recommendations in his Commissioner's Notice. After considering the Commissioner's comments, I have now prepared this, my Final Report.

The Investigation

In May 2004, the Commission for Public Complaints Against the RCMP (CPC) announced a public interest investigation into RCMP investigations of alleged sexual and physical assaults of residents at the New Brunswick Training School (NBTS) at Kingsclear. The investigation, which became known as the Kingsclear Investigation, also examined allegations that the RCMP did not properly investigate alleged criminal conduct of RCMP Staff Sergeant Clifford McCann and NBTS custodial staff and residents, and that the RCMP engaged in activities designed to cover up this alleged criminal conduct. In addition, the CPC examined 11 allegations that were lodged by seven complainants about RCMP investigative work spanning almost 15 years.

With a budget of $3.1 million and a team of 19 investigators and staff, the CPC combed through more than 50,000 pages of documents and conducted 150 interviews in nine provinces. In 2007, the CPC completed its investigation, the results of which are provided in the Chair's Interim Report.

The Chair's Interim Report on the Investigation

In accordance with subsection 45.43(3) of the *RCMP Act*, which directs me to send to the Minister and Commissioner a report setting out my findings and recommendations, I forwarded my Interim Report on August 10, 2007.

After examining the facts and verifying the evidence in accordance with its Terms of Reference, the CPC is satisfied that there is no substantiated evidence that members of the RCMP attempted to cover up alleged criminal actions of retired Staff Sergeant Clifford McCann or of sexual and physical assaults by former NBTS custodial and supervisory staff. However, the CPC did find inadequacies in the RCMP's criminal investigations of both the staff at the NBTS and Staff Sergeant McCann, some of which are serious enough to create the perception of a cover-up.

Based upon these findings, I made nine recommendations which are outlined in the Conclusion section of the Interim Report.

The RCMP Commissioner's Response to the Chair's Interim Report

Subsection 45.46(2) of the *RCMP Act* directs the RCMP Commissioner to notify the Minister and the CPC of "any further action that has been or will be taken with respect to the complaint, and where the Commissioner decides not to act on any findings or recommendations set out in

the report, the Commissioner shall include in the notice the reasons for not so acting." The Commissioner provided that response on September 13, 2007.

The Chair's Final Report

I have now reviewed the Commissioner's responses to the recommendations contained in the Interim Report and have provided this Final Report in accordance with subsection 45.46(3) of the *RCMP Act*. I note that the Commissioner's individual responses vary greatly with respect to their substance and specificity. Set forth below are some examples of the Commissioner's variable treatment of my recommendations.

For example, in response to recommendations associated with enhancing and enforcing note taking, report writing and documenting, the Commissioner's response was more detailed than in other areas. He advised that the RCMP is redrafting its policy and referred to the specific elements of the policy to be addressed. He then went on to delineate the various methods by which the RCMP trains its members including two new training initiatives with a central focus on note taking and report writing. The Commissioner also made note of the current updating of the Unit Level Quality Assurances meant to assess the quality of investigations including the quality of documentation. The adequacy of note taking, report writing and documenting has long been identified as a problem by the CPC and the RCMP alike and, in fact, in this particular case two members interviewed Staff Sergeant McCann, who was the subject of a serious criminal investigation, and the notes kept by both members were so cursory and devoid of substance that they were of no value to the investigation.

Neither previous policies dealing with note taking, report writing and documenting nor the focused cadet training mentioned in the Commissioner's Notice have been successful in eliminating chronic problems in this area. The key element of any effective strategy to ameliorate compliance with note taking, report writing and documenting policies should include an accountability mechanism whereby the RCMP identifies non-compliance and then provides directed remedial measures to the member. The RCMP might consider the practices of other police agencies which regularly assess adherence to their performance standards. It will be in this light that the CPC will be reviewing the new protocols in the near future and monitoring their impact in redressing past deficiencies in this area.

The Commissioner's more robust treatment of the recommendations dealing with note taking, report writing and documenting can be contrasted with his weaker responses in other areas. First, in regards to my recommendations relating to inadequate resourcing of sensitive or large-scale investigations, I note that this was one of two recommendations to which the Commissioner did not specifically indicate his agreement. Rather he provided general comments from which I am unable to glean whether he intends to take any steps to rectify this problem. He stated that resource issues are assessed in the normal course and that it "must be recognized that resources are finite and that there are various factors, including vacancy rates and staff turn-over, that need to be considered." I wish to assure the Commissioner that I recognize that resource and personnel issues come into play and that some of the difficulties associated with these factors are unique to the RCMP in terms of contract policing and staff mobility.

While I respect that these considerations may require tough choices to be made, my recommendation was made to address my concern that the RCMP investigations under review suffered from a lack of resources that resulted in interruptions, delays and an inadequate investigative quality. Citing fiscal and staffing realities without directing action designed to combat these problems is equivalent to accepting these investigative shortcomings for all sensitive or large-scale investigations.

I urge the Commissioner to reconsider his response to this issue and to raise the resource implications directly with the RCMP's contract partners (provinces/territories/municipalities), who must also contribute financially to any future initiatives designed to overcome these problems. I appreciate the difficulties raised by the Commissioner but maintain that this issue warrants extraordinary effort to avoid a recurrence of these problems during future investigations.

Another of the Commissioner's responses that does not go far enough to address the concerns raised in the Interim Report is the response to the recommendation dealing with cases where the RCMP investigates one of its own. I specifically recommended that another police service should be tasked with this type of investigation or, at the very least, a team of RCMP members from another region. The Commissioner stated that "appropriate policies and practices need to be in place to provide for independent investigations into allegations relating to members or employees of the RCMP." This comment amounts to no more than a generalized statement of principle absent the substance and commitment needed to satisfy me that the issue will be appropriately dealt with.

The Commissioner indicated that policy development is underway to address these concerns but provided no specifics. This response fails to demonstrate that the RCMP is being proactive in resolving the deficiencies identified in the Interim Report. I am not convinced that the ongoing practice of policy review, which was cited as a response to this and a number of other recommendations, will properly address the CPC's concerns without clear direction from the Commissioner.

The practice of the RCMP investigating itself is an issue of great public concern. The media scrutiny and public debate that surround sensitive and large-scale investigations which impact on the community's trust in the RCMP speak to the need for a concerted effort to create policy and procedures which ensure both the reality of and the perception of impartiality, transparency and accountability. Many of the concerns generated in relation to the RCMP investigations under review, were rooted in the lack of appropriate accountability and transparency mechanisms to ensure the public's confidence as to the integrity of the investigative process.

The Commissioner also made reference to the Independent Observer Pilot Project in "E" Division. This is a collaborative effort between the CPC and the RCMP designed to ensure the impartiality of the investigation of select serious or high-profile cases. This is only a bridging mechanism until legislative changes are made enhancing the accountability framework which ensures impartiality and transparency.

Conclusion

After careful review and analysis of the evidence and upon consideration of the Commissioner's response to my Interim Report, I conclude my review and confirm the recommendations contained in the Interim Report, as set forth below.

1. The CPC recommends that the Commissioner of the RCMP and RCMP commanding officers ensure that a mechanism is in place to identify investigations that may become sensitive or of a large-scale or both.

2. The CPC recommends that appropriate response and accountability mechanisms be put in place at the senior officer level to enable senior officers to monitor continuously the progress of any sensitive or large-scale investigation and assure the public of transparency, effectiveness and impartiality.

3. The CPC recommends that an assessment and follow-up be conducted to determine the actual resource needs of the RCMP "J" Division to ensure that any sensitive and large-scale investigation is conducted without interruption and in a timely and professional manner.

4. The CPC recommends that the CO and senior members of the RCMP in a pre-charge screening province ensure that members clearly understand their role in the administration of justice vis-à-vis the Crown to preserve their independence.

5. The CPC recommends that the RCMP examine, amend and enforce the "Investigator's Notebook" policy and all policies related to note taking, report writing and documenting to ensure that the policies are operationally effective and that officers adhere to and are continuously trained according to the guidelines.

6. The CPC recommends that the RCMP examine the policy on notebook retention used by other police agencies to glean best practices applied across the country, especially for officers who are retired, transferred or who voluntarily resign.

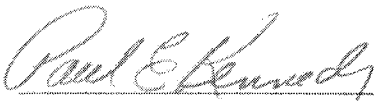
7. The CPC recommends that the various issues associated with note taking, report writing and documenting be addressed through various approaches, including training, policy revisions, internal oversight and monitoring.

8. The CPC recommends that any sensitive or large-scale investigation into allegations which impact on the community's trust in the RCMP should be tasked to another police service or, at the very least, to a team of RCMP officers from another region or province who would have the appropriate experience and who would be unfamiliar with the member under investigation. This would assist in limiting the perception of bias and ensure that public trust in the RCMP is maintained.

9. The CPC recommends that the RCMP improve its internal and external communication strategies for any sensitive or large investigation, adopting a proactive communications

approach using modern technologies to clearly demonstrate transparency and the RCMP's accountability to the public.

Serious steps must be taken by the RCMP to address the concerns raised in my Interim Report or there inevitably will be a recurrence of the problems which gave rise to the public's concern in this instance. The CPC will actively monitor the adequacy of the RCMP response and I will follow up directly with the Commissioner to verify the actions taken by the RCMP and the adequacy of those actions in responding to these recommendations. In addition to reporting to the Minister on these issues, the CPC will report to the public biannually on the status of the RCMP response to my recommendations.



Chair

Paul E. Kennedy
Chair
Commission for Public Complaints Against the RCMP
P.O. Box 3423, Station "D"
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le professionnalisme, la compassion, le respect et la responsabilisation

September 13, 2007

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

I acknowledge receipt of your interim report dated August 10, 2007, following your public interest investigation into allegations of sexual and physical abuse at the Kingsclear Youth Training Centre, in Kingsclear, New Brunswick, file reference 5710-200401.

On September 7, 2007, I reviewed your report which contained a number of findings and recommendations. This notice is provided pursuant to subsection 45.46(2) of the *Royal Canadian Mounted Police (RCMP) Act*.

Generally speaking, I am in agreement with your findings; however, I have some concerns with the following:

1. **The deference to the Crown's office in pursuing charges affected the public's perception of the RCMP and may have affected the outcome of the McCann investigation.**

   First, I agree that our members need to understand that they have the authority and obligation to make decisions to investigate and lay charges

.../2

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unimpeded by the Crown. The Crown and the police have separate and important roles to play in the administration of justice. As you know, the Crown's advice, as well as their independent determination of whether or not to proceed with charges relative to any criminal case, is based on two factors: the reasonable prospect of a conviction based on admissible evidence, and the public interest. Only in extraordinary cases would the RCMP proceed to lay charges following the Crown's recommendation to the contrary. To do so, in most cases, would not be in the public interest, nor would it serve in the furtherance of the administration of justice.

Second, I do not agree that deference to the Crown may have affected the outcome of the McCann investigation. As you know, our members interviewed and re-interviewed a number of possible witnesses before eventually receiving a complaint many years later. Unfortunately, the fact that the complainants had previously denied having suffered any kind of abuse at the hands of Mr. Clifford McCann, coupled with the complainants' criminal records and/or history of alcohol and drug abuse, affected their credibility to the point where a conviction based on their word alone was highly unlikely. Our members were very much aware of this and Crown's advice only confirmed their view. Deference to the Crown did not affect the outcome of the investigation. The investigation was already concluded when the Crown was consulted.

2. **The CPC finds that there is no evidence of a cover-up as defined for the purpose of this investigation involving the RCMP members interviewed. In fact, the CPC finds that the RCMP pressed the Crown to lay additional charges against Mr. Toft and considered hiring its own lawyer to prosecute the charges.**

3. **The CPC finds that there is no substantiated evidence that members of the RCMP who were interviewed engaged in a cover-up in relation to the RCMP investigations into the allegations against Staff Sergeant McCann.**

I agree with these two findings, but am concerned with the inclusion of the words "involving the members interviewed" in the second finding, and "who were interviewed" in the third finding. This leaves open the potential interpretation that there may be evidence suggesting that other members of

the RCMP were engaged in a cover-up, which is not consistent with your finding articulated at paragraph 16.1 (Overview of findings):

> *After examining the facts and verifying the evidence in accordance with its Terms of Reference, the CPC is satisfied that there is no substantiated evidence that members of the RCMP attempted to cover up alleged criminal actions of retired Staff Sergeant Clifford McCann or of sexual and physical assaults by former NBTS custodial and supervisory staff.*

I will now address your nine recommendations.

Recommendations 1 and 2

1. **The CPC recommends that the Commissioner of the RCMP and RCMP Commanding Officers ensure that a mechanism is in place to identify investigations that may become sensitive or of a large scale or both.**

2. **The CPC recommends that appropriate response and accountability mechanisms be put in place at the senior-officer level to enable senior officers to monitor continuously the progress of any sensitive or large-scale investigation and assure the public of transparency, effectiveness and impartiality.**

I agree with these two recommendations and would point out that in every division, an officer in charge of Criminal Operations reports directly to the Commanding Officer. The officer in charge of Criminal Operations is to be regularly briefed on all major operations within that division, including sensitive or large scale investigations. The officer in charge of Criminal Operations has a responsibility to keep the Commanding Officer briefed on a regular basis.

In light of your findings and recommendations I will remind Commanding Officers and Criminal Operations Officers of the requirement to have appropriate practices and processes in place to monitor large scale and sensitive investigations.

.../4

Recommendation 3

3. **The CPC recommends that an assessment and follow-up be conducted to determine the actual resource needs of the RCMP "J" Division to ensure that any sensitive and large-scale investigation is conducted without interruption and in a timely and professional manner.**

   Resource requirements in "J" Division, as well as other divisions are assessed on an ongoing basis, in consultation with our contract partners (provinces/territories/municipalities). It must be recognized that resources are finite, and that there are a number of factors, including vacancy rates and staff turn-over, that need to be considered. Vacancies are being addressed on a number of fronts, including by the RCMP enhancing capacity at our training academy, Depot Division, and by increasing the numbers of recruits.

Recommendation 4

4. **The CPC recommends that the CO and senior members of the RCMP in a pre-charge screening province ensure that members clearly understand their role in the administration of justice vis-à-vis the Crown to preserve their independence.**

   As previously above, I agree that our members need to understand that they have the authority and obligation to make decisions to investigate and lay charges unimpeded by the Crown; however, only in extraordinary cases would the RCMP proceed to lay charges following the Crown's recommendation to the contrary.

   The three divisions with pre-charge screening are New Brunswick, Québec and British Columbia. I will ask the Commanding Officers of these divisions ("J", "C" and "E") to remind members under their command of their role and authority with respect to the laying of criminal charges independent of the Crown.

Recommendations 5 and 7

5. **The CPC recommends that the RCMP examine, amend and enforce the "Investigator's Notebook" policy and all policies related to note taking, report writing and documenting to ensure that the policies are operationally effective and that officers adhere to and are continuously trained according to the guidelines.**

.../5

7. **The CPC recommends that the various issues associated with note taking, report writing and documenting be addressed through various approaches, including training, policy revisions, internal oversight and monitoring.**

We are currently redrafting the policy on "Investigator's Notebooks" which emphasizes the importance of good note taking. The policy sets rules for the care and maintenance of the notebook, the types of notebooks that are acceptable, basic information required, methods of making entries and corrections, and links to retention provisions that are proposed in Recommendation 6.

Efforts are underway to update and standardize the Unit Level Quality Assurances (ULQA) which are meant to assess the quality of all aspects of an investigation including note taking, the quality of documentation and report writing.

Our Learning and Development Branch is working on a new supervisors' course as well as on updating the field coaching course, both of which stress quality note taking and report writing. Moreover, Depot Division has a well-defined Cadet Training Program which stresses and evaluates the quality of note taking and report writing.

I am satisfied that these efforts will address the issue of note taking appropriately.

Recommendation 6

6. **The CPC recommends that the RCMP examine the policy on notebook retention used by other police agencies to glean best practices applied across the country, especially for officers who are retired, transferred or who voluntarily resign.**

The policy development checklist followed by the Operational Policy Section (OPS) requires consultation with the policies and practices of other police agencies. The OPS is currently developing policy on notebooks which will deal with the issues that you have brought to my attention, specifically with respect to turning in all notebooks prior to retirement or resignation, and the time period that these notebooks must then be retained.

.../6

Recommendation 8

8. **The CPC recommends that any sensitive or large-scale investigation into allegations which impact on the community's trust in the RCMP should be tasked to another police service or, at the very least, to a team of RCMP officers from another region or province who would have the appropriate experience and who would be unfamiliar with the member under investigation. This would assist in limiting the perception of bias and ensure that public trust in the RCMP is maintained.**

   I agree that appropriate policies and practices need to be in place to provide for independent investigations into allegations relating to members or employees of the RCMP.

   A number of initiatives are underway to address concerns which have been identified. These include the development of policies specifically addressing the matter of such investigations, and the ongoing pilot project in "E" Division involving the CPC from the outset of investigations.

Recommendation 9

9. **The CPC recommends that the RCMP improve its internal and external communication strategies for any sensitive or large investigation, adopting a proactive communications approach using modern technologies to clearly demonstrate transparency and the RCMP's accountability to the public.**

   Once again, I agree and will therefore direct that a review into current policy pertaining to sensitive and large-scale investigations be conducted to ensure that our communication strategies take into consideration the need to demonstrate transparency and accountability to the public, that it is adequate, and that it is being applied consistently RCMP-wide.

Thank you for bringing these very important issues to my attention. I look forward to reading your final report.

Yours sincerely,

William J.S. Elliott

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Kingsclear Interim Report

Terms of Reference

In 2004, seven former residents of the New Brunswick Training School (NBTS) at Kingsclear, New Brunswick, made a series of allegations against the RCMP with the Commission of Public Complaints Against the RCMP (CPC). Their complaints, which contained 11 allegations (two of which are duplicates), followed the conclusion of the RCMP's multi-year investigation into allegations of sexual and physical assault at the now-closed training school.

According to the complainants, the RCMP conducted an inadequate investigation and deliberately covered up evidence against retired RCMP officer Staff Sergeant Clifford McCann, along with others implicated in the sexual and physical assault of young boys at the NBTS. The CPC found the allegations serious and decided to conduct a public interest investigation based on the following Terms of Reference, which established the scope of the CPC's investigation:

1. To investigate the conduct of the RCMP in relation to its criminal investigations into allegations of abuse by custodial staff and NBTS residents including
    - the adequacy of the RCMP's criminal investigations into the alleged abuse by the custodial staff and residents at the NBTS; and
    - the allegations of a cover-up of the alleged abuse by the custodial staff and the residents at the NBTS.
2. To investigate the conduct of the RCMP in relation to its criminal investigations of Staff Sergeant Clifford McCann, including
    - the adequacy of the RCMP's investigations into Staff Sergeant McCann's alleged criminal conduct; and
    - the allegations of a cover-up of the alleged criminal actions of Staff Sergeant McCann by unidentified members of the RCMP.

Terms of Use

Given the complexity of the public interest investigation, the term "cover-up" was defined in the context of the Terms of Reference of the investigation as an intentional or reckless disregard of evidence that has the effect, or potential effect, of interfering with or undermining internal or external accountability mechanisms. In accordance with the foregoing, a "cover-up" is not proven if the evidence solely or simply establishes negligence, carelessness, laziness, incompetence or lack of interest by the RCMP investigators.

It was decided that should the CPC's investigation establish that there was evidence the RCMP members/investigators were negligent, careless, lazy, incompetent or displayed a lack of interest during the NBTS investigations, it would tend to indicate that the investigations were "inadequate."

It was further decided that an inadequate investigation could be defined as one in which the RCMP members/investigating officers did not pursue all leads and the gathering of evidence with the diligence, thoroughness, competence and professionalism that is reasonably expected of them pursuant to the *RCMP Act* and Oath of Office. Diligence was defined as a "careful and persistent work or effort."

Governing Principles

The CPC conducted the public interest investigation while balancing effectiveness and quality with expediency. To achieve that balance, the investigation was guided by five principles: impartiality, fairness, thoroughness, timeliness and transparency.

Organization of This Report

In October 1990, the RCMP launched an investigation into allegations of sexual and physical assaults committed by staff at the New Brunswick Training School (NBTS). In January 1992, a spin-off investigation was begun in relation to allegations of sexual assault committed by retired RCMP Staff Sergeant Clifford McCann, whose name began to surface during the investigation into the NBTS. These initial investigations generated a series of investigations that would take the RCMP over a decade to complete.

In the course of its public interest investigation into these investigations, the Commission for Public Complaints against the RCMP (CPC) reviewed thousands of documents and interviewed 150 people who were involved in the NBTS, whether as victims, complainants, investigators, senior officers or witnesses. These people appear at various stages of the RCMP investigations and, in some cases, reappear several times and in different roles and ranks.

Layout of the Report

Due to the overlap of events, rotation of officers, series of repeat investigations and the number of investigations carried out by the RCMP, the CPC adopted the following guidelines in organizing this report to help provide clarity for the reader:

- The RCMP investigations are presented in chronological order. There are a few instances where overlapping occurs either for the sake of emphasis or because certain investigative activities take place simultaneously.
- The majority of the chapters that recreate the RCMP investigations are presented without comment by the CPC.
- Chapter 15, “Concerns with the McCann Investigations,” Chapter 16, “Findings of the Kingslcear Investigation,” and Chapter 17, “Recommendations of the Commission for Public Complaints Against the RCMP,” focus on systemic issues and concerns that the CPC identified in the RCMP investigations.
- The allegations made by the CPC complainants, the role of the complainants during the RCMP investigations and the RCMP investigative activities in relation to the complainants are detailed throughout the report.

Use of Titles

RCMP members in the report are referred to by their rank at the time the events unfolded, as well as by their current rank or, if applicable, their civilian title, at the time of their interviews with the CPC.

Use of Pseudonyms

The identities of RCMP members and other government officials have been disclosed. However, former NBTS residents, their families and other persons identified in the investigation have been given pseudonyms to protect their privacy. These pseudonyms are italicized in the text so they can be recognized as fictional names. Any resemblance to real and actual names is purely coincidental.

The following are the complainants to the CPC who have given their permission to be identified as such: Gerald Dow, Murray David Foster, Mark McGinnis, Ron Sutton and Carl Schneider. However, in the Kingsclear Investigation Report, they have been given a pseudonym to protect their privacy in relation to the events at issue.

Part One: Introduction

1. Introduction

In May 2004, the Commission for Public Complaints Against the RCMP (CPC) announced a public interest investigation into RCMP investigations of alleged sexual and physical assaults of residents at the New Brunswick Training School (NBTS) at Kingsclear, New Brunswick. The investigation, which became known as the Kingsclear investigation, also examined allegations that the RCMP did not properly investigate alleged criminal conduct by an RCMP Staff Sergeant and NBTS custodial staff and residents, and that the RCMP engaged in activities designed to cover up this alleged criminal conduct. In addition, the CPC examined 11 allegations (two of which are identical), that were lodged by seven complainants about RCMP investigative work spanning almost 15 years.

Figure 1: New Brunswick Training School

1.1 Overview

For over four decades, the sexual and physical assaults that took place at the NBTS affected hundreds of youth who were entrusted to its care and training, and their families. At different times, both the RCMP and the Fredericton Police Force (FPF), with the advice of the New Brunswick Department of Justice, investigated allegations made by victims and witnesses about the NBTS.

However, accounts of both sexual and physical assaults by people associated with the NBTS continued to be raised more than 10 years after the school was closed. Seven former residents of the school have made a series of allegations to the CPC. They alleged that the RCMP's investigations were inadequate and that the RCMP was involved in a cover-up of earlier allegations of sexual assault at the NBTS and of a subsequent investigation of retired Staff Sergeant Clifford McCann. Shortly after receiving the allegations, the CPC announced a public interest investigation to examine the conduct of RCMP members in the performance of their duties while investigating these allegations stemming from the NBTS.

The CPC provided regular updates on its progress on its website at <http://www.cpc-cpp.gc.ca/>, and published the Terms of Reference for the investigation as soon as it was fully underway. Among the CPC's first tasks was to meet with the complainants and obtain as much information and detail as possible from them. Afterwards, CPC investigators focused on thoroughly assessing and following up on every lead, by far one of the most important steps in the process. The investigators also met and interviewed some family members of the complainants, as well as anyone else the complainants thought should be interviewed. The CPC interviewed most of the RCMP members involved and other witnesses, including officials in the New Brunswick Attorney General's Office.

In a continuing effort to be open and transparent, the CPC, prior to the interviews, provided key witnesses and RCMP members with copies of documents that they had authored or to which they had been privy. This enabled the interviewees to refresh their memories and assisted in expediting the interview process. Most members of the RCMP and key witnesses were more than willing to meet with the CPC and, in a number of cases, agreed to meet for additional interviews or to make themselves available by telephone and through e-mail.

1.2 Background

1.2.1 New Brunswick Training School

The NBTS at Kingsclear, New Brunswick, opened on 12 December 1962[1] under the provincial *Training School Act*. The school was established for "the custody, detention and training of the boys sentenced to confinement therein, with a view to their education, reformation and rehabilitation."[2] The school was given a dual role: it was a custodial facility for young people in conflict with the law, and a place of safety for any child deemed to be in need of protection. As such, the NBTS—Kingsclear as it became known—was also home to children under the age of 16 waiting for foster placement.[3]

Situated eight miles outside Fredericton and overlooking the Saint John River, the school housed up to 60 residents in a dormitory setting.[4] Its location on the outskirts of the city meant that the school was within the RCMP's area of police responsibility and was under the direction of New Brunswick's Department of Corrections.

The school was permanently closed in January 1998 following the highly publicized trial and conviction of a former staff member, Karl Toft, of 34 sexual offences against residents at the school and a public inquiry. The property was sold to a private citizen in July 2002 following a public tender process.[5]

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Figure 2: Map of New Brunswick

1.2.2 Complaints to the CPC

In early 2004, the CPC was approached by the legal counsel of a number of former residents who had allegedly been sexually assaulted by a retired RCMP officer, Staff Sergeant McCann. On 19 February 2004, three individuals lodged complaints with the CPC about the RCMP's investigations into allegations of sexual and physical assault at the NBTS. By November 2004, the CPC had received further complaints from four more individuals.

When considering whether to refer the complaints to the RCMP or to conduct its own investigation, the CPC looked at

- the number of investigations the RCMP had already conducted into these matters;
- the gravity of the allegations of a cover-up by the RCMP; and
- the concerns of the public regarding the ability of the RCMP to objectively review its own investigations.

In the end, the CPC decided that, for the benefit of the complainants, the public, and RCMP members, an independent investigation would be conducted to resolve continuing concerns regarding the allegations.

1.2.3 Initiating the CPC Public Interest Investigation into Kingsclear

The Kingsclear public interest investigation is the largest ever undertaken by the CPC, spanning almost 15 years of RCMP investigative work. To start the investigation, CPC staff members were seconded to the project while additional funding was sought from the Treasury Board of Canada Secretariat (TBS) for further investigation work. In March 2005, the CPC's funding request of $3.1 million was approved.

In mid-June 2004, CPC staff travelled to the RCMP office in Fredericton to secure the relevant material. A total of 17 boxes of original material were sealed and transported to Ottawa. An 18th box was received separately from RCMP Headquarters in Ottawa. As the RCMP's relevant material was reviewed and analyzed, the CPC made further requests for documentation and information to the RCMP throughout 2005, 2006 and 2007, substantially increasing the volume of material under its review.

The Provincial Archives of New Brunswick co-operated with the CPC, providing a large volume of material, including transcripts from the 1992 provincial Commission of Inquiry known as the Miller Inquiry. Review and summarization of the relevant material obtained from the RCMP and the Miller Inquiry began in June 2004.

In May 2005, the Office of the Attorney General of New Brunswick approved access to its relevant material following a meeting with CPC investigators. CPC investigators reviewed the material in Fredericton in August 2005; three boxes of documents were subsequently transported to Ottawa.

1.2.4 Challenges

The interviews took the CPC across nine provinces. To obtain as much relevant information as possible, the CPC accommodated one witness who wished to remain anonymous by purchasing a scrambling machine that would distort the person's voice. This came about in response to a suggestion by an intermediary, lawyer William Gilmour, who assisted in setting up the interview. Following a two and a half hour interview, the CPC submitted a list of additional questions for the anonymous caller to answer. Attempts were made over several months to obtain answers to the questions; however, based on information provided by Mr. Gilmour, the witness refused to co-operate further. The information that the anonymous witness provided during the unrecorded interview, which was at the request of the anonymous witness, did not advance the investigation.

Unlike other investigative bodies, the CPC does not have the authority to compel witnesses to come forward except by means of a formal public hearing. In the case of RCMP members, the CPC does not have the authority to compel them to consent to an interview or demand unhindered access to their notebooks. Fortunately, the RCMP members' general willingness to talk with the CPC and provide access to their notebooks compensated for this legislative shortcoming. The RCMP's senior command and Office of the Professional Standards Branch encouraged RCMP members to speak with the CPC and acted as a go-between in providing notebooks and scheduling interviews.

The RCMP's policy of allowing officers to retain their personal notebooks, along with the practice of allowing officers who had kept their notebooks to determine what was relevant to the CPC investigation, were two challenges that made it difficult for the CPC investigation to progress unhindered. Had it not been for the goodwill of the vast majority of RCMP members and the intervention of the senior command, the CPC might have been compelled to call a public hearing into the matter.

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1 *Report of a Commission of Inquiry Established by Order-In-Council 92-1022*, The Honourable Mr. Justice Richard L. Miller, 17 February 1995, p. 9, hereafter cited as Miller Inquiry.

2 *Training School Act*, R.S.N.B. 1973, c.T-11.

3 Miller Inquiry, 17 February 1995, pp. 18, 20, 22.18-22. See also *Children's Protection Act*, S.N.B. 1957, c.6; *Child Welfare Act*, R.S.N.B. 1973, c.C-4; *Child and Family Services and Family Relations Act*, S.N.B. 1980, c.C-2.1.

4 Miller Inquiry, 17 February 1995, p. 9.

5 News Release, "Former Kingsclear Property to Be Sold," Government of New Brunswick, 11 July 2002, <http://www.gnb.ca/cnb/news/ss/2002e0712ss.htm>.

2. Summary of RCMP Investigations

This section summarizes in chronological order the main events of the RCMP investigations of retired Staff Sergeant Clifford McCann and the custodial staff and residents at the New Brunswick Training School (NBTS) following the initial complaint received by the Fredericton Police Force (FPF). The sequence of events was recreated from documents received from the RCMP, the Attorney General of New Brunswick, the Miller Inquiry, and the Provincial Archives of New Brunswick.

October 1985—The Initial Complaint

The FPF received a complaint of sexual assault at the NBTS. Based on reports from three residents, a staff member at the school brought forward a complaint in which he named another staff member, Karl Toft, in the allegations. As a result, Mr. Toft was transferred from the NBTS to an adult facility on an adjoining property.[1] Notwithstanding that the NBTS was in RCMP jurisdiction, neither the FPF nor the staff member informed the RCMP of the complaint.

December 1989—Complainant Speaks to FPF Police Investigator

The staff person who made the initial complaint to the FPF tried, without success, to meet with someone from the Solicitor General's department. He then went to the same FPF police investigator who had taken his complaint in 1985 and expressed the view that Mr. Toft should have been charged. He also made allegations of a cover-up by provincial Corrections officials.[2] The FPF police officer indicated that she could not recall the complaint and suggested he take his complaint to the Solicitor General. Frustrated, he went to a member of the media to voice his concerns about the lack of attention given to his initial complaint by the police and provincial authorities. This conversation led to the eventual involvement of the Attorney General's office.[3]

February 1990—Attorney General Requests RCMP to Investigate

A meeting between the Attorney General of New Brunswick and the member of the media to whom the initial complainant had spoken, raised allegations of sexual abuse at the NBTS stemming from the initial October 1985 complaint to the FPF.[4] The Attorney General wrote to the RCMP asking that they investigate "allegations involving the Fredericton City Police, some members of the Department of the Solicitor General and in particular, a Karl Toft."[5] The results were to be forwarded to him "at the earliest opportunity." In his letter, the Attorney General enclosed notes that included the names of four possible victims, this included the original three who provided reports back in 1985.[6] The case was assigned to an investigator of the RCMP Fredericton General Investigation Section (GIS). [7]

During this investigation, the three boys who had been the subject of the alleged assault in October 1985 were located. Two of the boys provided statements while the third refused. All three refused to testify in court.[8] During Mr. Toft's interview with the investigating officer, he denied ever touching a youth at the school in a sexual manner.[9] He did admit that over the years he had taken several boys from the school on passes to his home.[10] At a later meeting with a Crown counsel, it was agreed that, without the testimony of the boys in court, a conviction would be unlikely.[11]

July 1990—RCMP Investigation into the Attorney General's Request of 07 February 1990 Concluded

The RCMP investigator formally concluded his investigation after consulting a Crown counsel, noting that he felt that Mr. Toft had sexually assaulted the youth and that had a more extensive investigation been conducted at the time of the initial complaint in 1985, there would have been sufficient grounds for charges.[12] He noted that, as Mr. Toft admitted to having taken many youth to his home, other individuals may have been victims of Mr. Toft's "deviant behavior."[13]

The RCMP Officer-in-Charge (OIC) of Criminal Operations later met with the New Brunswick Department of Justice and advised officials of the decision to not proceed with charges against Mr. Toft because of the reluctance of the victims to testify.[14]

September 1990—Review of Initial Allegations and February 1990 Investigation

The Attorney General and Solicitor General decided in a September 1990 meeting to have the Deputy Attorney General and the Executive Director of Policing Services for New Brunswick review the actions of government officials.[15]

As part of this review, the RCMP was questioned by the Executive Director of Policing Services about why, during their investigation from February to July 1990, the fourth possible victim, referred to the RCMP back in February 1990, was not contacted.[16] They were then asked again a few days later about another name of a former NBTS resident.[17] The RCMP investigator said that the decision was based on the fact that the others did not wish to pursue the matter and the name of the other boy had not surfaced during his investigation.[18] The RCMP investigator and the Executive Director of Policing Services concluded that several more names could surface in relation to Mr. Toft, given that he had worked at the NBTS for 20 years.

October 1990—RCMP Investigation Commences into NBTS

The RCMP decided to commence their investigation into alleged sexual abuse at the NBTS and to follow up on the two names not contacted by the RCMP that had arisen through the review initiated by the Attorney General and Solicitor General.[19] Another investigator was assigned as the result of a rotational duty transfer.

The investigator arranged to interview the fourth possible victim.[20] The boy denied any abuse by Mr. Toft and said that the story he had given in 1981 should be taken in context; that is, he had overdosed on drugs several times within a short period around the time he was interviewed.[21] However, he named another former student as someone whom Mr. Toft may have sexually assaulted.[22] Another RCMP member provided some investigative assistance by tracking down the potential victim.[23]

The other boy whose name had been provided by the provincial Executive Director of Policing Services was contacted. However, he refused to get involved and, while he indicated that Mr. Toft had made sexual advances towards him, he denied the suggestion that he was abused.[24]

January to May 1991—RCMP Receives Additional Information on NBTS

In January 1991, the investigation expanded following receipt of a report from a former NBTS employee.[25] The report provided the names of seven former students unknown to the RCMP who were believed to have negative views of Mr. Toft or whom he had frequently taken out of the school on passes.[26] Only three could

be located through normal RCMP procedures; all three denied being sexually assaulted by Mr. Toft and indicated that they did not know of anyone who had been.[27]

In March 1991, the names of an additional three possible victims were provided to the RCMP by the Executive Director of Policing Services.[28] From mid-March to mid-May 1991, RCMP investigators continued to try and locate the possible victims and obtain statements from them.[29]

In late May 1991, an additional investigator was brought into the investigation. This investigator became the acting lead investigator due to the engagement of the senior investigator in other cases.

June to September 1991—FPF Commences a Second Investigation

In June 1991, the FPF once again became involved when a constable with the FPF, who was a former staff member at the NBTS,[30] questioned a former resident of the school he had known from his time there. The former resident admitted that Mr. Toft had sexually abused him.[31]

In July 1991, FPF investigators met with an RCMP investigator and exchanged investigative material.[32] At a subsequent meeting in July, the FPF provided the RCMP with a list of 47 names who at this time were identified by the FPF as possible victims.[33] It was noted that several persons on the list, whom the RCMP had previously contacted and who, at the time, denied being sexually abused, had confided to the FPF that they had in fact been abused.[34]

The FPF informed the RCMP that the focus of their investigation was on the years between 1983 and 1985 and that they were planning to lay charges against Mr. Toft.[35] The two investigators agreed to keep each other updated on their respective cases.[36]

In September 1991, the Crown's office informed the RCMP that based on the FPF investigation, it would be proceeding with 27 charges against Mr. Toft, even though the RCMP investigation was not complete.[37] The Crown counsel advised the RCMP that the FPF was concluding its investigation and that if new victims were to come forward after a news release regarding the arrest of Mr. Toft, they would be referred to and investigated by the police having jurisdiction.[38] In subsequent meetings with FPF investigators the RCMP learned that, of the 60 names of former residents originally chosen by the FPF investigators, approximately half of the individuals had been located, resulting in nine agreeing to provide disclosures of abuse.[39] These disclosures led the FPF to lay charges against Mr. Toft.[40]

On 27 September 1991, Mr. Toft appeared in court and elected trial by judge and jury. The preliminary hearing was set for January 1992. The RCMP advised the Crown counsel that they would attempt to have additional charges laid in time for the defence to prepare for the hearing.[41]

September 1991 to February 1992—RCMP Investigation Continues

The RCMP continued with the investigation to determine the extent of the offences alleged to have been committed by Mr. Toft.[42] They elected to focus on completing "a reasonable sampling" of residents from 1965 to 1985, the years when Mr. Toft was employed at the school. They also decided to interview the other 30 potential victims who had been identified by the FPF investigation but who had not been contacted, along with any others who may come forth as a result of the news release.[43] The investigation was given top priority and a third investigator was added to the team.[44]

Given the potentially large-scale nature of the investigation, the investigators focused on all residents who were at the NBTS in 1985.[45] The investigators also contacted RCMP members who had worked on the Mount

Cashel case, which also involved allegations of sexual and physical abuse of young boys in an institutional setting and allegations of a cover-up by provincial authorities[46] for advice on the investigation.[47]

Attention was also focused on the NBTS 1986 summer camp. This decision was based on the fact that Mr. Toft had participated in the camp, even though he had already been transferred and, therefore, should not have had contact with NBTS residents.[48] One of the chief activities was to try to locate and interview possible victims. Searching Mr. Toft's home was also considered,[49] however, this does not appear to have taken place.

By September 1991, the RCMP began receiving allegations against other NBTS staff members, including Weldon (Bud) Raymond, a correctional officer at the school between 1963 and 1973, and Hector Duguay, a maintenance worker at the school between 1964 and 1970.[50] The Crown counsel was informed of the allegations.[51]

One of the lead investigator's last actions before his transfer in November 1991was to try again to contact a potential victim with whom he had spoken in October 1990, the former resident that was brought to the attention of the RCMP by the Executive Director of Policing Services.[52] Interest in this person was renewed after several others who provided statements indicated that he had been one of Mr.Toft's "favourites" and that he had since admitted to other former residents that Mr.Toft had sexually assaulted him. However, the investigator was unsuccessful in tracking down the potential victim or his family.[53]

By the end of November 1991, the RCMP had interviewed 85 former students, which resulted in 20 disclosures of abuse, including the three boys who had originally provided statements to the NBTS staff member in 1985.[54] The RCMP also indicated that it was trying to locate 45 other former students, 20 of whom were living outside New Brunswick.[55]

February 1992 to October 1993—RCMP Prepares Additional Charges on Karl Toft and Continues with Investigation

In February 1992, a judge's order finally enabled investigators to access the NBTS files held at the Provincial Archives.[56] Two investigators were assigned to review the records and to complete a random sample of former NBTS residents to determine the extent of the offences alleged to have been committed by Mr.Toft. The search identified many victims and suspects.[57] By the end of March 1992, the investigators had identified the names of approximately 600 former NBTS residents.[58] Given the number of names, more investigators were brought in over the next several months to assist in following up with the persons on the list.

Between February and mid-March 1992, the lead investigator prepared a court brief outlining the evidence and victims identified to date through the investigation. This was done so that charges could be laid at the time of Mr. Toft's preliminary hearing on the FPF charges, now scheduled for 10 March 1992. The Crown counsel indicated that he would review the brief and identify applicable charges.[59]

At Mr. Toft's preliminary hearing, he was committed to stand trial by judge and jury on 25 counts based on the FPF charges.[60] On the second day of the hearing, the RCMP lead investigator laid 12 additional charges involving 10 victims.[61] On the third day, Mr. Toft waived the necessity of the preliminary hearing on the RCMP charges and consented to stand trial. He pled guilty to 34 charges in October 1992. On 4 December 1992, he was sentenced to 13 years in prison.

In November 1992, a special unit was created to focus on locating other possible victims and suspects because of the long-term nature of the investigation.[62]

During the course of the investigation, the RCMP received allegations of physical and sexual abuse against 48 suspects, many of whom were former NBTS staff members. The allegations against eight of these suspects were referred to the Crown counsel's office for possible charges. The other cases were not proceeded with for various reasons, including lack of corroboration, suspect denials, lack of victim credibility, and allegations that were for summary conviction offences, the latter of which cannot be pursued six months after the offence has taken place.[63]

Reviews by various Crown counsel determined that charges could not be substantiated for four of the eight cases and their respective investigations were concluded. A fifth case was referred to another jurisdiction.[64] Charges were eventually laid against two guards, Mr. Duguay, who was found guilty of four of the five charges against him, and Mr. Raymond, who was not convicted on any of the eight charges laid against him. The eighth case involved Mr.Toft.

In August 1993, investigators forwarded court briefs on 26 victims representing 32 charges against Mr. Toft. However, the Crown counsel's office determined that it would not be in the public's best interest to proceed with additional charges against him.[65] The RCMP objected to this assessment, forcing the Crown counsel's office to contact the Attorney General, who conceded that the RCMP should lay the additional charges.[66] The RCMP had advised the provincial Director of Public Prosecutions that if they did not proceed with the charges as recommended, the RCMP would consider hiring their own lawyer to prosecute the charges. As a result, the RCMP laid 15 charges representing 13 victims in provincial court on 22 October 1993.[67]

The same Attorney General who had allowed the charges to be laid entered a stay of proceedings on the charges on 29 October 1993. Based on new information brought to his attention, he now felt that it would be in the public's best interest to proceed with the provincial Commission of Inquiry established to look into allegations of sexual misconduct at the NBTS, rather than with additional charges, especially given that the additional charges were similar to those for which Mr. Toft had already been convicted and sentenced and, therefore, would not have resulted in additional sentencing.[68]

January 1992 to December 1993—Rumours About Staff Sergeant McCann

On 31 January 1992, following a request from RCMP Superintendent Ford Matchim, a new lead investigator began investigating the rumours about Staff Sergeant McCann and his involvement with residents of the NBTS.[69] RCMP Staff Sergeant McCann had been the Non-commissioned Officer (NCO) in charge (i/c) of the Riverview Detachment in New Brunswick since September 1987. He was active in the community, primarily in the Cubs and Boy Scout movement and in minor hockey. His involvement with the NBTS included inviting a boy from the school to live with his family.[70]

The lead investigator began his inquiry by obtaining a list of 11 former NBTS residents who had mentioned Staff Sergeant McCann's involvement with youth to the RCMP.[71] He conducted interviews with a number of persons throughout February and March 1992. In a March 1992 interview, Staff Sergeant McCann admitted knowing Mr. Toft, but denied there was any truth to the rumours circulating about himself.[72] The lead investigator concluded after conducting interviews with former residents that it was assumed Staff Sergeant McCann was assaulting youth because he took boys out of the facility just as Mr. Toft had.[73] The lead investigator then placed the file in a sealed envelope to be accessed only by senior RCMP staff "in order to protect Mr. McCann."[74] It was also decided that Staff Sergeant McCann's name would be blackened out from all statements.[75]

The lead investigator later learned that Staff Sergeant McCann had taken one of the witnesses out on passes on numerous occasions.[76] When re-contacted in December 1992, the witness indicated that Staff Sergeant McCann had exposed himself to him, but he expressed a lack of interest in getting involved. However, he provided the names of two others who may have been assaulted by Staff Sergeant McCann. The mother of the former resident later informed the investigator that her son had told her that Staff Sergeant McCann had sexually assaulted him, and that the acts included anal and oral sex. She said Staff Sergeant McCann had often contacted her in attempts to see her son.[77]

In December 1993, the lead investigator submitted his concluding report regarding the investigation into Staff Sergeant McCann, indicating that no reasonable and probable grounds exist to consider laying any criminal charges.[78]

On 2 March 1993, Staff Sergeant McCann formalized his intent to retire.[79] He officially retired from the RCMP on 18 April 1993.[80]

1998—Allegations against Staff Sergeant McCann

In early 1998, Mr. McCann's name resurfaced to RCMP investigators through allegations from a former resident at the NBTS.[81] In a subsequent interview, the alleged victim related incidents involving Mr. McCann that occurred while he was at the NBTS; these included being touched by Mr. McCann and being threatened that, if he told anyone what happened, Mr. McCann would make things difficult for him at the school.[82]

The alleged victim named five other former NBTS residents who he thought may have been assaulted by Mr. McCann.[83] When the victim indicated that he wanted Mr. McCann charged, he was told that, because the sexual assault he had described was minor in nature, the file had been concluded.[84] (The victim had reportedly been advised by his lawyer that Mr. McCann could be charged because he was in a position of authority at the time the alleged abuse took place.[85]) The RCMP investigator suggested he pursue the matter in civil court.[86]

One of the former residents named by the alleged victim had made a report to the RCMP in March 1993 alleging sexual misconduct by Mr. McCann.[87] Given that Mr. McCann's name had come up again, the alleged victim was re-contacted. He indicated that, while Mr. McCann had sexually assaulted him, he did not want to be the only one to "charge Cliff."[88] In May 1998, he was advised that the allegations against Mr. McCann were summary conviction offences rather than indictable offences and that, therefore, nothing could be done.[89]

In October 1998, Mr. McCann was re-interviewed and again denied any involvement.[90] He provided the name of a former NBTS resident, who had lived in his home and whom he and his wife had adopted, as a character witness. The former resident was interviewed and confirmed that he was never abused by Staff Sergeant McCann.[91]

March 1999 to November 2003—RCMP Investigation Reopens

In March 1999, RCMP members of the Fredericton Subdivision Major Crime Unit, formerly the General Investigation Section (GIS), began investigating complaints of physical assault from former residents against former NBTS staff.

In February 2000, the RCMP was re-contacted by the same person who had brought up Mr. McCann's name in early 1998; this time he wanted to express dissatisfaction with the fact that no charges had been laid. As a result, it was decided that a full investigation be conducted into Mr. McCann.

At the same time, investigators already investigating the complaints against former NBTS employees since March 1999 were given the additional task of reviewing a number of files concerning complaints made by former residents.

Meetings between the RCMP and the Crown counsel established guidelines for the planned investigations and the need for "detail and corroboration" to meet the test of "a conviction being more likely than an acquittal." The Crown counsel's stated policy was that he could not approve charges for offences similar in nature to those for which individuals (Mr. Toft and Mr. Duguay) had already been convicted and sentenced.[92]

In May 2001, a team of six RCMP investigators was assembled.[93] Between May 2001 and January 2002, the RCMP referred complaints from four former residents against various former NBTS employees to the Crown counsel's office for possible charges; however, no charges were laid.

On 11 September 2002, Mr. McCann was arrested and taken to the Oromocto Detachment in New Brunswick.[94] He was interviewed for eight hours, during which time he denied committing any abuse,[95] then was returned to his residence without being charged.[96] Nevertheless, the RCMP provided the Crown counsel with information on the alleged victims to review and recommend whether to lay possible charges.[97] In January 2003, Crown counsel asked for additional information and clarification regarding the alleged victims.[98] The RCMP responded to his request through a memorandum in early April 2003.[99]

By November 2003, the Crown counsel concluded his review of the McCann investigation and recommended that no criminal charges be laid since "an acquittal is more likely than a conviction."[100] The Crown counsel stated that the main factor that led to this decision was the lack of credibility among the victims, including their criminal records, alcohol and drug abuse, inconsistencies and contradictions in statements given, and early denials of abuse.[101] He also cited their reluctance to co-operate and difficulties with memory, as well as a lack of corroborating statements.[102]

In November 2003, the lead investigator sent letters to the six alleged McCann victims indicating that the investigation into their allegations had been concluded and that no charges would be laid.

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1 Witness statement of Cpl. Ulsh taken by Cst. Spink, 14 March 1990.

2 Miller Inquiry, Testimony of D. Forbes, 6–7 June 1994, pp. 5660–5664.

3 Ibid.

4 Letter to Chief Supt. Beaulac from J. Lockyer, 7 February 1990.

5 Ibid.

6 Ibid.

7 Occurrence Report-General, Cst. Spink, 21 February 1990.

8 Investigation Report, Sgt. McNeill and Cpl. Spink, 3 July 1990; Investigation Report, Sgt. McNeill and Cpl. Spink, 20 July 1990.

9 Witness statement of K. Toft taken by Cpl. Spink, 16 July 1990.

10 Ibid.

11 Investigation Report, Sgt. McNeill and Cpl. Spink, 20 July 1990.

12 Ibid.

13 Ibid.

14 Minutes of RCMP/Department of Justice Meeting, 25 July 1990.

15 Miller Inquiry, 17 February 1995, p. 31.

16 Transit Slip to Cpl. Spink from Insp. Hutchinson, 28 September 1990.

17 Transit Slip to Cpl. Spink from Insp. Hutchinson, 1 October 1990.

[18] Memorandum to Insp. Hutchinson from Cpl. Spink, 5 October 1990.

[19] Memorandum to OC Fredericton Subdivision from Insp. Hutchinson, 10 October 1990.

[20] Continuation Report, Sgt. McNeill, 22 October 1990; Memorandum to NCO i/c Mission Detachment from Sgt. McNeill, 23 October 1990.

[21] Witness statement of *E. Sanders* taken by Cst. Pollock, 2 November 1990.

[22] Memorandum to Sgt. McNeill from Cst. Pollock, 2 November 1990.

[23] Continuation Report, Sgt. McNeill, 11 December 1990; 24 December 1990; 7 January 1991.

[24] Continuation Report, Sgt. McNeill, 23 October 1990.

[25] Continuation Report, Sgt. McNeill, 25 January 1991; Letter to H. Robicheau from T. Cameron, 23 January 1991.

[26] Letter to H. Robicheau from T. Cameron, 23 January 1991.

[27] Investigation Report, Sgt. McNeill, 8 April 1991.

[28] Ibid.

[29] Continuation Report, Sgt. McNeill, 14 March 1991; 15 March 1991; 20 March 1991; 21 March 1991; 5 April 1991; 16 April 1991; 17 April 1991; 6 May 1991; 10 May 1991; 23 May 1991; 24 May 1991.

[30] Constable Reilly had volunteered and worked at the school as a youth counsellor from the winter of 1983–1984 to the spring of 1988.

[31] Statement of Cst. Reilly, 26 June 1991.

[32] Continuation Report, Cst. Paquet, 16 July 1991.

[33] Continuation Report, Cpl. Brennan, 31 July 1991.

[34] Investigation Report, Cpl. Brennan, 2 August 1991.

[35] Ibid.

[36] Ibid.

[37] Continuation Report, Sgt. McNeill, 5 September 1991.

[38] Ibid.

[39] Continuation Report, Sgt. McNeill, 6 September 1991.

[40] Investigation Report, Cpl. Brennan and Sgt. McNeill, 27 September 1991.

[41] Ibid.

[42] Ibid.

[43] Ibid.

[44] Transit Slip to Supt. Matchim from Supt. Zaccardelli; to Sgt. McNeill from Supt. Matchim, 10 September 1991; Continuation Report, Cst. Legge, 2 October 1991.

[45] Continuation Report, Cpl. Brennan, 14 August 1991.

[46] Daimnation!, Internet Blog, 13 November 2004 <http://damianpenny.com/archived/003493.html>.

[47] Continuation Report, Cpl. Brennan, 14 August 1991.

[48] Continuation Report, Cpl. Brennan, 16 August 1991.

[49] Investigation Report, Cpl. Brennan and Sgt. McNeill, 31 August 1991.

[50] Continuation Report, Cpl. Brennan, 13 September 1991; 19 September 1991; Investigation Report, Sgt. Lockhart and Cst. McAnany, 8 February 1993.

[51] Continuation Report, Cpl. Brennan, 23 September 1991.

[52] Continuation Report, Sgt. McNeill, 7 November 1991.

[53] Ibid.

[54] Investigation Report, Cpl. Lockhart and Cpl. Brennan, 28 November 1991.

[55] Ibid.

[56] Continuation Report, Cpl. Brennan, 13 February 1992.

[57] Continuation Report, Cst. McAnany, 18–21 February 1992; Continuation Report, Cst. Roussel, 18–21 February 1992.

[58] Investigation Report, Sgt. Lockhart and Cpl. Brennan, 12 March 1992; Continuation Report, Cst. Roussel, 25 March 1992; Investigation Report, Sgt. Lockhart and Cst. Roussel, 6 April 1992.

[59] Continuation Report, Cpl. Brennan, 21 February 1992.

[60] Investigation Report, Cpl. Brennan and Sgt. Lockhart, 12 March 1992.

[61] Ibid.

[62] Fax to CO "J" Division from Sgt. Shaw, 12 November 1992.

[63] "Guards Past and Present Under Investigation," Cst. McAnany, 29 September 1994.

[64] Ibid.

[65] Letter to R. Murray from Insp. Connolly, 30 August 1993; Letter to Insp. Connolly from R. Murray, 13 September 1993.

[66] Letter to R. Murray from Insp. Connolly, 21 September 1993; Letter to Insp. Connolly from R. Murray, 30 September 1993.

[67] Information, Cst. McAnany and Judge Cumming, 22 October 1993.

[68] Statement of Attorney General E. Blanchard, 29 October 1993.

[69] Continuation Report, Sgt. Lockhart, 31 January 1992.

[70] Continuation Report, Cst. D. Potvin, 3 April 2002.

[71] Continuation Report, Sgt. Lockhart, 31 January 1992.

[72] Continuation Report, Sgt. Lockhart, 12 March 1992.

[73] Continuation Report, Sgt. Lockhart, 19 March 1992.

[74] Ibid.

[75] Ibid.

[76] Investigation Report, Sgt. Lockhart and Cst. Legge, 24 December 1992.

[77] Ibid.

[78] Investigation Report, Sgt. Lockhart, 23 December 1993.

[79] Continuation Report, Cst. D. Potvin, 3 April 2002.

[80] Ibid.

[81] Officer notes, Sgt. Dunphy, 19 January 1998.

[82] Witness statement of *B. Lewis* taken by Sgt. Dunphy and S/Sgt. Ouellette, 20 January 1998.

[83] Continuation Report, S/Sgt. Ouellette, 20 January 1998.

[84] Officer notes, Cst. Cole, 25 August 1998; Continuation Report, Cst. Cole, 11 September 1998; Officer notes, Cst. Cole, 26 January 2000.

[85] Officer notes, Cst. Cole, 26 January 2000.

[86] Ibid.

[87] Witness statement of *D. Wright* taken by Cst. McAnany, 30 March 1993.

[88] Continuation Report, Cst. Cole, 12 February 1998.

[89] Continuation Report, Cst. Cole, 6 May 1998.

[90] Officer notes, Cst. Cole, 29 October 1998.

[91] Officer notes, Cst. Cole, 30 October 1998.

[92] Officer notes, S/Sgt. Dunphy, 31 January 2001.

[93] Memorandum to Insp. Smith from S/Sgt. Dunphy, 4 May 2001.

[94] Officer notes, Cst. Cole, 11 September 2002.

[95] Officer notes, S/Sgt. Belliveau, 11 September 2002.

[96] Ibid.

[97] Letter to S/Sgt. Dunphy from K. Connell, 30 January 2003.

98 Ibid.

99 Memorandum to K. Connell from Cst. Long, 4 April 2003.

100 Letters to S/Sgt. Dunphy from K. Connell, 18 July 2003; 18 July 2003; 21 August 2003; 18 September 2003; 16 October 2003; 21 October 2003.

101 Ibid.

102 Ibid.

Part Two: Investigations into New Brunswick Training School

3. Overview of New Brunswick Training School Investigations

The RCMP investigations into allegations of sexual and physical assault of residents at the New Brunswick Training School (NBTS) were conducted between February 1990 and June 2004. At times, these investigations overlapped with the investigation into Staff Sergeant Clifford McCann, which is described in Part Three of this report.

The RCMP faced various challenges throughout the course of these investigations. Most RCMP members were responsible for other files while investigating the NBTS, so they rarely worked exclusively on the NBTS file for significant periods of time. Members were often rotated in and out of the General Investigation Section (GIS) and Major Crime Unit (MCU) in Fredericton or were transferred to other assignments. Because of the constant staffing shortages, as well as other pressing criminal investigations, the NBTS investigation progressed only as time and circumstances allowed, especially in the beginning.

Many of the former NBTS residents were reluctant to co-operate, and it was difficult to solicit complaints from many of those who had been alleged victims of sexual or physical assault. Some of the former residents were living in different parts of Canada or were incarcerated, which made locating, contacting and arranging interviews time consuming, while some had passed away. Because the investigations concerned sexual assaults against youth, the investigators involved with interviewing former training school residents required special training. In addition, the investigators had to obtain a court order to gain access to records at the Provincial Archives of New Brunswick.

The RCMP did not learn that in 1985 a staff member of the NBTS had made a complaint against Karl Toft to the Fredericton Police Force (FPF) until 7 February 1990, when the Attorney General requested the RCMP investigate the NBTS and how the FPF handled the 1985 complaint. Following the conclusion in July 1990 of that investigation, the RCMP received new information from the province's Director of Policing Services that led the RCMP to commence an investigation in October 1990 into the allegations against Mr. Toft. The FPF also began its own investigations into Mr. Toft after receiving a complaint from a former resident in June 1991. Upon learning of the FPF investigation, the RCMP proposed that the police departments work together since they were investigating similar complaints. The FPF turned down the RCMP's request.

As a result of the lack of coordination with the FPF, the former residents who had already been interviewed by the FPF were contacted by the RCMP, which frustrated the RCMP and delayed the charges it eventually laid. Eventually, the RCMP prepared court briefs for the Crown to review in relation to criminal charges against Mr. Toft, Weldon Raymond, Hector Duguay and other staff at the NBTS. This resulted in charges being laid and, in some cases, trials being held. Both the RCMP and the FPF laid criminal charges against Mr. Toft, resulting in a guilty plea by Mr. Toft and a jail sentence.

Mr. Duguay went on trial on 13 to 14 September 1993 and was found guilty on four of the five charges against him. In October 1993, the RCMP laid an additional 15 charges against Mr. Toft, but the Attorney General stayed the charges because they were similar in nature to those for which he had already been convicted and sentenced. Another reason the Attorney General had stayed the charges was because the province had commissioned an inquiry to be headed by Justice Richard Miller to look into the province's response to complaints of sexual and physical assaults by staff at the NBTS.

The investigation by the RCMP was concluded in 1995 when the Attorney General confirmed that he would not lift the stay of proceedings he had imposed on the RCMP's additional charges against Mr. Toft. However, the RCMP continued to take complaints from former residents of the NBTS. The NBTS investigation was reopened in 1999 following new complaints related to the NBTS, which prompted the RCMP to ask the Attorney General's office to clarify that, while it would not proceed with charges against Mr. Toft similar to those for which he had been convicted, investigations into complaints of crimes committed by other NBTS staff members should continue. With this new understanding of the Attorney General's position, the RCMP began investigating these new complaints.

Initially, the investigations were sporadic and involved only a few former residents. That changed in February 2000 after an alleged victim of Mr. McCann, who had first come forward in January 1998 but who was advised that there was insufficient evidence to lay a charge, made a formal complaint to the Criminal Operations (CROPS) Officer in "J" Division about the outcome of the investigation. As a result, the RCMP reviewed the files and decided to form an investigation team in 2000. Staffing issues delayed the assembly of the team until May 2001. By the end of 2003, the RCMP officially informed the complainants that, in the opinion of the Crown counsel, the evidence against Mr. Toft and other NBTS staff members as well as retired Staff Sergeant McCann did not meet the test of a reasonable prospect of conviction and that the Crown would not approve charges.

3.1 Scope of NBTS Investigations

The bulk of the RCMP's investigative work involved identifying, locating and interviewing former residents who might have been victims of sexual or physical assault during their stay at the NBTS. The RCMP gathered most of the names of possible victims from the Provincial Archives and other sources, including the FPF and former NBTS staff and residents. The majority of the interviews and file reviews were conducted from 1991 to 1993 and 1998 to 2003.

Based on a review of a number of relevant documents, the CPC was able to determine the number of names obtained by the RCMP. From 1991 to 1993, for example, the RCMP obtained approximately 440 names of former NBTS residents with approximately 60 admitting that they had been sexually or physically assaulted. Over the course of the investigation, the RCMP compiled a list of 48 individuals who were considered potential suspects, most of whom were either current or former NBTS staff members. However, they sent only eight investigative briefs to the Crown's office for review.

Charges were eventually laid against Messrs. Toft, Duguay and Raymond. Only Messrs. Toft and Duguay were convicted; Mr. Raymond faced trial by judge and jury on two occasions and was acquitted of all charges both times. The RCMP did not proceed with charges in five other cases based on recommendations from the Crown. The files on the other 40 potential suspects were concluded for various reasons, including the former residents' lack of credibility, the types of allegations and the summary nature of the charges. In addition, the Crown felt that the charges as presented in the briefs did not meet the standard test of "a reasonable prospect of a conviction" or the six-month time limit for laying a charge for a summary offence.

In 1998, the RCMP began investigating new complaints relating to the NBTS. In early 2000, a plan was developed to investigate and review the files of 145 former NBTS residents; this number eventually grew to approximately 200. Some files were quickly concluded since the alleged assaults fell within the category of offences for which the Attorney General was not laying charges because Mr. Toft had already been convicted and sentenced for similar offences. Other files were concluded because the former residents could not be located or were deceased.

Investigators prepared four court briefs in support of the allegations against Messrs. Toft and Raymond and sent them to the Crown's office. However, Crown counsel did not recommend charges and the files were concluded.

The Crown counsel based his decision on the totality principle of sentencing, which is that, in cases in which there are multiple offences, which are similar in nature, circumstance and time, the court will look at the totality of the criminal behaviour and ask itself what is an appropriate sentence for all the offences. The Court will not add further time to a person's sentence if doing so would make it unduly harsh and long. This was the situation with Mr. Toft since the nature, circumstance and time of the most recent offences did not differ from those to which he had already pled guilty. However, the Crown counsel indicated that he would use the additional complaints as similar fact evidence in the event of a trial.[1]

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[1] *Criminal Code*, R.S.C. 1985, c. C-46, s.718.2(c). See generally R. v. M. (C.A.), [1996] 1 S.C.R. 500; R. v. Ellison [2007] B.C.J. No. 288 where the courts applied the totality sentencing principle to ensure that the punishment was proportionate to the nature and time of the crimes.

4. Investigation by Constable Tom Spink (1990)

4.1 Background

At a basketball game in Moncton in 1989, David Forbes spoke with John Lebans, an acquaintance who was also Executive Assistant to Mike McKee, the Minister of Labour of the Government of New Brunswick, about something that had been troubling him for over four years. Mr. Forbes was a former staff member at the New Brunswick Training School (NBTS) who had left his job there, moved to the Northwest Territories in 1985 and was back in town visiting. Mr. Forbes revealed to Mr. Lebans that in 1985 he had reported a guard at the school for sexually assaulting residents and that his superiors had not done anything with his report.

Mr. Forbes' disclosure was the first in a series of events that launched one of the lengthiest criminal investigations in the legal history of New Brunswick. He exposed to public scrutiny a sordid and tragic series of events and crimes, spanning a period of almost 40 years, that affected the lives of numerous people confined at the school. An RCMP investigation was begun the following year, which in the ensuing 13 years led to other RCMP and Fredericton Police Force (FPF) investigations, criminal charges, court proceedings, a public inquiry, extensive media attention and enduring public concern.

As Mr. Lebans had testified at the Miller Inquiry[1] on 21 July 1994,[2] Mr. Forbes, in their conversation at the game, made accusations about a guard at the school. He was concerned that nothing had been done with a report that he had filed with his superiors. Mr. Lebans suggested that Mr. Forbes call him in Fredericton the following week.[3]

In a subsequent telephone conversation, Mr. Forbes added that he had seen the guard molest a resident at the NBTS by touching the boy's genital area.[4] It was this incident that Mr. Forbes had taken to his superiors. During one of Mr. Forbes' visits to New Brunswick, he learned that nothing had been done about his complaint. Mr. Lebans summarized the attitude of Mr. Forbes: "And I guess come hell or high water, he wanted to see something done with what had taken place."[5]

Mr. Lebans testified that Mr. Forbes wanted to take his concerns to the Solicitor General and was adamant that he did not want to talk to anyone except the Deputy Solicitor General or the Solicitor General. Mr. Forbes made reference to having made an effort to communicate these concerns between the fall of 1985 and December 1989 to members of the Solicitor General's department. "And he [Mr. Forbes] was getting nowhere …. Very upset that nothing had been done."[6]

In his Miller Inquiry testimony on 6 June 1994, Mr. Forbes testified that, on 9 October 1985, he had observed Karl Toft, a correctional officer, rub a key along the thigh and groin of *Mark Seymour*, one of the students. This led Mr. Forbes to interview two other residents at that time, *Pierre O'Connor* and *John Leblanc*, who stated that Mr. Toft had molested them. Mr. Forbes obtained a witness statement from each of the three boys and prepared a report dated 10 October 1985. He testified that he reported the incident to Corporal Lillian Ulsh of the FPF on 15 October 1985. At the Inquiry, Mr. Forbes also said that he never spoke to the RCMP about the allegations and that he was not aware of any jurisdiction issues between the two police forces.[7]

During their telephone conversation, Mr. Lebans assured Mr. Forbes that he would contact the Solicitor General's Executive Assistant, Emile Chevarie, and express Mr. Forbes' concerns.[8] The following week Mr. Chevarie told Mr. Lebans that Mr. Forbes had been contacted and that a meeting would be set up with the Minister or Deputy Minister.[9]

In his appearance at the Miller Inquiry on 6 and 7 June 1994,[10] Mr. Forbes testified that later in 1989, after speaking with Mr. Chevarie, he spoke to someone he believed to be the Solicitor General, Conrad Landry, who told him he did not have time to meet with him. The same day, Mr. Forbes visited Corporal Ulsh of the FPF. She told him that she could not recall the incident. She eventually became frustrated and told him to go to the Solicitor General's department with his complaint.[11]

Mr. Forbes testified that, hours after meeting with Corporal Ulsh, he saw Richard Robinson from CBC Radio, who was very interested in his complaint.[12] Mr. Robinson told him he had heard about Mr. Toft and problems he had had when he was involved with the Boy Scouts. Mr. Forbes testified that he told Mr. Robinson everything that had happened since 1985. Mr. Robinson told him he knew James Lockyer, the Attorney General of New Brunswick, and said he would talk to him about the matter. Mr. Forbes testified that Mr. Robinson contacted him in the spring of 1990 and said that he had discussed the matter with Mr. Lockyer and that something would be done. A few months later, Mr. Lockyer called him and advised him that a large investigation was going to take place and that he would be kept informed.[13]

At the Miller Inquiry on 18 July 1994, Mr. Lockyer testified that, in a telephone conversation with Mr. Robinson on 7 February 1990, Mr. Robinson clearly indicated that there was a situation at the NBTS that warranted investigation and suggested that the FPF had investigated the matter in 1985. According to Mr. Lockyer's testimony, Mr. Robinson suggested that "for whatever reason, this matter had not been pursued, that there were people who knew about it, and that it was a matter that had criminality involved, and potentially a prosecutable offence, and should have been looked at."[14] Mr. Lockyer testified that, prior to his telephone conversation with Mr. Robinson, he had not heard any suggestion that there was a problem at the NBTS and he had not heard the name Karl Toft.[15]

The CPC interviewed Mr. Lockyer on 28 February 2007. Mr. Lockyer said that he believed Mr. Robinson had no intention of going public; he just wanted to bring Mr. Forbes' complaint to Mr. Lockyer's attention. Mr. Lockyer also felt that he had to follow through because Mr. Forbes was relying on him. He also said he considered it unacceptable that a complainant was being ignored by government officials and had to go to such trouble to be heard. Mr. Lockyer was concerned by the facts of the complaint, namely, that these events occurred in a government institution.

Following his conversation with Mr. Robinson, Mr. Lockyer spoke with the Deputy Minister of Justice for New Brunswick, Paul LeBreton, as well as Solicitor General Conrad Landry, on 7 February 1990. He then wrote a letter to the Commanding Officer (CO) of the RCMP's "J" Division, Chief Superintendent Herman Beaulac, asking for a full and complete investigation into the matter.[16] Included with this letter were notes that Mr. Lockyer had received from Mr. Robinson.[17] Mr. Lockyer wrote in his letter:

> I enclose a copy of notes remitted to me by Mr. Richard Robinson, a senior news reporter with the Canadian Broadcasting Corporation in Fredericton, concerning certain allegations involving the Fredericton City Police, some members of the Department of the Solicitor General and in particular, a Mr. Karl Toft.
>
> I would ask that you investigate this matter and report at the earliest opportunity.
>
> I have advised my colleague, the Solicitor General, of my request.[18]

Mr. Lockyer testified at the Miller Inquiry that he spoke face-to-face to Solicitor General Landry, stating that he had referred the matter to the RCMP and that Mr. Landry should be aware of it.[19]

Upon receipt of Mr. Lockyer's letter, Chief Superintendent Beaulac referred the matter to the appropriate RCMP section for investigation. "As this matter was apparently brought to the attention of the Fredericton City Police Department they will be contacted prior to the commencement of our investigation."[20] He said he would keep the Attorney General advised.[21] Following this exchange of letters, Constable Tom Spink commenced the RCMP's 1990 investigation into the NBTS.

4.2 Purpose of Investigation by Constable Spink

In an interview with the CPC on 28 February 2006, now-retired Staff Sergeant Spink indicated that he was to "specifically look at whether or not there was an intentional cover-up by the Fredericton City Police … with regard to the sexual molestation of … three young boys …".[22] Later in the interview, he said "that's always stuck with me … that I was asked to determine whether or not there had been an intentional cover-up by the Fredericton City Police, specifically Lillian Ulsh's office … that was what I was specifically mandated [to do]."[23] When asked, "But you're looking into a cover-up. You're not looking into a sexual assault allegation against Toft?"[24] He answered, "That's right."[25] Mr. Spink added that, when he testified at the Miller Inquiry, the questions from the Miller Inquiry counsel, William Goss, were focused on his investigation into the FPF.

However, in his testimony at the Miller Inquiry on 30 August 1994, he confirmed that, "in February of 1990, [I was] assigned the task of making inquiries with respect to allegations of sexual assault involving an alleged perpetrator by the name of Karl Toft."[26] He said that he went to see Corporal Ulsh and explained that "I had been mandated to investigate the alleged assaults against those three young fellows at the YTC [Youth Training Centre]."[27]

Mr. Spink consented to a second interview and met with the CPC in Fredericton on 2 March 2007. Among the issues raised was the apparent contradiction between his investigation mandate, as described in his testimony at the Miller Inquiry, and his description of it to the CPC on 28 February 2006. He explained that he did not see any inconsistency between his two answers and maintained that his main "mandate," as he understood it, was to determine whether there had been any inadequacy or cover-up with respect to the Toft investigation by the FPF, particularly Corporal Ulsh. A secondary purpose was to determine whether the three boys had been sexually assaulted by Mr. Toft, and if he was so satisfied, to decide whether charges should or could be laid. He reported that, after interviewing the three youth, he was satisfied that they were in fact sexual assault victims.

The letter from Chief Superintendent Beaulac to Attorney General James Lockyer, dated 13 February 1990, offers support for Mr. Spink's view that he was tasked with investigating the 1985 FPF investigation. In it, the Chief Superintendent refers to Mr. Robinson's allegations, the first of which involved the FPF, and indicates that he had them sent to the appropriate section of the RCMP for investigation.

The Acting Officer-in-Charge of "J" Division Criminal Operations (CROPS), Inspector Mike Connolly, affirmed that the RCMP's investigation began with the exchange of Mr. Lockyer and Chief Superintendent Beaulac's letters. On 13 September 1994, in response to a question by Mr. Goss about whether "this whole process [the RCMP investigation] begins with Mr. Lockyer's letter to the Chief Superintendent … Beaulac, on the 7th of February 1990," Inspector Connolly replied: "That's correct." Then he was asked, "Would the RCMP have had any form or shape of investigative or information file open on the subject of Karl Toft and/or the New Brunswick Training School prior to that date?" Inspector Connolly replied: "No."[28] Reference was then made to Constable Spink's investigative efforts and reports, which were already in evidence, that took place between mid-February and July 1990.

In his final report issued on 17 February 1995, Justice Miller stated that, although the RCMP did pursue the investigation, by 3 July 1990, only Corporal Ulsh, Ian Culligan, and Tom Richards, the latter two were former NBTS superintendents, and two of the boys had been interviewed. Constable Spink concluded his investigation on 20 July 1990 after he interviewed Mr. Toft and talked to the third boy, who indicated that he did not want to testify in court.[29]

Justice Miller stated that, during the course of the investigation, Hugh Robicheau, Director of Policing Services for New Brunswick, obtained further information that he forwarded to the RCMP. He was informed by a letter of 17 February 1991 that the investigation was ongoing. "It is not clear whether it was a conscious and deliberate re-opening of the investigation which was previously considered as concluded."[30] Justice Miller further stated in his report: "[As the charges against TOFT] … worked through the judicial system, the R.C.M.P. were by some undetermined influence spurred on to complete an investigation which had been instigated by Attorney General Lockyer some 19 months previously."[31]

In a letter to the Deputy Minister of Justice, Mr. LeBreton, dated 21 May 1991, Superintendent Giuliano Zaccardelli, CROPS Officer, stated that the RCMP commenced its investigation in February 1990.[32] The investigation, he continued, concluded in July 1990.

4.3 Start of Investigation by Constable Spink

Superintendent Zaccardelli became involved four days after the letter from Attorney General Lockyer arrived and recommended to Chief Superintendent Beaulac in a Transit Slip dated 11 February 1990 that the RCMP Fredericton General Investigation Section (GIS) undertake the investigation.[33] On 13 February 1990, Superintendent Zaccardelli wrote another Transit Slip to Chief Superintendent Beaulac stating that he would ensure that the investigator make contact with the FPF prior to the commencement of the investigation.[34] Constable Spink was assigned to conduct an investigation into the FPF's 1985 investigation into complaints from Mr. Forbes regarding sexual assaults occurring at the NBTS.

The investigation seems to have taken some time to get started. During his second interview with the CPC on 2 March 2007, Mr. Spink explained that at the time that he was assigned to the case, he was ordered to investigate another case with a number of other members. His transfer to Commercial Crime added to the delay. He had a number of investigations in progress, which he had to prepare and clean up before turning them over to another investigator.

The Transmittal and Diary Date Request in which Constable Spink was asked to send his initial report by 14 March 1990 was dated 21 February 1990; it was from CROPS and it was regarding Karl Toft and sexual assaults.[35] In a General Occurrence Report by Constable Spink dated 21 February 1990, Karl Toft is noted as being a "sus" (i.e., a suspect) and Mr. Forbes is listed as a "com wit" (i.e., a complainant/witness). The location of the occurrence is indicated as the "Youth Training Centre—Kingsclear, N.B."[36] Mr. Spink explained to the CPC that the General Occurrence Report was the first document that he prepared when he was assigned the NBTS and Toft investigation and he identified the handwritten details as having been written by himself.

4.4 Progress of Investigation by Constable Spink

The first witness that Constable Spink interviewed was Corporal Ulsh. Attached to Constable Spink's Continuation Report of 14 March 1990 is a copy of a witness statement dated 15 October 1985, with statements obtained by Mr. Forbes from the three boys in 1985.[37] Mr. Forbes had submitted the statement to Corporal Ulsh who, in turn, had given it to Constable Spink.[38]

In his first report, dated 27 March 1990, Constable Spink referred to a conversation with Corporal Ulsh in which she informed him that

> there was no intent on her part to cover up anything and that she felt in 1985 that it had been handled adequately by the Department of Corrections. She did admit in retrospect that because the Youth Training Center is within R.C.M.P. jurisdiction, she should have contacted [the] Fredericton Detachment and advised them of the complaint made by FORBES.[39]

Constable Spink met with former Corrections NBTS superintendents Ian Culligan and Tom Richards (Mr. Forbes made his initial complaint to Mr. Richards who, at the time, was the Superintendent of NBTS). In a report dated 5 April 1990, Constable Spink indicated that both men agreed to supply statements during the next week.[40]

In his interview with the CPC, Mr. Spink said that the two witnesses insisted on seeing a prepared list of questions before they would agree to provide a statement, and wanted time to prepare answers. He felt there was not much he could do in this situation, given their position within the government. In a Continuation Report dated 17 April 1990, he indicated that he had picked up the statements from Messrs. Culligan and Richards.[41] Mr. Richards, in his statement, recounted his meeting with Corporal Ulsh in which he was told of the allegations against Mr. Toft. She recommended that Mr. Toft be moved to another institution as the youth who had made the accusations were still at the school. Mr. Richards wrote that he met afterwards with Mr. Culligan and Yves Boutot, Director of Young Offender and Community Services. They decided to transfer Mr. Toft to the New Brunswick Central Reformatory, an adult facility on an adjoining property.[42] In Mr. Culligan's statement, he recounted his meeting with Messrs. Richards and Boutot. He also wrote that as the youth who had made the allegations were at the same school as Mr. Toft, it was in everyone's best interest to transfer him.[43] Both men seemed to be under the impression that there was an ongoing investigation and until it was resolved, the only solution was to remove Mr. Toft.

On 24 April 1990, Constable Spink contacted [a] Penitentiary to ascertain whether there was information in the federal penal system about *Mark Seymour*, *John Leblanc*, *Pierre O'Connor* and *Evan Sanders*, the latter of which had disclosed to Mr. Forbes that in 1981, he had been sexually assaulted by Mr. Toft.[44] Mr. Forbes had named all four as victims back in 1985. Constable Spink learned that *Mr. Sanders* was serving a life sentence at an institution in British Columbia.[45] Constable Spink managed to contact *Mr. Seymour* on 27 April 1990 who was not sure what he wanted to do about the assault and stated that he would like to discuss the issue with Constable Spink, who noted that an appointment would be set up "ASAP."[46] In his second typed report dated 1 May 1990, Constable Spink referred to an intention to interview the suspect, Mr. Toft, after he had spoken to the other witnesses.[47]

In a Continuation Reports dated 17, 22 and 24 May 1990, Constable Spink referred to his efforts to find Messrs. *O'Connor* and *Leblanc*, and to speak with *Mr. Seymour*.[48] It is known that the Attorney General's office was interested in the progress of the investigation because the provincial Director of Public Prosecutions, Bob Murray, contacted RCMP Staff Sergeant Gord Snow, who in a Transit Slip on 20 June 1990 indicated that Mr. Murray had requested an update of the investigation.[49] In turn, Staff Sergeant Snow requested an update from Constable Spink, who advised that he had spoken to two of the three original complainants, who were not sure they wanted to continue any further. The last entry in the Transit Slip indicated that Constable Spink intended to recontact each of the complainants, meet with them to get a statement as soon as possible and provide an update.[50]

On 26 June 1990, Constable Spink interviewed *Mr. Leblanc*, who confirmed that he had been a resident at the NBTS and that he had given a statement to Mr. Forbes describing an incident with Mr. Toft.[51] Constable Spink described *Mr. Leblanc* as uncooperative, but said that he agreed to provide a statement if he did not have to get further involved.[52] *Mr. Leblanc* further stated that he would not go to court.[53] In his statement, *Mr. Leblanc* corroborated his original statement supplied to Mr. Forbes, and indicated that he knew that Mr. Toft had also sexually assaulted *Mr. O'Connor* but that he was not a witness to it.[54] The last question that Constable Spink asked was "Do you wish to pursue this matter as far as a further police investigation, and possible charges against Toft?"[55] *Mr. Leblanc* answered, "I don't want to get involved."[56]

On 28 June 1990, Constable Spink interviewed *Mr. O'Connor*. *Mr. O'Connor* described how Mr. Toft had touched his leg on several occasions, but that he had not permitted him to go any further.[57] Constable Spink wrote in his report of that date; "It should be noted that *O'Connor* feels similar to *John Leblanc* in that he does not really want to pursue this matter. The only other boys he knows [who were] assaulted by Mr. Toft were *Leblanc* and *Mark Seymour*."[58] Constable Spink asked, "Do you wish to continue this investigation with the possible end result being charges?" *Mr. O'Connor* answered, "I'm not sure yet."[59]

On 3 July 1990, Constable Spink summarized his investigation since 1 May 1990 and outlined events that would assist in any criminal charges being laid against Mr. Toft. He wrote that "all three individuals [*Mr. Seymour*, *Mr. Leblanc* and *Mr. O'Connor*] have been reluctant to meet and discuss the alleged incidents involving TOFT."[60] Writing about his interview with *Mr. Leblanc* on 26 June, he described *Mr. Leblanc* as uncooperative and not interested in knowing the final outcome of the investigation.[61] Constable Spink added: "The only condition under which *LEBLANC* would supply a statement was … [if] it was agreed that he would not be required as a witness at a later date."[62]

Constable Spink summarized in his report the interview that he had with *Mr. O'Connor*, referring to him as co-operative, unlike *Mr. Leblanc*. *Mr. O'Connor* was unsure of his feelings toward the reinvestigation of his complaint, and that he would not want to go to court over the matter. Constable Spink concluded this portion of his report by stating "it is unclear as to whether or not an actual assault took place." Constable Spink signed off by adding that he hoped to interview *Mr. Seymour* and then Mr. Toft.[63]

On 6 July 1990, *Mr. Seymour* contacted Constable Spink and advised him that he did not wish to pursue the matter and would not supply a statement.[64] After an attempt to visit *Mr. Seymour*, Constable Spink wrote in his report that he "feels it is fruitless to pursue *Seymour* any longer as he obviously does not want to further his complaint."[65]

On 16 July 1990, Constable Spink interviewed Mr. Toft and obtained a statement.[66] In his report, Constable Spink wrote that Mr. Toft "admitted to being homosexual but denied ever having assaulted any youth at the YTC over the years he was there."[67] He would only take a polygraph test if so advised by his lawyer. Mr. Toft could not remember any of the three boys—*Mr. Seymour*, *Mr. Leblanc* or *Mr. O'Connor*.[68] Subsequent events proved that Mr. Toft had lied to Constable Spink in his statement when responding to at least six different questions during his interview with him. This was confirmed in October 1992 when Mr. Toft entered guilty pleas to sexually assaulting boys at NBTS, the summer camp and elsewhere.

On 16 July 1990, Constable Spink spoke with Mr. Forbes about the status of the investigation, saying that *Messrs. Seymour*, *Leblanc* and *O'Connor* verified the truthfulness of their original statements to Mr. Forbes. He also explained that the three did not wish to go to court and that *Mr. Seymour* would not supply a written statement. He told Mr. Forbes that the Crown would make the final decision with respect to charges.[69]

4.5 Difficulties in Investigation by Constable Spink

Constable Spink encountered difficulties when trying to locate the three complainants: *Messrs. Seymour*, *Leblanc* and *O'Connor*, and finding them took considerable time. Once they were located, *Mr. Seymour* refused to provide a statement, while the length and content of the statements from *Messrs. Leblanc* and *O'Connor* appear to have been influenced by their insistence that they did not wish their complaint to proceed to criminal charges. They made it abundantly clear that they were not going to testify. This was also true for *Mr. Seymour*.

During his interview with the CPC on 28 February 2006, Mr. Spink stated:

> I interviewed those … three boys and … can't even remember their names but … they all were reluctant initially to tell me what had happened. But by the time I left our interviews, I had … witness statements from them saying that they had been sexually assaulted by Karl Toft … they also asked that … they not be made to go forward criminally, with that … I certainly was forthright with them … one of the boys … said his life had been ruined, and his parents didn't know that this had happened and I think his wife didn't know … but, they did confirm that they had been molested.[70]
>
> … but one thing I do remember is … the boys did not want to go further with this … where it was years later. And I asked some of the senior guys … [how] some of the other investigators felt about that. … I mean are we obliged to … just say … we're not gonna go … and then, there was … the kind of deal I made with them [the boys]. … I will tell you what happened as long as you promise to me that I don't, I won't have to go through it again or I won't have to go through court … as the years went on, and as this investigation, you know, ballooned, and all these people got involved. All these investigators became involved … I think I was probably, taken aback a bit, at the, the size and the magnitude. I certainly might of thought it … is a little bigger then what I was dealing with. … But I think that he [Mr. Toft] was the most infamous pedophile in the … country or … one of them anyway … I must say that, that kind of surprised me a bit …. [71]

When asked if there were any restrictions placed on him with respect to his investigation, and the amount of time he could spend on it, Mr. Spink stated:

> Ah no, I was allowed as long as … I can remember having the conversation with somebody in Commercial Crime, or the Inspector in charge, just 'Tom you were asked, this is what your mandate [is] … finish what you're doing but we'd like you to get here as quickly as you can' … So, I was allowed to finish what I was asked to do but not to branch off …. [72]

Mr. Spink was asked if his superiors would have given him the time and resources had he wished to conduct further investigation. He answered in the affirmative, saying that, if he had remained with GIS (and not been transferred to Commercial Crime) yes, they would have.[73]

4.6 Role of the Attorney General and Crown Counsel in Investigation by Constable Spink

The Attorney General and the Crown counsel played a prominent role in the investigation of 1990. It was Attorney General Lockyer who initiated the reinvestigation of alleged offences by Mr. Toft in February 1990.

On 4 July 1990, Deputy Attorney General LeBreton wrote a memorandum to the Attorney General indicating that he had raised the matter of the RCMP investigation into Mr. Toft at a recent meeting with the RCMP and that they would expedite the matter as quickly as possible.[74] "There are indications, however, that the individuals originally involved do not wish to pursue the matter given that some are married and it would be of some considerable embarrassment to them."[75] The Attorney General replied in a note dated 12 July 1990, "Hopefully the matter [investigation] will be concluded shortly. Please diary date this and keep me advised."[76]

Five days later, Constable Spink met with Crown counsel Hilary Drain in relation to possible charges against Mr. Toft.[77] Ms. Drain concurred that, because the victims were reluctant witnesses, she could not approve charges against Mr. Toft.[78] Constable Spink stated in his interview with the CPC that he would have spoken with his peers and supervisor before meeting with the Crown.

On 20 July 1990, Constable Spink wrote a Continuation Report and attached a "Conclusion of Case Report," advising that "sexual assault charges against Karl Toft were not recommended by the Crown. No further action required at this time. CONCLUDED HERE."[79]

On 22 January 2007, the CPC interviewed Ms. Drain in her office. She said that she remembered Constable Spink but that she did not know the background of the case. Her understanding in July 1990 was that there was no way around the complainants not testifying. She indicated that the decision not to lay criminal charges against Mr. Toft with respect to *Messrs. Seymour*, *Leblanc* and *O'Connor* had nothing to do with the issue of whether Constable Spink's investigation was adequate. She felt that there was not much that she could have done because of the reluctance of the witnesses to testify.

4.7 Conclusion of Investigation by Constable Spink

In his Investigation Report of 20 July 1990, Constable Spink summarized his investigation of the allegations involving *Messrs. Seymour*, *Leblanc* and *O'Connor*. He referred to his conversation with Mr. Forbes,

indicating that "FORBES seemed satisfied that the investigation had been re-opened …".[80] Constable Spink continued:

> It is the writer's [Constable Spink] feelings as a result of this investigation that the three victims, *Mark Seymour*, *Pierre O'Connor* and *John Leblanc* were telling the truth in their original statements supplied to David FORBES. I feel that Karl TOFT sexually assaulted the youths both at the Youth Training School and at his private residence in Fredericton. There is no obvious motivation for any of the three to be lying about the assaults, keeping in mind that they no longer want to do anything about it. It is unfortunate that a more extensive investigation had not been conducted at the time of the complaints in 1985 as the writer feels that there would have been sufficient grounds for charges at that time. By his own admission, TOFT spoke of taking many youths to his residence over the years. That leads one to believe that other individuals may have fallen victim to his deviant behaviour.[81]

The last sentence prompted a later investigator, Corporal James McAnany, who obtained a copy of Constable Spink's Investigation Report, to write at the bottom on 26 May 1993 with respect to Mr. Toft, "If Tom [Constable Spink] had only known!!" Crown counsel Drain, during her interview with the CPC, made the same comment, stating that this sentence in Constable Spink's report was "prophetic." She did not recall being advised of any other victims when she met with Constable Spink in July 1990.

On 25 July 1990, CROPS Officer Superintendent Zaccardelli wrote a Transit Slip to Sergeant Daniels asking him to prepare a letter for the Superintendent's signature to Mr. Murray, the provincial Director of Public Prosecutions, explaining the result of "our investigation" and the "reasons for our decision not to charge."[82]

Attorney General Lockyer wrote to Fredericton Police Chief Mac Carlisle on 22 August 1990 to apprise him of the results of the RCMP reinvestigation into complaints made against Mr. Toft of sexual interference.[83] The Attorney General stated that he had been prompted to request the RCMP to reinvestigate the matter in February 1990 after former Correctional Services employee David Forbes suggested that the case was not properly handled in 1985.[84]

> In these circumstances I determined it was preferable to have the re-investigation conducted by an independent police agency. The R.C.M.P. have now concluded their investigation with the result that there is not a prosecutable case due to the reluctance of the 'victims' to now testify in court … they prefer to leave this affair in the past.
>
> Nevertheless the R.C.M.P. investigator [Constable Spink] believes the three 'victims' are truthful and that there was substance to the initial complaint against Mr. Toft. Presumably when this matter first arose there was potentially sufficient evidence to support criminal charges at that time.[85]

The Attorney General requested that Chief Carlisle provide a full report on the results of the initial police investigation and on why Mr. Forbes' complaint had not been pursued and charges laid in 1985.[86]

In regard to the allegations against Mr. Toft in 1985, the CPC found no evidence that Mr. Forbes or any FPF officer or NBTS staff member had approached the RCMP to report any physical or sexual assaults. The Miller Inquiry report clearly stated that, the NBTS was in the jurisdiction of the RCMP and not the FPF.[87] Justice Miller found that, "[w]hile it is true that the Training School was outside Cpl. Ulsh's jurisdiction, a normal police response would be to inform the R.C.M.P. of the action she took."[88]

4.8 RCMP Review of Investigation by Constable Spink

In May 1991, when Corporal Ray Brennan was assigned to the investigation, he reviewed the RCMP file. On 29 and 30 May 1991, Corporal Brennan wrote in a Continuation Report:

> File re-viewed in detail. The only point that I questioned was whether or not the Crown would proceed with charges based on the eyewitness account of Dave Forbes when he saw Toft rub the key on the crotch area of *Mark Seymour*. The same goes for observations made by Tony Cameron [a former NBTS employee who had provided names of potential victims of Karl Toft].
>
> I contacted Cst Spink to see if this point was discussed with the Crown. Cst Spink advised me that it was not as the focus was on the victims and their willingness to go to court. Also I noted that there was not much emphasis on this point by any of the other agencies. This will be directed to the Crown at a later date.[89]

Constable Spink obtained a copy of Mr. Forbes' statement, dated 15 October 1985, from Corporal Ulsh in a meeting on 15 March 1990.[90] In his statement, Mr. Forbes referred to the incident of 9 October 1985, specified the time and indicated that "I witnessed another counsellor, Karl Toft, rubbing a key along the groin area of one of the students … *Mark Seymour* …".[91]

As mentioned above, in his Continuation Report of 17 July 1990, Constable Spink wrote that he met with Crown counsel Drain "and went over c/n[92] file with regard to any possible charges. She concurred with the writer that because the victims are reluctant witnesses we cannot agree to lay charges."[93] There is no specific mention that Crown counsel Drain was shown the Forbes witness statement of 15 October 1985. It appears that no charges were considered in relation to the sexual assault that Mr. Forbes had observed.

Retired Staff Sergeant Brian Griffiths, a CROPS Reader[94] from 1992 to 1993, indicated in an interview with the CPC on 26 October 2006 that he had reviewed the entire investigation file. He did not remember the reason, whether he was asked to review the file or to be responsible for it in CROPS, but he decided to read the file to refresh his memory and make some running notes. There was no date on the notes, but he identified his handwriting on what he described as a "précis." In his review of the file, then-Sergeant Griffiths made the following notes concerning Constable Spink's investigation: "more precise statements" should have been taken from *Messrs. Seymour*, *Leblanc* and *O'Connor*, and all three should have been asked if they knew of any other boys that had been molested.[95]

Sergeant Griffiths noted that there was no written submission by Constable Spink to Ms. Drain, and that she had only been verbally consulted.[96]

> However Cpl Spink didn't think we had a charge as victims would have been hostile witnesses … F'ton P.D [Fredericton Police Department] investigation may have been less than adequate.[97] We could have proceeded with charges, sec 246.1(1). However we would have faced hostile witnesses who may have refused to appear or may have perjured themselves.[98]

Another comment on the Spink investigation came from Grant Garneau, Assistant Deputy Solicitor General, at the Miller Inquiry. He referred to Constable Spink, who had indicated in his reports that no charges were going ahead. Mr. Garneau was concerned because Constable Spink felt that the events described by the boys in their statements had happened, yet no charges were going ahead.[99] Mr. Garneau said that

> we know how long it was in the hands of the RCMP. And we received this in November the 20th 1990 and there doesn't seem to be anything there that's going to the courts … in my experience prosecuting, … there are a lot of cases that basically don't go to court that common sense would say things have been done, but there is a matter of proof … and the fact that this material of course would have been flushed by or passed through the Crown Prosecutor's office, and it was indicated on there it had been, and they had made a decision on it.[100]

Mr. Garneau indicated at the Miller Inquiry that Solicitor General Landry was concerned that there was no prosecution regarding the events that Mr. Forbes had witnessed.[101] He also indicated that this was because the victims apparently were reluctant to testify, but he reasoned that "Mr. Forbes had identified himself certainly at this time as a willing complainant" and that the case "should have gone to court."[102]

Constable Spink was asked during his testimony at the Miller Inquiry, "in 1990, did you have the grounds to support a charge against Karl Toft?" He answered, "I believe, with the information that I had gathered, that a charge of sexual assault could have been laid against Karl Toft at that time, yes."[103] In his second interview with the CPC, Mr. Spink said that he still stands by this answer today, but said that it was contingent upon the boys being willing to testify in court. He felt he had made a commitment to the boys; that is, in order to get them to provide a statement, he had said he would not subpoena and he felt he had to honour that promise. He could not remember much about his meeting with Crown counsel Drain. He believes that he would have discussed his main mandate with her, which was to examine the FPF's 1985 investigation to see whether it had been adequate. He also would have discussed whether Crown counsel Drain agreed that he did not have enough evidence to proceed with charges against Mr. Toft. This latter subject was secondary and he was not sure that they even got to this stage, given the commitment that he had made to the three victims.

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1 The Commission of Inquiry, which is known as the Miller Inquiry after the Commissioner, The Honourable Mr. Justice Richard Miller, was established on 4 December 1992 to look into how government officials and enforcement agencies handled allegations of sexual misconduct at the NBTS.

2 Miller Inquiry, Testimony of J. Levins [sic], 21 July 1994, pp. 6912–6931.

3 Ibid., pp. 6915–6916.

4 Ibid., pp. 6916–6917.

5 Ibid., p. 6917.

6 Ibid., p. 6920.

7 Miller Inquiry, Testimony of D. Forbes, 6–7 June 1994, p. 5722.

8 Miller Inquiry, Testimony of J. Levins [sic], 21 July 1994, pp. 6918.

9 Ibid., pp. 6923–6924.

10 Miller Inquiry, Testimony of David Forbes, 6–7 June 1994, pp. 5584–5737.

11 Ibid., pp. 5660–5661.

12 Ibid., pp. 5661–5663.

13 Ibid., pp. 5663–5664.

14 Miller Inquiry, Testimony of J. Lockyer, 18 July 1994, p. 6609.

15 Ibid., pp. 6606–6007.

16 Ibid., pp. 6609–6611.

17 Letter to C/Supt. Beaulac from J. Lockyer, 7 February 1990.

18 Ibid.

19 Miller Inquiry, Testimony of J. Lockyer, 18 July 1994, p. 6611.

20 Letter to J. Lockyer from C/Supt. Beaulac, 13 February 1990.

[21] Ibid.
[22] Transcripts, CPC interview of T. Spink, 28 February 2006, p. 3.
[23] Ibid., pp. 36–37.
[24] Ibid., p. 38.
[25] Ibid.
[26] Miller Inquiry, Testimony of T. Spink, 30 August 1994, pp. 7686–7687.
[27] Ibid., pp. 7689–7690.
[28] Miller Inquiry, Testimony of M. Connolly, 13 September 1994, p. 8685.
[29] Miller Inquiry Report, 17 February 1995, p. 30.
[30] Ibid., p. 33.
[31] Ibid., p. 38.
[32] Letter to P. LeBreton from Supt. Zaccardelli, 21 May 1991.
[33] Transit Slip to CO "J" Division from Supt. Zaccardelli, 11 February 1990.
[34] Transit Slip to CO "J" Division from Supt. Zaccardelli, 13 February 1990.
[35] Transmittal & Diary Date Request to F'ton GIS from CROPS, 21 February 1990.
[36] Occurrence Report-General, Cst. Spink, 21 February 1990.
[37] Continuation Report, Cst. Spink, 14 March 1990; Witness statement of Cpl. Ulsh taken by Cst. Spink, 14 March 1990.
[38] Continuation Report, Cst. Spink, 15 March 1990.
[39] Investigation Report, Cst. Spink and Cpl. Lockhart, 27 March 1990.
[40] Continuation Report, Cst. Spink, 5 April 1990.
[41] Continuation Report, Cst. Spink, 17 April 1990.
[42] Statement of T. Richards, April 1990.
[43] Statement of I. Culligan, 10 April 1990.
[44] Continuation Report, Cst. Spink, 24 April 1990; Letter to C/Supt. Beaulac from J. Lockyer, 7 February 1990.
[45] Continuation Report, Cst. Spink, 24 April 1990.
[46] Continuation Report, Cst. Spink, 27 April 1990.
[47] Investigation Report, Cst. Spink and Cpl. Lockhart, 1 May 1990.
[48] Continuation Report, Cst. Spink, 17 May 1990; 22 May 1990; 24 May 1990.
[49] Transit Slip to File from S/Sgt. Snow, 20 June 1990.
[50] Ibid.
[51] Continuation Report, Cst. Spink, 26 June 1990.
[52] Ibid.
[53] Ibid.
[54] Witness statement of *J. Leblanc* taken by Cst. Spink, 26 June 1990.
[55] Ibid.
[56] Ibid.
[57] Witness statement of *P. O'Connor* taken by Cst. Spink, 28 June 1990.
[58] Continuation Report, Cst. Spink, 28 June 1990.
[59] Witness statement of *P. O'Connor* taken by Cst. Spink, 28 June 1990.
[60] Investigation Report, Cpl. Spink and Sgt. McNeill, 3 July 1990.
[61] Ibid.
[62] Ibid.

[63] Ibid.
[64] Continuation Report, Cst. Spink, 6 July 1990.
[65] Ibid.
[66] Witness statement of K. Toft taken by Cst. Spink, 16 July 1990.
[67] Continuation Report, Cst. Spink, 16 July 1990.
[68] Ibid.
[69] Ibid.
[70] Transcripts, CPC interview of T. Spink, 28 February 2006. p. 5.
[71] Ibid., pp. 22–23.
[72] Ibid., p. 25.
[73] Ibid., p. 27.
[74] Inter-Office Memo to J. Lockyer from P. LeBreton, 4 July 1990.
[75] Ibid.
[76] Note to P. LeBreton from J. Lockyer, 12 July 1990.
[77] Continuation Report, Cst. Spink, 17 July 1990.
[78] Ibid.
[79] Continuation Report, Cst. Spink, 20 July 1990.
[80] Investigation Report, Cpl. Spink and Sgt. McNeill, 20 July 1990.
[81] Ibid.
[82] Transit Slip to Sgt. Daniels from Supt. Zaccardelli, 25 July 1990.
[83] Letter to Chief Carlisle from J. Lockyer, 22 August 1990.
[84] Ibid.
[85] Ibid.
[86] Ibid.
[87] Miller Inquiry Report, 17 February 1995, p. 54.
[88] Ibid., p. 61.
[89] Continuation Report, Cpl. Brennan, 29 May 1991; 30 May 1991.
[90] Continuation Report, Cst. Spink, 15 March 1990.
[91] Fredericton Police Statement Form completed by D. Forbes, 15 October 1985.
[92] “c/n” is an acronym for “captionally noted” which is a reference to the subject of a document.
[93] Continuation Report, Cst. Spink, 17 July 1990.
[94] A CROPS Reader is a senior NCO who is responsible for ensuring all investigations are complete and that there are no loose ends.
[95] Handwritten notes, Sgt. Griffiths, undated, p. 15.
[96] Ibid., p. 16.
[97] Ibid.
[98] Ibid.
[99] Miller Inquiry, Testimony of G. Garneau, 7 September 1994, p. 8234.
[100] Ibid., p. 8235.
[101] Ibid., p. 8236.
[102] Ibid.
[103] Miller Inquiry, Testimony of T. Spink, 30 August 1994, p. 7720.

5. Investigation by Sergeant Gary McNeill (1990–1991)

The investigation described in this section commenced in October 1990 and was assigned to Sergeant Gary McNeill, the Non-commissioned Officer (NCO) in charge of the General Investigation Section (GIS), Fredericton Subdivision. The senior officers included Chief Superintendent Herman Beaulac, the Commanding Officer, "J" Division; Superintendent Ford Matchim, the Officer-in-Charge (OIC) of Fredericton Subdivision; Superintendent Giuliano Zaccardelli, the Criminal Operations (CROPS) Officer, and Inspector Mike Connolly, the Assistant Officer-in-Charge (OIC) CROPS, who arrived in October 1992 and who often acted in Superintendent Zaccardelli's position.

5.1 NBTS Investigation

In a Transit Slip to now-Corporal Spink, Assistant CROPS Officer, Inspector Al Hutchinson, wrote that he had received a call from Hugh Robicheau, Executive Director of Policing Services for the Province of New Brunswick, on 28 September 1990, who said that he had been looking into the Karl Toft matter from the perspective of correctional services. He had been reviewing the RCMP reports and had "a question concerning a *Evan SANDERS* … who had apparently made an allegation of a sexual assault, however the file reports do not indicate any contact by you."[1] Corporal Spink was asked to clarify.

On 1 October 1990, Mr. Robicheau called Inspector Hutchinson again to provide another name that had surfaced during his file review—*Mike Roy*. *Mr. Roy* apparently had information on the sexual assaults. Inspector Hutchinson asked Corporal Spink to review the file and speak with Mr. Robicheau.[2]

Corporal Spink responded in a memorandum, dated 5 October 1990, in which he explained that he was aware of *Evan Sanders*. However, *Mr. Sanders* was incarcerated for murder in British Columbia and would only have been contacted if any of the original three youth planned to proceed with their complaints. Although the name "*Mike Roy*" had surfaced during Mr. Robicheau's file review, it had not appeared during the RCMP investigation; therefore, he had not been interviewed. Further discussion with Mr. Robicheau indicated that it was possible that other names would surface. As Corporal Spink noted, "A decision will have to be made as to possibly re-opening this investigation if these circumstances do arise." Corporal Doug Lockhart was copied on the memorandum.[3]

On 10 October 1990, Inspector Hutchinson requested someone from Fredericton General Investigation Section (GIS) to follow up on *Mr. Sanders* and *Mr. Roy*. He noted that "[i]n view of the sensitivity of these type of complaints, it is our duty to fully review every allegation." At the end of his memorandum, he made the following request to the OIC of Commercial Crime: "Cpl. SPINK, as a member of Fredericton GIS, was the investigator in this matter. I would ask that you make him available as required to provide any needed background. The investigation will remain the responsibility of Fredericton GIS."[4] The memorandum was also forwarded to Sergeant Gary McNeill by Staff Sergeant Roger Parnell, his superior officer and Acting OC of Fredericton Subdivision, with the request that he carry out and report on the investigation.[5] Staff Sergeant Parnell was replacing the OIC, Superintendent Ford Matchim, who was away on leave. Sergeant McNeill acknowledged receipt of the memorandum on 15 October 1990, which marked the commencement of the RCMP's investigation into NBTS.

5.1.1 Review of Spink Investigation by Sergeant McNeill

Sergeant McNeill, now retired, took over as the NCO-in-charge of Fredericton GIS in July 1990. He had five investigators on staff, including himself. He inherited several files, including the complaint—made by Attorney General James Lockyer and under investigation by Corporal Spink—about the Fredericton Police Force (FPF) investigation into allegations of sexual assault against Mr. Toft.

> We were very busy at the time and this was a file that didn't look like it was going to involve a lot of manpower at that time and it was three victims and it would be a matter of tracking them down, witness statements … in and away to court, but it certainly mushroomed from that.[6]

Mr. McNeill told the CPC during his interview that he would have reviewed Corporal Spink's overall investigation and would have read the file "from the start." When asked if he considered it to be a complete investigation, he stated:

> I think it was just beginning … it was only a few months old when I got there … I remember there was a lot of … reports I read or I may have had a conversation with Tom at the time because he was still in the Headquarters building. I remember that there was a reluctant victim that didn't want to talk about it or disclose anything or they refused to even talk to him I think in one case out of the three … It's been 16 years.[7]

Mr. McNeill said that he did not recall actually sitting down and discussing the file, but he indicated that he had to sign all the reports on all the files, not just this one,[8] a statement supported by Corporal Spink's investigation reports.

One such report, dated 3 July 1990, was signed by Corporal Spink and Sergeant McNeill. Sergeant McNeill's signature on the report indicated that he read of Corporal Spink's efforts to locate *Mark Seymour*, *John Leblanc* and *Pierre O'Connor*, and his interviews with *Mr. Leblanc* and *Mr. O'Connor*.[9]

Sergeant McNeill's signature on another of Corporal Spink's investigation reports, dated 20 July 1990, indicated that he also knew that Corporal Spink

- interviewed Mr. Toft, who had refused to take a polygraph;
- met with Crown counsel Hilary Drain, reviewed the file and agreed not to proceed with charges against Mr. Toft;
- felt the three victims were telling the truth in their original statements to Mr. Forbes; and
- thought it unfortunate that a more extensive investigation had not been carried out in 1985 because there were sufficient grounds to lay charges at the time.[10]

Corporal Spink's final sentence opened the door to Sergeant McNeill's investigation: "By his own admission, TOFT spoke of taking many youths to his residence over the years. That leads one to believe that other individuals may have fallen victim to his deviant behaviour."[11]

5.1.2 Early Delays in Investigation by Sergeant McNeill

On 22 October 1990, following a review of the investigation file, Sergeant McNeill wrote: "Complete file reviewed and a report forwarded to NCO i/c [in-charge] Mission Det., "E" Div. to interview *Evan James Sanders* … who is serving time at [a] Penitentiary in B.C. Copy of forwarding memo on file."[12]

The next day, Sergeant McNeill turned his attention to locating *Mike Roy*. He telephoned *Mr. Roy's* mother and spoke with his grandmother, who indicated that he was living in Toronto and that she would try to contact him. Later that day, he spoke with *Mr. Roy*. He noted that *Mr. Roy* was polite but insistent that "he did not want to talk about it," and that "he [Toft] did not harm me." According to Sergeant McNeill, *Mr. Roy* "would not come right out and say it, but he did indicate that Toft made sexual advances towards him but he [*Roy*] resisted and nothing actually took place." Sergeant McNeill suggested that he have an RCMP officer in Toronto drop by to obtain a statement from him. *Mr. Roy* refused, and politely said that he would not provide Sergeant McNeill with his address, adding what was to become an often-repeated refrain: "it happened a long time ago and I just want to forget about it." Sergeant McNeill left his telephone number with *Mr. Roy* and wrote in his report: "Personally I feel we have heard the last of him." He concluded his report by adding that he was still awaiting news from British Columbia, in regard to a request to interview *Evan Sanders*.[13] Nothing further happened for a month.

Mr. McNeill was asked to explain the gaps in his investigation during his interview with the CPC on 2 April 2006. When asked if he was working alone on the investigation, he replied: "I believe I was because we were extremely busy, I remember …"[14] He added that, when he initially moved to the Fredericton GIS, the group included Corporal Doug Lockhart, Constable Jim McAnany, Constable Ken Legge and Constable Ed Paquet, who worked out of the Saint John office. He did not believe that any of the officers had anything to do with the investigation at the time and that "it wasn't until later that I realized that it required more manpower."[15]

> We just didn't have the resources to look after them. So we—you know, we looked after the murders and the serious sexual assaults and the armed robberies and so on …. And we had to … [cover] areas of the eastern part of the province … we went clear … in the northern part of the province right down to the south …. We had St. Stephen and then we went as far as Oaktown [phonetic] to the central part of the province .... So we had quite a number of detachments there to look after …. And, it was busy, I recall, very busy.[16]

On 26 November 1990, the RCMP detachment in Mission, British Columbia, sent a report to the Fredericton GIS regarding the interview with *Evan Sanders*. The news was not encouraging. In his Continuation Report of 26 November, Sergeant McNeill stated that the Mission Detachment reported *Mr. Sanders* as saying that Mr. Toft had not sexually assaulted him and that he had no knowledge of anyone else who had been assaulted by Mr. Toft or anyone else. However, *Mr. Sanders* provided the name of a possible victim, *Georges Lafeuille*.[17] Sergeant McNeill learned that *Mr. Lafeuille's* last known address was in Saint John and on 11 December 1990, he asked Constable Ed Paquet to locate him.[18] On 7 January 1991, Sergeant McNeill received word that *Mr. Lafeuille* was in jail in Saskatoon. He later sent a request to the RCMP Detachment in Saskatoon to locate him.[19]

5.1.3 New Lead from Former NBTS Employee

On 25 January 1991, Corporal Spink sent a report to Sergeant McNeill, to which he attached a handwritten letter from Tony Cameron, a former NBTS employee, dated 23 January 1991.[20] Corporal Spink had received the letter from Director of Policing Services Hugh Robicheau; it was Mr. Robicheau who had asked Mr. Cameron to prepare a statement "of events that may pertain to an investigation of the activities of Mr. Karl Toft, a former co-worker at NBTS and [his] recollections of the disclosure of the statements made by three former young offenders." [21] Upon receipt of the letter, Sergeant McNeill made a note in his Continuation Report for 25 January 1991:

> A-5 [Transit Slip] received from Cpl Spink attached along with handwritten report from Tony Cameron … Cameron mentions seven more youths who were inmates at the NB Training School while Toft was there. These youths may have info on possible sexual assaults by Toft.[22]

On 30 January 1991, Mr. Robicheau also sent Mr. Cameron's letter to the CROPS Officer, Superintendent Giuliano Zaccardelli, stating, "Once you have reviewed this document, please advise if it is your intention to further investigate this matter."[23]

Superintendent Zaccardelli replied to Mr. Robicheau on 17 February 1991, stating, "our investigation is still ongoing …. This investigation will follow its natural course until all avenues of investigation are completed at which time we will review all the evidence to determine if criminal charges are warranted." Sergeant McNeill's initials are on the letter.[24]

5.1.4 Letter From Former NBTS Employee

In his letter, Mr. Cameron wrote that he started working at the NBTS in November 1980 as a youth worker and that he had been employed with the Department of the Solicitor General since that time.[25] During 1984 and 1985, he was an acting social worker. He had worked for a long time in the same unit as Mr. Toft, often on the same shifts, and had worked closely with him at the summer camps. Mr. Cameron's letter described Mr. Toft's activities and events at the NBTS. However, it was the references to residents who may have been "molested" by Mr. Toft that caught Sergeant McNeill's attention. Since early 1990, the RCMP had only investigated *Mark Seymour*, *John Leblanc*, *Pierre O'Connor*, *Evan Sanders*, *Mike Roy* and *Georges Lafeuille*.

Mr. Cameron referred to *Albert Osborne*, who had a "particularly negative attitude" toward Mr. Toft, as well as *Joe Rivard* and *Sylvain Moore*. Mr. Toft had taken both *Mr. Rivard* and *Mr. Moore* out on an "overnight excursion" and both of them had complained about Mr. Toft's actions. Mr. Cameron also mentioned the names of other boys, including *Mike Roy*, a name that was familiar to Sergeant McNeill, and *Marc Wouters*, another former resident, who later would play a prominent role in the events leading to Mr. Toft's prosecution. Other names included *Frank Dubois*, *Michael Petros* and *Ryan Lariviere*. Mr. Cameron also referred to Randy Reilly, who, in 1991, was a constable with the Fredericton Police Force, and Ron Clark, the NBTS Recreation Director. He felt they might be able to provide further information given their previous employment at the NBTS.[26]

Mr. Cameron's letter shed light on the events in 1985 in relation to *Messrs. Seymour*, *Leblanc* and *O'Connor* and the complaints they made to David Forbes. Mr. Cameron observed that Mr. Forbes was very upset with what he had seen while at the NBTS and at the response of the Department of Justice to his complaint. In 1991, he continued to be angry with government officials who were unwilling to meet and hear his concerns about Mr. Toft, who he believed was still a threat to youth. Mr. Cameron wrote of David Forbes' conversation with CBC Fredericton radio personality, Richard Robinson, which had precipitated the more comprehensive investigation by Constable Spink.[27]

Mr. Cameron's letter concluded with what Mr. Robicheau had told him about the reluctance of former NBTS residents to discuss past events:

> In order to obtain any information from those boys the individual must first have established a trusting relationship with the youth. I think that would be particularly true 5 years later. If you want to get information from the young men who were there, it would seem that the investigator should be someone that the boys trusted and would be willing to talk with. It is very unlikely that a police investigator will get these boys to openly discuss those past events.[28]

Taking his cue from Mr. Cameron's letter, Sergeant McNeill contacted NBTS Superintendent, Joe Keays, in late January 1991, to obtain addresses for the seven boys mentioned in the letter.[29] In a Continuation Report dated 13 February 1991, Sergeant McNeill stated that "[a]ll of the seven youths will be located and interviewed."[30]

5.1.5 Attempts to Locate Possible Victims by Sergeant McNeill

On 20 February 1991, Sergeant McNeill wrote in his Continuation Report, "Contacted Cst. Paquet to confirm addresses for *Rivard*, *Petros*, *Moore*, *Osborne* and *Lariviere*."[31] Sergeant McNeill called *Mr. Moore* and made arrangements to meet at the tavern where he worked.[32]

Mr. Moore was co-operative, but because he said that Mr. Toft had never sexually assaulted him and that he did not know of any other boys who may have been,[33] his statement did not advance the case. The day ended with a telephone call to Sergeant McNeill from *Mr. Osborne*.[34] In his Investigation Report of 8 April 1991, Sergeant McNeill, stated that *Mr. Osborne* was "reluctant to meet with investigator and provide a written statement" and that:

> *OSBORNE* advised that he was not sexually assaulted by TOFT but that he thought he was 'queer' from his actions and gestures … *OSBORNE* did not know of any other youths who were sexually assaulted by TOFT ….[35]

By 1 March 1991, Sergeant McNeill had been unable to speak with *Mr. Rivard* and *Mr. Wouters*. However, *Mr. Petros* was contacted and an interview was arranged for 4 March 1991.[36] The same day Sergeant McNeill sought the help of Joe Keays of the NBTS to obtain additional records of former residents.[37] In preparation for his meeting with Mr. Keays, he prepared a Transit Slip listing the names of 16 residents.[38] He met with Mr. Keays at the school on 5 March 1991 and presented the list. He was looking for information on residents who had gone out on day passes with Mr. Toft.[39]

On 5 March 1991, Sergeant McNeill prepared a memorandum for the Saskatoon Detachment in an attempt to locate *Mr. Lafeuille*, who was in jail in Saskatoon. The memorandum, dated 6 March 1991, stated that:

> It is requested that attempts be made to locate *LAFEUILLE* and if located, a statement obtained with respect to his association and possible abuse by Karl TOFT. Could you also ascertain if *LAFEUILLE* knows of any former inmates who were sexually assaulted by TOFT.[40]

Sergeant McNeill was more explicit in suggesting modes of inquiry when he sent a memorandum about *Mr. Dubois* to the Bathurst GIS. He asked the Bathurst Detachment to "check local police records, probation services, Social Services, etc. in an effort to locate *DUBOIS*." Sergeant McNeill said that *Mr. Dubois* had gone out on day passes with Mr. Toft. He also stated that *Mr. Dubois's* file at the NBTS had been destroyed.[41]

On 14 March 1991, Sergeant McNeill interviewed *Mr. Petros* at his brother's home. In his report of that date, he wrote: *Mr. Petros* said that "Toft never sexually assaulted him nor did he try anything. He also said that he did not know of any inmates who were assaulted by Toft … [he] refused to give a written statement."[42]

The next day, the Bathurst GIS reported on *Mr. Dubois*. Sergeant McNeill's report for 15 March 1991 indicated that *Mr. Dubois* had left the Bathurst area a year ago but that his whereabouts were unknown.[43] Attempts to locate *Mr. Lariviere* were unsuccessful. Sergeant McNeill said in his report that *Mr. Lariviere* appeared to have left Saint John several years earlier.[44] His attempts to locate *Mr. Rivard* and *Mr. Wouters* turned out negative, and he was still awaiting word from Saskatoon about *Mr. Lafeuille*.

5.1.6 Investigation Gains Higher Profile

The investigation took on an added dimension on 12 March 1991. Paul LeBreton, the New Brunswick Deputy Attorney General called Inspector Hutchinson, the Assistant CROPS Officer, and told him that the RCMP would be given access to the documents indicating whom Mr. Toft had signed out on a day pass, which the RCMP had requested. Mr. LeBreton indicated that he would like any investigation reports sent directly to him. He also wanted to know how long the investigation was estimated to last.

Before calling Sergeant McNeill to ask about the investigation, Inspector Hutchinson spoke with Mr. Robicheau, who, in response to an earlier written request, said that more material regarding Mr. Toft was available. Inspector Hutchinson then called Sergeant McNeill, who said that he could not put a time limit on the investigation, as it had been difficult to locate individuals. Inspector Hutchinson advised him that more information would be coming from the Solicitor General. He asked Sergeant McNeill to closely monitor the file and ensure it did not languish, adding that it was "sensitive and important" to the Solicitor General and the Department of Justice and "needs to be expedited." Inspector Hutchinson followed up with Mr. LeBreton, advising him that the investigation would, at a minimum, be a couple of months and probably longer, depending on the difficulty in locating witnesses.[45]

5.1.7 Further Efforts to Locate Possible Victims by Sergeant McNeill

On 20 March 1991, Sergeant McNeill received correspondence from Mr. Robicheau with three more names of former NBTS residents: *Warren Seguin*, *Wililam Marchand* and *Jim McLean*.[46]

At a meeting with the Department of Justice on or about 2 April 1991, Deputy Solicitor General, Bill Connor, asked for an update on the RCMP's investigation.[47] Inspector Hutchinson, Acting CROPS Officer, wrote to Staff Sergeant Gord Snow informing him that Mr. Connor had been advised that the investigation was proceeding with difficulty in interviewing recent potential victims. Inspector Hutchinson asked Staff Sergeant Snow to "Fred. [Fredericton] GIS to see what the latest is." He also requested that, if appropriate, Staff Sergeant Snow prepare a letter to Mr. Robicheau. "Also if timely + if there are RCMP delays, it may be appropriate to write to A/OC Fred. S/Div on delays."[48]

On 8 April 1991, Inspector Hutchinson wrote a letter to Mr. Robicheau to keep him abreast of the progress on the investigation. He indicated that the Fredericton GIS had been given the names of 16 possible victims "and [were] experiencing a great deal of difficulty in locating them. As of this writing, five victims/witnesses have yet to be located … there appears to be very little information which would substantiate the allegations."[49]

Sergeant McNeill's Continuation Report for 16 April 1991 noted that he had spoken with *Marc Wouters*, one of the former NBTS residents who had been identified in Tony Cameron's letter.

> *Wouters* spoke freely about his stay at the NB Training School. He advised that he was on several day passes with Toft but at no time did Toft attempt to sexually assault him. He does not know of anyone who was sexually assaulted by Toft.[50]

Sergeant McNeill's report did not indicate whether he interviewed *Mr. Wouters* face-to-face or on the telephone.

5.1.8 Investigation Interrupted

Sergeant McNeill had been conducting the investigation largely by himself when interrupted by the murder of 14-year-old Pamela Bischoff in April 1991. Most of the officers interviewed by the CPC said that they were conscripted from their regular duties and asked to assist with this high-profile investigation, some of them for many weeks. Sergeant McNeill was no exception, as can be seen from his Continuation Report dated 10 May 1991, which was part of a composite report that he had begun writing on 16 April 1991.

> Due to Bischoff murder, 91J2763, in Oromocto, unable to interview the remaining individuals as yet. Of the sixteen inmates mentioned, the three names provided on 91-04-17 have yet to be contacted. Three others *Rivard*, *Dubois* + *Lariviere* cannot be located.[51]

Sergeant McNeill received a memorandum dated 30 April 1991 regarding *Mr. Lafeuille* from Sergeant Pearson, the NCO i/c of Saskatoon GIS, and Constable Wiebe, also of Saskatoon GIS:

> The nature of your investigation was described and *LAFEUILLE* advised that he is very familiar with TOFT. A personal interview was requested, however, *LAFEUILLE* refused. He did advise that he thinks highly of TOFT and was always well treated by him. *LAFEUILLE* was never sexually assaulted by TOFT, nor does he know of anyone else who may have been victimized. *LAFEUILLE* is not familiar with any rumours to that effect and does not wish to discuss the matter any further. *LAFEUILLE* is known to have a negative attitude towards the Police and it is no surprise that he will not become involved.[52]

Although involved in the Bischoff murder investigation, Sergeant McNeill followed up on the names of a couple of potential victims. He sent a Transit Slip to Constable Ed Paquet in Saint John on 10 May 1991,[53] asking him to try contacting *Joe Rivard* and *Jim McLean* so that he could come to Saint John and interview them.[54]

On 23 May 1991, Sergeant McNeill wrote a Continuation Report regarding Mr. Toft. He indicated that he had telephoned *Paul Smythe*, who spoke freely about his stay at the NBTS. *Mr. Smythe* remembered Mr. Toft and said that he went out on day passes with him.

> He appeared surprised at the suggestion of Toft sexually assaulting inmates …. Toft did not try anything with him nor does he know of anyone who was assaulted by Toft. He agreed to come to the det. on Mon. 91-05-27 to give a statement.[55]

Attempts to contact *Messrs. Rivard*, *McLean* and *Seguin* were unsuccessful.[56]

5.1.9 Senior New Brunswick Officials Express Concern

The New Brunswick Minister of Justice was becoming concerned about the length of time that the RCMP was taking to finalize its investigation. This concern was apparent in a memorandum from Superintendent Zaccardelli to the Officer Commanding (OC) of the Fredericton Subdivision, dated 1 May 1991.[57] Superintendent Zaccardelli reminded the OC that the investigation had been referred to his office by the Minister of Justice and that the Minister of Justice was asking when they can expect the final report on the investigation. Superintendent Zaccardelli also requested that his office be provided with updating reports on the investigation's current status and when it is expected to be concluded. "I would request you ensure that the appropriate priority and resources are assigned to this matter in order to terminate the investigations as soon as reasonably possible."[58]

Within a week, Superintendent Zaccardelli received a letter from Deputy Attorney General Paul LeBreton, dated 7 May 1991.[59] A copy of the letter was sent to the Attorney General, James Lockyer. In the letter, Mr. Lebreton requested a copy of the interim investigation report in the Karl Toft matter, and stated:

> I also wish to raise a second concern which is the length of time it is taking to complete this investigation. I understand that the investigation is encountering difficulties in locating and interviewing former inmates …. However, I urge that this investigation be given top priority and I request your cooperation in having this extremely sensitive matter finally completed as soon as possible.

Superintendent Zaccardelli sent a memorandum to the Fredericton Subdivision OC on 15 May 1991, passing on the correspondence from Mr. LeBreton and stating: "Kindly ensure that the necessary steps are taken to have the field investigation concluded, and an updating report submitted as soon as possible …."[60]

In response to Mr. LeBreton's request for an update, Superintendent Zaccardelli summarized the accomplishments of the investigation into the allegations against Mr. Toft in a letter to Mr. LeBreton dated 21 May 1991. Superintendent Zaccardelli referred to Corporal Spink's investigation, which had begun in February 1990. He alluded to the July 1990 meeting between Corporal Spink and Crown counsel Hilary Drain, saying:

> All available information was presented to crown counsel for review. It was the crown's position, one agreed to by the investigators, that there was insufficient evidence to lay any criminal charges against TOFT. The police investigation was concluded in July 1990.[61]

Superintendent Zaccardelli also dealt with Sergeant McNeill's investigation:

> In October 1990 the R.C.M.P. was provided with a number of other potential witnesses/victims in this case. As a consequence the investigation was re-opened. A total of sixteen former inmates have been identified in this file. Three (3) of these sixteen inmates remain to be interviewed. They have not been interviewed because they have yet to be located.
>
> The inquiries to locate these former inmates have taken the investigators to British Columbia, Saskatchewan and throughout New Brunswick. A great deal of difficulty has been encountered in locating these individuals at times because many of them are transient.
>
> Based on the results of the investigation to date, it is the investigators' position that there is insufficient evidence to warrant the laying of criminal charges.
>
> I can assume that this investigation is being given top priority and every effort is being made to complete the investigation as soon as possible.[62]

5.1.10 Fredericton Police Force Charges

In a Continuation Report, dated 5 September 1991, Sergeant McNeill announced that Crown counsel Bill Corby had called to advise that he had the FPF court brief and that he was prepared to proceed with 27 sex-related charges against Mr. Toft. Mr. Corby asked if the RCMP had any charges to be laid. He was planning to go to court with his charges on 10 September 1991. Sergeant McNeill explained that "our investigation is far from complete and depending how far back we go with this, it could take several months."[63]

In the same report, he noted that Inspector Mike Connolly, Assistant CROPS Officer, had requested a copy of the last investigation report because both the provincial Director of Public Prosecutions, Robert Murray, and Mr. Corby wanted to know the status of the RCMP's investigation. They wanted to be able to coordinate all charges at the same time. While providing a verbal update on 5 September 1991 to Mr. Connolly and Superintendent Matchim, the OIC of Fredericton Subdivision, he requested

> guidance … as to how far back we go with this. It was learned at this time that of the 27 charges, 14 are in RCMP jurisdiction and include offences involving the 1986 summer camp … which was the next step of our investigation. … It was also learned

> that there are 9 victims, not 27 as it was indicated to this office earlier that there would be one charge per victim regardless of the number of times assaulted by Toft.[64]

In his report Sergeant McNeil indicated that he had contacted Mr. Corby later the same day. Mr. Corby said that 13 counts involving nine victims took place in Fredericton, two in Moncton, two at Kingston Peninsula, eight at Magaguadavic Lake, and two at the NBTS. Mr. Corby advised that the FPF was concluding its investigation and that if more victims came forward after a planned news release, it would be investigated by the police force that had jurisdiction.[65]

On 6 September 1991, Detective Tim Kelly of the FPF arrived at Sergeant McNeill's office with the Toft file and court brief on the nine NBTS victims. Sergeant McNeill made a copy of the material. Detective Kelly said that he would notify the RCMP if other victims surfaced after the news release. Sergeant McNeill learned that, of the 60 names Constable Reilly had chosen to interview, approximately half had been located. Nine of these persons disclosed to the FPF that they had been sexually assaulted. Two had already been interviewed by the RCMP, *Marc Wouters* and *Michael Petros*, and had previously denied that they had been sexually assaulted by Mr. Toft when questioned by the RCMP.[66]

A meeting was held on 9 September 1991 with Sergeant McNeill, Superintendents Zaccardelli and Matchim, and Corporal Ray Brennan, who had taken over the investigation in May 1991 in preparation for Sergeant McNeill's one-month leave in June.[67] They decided that the RCMP would continue its investigation "to determine how widespread [were] the offences committed." The investigation would take a reasonable sampling of former residents from the years 1965 to 1985, the time that Mr. Toft was employed at the NBTS. They would interview the 30 inmates identified by Constable Reilly, along with any others identified through the news release. They would also review the records at the NBTS from 1965 to 1985. Corporal Brennan had already begun the Tip system and was assigned to be "file co-ordinator."[68] Sergeant McNeill was to obtain the entire FPF file and all necessary records from the NBTS. After compiling the list of possible victims, Sergeant McNeill, Corporal Brennan and Constable Ken Legge were to locate and interview these persons.[69]

5.1.11 Karl Toft's Arrest

On 10 September 1991, Superintendent Zaccardelli addressed a Transit Slip to Superintendent Matchim. He wrote that FPF Chief Mac Carlisle had called him to advise him that Mr. Toft had been arrested and that a news release was scheduled for 11:00 a.m. on 10 September.[70] He also wrote:

> [W]e will carry on our investigation to ensure that a reasonable sampling is done to determine the magnitude of the offences committed …. The Chief offered his full co-operation in assisting us. The news release will mention that the R.C.M.P. is involved. CROPS will handle any news requests with the standard answer that we are continuing the investigation and that we do not know when it will be completed— The two departments are co-operating, etc.
>
> As discussed yesterday with the two investigators it is important for the investigators to proceed ahead with their investigation to bring it to a conclusion A.S.A.P.
>
> It is important that [we] continue to interview possible victims with the view to determining the full scope of what may have happened in this matter. To do this the records of … who attended the institution while TOFT was there have to be reviewed. It is also necessary to continue to attempt to locate if possible a cross sampling of possible victims over the years which TOFT was at the institution.[71]

This Transit Slip by Superintendent Zaccardelli to Superintendent Matchim was forwarded to Sergeant McNeill with a notation from Superintendent Matchim: "As mentioned this a.m. pls use all available assistance from F'ton [Fredericton] City Police. You and Cpl. Brennan are to give this investigation top priority."[72]

The following day, 11 September 1991, Superintendent Zaccardelli wrote another Transit Slip to Superintendent Matchim, saying:

> I discussed the question of who would be doing the investigation into allegations against TOFT that have resulted from his arrest/media release.
>
> It was agreed that our investigators and the City Police would work closely in this matter. Any new complaints that arise in the City's jurisdiction will be handled by the City unless they want to turn any over to us. Any complaints outside the city limits will be handled by the R.C.M.P.
>
> Apparently 8 complainants have come forward since TOFT's arrest. Some of these complainants come from other parts of the Province. Our investigators should contact the city to determine who these complainants are for the necessary follow up.[73]

5.1.12 Effort to Obtain NBTS Records

On 10 September 1991, in a Continuation Report, Sergeant McNeill stated: "Messages left for Det. Kelly but he was in court all day with Toft."[74] Later that afternoon, he noted: "Cpl. Brennan spoke to Tim Kelly. Will meet on 91-09-11 to copy their file."[75] The FPF file was copied. Sergeant McNeill also telephoned *Todd Sullivan*, the NBTS superintendent, to set up a meeting.[76]

On 13 September Sergeant McNeill met with *Mr. Sullivan* to obtain the admission records from 1965 to 1985, the period in which Mr. Toft had been employed. Sergeant McNeill learned that the school only kept current files of residents and when the resident turned 18, the files were then sent to the Solicitor General's Records Centre, where they were kept for seven years before being forwarded to the Provincial Archives for permanent storage.[77]

In a Continuation Report dated 1 October 1991, Sergeant McNeill stated that *Patrick Tomomsky*, a former NBTS employee, reported that he had been speaking with *Fred Kashi*, another former NBTS employee, about the Toft investigation.[78] *Mr. Kashi* said that he once witnessed Mr. Toft enter the showers, nude, with young residents. The following week, on 9 October 1991, Sergeant McNeill interviewed *Mr. Kashi* at his home. *Mr. Kashi* denied *Mr.Tomomsky's* story. He mentioned that another guard, Weldon (Bud) Raymond, was homosexual, and that Mr. Raymond had been fired. He was suspicious of Mr. Toft and had heard rumours that he was homosexual.[79] He heard the residents call him "queer." [80] He stated that Mr. Toft often took residents out on day passes to camp in the Marysville area and that, based on statements by former residents, the camp was where Mr. Toft committed some of the offences.[81]

Leo Filion, a former resident who was incarcerated at an institution in New Brunswick, agreed to meet with Sergeant McNeill.[82] During the interview on 10 October 1991, *Mr. Filion* told Sergeant McNeill that he had three sexual encounters of increasing seriousness with Mr. Toft. The first happened within the first six months that he was at the NBTS and and was apparently witnessed by another resident, *Duncan Henderson*. *Mr. Filion* was willing to testify.[83] Sergeant McNeill concluded his report with writing, "We will have to obtain *Filion's* file from the Archives along with all the files of those to testify in order to obtain the dates of the offences."[84]

That same afternoon, Sergeant McNeill interviewed *Mr. Henderson*, who was also an inmate at the institution.[85] *Mr. Henderson* advised that he had not been sexually assaulted by Mr. Toft, but he did witness Mr. Toft drying off *Mr. Filion* in the shower.[86] *Mr. Henderson* said that he was willing to testify. However, Sergeant McNeill wrote in his report: "I do not feel this will be necessary as we will probably just proceed with the one charge against Toft involving *Filion* and not with the shower incident. This tip will be concluded for the time being."[87]

5.1.13 End of Sergeant McNeill's Role

Upon his return from leave, Sergeant McNeill continued working on the investigation with Corporal Ray Brennan, who had taken over as the lead investigator. They summarized events in a jointly written Investigation Report dated 29 October 1991.[88] The report said that "a total of thirty-seven former students at the Youth Training Centre in Kingsclear have been interviewed" and listed their names and the results of their interviews.[89]

> [A]lthough we have received numerous negative responses to our enquiries, investigators feel safe in stating that several subjects interviewed are not being truthful for obvious reasons. These negative responses will prevent old wounds from being re-opened and having to testify on subjects too embarrassing for them to handle at this time. The Fredericton Police Force investigators reported similar responses.
>
> At this moment, investigators are actually tracking down numerous identified victims, in addition to those possible victims identified in my previous report. Our list of targets expands after each interview and as reported now includes other suspects, Institutions, etc. Although, not officially pursued at the moment, TOFT's involvement in Boy Scouts, Bud RAYMOND's involvement in Big Brothers and allegations of sexual abuse in Foster Homes are being introduced into the investigation.
>
> A rough analysis has been completed on all disclosures thus far, including those obtained by the Fredericton Police Force investigators. This analysis reveals that Mr. TOFT has been sexually assaulting the youth at Kingsclear on a continual basis from 1967 until 1986. A complete analysis cannot be completed until all victim files have been accessed from Archives.[90]

Their report also indicated that they

> attempted to obtain information on subjects Weldon 'Bud' RAYMOND, Joseph Hector DUGAY and one *MATTHEW BERTRAND* who have been identified as suspects at Kingsclear resulting from interviews to date. On 91-10-17, the writer was advised by *MR. TODD SULLIVAN*, Superintendent of Kingsclear Y.T.C. that files on these subjects have been destroyed. Records or witnesses will have to be obtained to establish employment at the institution during the time periods specified on the statements. This will be examined during the course of the investigation.[91]

The report concluded: "The investigation will continue on its present course as identified on our previous report. Additional charges against Mr. TOFT and other suspects will be laid on the direction of Criminal Operations."[92]

Although the investigation continued, Sergeant McNeill's role ended around the beginning of November 1991 when he was transferred to the McAdam Detachment in New Brunswick. His last meeting related to the investigation occurred on 6 November 1991.[93]

5.2 CPC Interviews

5.2.1 Retired Sergeant Gary McNeill

On 2 April 2006, the CPC questioned Mr. McNeill about his contact with *Mr. Wouters*, asking, "And do you remember speaking to either *Marc Wouters* or *Michael Petros?*" Sergeant McNeill responded: "I don't remember the name but I know I spoke to somebody in St. Stephen."[94]

He indicated that he believed that the RCMP had been working on the NBTS and Toft file before the FPF.

> I can't recall exactly when … at what stage did they start an investigation themselves into these allegations … or how it came about. I can't remember how, whether it was Randy Reilly or Tim Kelly … I believe it was Randy that somebody came to and provided information and that really … kind of opened up from there but I can't remember when that occurred … I think it was in '91.[95]

The CPC asked: "Do you recall how you heard about the Fredericton Police commencing that, I mean other than some kid coming forward?" He answered: "No. Well, what I can recollect is that somebody provided information to Randy Reilly which led to …"[96] He continued:

> I think that a lot of the inmates there had a lot of respect for Randy Reilly and talked to him. And I think once he was approached by one of the victims I guess and trusted Randy to the point that he could tell him exactly what happened. And then the rest realized I guess … they weren't alone in this thing and they started opening up where they previously said they weren't victims.[97]

It is apparent that Mr. McNeill's memory at the time of his interview with the CPC was vague on the subject of *Mr. Wouters*. However, the records reviewed by the CPC show that Sergeant McNeill spoke with *Mr. Wouters* on 16 April 1991 and that *Mr. Wouters* seemed emphatic that Mr. Toft did not molest him. It does not appear that Sergeant McNeill asked *Mr. Wouters* to put his denial in writing.

The CPC also asked him about Superintendent Matchim's request on 10 September 1991 to give the investigation top priority. When asked if the request translated into more people being assigned to assist in the investigation, he replied: "I don't think there was more people assigned while I was involved in it but obviously Ray [Brennan] was. No, I don't think it was given more resources. I think it's just to, you know, set the other stuff aside and concentrate on this."[98]

5.2.2 Former Commissioner Giuliano Zaccardelli

In an interview with the CPC on 15 January 2007, Mr. Zaccardelli was questioned about his 21 May 1991 letter to Mr. LeBreton. When asked about the sentence, "I can assume that this investigation is being given top priority and every effort is being made to complete the investigation as soon as possible," and his use of the word "assume," he responded:

> [C]learly what I meant … to reassure him that this has been given a top priority and every effort is being made to complete the investigation as soon as possible. But no, well, … if somebody reads it the other way, that's clearly not the case.
>
> I always, from the beginning to the end, until I left, I gave this absolute top priority and I pushed all the time. And again, my involvement with the case, as I said, is unusual in the fact that I involved myself much more than I would in other cases because it was important, because it was a priority, because I knew we had to do this as best as we could and put everything we had into it. So that's always been my case and I always pushed everybody in that direction.[99]

The CPC is satisfied that Mr. Zaccardelli wanted to reassure Mr. Lebreton that the investigation was being given top priority, which is in keeping with the tone of the rest of the letter.

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1 Transit Slip to Cpl. Spink from Insp. Hutchinson, 28 September 1990.

2 Transit Slip to Cpl. Spink from Insp. Hutchinson, 1 October 1990.

3 Memorandum to Insp. Hutchinson from Cpl. Spink, 5 October 1990.

4 Memorandum to OC Fredericton Subdivision and OIC Commercial Crime Section from Insp. Hutchinson, 10 October 1990.

5 Memorandum to OC Fredericton Subdivision from Insp. Hutchinson; Memorandum to NCO i/c Fredericton GIS from S/Sgt. Parnell, 10 October 1990.

6 Transcripts, CPC interview of G. McNeill, 2 April 2006, p. 5.

7 Ibid., p. 14.

8 Ibid., pp. 22–23.

9 Investigation Report, Cpl. Spink and Sgt. McNeill, 3 July 1990.

10 Investigation Report, Cpl. Spink and Sgt. McNeill, 20 July 1990.

11 Ibid.

12 Continuation Report, Sgt. McNeill, 22 October 1990.

13 Continuation Report, Sgt. McNeill, 23 October 1990.

14 Transcripts, CPC interview of Sgt. McNeill, 2 April 2006, p. 10.

15 Ibid., p. 11.

16 Ibid., pp. 12–13.

17 Continuation Report, Sgt. McNeill, 26 November 1990; 27 November 1990.

18 Continuation Report, Sgt. McNeill, 27 November 1990; 11 December 1990.

19 Continuation Report, Sgt. McNeill, 7 January 1991; Memorandum to NCO I/C Saskatoon detachment from Sgt. McNeill, 6 March 1991.

20 Continuation Report, Sgt. McNeill, 25 January 1991; Letter to H. Robicheau from T. Cameron, 23 January 1991.

21 Letter to H. Robicheau from T. Cameron, 23 January 1991.

22 Continuation Report, Sgt. McNeill, 25 January 1991.

23 Letter to Supt. Zaccardelli from H. Robicheau, 30 January 1991.

24 Letter to H. Robicheau from Supt. Zaccardelli, 17 February 1991.

[25] Letter to H. Robicheau from T. Cameron, 23 January 1991.
[26] Ibid.
[27] Ibid.
[28] Ibid.
[29] Continuation Report, Sgt. McNeill, 29 January 1991.
[30] Continuation Report, Sgt. McNeill, 13 February 1991.
[31] Continuation Report, Sgt. McNeill, 20 February 1991.
[32] Continuation Report, Sgt. McNeill, 21 February 1991.
[33] Continuation Report, Sgt. McNeill, 26 February 1991.
[34] Investigation Report, Sgt. McNeill, 8 April 1991.
[35] Ibid.
[36] Continuation Report, Sgt. McNeill, 1 March 1991.
[37] Transit Slip to J. Keays from Sgt. McNeill, 1 March 1991.
[38] Ibid.
[39] Continuation Report, Sgt. McNeill, 5 March 1991.
[40] Continuation Report, Sgt. McNeill, 5 March 1991; Memorandum to NCO i/c Saskatoon detachment from Sgt. McNeill, 6 March 1991.
[41] Memorandum to NCO i/c Bathurst GIS from Sgt. McNeill, 6 March 1991.
[42] Continuation Report, Sgt. McNeill, 14 March 1991.
[43] Continuation Report, Sgt. McNeill, 15 March 1991.
[44] Investigation Report, Sgt. McNeill, 8 April 1991.
[45] Transit Slip to File from Insp. Hutchinson, 12 March 1991.
[46] Continuation Report, Sgt. McNeill, 20 March 1991.
[47] Transit Slip to S/Sgt. Snow from Insp. Hutchinson, 2 April 1991.
[48] Ibid.
[49] Letter to H. Robicheau from Insp. Hutchinson, 8 April 1991.
[50] Continuation Report, Sgt. McNeill, 16 April 1991.
[51] Continuation Report, Sgt. McNeill, 10 May 1991.
[52] Memorandum to Sgt. McNeill from Sgt. Pearson and Cst. Wiebe, 30 April 1991.
[53] Transit Slip to Cst. Paquet from Sgt. McNeill, 10 May 1991.
[54] Ibid.
[55] Continuation Report, Sgt. McNeill, 23 May 1991.
[56] Continuation Report, Sgt. McNeill, 24 May 1991.
[57] Memorandum to OC Fredericton Subdivision from Supt. Zaccardelli, 1 May 1991.
[58] Ibid.
[59] Letter to Supt. Zaccardelli from P. LeBreton, 7 May 1991.
[60] Memorandum to OC Fredericton Subdivision from Supt. Zaccardelli, 15 May 1991.
[61] Letter to P. LeBreton from Supt. Zaccardelli, 21 May 1991.
[62] Ibid.
[63] Continuation Report, Sgt. McNeill, 5 September 1991.
[64] Ibid.
[65] Ibid.
[66] Continuation Report, Sgt. McNeill, 6 September 1991.

[67] Continuation Report, Sgt. McNeill, 9 September 1991.

[68] Ibid.

[69] Ibid.

[70] Transit Slip to Supt. Matchim from Supt. Zaccardelli; to Sgt. McNeill from Supt. Matchim, 10 September 1991.

[71] Ibid.

[72] Ibid.

[73] Transit Slip to Supt. Matchim from Supt. Zaccardelli, 11 September 1991.

[74] Continuation Report, Sgt. McNeill, 10 September 1991.

[75] Ibid.

[76] Continuation Report, Sgt. McNeill, 11 September 1991.

[77] Continuation Report, Sgt. McNeill, 13 September 1991.

[78] Continuation Report, Sgt. McNeill, 1 October 1991.

[79] Continuation Report, Sgt. McNeill, 9 October 1991.

[80] Ibid.

[81] Ibid.

[82] Continuation Report, Sgt. McNeill, 7 October 1991.

[83] Witness statement of *L. Filion* taken by Sgt. McNeill, 10 October 1991; Continuation Report, Sgt. McNeill, 10 October 1991.

[84] Continuation Report, Sgt. McNeill, 10 October 1991.

[85] Ibid.

[86] Ibid.

[87] Ibid.

[88] Investigation Report, Sgt. McNeill and Cpl. Brennan, 29 October 1991.

[89] Ibid.

[90] Ibid.

[91] Ibid.

[92] Ibid.

[93] Continuation Report, Cst. Legge, 6 November 1991.

[94] Transcripts, CPC interview of G. McNeill, 2 April 2006, p. 16.

[95] Ibid., pp. 18–19.

[96] Ibid., p. 19.

[97] Ibid., p. 53.

[98] Ibid., pp. 55–56.

[99] Letter to P. LeBreton from Supt. Zaccardelli, 21 May 1991; Transcripts, CPC interview of G. Zaccardelli, 15 January 2007, pp. 50-51.

6. Investigation by Corporal Ray Brennan (1991–1992)

Sergeant Gary McNeill, who had been conducting the investigation largely on his own since it reopened on 15 October 1990, left for a month of leave at the beginning of June 1991. Corporal Ray Brennan from the Saint John Detachment was assigned to take over. He reported to Superintendent Ford Matchim, the Officer-in-Charge (OIC), Fredericton Subdivision.

During the investigation described in this section, the senior officers included Herman Beaulac, the Commanding Officer, "J" Division; Superintendent Matchim; Superintendent Giuliano Zaccardelli, the Criminal Operations (CROPS) officer, and Inspector Mike Connolly, the Assistant Officer-in-Charge (OIC) CROPS, who arrived in October 1992 and who often acted in Superintendent Zaccardelli's position.

6.1 Corporal Brennan Begins

Corporal Brennan reviewed the file on 29 May 1991 to familiarize himself with the investigation. In his Continuation Report of the same date, he indicated that he received the file from Staff Sergeant Fred Fearon "for follow-up." Referring to the investigation conducted by Constable Tom Spink in 1990, he wrote:

> The only point that I questioned was whether or not the Crown would proceed with charges based on the eyewitness account of Dave Forbes when he saw [Karl] Toft rub the key on the crotch area of *Mark Seymour*. The same goes for the observations made by Tony Cameron.[1]

He noted that he had contacted Corporal Spink to determine if he had discussed whether Crown counsel Hilary Drain had decided to proceed with charges based on the eyewitness account of David Forbes, who had said he saw Mr. Toft rub a key on *Mark Seymour's* crotch.

> I contacted Cst Spink to see if this point was discussed with the Crown. Cst Spink advised me that it was not as the focus was on the victims & their willingness to go to court. Also I noted that there was not much emphasis on this point by any of the other agencies. This will be directed to the Crown at a later date.[2]

After summarizing the file, he picked up where Sergeant McNeill left off in his attempts to locate and interview potential victims and witnesses. On 30 May 1991, he prepared a Continuation Report, in which he listed the names of the witnesses yet to be interviewed. These were Constable Randy Reilly of the FPF, who had also been a part-time employee during Mr. Toft's tenure, *Joe Rivard*, *Ryan Lariviere*, *Warren Seguin*, *Paul Smythe* and *Jim McLean*.[3]

6.1.1 Information Gaps

On 3 June 1991, Corporal Brennan was at the Saint John Police Force office when he met the Director of New Brunswick's Policing Services, Hugh Robicheau. Corporal Brennan knew Mr. Robicheau quite well, since he had served under him when Mr. Robicheau was the CROPS Officer at Fredericton Headquarters.[4] Mr. Robicheau was there, Corporal Brennan wrote in his Continuation Report, "doing an audit to see if David Forbes supplied a written [and] detailed statement concerning his allegations, the assaults themselves, flow of events, [and so on]."[5]

They struck up a conversation about Corporal Brennan's responsibilities with the investigation. Mr. Robicheau advised him that the David Forbes complaint originated from CBC on-air host "Ron Richards [sic]" (actually Richard Robinson).[6] Mr. Robicheau advised that he had spoken to Mr. Forbes but had not taken a statement from him. Mr. Robicheau suggested that Corporal Brennan examine his file at Police Services to make sure that he had everything he needed to proceed with the investigation. The two men arranged to meet a week later to review the documents and records that were in Mr. Robicheau's possession. Corporal Brennan made a note to himself that he should obtain the "complete file of Cpl [Lilian] Ulsh … so that all calls, visits, etc. to the YTC can be noted."[7]

Corporal Brennan contacted Corporal Spink again, who stated that Corporal Ulsh had not prepared a file on the matter. She had provided copies of the witness statements, which were in a brown envelope, but as far as he knew, there was no other documentation. In his Continuation Report of 3 June, Corporal Brennan indicated that he would be meeting with Corporal Spink the next day. He also indicated that he had sent a message to the RCMP detachment in Kitimat, British Columbia, in an effort to locate former resident *Ryan Lariviere*.[8]

6.1.2 New Leads

On 4 June 1991, Corporal Brennan visited Fredericton to meet with Corporal Spink. While there, he had hoped to meet with Crown counsel Hilary Drain and attempt to meet with and obtain a statement from possible victim, *Paul Smythe*. Corporal Spink did not provide any new information and there was no answer from Mr. *Smythe*.[9] When asked if she would meet with him "to discuss proceeding based on the eyewitness testimony of David Forbes and Tony Cameron … Ms. Drain suggested I speak with Paul Hawkins [Crown counsel] who is approving charges for the month of June."[10]

On that same day, Corporal Brennan met with Inspector Al Hutchinson and expressed the concern that Messrs. Forbes, Cameron and Robinson had not been personally interviewed.

> There are a lot of details to be looked into as this file will have to be examined extremely closely re: possible cover ups, pursuing sexual assaults, repercussions from the outside, etc. etc. Insp. Hutchinson agrees that the whole issue will have to be completely investigated.
>
> I advised Insp Hutchinson that the file will receive my total attention commencing next week as I have other matters to clean up at the end of this week. I will stay in F'ton [Fredericton] all next week conducting interviews.
>
> A C-237 [Investigation] report will be prepared tomorrow outlining my plans for the investigation. I will then discuss these plans with Insp Hutchinson.[11]

On 10 June 1991, Corporal Brennan was in Fredericton again, this time meeting with Superintendent Ford Matchim, who suggested a complete review of Mr. Robicheau's file "prior to embarking on other avenues."[12] In his report for that day, Corporal Brennan stated his intention of meeting with previous investigators to obtain an "overall assessment."[13] He went to Mr. Robicheau's office that afternoon, reviewed the file, and obtained a copy of the complete FPF file. He found out that the Assistant Deputy Solicitor General, Grant Garneau, had prepared an internal investigation report in March 1991 that dealt with the performance of procedures "of the incident within the Y.T.C. [Youth Training Centre]."[14] The report examined the actions of Correctional Services personnel in relation to the allegations of sexual assaults by Mr. Toft. It contained a chronology of events covering the period from 9 to 16 October 1985.[15] He did not read the report "as it was lengthy and [did] not fall into our specific assignment."[16]

Corporal Brennan obtained a copy of a letter from Mr. Robicheau's file addressed to the staff at the NBTS from NBTS employee, Ian Anslow. The letter identified Mr. Toft as a part of the 1986 Youth Summer Camp.[17] He delayed his return to Saint John, hoping to meet with *Mr. Smythe*, but was unable to reach him. He concluded his report by writing that he would continue to try to find *Mr. Smythe*.[18]

On 11 June 1991, he spoke with former resident *Jim McLean*, who said that he remembered Mr. Toft but that nothing ever happened to him personally or to any of his friends.[19] He continued his efforts to locate *Joe Rivard* and *Mr. Smythe*,[20] managing to speak to *Mr. Smythe's* mother. She was upset with his calls and refused to reveal her son's address.[21]

Corporal Brennan's last mention of *Mr. Smythe* was in his report of 19 June 1991:

> [I]t is obvious that *Paul Smythe* does not wish to meet on the issue. The only reason I am pursuing this is to obtain a negative statement re: his being a victim [and] I feel at this time that it is not worth the effort. Pursuing this would only aggravate the *Smythe* family.[22]

Corporal Brennan referred to Sergeant McNeill's report dated 27 May 1991, noting that there was no mention that *Mr. Smythe* had showed up for his interview scheduled for that date.[23] He also noted that during a telephone conversation with Sergeant McNeill on 23 May 1991, *Mr. Smythe* denied that Mr. Toft had sexually assaulted him.[24]

On 24 June 1991, he continued his efforts to locate *Frank Dubois*. After learning that *Mr. Dubois* was serving a four-year term in an institution in Alberta, he indicated that he would send a message to the RCMP detachment in Innisfail to ask that *Mr. Dubois* be interviewed.[25]

Corporal Brennan summarized his efforts to locate these witnesses in two Investigation Reports dated 12 and 26 June 1991.[26] In the 26 June report, he said that he was going to be consulting with the Crown counsel regarding possible charges and that he had made contact with *Mr.Seguin's* mother. She said that, while she did not have her son's telephone number or address, he called her frequently and that when he did, she would pass on the message to him from Corporal Brennan.[27]

> With the exception of making contact with subject *Warren Seguin* … all other avenues to bring this investigation to a successful conclusion have been covered. As soon as we receive the replies from the various detachments, etc. identified in this report, this matter will be presented to the Crown Prosecution [sic] for their examination. This presentation will include the possibility of proceeding with charges based on the eyewitness accounts of Mr. David FORBES and Mr. Tony CAMERON alone if we continue to find no other victims. STILL UNDER INVESTIGATION.[28]

He turned the file over to Constable Ed Paquet while he was away on leave for the month of July.[29]

6.1.3 A Witness Comes Forward

FPF Constable Randy Reilly knew *Marc Wouters* from when he had worked at the NBTS. During his testimony on 30 August 1994 at the Miller Inquiry, Constable Reilly stated that he suspected Mr. Toft had sexually assaulted *Mr. Wouters*. *Mr. Wouters* was at first reluctant to say anything but finally "unloaded things."[30] He "related incidences of buggery and very violent sexual abuse."[31] A year later, when Justice Richard Miller wrote his final report of 17 February 1995 on the inquiry, he described the meeting between *Mr. Wouters* and Constable Reilly as significant.

The next evening, Constable Reilly and Detective Tim Kelly videotaped an interview with *Mr. Wouters*. He related two incidents of sexual assault committed on him by Mr. Toft. The next day, Inspector Haines assigned Constable Reilly and Detective Kelly to investigate the file.[32]

6.1.4 First Meeting with the Fredericton Police Force

Soon after Corporal Brennan left on holidays, Constable Paquet was able to contact witnesses that he had been trying to locate. In a Continuation Report, Constable Paquet wrote that he contacted *Mr. Seguin* on 4 July 1991. *Mr. Seguin* stated that "nothing ever happened to him but he did witness a couple of incidents with other inmates," and said that he would be willing to give a statement.[33] On 10 July, Constable Paquet sent a memo to Corporal Critch of the RCMP in Toronto, asking his officers to take a statement from *Mr. Seguin*.[34]

On 9 July 1991, Constable Paquet received a telephone call from Constable C. A. Currie in Alberta, who said that she had obtained a statement from *Frank Dubois*.[35] *Mr. Dubois* said that he had been a victim of sexual assault by Mr. Toft between 1980 and 1982 and that "it went further than touching and feeling."[36] The incidents that he described—two serious sexual assaults that occurred when he was 13 or 14 years old—took place in the jurisdiction of the FPF.[37] Later that day, Constable Currie sent a letter to Constable Paquet, to which he attached *Mr. Dubois's* four-page statement.[38] Constable Paquet received the statement on 19 July 1991.[39]

Constable Paquet met Constable Reilly and Detective Kelly. Detective Kelly filed a police report on 16 July 1991, in which he indicated that he and Constable Reilly went to the Gagetown Detachment and spoke with Constable Paquet.[40] It was Constable Reilly's first contact with the RCMP. He and Detective Kelly went there to obtain information from the RCMP's file on Mr. Toft after Detective Kelly had spoken with Staff Sergeant Ron O'Brien on 15 July 1991.[41] Constable Paquet provided the detectives with a copy of the entire file. In his Continuation Report of the same date, Constable Paquet noted that

> it is quite apparent that TOFT did the majority of his sexual assaults in the F'ton City PD area … the writer obtained information from the F'ton City PD file that pertained to our investigation plus information from our file what they required was passed on to them.[42]

Constable Reilly observed that the RCMP had interviewed Mr. Toft in relation to his sexual encounters the year before, and testified at the Miller Inquiry on 30 August 1994 agreeing to the statement by Mr. Goss, Counsel for the Miller Commission of Inquiry, that "[Mr. Toft] admitted to being a homosexual and touching some of the kids in the pretence that he was only disciplining them."[43]

In an interview with the CPC on 26 October 2006, retired Corporal Paquet indicated that "the rapport I got with Kelly [and] Reilly that day, was good."[44] They had advised him about their interview with *Mr. Wouters*. He added that, prior to the 16 July meeting, "I've never heard of *Wouters* until then." He confirmed that he was unaware that the RCMP had interviewed *Mr. Wouters* the previous month and that he had been abused.[45]

Constable Paquet suggested a meeting between the FPF officers and Corporal Brennan upon his return from leave. He felt that such a meeting would "enhance the investigation so as to eliminate duplication and better the investigational results."[46] He spoke with Corporal Doug Lockhart about his suggestion to advise Corporal Brennan. His report of 16 July said that "Cpl. Lockhart contacted S/Sgt F. Fearon, co-ordinator of this file, and advised him of the new developments with the F'ton City P.D."[47]

6.1.5 Second Meeting with the Fredericton Police Force

The Toronto RCMP sent Constable Paquet an Investigation Report to advise that, on 17 July 1991, they interviewed *Mr. Seguin* at his apartment. *Mr. Seguin* stated that he had been incarcerated at the NBTS for six months and that at one time he was in the dormitory that Mr. Toft had supervised. He said he was not molested himself at the NBTS, but he had spoken with *Mark Seymour* and *Pierre O'Connor*, both of whom indicated they had been sexually assaulted.[48] Both *Mr. Seymour* and *Mr. O'Connor* refused to pursue these allegations in court. In the report, Corporal Ken Johncox of the Toronto RCMP stated: "No further action will be taken with respect to this matter. … CONCLUDED HERE."[49] Corporal Brennan signed the report.

Corporal Brennan returned from annual leave on 30 July 1991. In a Continuation Report dated that same day, he wrote that he had contacted Detective Kelly and learned that they "now have approximately 40 charges pending as a result of interviews of 15 people. They have a long list of others yet to be done. Their present course will be to lay charges within a month."[50] They arranged to meet the next day to "discuss the files so as to avoid duplication [and] to possibly assist each others investigation."[51]

On 31 July 1991, Corporal Brennan added to his Continuation Report that he and Sergeant McNeill met with Detective Kelly,

> who furnished a list of 47 names identified by Cst. Reilly as possible victims. Several of these names are on our file [and] have already been interviewed. However, when interviewed by Reilly, who knows these boys personally from when he worked at the institution, the boys admitted to being sexually assaulted.[52]

A copy of the names of all the boys and their status was obtained from the FPF detective. Arrangements were made to meet again on 12 August 1991 to exchange reports, statements and other pertinent information. "Full co-operation will be rendered by both agencies."[53]

Detective Kelly reported on the meeting with Sergeant McNeill and Corporal Brennan on 31 July 1991 in an FPF report.[54]

> Exchange of information was conducted. No real directional plan discussed. Spoke with Insp. Haines in regards to direction of investigation as it relates to R.C.M.P. He advised that statements pertaining to offenses alleged in their jurisdiction would be forwarded to them and our investigation would remain separate from theirs.[55]

6.1.6 Investigation's Profile Increases

On 1 and 2 August 1991, Corporal Brennan briefed Superintendents Matchim and Zaccardelli.[56] Superintendent Zaccardelli suggested using the same Crown counsel who would be dealing with the FPF. In a Continuation Report of 2 August 1991, Corporal Brennan stated "so far all possible victims have been a result of a systematic approach. However, it appears that everyone who Toft had contact with may have been assaulted in one way or another and our approach may have to be far more encompassing …."[57]

Corporal Brennan delivered his Investigation Report, dated 2 August 1991, to Sergeant McNeill on 6 August 1991.[58]

> This investigation is now on the verge of becoming one of the highest profile sex related cases to hit the province of New Brunswick because of recent disclosures made to members of the Fredericton City Police Department and to members of the R.C.M.P. involving Karl TOFT.
>
> It now appears that Karl TOFT has tried to sexually assault every boy he felt he could get his way with. The only way to determine this in an accurate manner and to ensure that a complete investigation has been conducted is to contact all the boys who have come in contact with TOFT during his tenure at the Youth Training Centre. This will also have to include employees of the centre who may have their own personal observations, etc. to add to the investigation.[59]

Of the list of 47 names provided by the FPF, he said:

> [S]everal names are those [that have] already [been] covered by the R.C.M.P. investigation and have already been interviewed. However, I have learned that some of these people interviewed by R.C.M.P. investigators who denied having been sexually assaulted by TOFT have now provided statements to the Fredericton Police Force investigators admitting to having been sexually assaulted by TOFT. I have been advised by Det. KELLY that Cst. REILLY's past involvement with these boys at the centre is the key to success in obtaining disclosures from the boys.
>
> In addition to statements obtained by the Fredericton Police Force investigators, I have recently received disclosure statements from subjects *Ryan Lariviere* and *Frank Dubois* (PCR) admitting to having been sexually assaulted by TOFT. In *Lariviere's* statement, he advises that on one occasion he and another boy, *Derek Plante* were both assaulted at the same time.[60]

Corporal Brennan noted that the assaults not only took place at the NBTS but also at various locations, the majority occurring in Fredericton. He stated that he "recently met with Detective Tim KELLY and arrangements have been made for a complete information exchange and mutual assistance on the issue." He said that he "will be meeting again with Detective KELLY on 91-08-12 to provide him with a copy of all statements and other information as requested by him to assist in his investigation at that time."[61] He expected that, in return, Detective Kelly would provide him with copies of all the FPF witness statements. He also indicated that Detective Kelly told him that Crown counsel William Corby would be handling the prosecution for the City of Fredericton. In response, he recommended that the same prosecutor handle all related matters.

6.1.7 Sharing of Information

Corporal Brennan's 2 August 1991 report mentioned that both he and Detective Kelly believed that Mr. Toft had been sexually assaulting residents at the NBTS for at least 10 years. He wrote that the RCMP had focused its investigation on the boys that Mr. Toft took out on passes while the FPF was concentrating on the years between 1983 and 1985, the period when Constable Reilly worked at the NBTS.

He attached a list of all boys identified thus far as being victims or possible victims. The 54 names were compiled from information provided by the FPF, Mr. Robicheau of the New Brunswick Policing Services and interviews with witnesses and other sources. He noted whether they had been interviewed, by whom and how, and whether they had admitted or denied being assaulted or having sexual contact.[62]

On 7 August 1991, Corporal Brennan composed a Transit Slip to Constable Currie at the RCMP detachment, Innisfail, Alberta, asking her to re-interview *Frank Dubois* to obtain more details of his allegations of sexual assault against Toft.[63] He stated:

> This case is going to be very high profile in the near future as it involves a prison guard [and] possibly hundreds of boys over a long period of time. Therefore, it is crucial that we have all the bases covered. I would ask you to again meet with *Dubois* to clarify certain points [and] to obtain an additional statement focussing on the flow (order) of assaults including the minor assaults (touching) leading up to the major assaults.[64]

He provided further ideas for additional questions, then wrote a similar Transit Slip to Constable Dave Hickey of the RCMP detachment in Quesnel, British Columbia, requesting that another interview be conducted with *Ryan Lariviere*.[65]

The meeting between the RCMP and the FPF arranged for 12 August 1991 was cancelled when Detective Kelly advised Corporal Brennan that he could not attend.[66] However, Corporal Brennan obtained a copy of the witness statements of *Mr. Wouters* and *Michael Petros* from the FPF.

That afternoon, he went to the NBTS to obtain information on three possible victims. He chronicled in his Continuation Report of 12 August 1991 that Joe Keays, an NBTS employee, "gave me access to all old files which I examined [and] learned that Det. Kelly had taken with [the] exception [of] some older files, i.e.: *Lariviere*, which are in the Provincial Archives in Fredericton, c/o Brian Mackin."[67] However, most of the NBTS records available at the school were of people who were there after Mr. Toft had left. Older records had been sent to the Provincial Archives. The few that were available at the school during Mr. Toft's tenure had already been removed by the FPF. Corporal Brennan indicated: "It's obvious that I will have to spend some time in the archives to delve into the past at the centre."[68]

Corporal Brennan's Continuation Report of 13 August 1991 indicated that Detective Kelly contacted him and told him that the staff at the Archives had been giving him the "run-around."[69] Corporal Brennan asked him to access the files for four individuals. Detective Kelly advised that the NBTS "pass" records on the individual files were inaccurate, and that they were going to be better off relying on the "daily pass record," which was a master form, rather than on the individual passes.

His report continued: "Det Kelly advises that Toft's residence is a hang-out for local teen-age boys. Should be monitored [and] may do so for 1–2 days prior to arrest."[70] He concluded his memorandum with a list of items to be discussed with Superintendent Zaccardelli, including the period to be covered in their investigation, surveillance of Mr. Toft's residence prior to his arrest and the FPF investigation.[71] That afternoon, Corporal Brennan called to arrange a meeting with CROPS Officer, Superintendent Zaccardelli.[72]

6.1.8 Preparing for Karl Toft's Arrest

In a Continuation Report dated 14 August 1991, Corporal Brennan indicated that he had met with Superintendent Zaccardelli to tell him that they had at least 10 statements alleging numerous sex assaults in various jurisdictions, mainly in Fredericton, and that the assaults had been going on for at least 10 years. He suggested that some physical surveillance on Mr. Toft prior to his arrest would be prudent. He also expressed concerns about a "cut-off period."[73] They decided to focus the investigation on the year 1985, the year of the original complaints by *Mark Seymour*, *Pierre O'Connor* and *John Leblanc* to David Forbes, and to eventually review all the cases at the NBTS. The purpose was to see if there were other victims who had not been identified in the RCMP search (based on day passes issued to residents with Mr. Toft) and the FPF search (based on Constable Reilly's experiences at the NBTS).[74] "This review will set the pace for further back tracking."[75]

In a Persons Report dated 14 August 1991, Corporal Brennan stated that *Leo Filion*, who was incarcerated at an institutution, was a possible victim who had been identified by NBTS Director Ron Clark.[76] Mr. Clark had given Constable Reilly a "list of names that he thought were the names of boys who were of a particular personality, had spent an inordinate amount of time with Toft, or for whatever reason would at least be worthwhile questioning."[77] Detective Kelly referred to the list of names in an FPF Investigation Report dated 15 August 1991.[78] He wrote that Constable Reilly received a list of 30 names from Mr. Clark, who stated that they were "students who appeared to be special to Toft or seemed to spend a lot of time with him. Mr. Clark believed that due to the character of these kids that it would be likely that they were involved sexually with Toft."[79] The RCMP received the entire FPF file in September 1991, which included the list of names, after the FPF laid their charges.

In another report dated 16 August 1991, Detective Kelly noted: "Spoke with Insp. Haines in regards to the list of names compiled by Ron Clark, he advised that due to the Sept. 9th, 1991 takedown date [the date Mr. Toft was to be arrested] and the workload at this time the added suspected victims would not be interviewed at this time."[80]

On 15 August 1991, Corporal Brennan informed Detective Kelly that the RCMP would concentrate on residents at the school in 1985 and go back from there. Detective Kelly informed him that their investigation would have covered all potential victims from 1982 to 1985 and that they had another disclosure from 1981, beyond their mandate. Detective Kelly advised that surveillance would possibly be put on Mr. Toft's home for an evening the following week.[81]

Corporal Brennan wrote in a Continuation Report on 16 August 1991:

> Research will have to be done to I.D. all YTC students for 1985 & I.D./locate those not already interviewed. A random survey may indicate that Reilly & Kelly have indeed isolated all the potential victims already but in all likelihood, a total … will be done. Research will have to be done to I.D. all the students @ the 1986 summer camp to determine if any were assaulted by Toft. Follow up on current file subjects & statements for court briefs in Sept. (*Dubois*, *Lariviere*, *Derek Plante*, *Kirk Benson*, *Scott* LNU).[82]

On 19 August 1991, he spoke with Detective Kelly and a meeting was arranged for the next day. He was told that Crown counsel William Corby was preparing a search warrant to obtain records at the Provincial Archives.[83]

On 16 August 1991, Detective Kelly added to his report, saying that Constable Reilly went to the NBTS and "ascertained that 18 files that we required were in the archives." Detective Kelly listed the 18 names.[84]

On 22 August 1991, Corporal Brennan wrote in his Continuation Report that he met with Sergeant McNeill to discuss the case.

> We will meet on Monday afternoon to break down the file for the TIP System, as we are starting to get a lot more names. We will start examining the year 1985, the 1986 summer camp [and] continue our efforts in this regard.[85]

He reported on their efforts in an Investigation Report dated 31 August 1991, which was also signed by Sergeant McNeill:

> As stated, the writer [Brennan] and Sgt. McNEILL will be proceeding with the investigation focusing on the 1986 Summer Camp and the 1985 fiscal year at the Y.T.C. During the week of 91-09-03 to 91-09-10, our attention will focus primarily on the Fredericton Police Force investigation and Mr. CORBY's dealing with the Court Brief.[86]

6.1.9 Independent Investigation

On 20 August 1991, Corporal Brennan met with Detective Kelly and Constable Reilly, who informed him that Crown counsel William Corby would be proceeding with only one charge per victim, and that Fredericton would be the reference point as all the victims were assaulted in that city. He also told Corporal Brennan that the FPF would give him the list of residents who attended the 1986 summer camp, which they obtained from the school.[87] Corporal Brennan provided the FPF detectives with a copy of the Toronto RCMP report of the *Warren Seguin* interview.

Detective Kelly said that the charges were to be laid against Mr. Toft on 10 September 1991. Corporal Brennan asked him to include in his details that some of the offences transpired in other jurisdictions, including those of the RCMP, the Moncton Police Force, and so on, "so that the Crown is aware of these facts when he makes the final decision on charges, jurisdictions, counts, etc."[88] Corporal Brennan asked for a copy of the court brief. They agreed that Corporal Brennan would ask Mr. Corby for a written decision concerning charges in RCMP jurisdiction.

Detective Kelly told the RCMP officers that he would send them information about Mr. Toft's possible sexual misconduct in the Boy Scouts. He gave them the name of *Harold David* as the contact for the Scout's Tip.[89]

Corporal Brennan told Detective Kelly that he would now be "focussing on the 1986 summer camp and also a total population probe commencing in 1985 with the intent of conducting a back-track to identify other possible victims not included in their probe."[90]

Detective Kelly said that his superiors had advised him that the FPF would be doing the investigation alone without the involvement of the RCMP. Corporal Brennan wrote: "I have no problem with that as long as I am provided details of all statements he obtains where RCMP jurisdiction is concerned and that mutual co-operation continues."[91]

In his interview with the CPC on 10 May 2006, retired Sergeant Brennan commented on the RCMP's relationship with the FPF:

> After this started up, this whole investigation, all of a sudden Randy Reilly … who was a former guard at Kingsclear, … he had all of these kids coming to him disclosing what was going on out there. My question at the time was "why all of a sudden has he jumped into this" …. A little later on, the Fredericton City Police Chief Mac Carlisle … told the [city police investigators] to go at it alone and I had difficulty keeping track of what they were doing in their parallel investigation and eventually, Tim Kelly, after I cornered him, told me that he was told to go it alone. Plus they gave themselves a short time frame to do the investigation. At that point, they were shutting it down and they weren't going any further, which was totally different than our objectives.[92] … I had to keep after them to find out where they were with their investigation and it was only through persistence on my part that I managed to get some information from them. … They did not volunteer anything.[93] … There was kind of a race going on at the time, a little bit of competition between the departments …[94]

> Basically they were doing their own thing …. We couldn't get our act up because I wanted to do the JFO [Joint Forces Operation] thing but they had their agenda and it didn't include a JFO. And that was a bit of a problem at the time because to me the JFO thing would have been the logical way to go and I was sort of doing my thing and trying to keep track of what they were doing at the same time. … I remember making many calls to the Fredericton PD to try and get in contact with Kelly or Reilly to find out what they were doing and to try to focus my investigation in conjunction with what they were doing, and it was a problem.[95]

> You have to appreciate at the time that we were trying to get things done and they were on a totally different agenda. And it was kind of hard for us to focus and plan with them doing their thing as well because we knew that this was going into something big and long. … But the Fredericton PD had their own agenda and we were just kind of stumbling along watching them and trying to get our thing done at the same time and eventually … when they started laying their charges, whatever we had gathered at that point we were going to throw it in with theirs. The Crown will review all of that and deal with that at the time, but we had no intention of stopping. I mean this had to be dealt with. … and they just weren't part of it.[96]

6.1.10 Boy Scout Record of Karl Toft

On 21 August 1991, Corporal Brennan was successful in contacting several persons who were a part of a Boy Scouts troop in the mid 1960s.[97] He interviewed *Harold David* and obtained a statement from *Denis Belleville*, both of whom were assistant Scout leaders. They related that they had found a couple of nude photographs of a friend of theirs in Mr. Toft's trailer when they were young Scouts. They confronted Mr. Toft, who resigned from the Boy Scouts shortly after on the condition that they not report him. Corporal Brennan also obtained a statement from *Jacques Dorais*, Mr. Toft's Cub master in the 1940s. *Mr. Dorais* indicated that Mr. Toft got involved with the Boy Scouts through him and that he had also referred him to the NBTS. Mr. Toft had enlisted a lot of school residents into the Scouts.[98]

Mr. Belleville told Corporal Brennan that in 1972 he, *Mr. David* and *Rick Morton*, another former Boy Scout and now an RCMP member, had found the photographs in Mr. Toft's trailer.[99] Corporal Brennan tracked Mr. *Morton* down to a detachment in British Columbia and spoke with him on 27 August 1991. Mr. *Morton* recalled the incident and agreed to send in a statement, which Corporal Brennan received on 17 September 1991.[100] In his statement, *Mr. Morton* identified the nude boy in the photographs as one *Robert Nestor*.[101] *Mr. Nestor* was eventually located in Halifax in November 1991 and provided a witness statement. He was the victim named in count number nine in the information sworn by Corporal Brennan on 12 March 1992.

6.1.11 NBTS Focus

On 28 August 1991, Corporal Brennan prepared a Continuation Report containing important details regarding his investigation. He wrote that he had tried to reach Mr. Robicheau about the records at his office and the problems he had obtaining records from the Provincial Archives. Later that afternoon, he contacted the Archives and was told that Detective Kelly had been dealing with Ian Culligan, Executive Director of Correctional Services.[102]

Corporal Brennan asked Detective Kelly about the Archives on 28 August 1991. Detective Kelly informed Corporal Brennan that "he was dealing primarily with Ian Culligan at the Archives and was running into walls with Culligan trying to get the records."[103] Detective Kelly also said that he had finally resorted to using a search warrant to obtain the records. He told Mr. Culligan and Government Records Archivist Dale Cogswell that they could be charged with "obstruction." Corporal Brennan told Detective Kelly to make sure to document the problems he encountered with Mr. Culligan.[104]

Corporal Brennan continued in his report that the RCMP investigation was identifying potential victims of the 1986 summer camp, then backtracking. He wrote that their records should still be at the school and with the FPF, not at the Archives.[105]

On 29 August 1991, he turned his attention to the NBTS records and how best to obtain them. He wrote of his difficulties in his Continuation Report, saying that he had informed Mr. Cogswell that the RCMP was working separately from the FPF.[106] Mr. Cogswell explained the problems they had in providing the files to Detective Kelly, quoting the *Young Offenders Act*, Section 45.1(1)(2). They had also contacted their solicitor for a ruling on issues such as not using the records in a detrimental fashion.

At the end of August 1991, the second witness statements by *Frank Dubois* and *Ryan Lariviere* were obtained from the RCMP detachments in western Canada. Both witnesses claimed that Mr. Toft had sexually assaulted them while they were at the school.[107]

In early September 1991, Corporal Brennan attempted to locate various potential victims and took witness statements. He recorded the names that came to his attention in Persons Reports.

> At present, we have opened approximately one hundred and fifty Tip files. The bulk of these files are persons to be interviewed, including the thirty names obtained from the Fredericton Police Force, the names of the persons who called as a result of the press release, new suspects and other possible victims identified through interviews carried out thus far.
>
> Sgt. G. McNEILL is presently liaising with various agencies in an attempt to identify the number of people who have been institutionalized at the Y.T.C. and to conduct interviews as previously identified. …

> Due to the large volume of victims, etc., problems similar to those encountered by the Fredericton Police Force could drag our investigation on for some time. The three members assigned to this investigation are currently attempting to locate and interview the 32 possible victims identified by Cst. Randy REILLY and the six victims who telephoned police after the press release in addition to the names of possible victims identified by the former inmates during interviews. It is anticipated that this course of action will provide a reasonable sampling to show the extent of these offences and to show that the offences occurred during the entire twenty years of TOFT's employment at the Y.T.C.[108]

6.1.12 Fredericton Police Force Charges

On 15 August 1991, Corporal Brennan spoke with Crown counsel William Corby and learned that the FPF expected to lay their charges in less than a month. The FPF were to have prepared a court brief by 3 September 1991.[109] Corporal Brennan discussed "the number of victims vs. number of offences, locations, etc." with Mr. Corby. They agreed that the bulk of the offences occurred in Fredericton and that "it would be much easier to deal with one jurisdiction if all the details permit proceeding in this manner (i.e.: 1 offence [in] Kingsclear vs. 5 offences in Fredericton—proceed with the 5 offences in Fredericton)." Mr. Corby's concern was the "1986 summer camp in which Toft participated."[110]

Mr. Toft appeared in court on 27 September 1991 and elected a trial by judge and jury for the charges that were laid by the FPF on 10 September 1991. The preliminary hearing was to be held on 28 and 29 January 1992. Howie Peters represented Mr. Toft and Glen Abbott represented the Crown. Corporal Brennan spoke to Mr. Abbott, who was aware of his investigation and acknowledged that the RCMP might have more charges to be laid against Mr. Toft. He advised Mr. Abbott that the RCMP would attempt to have their charges laid in sufficient time for the defence to prepare for the preliminary hearing.[111]

6.1.13 Staff Sergeant Ken Legge

In October 1991, the RCMP investigation team was enhanced by the addition of Constable Ken Legge, who was immediately assigned a number of Tip files to investigate.[112]

In an interview with the CPC on 18 September 2006, now-Staff Sergeant Legge in RCMP Staff Relations, advised that he paired up with Corporal Brennan on the NBTS investigation. Corporal Brennan had been "parachuted in for a while" and he, "was kind of slid over to give him a hand."[113] A strategy session during which the files were distributed was held with Sergeant McNeill, Corporal Brennan and Constable Legge as a routine investigation practice. At the time he joined the investigation, Constable Legge was working on other files. He told the CPC: "It was kind of something you worked on intermittently … probably for most of that time … but I think there were probably fairly long gaps in there … when I didn't work on it."[114] He stated, "we never felt any pressure … you've got other stuff to work on … it was just a balancing act all the time … there was never any … pressure one way or the other to get it done or to back off … I mean it was just another file."[115]

He remembered being assigned Tips to track down in fall 1991. He was shown the Tip Status Ledger (report), which was prepared by Corporal Brennan, and noted that his name was beside approximately 40 Tips that were being assigned to him. He indicated that "these were all people identified either through sign out sheets or through someone else had given us their name … as potential victims."[116] He said that he did everything he could to locate the persons assigned to him.

> We wanted to contact these people and we did everything we could to find them. … We didn't just … sign off and say, "sorry, can't find them".[117]
>
> This was a high profile file. This wasn't a case that we were … trying to get it behind us or certainly not a cover up in any way … we were doing what should be done on those Tips. Absolutely.[118]
>
> It wasn't a two-minute interview. Certainly not. No … we … tried to bring them on side. Explain the investigation … for sure we would of [sic] went further then that.[119]

Both Sergeant McNeill and Corporal Brennan continued to be actively engaged in investigating Tips during fall 1991, recording the results in their reports and naming the persons they were attempting to locate and interview in Persons Reports. These efforts included contacting detachments in other provinces to ask that certain persons be located and interviewed. For example, on 11 October 1991, Corporal Brennan sent a message to two RCMP detachments in Prince Edward Island regarding *Sam Neville*, and three other possible victims of Mr. Toft.[120] *Mr. Neville* was located and gave a statement. Corporal Brennan eventually laid charges against Mr. Toft based on *Mr. Neville's* disclosure.

In addition to gathering evidence against Mr. Toft, the officers were receiving information from persons interviewed that they had been molested by two other staff members: Correctional Services guard Weldon (Bud) Raymond and maintenance worker Hector Duguay, both of whom were eventually charged. The officers also canvassed the residents of the Saint John Provincial Jail (Black River Jail), Dorchester Penitentiary and Springhill Institution to determine if any of the inmates there had been residents of the NBTS and whether they, too, had been sexually assaulted. The investigative work conducted that month was summarized in a lengthy Investigation Report dated 29 October 1991.[121]

6.1.14 Replacement of Sergeant McNeill

In November 1991, Sergeant Gary McNeill, the NCO-in-charge of Fredericton GIS, was transferred to the McAdam Detachment in New Brunswick. Newly promoted Sergeant Doug Lockhart replaced him on 18 November 1991. A week later Sergeant Lockhart requested that Corporal Brennan brief him on the NBTS investigation. During his interview with the CPC on 24 November 2006, he said that Corporal Brennan had informed him that "this file was going to grow and … he told me that he was kind of overcome with it, that he needed help; that it was going to have to be expanded."[122]

On 25 November 1991, he prepared a report with an operational plan for the investigation. In his report he indicated that Corporal Brennan was attempting to gain access to the NBTS records at the Provincial Archives. Once the records had been examined, RCMP members were going to be assigned full time to the file. He was aware that approximately 150 potential victims had been identified by the FPF during its investigation.[123]

He kept his superior officer and OIC of Fredericton Subdivision, Superintendent Ford Matchim, informed of the investigation's progress. Superintendent Matchim did not put a time limit on the investigation, realizing that it was an expansive investigation. "It was going to take time and you take whatever time was necessary to do it and do it right."[124]

As time passed, Sergeant Lockhart realized that he was not able to devote all his attention to the progress of the investigation. Although his superiors considered the NBTS to be a major investigation,[125] he was also the investigating officer on his own files. He went out into the field himself if there was a murder or attempted murder to "make sure everything was all right."[126]

6.1.15 Access to the Provincial Archives

In mid-November 1991, Corporal Brennan was embroiled in the attempt to gain access to the NBTS records stored at the Provincial Archives of New Brunswick. Considerable time was spent dealing with provincial government employees, the Crown counsel's office and the Ministry of Justice. On 27 November, Corporal Brennan addressed a memorandum to Superintendent Ford Matchim, OIC, Fredericton Subdivision, related to accessing the NBTS records in the Archives.[127] He indicated that he had consulted with Crown counsel William Corby, who was of little help in releasing the records. Mr. Corby took the same position as the staff at the Archives: the RCMP did not have legal access unless they had the consent of the subject identified with the file. Corporal Brennan countered by pointing out to Mr. Corby that Section 45.2 of the *Young Offenders Act* authorized access to the records with the provision of a letter or notice to the Archives.[128] This wrangling over access continued through December 1991.

In his Continuation Report dated 28 November 1991, Corporal Brennan wrote that 85 former students at the NBTS had been interviewed, including *Messrs. Seymour*, *Leblanc* and *O'Connor* (the original complainants to David Forbes). The RCMP was at the time attempting to locate 45 other subjects, 20 of whom resided outside of New Brunswick. The interviews conducted indicated a one to five victim ratio (i.e., for every five victims interviewed, only one admitted to being assaulted). Corporal Brennan believed this figure was distorted by two factors: the reluctance of victims to disclose and the fact that those interviewed included names provided through random samplings and other sources.[129]

In December 1991, Sergeant Lockhart was forwarded a memorandum from CROPS requesting that he or Corporal Brennan contact the province's Assistant Director of Public Prosecutions, Mary Beth Beaton.[130] The Acting CROPS Officer, Inspector Rod Smith, met with Paul LeBreton and Bob Murray; they determined that Ms. Beaton would prepare an application for a court order to access the NBTS records from the Archives.[131] Corporal Brennan made arrangements to meet with Ms. Beaton to prepare the documentation.[132]

He wanted to be able to research the NBTS records, obtain and compile a list of the names of residents, and bring the lists back to the GIS office. Once there, the names would be given a Tip number and a file coordinator would assign the Tips to members to try and interview as many former residents as possible. The officers were to put as much effort as possible into finding and interviewing the residents, even if it involved extensive travel outside the province or country.[133]

In Corporal Brennan's affidavit in support of the court order application, dated 10 January 1992, he said that without the Archives records, "it [would] be impossible to conduct a full and proper investigation."[134] His affidavit also highlighted the status of the investigation in January 1992. Corporal Brennan described himself as the "chief investigating officer," indicating that he had personally interviewed approximately 50 former NBTS residents and that a total of 100 interviews had been conducted by other RCMP officers. As far as he was concerned, he had reasonable and probable grounds to charge Mr. Toft with sexual offences and he intended to charge him.[135]

Ms. Beaton, now retired, advised the CPC in her interview on 22 January 2007 that she did not feel any particular anxiety in going to court to get the order. She wondered whether the court would say that they had to serve notice on each victim. However, Judge Cockburn waived the notice requirement.[136] On 13 February 1992, he delivered his written ruling, granting access to all NBTS records at the Provincial Archives for the years 1965 to 1986.[137] On 18 February 1992, Sergeant Lockhart assigned Constables James McAnany and Lise Roussel to search the records and prepare the list of names. Superintendent Matchim sent a letter to the Provincial Archivist, Marion Beyea, on 18 February 1992, indicating that the Constables had been designated to inspect the records.[138]

6.1.16 Judgment in Court

In his Investigation Report of 19 February 1992, Corporal Brennan stated that a draft copy of the court brief, including all evidence and victims identified to date, had been prepared for a discussion with Crown counsel William Corby on 21 February.[139] He concluded a 21 February 1992 Continuation Report by stating: "It is my understanding that Csts. McANANY and ROUSSELL have a random sampling near completion and will be embarking on these interviews in the very near future. Investigation continuing."[140]

On 10 March 1992, the day that the preliminary hearing for the FPF charges against Mr. Toft commenced, Corporal Brennan met with Mr. Corby. He was advised that the RCMP charges would be laid the next day[141] and that the Crown would be proceeding by "[i]ndictment."[142] Later that afternoon, Corporal Brennan attended the court proceedings and said in his report that the FPF witnesses were doing well.[143]

Corporal Brennan submitted a memorandum to the NCO i/c of Contract Policing Services dated 10 March 1992,[144] in which he presented information about physical assaults committed by guards other than Mr. Toft, thereby adding a new dimension to the investigation:

> Allegations of physical and sexual abuse by suspects, Weldon 'Bud' RAYMOND, Joseph Hector DUGUAY and (FNU) ROBICHAUD are documented and believed reliable. Charges are anticipated against subjects RAYMOND and DUGUAY …. Our plan of action is to remain focused on Karl TOFT and then proceed directly to the other suspects aforementioned. The remaining interviews (approx. 175) may surface further information or disclosures. …
>
> [A]ll complaints of physical abuse have been noted and will be examined at the conclusion of the sexual abuse portion of the investigation. … Blatant abuse of authority in relation to physical abuse that can be corroborated will receive our full attention.[145]

Corporal Brennan spent 11 March 1992 at court. He swore to an *Information* (a document that provides details of charges) containing 12 counts against Mr. Toft. Mr. Corby announced that he had no intention of conducting another preliminary hearing on the RCMP charges, implying that he was going to demand that Mr. Toft's lawyer waive a preliminary hearing on the *Information* Corporal Brennan had laid that morning.[146]

Mr. Corby then analyzed Corporal Brennan's investigation to determine if there was enough convincing, relevant and credible evidence to satisfy the requirement that "a finding of guilt is more likely than an acquittal." In doing so, he found that there was a reasonable prospect of a conviction and approved that charges be laid against Mr. Toft. Mr. Toft entered pleas of guilty to most counts in the indictment, including those investigated by Corporal Brennan, in October of 1991.

The CPC interviewed Mr. Corby on 24 January 2007 in his office in the Court House in Fredericton. (Mr. Corby was appointed Regional Crown in 1988.) He first became aware of the incidents at the NBTS when Constable Reilly commenced his investigation in June 1991. He was responsible for approving the RCMP's charges against Mr. Toft, and wanted to deal with a workable number of charges, so he distinguished between minor touching and serious misconduct. He believed that these charges met the charging standard, that is, a conviction would be more likely than an acquittal. This meant that he believed the investigation to be an adequate one on the part of the RCMP.[147]

6.2 End of Corporal Brennan's Role

Corporal Brennan's 12 March 1992 Investigation Report was his last one before his transfer to Saint John in mid-March. He wrote that he and Mr. Corby discussed the fact that charges were not laid in relation to six victims whose names he had submitted. The decision was made following a meeting between Mr. Corby and Bob Murray, provincial Director of Public Prosecutions, at which it was stated that, given the number of major assaults, all disclosures of a minor nature would not be pursued. This was the same decision made for the FPF investigation. Corporal Brennan wrote that this would not rule out calling as witnesses some of the victims dropped from the brief.[148]

Corporal Brennan stated that there were four investigators working full time in an effort to locate former NBTS residents. There were 200 subjects yet to be interviewed, the majority of whom had been identified as a result of the random sampling taken from the Provincial Archives. Corporal Brennan hoped that, as a result of the remaining interviews, further disclosures would be obtained to support previous allegations against school staff members such as Messrs. Raymond and Duguay.[149]

In regard to Mr. Toft, he wrote:

> On 92-03-13 the accused again appeared before Judge Clendenning at which time a preliminary hearing on the twelve RCMP charges were waived. We will be proceeding to trial directly on these matters. I personally did not attend court on 92-03-13 but spoke to Mr. CORBY later that date to be appraised of court results. At the time of my discussion with Mr. CORBY, I learned that Mr. TOFT has indicated that he is prepared to plead guilty to most of the charges but there are a couple of victims that he indicated were never touched by him. … The investigation is proceeding as planned.[150]

6.3 CPC Interviews

6.3.1 Retired Sergeant Ray Brennan

The CPC interviewed Mr. Brennan at his home in New Brunswick, starting on 10 May 2006. The interview took place over a two-day period. He informed the CPC that, for a number of years, he suffered from memory loss because of certain health issues. The CPC believed that Mr. Brennan made every effort to co-operate and attempted to answer questions to the best of his ability.

Mr. Brennan joined the RCMP in 1975 and retired in 2000. He worked on detachment duties for a number of years, and spent eight years with the GIS. His postings included the Riverview Detachment from 1986 to 1988. He was later transferred to the Organized Crime Unit in Saint John and was stationed there when he was assigned to the NBTS investigation at the end of May 1991.

He confirmed that he became chief investigator for the NBTS and Toft investigations in May 1991. He described himself as "going at it alone" in the investigation, except for some occasional assistance from his Saint John colleague, Constable Ed Paquet, particularly when he was away on leave for the month of July 1991.[151]

He described how he became involved in the investigation:

> I think Tom Spink initially did some interviews on the Kingsclear matter and then it was turned over to me. At that point, I think it had been concluded and was reopened. … They asked me to look into it and they thought it was going to be a short period of time. I eventually worked on it for I think it was anywhere from six to nine months before I had to go back and tend to my own shop. At that point, the investigation was expanding immensely and there was no end in sight. So hence that's the reason I went back to my Organized Crime duties and initially it was just myself doing the investigation and as it progressed, it expanded and more members joined in to track down some of the people, victims that were involved.[152]

He was asked, "What was Zaccardelli's attitude throughout this?" Mr. Brennan responded:

> [H]e was totally supportive of me and my investigation … and he wanted to do a good job … and he wanted a good job done and he was totally supportive of us. …[153]

While Superintendent Matchim was his direct supervisor, Mr. Brennan's first contact, once he was advised that he would be investigating the NBTS, was with Staff Sergeant Fred Fearon.

> I went up to his office in Fredericton and we had a short meeting and he brought to my attention the fact that there had been a media release or something about a victim who went to the media complaining that he had been sexually abused or something, I think physically abused, one or the other, I can't remember and that the media was pressing to see what we were doing … he wanted me to look into it. … I think Tom Spink had done some work but he couldn't stay with it and they asked me to look into it and wrap it up in five days. … I can't remember if Gary McNeill was involved before but I know he came in after.[154]

He was questioned about the role of Sergeant McNeill at this point of the investigation. He indicated during his interview that he had little memory of being engaged in the investigation with Sergeant McNeill in 1991. It was only after he examined a number of documents from that era that he agreed that he must have worked with Sergeant McNeill over a period of several months. He stated that: "He would have just been on the fringes to help …. I was working out of the GIS office and I was still the primary investigator …. I think I was still basically going at it alone."[155]

He provided additional insight into Sergeant McNeill's involvement when he was interviewed on 11 May 2006.

> [A]t the time I was called in, there was a murder that transpired in Oromocto [the Bischoff murder] … and that's why Fredericton GIS were tied up at the time and that's why I don't remember Gary McNeill being involved in it because I guess if he was in charge of GIS at the time, he would have been tied up totally with [the] Bischoff [murder case]. Everybody would have been and I guess it would have kind of trickled back as the case wound down and they became more involved in this investigation.[156]

6.3.2 Retired Assistant Commissioner Ford Matchim

During his interview with the CPC on 9 September 2006, Mr. Matchim provided some insight into how he viewed the investigation:

> I thought we did it … in a right and proper manner, albeit, looking back with the benefit of hindsight, and the magnitude of Toft's offences, over a protracted period of time. … Had I known … it's this big, it's this heavy, it's this critical … certainly, I can look back and say from day one, I would have given it more focus. … I've answered … with the tempo of the time … so as that this thing, this complaint first hit us, flying in from a reporter … perception at my level was that the "powers that be" are spooking a bit … because … this sex offence. … And then at the bottom level I'm getting the raw direct feed from people … investigators that I trusted … telling me … this is basically light-weight bullshit … so, with that early feed of information and the subsequent information … I didn't get good information at the first level. Which resulted in maybe not as thorough of focus and of directive focus … that it would have [been] given otherwise … I think this speaks for itself.[157]

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1 Continuation Report, Cpl. Brennan, 30 May 1991.

2 Ibid.

3 Ibid.

4 Transcripts, CPC interview of R. Brennan, 11 May 2006, pp. 124, 127–128.

5 Continuation Report, Cpl. Brennan, 3 June 1991.

6 Ibid.

7 Ibid.

8 Ibid.

9 Continuation Report, Cpl. Brennan, 4 June 1991; 10 June 1991.

10 Ibid.

11 Continuation Report, Cpl Brennan, 4 June 1991.

12 Continuation Report, Cpl. Brennan, 10 June 1991.

13 Ibid.

14 Ibid.

15 Report and Materials on Karl Toft Matter prepared by G. Garneau, 28 March 1991.

16 Continuation Report, Cpl. Brennan, 10 June 1991.

17 Ibid.

18 Ibid.

19 Continuation Report, Cpl. Brennan, 11 June 1991.

20 Continuation Report, Cpl. Brennan, 12 June 1991.

21 Ibid.

22 Continuation Report, Cpl. Brennan, 19 June 1991.

23 Ibid.

24 Investigation Report, Cpl. Brennan, 12 June 1991.

25 Continuation Report, Cpl. Brennan, 24 June 1991.

26 Investigation Reports, Cpl. Brennan, 12 June 1991; 26 June 1991.

27 Investigation Report, Cpl. Brennan, 26 June 1991.

[28] Ibid.
[29] Continuation Report, Cpl. Brennan, 28 June 1991.
[30] Miller Inquiry, Testimony of Cst. Reilly, 30 August 1994, p. 7657.
[31] Ibid., p. 7660.
[32] Miller Inquiry Report, 17 February 1995, pp. 36–37.
[33] Continuation Report, Cst. Paquet, 4 July 1991.
[34] Continuation Report, Cst. Paquet, 4 July 1991; 10 July 1991.
[35] Continuation Report, Cst. Paquet, 9 July 1991.
[36] Ibid.
[37] Witness statement of *F. Dubois* taken by Cst. Currie, 9 July 1991.
[38] Letter to Cst. Paquet from Cst. Currie and Cpl. Harrington, 9 July 1991.
[39] Continuation Report, Cst. Paquet, 19 July 1991.
[40] Police Report, Det. Kelly, 16 July 1991.
[41] Miller Inquiry, Testimony of Cst. Reilly, 30 August 1994, pp. 7665–7666.
[42] Continuation Report, Cst. Paquet, 16 July 1991.
[43] Miller Inquiry, Testimony of Cst. Reilly, 30 August 1994, pp. 7668–7669.
[44] Transcripts, CPC interview of E. Paquet, 25 October 2006, p. 28.
[45] Ibid., p. 27–28.
[46] Continuation Report, Cst. Paquet, 16 July 1991.
[47] Ibid.
[48] Investigation Report, Cpl. Johncox and S/Sgt. E.L.B., 29 July 1991.
[49] Ibid.
[50] Continuation Report, R. Brennan, 30 July 1991.
[51] Ibid.
[52] Continuation Report, R. Brennan, 31 July 1991.
[53] Ibid.
[54] Police Report, Det. Kelly, 31 July 1991.
[55] Ibid.
[56] Continuation Report, Cpl. Brennan, 1 August 1991; 2 August 1991.
[57] Continuation Report, Cpl. Brennan, 2 August 1991.
[58] Investigation Report, Cpl. Brennan, 2 August 1991; Continuation Report, Cpl. Brennan, 6 August 1991.
[59] Investigation Report, Cpl. Brennan, 2 August 1991.
[60] Ibid.
[61] Ibid.
[62] Ibid.
[63] Transit Slip to Cst. Currie from Cpl. Brennan, 7 August 1991.
[64] Ibid.
[65] Transit Slip to Cst. Hickey from Cpl. Brennan, 7 August 1991.
[66] Continuation Report, Cpl. Brennan, 12 August 1991.
[67] Ibid.
[68] Ibid.
[69] Continuation Report, Cpl. Brennan, 13 August 1991.

[70] Ibid.
[71] Ibid.
[72] Ibid.
[73] Continuation Report, Cpl. Brennan, 14 August 1991.
[74] Ibid.
[75] Ibid.
[76] Persons Report, Cpl. Brennan, 14 August 1991.
[77] Miller Inquiry, Testimony of Cst. Reilly, 30 August 1994, p. 7674.
[78] Police Report, Det. Kelly, 15 August 1991.
[79] Ibid.
[80] Police Report, Det. Kelly, 16 August 1991.
[81] Continuation Report, Cpl. Brennan, 15 August 1991.
[82] Continuation Report, Cpl. Brennan, 16 August 1991.
[83] Continuation Report, Cpl. Brennan, 19 August 1991.
[84] Police Report, Det. Kelly, 16 August 1991.
[85] Continuation Report, Cpl. Brennan, 22 August 1991.
[86] Investigation Report, Cpl. Brennan and Sgt. McNeill, 31 August 1991.
[87] Continuation Report, Cpl. Brennan, 20 August 1991.
[88] Ibid.
[89] Ibid.
[90] Ibid.
[91] Ibid.
[92] Transcripts, CPC interview of Cpl. Brennan, 10 May 2006, pp. 21–22.
[93] Ibid., p. 39.
[94] Ibid., p. 45.
[95] Ibid., p. 56.
[96] Ibid., pp. 65–66.
[97] Continuation Report, Cpl. Brennan, 21 August 1991.
[98] Continuation Report, Cpl. Brennan, 21 August 1991; Witness statement of *D. Belleville* taken by Cpl. Brennan, 21 August 1991; Witness statement of *J. Dorais* taken by Cpl. Brennan, 21 August 1991.
[99] Continuation Report, Cpl. Brennan, 21 August 1991.
[100] Continuation Report, Cpl. Brennan, 27 August 1991; 17 September 1991.
[101] Continuation Report, Cpl. Brennan, 17 September 1991.
[102] Continuation Report, Cpl. Brennan, 28 August 1991.
[103] Ibid.
[104] Ibid.
[105] Ibid.
[106] Continuation Report, Cpl. Brennan, 29 August 1991.
[107] Witness statement of *F. Dubois* taken by Cst. Currie, 30 August 1991; Witness statement of *R. Lariviere* taken by Cst. Hickey, 22 August 1991.
[108] Investigation Report, Cpl. Brennan and Sgt. McNeill, 27 September 1991.
[109] Continuation Report, Cpl. Brennan, 15 August 1991.
[110] Ibid.

[111] Investigation Report, Cpl. Brennan and Sgt. McNeill, 27 September 1991.
[112] Continuation Report, Cst. Legge, 2 October 1991.
[113] Transcripts, CPC interview of S/Sgt. Legge, 18 September 2006, pp. 10, 75.
[114] Ibid., p. 39.
[115] Ibid., p. 70.
[116] Ibid., p. 82.
[117] Ibid., p. 87.
[118] Ibid., p. 86.
[119] Ibid., p. 80.
[120] CPIC Message, Cpl. Brennan, 11 October 1991.
[121] Investigation Report, Cpl. Brennan and Sgt. McNeill, 29 October 1991.
[122] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, p. 316.
[123] Continuation Report, Cpl. Lockhart, 25 November 1991.
[124] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, pp. 318–319.
[125] Ibid., p. 323.
[126] Ibid., p. 320.
[127] Memorandum to Supt. Matchim from Cpl. Brennan, 27 November 1991.
[128] Ibid.
[129] Investigation Report, Cpl. Brennan and Cpl. Lockhart, 28 November 1991.
[130] Transit Slip to Supt. Matchim from Insp. Smith, 18 December 1991.
[131] Transit Slip to File from Insp. Smith, 18 December 1991.
[132] Continuation Report, Cpl. Brennan, 31 December 1991.
[133] Transcripts, CPC interview of Sgt. Lockhart, 24, 25 November 2006, pp. 329–332.
[134] Affidavit of Cpl. Brennan, 10 January 1992.
[135] Ibid.
[136] CPC interview notes of M. B. Beaton, 22 January 2007.
[137] Order of Judge Cockburn, 13 February 1992.
[138] Letter to M. Beyea from Supt. Matchim and Cpl. Brennan, 18 February 1992.
[139] Investigation Report, Cpl. Brennan and Sgt. Lockhart, 21 February 1992.
[140] Ibid.
[141] Continuation Report, Cpl. Brennan, 10 March 1992.
[142] Ibid.
[143] Ibid.
[144] Memorandum to NCO i/c Contract Policing Services from Cpl. Brennan and Sgt. Lockhart, 10 March 1992.
[145] Ibid.
[146] Continuation Report, Cpl. Brennan, 11 March 1992.
[147] Transcripts, CPC interview of B. Corby, 24 January 2007, pp. 2, 5, 12, 29.
[148] Investigation Report, Cpl. Brennan and Sgt. Lockhart, 12 March 1992.
[149] Ibid.
[150] Ibid.
[151] Transcripts, CPC interview of R. Brennan, 10–11 May 2006, pp. 37, 40.
[152] Ibid., pp. 2–3.

153 Ibid., p. 23.

154 Ibid., pp. 9–10.

155 Ibid., p. 37.

156 Ibid., pp. 109–110.

157 Transcripts, CPC interview of F. Matchim, 9 September 2006, pp. 53–54.

7. Investigation by Sergeant Doug Lockhart (1992–1994)

The RCMP continued to investigate Karl Toft and the New Brunswick Training School (NBTS) even after Mr. Toft's formal committal to stand trial on a number of counts in mid-March 1992. Throughout the portion of the investigation covered in this chapter, the Non-commissioned Officer (NCO) responsible for the day-to-day operations of the investigation was Sergeant Doug Lockhart. He was promoted to NCO i/c of the Fredericton General Investigation Section (GIS) in November 1991. Constable James McAnany was assigned as the File Coordinator.[1]

The members of the investigation team changed throughout the period under review, based on promotions and transfers, but generally comprised the following officers: Constables James McAnany, Lise Roussel, and Ed Paquet and Corporal Ken Legge. Corporal Chuck Orem and Constables Pat Cole, Denise Potvin, Rick Potvin, Shaun Ryan and Rick Evans assisted in reviewing the files.

The senior officers at the time were Chief Superintendent Herman Beaulac, the Commanding Officer (CO) of "J" Division; Superintendent Ford Matchim, the Officer-in-Charge (OIC) of Fredericton Subdivision; Superintendent Giuliano Zaccardelli, the Criminal Operations (CROPS) Officer, and Inspector Mike Connolly, the Assistant Officer-in-Charge (OIC) CROPS, who arrived in October 1992 and often acted in Superintendent Zaccardelli's position. The CPC interviewed all of these officers.

7.1 Overview of the Investigation

7.1.1 Investigation Team Begins

On 6 April 1992, Sergeant Lockhart endorsed a report prepared by Constable Roussel in which she indicated that a four-member team was working on the NBTS investigation. Forty-nine persons had been interviewed and four new victims were discovered. The goal of the investigators was to interview 100 residents who had been at the school from 1965 to 1983 and ascertain whether they had been victims of sexual or physical assaults at the school. Court briefs were to be prepared for the new victims.

Constable Roussel prepared court briefs regarding five more charges against Mr. Toft and presented them to Crown counsel William Corby for consideration in April 1992. Mr. Corby had just completed the preliminary inquiry for Mr. Toft, obtained a committal to stand trial in the Court of Queen's Bench and prepared the indictment. He advised the officers that he was not going to accept the new charges because he felt that the indictment contained sufficient counts. He suggested that if Mr. Toft decided to proceed to trial on the indictment, he would consider using the five additional charges as "similar fact evidence."[2]

As Sergeant Lockhart explained during his interview with the CPC on 24 and 25 November 2006:

> The investigation was branching out. … We wanted to discuss it with the Crown and the OC that it's got to branch out. Now, we've got to start including not just Toft but who were others within the YTC [Youth Training Centre], and this is the directive I think right from the CROPS Officer that they wanted to branch out and include

> anybody and everybody that was within the YTC program as guards, personnel—all personnel—to see if there was any other sort of victimization …. might have been assault, beatings …. that type of thing. And we did and we went on from there and never stopped. It got bigger. It was getting even bigger then because we weren't just concentrating on Toft anymore. It was a big file …. They went on and other guards were charged.[3]

On 5 May 1992, Sergeant Lockhart reported in a memorandum to Contract Policing Services that 110 former residents had been interviewed about Mr. Toft and that the investigation into other guards was commencing.[4] By mid-June 1992, investigators had interviewed Weldon (Bud) Raymond and Hector Duguay, both suspects at the time.[5] By 9 July 1992, court briefs had been prepared and presented to the Crown counsel's office for the two men.[6] However, by November 1992, Crown counsel Hilary Drain agreed that the RCMP would delay laying charges against Messrs. Raymond and Duguay, pending the ongoing investigation of other NBTS guards and staff members.[7]

7.1.2 Provincial Archives of New Brunswick

On 10 November 1992, a GIS meeting took place with Superintendent Zaccardelli. They discussed applying for another court order to permit access to the NBTS records at the Provincial Archives. Superintendent Zaccardelli recommended that a sample of 100 residents be accomplished, similar to what was completed in February 1992.[8] The object of the random sampling this time would be other NBTS guards and staff members, including Mr. Raymond and Mr. Duguay. Investigators would concentrate on investigating allegations against these other staff members, with special emphasis on those who had been suspended from the NBTS and who may have physically assaulted residents.

At the weekly GIS section meeting on 30 November 1992, two decisions were announced: Constable McAnany would prepare another application for a court order granting further access to more NBTS records at the Archives, and his colleagues would continue to investigate other guards and staff at the school, focusing in particular on suspended staff members.[9] As Constable McAnany wrote in a subsequent report, the GIS had been tasked "with investigating all present-day reported cases of abuse in view of the (then) expected Public Inquiry [Miller Inquiry] to be called into the government's response and handling of complaints against former Correctional Officer, Karl Toft."[10] The application for the court order was intended to provide more names of former residents and potential victims through a sampling of the archived NBTS records.

A CROPS meeting of 8 December 1992 disclosed that Constable McAnany was to submit his affidavit in support of the archives application to the provincial Assistant Director of Public Prosecutions, Mary Beth Beaton. The investigators were seeking NBTS records related to Messrs. Raymond and Duguay and any other adult connected as an employee or visitor to the school. Meeting attendees also learned that *Randall James Cranshaw* discussed the abuse he had suffered with a reporter from the *Daily Gleaner*. They also heard that they were still receiving, documenting and investigating complaints from former residents about Mr. Toft.[11]

7.1.3 Sentencing of Karl Toft

On 4 December 1992, Mr. Toft was sentenced by Mr. Justice David H. Russell to 13 years following his conviction on 34 counts—11 counts for sexual assault, 11 for buggery, and 12 for indecent assault—involving 18 victims, all of whom had been at the NBTS between the years 1966 and 1986. Constable McAnany attended Mr. Toft's sentencing hearing in the Court of Queen's Bench and took notes of the proceedings.[12]

When asked by the CPC about his and the other investigators' reactions to the verdict, Sergeant Lockhart said:

> Well, 13 years in penitentiary is a long time. But … considering what he did, the lives that were destroyed … it could have probably been far more severe. But … I think the members in general … were kind of that attitude, like, "how long do you give someone [like] that? And, should he ever be allowed back out into the community?" So, I think a lot of people thought that he'd get like 20 years, maybe life. … Or some guys were really uptight about sentencing … but generally speaking, the more senior members realized that it's totally out of our hands and we wouldn't say anything publicly for sure … I think … most of them felt that he deserved a very, very long time.[13]

7.1.4 Investigation Plan

At a CROPS and GIS meeting on 15 January 1993, the officers discussed the plan for the new year, which involved continuing the investigation of potential physical assaults by guards at the NBTS. The team was also informed that the application for access to NBTS files at the Provincial Archives was being prepared; it would enable a sampling of former residents who may have come in contact with Messrs. Toft, Raymond, Duguay and "others presently being investigated." The investigators intended to contact each resident, then interview the NBTS superintendents. Constable Rick Evans was close to preparing a report on the overall investigation.[14]

On 2 February 1993, Judge Cockburn granted a second application to access NBTS records at the Archives based on an affidavit by Constable McAnany.[15] This resulted in Constables Potvin and Ryan going to the Archives between 15 and 18 February 1993 and searching the records for residents who had had contact with Mr. Raymond and Mr. Duguay, among others.[16] They prepared a Victim Profile form for the names of the former NBTS residents that were of interest to them. By 22 February, the search had resulted in another 100 names related to suspects Messrs. Duguay and Raymond. Officers Orem, Cole, Ryan and Potvin then set about locating and interviewing the former residents.

By 12 March 1993, with respect to Messrs. Duguay and Raymond, the investigators had spoken with 20 former residents, learned that 9 former residents had died, and made inquiries with out-of-province detachments regarding another 40 possible victims.[17]

By 23 April 1993, the archive searches had resulted in 103 names of former residents. Thirty-two Tips were outstanding, 16 in the province and 16 outside the province. Four victims were willing to testify against Mr. Duguay, resulting in five charges. Seven victims were prepared to give court testimony against Mr. Raymond, resulting in seven charges. The officers were also able to discover 20 additional alleged victims of Mr. Toft. Constable Cole would be investigating the 120 Tips remaining from the original Toft investigation.[18]

Constable McAnany prepared an investigation report dated 4 June 1993 in which he referred to a third batch of orders being granted by the Court to access NBTS records at the Archives. He had requested the orders to obtain records pertaining to the investigation of specific past and current NBTS guards and staff, other than Messrs. Raymond and Duguay. He indicated that seven sex-related charges were to be laid the following week against Mr. Raymond. Crown counsel Hilary Drain was assigned to assist in preparing the affidavit and to conduct the hearing before the Court.[19]

It was reported at the weekly GIS meeting on 21 June 1993 that the investigation team was going to emphasize the investigation of those NBTS staff members who had been suspended by the Corrections Department, pending the outcome of the RCMP inquiries.[20]

In his report of 29 July 1993, Constable McAnany wrote that Mr. Duguay was committed to stand trial on his charges, although he was still under investigation for two other sexual assaults that had been recently reported. In the same report, he noted that 30 alleged victims of sexual assault by Mr. Toft had come forward since his sentencing on 4 December 1992, including *Randall James Cranshaw*.[21]

Minutes from the weekly GIS meeting on 9 August 1993 indicated that Constables McAnany and Roussel were reviewing the court briefs on the additional charges against Mr. Toft. They intended to give them to Inspector Connolly, the Acting CROPS Officer, who would present them to Robert Murray, the provincial Director of Public Prosecutions.[22]

Constable McAnany's Continuation Reports for the month of August 1993, particularly 9 and 16 August, indicate that he was actively investigating the allegations made by *Mr. Cranshaw*.

7.1.5 Conclusion of Toft Investigation

By September 1993, Sergeant Lockhart's section was in a position to recommend that a number of additional charges be laid against Mr. Toft. However, on 13 September 1993, the RCMP received a letter from the provincial Director of Public Prosecutions, Mr. Murray, indicating that his department was not going to agree to any further charges being laid against Toft. He listed a number of reasons for the decision and, in the end, indicated that it was based on the sentencing principles.[23] Sergeant Lockhart wrote a report that was submitted to the OC Fredericton Subdivision, Superintendent Wayne Wawryk and OIC CROPS Officer, Inspector Connolly, on 17 September 1993, objecting to the position taken by the Department of Justice and insisting, for the sake of the victims, that charges proceed.[24] At the interview with the CPC, Sergeant Lockhart said:

> I remember it—well, all of the general membership was saying, "Well, what's the sense in doing all this work and then it's just going to be stayed." … these victims have a voice too. … [T]hey needed to see that justice was done as well … and most of them were very upset.[25]

Sergeant Lockhart concluded his report by adding that "it would be an injustice to now tell the victims that charges will not proceed."[26]

At the 30 September weekly GIS meeting, Sergeant Lockhart reported news from Inspector Connolly, saying that the Crown would entertain laying additional charges against Mr. Toft but also that the Attorney General might stay them. Those present at the meeting expressed concern about this stance and insisted that charges proceed to trial.[27]

Sergeant Lockhart was informed by Inspector Connolly that Glen Abbott would be assigned as Crown counsel to review the briefs for the new charges against Mr. Toft. He indicated at the weekly GIS meeting on 4 October that Constable McAnany, the file coordinator, would be meeting with Mr. Abbott on 6 October 1993 to discuss the court briefs. A decision had been made that no charges would be laid against former NBTS staff members *Patrick Tomomsky*, *Taylor Roberts*, *Jean Bedard* and *Simon Williamson* because it was felt that there was no reasonable prospect of a conviction. The investigation into *Brad Finlayson* and *Gerald Belanger* was continuing, but it was not expected that any charges would be laid[28] because of the *Criminal Code*, Part 27, which specified that a summary conviction proceeding cannot be initiated more than six months after the offence has taken place.

Constable McAnany met with Mr. Abbott to review the briefs on new charges against Mr. Toft on 6 October 1993. He made several pages of notes of the questions and issues that bothered Mr. Abbott after reading the briefs. Mr. Abbott had questions concerning the charges related to *Mr. Cranshaw*, who was also alleged to have been assaulted by Mr. Raymond, and asked Constable McAnany to look into *Mr. Cranshaw's* medical history.[29]

Following a review of the Toft files, Mr. Abbott directed the RCMP to re-interview 26 victims and witnesses. Sergeant Lockhart made the announcement at the weekly GIS meeting on 14 October 1993.[30] The GIS team agreed to do this and management complied with a request for additional investigators.[31] On 21 October 1993, the investigators reconvened after having complied with Mr. Abbott's request for additional investigation and information.[32] Sergeant Lockhart met with Mr. Abbott the next day; the officers felt that they could support 15 sex-related charges against Mr. Toft, now involving 13 victims. Mr. Abbott agreed.[33] Constable McAnany swore to the new *Information* (a document that provides details of charges) against Mr. Toft that same afternoon.[34]

On 25 October 1993, Mr. Abbott wrote to inform Sergeant Lockhart that the additional charges had been laid against Mr. Toft on 22 October 1993.[35] However, on 29 October, Attorney General Edmond Blanchard directed Mr. Abbott to enter a stay of proceedings on the charges.[36] The decision was disappointing news for Sergeant Lockhart's team.[37] The 15-plus victims had to be notified that there was no further recourse for the handling of their complaints. Since there were no other investigations into Mr. Toft to complete, a conclusion file was to be rendered.

On 29 November 1993, Sergeant Lockhart and Constable McAnany reported that the NBTS file had been concluded as far as the GIS team was concerned.[38]

On 8 November 1993, Sergeant Lockhart wrote to the CROPS Officer, Inspector Connolly, that his team would continue to investigate all complaints received concerning abuse at the NBTS. He reported that there were 14 criminal charges that were stayed, which would be diary-dated (i.e., held in abeyance) for 11 months to see if the stay was lifted.[39] There were 11 other offences reported and under investigation at the time of the stay; these would be ready for review and charges being laid should the stay be discontinued.[40] Sergeant Lockhart confirmed to Inspector Connolly that, after the stay of proceedings, they had taken statements from victims and witnesses, but they had not proceeded with another archives search. Inspector Connolly asked that the GIS continue taking statements from all witnesses for filing purposes in case the stay was lifted.

7.1.6 Fourth Court Order

On 15 February 1994, Constable McAnany wrote a report in which he referred to the remaining nine court briefs still outstanding. He expressed the opinion that the files, some of which related to those former residents whose names were discovered in the archive search, did not need much more work. He mentioned that extra work, such as further interviews and the gathering of medical release forms, was done on *Mr. Cranshaw's* complaint. The preliminary hearing for Mr. Raymond, who was alleged to have assaulted *Mr. Cranshaw*, was scheduled for April 1994.[41]

On 29 September 1994, Constable McAnany was able to secure a fourth court order for access to the Provincial Archives. This one was intended to search the records in relation to the investigation of Mr. Raymond.[42] Constable McAnany conducted his search on 4 October 1994, looking for the file on *Mr. Cranshaw*, among other residents.

Constable McAnany attended Mr. Raymond's trials in October and November 1994. The trials took place in Saint John and Fredericton, each of which dealt with charges that allegedly occurred in the respective city. On 26 October 1994 and 21 November 1994, he prepared a Conclusion of Case Reports and indicated that Mr. Raymond was not convicted on any count in the indictments.[43]

Some of the counts on the Fredericton indictment pertained to *Mr. Cranshaw*. Now Sergeant McAnany explained to the CPC that he and Crown counsel Drain decided not to proceed with the counts in which *Mr. Cranshaw* was named as a victim of Mr. Raymond. *Mr. Cranshaw* did not appear on time for his scheduled court appearance to testify against Mr. Raymond.[44] Ms. Drain and Constable McAnany believed that *Mr. ranshaw* had deliberately lied to them and they did not know if they could trust him in front of the jury. *Mr. Cranshaw's* explanation for his late arrival had proved to be false and, since this would have to be disclosed to the defence, it would ultimately affect his credibility. They therefore agreed to withdraw the counts related to *Mr. Cranshaw*.[45]

During his interview with the CPC, Sergeant McAnany said he spoke with *Mr. Cranshaw* many times after 4 November 1992 when *Mr. Cranshaw* had announced that he was ready to provide a statement. He stated that it would have all been documented and he was confident that everything relevant was reported.[46] Sergeant McAnany acknowledged that *Mr. Cranshaw* had a criminal background and that

> he was not believed reliable. He was very good with me … when we met and when we talked; but you could never really be sure of what you were getting from him, I guess. And I was maybe, probably, more than I should have been trying to give him the benefit of the doubt and take him at face value and believe him …. He's difficult to handle. Difficult to control. Difficult to stay focused on the matter at hand, details, exact information and that type of thing, is what I recall of him.

The CPC asked Sergeant McAnany whether he believed *Mr. Cranshaw* when he reported that he had been abused at the NBTS. He stated: "Well, I think I always did …. Likely those abuses did take place. He was a victim."[47]

7.2 The Investigation Team

7.2.1 Sergeant Doug Lockhart

Sergeant Lockhart joined the RCMP in 1973. In October 1988, he was transferred to the GIS in Fredericton as a corporal. He was in the GIS from the early days of the NBTS investigation when Constable Tom Spink was the investigator. He was in the same position, holding the same rank, when Sergeant Gary McNeill and Corporal Ray Brennan were investigating events at the NBTS. He indicated that he "really didn't have anything to do with that file …. Even when Ray was there I still didn't have very much to do with it." He added that the investigators that were in the GIS were still doing other cases "armed robbery or murders or whatever, and it [was] only a four-man unit."[48]

He described the team of investigators in positive terms:

> Most of these members that came into GIS were proven members. But, if you were a kind of ….slack policeman in the field, then you would never get into GIS normally. ... They're looking for people that have an interest in plainclothes duties and more serious criminal investigations. …. Once they're in the section, they're mature enough, responsible enough that they would go do their investigation ….. Usually, pretty credible members go in there.[49]

On 11 May 1994, Sergeant Lockhart was transferred to the Sussex Detachment and ceased to be involved in the investigation. When interviewed by the CPC, he was asked to reflect on the entire investigation from his perspective as the NCO i/c GIS and the investigation team. Regarding the complaints of the potential victims, he stated: "The bottom line is, if they have got a legitimate complaint, … it's got to be properly investigated, just like we did right from the beginning."[50] He stated the fact that some of the alleged victims may have had a criminal record or might be labelled as "persons of bad character" did not detract from the way his investigators dealt with them.[51]

7.2.2 Sergeant James McAnany

Sergeant James McAnany joined the RCMP in June 1979. He joined the GIS at the same time as Sergeant McNeill, who became the NCO i/c GIS while Doug Lockhart was corporal. In early 1992, Sergeant Lockhart appointed him to be the File Coordinator and lead investigator for the NBTS investigation, a position that he held until his transfer in 1994.

Sergeant McAnany told the CPC that the focus of the investigation when he started was Mr. Toft. He was aware that Corporal Brennan was engaged in preparing the material in support of an application to the Court to gain access to the NBTS records housed at the Provincial Archives. His first step once he became engaged in the Toft investigation was to review the investigative files that had been generated to that point in time. He was aware of the Fredericton Police Force (FPF) investigation that commenced in June 1991 as having "really broken it open …. They were the ones that really got the ball rolling on this … Randy Reilly, in particular."[52] He familiarized himself with the role played in the investigation by Constable Ed Paquet.

He found that the investigation was moving very slowly in November and December 1991. He believed that Corporal Brennan, who had been working on the file for some time on his own, needed a lot of help and that "he was nowhere near prepared to lay any charges."[53] He became actively involved on 27 November 1991[54] and worked on the file for the next two years.

After he started, the investigation grew every day. He reported "spen[ding] many long hours in the evenings just trying to keep up. … it seemed that I would go away on Friday and I'd come back on Monday and another box was now there. The thing was just multiplying." He said that his superior officers left the investigators alone to devote their time to the investigation. With respect to resources, he added, "I was quite happy with the attention that was being given to the investigation. I would have liked more, for sure, and there's never enough." The CPC asked if the investigation stalled or lost momentum because of a lack of resources or because his investigators were being pulled off for other investigations. He replied: "No. Absolutely not." He concluded by saying that "Doug [Lockhart] would get in there and get dirty too and Chuck Orem and … they would take on the files and whatever had to be done … and there was a good working relationship amongst us all. It was a good working group. A good task force."[55]

During his interview with the CPC, he agreed with the contents of Sergeant Lockhart's report dated 3 February 1992, and recalled his and Constable Roussel's task at the Archives, namely, to review a "cross-section" of former residents to determine what was needed to advance the investigation. Sergeant Lockhart indicated in his memorandum that "our section is taking over this file on February the thirteenth." He assumed from this comment that Corporal Brennan was going to formally hand over the file to Sergeant Lockhart and his unit. Although Sergeant McAnany could not recall, Corporal Brennan was busy preparing court briefs for Crown counsel William Corby in February 1992 so that the RCMP could lay its charges against Mr. Toft by 13 March 1992.[56]

In early February 1992, he interviewed several potential victims and former NBTS residents and outstanding Tips that had not been dealt with by Corporal Brennan. He was given a copy of Judge G. William N. Cockburn's order granting the RCMP access to the NBTS records at the Archives shortly after 13 February[57] and started searching the records with Constable Roussel on 18 February 1992.

He agreed that the archived records were being examined to conduct a random sampling of residents confined to the NBTS between 1965 and 1986, that they set an initial goal of 100 names, and that they were attempting to identify the magnitude of the "abuse" problem. He would open a Tip File on each of the names to keep a record of everything that was done in relation to them, and the investigators would try to locate that person. They would conduct an initial interview over the telephone and make an appointment for an interview to verify whether the person had any knowledge of allegations of abuse at the NBTS. Next, they would try to obtain a written statement and ascertain if that person knew the name of other former NBTS residents. An ancillary purpose was to confirm the exact dates of when the former resident entered and left the NBTS in order to satisfy the temporal jurisdiction requirements for a future *Information*, the legal document used in provincial court to outline the charges.[58]

He confirmed to the CPC a report, dated 21 February 1992, in which Corporal Brennan stated that the court briefs for the Toft charges had been submitted to Mr. Corby and that Constables McAnany and Roussel had nearly completed the random sample at the Provincial Archives and would start interviews in the near future.[59] He advised the CPC that, for every individual whose name they retrieved from the Provincial Archives, he and his colleagues would write a Persons Report, the information from which would later be entered into the RCMP's Police Information Retrieval System (PIRS).[60]

This exercise assisted investigators in tracking former residents and in determining with what Tip they were associated, thereby minimizing the duplication of Tips.[61] The Persons Reports would be continuously updated as new information came to their attention. An actual file folder was prepared for each Tip as well. He said that "every one of us was clearly tasked to update the information as [we] received it …". He and his GIS colleagues relied on the accuracy of the information contained in the Persons Reports. He and Constable Roussel would also use a Victim's Profile Form to record the names and details of the former residents, together with the archives' reference code.[62]

He gave other potential suspects a separate RCMP file number. This was done to avoid confusing the files of the suspects and the Tips within it. He and his colleagues used an Occurrence Log to record "occurrences," documenting the Tip numbers as information about a potential victim was gathered. When a Tip file was assigned, the officer's name was also recorded in the Occurrence Log. When locating and interviewing potential victims, he recorded his efforts on a daily basis in his Continuation Reports or Daily Logs, just as Corporal Brennan had. [63]

He explained the methods employed to find former residents to interview as,

> your imagination was the limit. Whatever you could come up with insofar as a means or a way to get to an individual or to have him … identified where we could speak to him or where we could find him … as long as it was legal, moral and ethical, we did it![64]

The CPC asked him to explain the minutes for the 6 April 1992 weekly section meeting, which stated that the Toft file was completed and that the officers present were going to turn their attention to investigating allegations of physical and sexual assault by other guards and staff members at the school. Sergeant McAnany stated that the comment did not mean that the Toft investigation was concluded. He added that no complainant would ever be turned away.[65]

When shown by the CPC a reference to "budget cuts" within the RCMP in the minutes of the weekly section meeting of 4 May 1992, he stated that he did not feel the effects of the proposed budget cuts

> because the job was going to get done one way or the other …. I assume [here] we're probably talking here of overtime and paid overtime and that wasn't going to be an issue with us. We all knew what we had to do and it was going to get done regardless. [66]

He added that there was no issue about the cost of travel in order for the investigators to interview witnesses and former residents.

By 9 July 1992, the court briefs for the charges against Messrs. Duguay and Raymond had been prepared.[67] Constable McAnany was the File Coordinator for both these files as well as the lead investigator. On 18 September 1992, he and Sergeant Lockhart wrote a message to CROPS stating that Mr. Corby was going to delay bringing the charges against Messrs. Raymond and Duguay to court until after the Toft trial.[68]

Constable McAnany was transferred in the fall of 1994 to the CROPS Office as a reader. From then on, he had only sporadic contact with the investigation. He answered some inquiries in 1995 and again in 1996. On 5 December 1996, he prepared a report on a telephone call he received from *Brad Lewis*, who complained of being assaulted by Mr. Toft when he was a resident at the NBTS.

7.2.3 Retired Inspector Chuck Orem

Chuck Orem joined the RCMP in 1975 and was transferred to the Fredericton GIS in June 1992 holding the rank of corporal. The first event of note in which he was involved in the investigation occurred on 31 July 1992 when he participated in an audiotaped statement taken from Mr. Duguay.

Throughout the remainder of 1992 and into 1993, Corporal Orem attended many of the updates on the NBTS and Toft investigation at the weekly GIS meetings. He was also conducting the investigation of *Jean Bedard*. On 30 October 1992, he started making inquiries into allegations against *Mr. Bedard* of physical assault based on a statement from former resident *Neil Graham*. He saw the investigation through to its conclusion in September 1993 when Crown counsel Ron Leblanc decided not to approve the charges.[69]

On 26 July 1993, Corporal Orem was tasked with preparing the materials to support another application to gain access to the NBTS files at the Provincial Archives for four individuals who were former residents and possibly victims of assault.[70]

After Crown counsel Glen Abbott asked the RCMP to re-interview 26 witnesses, Corporal Orem obtained witness statements from several witnesses in October 1993. This was done to prepare the Crown counsel for deciding whether to lay additional charges against Mr. Toft. Three court packages were prepared for Crown review on alleged victims, *Tim Patterson, Joshua Simpson* and a *Mr. McNeil*. Mr. Orem told the CPC during his interview on 10 August 2006 that, if the Crown counsel refused to approve the additional charges against Mr. Toft, the team was going to lay them anyway. The team even discussed retaining its own counsel for a private prosecution. He was disappointed when the Crown counsel decided to stay the new Toft charges and concluded the interview by saying that, after the charges were stayed on 29 October 1993, they wrapped up the NBTS investigation and moved on.[71]

7.2.4 Sergeant Lise Roussel

Sergeant Lise Roussel joined the RCMP in 1978 and was transferred to “J” Division in 1984. In February 1992, she was transferred to the GIS in Fredericton to replace Corporal Ken Legge for seven or eight months and became involved in the investigation. At the time of the investigation she held the rank of constable.

Shortly after her arrival, Sergeant Lockhart sent Constable Roussel to the Provincial Archives along with Constable McAnany to conduct a random search of the NBTS records housed there. Starting on 18 February 1992, she and Constable McAnany[72] looked in the NBTS files for “the children that had no parents because we thought they would be the … easiest targets. Or people that … came from … difficult background …. We kind of analyzed who we picked.” They listed the names of the residents, prepared a “card” for each one and then tried to locate the potential victims. A “Tip number” was given to each name and a Tip file opened. Persons Reports and a Victim Profile Form were generated as well as a Contact Log Sheet.[73]

Constable Roussel spent 80 percent of her time on the investigation “unless there was something of an emergency nature that would happen, like a suspected murder or sexual assault somewhere else, but I was probably the main reporter because the other people had other court commitments.” She attempted to be as careful as possible when recording the information at the Provincial Archives and transposing it to the various police forms.[74]

In her interview with the CPC on 9 November 2006, she explained the various methods she would use to obtain an address for the former residents, describing methods similar to those depicted by Constable McAnany. She indicated that she made every reasonable effort to locate the former residents and, once the person was found, made every effort to interview them. When, “through some of the interviews, … other names would come up and I would call these other people as well …. Regardless, if they had been part of our random search.” She knew that Sergeant Lockhart and her colleagues were relying on her records to be accurate and she “knew the file was going to be thoroughly reviewed at some point. So it had to be accurate.”[75]

In her 6 April 1992 Investigation Report, she stated that 49 individuals had been located and interviewed, and that, out of that number, they had identified four new victims for which court briefs would be prepared. The objective was to interview 100 former residents who were at NBTS between 1965 and 1983,[76] a goal set by the CROPS Officer, Inspector Mike Connolly.

The court briefs were submitted to Mr. Corby for approval. Mr. Corby decided not to add the five additional charges to the Toft indictment, preferring to hold them in case he needed them for the trial as "similar fact evidence."[77]

On 12 June 1992, Constable Roussel was transferred back to her former detachment in Minto, New Brunswick. As she informed the CPC, she left with some regret since "I absolutely loved doing this because I thought we were progressing very well. For me to go back to Minto was a big setback. … I would [have] wanted to continue but I was not allowed because he came back, Kenny Legge."[78]

She returned to the Fredericton GIS on 5 April 1993. Upon her return to GIS, the NBTS investigation was not her only one. She advised the CPC that the focus of the investigation had switched: "the onus was switched to other people. Not Toft, other guards and then McCann." She said that Mr. Raymond was a suspect and remembered going to interview other employees. "Like the matter was so hush hush. Like former employees never spoke about it. … Like it was a taboo topic of what happened in between four walls stays between four walls."[79]

On 23 April 1993, she was assigned the Tips of Constable Shaun Ryan while he was working on the *Patrick Tomomsky* file.[80] *Mr. Tomomsky* was a former NBTS employee. For the investigation of these Tips, she followed the same pattern as she had in 1992; she tried to find and interview former residents assigned to her and then generated Persons Reports and Continuation Reports.[81]

In October 1993, she was aware that there was an issue between Inspector Connolly and the provincial Director of Public Prosecutions about whether to lay additional charges against Mr. Toft. When the stay of proceedings was entered on 29 October 1993, she and her colleagues were not in agreement. She left Fredericton GIS in 1995, knowing that the NBTS and Toft investigation was "phasing out."[82]

7.2.5 Staff Sergeant Ken Legge

Staff Sergeant Legge joined the RCMP in June 1977 and was posted to various detachments in "J" Division until 1990, when he was transferred to the Fredericton GIS. In 1992, he left the GIS for six months to go on training and was replaced by Constable Roussel.

On 17 June 1992, he and Constable McAnany took an audiotaped statement from Mr. Duguay in Saint John.[83] For the remainder of the summer of 1992, he was involved in other investigations and files. On 16 October 1992, he interviewed former resident *Randall James Cranshaw* about allegations against Messrs. Toft and Raymond.[84] Although he attended many of the weekly GIS meetings, he was involved in investigations other than the NBTS for the remainder of the year, except for a trip to Toronto on 7 December 1992 to attempt to interview *Mike Roy*.

On 18 January 1993, he was promoted and transferred to the Federal Enforcement Section in Fredericton and his involvement in the investigation ended. In 1999, he was again assigned to the RCMP investigation into the NBTS.[85]

7.2.6 Retired Corporal Ed Paquet

Ed Paquet joined the RCMP in August 1970 and was transferred to Doaktown, New Brunswick, in 1973. He served in various detachments in "J" Division until 6 November 1986, when he was transferred to Fredericton GIS. However, he worked out of the GIS Office in Saint John,[86] commuting to Fredericton to attend the weekly GIS meetings.

He replaced Corporal Brennan in July 1991 when Corporal Brennan was on vacation. From August 1991 until March 1992, he had little to do with the investigation. He was again assisting with the investigation on or about 9 March 1992, which coincided with the completion of the first random search of the NBTS records at the Provincial Archives. He was sent a list of Tips and the accompanying Tip files (resulting from the random search) for former residents who were now located in the Saint John area, so that he could commence locating them. He was engaged in this activity from 12 March through to May 1992 and again in October and November 1992.[87]

In his interview with the CPC on 25 October 2006, he advised the CPC that he followed up on every Tip file that was sent to him, saying, "Because, if I sent back five with nothing done on them, Doug [Lockhart] would be on me like a dog to dinner. Why didn't you work on this?"[88] Toward the end of his term with the GIS, he was advised that there were a number of other guards that the RCMP was looking at.[89]

When asked about the quality of the records and notes he kept of his investigations of the many Tips assigned to him, he explained that his notes, reports and Persons Reports had to be very accurate and truthful. He also described the method that he used to take statements. He said he looked at body language: "Ah, you're telling me no but your body's telling me yes. And I said, … I can't force you to tell me what happened, but I want to tell you I have a feeling that something happened whether you tell me or not." He said he did not use too much pressure: "I didn't want to make them feel uncomfortable. … I didn't want [a] door slammed shut …[if] I knew something happened but I didn't want the guy alienated because I pressed him too hard." Even if he was rebuffed by a former resident, "before I left I'd give him my business card. [And] Say look, if you think of anything else or you have a change of heart ….You think someone may be able to help me, call me, all right? I always left the backdoor open for them."[90]

In February 1993, he was promoted and transferred to Federal Enforcement in Woodstock and did not participate any further in the investigation. He was replaced by Constable Pat Cole.[91]

7.2.7 Constable Pat Cole

Constable Pat Cole joined the RCMP in September 1979 and was transferred to the GIS MCU in January 1993:

> [A]nd right away they put me to task with building some of the follow-up investigations in Kingsclear. They had already started on the investigation before that, had already charged Toft and … they were re-visiting some cases ….

He was posted to a "one-man position" in Saint John as the GIS member on 1 March 1993 and conducted his investigations mainly from there. Even though he was in the Saint John office, he attended Sergeant Lockhart's regular weekly GIS meetings. When he started with the investigation, the targets were Messrs. Toft, Duguay and Raymond, as well as some other guards. Constable McAnany was the lead investigator.[92]

The process saw Constable Cole receive a number of Tip files from GIS head office in Fredericton, often by mail. He would then attempt to find and interview the persons and take a statement from them. The results of his investigations would be transmitted to Constable McAnany, whose job was to "Conclude" the Tips. If Constable McAnany was not satisfied with the investigation, Constable Cole would go back and revisit the Tip or person. If new evidence came in on a file, the file would be reopened and the investigation continued.[93]

Later in the investigation, after some staff from the provincial Department of Corrections had been suspended by the government because they were under investigation, "there was priority put on to those guys to either charge them or clear them."[94] Constable McAnany was able to use some of the information that Constable Cole discovered to update a running list of "Guards Past and Present Under Investigation."

Constable Cole was aware of the issue between the RCMP and the provincial Director of Public Prosecutions, Robert Murray, with respect to the Crown approving more charges against Mr. Toft after having been sentenced the year before. He told the CPC, with respect to the decision of the Attorney General to stay the RCMP charge against Mr. Toft on 29 October 1993,

> I know there would have been some of mine because I did investigate and I'm sure I did some Court Briefs up in '93 for charges and there was a group of 34. … I know Doug [Lockhart] was upset about it because he was a real advocate for victims' rights. Now, I remember him standing at one time and saying "They deserve their day in court. I don't care if they get suspended sentences. These victims need their day in court."[95]

After the stay of charges, Constable Cole continued with other duties for the GIS in Saint John.

7.2.8 Retired Constable Denise Potvin

Denise Potvin joined the RCMP in 1988. In August 1989 she was posted to "J" Division, Nequac, New Brunswick, where she performed general duties.

On 4 November 1992, Constable Potvin was seconded to the Fredericton Major Crime Unit (MCU) South to work specifically on the NBTS investigation. Sergeant Lockhart was in charge. She worked on the investigation until 16 January 1993, at which time she was transferred to Oromocto.

Her initial duties were to attempt to locate possible victims of abuse whose names arose as a result of previous interviews of other possible victims. At first the investigators were restricted to obtaining only 100 names of persons who had been residents of the NBTS from the Provincial Archives. According to Constable Potvin, this upset Sergeant Lockhart and Constable McAnany.

> And from what I understood, we were to look at everybody. If I interviewed Joe Smith and he said, 'Oh, Bill and Ed and George were there and they were with Toft a lot,' we had to find out who Bill and Ed and George were. And even if we had Bill, we'd open a Tip for Bill and then try to find out what his last name was. So we were just trying to look at everything we could and cover all the bases and we wanted to get it done properly. That's what I was told basically, [was] to look at every avenue and, you know, if someone was a victim out there, we were going to try to find them and get a statement from them and lay charges.[96]

She also understood that she had been brought into the investigation because some victims were more comfortable speaking with a female officer. She spent a great deal of time working on the *Curtis Murray* file. *Mr. Murray* was a guard at the NBTS and it was alleged that he sexually assaulted some of the female residents at the school.[97]

When attempting to interview a possible victim of abuse, the subject might refuse to be interviewed or give a statement. Constable Potvin indicated:

> I would ask them if they wanted me to call them back or if they'd feel more comfortable if somebody was with them when they gave the statement. I would tell them it wasn't their fault, you know, that they shouldn't feel guilty about it and they should come forward. They don't want this to happen to somebody else, things like that. I asked them to think about it. I would always leave them with my name and number. A lot of times too I'd tell them if you don't feel comfortable talking to me, we can have someone else talk to you.[98]

She stated that she would always attempt to conduct interviews with a victim or witness in person. If this was not possible, she would attempt a telephone interview in an effort to have the person say whether they were a victim or if they would give a statement. It was not normal practice for the RCMP to audiotape interviews unless it was something "in depth." She recalled that some of the interviews had been audiotaped and that the one person who was doing the transcribing could "not keep up with [it]."[99]

She conducted at least 24 interviews with alleged victims and witnesses, both in person and by telephone. Some of the interviews required travelling throughout the province.

She was tasked with several duties during her stay in the MCU, including reviewing files and locating possible victims of both physical and sexual assault. This entailed accessing the Canadian Police Information Centre (CPIC) and the Police Information Retrieval System (PIRS), conducting driver's licence checks and also physically tracking down former NBTS residents, interviewing them, and taking statements from alleged victims and witnesses. She was also engaged in coordinating files, preparing court briefs and attending meetings.

She recalled that during her time working on the NBTS investigation, the GIS unit would have weekly meetings every Monday to discuss the progress of the investigation. She recalled that Sergeant Lockhart, Corporal Orem, and Constable Legge were in attendance. Constable Potvin was seconded to the 2001 NBTS investigation team described in this report.

7.2.9 Sergeant Rick Potvin

Sergeant Rick Potvin joined the RCMP in June 1982. After his first posting in Manitoba he was transferred to Nequac, New Brunswick, and in 1992, to the Fredericton Drug Section. In November 1992, he was seconded to the "YTC task force," as he called it. He held the rank of a constable at the time. He remained on the team investigating the NBTS for six months, after which he returned to the Fredericton Drug Section.[100]

On 2 November 1992, he was assigned Tip files of former residents after attending a debriefing[101] on the ongoing NBTS investigation. His work included locating the subjects and, if possible, interviewing them to determine whether they had been victims of sexual or physical assault while at the NBTS. In order to meet both potential victims and witnesses, he and the other investigators had to travel throughout the province.

When attempting to locate potential victims, he would conduct the usual CPIC, PIRS and driver's licence checks. If unsuccessful, he would explore other avenues, such as Probation and Parole Services, the Canadian Vital Statistics Program, family members and, at times, confidential informants.

He located and interviewed 50 former residents and approximately 37 witnesses. He wrote numerous Continuation Reports, Canadian Police Information Centre (CPIC) messages, statements, Person Reports, and personal and daily agenda notes.

Most of the interviews he conducted were not audiotaped because the equipment was not always readily available.[102] When interviewing potential victims, he focused the initial questions on Mr. Toft. However, as the investigation unfolded, other guards' names were mentioned, such as Messrs. Raymond and Duguay.

One victim who required a great deal of time and effort was *Randall Cranshaw*. Constable Potvin spoke with him on the telephone numerous times, and said that he met with him at least five or six times. Documentation supplied to the CPC shows that Constable Potvin actually met with *Mr. Cranshaw* on 10 occasions.

During the time that he worked on the investigation, he also went to the Provincial Archives and conducted random searches in an attempt to locate possible victims.

During January 1993, he assisted in a parallel investigation, attempting to locate potential victims and witnesses associated with the McCann investigation, which demanded much of his time.

He completed two Prosecutor's Information Sheets in 1993 regarding charges of sexual assault against Mr. Raymond for offences committed against *Mr. Cranshaw* and *Danny McNight*. The offences were said to have been committed between 1 August and 1 December 1964.

7.3 Perspective of Senior Officers on the Investigation

7.3.1 Retired Assistant Commissioner Ford Matchim

Ford Matchim joined the RCMP in 1961 and was posted to "J" Division, where he spent the next 20 years. He was commissioned in New Brunswick. From 1991 to 1993, he was the OIC Fredericton Subdivision and held the rank of Superintendent. He was interviewed by the CPC on 9 September 2006.

In 1990, he was OIC of Fredericton Subdivision and was responsible for the GIS when Sergeants Gary McNeill and Doug Lockhart were there. He was still the OIC in 1991 when Sergeant McNeill and Corporal Brennan were investigating the NBTS. He was replaced by Superintendent Wayne Wawryk in the fall of 1992 when he was transferred to Depot Division.

He told the CPC that

> Zaccardelli [was] sending me memos … to activate this investigation. I know initially this … Toft thing got going from a … CBC reporter … it went through … at the top and down through the Subdivision. Down where the rubber meets the road and I know Zaccardelli was keen about … let's get documentation here, and I know on the heels of the Mount Cashel thing … was a big public to-do. … I mean, we were saying hey … we've got a lot of real police work to do here … I mean it certainly never had the connotation of widespread importance and impact that these types of

> investigations have today. So, I remember not being … unduly excited about getting on with this investigation ….[103]

In August 1991, he was aware that the FPF had launched an investigation into allegations of sexual abuse by Mr. Toft. He told the CPC that he was aware that officers from the FPF were working hard on the allegations while he said that his own investigators were giving him another message. They were saying that it was "not a big deal," and "then it starts to tumble in at us." He continued to say that Corporal Lockhart and Sergeant McNeill kept him up-to-date on the progress of the FPF investigation and on the competence of their investigators.[104]

7.3.2 Retired Inspector Mike Connolly

Mike Connolly joined the RCMP in 1966. He served out west for a time and was transferred to New Brunswick. He accepted a posting at the Canadian Police College in Ottawa and, in 1990, was transferred back to "J" Division i/c of Commercial Crime in Fredericton. He was assigned to the position of Assistant CROPS Officer in Fredericton in 1992. In 1994, he was moved to the position of Federal Policing Officer. After retiring from the Force in 1996, he was appointed to the position of Director of Policing for the Province of New Brunswick and then to the position of Assistant Deputy Minister in the New Brunswick Department of Public Safety. He retired in 2005.

Mr. Connolly was interviewed by the CPC on 12 January 2007 in Fredericton. He explained that the CROPS branch was really a "policy centre" that was not normally involved in the day-to-day direction of investigations. Direction was supposed to come from the OC of the subdivision. Reports would flow through to CROPS and would be looked at from a policy perspective, that is, to determine if everything was done properly. The CROPS Officer would also have to approve any out-of-province travel by the investigators. He said that CROPS would get more involved in some investigations from time to time, as was the case for the NBTS investigation, which was very high profile.[105]

As the Media Relations Officer in 1992, he was kept informed of the progress of the investigation so that he could brief the media. He felt that, as Media Relations Officer, he was "well in the loop in terms of the scope of the work that they were doing and the results they were getting"[106] on the investigation. Because he was the Assistant CROPS Officer, he would replace the CROPS Officer, Superintendent Zaccardelli, whenever he was attending meetings in Fredericton and elsewhere.[107]

Clarification by Mr. Connolly on the Status of the Investigation

The CPC asked Mr. Connolly about an article that appeared in the *Daily Gleaner* on 7 November 1992, in which he was quoted as saying:

> A special RCMP unit has been assigned to investigate matters involving Karl Toft, a former employee of the New Brunswick Training School at Kingsclear, who is awaiting sentencing after pleading guilty to 34 sex-related charges involving 18 former [residents] between 1965 and 1986 …. A core of four officers with a support staff are currently 'aggressively pursuing' the information being received. It is a very difficult investigation." … People have to be located, times and dates are difficult to narrow down. … Many of the youths involved are now adults and they are having some difficulty remembering specifics. [The] RCMP refused to comment on the possibility of further charges being laid against other former employees….[108]

He advised that the quote appeared to be accurate about the status of the investigation at the time.[109]

He was referred to the minutes of the CROPS meeting of 8 December 1992, four days after Mr. Toft's sentencing hearing. There was mention of the investigation involving Mr. Raymond and the investigations of other guards. He said that he certainly remembered getting the minutes and that he normally got them through Sergeant Lockhart. All the names on the list of "Guards Past and Present Still Under Investigation" were familiar to him.[110]

He confirmed that Sergeant Lockhart prepared the minutes of the GIS and CROPS meetings and sent them to him. If he found something for which he wanted clarification, he would send a note to Sergeant Lockhart. He remembered that Superintendent Zaccardelli was at one of the CROPS meetings in early 1993, after Mr. Toft had been sentenced, and that they discussed whether they should end the investigation there. According to Mr. Connolly, they said that

> it looks like there's a serial offender, it goes back many years, we want to look at … from the time he was there until the time he left …. So there was quite a bit of discussion in that meeting and I remember Zack being very forceful about the fact that we've got to be very thorough on this and we've got to go back and do some random sampling …. It was determined, … we'll try to get 100 names over that period of time. And then, of course, some legwork was done.[111]

They realized that the RCMP did not have the names of any victims that had to be interviewed. Mr. Connolly said:

> How do we find somebody to talk to? Because we have no more referrals. We said, "Well, we'll do this random sampling … we'll get in the [Provincial] Archives, we'll find out who was there, get some names, try to find them, talk to them and we'll take that approach."[112]

They also agreed to look at anything that came to light as a result of the Miller Inquiry and any names that came out of it. He added that, if the investigation required out-of-province travel, he would approve it. "We want to be thorough on this."

The CPC asked him about an article written by reporter Phillip Lee in the *Telegraph Journal* on 29 March 1993. In it, Crown counsel William Corby said that, when he took on the Toft case, he made a decision that he was not going to prosecute any more sexual assaults against Mr. Toft because more charges would not likely affect the length of his sentence. Inspector Connolly said that "if [that comment] was coming from [the] Attorney General or coming from the [provincial] Director of Public Prosecutions, I would have been more concerned, but it didn't give me any reason to go downstairs and tell GIS to take a break."[113] He added that Mr. Corby's comment did not cause any slowdown in the investigation.

Asked about what happened when the GIS unit received information providing the name of a potential victim, he advised the CPC that

> whenever an instance, whether it came from Hugh Robichaud or whether it came from the media or it came from Ken Fitch,* or another investigator, it was always referred to GIS investigators …. My expectation was that they would follow the game plan. And the game plan was that, regardless of the source, be it Miller Inquiry … names they get from Archives or the names they got from a victim, follow them up.[114]

* Ken Fitch was the chief investigator for the Miller Inquiry.

Clarification by Mr. Connolly about Court Briefs

On 30 August 1993, Inspector Connolly wrote a letter to the provincial Director of Public Prosecutions, Mr. Murray, concerning further charges against Mr. Toft, and referring to the court briefs that the GIS were about to deliver. In explaining the letter to the CPC, he said that he did not feel there was much sense in going to Mr. Corby with the new briefs because of Mr. Corby's stance regarding further charges against Mr. Toft. Instead he chose to send the briefs to Mr. Murray. He continued:

> It was my position that they'd done the investigation, the complaints have been made and entirely investigated, the evidence was there to support a charge and my position, in light of the seriousness of this and the scope of it, and the victimization, that yes, we should proceed with charges …. It's up to them now to pick up the ball and do their job …. I would make it very clear that we expected these to proceed.[115]

He told the CPC that he had personally reviewed the court briefs destined for the Crown counsel. "Many of the details in the briefs were identical to ones he'd [Toft] already been convicted on. So, you know, the goods were there, as far as I was concerned."[116]

He identified a letter that was addressed to him from Mr. Murray, dated 13 September 1993, in which he was informed that "[c]onsidering all the circumstances, it is my opinion that it would not be in the public interest to proceed with these additional charges against Karl Toft." Mr. Connolly explained:

> But I didn't expect the complete decision not to proceed with any of them. Although, he made some good arguments. That's real arguments and I know the Crown Prosecutor's Manual quite well …. That's well and good, but the expectation on this, from the victims primarily, always you put the victims first, and from the public and from the media, from the investigators themselves on the case, how can this not be in the public interest to proceed? … let's do something so it looks like the system is working. Because these people, their faith in the Criminal Justice System is totally gone. So we had to do something to push that, and my position was "Listen, we're going to do everything we can do. And we can go in and lay those charges, if they wanted to lay them."[117]

He described the meeting he had with Mr. Murray following receipt of the letter: "I said, 'Listen, we're going to proceed with these charges. Do you want to appoint a Crown to represent us in Court or do you want us to hire a lawyer to represent the Force, because I'll do that.'"[118] He broke the news to Sergeant Lockhart and the team. They did not take the news very well and the next day, on 21 September 1993, he wrote to Mr. Murray urging the Attorney General to reconsider and to agree to accept the new charges against Mr. Toft.
Mr. Murray came and met with Inspector Connolly the following day. He asked, "I just got your letter and do you mean what you say in that? I said, Yes, I certainly do."[119] According to Mr. Connolly,

> [Mr. Murray] went through all his reasons again. I understand that Bob. I understand where you're coming from, in terms of totality of sentencing … but from the optic, outside looking in, people won't understand that …. So, we're going to proceed. [Mr. Murray asked,] So, if we do represent you and the Attorney General stays the charges, what will you do then? So I said, "Well, I've done my job. The RCMP have proceeded, they've done their job, they've done their investigation, they've laid their charges, now it's in the hands of the Attorney General. If he says to stay them, okay, but we've done our job and I'm satisfied and can stand proud."[120]

Mr. Connolly felt that Mr. Murray was "taken [back a] bit" by the RCMP's position about proceeding with the charges.

> I'm seeing it more from the perspective of the police over here, [I'm] more in tune with the victims and what the victims are going through and what the officers are going through and the extent of the work that's gone into it. Certainly, the view of the public's expectations with my job as the Media Communications Officer on this. I had a lot of discussions with the public, so I had a good sense of where the community was on this issue and this was one of the ones, where I'm going to draw the line. …[121]

On 30 September 1993, Mr. Murray wrote to Inspector Connolly to advise that the charges would be accepted and that Glen Abbott had been appointed to be the Crown counsel for the new charges against Mr. Toft. Mr. Abbott was asked to give this file top priority.[122] The next day, 1 October 1993, Inspector Connolly wrote to Mr. Murray to inform him that "the RCMP will provide full co-operation with your department."[123] Inspector Connolly told the CPC that the GIS unit was pleased with the decision.[124]

By 21 October 1993, Inspector Connolly was aware that, after reviewing the court briefs, Mr. Abbott had requested further investigation to be undertaken. Constable McAnany was to meet with Mr. Abbott on 22 October. Mr. Abbott advised the investigators that he was prepared to approve 15 new charges against Mr. Toft, which involved 13 victims. When the CPC asked if the Department of Justice ever said that the briefs were not helpful, Inspector Connolly responded:

> No, and I mean, if he didn't support those Briefs … that was referred up to the Attorney General, who decided Yes, proceed with charges. So I'm sure they wouldn't have done that without looking at those Briefs in detail. And if there were any of them that were wanting, they wouldn't have been presented to the AG, I don't think. I'm very comfortable with that.[125]

Inspector Connolly remained as Assistant CROPS Officer until the summer of 1994, when he was transferred to become the OIC of Federal Policing. He was aware that the GIS investigators continued their investigation into events at the NBTS, concentrating on the guards and staff members listed on Constable McAnany's list. He was aware that Messrs. Duguay and Raymond had been charged.[126]

He added that, while Mr. Raymond was not found guilty of any charges, "I don't think it was for lack of adequacy in the investigation. Probably a lack of credibility of witnesses or the quality of the statements, in terms of memory recall or whatever."[127]

7.3.3 Former Commissioner Giuliano Zaccardelli

Giuliano Zaccardelli was interviewed by the CPC on 15 January 2007 in Ottawa, shortly after he resigned as Commissioner. He joined the RCMP in 1970 and was serving in Ottawa as an inspector when he was transferred in November 1989 to "J" Division as a superintendent and the new CROPS Officer in Fredericton. He explained that the CROPS Officer was the number two person in the division, responsible for the direction and policy of all criminal operations in the province. He described himself as a "hands-on [CROPS] Officer," asking to be briefed on investigation files, authorizing finances and adding resources, as needed. He indicated that "it's an all-consuming job." He said that the investigative resources at the time in "J" Division were limited.[128]

He said that the NBTS file came to his attention in early 1990 and that he was kept informed of the progress of the investigations until he was selected to attend the Senior Command College at Bramshill, England, in March 1993. After he received a copy of the letter from Attorney General James Lockyer, in February 1990, he spoke with Chief Superintendent Beaulac, the Commanding Officer. He advised the CPC that

> [a]ll my instincts told me if this allegation is correct, this can be very explosive because it wasn't just two or three. If this was going on, it means it was probably going on with many kids over a long period of time. That's what I thought right away. That's why, that very same day, when I went to talk to Herman Beaulac, I said, Herman, this is the type of situation that will become an inquiry, I guarantee you … I said, let's keep it a full-blown investigation.[129]

Superintendent Zaccardelli was the CROPS Officer during the investigations conducted by Constable Spink, Sergeant McNeill and Corporal Brennan. He told the CPC that he was aware that Judge Cockburn had granted an order to Corporal Brennan to access the NBTS records at the Provincial Archives. "[W]e got the order … to do the cross-sampling because I needed to test, to probe this huge period of time so that I'd have a reasonable idea of what took place …. That was my intention from the very beginning."[130] He was aware that Constables McAnany and Roussel had gone to the Archives and had access to the NBTS records. He was advised that the RCMP charges had been laid by Corporal Brennan and that Mr. Toft waived his preliminary hearing on them. He was kept apprised of the progress in the investigation in 1992 and he was told that the GIS team was directing its attention to other guards and staff members, especially Messrs. Raymond and Duguay.[131]

In referring to the minutes of a 20 November 1992 CROPS GIS meeting, he said he was aware that some of the correctional officers of NBTS had been suspended. The minutes also indicated that some out-of-province travel would be necessary, for example, to Whitehorse and parts of California. He told the CPC that "[i]t goes back to what we talked about …. Wherever you got to go, go."[132]

At the CROPS meeting of 22 February 1993, he was presented with a copy of Constable McAnany's "Guards Past and Present Still Under Investigation." "I would look at it and scan it … they're going in the right direction. They're doing that cross-section and matching people with times and victims and so on, trying to, … make as many matches as you possibly can. So, I remember that very well." At the same meeting, he and the other attendees were advised that the investigators had compiled the list of 100 names from the Provincial Archives and were trying to track down the individuals to interview them about Messrs. Duguay and Raymond.

The CPC asked him if the decision to lay a charge indicated anything to an investigating officer about the adequacy of the investigation.

> Well, it certainly means you've met the test, that you and the Crown have met the test of having reasonable and probable grounds to believe that an offence has taken place …. The investigator does the investigation and the Crown has to make that decision that it meets the test of the law as it is then and … if you do that, if the Crown gives you that opinion, then you go ahead with that charge.[133]

The CPC also asked if the New Brunswick Crown counsel's approval to proceed to place a charge on a Court docket indicated to the Attorney General and the Crown that the investigation had been adequate. He answered: "I believe it has …. It doesn't mean the investigation is complete, but that's certainly is an indication that the investigation has uncovered sufficient evidence to proceed … ."[134] When asked if, during his four years as CROPS Officer, he was satisfied that his investigators had done everything they could to find a reasonable number of victims and to interview them and get statements, he responded:

> Yeah. I believe they did. I have no information to believe they didn't. I certainly never received information directly or indirectly of anybody who wanted to be interviewed and didn't get interviewed. As I said, I authorized members to travel across Canada, to travel to the United States. I simply said, "Go and find them! We were dying, we were desperate for people to come forward. …"[135]

7.4 List of Guards Under Investigation

RCMP members at a CROPS and GIS meeting on 15 January 1993 discussed the investigation, making reference to a list of current and former NBTS employees that Constable McAnany had prepared at the request of Sergeant Lockhart. The list was called "Guards Past and Present Under Investigation." Constable McAnany had initially created it in October 1992. Once generated, he regularly updated it. The list included the name of each correctional officer employed at the NBTS and provided a précis of the evidence that the team had gathered regarding each "suspect." By the time of the meeting, the list, now dated 14 January 1993, included the names of 31 guards and staff members who were actively under investigation.[136]

In his interview with the CPC, Sergeant McAnany described the précis as "a quick and dirty as to how the name came about and what the references were." He said that he continued to improve on it as time went on. Along with a summary or précis of the evidence related to each individual, it included a diary date, the name of the investigator assigned to the file, the status of the file, how the names had surfaced, where the information came from, and the priority assigned to the investigation at the time that the list was updated. He confirmed that he developed the list for Sergeant Lockhart who, in turn, would present the list to their superiors at the CROPS meetings, as well as to the CO, and even the Crown counsel.

> I think probably the operative word here is, try to be as impartial and factual and not editorialize or comment or … impose any type of opinion as to veracity or believability or anything. Stick to the facts, who said what, when and then in summary format, in assessment mode, give us your best assessment as to where we go from here and what priority … we should assign to this.[137]

He said that the list was a consolidation and provided an

> overall view of all of the investigations that were, at that time, ongoing in relation to Toft, YTC and any of the guards … for the purpose of … making an assessment of this individual as a suspect and where we go from here and all of the information particular to him …. Certainly they get much longer as the thing proceeded. I tried to be very religious about gleaning all of that information and placing it in one central repository.[138]

[1] The RCMP assigns an officer to assume the role of File Coordinator on any major investigation. The File Coordinator runs the file, keeps it up to date and prepares briefings for routine GIS meetings and for superior officers.

[2] Cst. Roussel submitted three court briefs on 23 April 1992, and Cst. Paquet submitted two court briefs on the same date. Continuation Report, Cst. Roussel, 22 April 1992; 29 April 1992.

[3] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, pp. 359–360.

[4] Memorandum to NCO i/c Contract Policing Services from Sgt. Lockhart, 5 May 1992.

[5] Continuation Report, Cst. Roussel, 4 June 1992; Continuation Report, Cst. McAnany, 17 June 1992.

[6] Investigation Report, Sgt. Lockhart and Cst. McAnany, 9 July 1992.

[7] Continuation Report, Sgt. Lockhart, 10 November 1992.

[8] Minutes of CROPS and Fredericton G.I.S. Meeting, Sgt. Lockhart and Cpl. Orem, 10 November 1992.

[9] Minutes of GIS Meeting, Sgt. Lockhart and Cpl. Orem, 30 November 1992.

[10] Investigation Report, Sgt. Lockhart and Cst. McAnany, 8 February 1993.

[11] Minutes of CROPS Meeting, Sgt. Lockhart, 8 December 1992.

[12] Officer notes, Cst. McAnany, 4 December 1992.

[13] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, pp. 381–382.

[14] Minutes of CROPS and Fredericton GIS Meeting, Sgt. Lockhart, 15 January 1993.

[15] Order of Judge Cockburn, 2 February 1993.

[16] Continuation Report, Cst. R. Potvin, 15–18 February 1993; Continuation Report, Cst. Ryan, 16–18 February 1993.

[17] Minutes of CROPS Meeting, Sgt. Lockhart, 12 March 1993.

[18] Minutes of Fredericton GIS Weekly Section Meeting, Sgt. Lockhart, 23 April 1993.

[19] Investigation Report, Sgt. Lockhart and Cst. McAnany, 4 June 1993.

[20] Minutes of Fredericton GIS Weekly Section Meeting, Sgt. Lockhart, 21 June 1993.

[21] Investigation Report, Sgt. Lockhart and Cst. McAnany, 29 July 1993.

[22] Minutes of Fredericton GIS Weekly Section Meeting, Sgt. Lockhart, 9 August 1993.

[23] Letter to Insp. Connolly from R. Murray, 13 September 1993.

[24] Memorandum to OC Fredericton Subdivision and OIC CROPS from Sgt. Lockhart, 17 September 1993.

[25] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, p. 407.

[26] Memorandum to OC Fredericton Subdivision and OIC CROPS from Sgt. Lockhart, 17 September 1993.

[27] Minutes of Fredericton GIS Meeting, Sgt. Lockhart, 30 September 1993.

[28] Minutes of Fredericton GIS Weekly Section Meeting, Sgt. Lockhart, 4 October 1993.

[29] Officer notes, Cst. McAnany, 6 October 1993.

[30] Minutes of Fredericton GIS Weekly Section Meeting, Sgt. Lockhart, 14 October 1993.

[31] Ibid.

[32] Minutes of Fredericton GIS Weekly Section Meeting, Sgt. Lockhart, 21 October 1993.

[33] Continuation Report, Sgt. Lockhart, 22 October 1993; Minutes of GIS Weekly Section Meeting, Sgt. Lockhart, 22 October 1993.

[34] Information, Judge Cumming and Cst. McAnany, 22 October 1993.

[35] Letter to Sgt. Lockhart from G. Abbott, 25 October 1993.

[36] Statement of Attorney General E. Blanchard, 29 October 1993.

[37] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, p. 409.

[38] Investigation Report, Sgt. Lockhart and Cst. McAnany, 29 November 1993.

[39] The Crown has 12 months to proceed with charges that have been stayed. If it does not proceed within that time period, it is as if the charges were never laid.

[40] Memorandum to OIC CROPS and OC Fredericton Subdivision from Sgt. Lockhart, 8 November 1993.

[41] Officer notes, Cst. McAnany, 15 February 1994.
[42] Order of Judge, 29 September 1994.
[43] Conclusion of Case Report, Cpl. McAnany, 26 October 1994; Conclusion of Case Report, Cst. McAnany, 21 November 1994.
[44] Transcripts, CPC interview of Sgt. McAnany, 9–10 January 2007, p. 110.
[45] Ibid., pp. 28, 111–112.
[46] Ibid., p. 109.
[47] Ibid., p. 112.
[48] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, p. 301.
[49] Ibid., pp. 298–299.
[50] Ibid., p. 423.
[51] Ibid., p. 424.
[52] Transcripts, CPC interview of Sgt. McAnany, 9–10 January 2007, pp. 41–42.
[53] Ibid., p. 43.
[54] Ibid., p. 48.
[55] Ibid., pp. 44–46.
[56] Ibid., pp. 52–53.
[57] Ibid., pp. 53–54.
[58] Transcripts, CPC interview of Sgt. McAnany, 9–10 January 2007, pp. 55–61.
[59] Ibid., pp. 61–62.
[60] Ibid., p. 63.
[61] Ibid., p. 64
[62] Ibid., pp. 66–68, 72.
[63] Ibid., 70–71.
[64] Ibid., p. 85.
[65] Ibid., pp. 91–93.
[66] Ibid., p. 95.
[67] Investigation Report, Sgt. Lockhart and Cst. McAnany, 9 July 1992.
[68] CPIC Message, Sgt. Lockhart and Cst. McAnany, 18 September 1992.
[69] Inter-Office Memorandum to R. Murray and Cpl. Orem from R. LeBlanc, 20 September 1993.
[70] Minutes of Fredericton G.I.S Weekly Section Meeting, Sgt. Lockhart, 26 July 1993.
[71] CPC interview notes of C. Orem, 10 August 2006.
[72] Continuation Report, Cst. McAnany, 18–21 February 1992.
[73] Transcripts, CPC interview of Sgt. Roussel, 9 November 2006, pp. 62–65, 22.
[74] Ibid., pp. 66–67.
[75] Ibid., pp. 66–69.
[76] Investigation Report, Sgt. Lockhart and Cst. Roussel, 6 April 1992.
[77] Continuation Report, Cst. Roussel, 29 April 1992.
[78] Transcripts, CPC interview of Sgt. Roussel, 9 November 2006, p. 75.
[79] Ibid., pp. 78–79.
[80] Minutes of Fredericton G.I.S Weekly Section Meeting, Sgt. Lockhart, 23 April 1993.
[81] Transcripts, CPC interview of Sgt. Roussel, 9 November 2006, p. 83.
[82] Ibid., pp. 80, 87.

[83] Written statement of J. H. Duguay taken by K. Legge and J. McAnany, 17 June 1992.
[84] Officer notes, Cst. Legge, 16 October 1992.
[85] Transcripts, CPC interview of S/Sgt. Legge, 18 September 2006, pp. 91–93.
[86] Transcripts, CPC interview of E. Paquet, 25 October 2006, p. 3.
[87] Ibid., pp. 22, 73.
[88] Ibid., p. 47.
[89] Ibid., p. 55.
[90] Ibid., pp. 56–62, 74, 77.
[91] Ibid., pp. 39–40.
[92] Transcripts, CPC interview of Cst. Cole, 5 December 2006, pp. 2P–4P, 12P, 18P.
[93] Ibid., pp. 2P, 5P–6P, 8P.
[94] Ibid., p. 8P.
[95] Ibid., pp. 10P–12P.
[96] Transcripts, CPC interview of D. Potvin, 15 November 2006, p. 29.
[97] Ibid., pp. 43–44.
[98] Ibid., p. 42.
[99] Ibid., pp. 17–18.
[100] Transcripts, CPC interview of Sgt. R. Potvin, 13 November 2006, p. 2.
[101] Ibid., p. 8.
[102] Ibid., p. 16.
[103] Transcripts, CPC interview of F. Matchim, 9 September 2006, pp. 44–45.
[104] Ibid., pp. 48–49.
[105] Transcripts, CPC interview of M. Connolly, 12 January 2007, p. 20.
[106] Ibid., pp. 20–21.
[107] Ibid., pp. 47–48.
[108] Media Clipping, *The Daily Gleaner*, "Special RCMP Unit Probes Toft Case," 7 November 1992.
[109] Transcripts, CPC interview of M. Connolly, 12 January 2007, pp. 70–71.
[110] Ibid., pp. 74–75, 78.
[111] Ibid., pp. 79, 81.
[112] Ibid., p. 86.
[113] Ibid., p. 96–99.
[114] Ibid., p. 114.
[115] Ibid., pp. 119–121.
[116] Ibid., p. 121.
[117] Ibid., pp. 123–124.
[118] Ibid., p. 124.
[119] Ibid., pp. 132, 125.
[120] Ibid., p. 125.
[121] Ibid., p. 130.
[122] Letter to Insp. Connolly from R. Murray, 30 September 1993.
[123] Letter to R. Murray from Insp. Connolly, 1 October 1993.
[124] Transcripts, CPC interview of M. Connolly, 12 January 2007, p. 140.

[125] Ibid., pp. 145–146, 131.
[126] Ibid., pp. 155–156.
[127] Ibid., p. 157.
[128] Transcripts, interview of G. Zaccardelli, 15 January 2007, pp. 4, 6, 20.
[129] Ibid., p. 33.
[130] Ibid., pp. 73–74.
[131] Ibid., pp. 75–78.
[132] Ibid., pp. 82–83.
[133] Ibid., pp. 87–89, 94.
[134] Ibid., p. 95.
[135] Ibid., p. 96.
[136] "Guards Past and Present Under Investigation," J. McAnany, 14 January 1993.
[137] Transcripts, CPC interview of Sgt. McAnany, 9 January 2007, pp. 52–54.
[138] Ibid., pp. 53–54.

8. Investigation by Constable Pat Cole (1995–2000)

This chapter describes the conclusion in May 1995 of the investigation into the New Brunswick Training School (NBTS), which had been conducted by, in turn, Sergeant Gary McNeil, Corporal Ray Brennan, Sergeant Doug Lockhart and Constable James McAnany. It explains the reasons the investigation was closed, the manner in which the RCMP handled complaints that continued to come to their attention and the reasons behind the decision to reopen the investigation in March 1999. It also details the role of Constable Pat Cole and other key players involved in this phase of the investigation, including Corporal Paulette Delaney-Smith, who took over from Constable Cole as the lead investigator in January 2000. The chapter ends at the point at which a new investigation team headed by Staff Sergeant Dave Dunphy was being assembled in October 2000. Corporal Delaney-Smith remained the lead investigator until April 2001.

The Commission for Public Complaints Against the RCMP (CPC) conducted interviews with key persons and reviewed relevant documents to reconstruct the events described in this chapter. Unfortunately, the CPC was unable to interview two RCMP officers who played lead roles during the investigation: Sergeant Mac Eaton, who reviewed the files from previous investigations and the complaints made by former NBTS residents to the RCMP; and Corporal Delaney-Smith, who was the lead investigator from January 2000 to April 2001 and who acted as the RCMP liaison for complainants *Gregory Shore* and *Brad Lewis*. Sergeant Eaton passed away in 2005 and Corporal Delaney-Smith declined to be interviewed by the CPC on the advice of her lawyer, William Gilmour. Mr. Gilmour is also the lawyer for CPC complainant, *Mr. Shore*.

8.1 Conclusion of the 1995 Investigation

8.1.1 Stay of Proceedings

Although Karl Toft went to court in 1992 and pleaded guilty to 34 charges (11 of which were for sexual assault, 11 for buggery and 12 for indecent assault), the RCMP continued to investigate the NBTS and Mr. Toft. To ensure due process, the Attorney General, the Honourable Edmond P. Blanchard, Queen's Counsel (Q.C.), stayed the Commission of Inquiry, known as the Miller Inquiry, established to look into the province's response to complaints of sexual and physical assaults by staff at the NBTS:

> The Commission of Inquiry was scheduled to begin hearings earlier this fall. However, on October 27, 1993 I through counsel applied to the Court of Queen's Bench for an order prohibiting the Commission of Inquiry from proceeding pending the resolution of the criminal proceedings against Karl Toft and one other former employee of the School. This application was made in order to ensure fairness to both accused, fairness to the complainants and in the interests of society's right to see crime detected and punished.[1]

By October 1993, the RCMP had laid 15 additional charges, involving 13 victims, against Mr. Toft before a New Brunswick court. However, on 29 October 1993, Mr. Blanchard released the following statement regarding these charges:

> I am announcing today that I have instructed my agent to enter a stay of proceedings with respect to the most recent information laid against Karl R. Toft. In New Brunswick, the practice has been for the Attorney General to enter a stay of proceedings only in special circumstances. I have decided this is one of those cases.
>
> I have also instructed by agent to withdraw the pending application for a stay of proceedings in regard to the Commission of Inquiry.[2]

This created some confusion for the RCMP: what should they investigate, and what charges would the Crown consider for prosecution? However, based on information not previously available to him, including "the nature and extent of the testimony likely to be given, the nature of the allegations made and the number of persons involved or likely to be involved by the testimony offered,"[3] the Attorney General "decided that the public interest would be better served if the Inquiry were permitted to proceed, rather than to permit the criminal charges against Karl Toft to stand."[4] As he explained in his written statement to the media, the additional charges laid by the RCMP "[did] not differ in nature, time or circumstance" from the 34 charges that were laid against Mr. Toft in 1992 and to which he had already pleaded guilty. He had "to balance rights and to ensure that the integrity of the criminal justice system is respected."[5]

8.1.2 Advice of Attorney General

According to Superintendent Pierre Lange, Criminal Operations (CROPS) Officer, the RCMP continued to investigate the complaints they received regarding Mr. Toft and the NBTS while the Miller Inquiry was in progress. "Our policy was that any complaint coming in through the RCMP would be investigated regardless of the Crown, [or] the position of the Crown."[6]

Justice Miller submitted his report to the Attorney General on 17 February 1995. On 27 March 1995, the CROPS Officer for "J" Division, Superintendent Lange, wrote to the Director of Public Prosecutions, Robert Murray, Q.C., advising him that the RCMP had investigated several additional allegations against Mr. Toft before the stay of proceedings was imposed on 29 October 1993. Superintendent Lange indicated that they had held the allegations in abeyance pending the conclusion of the Miller Inquiry because the Attorney General had given the Miller Inquiry as one of the reasons he had instituted the stay of proceedings against Mr. Toft. Superintendent Lange stated at the end of his letter:

> [W]e are seeking your advice as we believe it not to be in the best interests of the administration of justice to continue to lay charges in circumstances where the Attorney General has made clear his intention to apply for a stay of proceedings with respect to such charges.[7]

On 26 April 1995, Mr. Murray acknowledged receipt of Superintendent Lange's letter and informed him that "it is not the Crown's intention to reinstate these proceedings, which were stayed by direction of the Attorney General on 29 October 1993."[8] He set out a number of "public interest factors" that the Crown was considering in its decision about whether to proceed with criminal charges. One of the main factors Mr. Murray gave for not proceeding further was that the charges "[did] not differ in nature, time or circumstance from the 34 charges for which Karl Toft has been convicted."

> It is the Crown's position that for reasons outlined it would not be in the public interest to proceed with any additional prosecutions against Karl Toft arising from complaints made by former residents of the Youth Training Centre [YTC] in Kingsclear, [New Brunswick].[9]

8.1.3 Investigation Concludes

As a result of the Attorney General's position regarding further criminal charges against Mr. Toft and complaints against the NBTS, on 15 May 1995, Superintendent Lange informed the Non-commissioned Officer (NCO) i/c of the Fredericton General Investigation Section (GIS), Sergeant Dunphy, that he was to conclude the investigations and inform the victims involved why it was ending and why no further charges would be laid against Mr. Toft.[10] The RCMP interpreted the statements issued by the Attorney General and Crown counsel to mean that it was not to investigate any further complaints against anyone at the NBTS. In making the decision not to investigate any further charges, the RCMP also took into account the Miller Inquiry since it was the catalyst for the Attorney General to enter a stay of proceedings in 1993.

8.1.4 Complainants Informed

The following record of correspondence shows that complaints regarding incidents at the NBTS continued to surface after the decision to end the investigation. The RCMP did not investigate the complaints and informed complainants of the position of the Attorney General instead. Based on the CPC's review of relevant material, these appear to be the only complaints involving either the NBTS or Mr. Toft that the RCMP addressed in this manner.

On 23 October 1995, Sergeant Dunphy sent a memorandum to Sergeant J. Edmonds, the NCO i/c of the Sackville Detachment, in which he referred to Mr. Murray's letter of 26 May 1995. Sergeant Dunphy indicated that the last paragraph of Mr. Murray's letter made the position of the Department of Justice "quite clear" on future investigations involving Mr. Toft. He advised Sergeant Edmonds to inform the complainant, *Jonathan Leduc*, of this position and that, if *Mr. Leduc* wished to pursue the matter, he should contact the Justice Department.[11]

On 5 December 1996, Constable McAnany received a complaint from former resident *Brad Lewis* of sexual assault he alleged to have been committed by Mr. Toft. In his Continuation Report of the same date, Constable McAnany stated that he advised *Mr. Lewis* of the position of the Attorney General and suggested that, if he wanted it, he would arrange for a police officer to meet with him to take his statement. He also advised *Mr. Lewis* that, if he wanted any redress, he should retain legal counsel.[12] *Mr. Lewis* eventually made an official complaint to the CPC on 19 February 2004.

Former NBTS resident *Cameron Racicot* contacted the RCMP on 28 April 1997 to complain that Mr. Toft had sexually assaulted him. He indicated that he had retained a lawyer and that he was seeking an apology from the government and financial compensation.[13] Inspector Michel Seguin, CROPS Officer "J" Division, responded with a letter dated 9 June 1997 to *Mr. Racicot's* lawyer. Inspector Seguin referred to the decision of the Attorney General, saying that "[i]n light of this direction from the Attorney General, the RCMP have taken the position that investigations will not be conducted into complaints such as that received from your client."[14] He advised the lawyer to contact the Minister of Justice if he wished to pursue the matter.

On 25 August 1997, Inspector Seguin sent a memorandum to the Officer-in-Charge (OIC) of District 2 in Oromocto, New Brunswick, in which he clarified the RCMP's position with respect to any investigations involving the NBTS or Mr. Toft. Referring to the decision taken by the Attorney General, Inspector Seguin advised the OIC that "[t]his information should be communicated clearly to any complainant to ensure they understand and fully appreciate the reasons behind our position."[15]

8.2 Basis for Reopened Investigation

8.2.1 *Gregory Shore* Complaint

On 11 September 1997, *Mr. Shore* filed a complaint with the Metropolitan Toronto Police, 41 Division, regarding allegations of sexual assault that occurred while he was a resident of the NBTS. His complaint named several former employees of the NBTS, including Mr. Toft, Hector Duguay and Weldon (Bud) Raymond. Detective Constable Doug Ward (No. 6040) of 41 Division, Criminal Investigation Branch (CIB), took an audiovisual statement from *Mr. Shore*. On 7 October 1997, he sent the information and a covering memorandum to Corporal Rick Evans of the Fredericton RCMP.[16]

In response, now-Superintendent Seguin sent the same reply he had been sending to other complainants regarding the NBTS and Toft investigation. He informed *Mr. Shore* in writing on 11 December 1997 of the RCMP's position, saying that "[i]n light of this direction from the Attorney General, the RCMP has taken the position that investigations will not be conducted into complaints such as yours."[17] He concluded by advising *Mr. Shore* that, should he wish to pursue the matter further, he should communicate with the Justice Minister.

8.2.2 Position of Attorney General

The RCMP did not hear from *Mr. Shore* again until 24 February 1999 when Superintendent Seguin received an e-mail from his executive assistant, Sharon Clark, advising that the Director of Public Prosecutions, Glen Abbott, had called and wanted to speak with him in reference to *Mr. Shore*. According to Superintendent Seguin's notes, which he attached to the e-mail, he spoke with Mr. Abbott on 3 March 1999.

> *Gregory Shore*—victim of Kingsclear—wrote the Minister of Justice—complained that we will not investigate based on Blanchard's decision. This should only apply to Toft. If others—must be investigated.
>
> *Check documentation on stay—does it go beyond Toft?
>
> *Glen will send correspondence.[18]

On 5 March 1999, Mr. Abbott faxed a letter to Superintendent Seguin, in which he indicated that *Mr. Shore* had been calling the Deputy Minister's office in relation to his complaint. Mr. Abbott also made reference to the letter dated 11 December 1997 from the RCMP to *Mr. Shore*, in which Superintendent Seguin refused to investigate his complaint due to the Attorney General's position regarding further criminal charges against Mr. Toft and complaints arising out of the NBTS. Mr. Abbott wrote:

> I am unable to find any correspondence that would indicate that the Department of Justice ever indicated that complaints from the Kingsclear Institution against persons other than Karl Toft would not be prosecuted if evidence was discovered by police investigators.[19]

Mr. Abbott requested further clarification from the RCMP before he responded to *Mr. Shore*.

8.3 Reopening of Investigation

The catalyst for reopening the RCMP's investigation was the letter of 5 March 1999 from Mr. Abbott to Superintendent Seguin. In it, Mr. Abbott points out that *Mr. Shore* was complaining of abuse by former employees of the NBTS other than Mr. Toft, and questions whether the Attorney General's position on the NBTS and Toft investigations meant that the RCMP should not investigate persons other than Mr. Toft. On 9 March 1999, following receipt of Mr. Abbott's letter, Superintendent Seguin notified Inspector Barry Harvie, his Operational Support Services (OSS) Officer, to look into *Mr. Shore's* complaint.[20] Two days later, Staff Sergeant Jacques Ouellette assigned Corporal Ken Legge to conduct an investigation into *Mr. Shore's* complaint.[21]

8.3.1 "J" Division Reorganization

Due to a reorganization in "J" Division, the subdivisions were disbanded and a province-wide district-policing model was instituted in September 1994. As a result, RCMP coverage of the province was split into north and south districts, and the GIS subdivision was separated into the Major Crime Unit (MCU) South and MCU North. All major criminal investigations that took place south of Moncton, New Brunswick, including those carried out at the NBTS, were assigned to the MCU South. Staff of the MCU South included Staff Sergeant Ouellette, Sergeant Eaton, who was on loan from Oromocto, Corporals Legge and Delaney-Smith, and Constables Cole and Phil Houle.

8.3.2 CPC Interviews of Key Persons

The CPC conducted interviews with members of the MCU South who were involved in the reopened investigation up until the time the new investigation team was formed in May 2001. These included retired Staff Sergeant Ouellette, now-Staff Sergeant Legge, and Constable Cole. The CPC also interviewed Assistant Commissioner Seguin and Chief Superintendent Bill Smith. Because it was unable to interview Sergeant Eaton and Corporal Delaney-Smith, the CPC recreated their involvement through a review of relevant documents.

1. Constable Pat Cole

Constable Pat Cole had been involved in the NBTS investigation headed by Sergeant Lockhart in 1992 to 1993. In 1999, he was working out of the Saint John office assisting Corporal Legge regarding a complaint made by *Kevin Saunders*, a former NBTS resident. On 20 May 1999, he took a videotaped statement from *Mr. Saunders* regarding an assault causing bodily harm allegedly perpetrated by a guard named *Sam Coleman*.[22] *Mr. Saunders* did not make any allegation against Mr. Toft.

On 24 June 1999, Sergeant Eaton of the MCU South reassigned *Mr. Shore*'s complaint to Constable Cole. He was advised by e-mail and also informed that there were three complainants as of this date: *Mr. Shore*, *Roger Philippe* and *Karl Gauthier*.[23] From the time he replaced Corporal Legge as the lead investigator, he was the only police officer assigned to the file, although it was not the only file that he was investigating during this time frame.

On 16 July 1999, he faxed a message to the NCO in command of "K" Division's MCU North in Edmonton, Alberta, "requesting a member make contact with *Luc Brazeau* before 21 July 1999 and set up a video taped interview." *Mr. Brazeau* had claimed that, while a resident at the NBTS in the 1980s, Mr. Toft had sexually assaulted him.[24] On 29 July 1999, RCMP Constable Robert Loewen of the Edmonton GIS obtained a

videotaped statement from *Mr. Brazeau*. In his 34-page statement, *Mr. Brazeau* stated that it was not Mr. Toft who had assaulted him but a person named *Ben Shanahan*.[25]

Staff Sergeant Ouellette advised Constable Cole in an e-mail message on 29 July 1999 to add *Terry Manson* to the list of complainants. *Mr. Manson*, who was serving a three-year sentence for sexual assault, had stated that he was a victim of Mr. Toft. Constable Cole was also told that they had received another call from *Mr. Shore*. Staff Sergeant Ouellette suggested they review *Mr. Shore's* file as soon as possible and put it to rest since the file was growing in volume. He was also asked to liaise with Sergeant Eaton.[26]

On or about 3 August 1999, Sergeant Eaton assigned Constable Cole to investigate a complaint from *Tim Mastek*. The request followed a conversation between Constable Jim MacPherson from RCMP District #2 (Oromocto) and *Mr. Mastek* in which *Mr. Mastek* alluded to sexual assaults committed by Mr. Toft.[27] Constable Cole obtained a statement from *Mr. Mastek* on 13 September 1999; in his statement, *Mr. Mastek* complained that Mr. Toft would masturbate him but that this only occurred three or four times since he was not one of Mr. Toft's favourites. *Mr. Mastek* explained that "a female police [officer] came by a while ago but I denied it out of shame. Now that it's in the news again, I decided to come forward."[28]

Before he conducted any further interviews, Constable Cole wrote in a report dated 9 August 1999 that a court "brief … be prepared along with other complaints in the YTC."[29]

On 5 October 1999, he went and took audiotaped statements in French from *Roger Fisher* and *Mr. Manson*, both of whom had reported abuse to the police through third parties.[30]

On 27 October 1999, a law firm faxed Constable Cole an affidavit regarding a pending civil action against the New Brunswick government on behalf of *Joseph Spencer Rollins*, who claimed that Mr. Toft had sexually assaulted him.[31] In a Continuation Report dated 29 October 1999, he wrote that in a telephone conversation, *Mr. Shore* said that he "would [now] like the focus of the investigation to be on [Weldon] Bud Raymond rather than Toft."[32] Constable Cole stated that he advised *Mr. Shore* "that this is the first time he has ever brought up Raymond in our conversations so I had directed my efforts toward Mr. Toft only."[33]

On 5 November 1999, Constable Cole sent an e-mail to Sharon Clark, Executive Assistant to the CROPS Officer, in which he stated that, except for *Mr. Rollins*, he had interviewed all complainants in the file and that all the victims wanted to proceed with criminal charges against their abusers. He wrote that he had advised a couple of the complainants that charges of assault were not appropriate for the incidents described and that no charges would be laid. He also stated that he spoke to *Mr. Shore*, who seemed satisfied with the progress of the investigation to date.[34] It should be noted that he did not mention that *Mr. Shore* was satisfied or that he had given him an update at this time in his handwritten Continuation Report dated 5 November 1999.[35]

On 15 November 1999, he received a call from *Mr. Shore*, advising him that *Mr. Shore's* lawyer wanted to speak to him. After several attempts to contact the lawyer, Constable Cole succeeded in reaching *Mr. Shore's* lawyer on 8 December 1999. During the conversation, the lawyer told him that another client of his, *Richard Danielson*, had witnessed the sexual assault of a young boy by the name of *Shore*.[36] On 17 November 1999, he reported in a Continuation Report that he had taken the Toft file and would be reviewing it.[37]

On 10 December 1999, he prepared two Continuation Reports regarding *Bert Spiegle* and *Cameron Racicot*. He indicated that their complaints had not been investigated during the previous NBTS investigations because the Attorney General had stayed the charges laid by the RCMP in 1993. He wrote that he would fully investigate the complaints.[38]

On 26 January 2000, Constable Cole spoke with *Mr. Shore* in one of the many discussions that took place throughout the investigation. *Mr. Shore* wanted to know whether Constable Cole had contacted former NBTS employee *Tim Douglas* since he could corroborate *Mr. Shore's* statements. *Mr. Shore* also gave information

about an assault that took place in the shower area. He stated that Mr. Raymond had made him fight *Richard Theoret* while both were wearing boxing gloves. *Mr. Shore* also said that he had once tried to kill himself with pills or cleaning detergent.[39]

Constable Cole was not involved in the preparation of any court briefs. It appears that problems with his health had surfaced and he was given restricted duties as a result. It was around this time that Corporal Delaney-Smith became more involved in the NBTS investigation.

2. Retired Staff Sergeant Jacques Ouellette

The CPC interviewed Jacques Ouellette on 6 December 2006 in Fredericton, New Brunswick. He joined the RCMP in September 1971 and, after several postings in other provinces, was posted to New Brunswick in 1979 where he remained until he retired. In 1996, he was put in charge of the MCU South as the NCO. He remained there until 15 July 2000, when he went on an extended vacation, returning on 18 October 2000. He continued as NCO i/c of the MCU South until October 2001. He retired in October 2006. He is presently employed as a sheriff by the Government of New Brunswick.

Mr. Ouellette indicated that he was aware of the NBTS and recalled going to the school to play basketball with the residents. His role in the reopened investigation was that of a resource person; he would attempt to get what the investigators needed to do the job regardless of what the investigation involved. He stated that maintaining adequate resources was a problem in the province; however, he had the authority to pull investigators from other areas if they were available. He told the CPC that the NBTS investigation was a priority and that he would help out from time to time, keeping in mind that he was responsible for many other tasks and duties.[40] He stated that the investigation, at least in the initial stages, was assigned to individual officers since they were dealing with only a few complainants.

As soon as the RCMP decided it would investigate *Mr. Shore's* complaint against Mr. Toft, Staff Sergeant Ouellette contacted *Mr. Shore* on 17 March 1999 to inform him of the decision. He also informed Superintendent Seguin by e-mail and assigned *Mr. Shore's* complaint to Corporal Legge.[41] *Mr. Shore* was advised to be patient as Corporal Legge had to review the NBTS file, as well as the videotape of his interview. Ms. Clark, the CROPS Officer's Executive Assistant, reported that she had "also spoke with *Shore* this date and he advised that while at YTC, he was victimized by Bud Raymond, Hector Duguay, as well as Karl Toft."[42]

Staff Sergeant Ouellette travelled to Toronto to obtain an audiotaped statement from *Mr. Shore*, following a telephone conversation that took place on 9 December 1999. In his statement of 13 December 1999, *Mr. Shore* mentioned a lawyer in Fredericton by the name of *Tim Douglas* who had been a part-time worker at the NBTS when *Mr. Shore* was housed there.[43]

As a follow-up to the information provided by *Mr. Shore*, Staff Sergeant Ouellette met with *Mr. Douglas* in Fredericton on 8 February 2000. *Mr. Douglas* verified that he had been a part-time student working at the NBTS from 1964 through 1968. He stated that he has no recollection of any residents complaining to him of abuse.[44] On 9 February 2000, Staff Sergeant Ouellette called *Mr. Shore* to inform him of his findings. He continued to have contact with *Mr. Shore* up until he went on leave in July 2000 and resumed contact upon his return in October 2000. The last conversation that he had with *Mr. Shore* was on 10 November 2000. According to an entry in his notebook, the conversation lasted approximately 45 minutes.[45]

He also confirmed and recalled an e-mail he had sent to Bill Smith, the Inspector i/c Operational Support Services (OSS), dated 23 February 2000, in which he outlined the results of a meeting with regional Crown counsel William Corby. While at the meeting, Staff Sergeant Ouellette stated that there were so far

11 complaints and that the RCMP would be reviewing all the stayed charges, which together represent approximately 34 files under investigation. He expressed the feeling that the number of files would jump to 50 very soon. He indicated that Constable Phil Houle would be the lead investigator and Corporal Paulette Delaney-Smith would be the File Coordinator.[46]

3. Staff Sergeant Ken Legge

In early March 1999, then-Corporal Ken Legge was assigned to look into *Mr. Shore's* complaint. In an ongoing Continuation Report that was begun on 9 March 1999, Corporal Legge referred to Superintendent Seguin's request of 11 March 1999 for the OSS Officer to look into the complaint. He noted that it was because of the additional allegations against other persons that the matter had been assigned for investigation. He also noted that "Sergeant Gerry Belliveau passed on that a *Roger Philippe*, of Moncton wanted to speak with a member regarding allegations of sex abuse against a YTC guard, Bud Raymond."[47]

In his Continuation Report, Corporal Legge wrote that, on 9 April 1999, he "reviewed the video interview of *Shore* conducted by Det/Cst Ward of Toronto." He reported that "there were no serious allegations contained in the interview other than touching. There is an allegation of a physical assault by some other inmates which he believes was orchestrated by Bud Raymond."[48]

He spoke with *Mr. Shore* and reported in a Continuation Report, dated 12 April 1999, that

> there is much more detail on the YTC incidents that he (*Mr. Shore*) can give us. During the interview, the YTC was only an afterthought to the allegation on the City Police. He states he was forced to perform oral sex on Raymond and Toft and that as a result, he contracted Herpes Complex. There was also some minor touching by Hector Duguay.[49]

On 15 April 1999, Corporal Legge attempted to have the file reassigned to Oromocto because this type of complaint did not fit the mandate of the MCU; however, the OIC of District 2 refused to accept the file. *Mr. Shore* called the RCMP on the same date and supplied further information regarding his time at the NBTS.[50]

On 30 April 1999, Corporal Legge sent a request to the Toronto Police in which he asked Detective Constable Ward to re-interview *Mr. Shore*.[51] After learning that *Mr. Shore* would be in Saint John on 18 May, he contacted *Mr. Shore* on 11 May 1999 and made arrangements to meet with him.[52] During their conversation, they discussed a letter *Mr. Shore* had received from the Deputy Attorney General advising that the province had "never taken a blanket position that criminal conduct arising from incidents at the Kingsclear Youth Training Centre should not be properly investigated or prosecuted."[53]

On 18 May 1999, he met with *Mr. Shore* and took a videotaped statement from him. During the interview, *Mr. Shore* alleged that, under the direction of Mr. Raymond, other residents physically assaulted him and cut his penis. *Mr. Shore* also signed a number of medical release forms at their meeting. A week later, Corporal Legge obtained *Mr. Shore's* medical records from January 1963 to February 1968 and found no mention of any injury to his penis or any treatment for a sexually transmitted disease. He also spoke with Staff Sergeant Ouellette and requested that the RCMP obtain clarification about the government's position on Mr. Toft.

Corporal Legge reported that, on 27 May 1999, he received a fax from the RCMP in Newmarket, Ontario, advising that a *Karl Gauthier* had made an allegation against an unnamed guard at the NBTS and that a video statement would be taken from him and forwarded to the MCU.[54] He received a call from the Newmarket

RCMP on 8 June 1999 advising that the statement from *Mr. Gauthier* had been taken and would be forwarded to him.

On 4 June 1999, a woman left a message with the Fredericton GIS stating that her brother *Tom Taylor* had been a victim while at the NBTS in the early 1970s. She was advised that the investigator was away and would return her call. On 7 June 1999, Corporal Legge placed a call and left her a message. The next day, he spoke with *Mr. Taylor* who complained of physical abuse while at the NBTS. He told *Mr. Taylor* that the information would be recorded; however, the acts he described "would likely have been summary in nature and therefore the time to action them has expired."[55]

On 10 and 11 June 1999, Corporal Legge and *Mr. Shore* exchanged a number of calls, most of which were in regards to the upcoming provincial election. He advised *Mr. Shore* that the election would have no effect on the investigation. He also told *Mr. Shore* that a decision was pending from the Director of Public Prosecutions as to the direction the RCMP would take with respect to Mr. Toft.[56]

In his Continuation Report of 16 June 1999, he referenced Mr. Abbott's letter of 18 June 1999 and stated, "Bottom line is that we will investigate Karl Toft." He also noted that, because he was taking up new duties, the file would be turned over to another investigator as of 14 June 1999.[57]

4. Assistant Commissioner Michel Seguin

Michel Seguin was transferred to "J" Division as the CROPS Officer in April 1997 holding the rank of an inspector. He was promoted to Superintendent in the fall of 1997 and then, following a reclassification, his rank was upgraded to Chief Superintendent in May 1999. He was promoted to Assistant Commissioner in December 2000 and left "J" Division for a posting in Ottawa. At the time of his audiotaped interview with the CPC on 27 September 2006, in London, Ontario, he was the Commanding Officer (CO) of "O" Division (Ontario). During his interview, he stated that he was unaware of the NBTS and Mr. Toft prior to arriving at "J" Division.

On 14 June 1999, Chief Superintendent Seguin wrote to Mr. Abbott, Director of Public Prosecutions, in an attempt to clarify the RCMP's position regarding the investigation and prosecution of Mr. Toft. He explained why the RCMP decided not to investigate any further complaints in regards to the NBTS and concluded his letter with the following statement:

> [A] reassessment of this matter now leads us to entertain any complaints levelled against all persons involved at NBTS, including Karl Toft. Although the present environment in which Crown counsel participates in any investigative, evidentiary and charge decisions has diluted the distinction between Crown and police responsibilities, it would appear that our duty to investigate alleged crimes should not be overshadowed by prosecutorial considerations, and we will investigate accordingly.[58]

The letter was followed by a response from Mr. Abbott on 18 June 1999, indicating that Mr. Murray's comments only referred to Mr. Toft. He also made it clear that if Mr. Toft had acted jointly with other persons, those charges would be considered. "The public policy considerations not to proceed with additional charges similar in circumstance to the 34 convictions against Karl Toft, remain as valid today as they did in 1995."[59]

On 21 June 1999, Chief Superintendent Seguin provided a brief response to Mr. Abbott's letter, clarifying a point to which Mr. Abbott had objected and stating that they recognized and respected the public policy considerations outlined by him.

> As those considerations do not preclude our duty to respond to reported crimes, we will continue to investigate and allow the results to be weighed against the thresholds imposed by s. 504 *Criminal Code* and public prosecutions policy.[60]

During his interview with the CPC, Assistant Commissioner Seguin stated that he had been under the assumption that the RCMP was not investigating complaints about the NBTS because of the decision of the Crown. He told the CPC that as far as he could remember, the decision was in place upon his arrival in "J" Division and that his predecessor, Superintendent Lange, was also of the same opinion. He also said that he had not been comfortable with the position and when the matter between *Mr. Shore* and the Deputy Attorney General came to prominence, he felt the time had come to get the matter clarified. In talking about "pre-charge screening," he said that

> it's been a contentious issue between the R.C.M.P. and the Director of Public Prosecutions. Because we have always maintained that … it is our prerogative … based on reasonable and probable grounds, to carry out the investigation and to lay the charges ... and that's not the situation that exists in the province of New Brunswick.[61]

5. Corporal Paulette Delaney-Smith

Corporal Paulette Delaney-Smith became involved in the investigation as the lead investigator at the end of January 2000. She remained the lead investigator until she learned that the NBTS investigation team was relocating to a building insulated with asbestos. When each team member was asked to indicate whether they would accept working in the building, she refused and, on 27 April 2001, requested to be replaced. She remained involved to some extent after that point; documentary evidence shows that she maintained contact with *Mr. Shore*, prepared court briefs for both *Mr. Shore* and *Mr. Rollins*, and in May 2004, corresponded with the Cornwall RCMP regarding former NBTS resident, *Daniel Trottier*.[62] *Mr. Rollins* brief alleged that Messrs. Toft and Raymond had sexually and physically abused him,[63] while *Mr. Shore's* brief "alleged that he had been sexually and physically abused by employees and inmates while at the Kingsclear facility."[64] *Mr. Trottier* is one of the individuals who lodged a complaint with the CPC.

Corporal Delaney-Smith was advised that she would be taking over the responsibility of liaising with *Mr. Shore* from Constable Houle in an e-mail dated 6 July 2000 from Sergeant Eaton. In June 2000, Constable Houle had been instructed to call and update *Mr. Shore* every Friday afternoon and to take all telephone calls from him as a way to control the information being given to *Mr. Shore*. However, Constable Houle's pending transfer to Ottawa, as well as Corporal Delaney-Smith's knowledge of the case and her dealings with the Crown regarding *Mr. Shore's* brief, led to the decision to assign *Mr. Shore* to her.[65]

On 22 February 2000, she wrote a report in relation to *Bert Spiegle* as follow-up to Constable Cole's question about whether to reopen his file. She reported that, on 3 December 1999, a lawyer for the Attorney General authorized a "fast-tracked" payment of $5,000 to *Mr. Spiegle* as compensation for his suffering through the Compensation for Victims of Institutional Sexual Abuse Program.[66] Her report also indicated that the Attorney General's office would be in touch with *Mr. Spiegle* to issue him the rest of his money.[67] On or about 4 June 2001, Constable Al Rogers, File Coordinator for the 2000 investigation team, contacted *Mr. Spiegle* and informed him of the Attorney General's position on charges similar to those for which Mr. Toft had been convicted and that, because his complaint was against Mr. Toft, no charges would be laid.[68]

On 28 February 2000, she also spoke with *Cameron Racicot*, the other former NBTS resident whom Constable Cole had written about on 10 December 1999. In *Mr. Racicot's* initial statement on 23 October 1991 to Corporal Legge, he had said that no one at NBTS had touched him.[69] However, he advised Corporal

Delaney-Smith that he was now willing to come forward. On 13 March 2000, she obtained a written statement from him.[70] He alleged that, while at the NBTS, a gym teacher beat him and, on another occasion, Mr. Toft groped him.[71] Constable Rogers, the File Coordinator, decided that because the identity of the gym teacher was unknown and the charges against Mr. Toft would be similar to past charges that no additional action would be taken in regards to *Mr. Racicot's* complaint.[72] In reviewing the file, Staff Sergeant Dunphy made a notation in a Continuation Report dated 28 January 2001 that *Mr. Racicot* appeared credible.

6. Sergeant Mac Eaton

Sergeant Mac Eaton first became involved in the NBTS investigation in March 2000. His duties were to review and coordinate the file in the early stages. He stayed involved in an administrative role until April 2002.

According to documents, he prepared a press release, dated 19 June 2000, which stated that a four-member team consisting of Sergeant Eaton, Constable Houle, Corporal Delaney-Smith and Constable James Bates had been assigned to investigate new allegations of historical abuse at the NBTS and that the RCMP anticipated the investigation would be lengthy.[73] He also authored an Investigation Report dated 23 June 2000 in which he detailed 11 issues and described a plan to reinvestigate all previous complaints and contact every former resident and employee of NBTS dating back to 1960.[74] The plan was submitted to Inspector Smith, the OSS Officer, who advised Sergeant Eaton on 4 July 2000 that the CROPS Officer concurred with the plan and was seeking the necessary funds.[75] However, the plan proved too elaborate to implement. The RCMP did not have the financial or human resources to carry it out.

Sergeant Eaton brought Staff Sergeant Ouellette up-to-date on his briefings with the OSS Officer, Inspector Smith, in a Transit Slip dated 4 July 2000. The Transit Slip indicated that there would be no additional personnel available until the fall and that, until then, Corporal Delaney-Smith and Constable Houle would continue working on the investigation.[76] During his interview with the CPC on 31 March 2006, retired Assistant Commissioner Tim Quigley who was the CO of "J" Division in 2000 agreed with the contents of this e-mail.

In an e-mail dated 23 June 2000, Sergeant Eaton suggested a strategy for handling the calls coming from *Mr. Shore* to CO Quigley. He described the frequency of the calls, as well as the time spent by individual investigators who spoke with *Mr. Shore*. The e-mail also referred to a call between Constable Houle and *Mr. Shore* during which Constable Houle asked *Mr. Shore* if he had any dealings with retired Staff Sergeant McCann, as well as the use of a 1-800 number that *Mr. Shore* had set up to enable other victims to come forward.[77]

Sergeant Eaton prepared a second media release dated 2 August 2000 confirming that the RCMP were looking into establishing an investigation team in the fall of 2000 to investigate new and old allegations of abuse at the NBTS. The release said that the RCMP was reviewing its human and financial resources in order to meet its objective.[78] Sergeant Eaton's name also appeared on a briefing note to the Commissioner dated 14 August 2000. The briefing note stated that court briefs were being prepared for submission to the Crown detailing 10 charges related to Mr. Toft's alleged abuse of *Mr. Shore*.[79] It should be noted that the CPC does not know whether the media release or the briefing notes, as prepared, were ever released.

Sergeant Eaton sent the draft of a letter he was writing to *Mr. Shore* to Kevin Connell, the Crown counsel assigned to the NBTS investigation, on 23 August 2000. Sergeant Eaton asked for Mr. Connell's opinion about the contents of the letter to *Mr. Shore*, which told *Mr. Shore* to stop interfering in the investigation and to contact Corporal Delaney-Smith in future.[80] Mr. Connell faxed a reply to Sergeant Eaton on the same date, advising him to seek advice from the RCMP's legal staff.[81] The documents reviewed by the CPC do not indicate whether the letter was sent and *Mr. Shore* cannot recall if he received it.

7. Chief Superintendent Bill Smith

The CPC interviewed Chief Superintendent Bill Smith on 8 March 2007 in St. John's, Newfoundland. He stated that he was stationed in "J" Division Headquarters in November 1999 as the OIC, OSS holding the rank of an inspector. He recalled that, at the time of his posting, he would have reported to Chief Superintendent Seguin who was the CROPS Officer for "J" Division.

He said that he did not recall getting any type of a briefing on the NBTS file since it was dormant upon his arrival. He told the CPC that he was there a few months when Superintendent Seguin requested him to call *Brad Lewis*, whom he had never heard of before. He said this was the start of his involvement in the NBTS investigation.[82]

He also recalled that Sergeant Eaton had made a detailed proposal to conduct an extensive investigation into the allegations involving the NBTS. He said he had discussed the plan with Sergeant Eaton and indicated that no additional resources could be spared until the fall of 2000. In October 2000, Staff Sergeant Dave Dunphy returned from a secondment and was put in charge of the pending investigation.

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1 Statement of Attorney General E. Blanchard, 29 October 1993, p. 3.

2 Ibid., p. 1.

3 Ibid., p. 4.

4 Ibid.

5 Ibid., pp. 5–6.

6 Transcripts, CPC Interview of P. Lange, 1 February 2007, p. 42.

7 Letter to R. Murray from Supt. Lange, 27 March 1995.

8 Letter to Supt. Lange from R. Murray, 26 April 1995.

9 Ibid., pp. 1–3.

10 Memorandum to NCO i/c Fredericton GIS from Supt. Lange, 15 May 1995.

11 Memorandum to Sgt. Edmonds from Sgt. Dunphy, 23 October 1995.

12 Continuation Report, Cst. McAnany, 5 December 1996.

13 Continuation Report, Cst. Dumont, 28 April 1997.

14 Letter to [*Mr. Racicot's* lawyer] from Insp. Seguin, 9 June 1997.

15 Memorandum to OIC District 2 from Insp. Seguin, 25 August 1997.

16 Occurrence Report, Cst. Ward, 11 September 1997; Letter to Cpl. Evans from D. Ward.

17 Letter to *G. Shore* from Supt. Seguin, 11 December 1997.

18 E-mail to Supt. Seguin from S. Clark, 24 February 1999.

19 Facsimile to Supt. Seguin from G. Abbott, 5 March 1999.

20 Memorandum to OIC OSS from Supt. Seguin, 9 March 1999.

21 Continuation Report, Cpl. Legge, 9 March 1999.

22 E-mail, Cst. Cole and Cpl. Legge, 20 May 1999, p. 3.

23 E-mail to Cst. Cole from Sgt. Eaton, 24 June 1999.

24 Facsimile to NCO i/c "K" Division MCU North from Cst. Cole, 16 July 1999.

25 Witness statement of *L. Brazeau* taken by Cst. Loewen, 29 July 1999.

26 E-mail to Cst. Cole from S/Sgt. Ouellette, 29 July 1999.

27 Continuation Report, Cst. MacPherson, 3 August 1999.

28 Witness statement of *T. Mastek* taken by Cst. Cole, 13 September 1999.

[29] E-mail to Cst. Cole from Sgt. Eaton, 24 June 1999; Continuation Report, Cst. Cole, 9 August 1999.

[30] Witness statements of *T. Manson* and *R. Fisher* taken by Cst. Cole, 5 October 1999.

[31] Facsimile to Cst. Cole from law firm, 27 October 1999.

[32] Continuation Report, Cst. Cole, 29 October 1999.

[33] Ibid.

[34] E-mail to S. Clark from Cst. Cole, 5 November 1999.

[35] Continuation Report, Cst. Cole, 5 November 1999.

[36] Continuation Report, Cst. Cole, 15 November 1999; 8 December 1999.

[37] Continuation Report, Cst. Cole, 17 November 1999.

[38] Continuation Report, Cst. Cole, 10 December 1999.

[39] Continuation Report, Cst. Cole, 26 January 2000.

[40] Transcripts, CPC Interview of J. Ouellette, 6 December 2006, pp. 5, 35–37.

[41] E-mail to Supt. Seguin from S/Sgt. Ouellette, 17 March 1999.

[42] Continuation Report, Cpl. Legge, 17 March 1999.

[43] Witness statement of *G. Shore* taken by S/Sgt. Ouellette, 13 December 1999.

[44] Continuation Report, S/Sgt. Ouellette, 8 February 2000.

[45] Officer Notes, S/Sgt. Ouellette, 10 November 2000.

[46] E-mail to Insp. Smith from S/Sgt. Ouellette, 23 February 2000.

[47] Continuation Report, Cpl. Legge, 9 March 1999.

[48] Continuation Report, Cpl. Legge, 30 March 1999; 9 April 1999.

[49] Continuation Report, Cpl. Legge, 12 April 1999.

[50] Continuation Report, Cpl. Legge, 15 April 1999.

[51] Letter to Cst. Ward from Cpl. Legge, 30 April 1999.

[52] Continuation Report, Cpl. Legge, 9 March 1999.

[53] Letter to *G. Shore* from J. McNair, 6 April 1999.

[54] Continuation Report, Cpl. Legge, 18 May 1999; 25 May 1999; 27 May 1999.

[55] Continuation Report, Cpl. Legge, 4 June 1999; 7 June 1999; 8 June 1999.

[56] Continuation Report, Cpl. Legge, 10 June 1999; 11 June 1999.

[57] Continuation Report, Cpl. Legge, 16 June 1999.

[58] Letter to G. Abbott from Chief Supt. Seguin, 14 June 1999.

[59] Letter to Chief Supt. Seguin from G. Abbott, 18 June 1999.

[60] Letter to G. Abbott from Chief Supt. Seguin, 21 June 1999.

[61] Transcripts, CPC Interview of A/Comm. Seguin, 27 September 2006, p. 31.

[62] E-mail to J. Y. Lemoine from Cst. Daigneault, 5 May 2004.

[63] Evidence Brief by Cpl. Delaney-Smith, 5 February 2001.

[64] Evidence Brief Appendix “A” by Cpl. Delaney-Smith, 5 February 2001.

[65] E-mail to Cpl. Delaney-Smith from Sgt. Eaton, 6 July 2000.

[66] The program was established in June 1995 following a recommendation by Justice Miller to recompense victims of abuse in provincial institutions for their suffering. Upon receipt of a claim, several provincial departments, including the Department of the Solicitor General and the Department of Justice, would review the claim to determine the amount for compensation. The maximum amount a claimant could receive was $120,000, which included non-financial benefits. The average payment was $40,000 with an additional $5,000 for psychological counselling and $800 for vocational training through community colleges.

[67] Continuation Report, Cpl. Delaney-Smith, 22 February 2000.

[68] Continuation Report, Cst. Rogers, 4 June 2001.

[69] Witness statement of *C. Racicot* taken by Cpl. Legge, 23 October 1991.

[70] Continuation Report, Cpl. Delaney-Smith, 28 February 2000; 13 March 2000.

[71] Continuation Report, S/Sgt. Dunphy, 28 January 2001.

[72] Continuation Report, Cst. Rogers and Cst. D. Potvin, 17 September 2001.

[73] RCMP, News Release, "Historical Abuse at the New Brunswick Central Reformatory," Sgt. Eaton, 19 June 2000.

[74] Investigation Report, Sgt. Eaton, 23 June 2000.

[75] Transit Slip to Sgt. Eaton from Insp. Smith, 4 July 2000.

[76] Transit Slip to S/Sgt. Ouellette from Sgt. Eaton, 4 July 2000.

[77] E-mail to A/Com. Quigley from Sgt. Eaton, 23 June 2000.

[78] RCMP, News Release, "New Brunswick Training School," Sgt. Eaton, 2 August 2000.

[79] Briefing Note to the Commissioner from Sgt. Eaton, 14 August 2000.

[80] Facsimile to K. Connell from Sgt. Eaton, 23 August 2000.

[81] Facsimile to Sgt. Eaton from K. Connell, 23 August 2000.

[82] Transcripts, CPC Interview of Chief Supt. Smith, 8 March 2007, pp. 3, 4.

9. Investigation by Staff Sergeant Dave Dunphy (2000–2003)

The RCMP looked into establishing an investigation team to investigate new and reinvestigate old allegations of abuse at the New Brunswick Training School (NBTS) as early as the fall of 2000. Staff Sergeant Dave Dunphy, recently returned from a secondment, was put in charge of the pending investigation in October 2000. However, the next few months were spent acquiring the funding and resources for the investigation team and setting the parameters of the investigation with Crown counsel Kevin Connell. It was not until May 2001 that the task force met for the first time. Team members included Staff Sergeant Dunphy, Corporals Clive Vallis and Paulette Delaney-Smith and Constables Kathy Long, Al Rogers and Pierre Gervais. Constable Denise Potvin joined the team in mid-August 2001.

9.1 Background

Staff Sergeant Dunphy's investigation team, which was also known as the task force, had far fewer suspects to investigate than Sergeant Doug Lockhart and Constable James McAnany did in 1992 to 1994. The team did not seem to expand their investigation to include staff at the NBTS other than Karl Toft, Weldon (Bud) Raymond and Hector Duguay. Although the list of suspects had grown to 48 in the 1990s, by 2001 the numbers had been reduced to three individuals. The difference may be attributed to the fact that there were no complaints made by former residents about any NBTS staff members other than the three suspects.

During the 1992 to 1994 investigation, there was a dearth of former residents to interview and from which to receive potential complaints. The RCMP overcame this impediment by conducting a random search for the names of former NBTS residents in the Provincial Archives of New Brunswick. The result was hundreds of names to be pursued by investigators. Staff Sergeant Dunphy's team faced a different situation. As the file coordinator for the investigation, Constable Rogers had to review a box of 145 Tip files, information relating to potential victims, suspects and so on, that had been kept in the storage room of "J" Division Headquarters. New information received throughout the investigation meant that the number of the Tip files eventually reached 216.

The Attorney General had not changed his decision about not pursing charges against Mr. Toft that were similar to those for which he had been previously sentenced. Based on this, Constable Rogers and his colleagues disregarded allegations that they described as being "in the box," focusing their policing attention on the remainder of the Tip files that were circumstantially different from the Toft matter.

9.2 Chief Superintendent Bill Smith

Bill Smith was the Operational Support Services (OSS) Officer for "J" Division. At the time of the NBTS investigation, he was an Inspector and the officer responsible for the Major Crime Unit (MCU) and, therefore, the "Line Officer" to whom Staff Sergeant Dunphy reported when he became the Non-commissioned Officer (NCO) i/c of MCU. In his interview with the CPC on 8 March 2007 in St. John's, Newfoundland, Chief Superintendent Smith said that he did not remember getting a briefing on the NBTS investigation upon his arrival in 1999 and that the file was "probably dormant."[1]

He was introduced to the investigation just prior to the decision to form the investigation team.

9.2.1 Formation of the Investigation Team

His first exposure to the investigation occurred when the Criminal Operations (CROPS) Officer, Chief Superintendent Michel Seguin, asked him to call former resident *Brad Lewis*, who had been in touch with the RCMP about the McCann investigation and who was the catalyst for the RCMP to reopen their investigation into the NBTS in February 2000. He said that because he did not know the file, he told *Mr. Lewis* that he would need to review it. He ordered the file from the MCU and examined the most recent McCann investigation.

He told the CPC that he was also familiar with *Gregory Shore's* complaints but that he could not remember when his name surfaced. He said that "I don't even think Kingsclear [was] on my radar at that time …. But Toft, I don't think was high on the radar screen, I think because *Lewis* was specific to McCann. So, I think the rest of it [NBTS investigation] came afterwards." He indicated that once Sergeant Mac Eaton had reviewed the NBTS investigation in terms of the resources required "that's where Kingsclear got tied in."[2] He continued: "And I trusted Mac to do an analysis of the file. Tell us what we needed. My job then was to try and go to Criminal Ops, the OIC [Officer-in-Charge] Criminal Operations and if necessary hire … try to secure those resources …".[3]

In the early days of his arrival to the "J" Division and the NBTS file, Inspector Smith received an e-mail from Staff Sergeant Jacques Ouellette. In the e-mail, dated 23 February 2000, Staff Sergeant Ouellette referred to a meeting he had had with Crown counsel William Corby in which Staff Sergeant Ouellette advised that the MCU would investigate all 11 NBTS complaints and revisit all the files related to the charges that had been stayed by Attorney General Edmond Blanchard. Corporal Delaney-Smith was to be the File Coordinator and Constable Phil Houle was the lead investigator.[4]

On 23 June 2000, Inspector Smith, together with Sergeant Eaton of the MCU, wrote an Investigation Report about Sergeant Eaton's ambitious action plan for the investigation of the NBTS and Toft files. On 4 July 2000, Inspector Smith reaffirmed his agreement with Sergeant Eaton's action plan,[5] which anticipated that there would be hundreds of interviews of former NBTS residents and that the investigation would be extremely lengthy and exhaustive.[6]

In an e-mail to Inspector Smith, Staff Sergeant Ouellette and Sergeant Eaton, Chief Superintendent Seguin described an 11 July 2000 meeting between himself and Glen Abbott, Director of Public Prosecutions, at which he learned that Mr. Connell was assigned as the Crown counsel for the investigation. Mr. Abbott assured Chief Superintendent Seguin that the RCMP would have the full support of the Crown.[7] Inspector Smith then met with Staff Sergeant Ouellette, Corporal Delaney-Smith and Constable Houle. They decided that the investigators were to concentrate on the complaints made by *Mr. Shore*. A project leader had not been determined at that time. Inspector Smith told them that he wanted to put the NBTS and Toft issues to rest once and for all. He expressed the opinion that these issues could turn into a major file and they should not be approached in a piecemeal fashion. Other than a meeting with Mr. Abbott in July 2000, there does not appear to have been much progress in setting up an investigation team.

9.2.2 Funding Proposal

On 18 October 2000, Inspector Smith stated in an e-mail that there had not been much progress in the investigation and that "we have to get this back on the rails." He added that Staff Sergeant Dunphy was now to be the lead for the file.[8] On 23 October 2000, Staff Sergeant Dunphy returned to the MCU and began work on his proposal for funding from the province and some speaking notes for Chief Superintendent Seguin. On 3 November 2000, Inspector Smith sent an e-mail to Chief Superintendent Seguin to which he attached Staff Sergeant Dunphy's proposal in the form of an executive summary.[9]

The CPC is unable to verify whether a "pitch" was ever actually made to the province for funding for the NBTS and Toft investigation but the preponderance of evidence suggests that the proposal was not submitted. As Chief Superintendent Smith stated to the CPC,

> I don't think, I may be wrong but I don't think we ever made that formal presentation to government. And … I think what we did in the end is we … carried the members … on the backs of the Division …. We were pulling it together. I know I said hindsight is twenty-twenty and if … you look at the complainants' thoughts on that, they may say, you know, it was … less than a stellar effort [10]

He added that the proposal was raised with the government but he did not think that they had ever had the formal audience that they envisioned, and said "we carried it internally."[11]

By the end of the year 2000, there had not been much progress in providing resources for the new team or in setting it up. This prompted Staff Sergeant Dunphy to write to Inspector Smith on 8 February 2001 to ask for resources for a "scaled-down" version of the original October 2000 investigation plan.[12] That same day Inspector Smith wrote a memo to the new CROPS Officer, Chief Superintendent Jim Payne, who had replaced Chief Superintendent Seguin, about resources for the future NBTS investigators.[13]

In response to the CPC's question about whether the delay in obtaining resources for the team had an adverse effect on the investigation, he stated: "Well it slowed it down, in the initial part I guess because … you just can't go and grab resources …".[14] He added:

> If I recall correctly … we were sent back to the drawing board a number of times to come up with a different version … [of funding and resources].[15] I mean let's face it, time had dragged on long enough by that time …. We had to get on with it …. This is dragging on by this time … I wanted this thing reopened. I wanted it done properly. And I wanted it done in a timely fashion. … I don't control the purse strings.[16]

The CPC asked why it took 14 months to get the investigation off the ground, especially when it was a priority investigation. He replied:

> Well, if I was sitting on the outside and I'm looking in, I'd probably say the same thing. … [There are] a whole bunch of reasons for that but is it acceptable to the complainant? Probably not. I mean I'm not going to sit here and say that … that should be acceptable … that's not necessarily true.[17]

He explained that in the intervening period from October 2000 to 1 May 2001, Staff Sergeant Dunphy and Corporal Delaney-Smith were "getting resources. Finding people. Getting space. … getting a plan together. Doing some research on old files. Things like that. … I can't say there was nothing done in that time period."[18]

9.2.3 Investigation Updates

While referring to a memo he had written on 13 July 2000 about the *Shore* complaint and investigation, Chief Superintendent Smith told the CPC that he had an open-door policy and that he was available to Staff Sergeant Dunphy for consultation on investigation team issues. He also said:

> [W]e're going to keep doing this and we're going to get it done. You know, if there are charges to be laid, let's lay the charges. If there's nothing to support charges then I guess we can't. And I think I made comments somewhere in there we're never going to make everybody happy. I mean, we can only go where the evidence or … the information tell us to go. Either it exists or it doesn't exist. If it does exist, well let's do it.[19]

Staff Sergeant Dunphy kept him continually informed of the progress of the investigation and he was generally familiar with Constable Rogers' monthly memorandums on the status of the investigation and the statistics with respect to the Tip files. He was also familiar with *Mr. Shore* and his complaints and allegations against Messrs. Toft and Raymond.

He was aware of some of the other MCU investigations that were distracting the team from the NBTS investigation, particularly the incidents and events at Burnt Church reserve in New Brunswick concerning lobster-fishing rights. He was appointed "Incident Commander" for the Burnt Church situation and, commencing in August 2001, was away from Fredericton for a considerable period of time, as were members of the team.

Asked about the effect of members being pulled from the investigation, he stated: "The only time … that I could say that I deliberately slowed down the pace of the investigation is Burnt Church …. But everybody in the Division was drawn from the resources."[20] However, it was "a matter of [life] and death. … There was weapons, explosives …".[21]

9.2.4 Complainant *Gregory Shore*

In fall 2001, *Mr. Shore* continued contacting members of the RCMP about his complaints and allegations on a regular basis. He telephoned the Deputy Commissioner of the Atlantic Region, Terry Ryan, who spoke with him several times. Deputy Commissioner Ryan asked the team for an update on the progress of the *Shore* investigation, which prompted Inspector Smith to send an e-mail to Staff Sergeant Dunphy:

> I am quite satisfied that we are investigating this file appropriately. It was going nowhere until we picked it up, dusted it off and scrounged for resources to pursue it. From the start, *Mr. Shore* has been a nuisance … more of a hindrance than a help. … We have made no guarantees from the beginning of any charges against anyone … we should be able to advance these issues more quickly and hopefully put this to rest once and for all.

Inspector Smith added a note to CROPS Officer Chief Superintendent Payne that "we are on top of this. All [the team] needs is a little … breathing room to do their jobs without being second-guessed everyday by the victim(s)."[22]

Referring to an e-mail from himself to Staff Sergeant Dunphy dated 5 October 2001, he indicated to the CPC that he was quite satisfied that the team was investigating the *Shore* complaints adequately. He realized that *Mr. Shore* had some grievances and some things that needed looking into, but, he explained, *Mr. Shore's* contacts with the RCMP were

> just sucking energy, from everybody that was on the investigation. Because he was off to complain to anybody who would listen. And I don't know any organization that would put more time into contacting a complainant than we did [with *Shore*], I mean we couldn't have done any more for *Mr. Shore*, as far as I'm concerned. And, we assigned a full-time person basically to *Mr. Shore*. … So, I guess if he wants to complain about the length of the investigation or the resources, then maybe [if] we have … we didn't have to put [an officer] on him [full-time], it might have been quicker …. You've got a team of people working; you might get some positive feedback from the complainants from time to time, saying "Look, thanks very much for your help." There wasn't a whole lot of that in these files. So after a while I think even the investigators might say to themselves …. What are we … every time we turn around, it doesn't matter what we do, they complain about the … pace and what we're doing or [who] we interview.[23]

Chief Superintendent Smith was aware that court briefs had been submitted to Crown counsel Connell during the fall of 2001 and that Mr. Connell had indicated that he would not be able to review them until January 2002 because of court commitments. When the letters of opinion regarding anticipated charges against Messrs. Toft and Raymond arrived in May 2002, Staff Sergeant Dunphy informed Inspector Smith of the contents of the letters and the reasons why the Crown was not approving charges.

9.3 Retired Staff Sergeant Dave Dunphy: Project Leader of the Task Force

The CPC interviewed Dave Dunphy on 27 October 2006 in Fredericton. He joined the RCMP in May 1973 and, after training, was posted to "J" Division. In 1995, he was in charge of the General Investigation Section (GIS) in Fredericton as the Operations NCO investigating homicides. In October 2000, he was assigned as the project leader of the NBTS investigation team. An e-mail dated 24 October 2000 from Inspector Smith, and copied to him, suggests that his first day on the job with the file was 23 October 2000. [24]

9.3.1 Funding

One of Staff Sergeant Dunphy's first moves was to prepare a proposal[25] asking for financial resources from the provincial government, although the parameters and mandate of the investigation had not yet been established. The proposal, dated 24 October 2000, contained a detailed description of the scope and cost of the NBTS investigation. He submitted this along with some speaking notes[26] to his superior officers, Chief Superintendent Seguin, the CROPS Officer, and Inspector Smith.

The proposal also listed the names of 200 former residents who still needed to be contacted. He told the CPC that he arrived at this figure by examining the boxes of files from the previous investigations, particularly Sergeant Lockhart's investigation.[27]

> I feel at this point that the two hundred that were remaining were those people who were for one reason or another weren't located or weren't contacted or for whatever reason we hadn't spoken to. So that's where that number would come from. … that would be an in addition to those people who had already been investigated …. I believe there were sixteen charges, or I forget whether it was 15 charges or various charges with regard to 16 individuals that were laid and stayed.[28]

He told the CPC that he was not sure whether anyone acted on his proposal or used his speaking notes. He also said that he was not aware of whether the actual proposal was made.

> [T]he difference between that proposal and what actually transpired, is somewhat different. … I think at the end of the day we spent less than a hundred thousand dollars … in expenditures. At this point, as I said in there, I mean we were lookin' at interviewing all of the inmates. … This is a pitch to provincial government that's going to hopefully provide some funds to you. I guess it could be realistic. I'm not trying to say that we were fudging things. … We were giving them probably the worst case scenario … and what we felt should happen in order to do an appropriate job. … The parameters changed. The mandate changed and the dollars changed. So you do as best you can with what you have.[29]

9.3.2 Early Situation

By the fall of 2000, Corporal Delaney-Smith was the only investigator working with Staff Sergeant Dunphy. She had a number of things that she had to do before she could continue to work on the investigation, as did Staff Sergeant Dunphy. Corporal Delaney-Smith was involved in two investigations dealing with the complaints of former residents *Gregory Shore* and *Joseph Rollins*; and even though he thought that he would be looking exclusively into the NBTS, Staff Sergeant Dunphy ended up as the Unit Commander of the MCU

when the unit's Staff Sergeant was seconded for assignment elsewhere. As Unit Commander, he was also overseeing investigations in the southern half of the province.[30]

9.3.3 Investigation Parameters

In planning how to tackle the investigation, Mr. Dunphy told the CPC that one suggestion was to go back and attempt to interview every NBTS resident, but he felt that this was not practical or wise.[31]

He referred to the court order granted by Judge Cockburn in February 1992, which limited the RCMP's access to the NBTS records in the Provincial Archives to just 100 files.

> [Judge Cockburn's] logic was that … we [the RCMP] are not on a fishing expedition here …. We shouldn't be allowed to delve into each individual's life for the sake of … trying to drag up something they don't want dragged up. However, due diligence being what it is, you must certainly investigate the … complaints you have and to do whatever you can to … further that. So that's how they [Lockhart's team] proceeded.[32]

> Eventually … the Attorney General's position [was] that we do not prosecute Toft any further … for like offences, occurring under similar circumstances. Now that was the parameters. That's inside the box. So any further complaint that was inside the box … we'd meet with him. Take a statement from him and advise him that look, this is going nowhere. We can't get past the Crown Prosecutor and … I'm sorry but you'll have to do, another avenue if you wish to do anything in that regard. … A good portion of them were, that I'm aware of, … I don't want this to sound the wrong way but relatively minor on the scale of sexual assault. That being … inappropriate touch over the clothing or some types of thing as that. … Certainly not an indictable offence. However, there may have been others I wasn't aware of but were more serious.[33]

Eventually it was decided that the RCMP should look at complaints of assault causing bodily harm rather than sexual assault of a minor nature. Files or Tips considered "outside the box," and therefore appropriate for investigation, would be those with a component of violence to the allegations.[34] This meant that the proposed investigation would be

> considerably tiered down from, speaking to everybody no matter what. Whatever type of complaint they may have had and completely trying to corroborate and, gain enough sufficient information to take those to court …. Our objective in the first instance would be … to contact those individuals … I think it was actually … a hundred and sixty-four … We tried to contact those, … and did contact nearly a hundred percent of them if I'm not mistaken.[35]

9.3.4 External Pressures

Chief Superintendent Seguin sent an e-mail to Inspector Smith dated 13 July 2000 stating that he was advised of Crown counsel Kevin Connell's appointment to assist the investigation team during a meeting with Mr. Abbott. The RCMP assured Mr. Abbott of their full co-operation.[36]

On 6 November 2000, Mr. Connell wrote to Staff Sergeant Dunphy asking for an estimate of the time that the investigation would take and the volume and nature of the materials that the RCMP was expected to present to the Crown counsel. Mr. Connell indicated that this would give him an idea of what resources and facilities he would need to review the file.[37]

Staff Sergeant Dunphy replied on 5 December 2000, saying that there had been a host of other priorities and limitations with respect to the investigation. He indicated that "efforts are continuing, however, to have sufficient resources committed to this file in order that a proper and appropriate investigation be completed." He could not give a date for when the investigation would be completed or for when the "full-scale effort" would begin, but said that he should be able to provide an answer in early 2001. He assured Mr. Connell that he would seek his input on a continuing basis once the investigation team was fully operational.[38]

On 15 December 2000, Mr. Connell wrote a letter to Staff Sergeant Dunphy asking him to thoroughly investigate the complaint of *Mr. Shore*[39] before continuing with his other investigations. On 20 December 2000, Staff Sergeant Dunphy replied that *Mr. Shore's* complaint was under investigation and that it should be completed in early 2001.[40] During the month of December 2000, the CBC's investigative documentary program, the fifth estate, aired a program related to *Mr. Shore*.

On 1 January 2001, Corporal Delaney-Smith sent an e-mail to Staff Sergeant Dunphy advising that she had spoken with *Mr. Shore* and *Mr. Rollins* that day and that "they are all updated and should leave you alone."[41] She indicated that she had all the information required for the *Rollins* court brief. *Mr. Shore* had been calling over the holidays. Both men were apparently satisfied with the RCMP investigation's progress.

9.3.5 Investigation Approach

In response to questions from the CPC, Mr. Dunphy explained how investigators approached the former residents and how they questioned potential victims. He said that if the person contacted said that he had something he wished to disclose to the RCMP, an investigator would be sent to speak with him in person. If the complaint was about Mr. Toft and similar to the ones for which he had been convicted and sentenced in 1992, the investigator was to explain the Attorney General's policy to not approve similar charges for Mr. Toft. The investigator was supposed to advise the complainant that he could seek legal counsel and to provide the name of a lawyer who was representing a number of former residents. He added that "if the complaint was against somebody else, other than Toft, then certainly we would do whatever we had to do in order to thoroughly investigate that. … That was our mandate and … that was our protocol basically."[42] The CPC asked if it was his idea to conduct the investigation in this manner. He responded:

> I had no direction … I shouldn't say it that way, manner, but I had full leeway to deal with it as I saw fit. My only direction was to do a complete and full investigation. … There was no meddling by my boss or my boss's boss. … There were requests to … keep them updated … and certainly the Deputy Commissioner wanted updates frequently … and we would do that. … But there had to be some type of parameters established in order to determine how you were going to proceed with this massive investigation … get some manageable handle on it ... And … once it was determined that the provincial government … had no interest in pursuing Toft for any further like offences, then that tiered it down considerably.[43]

Mr. Dunphy indicated that his superiors, Inspector Smith and Chief Superintendent Seguin, were aware of this scaled-down plan and the mandate he described. Although he did not deal directly with Mr. Abbott, the Director of Public Prosecutions, he assumed that the Department of Justice had given their blessing to his investigation plan.[44]

9.3.6 Preliminary Work

Staff Sergeant Dunphy began 2001 by reviewing some potential charges and a summary of facts related to Mr. Toft that had been prepared by Corporal Delaney-Smith. He prepared an affidavit in support of an application for access to NBTS records at the Provincial Archives in relation to potential further charges against Bud Raymond. He made attempts to locate the NBTS records that dealt with day passes and punishment registers, which had been researched in 1992.

According to his notebook entries for January 2001, he prepared questions for upcoming interviews with former residents *David Wright* and *Mr. Lewis* on 12 January 2001. He obtained consent from alleged victims, *Messrs. Shore* and *Rollins*, to access their records at the Provincial Archives. He briefed Chief Superintendent Payne, the CROPS Officer, and reviewed the files and statements that pertained to the investigation involving *Messrs. Shore* and *Rollins*. He searched for the addresses of four other potential victims.

On 31 January 2001, Staff Sergeant Dunphy met with Mr. Connell, who stated that all files submitted to him for approval of criminal charges would be assessed on their own merit. Investigators would have to present a "good" amount of detail and corroborative evidence to demonstrate that "a conviction being more likely than an acquittal." Mr. Connell said that the position of the Crown prosecution office remained unchanged: charges would not be approved against Mr. Toft for "like offences" to which he had already been sentenced;[45] and the "bar has been raised"[46] for approving further charges against Mr. Raymond. The two men considered what evidence would be required for the Crown to elect to proceed by indictment on any of the charges. Staff Sergeant Dunphy requested Mr. Connell's opinion on the issue in writing; he agreed but advised that he would not be able to work on the *Shore* and *Rollins* files until the end of March.

Staff Sergeant Dunphy's notes of 1 February 2001 state that he met with CROPS Officer Chief Superintendent Payne and OSS Officer Inspector Smith to bring them up to date on his meeting with Mr. Connell.

9.3.7 Requirements of Investigation

On 8 February 2001, Staff Sergeant Dunphy wrote a memorandum to Inspector Smith requesting resources to deal with the investigation "expediently and effectively." He alluded to the previous investigative plan developed by Sergeant Mac Eaton, which envisaged the RCMP interviewing each NBTS resident from 1966 through 1985, potentially thousands of people. He countered by saying that "[h]aving now had the opportunity to review and become familiar with the file as it is now and to discuss relevant issues with the Crown Prosecutor, it now appears that a 'scaled-down version' may be a more appropriate response."[47]

He indicated that he had reviewed the complainant and victim files "to determine with some degree of accuracy, the number of interviews and resulting investigation required…".[48] He advised Inspector Smith that he had reviewed approximately 145 files and found that some required further investigation. Of the 145 files, investigators in 1991 had not contacted approximately 99 complainants for various reasons. "I feel that each requires at a minimum, contact by an investigator, a formal interview and resulting statement."[49] Thirty-three victims alleged sexual abuse by Mr. Toft, four alleged abuse by Mr. Raymond and four were considered unfounded. "The remainder are various complaints against five (5) alleged perpetrators."

He continued his memorandum by giving his opinion of the human resources required and costs expected to conduct the investigation. He said that the figures were an "educated guess"[50] and that he expected the investigation would take one year to complete. He concluded: "this proposal represents only those 150 potential victims now known to the investigators. Certainly the potential exists for others to make additional complain[t]s."[51] The costing was presented in a spreadsheet and attached to the memo.

After receiving the memorandum, Inspector Smith sent it, and an executive summary, to Chief Superintendent Payne. Inspector Smith said that Staff Sergeant Dunphy and Corporal Delaney-Smith would continue with the investigation with the understanding that other officers might soon supplement them.[52]

Mr. Dunphy advised the CPC that the proposal in his memo of 8 February 2001 was a "scaled-down" version of the proposal of 24 October 2000, which had been abandoned.[53] When questioned about whether Mr. Connell had knowledge of the new proposal, he replied, "I'll say yes, because we were continually having meetings and because he [Connell] was very anxious to find out how many resources he needed …".[54]

9.3.8 Communication with Crown Counsel

On 27 March 2001, Mr. Connell wrote a letter to Staff Sergeant Dunphy, listing the topics that they had discussed at their meeting on 31 January 2001. He restated the Attorney General's position that Mr. Toft would not be prosecuted for complaints similar to those for which he had been convicted. In response to Staff Sergeant Dunphy's request for clarification about the evidence required for the Crown to approve charges, he said "it is my position one can never be thorough enough."[55] Mr. Connell also stated that it was his understanding that Staff Sergeant Dunphy would be sending him three files in the very near future. He closed by saying that his director, Mr. Abbott, had inquired of him as to the status, direction and time frame of the investigation.[56]

Staff Sergeant Dunphy replied to Mr. Connell on 9 April 2001. He began by apologizing "for what seems to be an extraordinarily lengthy time to get 'up and running' …. There have been many delays …".[57] By way of explanation, he provided a brief history of the investigation and described his proposals. He stated that, during the previous months, he was able to familiarize himself with the file "as it is now."

> That is to say, the number of complainants/potential victims, the types and severity of alleged offences and the number of alleged perpetrators. It was following this review that I requested our meeting of 31 January and the topics you have outlined were discussed. Following our meeting and with the benefit of our frank discussion, the original proposal was revised to reflect our goals in more realistic terms. Essentially, the investigation as it now is consists of approximately 145 files …. I feel that each requires at a minimum, contact by an investigator, a formal interview and resulting statement. The Attorney General's position regarding not prosecuting Mr. Toft not withstanding.[58]

Staff Sergeant Dunphy then provided statistics regarding the investigation and the composition of the investigative team. He stated that the investigation would take between 12 and 18 months to complete.[59] He added that Mr. Connell should expect two files from the RCMP shortly.

> Cpl. Delaney-Smith's intention was to have them to you by now; however, other priorities required her to assist with another investigation in the Moncton area recently. I expect that she will request a meeting with you in the very near future. As you can see this is a much watered-down version from what was intended at the onset. In my opinion much more realistic and manageable in scope.[60]

9.3.9 Team Meeting

On 1 May 2001, Staff Sergeant Dunphy met with his new team of investigators. The team included himself as the Staff Sergeant in charge; Constable Rogers, the File Coordinator; Corporals Delaney-Smith and Vallis; and Constables Gervais and Long. Staff Sergeant Dunphy prepared a memorandum dated 4 May 2001 in which he referred to the meeting and stated that the project had now commenced:

> A very productive meeting was held that date with all team members. The file was discussed in general terms, including a brief history, results to date, players involved and expectations from this point forward. A general strategy was outlined for the immediate future and will include first and foremost, arranging the office space and equipment to create an appropriate work environment. Secondly a review of individual files will be to familiarize all members with the various common themes and personalities throughout this file. Following this, a protocol will [be prepared] for interview procedures and a series of common questions [will] be developed to insure thoroughness and uniformity throughout the investigation. There are a number of other "business rules" … which must be developed and utilized in order to deal uniformly and effectively with those instances where no prosecution will result, vis-a-vis the Attorney General's decision etc. Due diligence must be exercised to insure that all reasonable efforts are made to contact each of the one hundred and forty-five potential victims …. All of the above will of course, take time but I am very much encouraged by the attitude and enthusiasm displayed by the members recently assigned to the project.[61]

The memorandum was a "recap of our progress to date, our present situation as to resources and our strategic plan to move this project forward."[62] He attached the letter that he had received from Mr. Connell on or about 27 March 2001 and referred to the Attorney General's policy regarding approval of further charges against Mr. Toft and Mr. Raymond. He indicated that

> [t]his project has certainly had its share of difficulties getting "off the ground" … [E]fforts have been made to concentrate on the allegations made by *Gregory Shore* and *Joseph Rollins*, as well as those made against ex-S/Sgt Cliff McCann. Cpl. Delaney-Smith has been taking the lead role on *Shore* and *Rollins* and has, as recently as 2 May, delivered a brief to Crown Prosecutor Kevin Connell for his perusal and written decision as to potential charges.[63]

He informed the CPC that

> [w]e were being inundated with … conversations from *Mr. Shore*. In the first instance it was a very confusing time. There were no parameters …. It could have been a very monumental file … that was thrown to two people [Dunphy and Delaney-Smith] to kind of smooth the waters in the time being. … And two people are trying to do the best they could … I'm not sure if there were other priorities … in the Division that took precedent, but when you're out in the water by yourself … you tend to feel a bit alone.[64]

The CPC asked him if any people were dragging their feet while helping him with the investigation. He replied:

> No, I can't put the blame on anybody. I can't point fingers …. Nobody knew how to handle it. Nobody knew really the history [of the file]. I think there were a lot more, immediate priorities …. Again, possibly murders. Possibly high-priority drug files … that took people's time and effort …. It was only a very short period … from well October when we first started until May … I do know that I became a little frustrated with it, and but … after those eventual growing pains all things went well. And when it was time to provide the resources from the time and the effort to get this thing off the ground and do an appropriate investigation then it was … straight-ahead from there. From the time I had the meeting with the CROPS Officer … it was okay then. And it worked well.[65]

> I don't want to place blame on Bill [Smith] or the CROPS Officer or the RCMP for that matter. Were we doing what we were supposed to do? I don't know. Perhaps in [hind]sight we could have done things quite a bit different …. Maybe it was my fault. Perhaps I took more than an appropriate length of time to get my feet under me …. These are all possibilities …. It was a pretty significant investigation, to review in a short period of time … and deal with *Mr. Shore* and try to get something together to get down to the Crown …. As I said, if there's blame to be placed, place it on me …. That's what I was there for …. I feel afterwards [every]thing came together and it was a fairly, it was a good investigation.[66]

Asked about his team meeting on 1 May 2001, he told the CPC that, after the meeting,

> I had a chat with each one of them …. I don't want it to be thought that I'm trying to belittle them [team members], but the attitude … at that time was that they had no place to go. They had no home to go to and so if you want them, you can have them". …..And each one of them... nobody let me down.[67]

The CPC in fact found that the investigation team members performed their duties adequately and in some cases went beyond the call of duty. For example, in their determination to find more information, Constables Long and Potvin advised certain members of the public about the allegations against Mr. McCann, and Constable Gervais carried out informal surveillance of Mr. McCann.

9.3.10 Investigation Updates

Once the team became operational, Constable Rogers provided Staff Sergeant Dunphy with statistics on the number of victims interviewed and the results of the interviews on a regular basis. Staff Sergeant Dunphy would, in turn, keep his superiors apprised of the progress of the investigation. He regularly updated the Crown counsel, approximately once a month.[68]

On 20 June 2001, Constable Rogers, the File Coordinator, prepared an Investigation Report containing statistics on the now 174 outstanding files that the team would be investigating, which Staff Sergeant Dunphy endorsed.[69] The report was the first in the series of regular reports by Constable Rogers dealing with the progress of the investigation.

At a meeting on 21 August 2001, Staff Sergeant Dunphy informed Mr. Connell of the number of files relating to former residents that the RCMP would be sending him. He said that *Mr. Shore* was now refusing to co-operate with their inquiries and that the RCMP would have to obtain search warrants to proceed further. He advised that the team would not be investigating the charges against Mr. Toft that the Attorney General had stayed on 29 October 1993. They were also telling Toft victims that new charges against Mr. Toft were no longer a possibility and that their only recourse was a civil case.[70]

On 22 August 2001, Constable Rogers delivered his second update on the investigation in an e-mail to the team members. He outlined the former residents and files to which each suspect was related and identified which team member was assigned to which file. He mentioned that the team now had 215 files to look at and that 43 of them were open. Seventeen of the residents had never been previously contacted. Once investigators completed their review of the Raymond and McCann files, they would meet and work on the files as a group.[71]

On 24 September 2001, Constable Rogers prepared the third in the series of updates, which Staff Sergeant Dunphy endorsed. The report stated:

> Since 23 August 2001 members of the investigative team looking into this file have been split up to assist in the native fishing dispute in Burnt Church. That said we have been able to continue our efforts on this file by bringing file work to the Miramichi and working on it as time permitted. Several of the investigators are now back in Fredericton working on the file full time.
>
> 14 September 2001 tip files #206 (*Joseph Rollins*) and #208 (*Gregory Shore*) were returned to local crown Kevin CONNELL. Mr. CONNELL had asked for a number of issues to be clarified and looked into … before making a decision on any criminal charges. Investigators responded to all of Mr. CONNELL'S concerns and are presently awaiting a decision from his office on these two files. The investigators do not foresee either of these files going forward to prosecution as it is felt that neither contained sufficient evidence to support any charges.
>
> As of this date, all of the outstanding persons that were to be contacted to see if they were victims of any abuse while residents at the Youth Training Center [sic] have either been contacted by police investigators or investigators have been unable to locate them after exhausting all conventional efforts to track them down. … these names were identified to police as a result of a random sampling of names pursuant to a court order or identified as a result of subsequent interviews, but they could not be located … at that time for whatever reason. This does not mean that they had been victims while attending the Youth Training Center only that they had gone there.
>
> Besides the *ROLLINS* and *SHORE* files there are presently thirteen (13) other files left open for investigation. Of these, there are three (3) files that are left open for members to locate the complainants … to advise them that their files have been reviewed and are to be concluded. The remainder of the files can be broken down into two separate groups … Those alleging abuse at the hands of … Bud Raymond and those alleging abuse at the hands of retired RCMP member Cliff McCann.[72]

Staff Sergeant Dunphy sent an e-mail on 23 October 2001 to Chief Superintendent Payne saying that the files of *Messrs. Rollins* and *Shore* were sent to Mr. Connell on 14 September 2001 and were still with him. Mr. Connell had informed the RCMP by a letter dated 19 October 2001 that he would not be able to look at the files until January 2002. It appears that the complainants wanted the RCMP to let them know whether further charges would be laid against Mr. Toft and others accused of sexual assault. In his e-mail, Staff Sergeant Dunphy stated that "we have done all we can do to this point."[73]

9.3.11 Court Briefs

According to an investigation report dated 13 November 2001, which Constable Rogers prepared and Staff Sergeant Dunphy endorsed, two files related to allegations against Mr. Raymond remained open. The complainants were *Roger Philippe* and *John Little*. The investigations were expected to be completed and ready for review by Crown counsel by the end of 2001.[74]

Early in 2002, Staff Sergeant Dunphy wrote a report, dated 2 January 2002, in which he indicated that the *Shore* and *Rollins* files were still with the Crown and that there had been no decision. He also mentioned that the briefs for the files related to *Messrs. Little* and *Philippe* were ready for the Crown counsel's review for criminal charges.[75]

The CPC asked Mr. Dunphy about his policy concerning court briefs that had been sent to the Crown counsel for review. He stated that he had to approve of the contents before they were delivered to the Crown and that, quite likely, he would review the briefs prepared by his investigators first. If he discovered that there was something missing, he would send the brief back to the investigators to fix and "get it in shape."[76]

He said that the court briefs prepared by Corporal Delaney-Smith regarding the complaints of *Messrs. Shore* and *Rollins* were not thorough. Nevertheless, they were sent to Mr. Connell on 14 September 2001.

> [T]hose weren't the best court briefs that I've ever seen done …. I'll take the hit for that. I should have reviewed them more and paid more attention to them. I guess I … must have been preoccupied with trying to get things organized and get a better handle on the whole entire investigation … at that point I guess we relied on … *Mr. Shore's* word as to what happened. … there was no corroboration at that point …. When Kevin [Connell] did have a chance to … look at them he had a substantial number of questions that he came back with … which were quite appropriate. And that did not happen again![77]

9.3.12 Possibility of Laying Charges

In a notebook entry dated 18 January 2002, Staff Sergeant Dunphy stated that *Mr. Shore* had telephoned Deputy Commissioner Ryan about Mr. Toft. Staff Sergeant Dunphy wrote that he did not believe that charges would be pursued in relation to *Mr. Shore's* complaint that he was attacked in the showers at the NBTS; other than *Mr. Shore's* conflicting statements, there was no tangible evidence that the incident had occurred. Deputy Ryan apparently suggested that *Mr. Shore* might consider laying a private information against Mr. Toft or Mr. Raymond or both of them. Mr. Connell had prepared a document for Mr. Abbott about the possibility of the police laying charges.[78]

Staff Sergeant Dunphy noted that he and Mr. Connell discussed laying an *Information* (a document that provides details of charges) and letting the Crown counsel decide whether to stay the information. He added that the possibility was raised for discussion only and that his superiors had not given any direction on how they should proceed. His concern was whether there were "reasonable and probable grounds" for charges based on *Mr. Shore's* complaints because of his conflicting statements about the incidents described in his complaint. As he put it, "[a]n overabundance of evidence exists to bring *Mr. Shore's* credibility into question."[79] He concluded his notes for the day by indicating that he was awaiting Mr. Connell's decision.

On 8 February 2002, Staff Sergeant Dunphy met with Mr. Connell to review the letters of opinion that Mr. Connell was going to send to the RCMP regarding the complaints of *Messrs. Rollins* and *Shore* against Messrs. Raymond and Toft. Mr. Connell explained that Mr. Abbott, the Director of Public Prosecutions, had to first approve the letters[80] before they could be sent to Staff Sergeant Dunphy. In the letters, Mr. Connell indicated that there was no reasonable prospect of a conviction against Messrs. Raymond and Toft, and that he would not approve charges. He explained at length the reasons for his decision.

On 21 February 2002, Mr. Connell wrote a letter to Staff Sergeant Dunphy and Constable Rogers indicating that he had met with Mr. Abbott on 18 February 2002 and that they had reviewed the *Shore* file. Mr. Connell raised a few issues regarding *Mr. Shore's* complaint that needed to be resolved before he could make a decision. For example, *Mr. Shore* had refused to submit to a urological examination by his doctor so Mr. Connell stated that "it should be put directly to *Mr. Shore* that he submit to a urological examination by a qualified medical specialist and that he sign a medical release for that information." Mr. Connell also asked for a medical release from *Mr. Shore* on a medical condition resulting allegedly as a result of being sexually assaulted.[81]

Mr. Connell suggested the RCMP attempt to obtain hospital records about an old injury to *Mr. Shore's* hand resulting from an accident at a sawmill where *Mr. Shore* had been working. He also asked Staff Sergeant Dunphy to locate a person in the Office of the Ombudsman who could confirm *Mr. Shore's* statement that he had reported abuse while a resident at the NBTS to the Ombudsman's office. Mr. Connell concluded his letter by stating that "I realize the RCMP has worked hard on this file; however, I make these requests for you to consider, as I feel we would have a more complete and comprehensive review on which to base a recommendation."[82]

Mr. Connell wrote again to Staff Sergeant Dunphy on 8 March 2002. This time he asked the RCMP to conduct further investigation into allegations made by *Messrs. Philippe* and *Little* against Mr. Raymond. He included a lengthy list of items that needed clarification.

9.3.13 Complainant *Gregory Shore*

Staff Sergeant Dunphy made an entry in his notebook on 12 March 2002 that Constable Rogers had updated him on the investigation and informed him that Mr. Abbott was insisting that *Mr. Shore* undergo a urological examination. Staff Sergeant Dunphy wrote that he was opposed to this: "It may or may not confirm the alleged injury but we have no corroborative evidence to indicate, who, when or how. No records of treatment in addition to *Shore's* several stories."[83]

Constable Rogers wrote an e-mail to Staff Sergeant Dunphy on 14 March 2002 advising him that they had 24 files in which allegations of sexual abuse at the NBTS were made against Mr. Toft. However, the files fell within the category of charges that the Attorney General would not approve because they were similar to those for which Mr. Toft had been convicted in 1992. The files included the complaints of *Messrs. Shore*, *Rollins*, *Lewis*, *Philippe* and *Little*. Nine persons made complaints against NBTS staff other than Mr. Toft. However, the evidence did not merit bringing these files to the attention of the Crown.[84]

On 15 March 2002, Staff Sergeant Dunphy noted that he and his team discussed the *Shore* file and the NBTS, including the fact that *Mr. Shore* had still not indicated whether he was willing to undergo a urological examination. Constable Rogers, responding to an inquiry from Mr. Connell about the number of complaints and allegations the RCMP had received against Mr. Toft, said that 24 former residents had been contacted and that they would not proceed with charges because of the Attorney General's policy.[85]

On 25 March 2002, Staff Sergeant Dunphy discussed with Mr. Abbott the need for *Mr. Shore* to have a urological examination and why it was taking so long to deal with *Mr. Shore's* complaint. He also canvassed the possibility of laying further charges against Mr. Toft.[86]

On 4 April 2002, Staff Sergeant Dunphy wrote that, except for Constables Long and Potvin, the members of his investigation team were being transferred elsewhere.[87]

On 9 April 2002, Staff Sergeant Dunphy and Constable Rogers sent a letter to Mr. Connell responding to his request for clarification on *Mr. Shore's* complaint of assault causing bodily harm. They referred to *Mr. Shore's* medical records, his alleged sawmill accident through which he cut his hand, his alleged complaint to the Ombudsman's office, his refusal to submit to a urological examination and the statement taken from Mr. Raymond. He summarized by saying that

> this investigation has been extraordinarily lengthy and complicated, for a variety of reasons. Not the least of which has been dealing with [an] extremely demanding and often difficult alleged victim. It is felt that whatever information that may have been available from all potential sources has been explored. All investigative avenues have now been exhausted or are impractical. In addition, *Mr. Shore* is now attempting to provide information he has "recently recalled." In my opinion these recollections are not credible and given the evidentiary value of information provided by him to date, unworthy of further consideration. In short, I feel that this has been a full and complete investigation to date, and request your written opinion at your earliest convenience.[88]

9.3.14 Decision of the Crown

Staff Sergeant Dunphy's notes for 19 April 2002 state that he met with Mr. Connell, who had submitted a brief to Mr. Abbott for final approval. All indications suggested that the Crown would not approve any charges. Staff Sergeant Dunphy expressed the opinion that there were no reasonable and probable grounds for the RCMP to lay charges without Crown approval. The Crown counsel was still contemplating the court briefs concerning complaints against Mr. Raymond by *Messrs. Philippe* and *Little*.[89]

Staff Sergeant Dunphy received an e-mail from Constable Rogers on 2 May 2002, providing an update on the investigation and statistics on the former residents who had been located and interviewed. The investigators had looked at 178 files of former residents, 48 of which dealt with complaints of sexual or physical abuse. Of the 48 files, 36 were the type that the Attorney General had said he would not approve against Mr. Toft. Four of the 48 (*Messrs. Shore*, *Rollins*, *Little*, and *Philippe*) were with the Crown's office awaiting a decision on whether charges were to be laid. Many of the files had been concluded because they dealt with other guards and they did not warrant charges being laid. The reasons were various and included the fact that they were summary offences, the alleged offender was deceased and so on.[90] Constable Rogers also gave a breakdown of the rest of the 178 files.

Staff Sergeant Dunphy's notes for 20 May 2002 reveal that *Mr. Shore* was planning to travel to New Brunswick to seek the attention of the national media and that he might engage in a "hunger strike."[91]

On 22 May 2002, Mr. Connell wrote a letter to Staff Sergeant Dunphy with his opinion on the allegations made by *Mr. Shore* against Messrs. Toft and Raymond. In his 15-page letter, Mr. Connell stated that there was no reasonable prospect of a conviction and he was not going to approve charges. Mr. Connell concluded by stating that "*Mr. Shore's* statement in regards to the RCMP's efforts are certainly unwarranted and obviously without basis."[92] In a separate letter to Staff Sergeant Dunphy written on the same day, Mr. Connell addressed *Mr. Rollins'* complaint to the RCMP, saying that the Crown would not approve charges.[93]

On 29 May 2002, Staff Sergeant Dunphy met with *Mr. Shore* in Fredericton and provided him with a letter explaining that no charges would be laid on the basis of his complaint.[94] Earlier in the day, *Mr. Rollins* was advised that there would be no charges laid with respect to his allegations.

The CPC asked Mr. Dunphy about what finally happened to the investigation team. He said that:

> eventually members were posted to … individual units .... Denise went to Shediac, Kathy retired, Garry Gervais went back to District two as openings arose then members went back to … different postings. Kathy and Denise remained on longer than the other three … they did quite a bit of work with regard to the … Riverview end of McCann.[95]

On 12 December 2002, Staff Sergeant Dunphy provided information to Paul Greene, the RCMP communication strategist for a news release that was approved by Sergeant Gary Cameron, Media Relations Officer. The news release stated that the investigation team was no longer in existence. It continued that, in May 2002, after an exhaustive investigation into allegations of sexual assault at the NBTS, no charges had been laid. The news release added that, if new evidence was brought forward, "it [would] be investigated thoroughly. The RCMP has and will continue to deal with individual cases…"[96]

9.4 Corporal Alan Rogers

Corporal Alan Rogers, an RCMP member since 1987, joined the MCU in December 2000. On 1 May 2001, the time that he was assigned to the investigation, he held the rank of constable.

9.4.1 Status of Investigation

When Constable Rogers joined the investigation, there were two boxes of Tip files remaining from the previous investigation. The files contained information about 15 to 20 former residents who had become known over recent years, including *Mr. Shore*.[97] In describing the task that lay ahead of the team, he told the CPC that

> my understanding was … let's clean this up once and for all. Let's … deal with these number of people, like *Mr. Shore* who had come forward in the last number of years and we'll take another kick at, trying to locate these people from the random sample who couldn't be contacted in the initial investigation. … that was what we had to work with at the time. … included in that were all of the individuals who there were charges laid and that the charges were stayed, against them. … so initially, we got clarification as to where the Department of Justice, Crown stood in relation to the stayed charges and the decision was that the stayed charges were going to stay, "stayed." … So right off the bat, based on the Attorney General's decision and that, we were able to take and conclude those tip files or I should say I concluded those tip files.[98]

He described the goal in the early days of the investigation:

> And so by the time I became involved, we had our two boxes and it certainly wasn't six thousand, and there wasn't a goal to re-do the investigation. That was not part of what our thing was. Our thing was to deal with the people like *Mr. Shore* who had not been dealt with during the initial investigations and the random sample people and that was our thing, and anybody else that had come forward through our efforts but it wasn't to re-do the investigation. … my position kind of was … once we found out about the stayed charges, all of a sudden the numbers started being much more manageable. And I think in fairness to Dave Dunphy, … I think he was somewhere between … "are we going to have a monster on our hands" or "what do we have on our hands." [99]

9.4.2 About the Investigation

He referred to the term "task force," which had been used to describe the investigation team since 2003, explaining that

> I don't think I ever referred to us as the Task Force because to me a task force is more on the investigative side of things and to me after having gone through and knowing what we had at hand, it was more to review [of] the files that were there, to investigate, you know, the new complaints, but I don't think I ever referred to it as a task force.[100]

The CPC asked him whether the public knew about the investigation or whether it operated in secret. He replied:

> No, not at all. … I can't remember what was in the media but obviously … we were very open to any new people coming in the door in relation to complaints. … If somebody had something they wanted to offer up, then we were by all means prepared to look at it and did look at anything.[101]

He told the CPC that, during the investigation, he felt he had the support of his superiors. He never got the impression that his superior officers wanted to get the investigation over with quickly.

9.4.3 Stayed Charges

He referred to the meeting between Staff Sergeant Dunphy and Mr. Connell, Crown counsel, on 31 January 2001. He said that, following the meeting, Mr. Connell sent a correspondence stating that the Attorney General's decision regarding the stayed charges was going to stand. The team had to address how it was going to deal with future complaints against Mr. Toft that were considered similar to the type of offence for which Mr. Toft had formerly been charged and convicted. If the offence involved, for example a kidnapping, then that file would be deemed to be "outside the box" and appropriate for investigation.

9.4.4 Complainant *Gregory Shore*

In response to a question from the CPC about *Mr. Shore's* complaints, he said: "I considered the complaints from *Mr. Shore*, for the most part, were within the box in relation to Karl Toft."[102] However, one complaint that he considered as being outside the box was *Mr. Shore's* allegation that he had been accosted in the showers at the NBTS and his penis had been cut. To him the incident was an "assault causing bodily harm" and the team decided to investigate it.[103]

On 1 May 2001, at the time Constable Rogers joined the team, the files regarding *Messrs. Shore* and *Rollins* had already gone to the Crown for review. He advised the CPC about the team's attempts to find former residents:

> [I]f you can't find a person that way [driver's licence checks etc.], … we weren't going to go to an extraordinary means of … going through a public release or something like that to try and locate these people. We don't even know that they're victims. So … if a file came to me from Kathy or Pierre, whatever, and said that … [they] did the checks, couldn't locate them, the file was concluded. Simple as that. Okay. Great.[104]

9.4.5 Role of Constable Rogers

Through the summer of 2001, the team was investigating the files that had resulted from the random sample at the Provincial Archives. He described his role as, "other than kind of moving files around … from an investigative point of view, my biggest involvement was with *Shore*."[105] His responsibilities as file coordinator involved "managing the file. Trying to see that the files were being investigated and that they were being documented and any new … actions that needed to be taken would be tasked out, [that] type of thing." He described "the people that were involved [as] … I wouldn't say 'seasoned investigators,' but they were all fairly experienced investigators."[106]

Once an investigator had worked on a Tip file and had gone as far as he or she could in investigating it, the file would be returned to Constable Rogers, who would review it. He explained, using Constable Long as an example:

> [I]f Kathy had somebody she was trying to locate and if that came to an end that there was no, didn't bear fruit, then she would give me the Tip file and I would look at what she did and I would sign off that. If she had indicated that she had done her bit on that, I would have no reason to be concerned that she didn't ….[107]

Mr. Shore was the only CPC complainant with whom Constable Rogers had any contact. He never spoke to *Randall James Cranshaw* or *Daniel Trottier*. He said that he was aware that *Mr. Shore* had set up a 1-800 number for victims of institutional abuse in New Brunswick and added that he

> always made reference to having a one eight [sic] hundred number that he had hundreds of people that he had contacted. Well, to this day I would like [to] see and I hope you guys asked to see what he has, because where are they? … Because there certainly was never any people coming to us. There was … the scattered few … but, as far as new Kingsclear specific individuals, I don't know that we ever really surfaced anybody. I know through the random sample we were able to contact some people and some related this or that to us, but there never was any, it was not like any big flood of people coming in the door … that … like hadn't been satisfied through the initial investigation. I mean, I don't mean that they received satisfaction from the previous investigation but that they didn't have that contact, *Mr. Cranshaw* being one of them. I mean my understanding is he was dealt with through the initial and I think there's a difference between having been dealt with versus receiving the satisfaction that you personally wanted to see come of it. … I would suggest that some people never received the satisfaction they personally wanted to receive from the investigation, but that doesn't mean that they weren't dealt with.[108]

He added that *Mr. Shore* was continuously making contact with the RCMP and as a result, Corporal Delaney-Smith was assigned as his personal contact within the RCMP. He said that members of the public had no difficulty getting in touch with the investigation team.

9.4.6 Other Complainants

Asked whether any former NBTS residents called to lodge a complaint with the team about abuse at the school, he stated that "[i]t never happened, and *Mr. Shore* talked and talked and talked about all these people …. I've never heard from them."[109] He said that if someone had called the team's office to make a formal complaint, he would have opened a file and launched an investigation. Either a member of the team or, depending on geographic location, another investigator from a different office would have taken a statement for the team to review. They would have then decided whether the complaint was inside or outside the box, based on the Attorney General's determination regarding the type of charges that would proceed, and a reply would have been sent to advise the complainant about whether the RCMP was taking any action.[110]

9.4.7 Tip Files

The CPC asked him about the files the team had obtained from Sergeant Lockhart's investigation in 1992 to 1994:

> I would go back to the original investigation and if that person was addressed, contacted or whatever, back in the original investigation and if there was no reason, well, I mean if they, you know, like if the person said "Yeah. I went to school there but nothing happened to me" well then that was the end of it. I had no cause to go back to that person. … I accepted that. That there was no reason to believe that something had changed there, and in fact, I would be more inclined to believe what was said on the original instant than, you know. [111]

He added that if Sergeant Lockhart and his investigators had accepted a person's statement that nothing had happened, then that was good enough for him.[112] The team would not conclude other Tip files unless they were satisfied that nothing more could be done on the file.

He said that he would prepare a similar report or e-mail at the end of each month as a summary of the investigation to that date. As of 20 June 2001, 104 of the initial 174 files were still under investigation, 71 of which the team felt could be concluded immediately after their initial review without further investigation. As Constable Rogers said, if there was any hope of the possibility of charges being laid with any of the remaining files, the team would have investigated them. Of the 71 files, 55 had previously been investigated and required no further action; 16 files had been recently reviewed by the investigators and concluded; and investigators were attempting to find 74 persons who had never been located.[113]

9.4.8 Decision to Lay Charges

On 28 June 2001, the investigators received a letter from Mr. Connell about the *Shore* investigation and court brief with requests for further inquiries to be made in relation to 21 issues. These requests were farmed out to investigators after Constable Rogers created a Task Action Form for each of the issues. He told the CPC that anything Mr. Connell asked the RCMP to do, they did it.[114] He added: "I know that we practically had our full attention on just, you know, getting the issue of those tasks and … getting them done and we got them done."[115]

On 23 October 2001, Constable Rogers wrote an e-mail to Staff Sergeant Dunphy asking why it was taking Mr. Connell so long to advise the RCMP of his opinion on whether he was approving charges based on the *Shore* file. "[T]his is not a complicated matter. There is no physical evidence, no witnesses, no corroboration of the allegations. Incidents came from recalled memories and *Mr. Shore* has given four separate versions of the incident that we investigated."[116]

He explained to the CPC the efforts that were made to have *Mr. Shore* submit to an examination by a urologist, efforts that were further stimulated by a letter from Mr. Connell dated 21 February 2002. Mr. Connell urged the RCMP to request *Mr. Shore* undertake the examination and concluded his letter by saying that he realized that the RCMP had worked hard on the *Shore* file. Constable Rogers provided the name of a urologist who was willing to examine *Mr. Shore* but to no avail. He told the CPC that he had examined *Mr. Shore's* medical records and said, with regard to *Mr. Shore's* allegation that he had his penis cut in the shower room at the NBTS, "to this day, there was never any supporting documentation anywhere, that we could find, to show that" it happened.[117]

On or about 22 May 2002, the RCMP received Mr. Connell's letter of opinion about the *Shore* file. Mr. Connell wrote "that there is no reasonable expectation of a successful prosecution against either Karl Richard Toft or Weldon Michael Raymond, concerning *Mr. Shore's* allegations."[118] Constable Rogers told the CPC that he agreed with Mr. Connell's decision[119] and that the team's investigations did not result in any charges being laid. Mr. Connell also wrote a letter of opinion indicating, in effect, that there was no reasonable prospect of a conviction for any of the files for which the RCMP had submitted a court brief.[120]

By April 2002, the overall work for the team diminished.[121] Constable Rogers was transferred back to the MCU.

9.5 Corporal Paulette Delaney-Smith

As mentioned in Chapter 8, "Investigation by Constable Pat Cole (1995–2000)," Corporal Paulette Delaney-Smith refused to grant the CPC an interview on the advice of her lawyer, William Gilmour, who also represents *Mr. Shore*. The CPC had to rely on the documentation provided by the RCMP to reconstruct and analyze her role in the investigation.

9.5.1 Complainant *Daniel Trottier*

On 18 May 1999, complainant *Mr. Trottier* provided a statement to Constable Alain Dugas of the RCMP Cornwall Detachment alleging that Mr.Toft had abused him at the NBTS.[122] A year later he provided an audiotaped statement to Constables Dugas and Daigneault.[123] On 26 May 2000, Corporal Delaney-Smith, who was with the Fredericton MCU, indicated in a Continuation Report that Constable Dugas had called and told her about the statement he received from *Mr. Trottier* and that he would be sending her a copy of the statement.[124] In a 21 June 2000 Continuation Report, she wrote that she had not yet received the statement from Cornwall and that she sent an e-mail to Constable Dugas asking about it.[125] On 27 June 2000, Constable Dugas replied that he would send her all the information he had on *Mr. Trottier*.[126] Constable Rogers learned that the Cornwall Detachment opened a Tip file in relation to *Mr. Trottier's* complaint on 27 June 2000 when he received the statement from them.[127]

The CPC did not find any record within the material that it reviewed indicating whether Corporal Delaney-Smith ever received the package from Constable Dugas. There is also no indication within the material about what happened to the *Trottier* investigation for the rest of 2000. The next written record that refers to *Mr. Trottier* was generated by Constable Long, not Corporal Delaney-Smith, and is dated 20 June 2001.

9.5.2 Complainant *Gregory Shore*

On 6 July 2000, Sergeant Eaton assigned Corporal Delaney-Smith to be the RCMP liaison for *Mr. Shore*.[128] In April 2001, she asked to be withdrawn from the NBTS investigation team due to workplace-health issues. She remained with MCU at "J" Division headquarters and continued to assist from time to time with the investigation, particularly as it related to *Mr. Shore*.[129] On 2 May 2001, she submitted court briefs to Mr. Connell, who reviewed them at that time.[130]

On 3 May 2001, she was working on *Mr. Shore's* complaint that he had been attacked in the showers and that his penis had been cut. He gave the name of *Richard Theoret* as one of the boys in the shower when he was attacked. She wrote that she had contacted *Mr. Theoret*, who remembered an incident in the shower room and that someone was bleeding. *Mr. Theoret* said that he would think about providing a statement but; she wrote, she had not heard from him for some time.[131]

Mr. Shore was advised in a letter from Mr. Connell dated 30 May 2001 that the investigating officer for his complaint was Corporal Delaney-Smith and was asked to contact her rather than the prosecutor's office.[132]

On 21 June 2001, Mr. Connell wrote to Corporal Delaney-Smith acknowledging that he had reviewed the *Shore* investigative file she had presented to him. He referred to the investigative file in which she stated that she found *Mr. Shore* to be credible. Mr. Connell added that *Mr. Shore's* credibility was an important issue and that there must be a thorough and complete investigation before any conclusion could be reached about whether to approve charges based on his complaint.[133] Mr. Connell then provided a list of 25 items that he wanted investigated further. On 2 August 2001, Mr. Connell sent a similar letter with respect to the investigation and brief relating to *Mr. Rollins'* complaint.[134]

Corporal Delaney-Smith sent an e-mail to Staff Sergeant Dunphy and Constable Rogers on 22 August 2001 outlining *Mr. Shore's* concerns with the questions that Mr. Connell had posed to the RCMP in his letter of 21 June 2001. He wanted the Crown's list of questions and to know whether the Crown had the right to even ask the questions. He requested that Mr. Connell write to him and explain why he wanted access to his records when he was a child. Corporal Delaney-Smith wrote that she had answered his questions but *Mr. Shore* wanted a response from the investigation team.[135]

Staff Sergeant Dunphy replied to Mr. Connell on 14 September 2001 with answers to the 25 issues raised in Mr. Connell's 21 June 2001 letter.[136] Corporal Delaney-Smith continued to deal with *Mr. Shore* during the fall of 2001, as is evidenced by an e-mail that she wrote on 15 October 2001 to Staff Sergeant Dunphy and the team concerning the 10 questions that *Mr. Shore* had put to her.[137] Around this time, Mr. Connell advised the team that he would not be able to complete his review of the *Shore* and *Rollins* files until January 2002 because of other commitments during the fall of 2001.[138]

Constable Rogers raised the issue of *Mr. Shore's* urological examination with Corporal Delaney-Smith in an e-mail to her on 20 February 2002. He sent her a draft letter that he had prepared to send to *Mr. Shore* regarding the examination and asked for her comments.[139] On 4 March 2002, she sent an e-mail to Constable Rogers advising that she had faxed the last investigation update and the medical records release forms to *Mr. Shore*.[140] She followed this with an e-mail to Staff Sergeant Dunphy on 11 March 2002 indicating that *Mr. Shore* had signed the medical records release forms and would fax them back to her.

Mr. Shore asked the RCMP to send a letter to his family physician formally requesting he set up an appointment with a urological specialist for *Mr. Shore*.[141] A handwritten note from Corporal Delaney-Smith to Staff Sergeant Dunphy, dated 18 March 2002, confirmed Staff Sergeant Dunphy's difficulty mentioned earlier in getting *Mr. Shore* to agree to submit to an examination by a specialist.[142] In it, she said that *Mr. Shore* was unwilling to be examined by a urologist and concluded that he was stalling and uncooperative. A few days later, she sent an e-mail to Staff Sergeant Dunphy and Constable Rogers stating that an appointment had been arranged with a urologist to examine him but he would need to confirm the appointment. She wrote that *Mr. Shore* was unwilling to submit to an examination unless his personal physician gave his approval. He asked why the Crown counsel required a medical examination. She concluded that she did not believe *Mr. Shore* would commit to an examination even if the RCMP went through his physician.[143]

By May 2002, there was no further progress regarding *Mr. Shore's* urological examination. In a 24 May 2002 e-mail from Staff Sergeant Dunphy to his superiors, he wrote that *Mr. Shore* advised Corporal Delaney-Smith that he was going to "stir up some shit" at the provincial legislature.[144] It appears that after this Corporal Delaney-Smith then turned her attention to the McCann investigation.

9.6 Retired Constable Kathy Long

Kathy Long was listed as one of the officers present at the inaugural investigation team meeting on 1 May 2001.[145] The CPC interviewed her on 29 November 2005 and again on 14 December 2006.

9.6.1 Overview

When she started with the team, Constable Long was aware of the previous charges against Mr. Toft and his sentence. She was also familiar with the charges that were stayed by Attorney General Blanchard in October 1993. She confirmed that the team was originally provided with 145 Tip files to investigate and that the files were mainly historical and related to people that previous investigators had not been able to contact. She advised the CPC that the files had come from the storage place in "J" Division headquarters known as the "morgue." During their meeting, Staff Sergeant Dunphy said to the investigators: "[H]ere's the file boxes, dig up some names, locate them, and that's what we did …". She continued: "[S]o, I knew that they were names of possible victims in those boxes that that had never been contacted in that file, that's all I knew. So it was our job to dig them out and review them, see if we could find any ties and ask them questions."[146]

She agreed that the files were divided among the members of the team and everybody was given their own group.[147] She said that she was also aware that the term "inside the box" referred to the Attorney General's decision when she joined the team. She thought that the team would be able to do some good and was confident in all the members; there was nobody there that did not want to be included.

She had not heard of either *Messrs. Shore* or *Rollins* before she started working with the investigation team. She soon became aware of the line of communication between *Mr. Shore* and Corporal Delaney-Smith. Their superiors thought it was better not to break up the relationship so Corporal Delaney-Smith stayed at her office at headquarters and continued to deal with *Messrs. Shore* and *Rollins*.[148] She felt that *Mr. Rollins* was just "playing everybody" on the team. He would call different team members, get a different response from each investigator and then play the team members off against each other. Finally, the team decided that the *Rollins* file would be "pummeled back to Dave [Dunphy]." He became the one to deal with *Mr. Rollins* after that.[149]

9.6.2 Investigative Role

Within a week of joining the team, Constable Long was attempting to locate former NBTS residents in order to interview them. Her first Continuation Report, dated 8 May 2001, illustrated her efforts to find two individuals through criminal records, driver's licence and registration and Police Information Retrieval System (PIRS) checks. She prepared a number of Continuation Reports regarding her attempts to find different former residents. One of the methods she used to persuade potential victims to come forward and consent to an RCMP interview involved sending a form letter to a number of former residents saying that the RCMP would like to hear from them. She stated that these form letters were used as a last resort to try and locate people. She recalled getting only two responses as a result of these letters: a telephone call and a return letter.[150] In describing her efforts to locate former residents, she said:

> … I spent hours and hours up there on those computers, trying to find people and calling, you know, people who have similar names … it was a pretty lengthy process … And you'd work and work and work and you'd find out he's dead …. Work for a couple days tryin' to find somebody and then on the phone you'd get somebody hostile on the other end, like "Why are you bothering me," click. So, yeah, but those were basically what we … did.[151]

She did not recall there being any specific guidelines for the team to use in locating the former residents. "Cause most of those gentlemen did have criminal records …. Once they changed their name there was some of [them] found had changed, had a lot of aliases, and changed their name over the years."[152] They did not limit their inquiries to New Brunswick. She remembered contacting people as far away as the west coast, as well as in other places in Canada. She investigated allegations of physical abuse with the same effort as those of sexual abuse. Once she had finished with her investigation on a Tip file, she would return it to Constable Rogers and he would enter it on the computer.[153] She told the CPC that the team would get telephone calls from residents in penal institutions, wanting to talk to a member of the team; but when an investigator called back, the resident had changed his mind and no longer wanted to talk.[154]

9.6.3 Process to Locate and Interview Former Residents

Constable Rogers gave her a status report dated 22 August 2001 that listed the names of former residents, which, by that date, had increased to 215, to investigate.[155] She told the CPC that the process involved attempting to locate and obtain co-operation from a former resident for 30 days. If after that time, she had been unsuccessful, she would conclude and file the Tip. If the person eventually contacted the RCMP or new information presented itself, she would reopen the Tip file and continue the investigation. As she said, "Nothing is concluded forever."[156]

9.6.4 Complainant *Daniel Trottier*

On 14 June 2001, she indicated in a Continuation Report that she had read *Mr. Trottier's* statement that he had given to Constable Dugas of the Cornwall Detachment on 25 May 2000. She determined that his allegation concerning Mr. Toft would not be acted upon any further because of the Crown counsel's decision not to lay any further charges against Mr. Toft for reasons of public interest. Mr. Toft, she added, would not receive any further penalty. She concluded her Continuation Report stating that she had sent an e-mail, dated 14 June 2001, to Constable Dugas to try and obtain *Mr. Trottier's* telephone number as she wanted to advise him of the decision on his file. She indicated that the file was "SUI," still under investigation.[157]

Constable Dugas replied by e-mail the next day, advising her that he had seen *Mr. Trottier* about seven months earlier and that he was still in Cornwall. "*Daniel* was expecting to be contacted several months ago." Constable Dugas said that he would try and locate *Mr. Trottier*.[158] On 8 August 2001, Constable Dugas sent another e-mail indicating that he had located *Mr. Trottier* in Ottawa.[159] On 14 August 2001, Constable Long typed a Continuation Report in which she stated that she had spoken with *Mr. Trottier* on the telephone and "explained to him that his complaint against Toft will not be presented to the Crown as outlined in the letter dater [sic] 2001-08-20 refers. *Trottier* requested this decision in writing."[160] She wrote a letter on 20 August 2001 advising him that they would not be proceeding with charges and enclosed a copy of Attorney General Blanchard's statement of 29 October 1993 regarding the stayed charges.[161]

9.6.5 Complainant *John Little*

In a Continuation Report dated 11 October 2001, Constable Long indicated that she travelled to Toronto to interview *Mr. Little* about his complaint alleging abuse by Mr. Raymond. She obtained a statement from *Mr. Little* in which he stated that Mr. Raymond engaged in sex acts with him as well as physically assaulted him. He gave her the name of a family member who could confirm some aspects of his statement[162] and signed a medical records release form for her.[163] Upon her return to New Brunswick, she and Constable Potvin went to Saint John and interviewed Mr. Raymond on 21 November 2001. He denied any assaults. "Didn't know anything about any of these allegations."[164] In her interview with the CPC, she said she believed that *Mr. Little* had actually been sexually assaulted.

9.6.6 Complainant *Gregory Shore*

She told the CPC that she was the "only one in that whole group that kinda kept my distance from *Mr. Shore* cause I thought there were just too many hands in the pot." Asked about *Mr. Shore's* credibility, she advised: "I know all the allegations that he made, we were able to … I don't like the word discredit but … we were able to show that those things really didn't happen." When she had heard that the investigators were sending a court brief to Mr. Connell intending on going ahead with charges based on *Mr. Shore's* complaints, she thought:

> Oh God, you know, could it have been somebody else instead of *Gregory Shore* because … he's not credible. I mean, he may have started out with good intentions but he's gone way beyond the realm so … it's unfortunate that he's going to be the example for the … test that will be, you know, against Toft.[165]

9.6.7 Decision of the Crown

Asked what she thought of the Crown's decision to not proceed with charges against Mr. Raymond, she said she felt that Mr. Connell placed too much emphasis on the credibility of the alleged victims. However, at the same time, she understood that credibility was an important factor.[166]

She was asked if she ever got the impression that the Crown or the Attorney General just wanted the investigation "to go away." She responded:

> [A]ll [of us] wanted it just to go away … actually I have a very close friend who was a [NBTS] guard at the time and … she kept saying, "What are you guys trying to do now, you know like, let it go." And the guards that … had been interviewed before were almost hostile when we went back to talk to them again, I mean, they were like, very bitter.[167]

She prepared two court briefs regarding allegations against Mr. Raymond to present to Mr. Connell. One of the briefs pertained to *Mr. Little's* complaint but she could not remember the name of the other complainant during her interview with the CPC. The CPC believes that she was referring to the *Roger Philippe* file. She stated that she attempted to be accurate and truthful in preparing her reports, notes or anything else that she submitted.

Eventually, she received a written response from Mr. Connell, in which he provided his opinion. He would not approve laying any charges against Mr. Raymond and went on at length with his reasons. She told the CPC that she could see Mr. Connell's point of view in not agreeing to the charges. She realized that Mr. Raymond's acquittal on charges in 1994 raised the bar on the standard of proof and the evidence required to lay charges. The Crown wanted corroboration and she agreed that it was necessary. However, she thought that the Crown should have given the complainants a second chance, especially *Mr. Little*, and allowed them to testify in a criminal court.[168]

9.6.8 Departure from Investigation

Constable Long left the NBTS investigation in May 2002 when she retired from the RCMP, before Mr. Connell sent his last letter of opinion regarding the approval of charges. At the time of her departure, she was the only member remaining on the investigation team. She told the CPC that she felt that her superiors had given the team sufficient resources and that they did as much as they could with what they had to deal with, including the victims' reluctance to come forward, be interviewed and lodge a complaint. She believed that there was much more evidence out there but that nobody would come forward. She said about the members of the team that "everybody had their heart in the right place in there …". When told about the allegations made by complainants to the CPC that the team's investigations were inadequate, she said: "Well the only person stating that is *Gregory Shore* as far as I'm concerned …. In all of my career, I have never seen more attention paid to one man, than *Gregory Shore*. … I'd really like to know, what … his motive is, you know, like … what is he after, what does he want." She added, "he had the province running around, chasing after him with all his little allegations … everything he alleged happened was thoroughly investigated."[169]

9.7 Corporal Pierre Gervais

In May 2001, Corporal Pierre Gervais was seconded to the NBTS investigation and held the rank of constable. He remained on the investigation team until March 2002.

Throughout May 2001, he was occupied with reviewing files primarily concerning Mr. Toft that had been compiled during past investigations into the NBTS. He documented that he reviewed over 100 files, checking to see if charges had been laid, interviews conducted and persons located. In doing this, he was able to conclude approximately 21 files because the complaints were of the same nature as those for which Mr. Toft was serving time. He also located and interviewed former NBTS residents in regards to Mr. Raymond.

On 8 March 2002, he wrote a Continuation Report in which he indicated that he attempted to locate and interview nine possible witnesses about *Mr. Shore's* complaint that persons had attempted to cut off his penis while he was at the NBTS. He was successful in contacting four former NBTS residents. In his Continuation Report, he wrote:

> 2002-03-08 10:30 The subject stated that he did attend the YTC when he was sixteen years old, although he did not remember the exact years he was there. He does not remember an incident where somebody was cut with a knife, nor does he remember anybody's penis being cut. In fact, he is positive that such an incident did not happen when he was there. He said he did not know of anybody being attacked in the shower when he [was] there. He stated he did not have any problems or remember any particular incident. He also did not remember anybody by the name of *Greg* or *Gregory Shore*. He stated that he did not want to have anything to do with the YTC.

> 2002-03-12 09:50 Called *Trevor Stevenson*. He told me that he was at the YTC years ago. He does not remember exactly what years but it would have been when he was 13, 14 or 15 years old. He know['s] he was out by the time he was 16 years old. He said he does not remember anybody being attacked with a knife when he was there. He does not remember anybody being assaulted in the shower. He does not remember a *Greg* or *Gregory Shore*. He does not remember anybody being cut by a knife on the penis.
>
> 2002-03-12 13:25 Made a patrol at […] to see *Tyler Ryan Stahl*. He told me that he attended the YTC when he was about 15 years old. He says that the name of *Gregory* or *Greg Shore* rings a bell but he has no further recollection of him. He stated that he remembers a few incidents of assaults and even of people being assaulted with a knife but not one in particular. [He] does not recall any incidents of anybody being cut in the penis with a knife.
>
> 2002-03-15 13:30 Phoned *Kyle Tremblay* in Alberta. He told me that he did attend the N.B. Training School in Kingsclear N.B. He did when he was seven years old in 1958 or 1959. He has not been back there afterwards. He does not remember any incidents where somebody was cut with a knife nor does he remember a resident named *Gregory* or *Greg Shore*.[170]

9.8 Corporal Clive Vallis

On 1 May 2001, Corporal Clive Vallis joined the NBTS investigation team. Shortly afterwards, however, he was assigned to Fundy Park for summer duty. He returned to the team in October 2001 and remained there until his transfer to the Violent Crime Linkage Analysis System (ViCLAS) on 17 April 2002.

His duties on the investigation consisted of checking the NBTS records at the Provincial Archives for persons who had been residents at the school and who may have been victims of sexual and physical abuse. He was also responsible for writing e-mails and investigation reports, making ViCLAS entries and locating and interviewing possible victims and witnesses, including other members of the RCMP. Most of his time was spent investigating Clifford McCann, which included physical surveillance.

During his interview with the CPC on 8 January 2007, he was asked whether a person would be able to reach him if that person wanted to make a complaint regarding the NBTS. He answered: “Yes. If they called Headquarters and they were looking to talk to somebody, it wouldn’t be long before the phone would be transferred down to where we were sitting at the hospital.”[171]

He was then asked if he had ever received such a telephone call. He said, “No, I never talked to anybody regarding Kingsclear.”[172]

He was also asked:

> From looking at this from the Task Force work and your involvement in it, do you see looking back on it, do you see any deficiencies in this or any areas where there was a lack of effort?

He replied:

> This is a personal opinion and I don't know whether I want it on tape, but I think that another Crown should have reviewed the files to see whether there was going to be charges or not. I think either an independent Crown that was hired ad hoc or from another province because here in this province this Crown is representing New Brunswick, and if there's any charges going ahead, there will be civil action. So it's not like it's separated. I mean, you almost – I'm not thinking, Are they protecting themselves? but it's not like it's clear and open.[173]

9.9 Corporal Alain Dugas

The CPC interviewed Corporal Alain Dugas in Ottawa on 28 August 2006. At the time of his involvement in the investigation, he was a constable.

He advised that he was unaware of the events at the NBTS until Mr. *Trottier* walked into the Cornwall Detachment on 18 May 1999. He took notes of *Mr. Trottier's* complaint of being sexually assaulted by Mr. Toft and others and forwarded these to Corporal Delaney-Smith. *Mr. Trottier* said he had come to the Cornwall Detachment because he felt that it could contact "J" Division with the complaint. He had not been in contact with any officer from "J" Division before the interview. Constable Dugas did not hear anything further from "J" Division until a year later when he was contacted by an officer from there asking if he could help them locate *Mr. Trottier*.

In May 2000, Constable Dugas located *Mr. Trottier* and asked him to provide another statement, which he taped on 25 May 2000 after *Mr. Trottier* agreed. He took the initiative to conduct the interview because he wanted to see if *Mr. Trottier's* second statement would be consistent with his first one of 18 May 1999. It was. *Mr. Trottier's* recollection was vivid and the details had not changed. Although he was "distraught" during the first interview, during the statement of 25 May 2000, he appeared, said Constable Dugas, to be "more vengeful" and interested in financial awards.[174] When transcribed, the statement came to 15 pages.

Corporal Dugas told the CPC that he was "pretty sure" that he sent the transcript of the second statement to "J" Division, and an e-mail he sent to Corporal Delaney-Smith on 27 June 2000 indicated that he was sending her the information. He advised the CPC that he never spoke on the telephone with anyone in "J" Division, that all their contact was by e-mail. The officers from "J" Division did not approach him again to do any further investigation. Eventually, the transcripts arrived at "J" Division.

9.9.1 Return of Complainant *Daniel Trottier*

On 22 February 2004, Mr. *Trottier* wrote several letters, including to Assistant Commissioner Steve Graham, Commanding Officer (CO) of "J" Division, advising that Mr. Toft, and three other men not involved with the NBTS, had sexually assaulted him in the 1980s. He asked that the RCMP investigate the complaints and that Assistant Commissioner Graham assist in laying charges against the four individuals.[175] Superintendent Dan Nugent, OIC of OSS, passed on the information to Staff Sergeant Dunphy and asked that he follow up on *Mr. Trottier's* complaint. Constable Rogers was assigned to examine the file.

On 2 April 2004, Constable Rogers sent a memorandum to Staff Sergeant Dunphy indicating that Constable Long had dealt with *Mr. Trottier's* complaints in 2001. She had advised *Mr. Trottier* of the Attorney General's decision regarding the stay of charges against Mr. Toft.[176] *Mr. Trottier* alleged that Mr. Toft fondled him in Fredericton in 1982; however, since it was not forcible sexual assault, the RCMP deemed it a summary offence, which means that due to the lapsed time, charges could not be laid.

In two other letters sent to Constable Dugas and to Chief Mac Carlisle of the Fredericton Police Force on 22 February 2004, *Mr. Trottier* alleged that Clifford McCann sexually assaulted him.[177] In the letters addressed to Assistant Commissioner Graham, *Mr. Trottier* inquired about what happened to the complaint that he had launched with Constable Dugas in 2000 and that had been sent to "J" Division.

In response to *Mr. Trottier's* 22 February letter to the CO of "J" Division, Staff Sergeant Dunphy drafted a letter on 27 April 2004 for the signature of CROPS Officer Chief Superintendent Payne. The letter explained that the situation had not changed since the Cornwall constables had spoken to *Mr. Trottier* four years before.[178] However, Chief Superintendent Payne added that *Mr. Trottier's* complaint of being victimized by Mr. McCann had been forwarded to the MCU and was under review. *Mr. Trottier* would be contacted in due time.[179] Chief Superintendent Payne then signed the letter and sent it to *Mr. Trottier* on 28 April 2004.

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1 Transcripts, CPC interview of Chief Supt. Smith, 8 March 2007, pp. 3–4.

2 Ibid., p. 30.

3 Ibid., p. 37.

4 E-mail to Insp. Smith from S/Sgt. Ouellette, 23 February 2000.

5 Investigation Report, Sgt. Eaton and Insp. Smith, 23 June 2000; Transit Slip to Sgt. Eaton from Insp. Smith, 4 July 2000.

6 Memorandum to S/Sgt. Ouellette from Sgt. Eaton, 7 July 2000.

7 E-mail to Insp. Smith, S/Sgt. Ouellette and Sgt. Eaton from Chief Supt. Seguin, 13 July 2000.

8 E-mail to Cst. Jurcina and S/Sgt. Nadeau from Insp. Smith, 18 October 2000.

9 E-mail to Chief Supt. Seguin from Insp. Smith, 3 November 2000.

10 Transcripts, CPC interview of Chief Supt. Smith, 8 March 2007, pp. 41–42.

11 Ibid., p. 43.

12 Memorandum to OIC OSS from S/Sgt. Dunphy, 8 February 2001.

13 Memorandum to OIC CROPS from Insp. Smith, 8 February 2001.

14 Transcripts, CPC interview of Chief Supt. Smith, 8 March 2007, p. 43.

15 Ibid., p. 47.

16 Ibid., pp. 48–49.

17 Ibid., p. 51.

18 Ibid., p. 52.

19 Ibid., pp. 39–40.

[20] Ibid., p. 45.
[21] Ibid., p. 54.
[22] E-mail to Chief Supt. Payne from Insp. Smith, 5 October 2001.
[23] Transcripts, CPC interview of Chief Supt. Smith, 8 March 2007, pp. 55–56.
[24] E-mail to S/Sgt. Dunphy from Insp. Smith, 24 October 2000.
[25] Executive Summary of "Proposal to Government of New Brunswick for NBTS Investigation," S/Sgt. Dunphy, 24 October 2000.
[26] Speaking notes submitted to Chief Supt. Seguin and Insp. Smith from S/Sgt. Dunphy, 24 October 2000.
[27] Transcripts, CPC interview of D. Dunphy 27 October 2006, pp. 101–102.
[28] Ibid., pp. 102–103.
[29] Ibid., pp. 104–105.
[30] Ibid., pp. 8–9.
[31] Ibid., p. 6.
[32] Ibid., p. 6.
[33] Ibid., p. 7.
[34] Ibid., p. 106.
[35] Ibid., pp. 106–107.
[36] E-mail to Insp. Smith from Chief Supt. Seguin, 13 July 2000.
[37] Letter to S/Sgt. Dunphy from K. Connell, 6 November 2000.
[38] Letter to K. Connell from S/Sgt. Dunphy, 5 December 2000.
[39] Letter to S/Sgt. Dunphy from K. Connell, 15 December 2000.
[40] Letter to K. Connell from S/Sgt. Dunphy, 20 December 2000.
[41] E-mail to S/Sgt. Dunphy from Cpl. Delaney-Smith, 1 January 2001.
[42] Transcripts, CPC interview of D. Dunphy, 27 October 2006, p. 107.
[43] Ibid., pp. 107–108.
[44] Ibid., p. 108.
[45] Officer notes, S/Sgt. Dunphy, 31 January 2001.
[46] Ibid.
[47] Interoffice Memorandum to Insp. Smith from S/Sgt. Dunphy, 8 February 2001, p. 1.
[48] Ibid., p. 1.
[49] Ibid., p. 2.
[50] Ibid.
[51] Ibid.
[52] Transcripts, CPC interview of D. Dunphy, 27 October 2006, p. 118.
[53] Ibid., p. 114.
[54] Ibid., p. 115.
[55] Letter to S/Sgt. Dunphy from K. Connell, 27 March 2001.
[56] Ibid., p. 2.
[57] Letter to K. Connell from S/Sgt. Dunphy, 9 April 2001.
[58] Ibid.
[59] Ibid., p. 2.
[60] Ibid.
[61] Memorandum to OIC OSS from S/Sgt. Dunphy, 4 May 2001, p. 2.

62 Ibid., p. 1.
63 Ibid.
64 Transcripts, CPC interview of D. Dunphy, 27 October 2006, p. 120.
65 Ibid., p. 121.
66 Ibid., p. 122.
67 Ibid. p. 125.
68 Ibid., p. 125.
69 Investigation Report, Cst. Rogers and S/Sgt. Dunphy, 20 June 2001.
70 Officer notes, S/Sgt. Dunphy, 21 August 2001.
71 E-mail to investigation team from Cst. Rogers, 22 August 2001.
72 Investigation Report, Cst. Rogers and S/Sgt. Dunphy, 24 September 2001.
73 E-mail to Chief Supt. Payne from S/Sgt. Dunphy, 23 October 2001.
74 Investigation Report, Cst. Rogers and S/Sgt. Dunphy, 13 November 2001.
75 Investigation Report, Cst. Rogers and S/Sgt. Dunphy, 2 January 2002.
76 Transcripts, CPC interview of D. Dunphy, 27 October 2006, p. 132.
77 Ibid., p. 133.
78 Officer notes, S/Sgt. Dunphy, 18 January 2002.
79 Ibid.
80 Officer notes, S/Sgt. Dunphy, 8 February 2002.
81 Letter to S/Sgt. Dunphy from K. Connell, 21 February 2002.
82 Ibid.
83 Officer notes, S/Sgt. Dunphy, 12 March 2002.
84 E-mail to S/Sgt. Dunphy from Cst. Rogers, 14 March 2002.
85 Officer notes, S/Sgt. Dunphy, 15 March 2002.
86 Officer notes, S/Sgt. Dunphy, 25 March 2002.
87 Officer notes, S/Sgt. Dunphy, 4 April 2002.
88 Letter to K. Connell from S/Sgt. Dunphy and Cst. Rogers, 9 April 2002.
89 Officer notes, S/Sgt. Dunphy, 19 April 2002.
90 E-mail to S/Sgt. Dunphy from Cst. Rogers, 2 May 2002.
91 Officer notes, S/Sgt. Dunphy, 20 May 2002.
92 Letter to S/Sgt. Dunphy from K. Connell, 22 May 2002.
93 Letter to S/Sgt. Dunphy from K. Connell, 22 May 2002, p. 5.
94 Letter to *G. Shore* from S/Sgt. Dunphy, 29 May 2002, p. 3.
95 Transcripts, CPC interview of D. Dunphy, 27 October 2006, p. 136.
96 RCMP News Release, RCMP Media Lines, S/Sgt. Dunphy, 12 December 2002.
97 Transcripts, CPC interview of Cpl. Rogers, 15 December 2006, p. 5.
98 Ibid., p. 6.
99 Ibid., p. 48.
100 Ibid., p. 51.
101 Ibid., pp. 51–52.
102 Ibid., p. 7.
103 Ibid., pp. 7–8.

[104] Ibid., p. 10.
[105] Ibid., p. 17.
[106] Ibid., p. 42.
[107] Ibid., p. 46.
[108] Ibid., p. 52.
[109] Ibid., p. 55.
[110] Ibid., pp. 59–60.
[111] Ibid., pp. 63–64.
[112] Ibid., p. 64.
[113] Ibid., p. 71.
[114] Ibid., p. 73.
[115] Ibid., p. 75.
[116] Ibid., p. 78.
[117] Ibid., pp. 81–83.
[118] Letter to S/Sgt. Dunphy from K. Connell, 22 May 2002.
[119] Transcripts, CPC interview of Cpl. Rogers, 15 December 2006, p. 85.
[120] Ibid., p. 87.
[121] Ibid., p. 35.
[122] Continuation Report, Cst. Dugas, 18 May 1999.
[123] Witness statement of *D. Trottier* taken by Cst. Dugas and Cst. Daigneault, 25 May 2000.
[124] Continuation Report, Cpl. Delaney-Smith, 26 May 2000.
[125] Continuation Report, Cpl. Delaney-Smith, 21 June 2000.
[126] E-mail to Cpl. Delaney-Smith from Cst. Dugas, 27 June 2000.
[127] Memorandum to NCO i/c MCU South from Cst. Rogers, 2 April 2004.
[128] E-mail to Cpl. Delaney-Smith from Sgt. Eaton, 6 July 2000.
[129] E-mail to Cpl. Delaney-Smith from Insp. Smith, 26 April 2001; E-mail to Cpl. Delaney-Smith from Insp. Smith, 27 April 2001; E-mail to S/Sgt. Dunphy from Insp. Smith, 2 May 2001; E-mail to Insp. Smith from Cpl. Delaney-Smith, 2 May 2001.
[130] Memorandum to OIC OSS from S/Sgt. Dunphy, 4 May 2001, p. 1.
[131] Continuation Report, Cpl. Delaney-Smith, 3 May 2001.
[132] Letter to *G. Shore* from K. Connell, 30 May 2001.
[133] Letter to Cpl. Delaney-Smith from K. Connell, 21 June 2001.
[134] Letter to Cpl. Delaney-Smith from K. Connell, 2 August 2001.
[135] E-mail to S/Sgt. Dunphy and Cst. Rogers from Cpl. Delaney-Smith, 22 August 2001.
[136] Letter to K. Connell from S/Sgt. Dunphy, 14 September 2001.
[137] E-mail to S/Sgt. Dunphy and investigation team from Cpl. Delaney-Smith, 15 October 2001.
[138] Letter to S/Sgt. Dunphy from K. Connell, 19 October 2001.
[139] E-mail to Cpl. Delaney-Smith from Cst. Rogers, 20 February 2002.
[140] E-mail to Cst. Rogers from Cpl. Delaney-Smith, 4 March 2002.
[141] E-mail to S/Sgt. Dunphy from Cpl. Delaney-Smith, 11 March 2002.
[142] Letter to S/Sgt. Dunphy from Cpl. Delaney-Smith, 18 March 2002.
[143] E-mail to S/Sgt. Dunphy from Cpl. Delaney-Smith, 20 March 2002.
[144] E-mail to Sgt. Griffiths, Chief Supt. Payne and Insp. Smith from S/Sgt. Dunphy, 24 May 2002.

[145] Memorandum to OIC OSS from S/Sgt. Dunphy, 4 May 2001, p. 2.
[146] Transcripts, CPC interview of K. Long, 14 December 2006, p. 47.
[147] Ibid., p. 47.
[148] Ibid., p. 50.
[149] Ibid., pp. 70–71.
[150] Ibid., p. 63.
[151] Ibid., p. 58.
[152] Ibid., p. 60.
[153] Ibid., p. 63.
[154] Ibid., p. 64.
[155] E-mail to Cst. Long from Cst. Rogers, 22 August 2001.
[156] Transcripts, CPC interview of K. Long, 14 December 2006, p. 71.
[157] Continuation Report, Cst. Long, 14 June 2001.
[158] E-mail to Cst. Long from Cst. Dugas, 15 June 2001.
[159] E-mail to Cst. Long from Cst. Dugas, 8 August 2001.
[160] Continuation Report, Cst. Long, 14 August 2001.
[161] Letter to *D. Trottier* from Cst. Long, 20 August 2001.
[162] Continuation Report, Cst. Long, 11 October 2001.
[163] Transcripts, CPC interview of K. Long, 14 December 2006, p. 72.
[164] Ibid., p. 73.
[165] Ibid., pp. 77–78.
[166] Ibid., pp. 75–76.
[167] Ibid., p. 74.
[168] Ibid., pp. 52, 54–56, 75–76.
[169] Ibid., pp. 80–82.
[170] Continuation Report, Cst. Gervais, 8 March 2002.
[171] Transcripts, CPC interview of Cpl. Vallis, 8 January 2007, p. 85.
[172] Ibid., p. 85.
[173] Ibid., p. 102.
[174] CPC interview notes of Cpl. Dugas, 28 August 2006.
[175] Letter to A/Comm. Graham from *D. Trottier*, 22 February 2004.
[176] Memorandum to NCO i/c MCU South from Cst. Rogers, 2 April 2004.
[177] Letter to Cst. Dugas from *D. Trottier*, 22 February 2004; Letter to Chief Carlisle from *D. Trottier*, 22 February 2004.
[178] Continuation Report, S/Sgt. Dunphy, 27 April 2004.
[179] Letter to *D. Trottier* from Chief Supt. Payne, 28 April 2004.

10. Investigations into Suspects at the New Brunswick Training School

As the Commission for Public Complaints Against the RCMP (CPC) was reviewing the documentation relevant to its investigation into the New Brunswick Training School (NBTS), the names of possible suspects appeared with little or no explanation. The CPC felt that a public interest investigation required closer examination of the RCMP's investigations of these persons. As a result, the CPC requested full access to the reports related to them.

Based on its review of these reports, the CPC finds that the investigations were adequate and that there was no indication of a cover-up. A summary of the RCMP's investigations as they pertain to some suspects who came to the attention of the RCMP is provided in the following paragraphs.

10.1 Investigation of 1992 to 1994

The RCMP continued its investigation into the NBTS and Karl Toft under the lead of Sergeant Doug Lockhart. With a focus on determining the involvement of guards and staff members other than Mr. Toft in the physical and sexual assault allegations, Sergeant Lockhart directed Constable James McAnany to prepare and maintain a list of guards, former and current, under investigation. Called, "Guards Past and Present Under Investigation," the list provided details of the "suspect" and the investigation and evidence relating to that person.

Throughout 1992 to 1994, the RCMP investigated 48 staff members for physical and sexual assault. Of those 48 staff members who were the subject of an investigation, eight briefs were forwarded to the Crown for review and recommendation, with varying results. However, apart from Mr. Toft and Hector Duguay, no convictions were secured against any of the persons on the list.

10.1.1 RCMP Investigation into *Marcel Beaupre*

In 1991, *Marcel Beaupre* was charged and subsequently pled guilty to sexually assaulting three young boys between 1965 and 1971. He was sentenced to pay $6,000 ($2,000 per victim) in fines and serve two years of probation; he was also recommended for continued counselling. The community condemned the sentence as being too lenient and an appeal was filed in the Yukon Court of Appeal in Vancouver. However, the appeal was dismissed in January 1992.[1]

Initially, *Mr. Beaupre's* name had not surfaced during the RCMP's investigation into the NBTS. However, on the 15 and 17 October 1992, the RCMP received telephone calls from *Steve Finlay*, an elementary school principal.[2] As a result of the information received, Constable McAnany opened a file on *Mr. Beaupre*. Preliminary checks in the Canadian Police Information Centre (CPIC) confirmed *Mr. Beaupre's* convictions in the Yukon.

The RCMP also received a statement dated 16 October 1992 from *Randall James Cranshaw*, a former resident at the NBTS. *Mr. Cranshaw* stated that on one of the occasions he had run away from the NBTS, an RCMP member picked him up. Although he stated that he was being sexually assaulted, he claimed the officer returned him to the school. A meeting followed with *Mr. Beaupre*, who was superintendent at the time. *Mr. Cranshaw* said he told *Mr. Beaupre* of the abuse by Weldon (Bud) Raymond; however, *Mr. Beaupre* did not believe him. Instead he "was given medication to calm [him] down and to stop having 'seizures' and fits and escaping from the home all the time."[3] Constable Rick Potvin obtained a second statement from *Mr. Cranshaw* on 6 November 1992, who maintained his story.[4]

On 2 November 1992, Constable Shaun Ryan interviewed *Mr. Finlay*, who stated that, when he was a teenager in the early 1960s, his family owned a cottage close to one owned by the *Beaupre* family and that *Mr. Beaupre* would bring boys from the NBTS to the cottage. *Mr. Finlay* befriended one of the boys who told him that *Mr. Beaupre* would make them go skinny-dipping and that when he could not spend the night at *Mr. Finlay's* place he had to sleep with *Mr. Beaupre*. *Mr. Finlay* indicated that, at the time, *Mr. Beaupre* was a "boss or something" at the NBTS and that he left the school abruptly, explaining that it was a "political thing."[5]

The case seemed to pick up momentum when *Telegraph Journal* reporter Phillip Lee visited Inspector Mike Connolly on 14 January 1993. Mr. Lee indicated that he had recently interviewed a former NBTS male resident and his mother. The resident relayed that, while at the NBTS, *Mr. Beaupre* took him to an overnight camp and climbed into bed with him. However, nothing happened as he let *Mr. Beaupre* know he was not interested. He felt *Mr. Beaupre* was trying to abuse him. The former resident apparently told his mother about the incident and she called the RCMP in Minto, New Brunswick. This would have occurred in 1964 or 1965.

Mr. Lee wanted to know whether the mother had made a report to the RCMP. Inspector Connolly indicated the incident in question would not have amounted to criminal activity and that any record, if one existed, would likely have already been destroyed. Nevertheless, Inspector Connolly advised that he would relay the information to investigators.[6] Shortly afterwards, Mr. Lee released the story in the *Telegraph Journal* in an article entitled "Investigate Former Kingsclear Boss—victim." The article included an interview with James Carroll, the RCMP Constable of Minto Detachment who took the complaint. In the article, Mr. Carroll said he remembered the mother's complaint but that he was not the main investigator and did not recall what happened as a result of the complaint. The article noted that *Mr. Beaupre* was contacted in Whitehorse but would not provide comments. The article also reported that Inspector Connolly indicated that the RCMP did not likely have the Minto records from 1965 and that, even if it did, he would be unable to confirm if an allegation was made due to *Privacy Act* provisions.[7]

In February 1993, Constable McAnany contacted the former resident who had made the complaint but he had little more to offer investigators on the incident in question than what was already reported.

Two other individuals who might have had information with respect to *Mr. Beaupre* were contacted. Constable Lise Roussel interviewed one of them, a former female administrative NBTS employee, on 19 April 1993. The former employee indicated that she heard that *Mr. Beaupre* once "visited a boy at night while he was in the 'hole.' He had brought him comics and chocolate bars. That's all I heard of *Beaupre* other than that he was an awful good man."[8] Constable McAnany again contacted the former employee on 11 May 1993, but his notes indicate that she "has no info to provide."[9]

The other person contacted was *Malcolm Salenger*, a former director of corrections for the province of New Brunswick from 1954 to 1969. *Mr. Salenger* first spoke with Constable McAnany on 17 February 1993. When *Mr. Beaupre's* name was raised, he responded that he was unaware of his homosexual activities. He had not been suspicious of *Mr. Beaupre*, nor had he heard any rumours. *Mr. Salenger* asked Constable McAnany to call him back once he had time to think on the matter.[10]

Constable McAnany met with *Mr. Salenger* again on 2 March 1993. *Mr. Salenger* stated that he had recruited *Mr. Beaupre* to the NBTS, and that *Mr. Beaupre* disagreed with his decisions regarding the funding of youth programs at the NBTS and soon left the school and New Brunswick. *Mr. Salenger* was apparently adamant that he never heard or saw anything that led him to believe that *Mr. Beaupre* was sexually abusing youth.[11]

It was not until mid-March 1993 that the RCMP attempted to locate the boy referred to by *Mr. Finlay* back in early November 1992. Constable Ryan and later Constables Roussel and Pat Cole were assigned to try and track him down. While several checks across the country were made, including checks with the provincial lists of status and non-status Indians, the correct person could not be found. In her Continuation Report on 14 June 1993, Constable Roussel noted that "all attempts in this file have been negative … unless disagreed this file is being concluded." Constable McAnany agreed to give up the search for the boy in question.[12]

The RCMP decided to conclude its file on *Mr. Beaupre* after a 21 June 1993 weekly GIS meeting.[13] This was confirmed in a report written by Constable McAnany on 28 July 1993 in which he wrote: "Summary: There are no allegations against *Beaupre*. He cannot be approached at this time. *** 93-06-21 *** File concluded."[14]

A "file status folder" was opened on *Mr. Beaupre* during the 2000 investigation and he was added to the Major Case Management System.[15] However, there is nothing in the file to suggest *Mr. Beaupre* was investigated as a suspect during this time.

Summary of Investigation

The RCMP launched a criminal investigation into *Mr. Beaupre* without first checking to see whether he had a criminal record. Until Mr. Lee's article in the *Telegraph Journal*, the RCMP was unaware of *Mr. Beaupre's* convictions in the Yukon.

The RCMP repeatedly tried to locate the alleged victim named by *Mr. Finlay* but to no avail. Without the testimony of the alleged victim, any further investigation into the matter would be fruitless.

The other sources of information did not offer anything of evidentiary value that would assist in charging *Mr. Beaupre* with a criminal offence.

10.1.2 RCMP Investigation into *Jean Bedard*

On 30 October 1992, *Neil Graham*, a former resident of the NBTS alleged in a written complaint that in 1975 he had been sexually assaulted by Mr. Toft. A former NBTS summer student had assisted him in writing out the complaint because at the time he could not read or write. *Mr. Graham* alleged that *Jean Bedard* did not believe him and tore up the complaint. He stated that Mr. Toft was in the office when *Mr. Bedard* told him to admit that his complaint was not true. He stated that after refusing to do so *Mr. Bedard* strapped him on his bare buttocks and put him in the "hole," a 6-foot by 8-foot cement cell with a steel door, for 10 days.[16]

During this time, the RCMP received complaints of physical assaults by *Mr. Bedard* from two other former residents. A subsequent investigation found the complainants to be unreliable and not credible.

After receiving the complaint from *Mr. Graham*, Corporal Chuck Orem of the Fredericton GIS interviewed six former summer students who had worked at the NBTS. However, he was unable to substantiate *Mr. Graham*'s complaint because none of them could recall assisting the resident in writing the complaint. Corporal Orem interviewed Mr. Toft and *Mr. Bedard*, both of whom denied the allegations.

During *Mr. Bedard's* second interview, Corporal Orem requested that he submit to a polygraph examination and, after consulting his lawyer, he agreed. The examination was conducted by Sergeant Bergevin on 23 August 1993. Sergeant Bergevin concluded that *Mr. Bedard* was not being truthful to the following questions:

1. Are you telling the truth when you say that you did not receive a complaint from *Neil Graham* of being abused by Karl Toft?

   Response: Yes

2. Are you telling the truth when you say that *Neil Graham* was not in your office complaining about being sexually abused by Karl Toft?

   Response: Yes

3. Are you telling the truth when you say that you did not strap *Neil Graham* to recant his complaint of being sexually assaulted by Karl Toft?

   Response: Yes

During the post-test interview, Sergeant Bergevin confronted *Mr. Bedard* with his conclusions. *Mr. Bedard* did not deny the fact that the incident took place, only that he "did not remember it."[17]

As a result of the polygraph examination and Sergeant Bergevin's opinion that *Mr. Bedard* was being deceitful, Corporal Orem prepared a court brief and presented criminal charges of physical assault against *Mr. Bedard* to the Crown's office in Fredericton. Robert Murray, provincial Director of Public Prosecutions for New Brunswick, asked Crown counsel Ron LeBlanc, who worked in the Crown's Moncton office, to review the file. During his review, Mr. LeBlanc requested additional clarification on the case from Corporal Orem. Mr. LeBlanc then interviewed *Mr. Graham* and also viewed part of the recorded interview between *Mr. Bedard* and Sergeant Bergevin. He also reviewed the statement taken from Mr. Toft.

In a memorandum to Mr. Murray dated 20 September 1993, Mr. LeBlanc, after reviewing the evidence, recommended that *Mr. Bedard* not be prosecuted, largely because of *Mr. Graham's* credibility.[18] Mr. Murray took the precautionary step of engaging the services of an independent counsel, James C. Letcher, Queen's Court (Q.C.), to review Mr. LeBlanc's findings. Mr. Letcher agreed with Mr. LeBlanc, although for different reasons. He concluded that the Crown's standard test for proceeding with a prosecution (i.e., reasonable prospect of conviction) could not be met in this case. In addition, Mr. Murray reviewed the file personally and informed Inspector Connolly, Acting CROPS Officer for "J" Division, that the Crown would not be proceeding with any charges against *Mr. Bedard*. As a result of Mr. Murray's decision, the case was concluded.

Summary of Investigation

The CPC believes that the RCMP investigators interviewed all persons who might have been able to provide input to this investigation. The RCMP also arranged for *Mr. Bedard* to undergo a polygraph examination, which indicated that *Mr. Bedard* was being deceitful. However, he did not confess to the accusations. They then forwarded their findings to Mr. Murray, who asked Mr. LeBlanc and, in turn, Mr. Letcher to review the case. After doing so, Messrs. Leblanc and Letcher, as well as Mr. Murray himself, recommended that no charges be laid. The CPC is of the opinion that the investigation was adequate and complete. In his interview with the CPC, Corporal Orem said that initially he was disappointed that charges were not going to be laid, but after Mr. LeBlanc explained his reasons in detail, he agreed with him.

10.1.3 RCMP Investigation into *Gerald Belanger*

Background

In 1989, *Gerald Belanger* was a part-time employee of the NBTS. He came to the attention of the school Superintendent, *Todd Sullivan*, in late 1989 after complaints of sexual assault were received from some of the youth and other employees of the school. *Mr. Sullivan* reported the complaints to the RCMP, who subsequently investigated them.

Constable Dan Lessard conducted the investigation. After interviewing several complainants and co-workers, Constable Lessard brought his findings in support of criminal charges against *Mr. Belanger* to the Crown counsel, William Corby.

After reviewing the file, the Crown counsel decided not to prosecute any of the charges against *Mr. Belanger*. The reasons given in his written opinion, dated 23 November 1992, were the lack of credible witnesses, the lack of corroboration and the inadmissibility of *Mr. Belanger's* admissions.[19] The Crown counsel also considered the alleged offences to be summary conviction offences. Therefore, *Criminal Code*, Section 786(2), applied and the time limit of six months had already passed.

Review of 1989 Investigation

The investigation into *Gerald Belanger* garnered attention more than two years later when Hugh Robicheau, Executive Director of Policing Services for New Brunswick, came across documents concerning the previous investigation while reviewing the NBTS files in preparation for the Miller Inquiry. Mr. Robicheau contacted the RCMP, first by telephone and then by letter, requesting that it review the investigation because he did not feel he had enough information to comment on the Crown's decision not to prosecute.

The RCMP completed a review of the previous investigation and decided to refer the case to the provincial Director of Public Prosecutions, Mr. Murray. Superintendent Giuliano Zaccardelli sent a letter to Mr. Murray on 4 November 1992, noting that "the circumstances as reported in the file are such that I am requesting a [further] assessment by your office on the merits of the case for prosecution."[20]

Mr. Murray responded to Superintendent Zaccardelli with his findings on 23 November 1992, indicating that he had reviewed the investigation material and he had spoken with Crown counsel William Corby on the matter. Mr. Murray agreed with Mr. Corby's earlier reasoning for not proceeding with criminal charges "based on the Attorney General's standard criterion for initiating a prosecution; that is, reasonable likelihood of conviction." Mr. Murray also cited problems with respect to the "admissibility and weight" of *Mr. Belanger's* statement to Constable Lessard. More specifically, he noted that Constable Lessard did not inform *Mr. Belanger* of his right to counsel, Constable Lessard provided suggested responses to the questions asked and *Mr. Belanger* never made any specific confessions but rather "spoke in terms of possibilities." Mr. Murray stated that, with the passage of time, "it is important that if policing authorities or any interested party has a question on the Crown's charging decision that it be raised *at the time* that decision is made." Mr. Murray concluded his correspondence noting that Constable Lessard's letter to the superintendent of the NBTS, in which he stated that the investigation would be concluded, indicated that Mr. Corby's "assessment was accepted."[21]

Mr. Robicheau received a letter in response to his request from Inspector Connolly, Acting OIC CROPS, on 8 December 1992. The letter indicated that the file was sent to Mr. Murray for review and that the RCMP's

position, that no charges should be laid, had not changed. Inspector Connolly stated that the RCMP agreed with the Crown and that the matter was concluded.[22]

The response from Mr. Murray was also forwarded to Sergeant Lockhart. He commented in early December 1992, saying that, while the RCMP could no longer lay charges due to the constraints of the *Criminal Code*, an appeal of Mr. Corby's assessment should have been sought earlier. He felt that there was substance to a charge. He indicated that his investigators would complete any follow-up required with any new victims identified during their current investigation into the NBTS.

The CPC's review of relevant material indicated that Mr. Murray reviewed the file on *Mr. Belanger* a second time in February 1993 and that the outcome again was to not proceed with charges.

New Allegations in 1992 and 1993

In October 1992, a former NBTS resident came forward and stated he was sexually assaulted during the summer of 1988. However, he could not remember the name of the person responsible but described him and felt he could identify him. Constable Ken Legge was initially assigned to the tip. On two occasions, NBTS *Superintendent Sullivan* suggested *Mr. Belanger's* name as the possible suspect, given that he had been investigated by the RCMP for similar allegations in the past and that he had a lot of access to the victim during the period in question (i.e., worked in the subject's dorm).

In March 1993, Constable McAnany interviewed another possible suspect, who, based on the descriptions given by the alleged victim, suggested that the perpetrator was *Mr. Belanger*.

In June 1993, Constable McAnany tried to speak to *Mr. Belanger* about the new allegations. While he initially agreed to meet, he avoided for months Constable McAnany's calls to set up an interview time. Finally, in late September 1993, *Mr. Belanger* advised that he would not talk to the police unless it was in the presence of his lawyer. Constable McAnany met with *Mr. Belanger's* lawyer in early November 1993 and advised him of the allegations and how *Mr. Belanger's* name had come up. The lawyer relayed to Constable McAnany that the investigation into the case "is full of holes."[23]

On 16 November, *Mr. Belanger's* lawyer informed Constable McAnany that he spoke to his client, who stated that he had nothing to say on the matter. As a result, given that the alleged victim could not name his abuser and that all possible leads had been exhausted, Constable McAnany concluded the investigation.[24]

Mr. Belanger's name did not surface again in any of the subsequent RCMP investigations.

Summary of Investigation

The CPC deems Constable Lessard's investigation into *Mr. Belanger* in 1989 to 1990 as adequate and that he pursued the matter professionally. He interviewed as many alleged victims and witnesses as he could locate and obtained detailed, thorough statements. He attempted on several occasions to speed up the process of prosecutorial screening, writing on the Charge Sheet "NOTE TIME LIMIT" in relation to the statutory limitations imposed on summary conviction offences by the *Criminal Code*.[25]

All of the evidence was before the Crown counsel by 13 February 1990, long before the six-month limitation. At no time did the Crown's office make any effort to contact the investigator to take up the issue of the strength of the evidence. The Crown's only comment about the complainants was that one of them had committed perjury in a prior case and could not be believed.[26]

Sergeant Lockhart was of the opinion that one of the suggested charges could not have been dealt with due to statutory limitations. He reported that there was nothing that could be done; however, that they would pay attention for any forthcoming new evidence pertaining to *Mr. Belanger*.

On 4 November 1992, the RCMP again asked the Crown's office to review the *Belanger* file, which it did. In its reply, on 23 November 1992, the Crown's office criticized the investigation by Constable Lessard, in particular, the interview Constable Lessard conducted with *Mr. Belanger*.[27]

The CPC has one concern with the investigation by Constable McAnany. There is no reference in the material supplied to the CPC that would indicate whether a photo lineup containing *Mr. Belanger's* picture was ever shown to the victim to confirm the identity.

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1 *Regina v. Marcel Francis Beaupre*, Court of Appeal of the Yukon Territory.

2 Telephone message to Sgt. Lockhart from S. Finlay, 15 October 1992; 17 October 1992.

3 Statement of *R.J. Cranshaw*, 16 October 1992.

4 Witness statement of *R.J. Cranshaw* taken by Cst. R. Potvin, 6 November 1992.

5 Witness statement of *S. Finlay* taken by Cst. Ryan, 2 November 1992.

6 Transit Slip to Sgt. Lockhart from Insp. Connolly, 14 January 1993.

7 Media Clipping, *Telegraph Journal*, "Investigate Former Kingsclear Boss—Victim," P. Lee, Undated.

8 Witness statement of *B. Fraiser* taken by Cst. Roussel, 19 April 1993.

9 Persons Report, Cst. McAnany, 11 May 1993.

10 Continuation Report, Cst. McAnany, 17 February 1993.

11 Summary of Interview with *M. Salenger* taken by Cst. McAnany, 2 March 1993.

12 Continuation Report, Cst. Roussel, 14 June 1993.

13 Minutes of Fredericton GIS Weekly Section Meeting, Sgt. Lockhart, 21 June 1993.

14 "Guards Past and Present Under Investigation," Cst. McAnany, 28 July 1993.

15 Subject File of *M. Beaupre* (Major Case Management System), 16 August 2000.

16 Witness statement of *N. Graham* taken by Cpl. Orem, 30 October 1992.

17 Polygraph Report of *J. Bedard* taken by Sgt. Bergevin, 23 August 1993.

18 Interoffice Memo to Cpl. Orem and R. Murray from R. Leblanc, 20 September 1993.

19 Letter to Supt. Zaccardelli from R. Murray, 23 November 1992.

20 Letter to R. Murray from Supt. Zaccardelli, 4 November 1992.

21 Letter to Supt. Zaccardelli from R. Murray, 23 November 1992.

22 Letter to H. Robicheau from Insp. Connolly, 8 December 1992.

23 Continuation Report, Cst. McAnany, 4 November 1993.

24 Continuation Report, Cst. McAnany, 16 November 1993.

25 RCMP Charge Approval Sheet for G. Belanger, 6 February 1990.

26 Letter to Cst. Ward from W. Corby, 10 May 1990.

27 Letter to Supt. Zaccardelli from R. Murray, 23 November 1992.

Part Three: Investigations into Staff Sergeant Clifford McCann

11. Overview of McCann Investigations

The RCMP investigations into the allegations against Staff Sergeant Clifford McCann were conducted from 1992 until 2003. With only one suspect, the investigations were narrower in focus than the investigations into allegations of sexual and physical assault by the New Brunswick Training School (NBTS) staff.

In the fall of 1991, a year after the RCMP began its first investigation into the NBTS staff, rumours and innuendo were circulating about a fellow officer, Staff Sergeant McCann, the Detachment Commander of Riverview Detachment. These stemmed from the fact that Staff Sergeant McCann used to take residents out on passes, just as Karl Toft had. A senior officer within the RCMP was informed of the rumours, and an official investigation was launched in January 1992. The first investigation concluded in early 1994, about a year after Staff Sergeant McCann's retirement in 1993, without any criminal charges being laid against him. Two subsequent investigations carried out in 1998 and 2001 also concluded without charges. During the investigation begun in 1998, seven former NBTS residents disclosed that they had been sexually assaulted by Mr. McCann.

During its initial investigation, RCMP investigators included Staff Sergeant McCann's name in their interviews with some former NBTS residents to see what response, if any, they would receive. Twenty-four former residents were asked about Staff Sergeant McCann but none gave any information that would assist in laying charges against him. Of the seven former residents who eventually disclosed sexual assault by Staff Sergeant McCann, four had told the investigators during the first investigation that Staff Sergeant McCann had not sexually assaulted them. One even testified to that fact under oath at the Miller Inquiry. Another revealed in a telephone conversation in December 1992 that he had been involved with Staff Sergeant McCann; however, he refused to give a formal statement or pursue the allegations despite the RCMP's repeated attempts in 1992 and 1993 to get him to co-operate. It was not until October 2002 that he gave a formal statement in which he admitted to having been sexually assaulted by Mr. McCann.

Throughout the investigations, the RCMP interviewed many former NBTS residents, encountering difficulties in soliciting statements from those known to have gone out on passes with Staff Sergeant McCann. Investigators also interviewed other police officers and, because Staff Sergeant McCann was involved in minor hockey, hockey players and coaches. Witnesses were interviewed in an effort to corroborate the allegations of the former residents; they were selected based on their knowledge of or acquaintance with the suspect or his alleged victims. The RCMP often took more than one statement from the former residents.

Although the RCMP obtained information from several sources, the majority of it could not be corroborated. The RCMP nevertheless prepared investigative briefs containing interviews of witnesses, officers' notes and other documents related to the charges of sexual assault by Mr. McCann. The briefs were submitted to the Crown counsel, Kevin Connell, for review and recommendation in August 2002. The RCMP continued with its investigation while Mr. Connell was reviewing the investigative briefs, arresting, interrogating and releasing Mr. McCann in September 2002. Investigators were unable to secure a confession from Mr. McCann. He was subsequently released without charges being laid.

Despite the arrest and release of Mr. McCann, which, according to Staff Sergeant Dave Dunphy, was carried out because the investigation team was being disbanded, RCMP investigators were still awaiting the Crown's review of the investigative briefs on six of the seven cases. RCMP investigators concluded the seventh case without consulting the Crown because they found the credibility of the former resident to be an issue. They also determined that the alleged assault was minor in nature; any possible charges based on his allegations would be considered a summary conviction offence and the six-month limitation period for laying summary conviction charges had long since elapsed.

However, Mr. Connell was unable to review the six briefs until January 2003. At that point he requested further investigation from the RCMP. By April 2003, he received the information he had requested and, after a lengthy and detailed review, provided his written recommendations between July and October 2003. Mr. Connell indicated that he would not recommend laying any criminal charges against Mr. McCann. He based his response on a number of factors but the primary reasons were the alleged victims' lack of credibility and the finding that none of the charges had a reasonable prospect of conviction.

In the end, no charges were pursued against Mr. McCann as a result of the seven complaints. Four of the seven former residents have since filed official complaints with the Commission for Public Complaints Against the RCMP (CPC).

12. Investigation by Sergeant Doug Lockhart (1992–1993)

The allegations against retired RCMP Staff Sergeant Clifford McCann and about the ensuing RCMP investigations are very serious. For this reason, the CPC felt it necessary to examine Staff Sergeant McCann's activities and associations before, during and after he was stationed in New Brunswick at the RCMP "J" Division Headquarters in September 1977, as well as the RCMP's investigation into him. Following a brief description of Staff Sergeant McCann's service history and his involvement with youth, this chapter provides a chronology of the RCMP's investigation of the allegations against Staff Sergeant McCann. It also provides a summary of interviews with senior officers at "J" Division to determine the extent of their knowledge of and involvement in the McCann investigation.

The CPC obtained the information provided here by first reviewing all relevant material and then conducting interviews with those complainants who had contacted the CPC and made allegations against retired Staff Sergeant McCann. These audiotaped interviews were conducted in 2005 in Renous, New Brunswick; Ottawa and Toronto, Ontario; Edmonton, Alberta; and Winnipeg, Manitoba.

12.1 About Staff Sergeant McCann

12.1.1 Service History

Clifford McCann joined the RCMP 1 April 1958 as a constable. He spent the majority of his early career in "O" Division (Ontario) and while stationed there, was promoted through the ranks, progressing from corporal to sergeant.

By May 1977, Sergeant McCann was the Non-commissioned Officer (NCO) i/c of the Organized Crime Tactical Investigations Unit within the Toronto-based National Criminal Intelligence Service (NCIS). It was at this time that he applied for a promotion to staff sergeant, which would have entailed a transfer to RCMP "J" Division Headquarters, in Fredericton, New Brunswick. His application was accepted and in September 1977 Staff Sergeant McCann arrived at RCMP "J" Division Headquarters where he assumed the position of Divisional Intelligence Officer.

Staff Sergeant McCann served at RCMP "J" Division Headquarters from 1977 until September 1987, at which time he was transferred to the Moncton Subdivision as the Detachment Commander for Riverview Detachment. He held this position until he was transferred back to RCMP "J" Division Headquarters in June 1992, where he remained until he retired from the RCMP on 18 April 1993 after completing 35 years of service.

12.1.2 Involvement with Youth

Staff Sergeant McCann was actively involved with youth, both at the New Brunswick Training School (NBTS) and through his association with various youth hockey teams. His involvement with hockey dates back to March 1977, when he was stationed in "O" Division. In a Personnel Interview Report dated 14 March 1977,[1] he is mentioned as the manager of a Bantam League hockey team. Many Personnel Interview Reports throughout his career note his involvement with the community, particularly in local junior hockey programs.

Between 1980 and 1985, while Staff Sergeant McCann had unrestricted access to the residents of NBTS, the parents of some of the boys were not allowed access to their own children. It was not until the incident reported by David Forbes in 1985 that stricter controls were placed on access to the residents (see Chapter 4, "Investigation by Constable Tom Spink (1990)," for information about Mr. Forbes and his report of the Fredericton Police Force (FPF). It is also evident from NBTS documents that Staff Sergeant McCann's involvement with the residents at the school diminished greatly at this time. However, school sign-out sheets indicate that between April and July 1987, Staff Sergeant McCann took *John Daley* out on passes. From the material that the CPC has been able to examine, it appears that after this time, Staff Sergeant McCann did not take any more residents out on passes.

The CPC has not ascertained exactly how Staff Sergeant McCann became involved with the residents of the NBTS, and specifically, why he was given what appears to be unrestricted access to the residents. One avenue for such access may have been through a community-policing program through which RCMP members were encouraged to become involved with youth groups. In an interview with the CPC, retired Sergeant Cy Doucette explained that the program was initiated while RCMP "J" Division Headquarters was still on Woodstock Road in Fredericton (prior to 1988).[2]

12.2 Overview

In October 1990, the RCMP was forwarded further information and reopened the investigation into the NBTS. Headed by Sergeant Gary McNeill, the investigation continued into 1991. When Sergeant McNeill was transferred in November 1991, Doug Lockhart, who was a corporal and second-in-command of the section working under McNeill, was promoted to sergeant. He became the NCO i/c of the Fredericton GIS and officially took over the ongoing NBTS investigation.

The RCMP interviewed several former NBTS residents about sexual and physical assaults occurring at the school in relation to Karl Toft with negative results. In the fall of 1991, Staff Sergeant McCann's name surfaced in relation to the NBTS. Investigators started to hear that, just like Mr. Toft, he was taking residents out on passes. Sergeant Lockhart was instructed to investigate the rumours circulating about Staff Sergeant McCann in January 1992 and began to re-interview former residents who had been interviewed by previous investigators. There were no allegations made against Staff Sergeant McCann until Constable James McAnany interviewed *Mike Roy* by telephone in December 1992. *Mr. Roy* told Constable McAnany of an incident in which he allowed Staff Sergeant McCann to perform a sexual act on him after he was released from the NBTS.[3] However, repeated attempts to obtain a statement from *Mr. Roy* failed and although interviews continued, no one else made a complaint against Staff Sergeant McCann. In December 1993, the investigation was closed in the absence of reasonable and probable grounds for a criminal charge, but with the caution that a possible victim unknown to the investigators could exist.

12.2.1 Sergeant Lockhart Takes over Investigation

In audiotaped interviews with the CPC,[4] which took place on 24 and 25 November 2006 in Fredericton, New Brunswick, Sergeant Lockhart indicated that he was not fully involved in the NBTS investigation until he actually took charge of the GIS on 18 November 1991. His only connection to the file prior to November 1991 was to sign-off on reports from other investigators when Sergeant McNeill was not around. Throughout the summer and fall of 1991, there were several aspects of the investigation that took place without his involvement. For example, Corporal Ray Brennan was still actively investigating Mr. Toft at the time that Sergeant Lockhart took charge of the GIS, and continued to do so until March 1992 when additional charges were laid against Mr. Toft.

12.2.2 Investigation Begins

On 31 January 1992, Staff Sergeant McCann's name appeared in a police report for the first time. Written by Sergeant Lockhart, the Continuation Report notes that Superintendent Ford Matchim, Acting Administration and Personnel (A&P) Officer, asked Sergeant Lockhart to investigate the rumours about Staff Sergeant McCann's involvement with the boys at the NBTS.[5] Until this time, Staff Sergeant McCann had only been mentioned in statements taken from former residents regarding their suspicions of his involvement with the youth at the school. Staff Sergeant McCann was considered to be part of the NBTS investigation because it was during this investigation that his name began to surface. Although there were no specific allegations against him at this time, he was identified as a person who, like Mr. Toft, was taking boys out of the NBTS.

Sergeant Lockhart listed in his report the names of 11 former NBTS residents he had collected from statements taken by Corporal Brennan and Constable Ken Legge during the investigation in the summer and fall of 1991. Upon reviewing the statements, the CPC found that Sergeant McNeill, Corporal Brennan and Constable Legge had conducted the interviews from which the names of the 11 former residents had been compiled. Sergeant Lockhart chose these names after speaking with Corporal Brennan and identifying possible victims; however, according to the officers' notes and the statements taken from them, not all of the former residents mentioned Staff Sergeant McCann. A number of them did in some way mention Staff Sergeant McCann by name or give a description of a "guy" they thought to be an RCMP officer.

The CPC reviewed all the statements taken from the former residents and confirmed the fact that none of them complained that Staff Sergeant McCann had abused them in any fashion. A few of the former residents had mentioned his name because he was taking boys out, and they thought he might have the same predilection for young boys as Mr. Toft.

Sergeant Lockhart made a notation beside a former resident's name, *Don Miekle*, one of the names with which he was familiar. According to his report, when Sergeant Lockhart was posted in Plaster Rock, New Brunswick, from 1984 to 1988, Staff Sergeant McCann had called regarding *Mr. Miekle*. Staff Sergeant McCann said he had met *Mr. Miekle* at the NBTS and was looking for some background information on him. During his interview with the CPC, Sergeant Lockhart said that, at the time, he did not think anything of the telephone call from Staff Sergeant McCann.

12.2.3 Former Residents Re-interviewed

In a Continuation Report dated 12 March 1992, Sergeant Lockhart again listed the names of 11 former NBTS residents who had initially been interviewed by Sergeant McNeill, Constable Legge or Corporal Brennan. He and Constable McAnany re-interviewed nine of these persons to see if they could obtain any disclosures about Staff Sergeant McCann and obtained written statements from eight. This section details what was said by whom in both the initial and follow-up interviews. None of the nine former residents interviewed made any adverse disclosures.

1. Yvon Pilon

Initial Interview by Sergeant McNeill

Sergeant McNeill interviewed *Yvon Pilon* on 5 November 1991 in regards to Mr. Toft. *Mr. Pilon* had been in and out of the NBTS from 1980 through 1983. Sergeant McNeill indicated in a report that he asked *Mr. Pilon* about abuse at the hands of Mr. Toft. There was no mention of Staff Sergeant McCann by either Sergeant McNeill or *Mr. Pilon*, even though *Mr. Pilon* was at the NBTS during the years that Staff Sergeant McCann was taking residents out on passes.

Re-interview by Constable McAnany

Constable McAnany re-interviewed *Mr. Pilon* on 7 February 1992 in New Brunswick.

Q. 10 Anybody else within the Justice system that you suspected was abusing the inmate population? I mean, not necessarily guards but maybe other staff there, volunteers, police officers …?

A. 10 No.

Q. 12 Did you know someone there during your stay at Kingsclear by the name of Cliff McCann?

A. 12 No, doesn't ring a bell (thought long and hard).[6]

2. Michel Minto

Initial Interview by Constable Legge

Constable Legge interviewed *Michel Minto* on 28 November 1991in relation to the Toft investigation because *Mr. Pilon* had mentioned *Mr. Minto* as a possible Toft victim during his interview with Sergeant McNeill. *Mr. Minto* was a resident of the NBTS during the period that Staff Sergeant McCann was active there. However, neither Constable Legge nor *Mr. Minto* mentioned Staff Sergeant McCann during the interview.[7]

Re-interview by Constable McAnany

On 7 February 1992, Constable McAnany re-interviewed *Mr. Minto* asking specific questions about Staff Sergeant McCann.

Q. 17 Do you know of anybody else within the Justice system who might have taken advantage of any of the kids?

A. 17 No, can't think of anybody.

Q. 18 Do you know [blackened out]?

A. 18 I recognized the name from the Boys Home, Kingsclear. He was a Counsellor there. No! He was an RCMP officer, I'll say in 1982. The reason I know this is because he used to take one of the inmates out to play ice hockey. His name is *Phillip Charbonneau*. I'm pretty sure I'm right. I used to be jealous because he used to take him out because he was so good at hockey.

Q. 19 Any idea that this [blackened out] ever did anything with any of the kids he took out?

A. 19 I have no idea. Never heard any rumours.

Q. 20 Do you remember what he looked like?

A. 20 Don't think I ever seen him. Maybe I did. Don't remember.[8]

3. Don Miekle

Initial Interview by Corporal Brennan

Corporal Brennan interviewed *Don Miekle* on 30 September 1991 in New Brunswick, in relation to the Toft investigation. In his statement, *Mr. Miekle* described in detail his encounters with Mr. Toft.[9] He did not mention nor was he asked anything about Staff Sergeant McCann.

Re-interview by Sergeant Lockhart

Sergeant Lockhart re-interviewed *Mr. Miekle* on 11 February 1992. Sergeant Lockhart asked specific questions about Staff Sergeant McCann but again no abuse was reported.

Q. I asked you if you knew another individual by the name of Cliff McCann while at the centre?

A. Yes

Q. For the record, how did you know him?

A. I met him either at the Centre or group home. He was like a Big Brother. He either worked for the Police in Fredericton or the R.C.M.P. Police. I was at his house once for a barbecue with him and his family. He had one or two kids, I think.

Q. So he treated you well?

A. Yes, oh yes.[10]

4. Ed Badger

Initial Interview by Corporal Brennan

Corporal Brennan interviewed *Ed Badger* on 15 November 1991 in regards to the Toft investigation. *Mr. Badger* was a resident of the NBTS from 12 December 1983 until 14 December 1984. While he was there, Staff Sergeant McCann had signed him out on a pass on 29 January 1984.[11]

During the interview, according to Corporal Brennan's written report, *Mr. Badger* mentioned another person who was considered a "fag." After giving a description of the person, Corporal Brennan wrote in his report, "I believed he was talking about someone I know personally, not that it matters."[12]

In a follow-up telephone conversation with the CPC, Corporal Brennan confirmed that he must have been talking about Staff Sergeant McCann, but that he had no independent recollection of the conversation or the comment.

Re-interview by Constable McAnany

Constable McAnany interviewed *Mr. Badger* on 12 February 1992 in Saint John, New Brunswick, in relation to the NBTS investigation. The interview was typed and consisted of three pages of question and answers.

Q. 7 Were there any other individuals there at the Institution or within the Justice system that you also think might have been like Toft and tried to or did take advantage of any kids?

A. 7 None that I ever remember.

Q. 8 Do the names, Steve Patterson, Cliff McCann and Mike Michaud mean anything to you?

A. 8 Cliff McCann was a volunteer up there, wasn't he? I thought he was an old guy, bald head, ex-RCMP officer, wasn't he?

Q. 9 Any suspicion that anyone of them were using kids, taking advantage of them?

A. 9 I thought I once heard a story about McCann. Something like he was like Karl Toft. I'm really not that clear.

Q. 10 Do you remember any more about what this McCann fellow looked like?

A. 10 All that comes to mind is short and bald headed. I don't think, I'm not sure, I even ever met him. All I remember was a story and his name comes to mind. The only time I went out on a pass with someone other than a guard was with *Brad Lewis*, another inmate and this older fella. He was tall, well, he wasn't short and he wasn't fat. We went to a hockey game. Don't remember anything else about him. Nothing happened. Never went on a pass with him again. I think he was a volunteer or something. If he was a guard, I would have remembered.

Q. 11 You said in Q9/A9 that there was a story about this McCann being like Toft. What was the story?

A. 11 Just a story going around.[13]

5. Sylvain Moore

Initial Interview by Sergeant McNeill

Sergeant McNeill interviewed *Sylvain Moore* on 26 February 1991 in Saint John, New Brunswick, in relation to the Toft investigation. During the interview there was no mention of Staff Sergeant McCann.[14]

Detective Tim Kelly and Constable Randy Reilly of the FPF interviewed *Mr. Moore* on 14 August 1991 in relation to their separate investigation into Mr. Toft.[15] There was no mention of Staff Sergeant McCann.

Re-interview by Constable McAnany

Constable McAnany re-interviewed *Mr. Moore* on 12 February 1992, in Saint John, New Brunswick. He indicated he was at the NBTS for eight months in 1984 and 1985. The interviews touched on both Mr. Toft and Staff Sergeant McCann. Constable McAnany took a handwritten question-and-answer statement, which was later typed.

Q. 3 Do the names Steve Patterson, Cliff McCann or Mike Michaud mean anything to you?

A. 3 Cliff McCann. He was a volunteer. He was an RCMP officer with the Narcotics Division, a Sergeant. I just heard stories, not about him but stories from other kids who would say to other kids that, "that's why you go out with him because …."

Q. 4 Were you ever out with this McCann fellow?

A. 4 Yes, four or five times on passes, either alone or with other kids. We'd go to hockey games. Sometimes he'd pick up his son and we'd go back to his place.

Q. 5 Did this McCann fellow ever try anything on you?

A. 5 No. Nobody else that I know of either. I knew quite a few people who used to go out on passes with him.

Q. 6 Can you name a few?

A. 6 *Peter Ross.* I can't remember their names, it's been so long. That's the only one I can think of right now.[16]

6. Bill Nesbitt

Initial Interview by Constable Legge

Constable Legge interviewed *Bill Nesbitt* on 17 October 1991 in Moncton, New Brunswick, in relation to the Toft investigation. Constable Legge took a question-and-answer handwritten statement.

Q. 5 What about any other guards or any other rumours?

A. 5 There was a woman guard who everyone thought was a dyke but that's it. There was a fairly tall skinny guy. I think with glasses who used to come and take guys water skiing and stuff. He was a mountie but I can't remember his name. I thought maybe he was a fruit but he never took me out anywhere so I don't know.[17]

Re-interview by Sergeant Lockhart

Sergeant Lockhart interviewed *Mr. Nesbitt* again on 12 February 1992 with reference to both Mr. Toft and the tall skinny guy.

Q. This tall skinny guy who you believed to be a Mountie and you felt he was a fruit [homosexual]. Is there an incident you can recall that made you believe he was a homosexual?

A. No, he used to take guys out for half a day to a full day on outings. He may have been a Big Brother, RCMP. I'm not sure but he came in and used to take guys out for the day.

Q. Did you ever hear any of those he took out say he was a homosexual or that he tried to make sexual advancements towards them while on outings?

A. No.

Q. Did you know any of the children well enough that they might have been inclined to tell you if in fact, he was sexually abusing them or making sexual advancements towards them?

A. I knew most of the guys quite well but none of them ever said anything like that ever happened.

Q. Why then did you think he was a homosexual; that is the tall skinny guy?

A. Well, I don't know, he use to talk to Toft when he came in and got guys. It seemed he knew Toft. I guess I based it on the fact he spoke to Toft and the knowledge I had that Toft was queer. I guess the guy looked like a queer to me.[18]

Later in the interview Sergeant Lockhart asked *Mr. Nesbitt* the following question.

Q. Do you know a James Steward, Cliff McCann or Charles Luce?

A. No, I never heard tell of any of them.[19]

7. John Daley

Initial Interview by Constable Legge

Constable Legge interviewed *John Daley* on 21 November 1991 in Moncton, New Brunswick, in relation to the Toft investigation. The statement was in question-and-answer format and was handwritten by Constable Legge and later typed out. *Mr. Daley* had been a resident at the NBTS in 1981 for three months, again for one month in 1986 and the last time for six months in 1987.

Q. Were there any other guards, staff, or any one else at that time rumoured to be abusing boys?

A. No[20]

Re-interview by Sergeant Lockhart

Sergeant Lockhart interviewed *Mr. Daley* on 14 February 1992 as a follow-up to the interview by Constable Legge. The statement was taken in Moncton, New Brunswick, and typed.

Q. Do you recall a [blackened out] or a [blackened out] or finally, a man by the name of [blackened out] while in the YTC?

A. I remember McCann, not the others.

Q. What was his position at YTC?

A. He was a "big brother," a volunteer like. He would visit the centre. He would take people out to racket ball and stuff.

Q. How did you get along with him?

A. Good.

Q. Did he take you out often?

A. About 5 or 6 times, played sports. We would go to his house, watch television, water ski with his boat.

Q. Did you have any problems with him, that is like you did with Toft?

A. No.

Q. Did you feel uncomfortable with him?

A. No, a couple time he spoke about sex, I didn't like that so much. He would ask me about my girlfriend, if I had sex with her, things like that. I would talk around the question.[21]

8. *Russ Vaillancourt*

Initial Interview by Constable Legge

In a Continuation Report by Constable Legge, dated 18 October 1991, his daily log refers to a meeting he had with *Russ Vaillancourt* about his knowledge of Mr. Toft. Constable Legge mentioned that *Mr. Vaillancourt* said that *Mr. Daley*, another former resident, used to get signed out by Staff Sergeant McCann "a lot" and that *Mr. Vaillancourt* heard rumours but that was all.[22] It was confirmed in a later question-and-answer statement taken by Sergeant Lockhart that Constable Legge did not take a formal statement from *Mr. Vaillancourt* at this meeting.[23]

Re-interview by Sergeant Lockhart

Sergeant Lockhart interviewed *Mr. Vaillancourt* on 26 February 1992 in Moncton, New Brunswick. In a handwritten question-and-answer statement taken from *Mr. Vaillancourt*, the following references were made to Staff Sergeant McCann.

Q. Do you recall a Paul Johnston, Harry Smith or Cliff McCann coming to the Youth Training Centre while you were there?

A. McCann, I think he was an RCMP who use to come. I heard he was an RCMP. Just around from other people. He use to take people out on passes.

Q. Did you ever hear anything about him?

A. No, just suspicions, because Toft use to take kids out on passes. McCann did to, so I was wondering about him. I use to ask around the guys about him, but I never heard any reports that made him like Toft, that is that he was a queer. McCann could only take trustees out.*

Q. Was he a Big Brother?

A. No, I just thought he was RCMP.

Q. Do you know any of the guys he took out?

A. No, because I was quite bad and wasn't in the same dorms because of that. I wasn't a trustee.[24]

* Residents who were not causing trouble were allowed out as a reward.

9. Doug Bender

Initial Interview by Corporal Brennan

Corporal Brennan contacted *Doug Bender* on 13 November 1991. *Mr. Bender* stated that he barely recalled Staff Sergeant McCann, despite Staff Sergeant McCann signing him out on three different occasions.

Re-interview by Constable McAnany

Constable McAnany contacted *Doug Bender*, the ninth person, by telephone on 6 February 1992; however, he did not conduct a written interview at the time.[25]

12.2.4 Meeting with Staff Sergeant McCann

On 12 March 1992, Sergeant Lockhart reported in a Continuation Report that he met with Staff Sergeant McCann at Riverview Detachment. Without a complaint from any of the former residents, it is puzzling that Sergeant Lockhart, of his own volition, decided to approach Staff Sergeant McCann at this stage of the investigation. At the very least, Sergeant Lockhart should have first interviewed all 11 former residents identified in his Continuation Report of 31 January 1992 before approaching Staff Sergeant McCann.[26] Moreover, when he met with Staff Sergeant McCann, it should have taken place in the company of another officer, preferably of equal or greater rank than Staff Sergeant McCann, to avoid any sign of impropriety. For these reasons, the CPC deemed it necessary to include the following exact excerpts from Sergeant Lockhart's Continuation Report on what took place during the meeting:

> spoke to S/Sgt Cliff McCann who was just leaving for Fredericton
>
> told him of rumors, subsequent investigation
>
> states there is nothing to it
>
> not part of any organization, simply visited on his own
>
> kept one youth as foster parent
>
> use to take kids home for barbecue, water skiing – nothing more nothing less
>
> there is no truth he states to rumor

thanked writer [Lockhart] for telling him

very calm

states he knew Toft—didn't know of abuse

no charter/warning as we have no evidence after 17 interviews of any abuse or wrongdoing by S/Sgt. McCann[27]

12.2.5 McCann Investigation Continues

Following the meeting with Staff Sergeant McCann on 12 March 1992, Sergeant Lockhart continued to interview former residents of the NBTS throughout 1992 and 1993. Sergeant Lockhart and Constable McAnany focused their attention on tracking down former residents from the NBTS that had been taken out by Staff Sergeant McCann on passes. None of the persons interviewed, with the exception of *Mr. Roy*,* who refused to co-operate, made any complaint about Staff Sergeant McCann. A total of 24 people were interviewed in relation to Staff Sergeant McCann's involvement at the NBTS, according to a list that Sergeant Lockhart forwarded to Superintendent Wayne Wawryk, Officer-in-Charge (OIC), Fredericton Subdivision, dated 12 January 1994.[28]

The CPC reviewed the 24 names listed in the document and discovered that two were not located; and one was interviewed over the telephone, never gave a written statement, and did not report any abuse by either Mr. Toft or Staff Sergeant McCann. Another former resident was interviewed but was not listed among the 24.

*It should be noted here that other than innuendo, *Mr. Roy* never made a specific complaint.

12.2.6 *Mike Roy* Interview

On 2 December 1992, Constable McAnany spoke with the mother of *Mike Roy*. She said that her son might be prepared to come forward about his involvement with Staff Sergeant McCann.[29] Constable McAnany spoke with *Mr. Roy*, who was living in Toronto, twice by telephone on 7 December 1992. Constable McAnany made notes of the first call with *Mr. Roy* and audiotaped the second call.

During the first telephone call, *Mr. Roy* told Constable McAnany of allowing Staff Sergeant McCann to perform oral sex on him when he was no longer a resident of the NBTS.[30] According to *Mr. Roy*, his mother witnessed the incident, although, as he said to Constable McAnany, he denied it when she confronted him about what she had seen. "[W]hat was I going to tell her, yea mom he's sucking my dick."[31] Neither *Mr. Roy* nor anyone else interviewed disclosed instances of Staff Sergeant McCann abusing any of the residents while they were housed at the school.[32]

The CPC believes it necessary to keep in mind that the incident *Mr. Roy* referred to happened sometime after he was released from the NBTS. At no time during either telephone call did *Mr. Roy* say that Staff Sergeant McCann had abused him while he was a resident of the NBTS. During the second telephone conversation *Mr. Roy* said that he just wanted to drop the matter.[33]

12.2.7 Staff Sergeant McCann Becomes a Suspect

In an interview with now-Staff Sergeant Legge, who attempted to recontact *Mr. Roy*, the CPC asked whether or when he considered Staff Sergeant McCann a suspect:

> **Q.** And he was sort of, as you said, a thread through the entire investigation. Would you consider him, at that point anyway, January of ninety-two, as a suspect in any way?
>
> **A.** January of ninety-two. You know it really was, was the *Roy* disclosure for me.[34]

While still talking about the suspicions surrounding Staff Sergeant McCann, Staff Sergeant Legge stated:

> Would you of considered him a suspect and you know really it was suspicion, where's there's smoke there's fire, you know? But really, until *Roy*, I mean that, that sticks in my mind so clearly, to me because … *Roy* actually brought something concrete to the table. Up until then … it really was rumour and innuendo. I mean that's all it was.[35]

During the interview, Staff Sergeant Legge indicated that Staff Sergeant McCann was not considered a suspect in the NBTS investigation until December 1992, when *Mr. Roy* provided his comments to Constable McAnany. It was also clear from the documentation that the CPC reviewed that there were no allegations made to the RCMP by anyone regarding Staff Sergeant McCann until *Mr. Roy's* telephone call on 7 December 1992.

12.2.8 Attempts to Speak with *Mike Roy*

Constable McAnany briefed Sergeant Lockhart about his telephone conversations with *Mr. Roy*. As a result, Sergeant Lockhart decided to send Constable Legge to Toronto to interview *Mr. Roy*. Constable Legge arrived in Toronto on 10 December 1992, three days after the telephone call and nine months after Staff Sergeant McCann's meeting with Sergeant Lockhart, and went to *Mr. Roy's* apartment, arriving at 12:00 p.m. He spoke with one of *Mr. Roy's* roommates, who advised him that *Mr. Roy* was in court in Hamilton and was expected home sometime in the evening.[36]

Constable Legge contacted Sergeant Lockhart and advised him of the delay. Sergeant Lockhart instructed him to stay in Toronto until he interviewed *Mr. Roy*. He subsequently changed his flight and car reservations to accommodate an opportunity to speak with *Mr. Roy*.

According to his notebook entry for 10 December 1992,[37] Constable Legge continued calling *Mr. Roy*, with the following results: At 6:00 p.m., the same roommate he had spoken with the day before told him that *Mr. Roy* was expected home within the hour. An hour later the same roommate told him that *Mr. Roy* called and said he had no desire to talk about the matter. Constable Legge told the roommate that he had come a long way and that he needed to speak to *Mr. Roy* himself. He called the apartment again two more times in the evening, leaving his number for *Mr. Roy* to call back.

On 11 December 1992, at 8:00 a.m., Constable Legge called *Mr. Roy* and again left a message. He then proceeded by car to *Mr. Roy's* home, arriving at 9:20 a.m. This time he spoke with *Mr. Roy's* other roommate, who told Constable Legge that he did not appreciate being woken up, that *Mr. Roy* had been given all the messages and that he did not want to speak to the police.

Constable Legge returned to his hotel room without speaking to *Mr. Roy*. He contacted Sergeant Lockhart in Fredericton and briefed him of the situation. It was decided that Constable Legge would return to *Mr. Roy's* apartment at 1:00 p.m. and try once again to make contact with him.

At 12:30 p.m. Constable Legge called *Mr. Roy's* apartment and spoke to another roommate, who told him that *Mr. Roy* had seen his message, whereupon he crumpled it up and threw it on the floor.

Constable Legge reported in his notes of 11 December 1992 that *Mr. Roy* did call him back at 1:00 p.m. and spoke with him for about 30 minutes. During the conversation *Mr. Roy* told him that he did not want to go through this again and was very apologetic about wasting his time, and asked Constable Legge to express to Constable McAnany the same apology.

12.2.9 Contact with Mother of *Mike Roy*

During a section meeting on 14 December 1992, it was decided that attempts would continue to be made to try and persuade *Mr. Roy* and his mother to co-operate with the RCMP. Constable Legge contacted her at her home, and spent two hours speaking with her on the telephone. She told Constable Legge that she had spoken with *Mike* on Sunday and that he planned to return home after Christmas and that there was still a chance he could be brought on board. She also said that *Mike* disclosed to her that he had oral sex with Staff Sergeant McCann.

On 4 January 1993, Constable Legge again contacted *Mr. Roy's* mother. She said she had spoken with *Mike* over the holidays and that he said he did not want to talk about it anymore. She said she did not want to give a statement unless *Mike* came forward.

12.2.10 Further Attempts to Speak with *Mike Roy*

Constable Legge attempted to reach *Mr. Roy* by telephone but was unable to contact him. He again attempted to make contact on 5 January 1993 but was unsuccessful.

Constable Legge finally contacted *Mr. Roy* the following day. *Mr. Roy* said he was in really good spirits and asked Constable Legge to call him back on Monday, as he wanted time to think.

On Monday, 11 January 1993, Constable Legge called *Mr. Roy* several times before finally reaching him in the evening. *Mr. Roy* was very negative and did not want to talk with the police. He informed Constable Legge that he did not want any more calls from the police. This would be the last time Constable Legge had contact with anyone in relation to the McCann file. He was promoted and transferred out of Fredericton GIS on 18 January 1993.[38]

12.2.11 Selected Interviews of Former Residents

Of the 24 former NBTS residents whom Sergeant Lockhart and Constable McAnany interviewed about their experiences with, or knowledge of, Staff Sergeant McCann, three have made a complaint to the CPC about the RCMP's investigation into Staff Sergeant McCann. To put the RCMP's investigation of Staff Sergeant McCann into the proper context, this section provides highlights of the interviews with each of the CPC complainants, as well as follow-up interviews with two of the former residents who had been interviewed in February 1992.

Note: *Mike Roy* mentioned two of the three former residents, who made an official complaint to the CPC, as possible victims of Staff Sergeant McCann during a telephone conversation with Constable McAnany in December 1992.

1. *Don Miekle*

Follow-up Interview by Sergeant Lockhart

Sergeant Lockhart interviewed *Mr. Miekle* again on 28 January 1993; the first time was on 11 February 1992. In a handwritten statement taken that day, *Mr. Miekle* again denied that Staff Sergeant McCann had ever abused him in any way.

Q. Do you recall Clifford McCann taking you out for visits? I know I asked you this before in another interview but for the record do you recall any unusual situations with him?

A. No, he use to come to the YTC take us out of town, mall, his house for supper, then back to the YTC.

Q. Did he ever make sexual advances towards you, in any way?

A. No, he use to keep a half pack of cigarettes in his car, he would let us go out and sneak a smoke because we weren't allowed to smoke inside the YTC, but he never wanted anything in turn for the favours.[39]

Third Interview by Sergeant Lockhart

Sergeant Lockhart spoke with *Mr. Miekle* again in March 1993, and wrote of the interview, "*Don Miekle* still denies sexual advancements by Mr. X."[40]

Fourth Interview by Sergeant Lockhart

Sergeant Lockhart again spoke with *Mr. Miekle* on 21 May 1993 and wrote in a Continuation Report: "Nothing further on McCann - still maintains he was a great guy and no sexual advances were received."[41]

2. *Jason Brown* (CPC Complainant)

Sergeant Lockhart interviewed *Jason Brown* on 25 February 1993 in Saint John, New Brunswick. In his statement, *Mr. Brown* said that he was at the NBTS on two occasions, the first time in 1982 for about two months and again in 1983 when he was 15 years old for four to six months. A handwritten statement was taken from *Mr. Brown* and later typed. It would appear from reading the statement that Sergeant Lockhart had a conversation with *Mr. Brown* prior to taking his written statement. *Mr. Brown* mentioned the names of *David Wright* and *Phillip Charbonneau*, who he said had been out on passes with Staff Sergeant McCann.

Sergeant Lockhart asked specific questions about abuse going on at the school, in particular, whether Staff Sergeant McCann had ever made passes at him or sexually abused him. *Mr. Brown* denied any such thing had occurred to him; however, he did state that *Mr. Wright* had said that Staff Sergeant McCann had made a pass at him, although he felt it was after *Mr. Wright* had left the school.

Mr. Brown volunteered information regarding his feelings about Staff Sergeant McCann and his mother's concerns for him. *Mr. Brown* stated:

> I always found Cliff McCann a bit funny, like something strange. Like I would have meet him the second time I was in there. That would be 1983. My mother was always worried about that, she use to ask me if something was going on, like was he doing anything to me, because he use to pick me up like I said take me to his house. I told her 'no' and there really wasn't, after I got out, if he was in Saint John area, he would stop at my house. Again, just to talk, but my mother found this strange.[42]

Mr. Brown later made allegations of sexual abuse involving McCann while he was at NBTS, but this was not until 2001. These allegations are discussed in Chapter 14, "Investigation by Staff Sergeant Dave Dunphy (2001–2004)" of this report.

3. *David Wright* (CPC Complainant)

In a Continuation Report dated 12 March 1993, Sergeant Lockhart reported that *David Wright* returned his telephone call and, during the conversation, blurted out "what about Cliff McCann?" According to Sergeant Lockhart, *Mr. Wright* said that Staff Sergeant McCann had contacted him after he left the NBTS. *Mr. Wright* stated that he was 17 years old at the time, and told Sergeant Lockhart that although it would be difficult, that he would talk to them. Arrangements were made to have Constable McAnany go to Edmonton, Alberta, and interview *Mr. Wright*.[43]

On 30 March 1993, Constable McAnany met *Mr. Wright* at his counsel's office (Casey O'Byrne) in downtown Edmonton.[44] He interviewed *Mr. Wright* for over three hours and audiotaped the interview. He also took an 18-page written statement from *Mr. Wright* after the initial interview.[45]

Mr. Wright stated that he went to the NBTS on 12 December 1982 and remained there until he was released on 20 June 1983. After about two weeks at the school, he met another resident named *Phillip Charbonneau*. *Mr. Charbonneau* eventually arranged for *Mr. Wright* to go out on a pass with Staff Sergeant McCann. He did not recall if *Mr. Charbonneau* went with them on this occasion. He described Staff Sergeant McCann as being an RCMP officer and gave a physical description of him. At no time did he mention any sexual abuse by Staff Sergeant McCann that may have occurred during his stay at the NBTS.

Mr. Wright did describe, in detail, an incident that occurred after he was released from the NBTS at a hotel in Saint John, New Brunswick. The incident, as he told it to Constable McAnany, can be described as more of a sexual invitation than actual sexual abuse. *Mr. Wright* did say that it made him feel uncomfortable and he ultimately left the hotel room before the situation progressed.

Q. 10 Did McCann ever touch you in any other ways other than what you've told me?

A. 10 No.

Q. 14 You spoke earlier about McCann touching you all the time. Did McCann ever touch you in the groin area?

A. 14 I can't remember if he did or not. That really bugs me. I can't put my finger on it. I don't want to say he did when he didn't. Something tells me he did but in a kind of playful way.

Q. 27 *David*, with respect to McCann, did he ever say anything to you like, "Don't tell anybody about this" or "keep this between you and me"?

A. 27 Only, as far as the drinking. He'd say, about going back to Y.T.C. "brush your teeth and go right to bed". He never threatened or intimidated me. He was actually always very nice.[46]

This was the extent of the disclosure made to Constable McAnany. However, Constable McAnany told the CPC, during a two-day interview on 9 and 10 January 2007 that he believed *Mr. Wright* wanted to say more, but he was unable to get *Mr. Wright* to divulge anything else. He said that *Mr. Wright's* lawyer was also telling him to explain everything but to no avail. When describing his interview with *Mr. Wright* to the CPC, Constable McAnany became quite emotional and said that to this day it really bothers him that he was not able to get *Mr. Wright* to open up.[47]

Mr. Wright was interviewed again in 1998, at which time he did make allegations that while at the NBTS he was sexually abused by Staff Sergeant McCann. These allegations are discussed in Chapter 14.

4. *Phillip Charbonneau* (CPC Complainant)

On 23 March 1993, Constable McAnany interviewed *Phillip Charbonneau* inBritish Columbia.[48] The officer indicated in a police report that he spoke with *Mr. Charbonneau* for over five hours, during which time an audiotaped recording was made and a handwritten statement taken.

In his statement, *Mr. Charbonneau* explained that he was at the NBTS from March 1982 until April 1983. During this time he got to know Mr. Toft and described the sexual abuse he suffered at the hands of Mr. Toft. He did admit to knowing Staff Sergeant McCann.

Q. 9 Did anybody else ever abuse you while at Kingsclear, whether it be physically or sexually?

A. 9 No.

Q. 10 *Phil*, did you know or do you still know a Cliff McCann?

A. 10 Yes.

Q. 11 When we were talking earlier, you made a comment to me that he was good to you and that he never asked anything in return, "never touched me" were your words, that he took you out to hockey games, played racket ball.… Honestly, did McCann ever do or say anything to you that was inappropriate?

A. 11 No.

Q. 12 Why do you figure that McCann took such an interest in you?

A. 12 Probably because of my personality. My family went to Nova Scotia. He took a liking to me. I'm polite. I got to know his family. We still keep in touch.[49]

Mr. Charbonneau did not make any allegations of sexual abuse by Staff Sergeant McCann while at the NBTS during this interview. However, in 2001 he did make allegations that while he was at the NBTS, Staff Sergeant McCann did sexually abuse him. These allegations are discussed in Chapter 14.

5. *Michel Minto*

Follow-up Interview by Constable McAnany

After first interviewing *Michel Minto* on 7 February 1992, Constable McAnany interviewed *Mr. Minto* again on 15 October 1993 as a result of *Mr. Minto's* testimony at the Miller Inquiry.[50] During this interview, *Mr. Minto* said a guard at the NBTS assaulted him. Neither *Mr. Minto* nor Constable McAnany mentioned Staff Sergeant McCann in the written statement.

12.2.12 Further Attempts to Contact *Mike Roy*

It is obvious from the documentation and interviews conducted that Sergeant Lockhart decided to maintain contact with *Mr. Roy* despite the negative results of earlier attempts to speak with him regarding Staff Sergeant McCann. He maintained this contact in the event that *Mr. Roy* decided to come forward and give a written statement.

On 17 May 1993, Sergeant Lockhart sent Constable Lise Roussel to Toronto to try again to convince *Mr. Roy* to co-operate and give a statement relating to his experiences with Staff Sergeant McCann. Constable Roussel arrived in Toronto and immediately attempted to contact *Mr. Roy* by telephone. The person who answered the telephone said that *Mr. Roy* had moved and provided her with a new telephone number. She called the number and left a message since there was no answer.[51]

On 17 May 1993, at approximately 10:15 p.m., Constable Roussel did eventually speak with *Mr. Roy* as a result of her continued efforts to make contact. It was apparent to her that *Mr. Roy* was upset. According to her Continuation Report he was adamant in his demand to be left alone, to the point where he said her efforts were close to being police harassment.

On 18 May 1993, Constable Roussel again attempted to contact *Mr. Roy*. However, she only succeeded in speaking with his roommate, who asked her to respect *Mr. Roy's* wishes to be left alone.

On 26 May 1993, during a GIS meeting, the issue of *Mr. Roy* was brought up again. It was decided that enough time and effort had been expended into trying to get *Mr. Roy* to explain what had occurred between him and Staff Sergeant McCann.

12.2.13 Investigation of Staff Sergeant McCann Ends

In finalizing the investigation into Staff Sergeant McCann, Sergeant Lockhart completed an Investigation Report (C-237), dated 23 December 1993, in which he wrote:

> In conclusion, there might very well be a victim unknown at this time by the investigators. It is felt by the N.C.O. i/c G.I.S. that we have gone as far as we can go with the investigation, keeping in mind we have no complainant. We do not feel it would be appropriate to comment on this individual's sexuality but only conclude at this point in time, there is no reasonable and probable grounds to support a criminal charge of any kind. Unless otherwise instructed, this file will be as hereunder noted CONCLUDED HERE.[52]

12.3 Interviews with Senior Officers

The CPC conducted interviews with every senior officer who was stationed in "J" Division and who may have had some role in the investigation into Staff Sergeant McCann to explore what senior officers knew about the investigation and determine if enough was done. Due to their limited involvement in the day-to-day activities of Sergeant Lockhart and his team, the memories of the senior officers interviewed may have faded with time and became inconsistent. Despite their inability to recall certain events, all the senior officers interviewed appeared to be interested in assisting in the CPC investigation. Nevertheless, the inability to remember fully and the possibility of error points out the importance of the appropriate involvement of senior officers and of taking accurate notes and keeping comprehensive records during an investigation instead of relying on memory or making assumptions.

12.3.1 Retired Assistant Commissioner Ford Matchim

A majority of the senior officers interviewed by the CPC claimed to have no knowledge of the criminal investigation by Sergeant Lockhart into Staff Sergeant McCann. How an investigation as prominent as this one could be kept from so many senior officers is puzzling and significant. One would think that an event such as the McCann investigation would be remembered, as this type of investigation does not come up everyday in an officer's career. For example, it is difficult to understand how Mr. Matchim, former Superintendent and Acting Administration and Personnel Officer, could not remember asking Sergeant Lockhart to look into the rumours about Staff Sergeant McCann, if in fact he did. In his interview with the CPC in September 2006, Mr. Matchim was shown a Continuation Report, dated 31 January 1992, in which Sergeant Lockhart wrote:

> Requested by A&P officer Ford Matchim to follow-up and see if there is any truth to allegations have been made that Cliff McCann is somehow involved with these youths as inferred by some of those interviewed by Cpl. Ray Brennan.[53]

Mr. Matchim reacted in a very surprised fashion and said he did not recall making the request.

> **A.** So yeah, I don't have, yeah absolutely, no recollection of that and I would swear on a stack of bibles that, Mr. Lockhart, while he is very, very competent individual, you know, I would say he's confusing me with, with somebody else. Because I, knowing Cliff McCann the way I did and knowing Lockhart the way I did, I mean I just can't see not tweaking on this sort of thing and saying hey, hey, hey, hey, what's, you know what's this, so. And I, I have…no knowledge of the…
>
> **Q.** So you have no recollection of this at all?
>
> **A.** No. Absolutely not. Absolutely not.[54]

Mr. Matchim was adamant that, if he had requested Sergeant Lockhart to follow-up on the rumours, he would have certainly informed Staff Sergeant McCann's superior officer, who at the time was Superintendent Al Rivard. He said it would be very unusual that the other senior officers in the division would have been kept "out of the loop" on the subject of allegations of sexual abuse by an RCMP member. Mr. Matchim stated that the first time he became aware that Staff Sergeant McCann was in anyway involved with the NBTS was when he saw the CBC documentary.[55] He had absolutely no recollection of having any knowledge of Staff Sergeant McCann's involvement in the NBTS during his time as Fredericton Subdivision OIC. He further stated that he would not have given a positive endorsement on Staff Sergeant McCann's Personal Interview Report in April 1992 if he had any knowledge of the allegations against him.

Mr. Matchim stated that it was quite possible he was not in the Acting A&P position in January 1992. He was transferred to Fredericton in 1989 as OIC of the Fredericton Subdivision and left in November 1992 to become Chief Superintendent at the RCMP Depot in Regina, Saskatchewan. From that point, until his retirement in 1997, he did not return to New Brunswick in an operational capacity.

During Sergeant Lockhart's interview with the CPC, he was asked about the possibility of him making a mistake at the time, to which he replied, "oh, it could be, yeah."[56]

Attempt to Understand Position of Retired Assistant Commissioner Matchim

Sergeant Lockhart made a notation about the upcoming McCann interviews in his Continuation Report dated 3 February 1992 that read: "O.C. [Officer Commanding] F'ton [Fredericton] Subdivision updated as was the A&P officer." If Mr. Matchim was not the Acting A&P officer in February 1992, and unless he was acting in another capacity or away on leave, he would certainly have been the OIC, Fredericton Subdivision and, therefore, updated as indicated in Sergeant Lockhart's Continuation Report.[57]

In his interview with the CPC, Sergeant Lockhart could not remember who was in either position on the date he made his report or who it was he updated. The CPC does know that the regular A&P Officer, Superintendent Phil Chartrand, was away from January to March of 1992, travelling across Canada on Promotional Board interviews. It is also known that Staff Sergeant Roger Parnell, who was the Subdivision Administration NCO, would at times become the Acting OIC of Fredericton Subdivision when Mr. Matchim was either away or assuming another acting position. Superintendent Chartrand did say during his interview that it was usually Inspector Lemay, who was second-in-command of Staffing and Personnel, who took over

the acting position. However, he could not say for sure who may have been acting in his absence in January 1992. Staff Sergeant Parnell did not have any recollection of what position he was in during this time period but confirmed that from time to time he did take on the role of Acting OIC Fredericton Subdivision.

12.3.2 Retired Chief Superintendent Al Rivard

During his interview with the CPC, Al Rivard, who was the Superintendent and OC, Moncton Subdivision, during the investigation, said that he got to know Sergeant Lockhart over the years and considered him to be an excellent investigator. As far as the criminal investigation into Staff Sergeant McCann was concerned, Mr. Rivard said that he knew nothing about it and only recalled being told by Sergeant Lockhart that he wanted to interview Staff Sergeant McCann in regards to something at the NBTS. He advised that the Commanding Officer, Herman Beaulac, would not necessarily keep his senior officers apprised of every investigation within the division.

Mr. Rivard was shown a copy of Sergeant Lockhart's Continuation Report and asked if he could recall the events of that meeting.

> It's vaguely familiar, you know, that Lockhart would have talked to me and that was — well, … two years before I left, but that's all.… But he would have come in and — to me, if somebody calls in, it's a courtesy calling the OC and saying I'm coming to interview one of your men and given the connection of that other investigation, yes, by all means.[58]

Mr. Rivard admitted to knowing about the investigation into Mr. Toft and the NBTS and said he knew Staff Sergeant McCann was heavily involved with youth. He said that he had been pushing community policing in the detachment:

> Not when you've got these kinds of allegations, no. His name came up. See the thing too is you've got to remember that I was pushing at the time that our detachment get involved in community-based policing and get involved with youth. So for an individual's name to come up with youth, I mean all of my NCO's at one point or another would have been involved with the scouting movement or anything else. I was the Provincial Commissioner of Scouts. So we were all involved with youth to some extent.[59]

Sergeant Lockhart told the CPC during his interview on 25 November 2006 that he could not recall if he actually spoke to Superintendent Rivard on 12 March 1992, prior to interviewing Staff Sergeant McCann, although he knew that Mr. Rivard was the OC of Moncton Subdivision.

Sergeant Lockhart thought that perhaps he had seen Staff Sergeant Mason Johnston. Staff Sergeant Johnston told the CPC in a second interview that he did remember an occasion when Sergeant Lockhart came to the Subdivision and was in his office, although he did not recall the time period.[60]

12.3.3 Former Commissioner Giuliano Zaccardelli

Giuliano Zaccardelli, who played a prominent role in the McCann investigation, was interviewed on 15 January 2007 at the Lord Elgin Hotel in Ottawa.

Mr. Zaccardelli informed the CPC that he was posted to "J" Division as the Criminal Operations (CROPS) Officer in November 1989 and remained in that position until March 1993. He explained that as the CROPS Officer he was considered the second-in-command reporting to the Commanding Officer, Herman Beaulac. He may have seen Staff Sergeant McCann at "O" Division when they were both posted there but did not recall ever meeting him.

Mr. Zaccardelli told the CPC that he was first made aware of the rumours about Staff Sergeant McCann by Sergeant Lockhart, but he was not sure when he was told. He, in turn, told Chief Superintendent Beaulac of the rumours.

> But when it first came to my attention, I did the two things that I believe were the right thing—were the appropriate thing to do is I let the Commanding Officer know that we've got this allegation. And then, I gave very clear direction to the investigator that: You get at this and get to the bottom. Do everything you can to find out whether there is something there.[61]

Mr. Zaccardelli was asked if he had any direct knowledge of whether Chief Superintendent Beaulac made Superintendent Rivard, OC Moncton Subdivision, aware of the investigation into Staff Sergeant McCann.

> You know, yeah, that's a good question. I think there should have been a discussion. It's an opinion. It's a judgment call on his part … I have never — I have never, talked to — I can't recall talking to him.… Whether he notified or talked to Al Rivard about it, I don't really know. I do not recall ever having a discussion where he told me he talked to Al Rivard about it. I'm assuming what he did was he was waiting for, the operational side to see if there is something beyond just the allegation, if we could confirm some of it before they did anything. That's all I can say. But I don't know that he did talk to anybody.[62]

Mr. Zaccardelli was adamant that, once the information surfaced in relation to Staff Sergeant McCann, his instructions were that Staff Sergeant McCann was to be treated like anyone else. He told Sergeant Lockhart to get to the bottom of the information. He said the information that was surfacing could not be considered accusations or complaints, but a lot of innuendo and suspicion that had to be investigated.

> The only time McCann came to me was—to my attention was when Dougie Lockhart came in to me and said, "We've got this allegation." And my simple answer to him was, "Get on with it. He's got to be treated like everybody else." And so we never separated the file [NBTS] … in two.[63]

12.3.4 Retired Deputy Commissioner Herman Beaulac

Herman Beaulac was Chief Superintendent and the Commanding Officer of "J" Division at the onset of the investigations. He remained in the position as Chief Superintendent until April 1993, at which time he was replaced by Chief Superintendent Roy Berlinquette. Mr. Beaulac told the CPC that he first knew of Staff Sergeant McCann in 1985. Mr. Beaulac was the OC, Bathurst Subdivision, at the time and Staff Sergeant McCann was working in "J" Division Headquarters. He said that at no time did he hear of any rumours about Staff Sergeant McCann being transferred from Ontario under any type of controversy. He indicated that Staff Sergeant McCann was quiet and did not socialize much with other members. He stated that there was no indication of any improprieties on the part of Staff Sergeant McCann.

When questioned in regard to Staff Sergeant McCann's transfer from Riverview, he said that on 17 January 1992 he authorized the transfer. He stated that, at the time of the transfer, he was aware of the investigation into Staff Sergeant McCann but that there was nothing substantive in regards to the complaints. He recalled a person by the name of *Mike Roy* and that the investigators were having trouble getting him to come forward and make a solid complaint.

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1 Personnel Interview Report, A/Comm. H. Tadeson, 14 March 1977.

2 In September 1977, the RCMP "J" Division Headquarters was located on Woodstock Road in a building that was previously designated as Government House for the Province of New Brunswick. In 1988, the "J" Division Headquarters was moved to Regent Street in Fredericton.

3 Letter to S/Sgt. Dunphy from K. Connell, 21 October 2003.

4 Sgt. Lockhart was interviewed by three investigators because of his involvement in both the Toft and McCann investigations.

5 Continuation Report, Sgt. Lockhart, 31 January 1992.

6 Witness statement of *Y. Pilon* taken by Cst. McAnany, 7 February 1992.

7 Witness statement of *M. Minto* taken by Cst. Legge, 28 November 1991.

8 Witness statement of *M. Minto* taken by Cst. McAnany, 7 February 1992.

9 Witness statement of *D. Miekle* taken by Cpl. Brennan, 30 September 1991.

10 Witness statement of *D. Miekle* taken by Sgt. Lockhart, 11 February 1992.

11 Pass Record Sheet, 29 January 1984.

12 Continuation Report, Cpl. Brennan, 15 November 1991.

13 Witness statement of *E. Badger* taken by Cst. McAnany, 12 February 1992.

14 Witness statement of *S. Moore* taken by Sgt. McNeill, 26 February 1991.

15 Police Report, T. Kelly, 14 August 1991.

16 Witness statement of *S. Moore* taken by Cst. McAnany, 12 February 1992.

17 Witness statement of *B. Nesbitt* taken by Cst. Legge, 17 October 1991.

18 Witness statement of *B. Nesbitt* taken by Sgt. Lockhart, 12 February 1992.

19 Ibid.

20 Witness statement of *J. Daley* taken by Cst. Legge, 21 November 1991.

21 Witness statement of *J. Daley* taken by Sgt. Lockhart, 14 February 1992.

22 Continuation Report, Cst. Legge, 18 October 1991.

23 Witness statement of *R. Vaillancourt* taken by Sgt. Lockhart, 26 February 1992.

24 Ibid.

25 CPIC Message, Cst. McAnany, 18 February 1992.

26 Continuation Report, Sgt. Lockhart, 31 January 1992.

[27] Continuation Report, Sgt. Lockhart, 12 March 1992.
[28] Interviewee List, Sgt. Lockhart, 12 January 1994.
[29] Continuation Report, Cst. McAnany, 2 December 1992.
[30] Letter to S/Sgt. Dunphy from K. Connell, 21 October 2003.
[31] Notes of telephone conversation with *M. Roy* taken by Cst. McAnany, 7 December 1992.
[32] Ibid.
[33] Investigation Report, Sgt. Lockhart and Cst. Legge, 24 December 1992.
[34] Transcripts, CPC interview of S/Sgt. Legge, 18 September 2006, p. 56.
[35] Ibid., p. 58.
[36] Continuation Report, Cst. Legge, 10 December 1992.
[37] Officer notes, Cst. Legge, 11 December 1992–11 January 1993.
[38] Ibid.
[39] Witness statement of *D. Miekle* taken by Sgt. Lockhart, 28 January 1993.
[40] Continuation Report, Sgt. Lockhart, 2 March 1993.
[41] Continuation Report, Sgt. Lockhart, 21 May 1993.
[42] Witness statement of *J. Brown* taken by Sgt. Lockhart, 25 February 1993.
[43] Continuation Report, Sgt. Lockhart, 12 March 1993.
[44] Continuation Report, Cst. McAnany, 30 March 1993.
[45] Ibid.
[46] Witness statement of *D. Wright* taken by Cst. McAnany, 30 March 1993.
[47] Transcripts, CPC interview of Sgt. McAnany, 9–10 January 2007, pp. 13, 16–17,19.
[48] Continuation Report, Cst. McAnany, 23 March 1993.
[49] Witness statement of *P. Charbonneau* taken by Cst. McAnany, 23 March 1993.
[50] Witness statement of *M. Minto* taken by Cst. McAnany, 15 October 1993.
[51] Continuation Report, Cst. Roussel, 17–26 May 1993.
[52] Investigation Report, Sgt. Lockhart, 23 December 1993.
[53] Continuation Report, Sgt. Lockhart, 31 January 1992.
[54] Transcripts, CPC interview of F. Matchim, 9 September 2006, pp. 14–15.
[55] "One of Their Own," CBC News, 2–3 December 2003.
[56] Transcripts, CPC interview of Sgt. Lockhart, 24–25 November 2006, p. 41.
[57] Continuation Report, Sgt. Lockhart, 12 March 1992.
[58] Transcripts, CPC interview of Chief Supt. Rivard, 11 April 2006, p. 12.
[59] Ibid., pp. 18–19.
[60] Transcripts, CPC interview of Sgt. Lockhart, 25 November 2006, p. 91.
[61] Transcripts, CPC interview of G. Zaccardelli, 15 January 2007, p. 30.
[62] Ibid., pp. 31–33.
[63] Ibid., pp. 23–24.

13. Investigation by Constable Pat Cole (1998–2000)

This chapter describes the RCMP's second investigation into complaints made by *Brad Lewis* and *David Wright*, both former residents of the New Brunswick Training School (NBTS), against Staff Sergeant Clifford McCann, who retired on 18 April 1993.

13.1 The *Lewis* Complaint

At the time Clifford McCann retired from the RCMP, Sergeant Doug Lockhart was investigating his involvement with former residents of the NBTS. The investigation had begun in January 1992 and was officially closed in December 1993 without any charges being laid.

This second investigation started as a result of a complaint made on 19 January 1998 to Corporal Ken Legge during a telephone call with *Brad Lewis* in Edmonton, Alberta. Corporal Legge gave the information to Superintendent Michel Seguin, the Criminal Operations (CROPS) Officer, and Superintendent Seguin had Staff Sergeant Jacques Ouellette and Sergeant Dave Dunphy, who were already in Edmonton on another matter, contact *Mr. Lewis*.[1] The officers obtained an audiotaped statement from *Mr. Lewis* regarding the alleged sexual abuse by Mr. McCann.

This was not the first time that *Mr. Lewis* was questioned about his knowledge of abuse occurring at the NBTS. Constable James McAnany had contacted the former resident—who had been at the school from 1980 until 1983—on 30 March 1993. *Mr. Lewis* denied he had been abused by anyone.[2] However, on 5 December 1996, *Mr. Lewis* contacted Constable McAnany and advised that he was a victim of Karl Toft. Constable McAnany explained that the investigation had concluded more than two years earlier and informed him of the Attorney General's position regarding further charges against Mr. Toft. He advised *Mr. Lewis* to consult legal counsel and told him of his options, leaving it up to *Mr. Lewis* to decide what he wanted to do.[3]

On 18 January 1997, *Mr. Lewis*' girlfriend wrote on his behalf a seven-page statement describing the sexual assaults he suffered at the hands of Karl Toft and sent it to Constable McAnany.[4] *Mr. Lewis* followed up with a telephone call to Constable McAnany on 4 February 1997, advising him that he would forward the statement to the RCMP and to his lawyer in Fredericton. Constable McAnany recorded in a Continuation Report of 4 February 1997 that *Mr. Lewis* said that "Cliff McCann was also 'weird' 'strange.' However, he says that nothing inappropriate occurred. … It contained no information on McCann. Statement to be retained on file."[5]

Almost a year later, *Mr. Lewis* telephoned Corporal Legge and the second investigation into Mr. McCann was started. In the audiotaped statement obtained on 20 January 1998, *Mr. Lewis* named five other former residents who were in some way involved with Mr. McCann.[6]

On 30 January 1998, *Mr. Lewis* called Staff Sergeant Ouellette looking for an update. *Mr. Lewis* was advised that he would be notified as the RCMP progressed with the investigation.[7] On 2 February 1998, Staff Sergeant Ouellette pulled the old files from the vault on *Mr. Lewis* and the five other boys he had named in his audiotaped statement (*Mike Roy*, *Duncan Henderson*, *Tim Coburn*, *David Wright*, *and Phil Charbonneau*).[8] He assigned Constable Pat Cole to investigate the file.

13.1.1 Investigation Starts

On 12 February 1998, Constable Cole started checking the names supplied by *Mr. Lewis*. He spoke first with *David Wright*, who told him that he suspected *Mr. Lewis* of trying to charge someone so that he could obtain money from the New Brunswick government, just as his brother had. *Mr. Wright* added that *Mr. Lewis*' brother "really didn't have anything done to him"; as soon as the investigator took a statement from him, he received a cheque. Regarding his own situation, *Mr. Wright* said that although he had been assaulted, he did not want anything done at this time because he did not want to be the only person to charge Mr. McCann. He said that he did not want to ruin Mr. McCann over what had been done to him.[9]

On 12 February 1998, Constable Cole located *Duncan Henderson* in British Columbia. *Mr. Henderson* claimed that he was never abused by anyone at the NBTS and that the name Clifford McCann meant nothing to him.[10] Constable Cole also tried to locate *Tim Coburn* and *Mike Roy* but with negative results. He learned that the McCanns had adopted *Mr. Coburn* from the NBTS and that his name was *Ian Coburn*, not *Tim Coburn*. He also obtained the location of *Mr. Coburn*.[11] On 13 February 1998, he contacted the prison in British Columbia where *Phillip Charbonneau* was incarcerated and requested an interview with him. The Institutional Preventive Security Officer (IPSO) notified him that *Mr. Charbonneau* had nothing to say to the police about the NBTS.[12] He was unable to locate *Mike Roy*.

On 24 August 1998, Constable Cole received an e-mail from Sergeant Dunphy advising him that *Mr. Lewis* had called and was looking for an update. In a telephone conversation on 25 August 1998, Constable Cole advised *Mr. Lewis* that the time period within which a charge could be laid had elapsed. He made a notation in his notebook that *Mr. Lewis* signified that he understood and requested his statement to be sent to his lawyer because they had started civil proceedings against the province and Mr. McCann.[13]

On 11 September 1998, Constable Cole again spoke with *Mr. Lewis*. They discussed Mr. Toft and Mr. McCann. *Mr. Lewis* was told that because of the Crown's position regarding additional charges against Mr.Toft, his complaint would not proceed. Constable Cole told *Mr. Lewis* that he had spoken with two Crown counsel about a charge against Mr. McCann in relation to his position of authority. They advised that because Mr. McCann was not acting as a peace officer (as defined in Section 18 of the *RCMP Act*), they would not proceed with this type of charge. During the conversation, *Mr. Lewis* again asked about what options he had and requested that his statement be sent to his lawyer's office in Fredericton.[14] Constable Cole advised Sergeant Dunphy of *Mr. Lewis'* request. On 30 September 1998, *Mr. Lewis'* request was carried out.

In a Continuation Report dated 14 September 1998, Constable Cole noted that, during a pre-trial meeting on a murder case, he spoke with Crown counsel Jim McAvity and Kelly Winchester about *Mr. Lewis'* file. He stated that they both felt that without corroboration there was not sufficient evidence to lay a charge. He wrote that the Crown counsel advised him to see the suspect; if he refused to talk, they would not recommend laying charges.[15] These conversations were informal. Constable Cole did not prepare anything in writing to present to the Crown's office for review.

13.1.2 McCann Interview

The material reviewed by the CPC suggests that Constable Cole requested Staff Sergeant Ouellette to take the lead role in Mr. McCann's interview. The interview took place on 29 October 1998 at Mr. McCann's home just outside Fredericton.

Staff Sergeant Ouellette did not record the interview and did not take a formal statement from Mr. McCann. He summarized the interview as follows:

> 1454 Cliff McCann residence […] with Cst. Cole Wife Mary Lou present, denied all allegations. Did not remember *Lewis*. Remembered *Wright*
>
> 1545 finished interview
>
> 1605 call from McCann stated recalls *Wright* in St. John picked up for drug traffic does not recall going in cell was in St. John with family on weekend will verify with a young *Coburn* in St. John.[16]

During his audiotaped interview with the CPC, retired Staff Sergeant Ouellette recalled that Mr. McCann was "[v]ery nervous. Yeah, I thought he was going to break for a while. I thought, jeez, he's going to come up and say something to us."[17] He told the CPC that they had nothing they could go forward with to the Crown. However, they thought that Mr. McCann was probably involved in abusing children. As a result, when Constable Cole asked for his assistance, he agreed. He further stated that they did not have enough to arrest him and they could not detain him. All they could do was go to his house to interview him. In reference to Mr. McCann's wife, he stated that she "[d]idn't say very much. I was very surprised. She just didn't even change, like to about anything I was saying. She just sort of sat there."[18]

Constable Cole's notes of the interview were as brief as Staff Sergeant Ouellette's. However, during his audiotaped interview with the CPC, he said that he felt that Mr. McCann should have been arrested and brought in to be questioned. He also said that Mrs. McCann did most of the talking for her husband and he felt that Mr. McCann should not have been interviewed in the comfort of his own living room.[19]

13.1.3 Investigation Closes

On 30 October 1998, Constable Cole met with *Ian Coburn*, Mr. McCann's adopted son from the NBTS. *Mr. Coburn* stated that he was never abused by anyone, he never witnessed any abuse and he was never told of anyone being abused. He had nothing but good things to say about Mr. McCann. He told Constable Cole that both *Messrs. Lewis* and *Wright* were lying. He asked if *Phil Charbonneau* had been interviewed;[20] however, it was not clear from Constable Cole's notes how or why the reference to *Mr. Charbonneau* was made.

On 13 November 1998, Constable Cole spoke with *Mr. Lewis*, advising him that Mr. McCann had been interviewed and refused to admit to anything. He wrote that *Mr. Lewis* was not entirely satisfied with this and that he said he would sue for compensation. *Mr. Lewis* asked if his audiotaped interview with the RCMP had been sent to his lawyer's office.[21]

In a Continuation Report dated 20 April 1999, Constable Cole wrote that the McCann file was discussed at a GIS unit meeting. As a result, Staff Sergeant Ouellette decided to prepare a Violent Crime Linkage Analysis System (ViCLAS)[22] report to enable other law enforcement agencies to access the file and to conclude the file. The decision to close the investigation was based on the fact that the Crown was not ready to proceed and that, therefore, there was nothing further to do on the complaint.[23] A further notation in the same report dated 12 May 1999 indicated: "VICLAS completed and forwarded. NFAR [no further action required] on this file."[24]

Note: Other than Constable Cole's informal discussion on 14 September 1998, the CPC did not find any documentary references to indicate that he or any other officer discussed or provided information about the *Lewis* complaint to a Crown counsel.

On 25 January 2000, Constable Cole called *Mr. Lewis* after both *Mr. Lewis* and his girlfriend left messages for him to return their calls. He wrote in his notebook that, during the call, he told *Mr. Lewis* that no charges would be laid, as they had discussed in a previous conversation. He was told that *Mr. Lewis'* lawyer said that, since he was an RCMP officer, Mr. McCann could be charged because he was in a position of authority. *Mr. Lewis* also advised that the CTV news show W-Five was willing to do a story on an RCMP cover-up since it was investigating one of its own members for a criminal offence. *Mr. Lewis* also asked to have a copy of his statement forwarded to himself, as he had fired his lawyer.[25]

13.1.4 *Brad Lewis* Seeks Recourse

On 4 February 2000, *Mr. Lewis* contacted Chief Superintendent Seguin, the CROPS Officer, and complained about the investigation into Mr. McCann. He made a second call to Chief Superintendent Seguin on the same day. During the conversation, *Mr. Lewis* said that he had called the CPC but was told that they could not look into any complaints that had occurred before 1988.[26] As a result of these calls, a meeting was held on 7 February 2000 with Inspector Bill Smith, Officer i/c Operational Support Services, and Staff Sergeant Ouellette. They decided that Inspector Smith would contact *Mr. Lewis* and would review the file.[27]

Inspector Smith contacted *Mr. Lewis* on 8 February 2000. *Mr. Lewis* told him that both he and *David Wright* were not happy that Mr. McCann had not been charged. He went on to say they had both retained a lawyer and were in contact with the CBC's television program, the fifth estate. Inspector Smith assured *Mr. Lewis* that he would review the file and would be in touch with him.[28] After reviewing the file, Inspector Smith was concerned about why charges were not laid in *Mr. Lewis'* case.[29] As a result, he asked Sergeant Mac Eaton for a complete review of the investigation.[30] He spoke with *Mr. Lewis* again on 15 February 2000 and on 28 March 2000, advised him of the review and provided updates. He gave him Corporal Paulette Delaney-Smith's name as a contact person should he have any questions or concerns.

13.1.5 Investigation Under Review

Constable Cole indicated in a Continuation Report dated 18 February 2000 that he was asked to address a number of Inspector Smith's concerns, in particular, why he had not considered a charge of sexual exploitation under Section 153 of the *Criminal Code*. He responded by informing Inspector Smith that Section 153 was not in force at the time the alleged offences took place. The only charge that could be laid was sexual assault, but the Crown lawyers with whom he had spoken would not proceed with an indictment just to please *Mr. Lewis*.[31] As previously mentioned, the CPC did not find any other remarks related to his conversation with the Crown lawyers in any other report or notebook entry.

Sergeant Eaton, acting as the file manager, reviewed Constable Cole's investigation of Mr. McCann and sent a memorandum to Constable Cole on 7 March 2000, detailing a number of deficiencies he found in his review of the *Lewis* file. He noted that

> as per comments of Insp. Smith and the writer's review, it is clear that this file is missing some very crucial information. It is suggested that the following points be covered, culminating in a submission of the offences to the Crown in the form of a prosecutor's information sheet, for charge approval or otherwise. The response from [the] Crown will be in writing and appended to the file.[32]

During Constable Cole's audiotaped interview with the CPC, he was asked specifically about Sergeant Eaton's memorandum.

> Yeah, there should have been a report saying that, that was sent to Mac and a copy to the—I think it was Bill Smith, the Inspector in charge of the operations at the time—It could have been just an e-mail.[33]

There is no written record (e.g., e-mail, memorandum, Continuation Report) that explains whether or even how Constable Cole addressed the issues identified by Sergeant Eaton in his memorandum of 7 March 2000. The only document that responds to concerns about his investigation was his Continuation Report dated 18 February 2000. However, in a report by Staff Sergeant Dunphy dated 6 June 2001, he wrote: "Those issues [raised by Mr. Smith] were subsequently clarified by Cst. Cole." [34]

On 23 June 2000, Sergeant Eaton prepared a draft document outlining a plan for expanding the investigation into the historical abuse at NBTS. Three suspects were targeted for investigation, Mr. McCann among them. The plan outlined the four members that would make up the team;[35] Constable Cole was not included. During his audiotaped interview, Constable Cole said he was not sure when he was finished with the investigation into the NBTS or Mr. McCann. He continued to write reports sporadically up until the day Mr. McCann was arrested. Staff Sergeant Dunphy officially took over the investigation on 23 October 2000.

13.2 The *Wright* Complaint

David Wright was a resident of the NBTS from December 1982 until June 1983 and made a complaint to the CPC on 19 February 2004. Neighbourhood friend *Phillip Charbonneau*, who was also a resident of the NBTS, introduced him to Staff Sergeant McCann. *Mr. Wright* first came to the RCMP's attention during the McCann investigation led by Sergeant Doug Lockhart from 1992 to 1993. In March 1993, Constable McAnany was sent to Edmonton to obtain a statement from *Mr. Wright*. He was unable to convince *Mr. Wright* to give any details about Staff Sergeant McCann, even though he felt that there was more to *Mr. Wright's* story than what he was reporting.[36] The investigation team felt that *Mr. Wright* may have been a victim of Mr. McCann but that there was not enough evidence to charge Mr. McCann.[37]

Mr. Wright resurfaced in January 1998. *Mr. Lewis* had contacted the RCMP with a complaint about Mr. McCann and mentioned *Mr. Wright*'s name, along with those of four other former residents who he thought were possible victims of Mr. McCann. As a result, Constable Cole contacted *Mr. Wright* on 12 February 1998. During their conversation, *Mr. Wright* admitted that he had been abused but said that he did not want to be the only one to charge Mr. McCann. He told Constable Cole that he did not want to ruin Mr. McCann over what had been done to him.[38] The following day Constable Cole received a telephone call from *Mr. Wright*, informing him that he was willing to write out a statement. He said that, when he had spoken with Constable McAnany in 1993, he had not told him everything. He also said that Mr. McCann was in a position of authority.[39] Constable Cole advised *Mr. Wright* that the extent of the sexual assault did not warrant charges but that there might be something to the position-of-authority claim, the same claim made by *Mr. Lewis*, who was represented by the same lawyer as *Mr. Wright*.

According to a Continuation Report, Constable Cole received a letter on 2 March 1998 from a lawyer, Casey J. O'Byrne. The letter, dated 20 February 1998, was drafted on behalf of *Mr. Wright*; attached to it was a four-page handwritten statement from *Mr. Wright* asking that Mr. McCann be charged with sexual assault.[40] On 2 March 1998, Constable Cole received another four-page handwritten statement from *Mr. Wright* detailing additional incidents involving Mr. McCann.[41] On 30 April 1998, Constable Cole made a notation in the Continuation Report of 2 March 1998 that he had been "unable to work on file since last entry. Please extend diary date to 98/6/29."[42]

On 6 May 1998, Constable Cole informed *Mr. Wright* that, since the offences were summary conviction offences, no charges were warranted. He advised that Mr. McCann would be interviewed. According to Constable Cole's Continuation Report, *Mr. Wright* did not want his name used in an interview; if it had to be used, he preferred that they not talk to Mr. McCann. *Mr. Wright* requested a call be placed to his lawyer, Mr. O'Byrne. Constable Cole called and left a message with Mr. O'Byrne's assistant about the investigation and asked that Mr. O'Byrne call him if he had any questions.[43]

Following the interview with Mr. McCann on 29 October 1998, Constable Cole, as indicated in his notebook on 13 November 1998, spoke with *Mr. Wright*, who told him that he was satisfied with the actions taken on the file. Constable Cole added that *Mr. Wright* was planning on suing Mr. McCann.[44]

Neither the interview with Mr. McCann nor the investigation by Constable Cole uncovered enough evidence to support any charge.

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1 Officer notes, Sgt. Dunphy, 19 January 1998.

2 Persons Report, Cst. McAnany, 30 March 1993.

3 Continuation Report, Cpl. McAnany, 5 December 1996.

4 Witness statement of *B. Lewis* taken by *M. Beauchemine*, 18 January 1997.

5 Continuation Report, Cpl. McAnany, 4 February 1997.

6 Witness statement of *B. Lewis* taken by Sgt. Dunphy and S/Sgt. Ouellette, 20 January 1998.

7 Continuation Report, S/Sgt. Ouellette, 30 January 1998.

8 Ibid.

9 Continuation Report, Cst. Cole, 12 February 1998.

10 Ibid.

11 Officer notes, Cst. Cole, 29 October 1998.

12 Continuation Report, Cst. Cole, 13 February 1998.

13 Officer notes, Cst. Cole, 25 August 1998.

14 Continuation Report, Cst. Cole, 11 September 1998.

[15] Continuation Report, Cst. Cole, 14 September 1998.

[16] Officer notes, S/Sgt. Ouellette, 29 October 1998.

[17] Transcripts, CPC interview of J. Ouellette, 6 December 2006, p. 15.

[18] Ibid., p. 16.

[19] Transcripts, CPC interview of Cst. Cole, 5 December 2006, pp. 65–69.

[20] Officer notes, Cst. Cole, 30 October 1998.

[21] Officer notes, Cst. Cole, 13 November 1998.

[22] The Violent Crime Linkage Analysis System contains all information in crime-related reports. The system is accessible by the RCMP and various provincial and municipal police departments.

[23] Continuation Report, Cst. Cole, 20 April 1999.

[24] Ibid.

[25] Officer notes, Cst. Cole, 25 January 2000.

[26] Officer notes, Chief Supt. Seguin, 4 February 2000.

[27] Officer notes, Chief Supt. Seguin, 7 February 2000.

[28] Continuation Report, Insp. Smith, 8 February 2000.

[29] Ibid.

[30] Continuation Report, Insp. Smith, 10 February 2000.

[31] Continuation Report, Cst. Cole, 18 February 2000.

[32] Memorandum to Cst. Cole from Sgt. Eaton, 7 March 2000.

[33] Transcripts, CPC interview of Cst. Cole, 5 December 2006, p. 86.

[34] Investigation Report, S/Sgt. Dunphy, 6 June 2001.

[35] Investigation Report, Sgt. Eaton, 23 June 2000.

[36] Transcripts, CPC Interview of Sgt. McAnany, 9 January 2007. pp. 16–18.

[37] Continuation Report, Cpl. McAnany, 14 October 1994.

[38] Continuation Report, Cst. Cole, 12 February 1998.

[39] Continuation Report, Cst. Cole, 13 February 1998.

[40] Letter to Cst. Cole from C. O'Byrne, 20 February 1998.

[41] Statement of *D. Wright*, 2 March 1998.

[42] Continuation Report, Cst. Cole, 30 April 1998.

[43] Continuation Report, Cst. Cole, 6 May 1998.

[44] Officer notes, Cst. Cole, 13 November 1998.

14. Investigation by Staff Sergeant Dave Dunphy (2001–2003)

14.1 Background

On 23 October 2000, Staff Sergeant Dave Dunphy was assigned to head up the team that was to reinvestigate complaints of historical physical and sexual abuse at the New Brunswick Training School (NBTS) as well as the complaints of sexual abuse made against retired Staff Sergeant Clifford McCann. Mr. McCann, retired from the RCMP since 18 April 1993, had been investigated and interviewed in 1992 and again in 1998. Neither of these previous investigations resulted in any charges being laid. The Crown had not been consulted at all in the 1992 investigation and, according to the investigating officer, Constable Pat Cole of the Major Crime Unit (MCU) in Fredericton, was only verbally consulted in 1998.

During the 1992 investigation, the investigating officer, Sergeant Doug Lockhart, did not receive any actual complaints of sexual assault against then-Staff Sergeant McCann and therefore, did not lay charges or consult with the Crown about any of the suspicions against Mr. McCann. In the 1998 investigation, complaints of sexual assault were made against Mr. McCann; however, Constable Cole, the assigned investigator, did not feel that he could proceed with charges. He relied in part on the nature of the alleged abuse and a verbal consultation he had with two Crown counsels who, he says, told him that there was not enough evidence to proceed with any charges.

The main complainants in the 1998 investigation, former residents *Brad Lewis* and *David Wright*, persisted, through their lawyer, in attempting to have charges laid. As a result, a team of investigators was brought together in May 2001 to reinvestigate all the complaints in relation to the NBTS and Mr. McCann. When the RCMP did not lay charges against Mr. McCann for a third time, *Messrs. Lewis* and *Wright*, as well as two other former residents, *Phillip Charbonneau* and *Jason Brown*, filed complaints with the Commission for Public Complaints Against the RCMP (CPC). *Messrs. Wright*, *Charbonneau* and *Lewis* made their complaints on 19 February 2004 while Mr. *Brown* made his on 5 November 2004. The CPC interviewed all four of the complainants during its public interest investigation.

14.2 About the CPC Complaints

The CPC received complaints from five male persons in relation to the RCMP's investigation of Mr. McCann. The complainants allege that the RCMP failed to carry out an adequate investigation into Mr. McCann and engaged in a cover-up to protect him. Four of the five complainants allege that Mr. McCann sexually abused them while they were residents at the NBTS. The fifth complainant has made a third-party complaint, a complaint made on behalf of someone else, about the RCMP investigation into the allegation of sexual assault involving Mr. McCann.

In August 2002, as Staff Sergeant Dunphy's investigation team was concluding its investigation, they prepared seven files for review by the Crown in relation to the allegations against Mr. McCann. The seven persons, all former residents, include four of the five CPC complainants as well as three other former residents who did not make a complaint to the CPC, but who were identified by the RCMP during the 2000 investigation as possible victims. There is documentary evidence in the form of sign-out sheets and other

documents from the NBTS that prove that Mr. McCann did sign out the seven former residents while they were at the NBTS. The CPC reviewed in detail all the complaints that the RCMP investigated and forwarded to the Crown for review as a means of providing a complete and accurate summary of how the RCMP conducted its investigation.

Kevin Connell, the Crown counsel assigned to review the files, received the information briefs on 20 August 2002. He responded on 30 January 2003 by asking for more investigative work to be done in relation to specific issues involving the seven alleged victims. He received, for the most part, the additional information on 4 April 2003. Mr. Connell provided his recommendations to the investigative briefs between July and October 2003.

14.3 Complainant *Brad Lewis*

14.3.1 Decision Not to Lay Charges

Staff Sergeants Jacques Ouellette and Dave Dunphy interviewed *Brad Lewis* in Edmonton, Alberta, on 20 January 1998. *Mr. Lewis* gave an audiotaped statement[1] alleging sexual abuse by Mr. McCann. Constable Cole investigated the matter and notified *Mr. Lewis* on 25 August 1998 that no charges would be laid. He informed *Mr. Lewis* that because the sexual assaults described were summary in nature, and the time period for laying a charge of this kind had passed,[2] the Crown would not consider laying any charges.

As he indicated in a Continuation Report dated 11 September 1998, Constable Cole later told *Mr. Lewis* that he had spoken to the Crown about the claim that Mr. McCann was a person in authority and had abused his position; however, in their opinion, the charge would not "fly."[3] In another Continuation Report dated 14 September 1998, Constable Cole wrote that he spoke with the same two Crown counsel. They said that because there was no corroboration, there was not enough evidence to support laying a charge.[4] Constable Cole informed *Mr. Lewis* that he would interview Mr. McCann and advise him of the results. The interview was conducted on 29 October 1998; *Mr. Lewis* was notified on 13 November 1998 that Mr. McCann did not admit to any wrongdoing and therefore no charges would be laid against him.[5]

On 25 January 2000, Constable Cole returned a call from *Mr. Lewis* and again informed him that no charges would be laid against Mr. McCann because the assault was of a minor nature (touching of the leg). *Mr. Lewis* stated that the CTV news program, W-Five, was interested in doing a story on the RCMP and Mr. McCann. He also said that, according to his lawyer, the RCMP should not be investigating one of its own officers.[6] *Mr. Lewis* then contacted Chief Superintendent Michel Seguin, the Criminal Operations (CROPS) Officer for "J" Division on 4 February 2000.[7] Chief Superintendent Seguin then assigned Inspector Bill Smith, the Operational Support Services (OSS) Officer in Charge (OIC) "J" Division to follow up. Inspector Smith contacted *Mr. Lewis* on 8 February 2000 and told him the file would be reviewed.[8] On 28 March 2000, Inspector Smith contacted *Mr. Lewis* [9] again. He informed *Mr. Lewis* that they were conducting a full review of the investigation into Mr. McCann.

On 28 March 2000, Inspector Smith gave *Mr. Lewis* an update on the progress of the review and informed him that the MCU would be looking into the NBTS as well as Mr. McCann.[10] Constable Phil Houle contacted *Mr. Lewis* again on 31 March 2000 and briefed him on what was going to transpire over the next few months.[11]

On 15 January 2001, Staff Sergeant Dunphy, who was now in charge of the NBTS investigation, asked the RCMP in "K" Division, in Edmonton, to contact *Mr. Lewis* and make arrangements to obtain a sworn audio-

and videotaped (KGB) statement from him.[12] A follow-up memorandum was sent to the Commanding Officer (CO) of "K" Division on 16 January 2001. In it, Chief Superintendent Jim Payne, CROPS Officer for "J" Division, stated that "*Mr. Lewis*… [is] becoming more vocal as time passes."[13] On 20 February 2001 the Edmonton officers obtained a KGB statement from *Mr. Lewis*.[14]

On 4 May 2001, Staff Sergeant Dunphy sent a memorandum to Inspector Smith saying that he would be looking into *Mr. Lewis'* complaint against Mr. McCann.[15] On 6 June 2001, Staff Sergeant Dunphy concluded in an Investigation Report, which he filed, that no charges would be forwarded to the Crown in response to *Mr. Lewis'* complaint against Mr. McCann.[16] Staff Sergeant Dunphy and Inspector Smith discussed the contents of the Investigation Report on 8 June 2001. In a Transit Slip dated 11 June 2001, Inspector Smith indicated that he agreed with Staff Sergeant Dunphy's conclusion:

> In fact, we have gone the extra mile in having you revisit the allegations. However, I don't believe that the Public Interest will be well served by beating the issue to death and as much as we would like to advise the complainants that charges will be laid, unfortunately we are unable to do so.[17]

As a result of the RCMP's decision, Staff Sergeant Dunphy spoke with *Mr. Lewis* on 20 June 2001 to arrange a face-to-face meeting in July to explain their decision on the charges. *Mr. Lewis* told Staff Sergeant Dunphy that he was not sure that he could commit to a meeting that far in advance as he did not have a lawyer. Staff Sergeant Dunphy told him that they would contact him a couple days prior to the meeting to see if something could be arranged.[18] On 11 July 2001, Staff Sergeant Dunphy tried unsuccessfully to reach *Mr. Lewis*.[19]

14.3.2 Investigative Work Continues

Despite the 11 June 2001 decision to conclude the *Lewis* file, Constable Al Rogers, the File Coordinator, sent an e-mail to Constable Pierre Gervais on 22 August 2001 instructing him to review the file.[20] As well, Staff Sergeant Dunphy wrote in an Investigation Report dated 24 September 2001 that the *Lewis* file in relation to Mr. McCann was currently under investigation.[21]

On 30 October 2001, Staff Sergeant Dunphy sent a letter advising *Mr. Lewis* about the reasons why no charges would be brought against Mr. McCann. He wrote: "The matter was referred to local Crown Prosecutor who concurred with our investigator" that the alleged offence was summary in nature.[22] The CPC learned during its investigation that Staff Sergeant Dunphy was referring to Constable Cole's discussion in 1998 with Crown counsel Jim McAvity and Kelly Winchester, who, when interviewed, not only had no recollection of this, but stated that they would not have given a formal opinion without first reviewing a file.

Again, despite the 30 October 2001 letter advising *Mr. Lewis* of the decision, Constable Gervais went to the Provincial Archives of New Brunswick on 29 November 2001 to check the NBTS logs for 1983 because, according to *Mr. Lewis*, it was the time when Mr. McCann had taken him out on passes. However, Constable Gervais did not find any passes showing that Mr. McCann had taken *Mr. Lewis* out. The NBTS records also showed that, from 21 May through 17 July 1983 and from 23 July through 25 December 1983, *Mr. Lewis* had no visitors.[23] It should be noted that Constable Gervais was checking the log sheets for the activity of other complainants as well as *Mr. Lewis'*.

Although the *Lewis* file appeared to be concluded, the RCMP continued to check on and verify items as they surfaced. During his interview with the CPC, Chief Superintendent Bill Smith said that the RCMP never permanently close a file.

14.3.3 Crown Counsel

In July 2000, the Director of Public Prosecutions assigned Crown counsel Connell to act as a liaison on the McCann file. During the course of the investigation, the RCMP and Mr. Connell corresponded regularly both in writing and verbally. Most of the written correspondence dealt with points of clarification. In the case of the seven alleged McCann victims, Mr. Connell asked for further investigation on certain information contained within the court briefs. In one such letter, dated 30 January 2003, Mr. Connell asked for additional information on the McCann complaints, including *Mr. Lewis'* complaint.[24] Constable Kathy Long responded on 4 April 2003 advising Mr. Connell that the information regarding *Mr. Lewis'* complaint was provided in the "interest of totality," as the file had been closed because the alleged assault was considered "minor in nature [and] involved only touching" ." *Mr. Lewis* was aware that no charges would be laid.[25]

14.3.4 False Claim Report

On 2 June 2000, Chantal Gauthier, a solicitor with the Attorney General, Legal Services Branch, wrote a letter to the RCMP in Fredericton about a possible false claim for compensation made by a *Brad Lewis*.[26]

On 20 June 2000, Sergeant Mac Eaton was asked to review a complaint from the Province of New Brunswick regarding false claims made by individuals seeking compensation for the abuse allegedly suffered at the NBTS and by Karl Toft, one of which was allegedly made by *Mr. Lewis*. However, the Transit Slip he received from Constable Guylaine Chamberland of the Commercial Crime Section did not mention the name *Lewis.*[27] The CPC could not interview Sergeant Eaton for clarification because he passed away in May 2005.

Further to this, Staff Sergeant Dunphy was contacted by Constable Noel Cyr on 8 December 2003 about the New Brunswick complaint made in June 2000. Sergeant Ray Duguay of Commercial Crime forwarded the complaint to Constable Rogers on 15 June 2004.[28] Constable Rogers filed a Continuation Report dated 18 June 2004 in which he referred to a conversation he had with Sergeant Duguay on 9 June 2004. He also recommended that the matter be investigated by a police force other than the RCMP and that, as it related to *Mr. Lewis*, it be investigated as a possible fraud and public mischief offence.[29]

On 21 June 2004, Staff Sergeant Dunphy proposed to Superintendent Dan Nugent, OIC OSS, that—in the interest of impartiality and because of the pending civil action against the RCMP that *Mr. Lewis'* lawyer had filed on his behalf in November 2002—the matter be investigated by the Edmonton Police Service.[30] The Transit Slip sent by Staff Sergeant Dunphy to Superintendent Nugent was the last document associated with the province's false claim complaint; there is no indication that the RCMP investigated the complaint.

14.4 Complainant *David Wright*

David Wright was a resident of the NBTS from 14 December 1982 to 13 June 1983. The records show that, during this time, Mr. McCann took him out on passes on 23 occasions. *Mr. Wright* first came to the attention of the RCMP as a potential victim when former resident *Jason Brown*, another CPC complainant, mentioned his name in February 1993. At the time, Sergeant Lockhart was investigating the allegations against staff at the NBTS. During his interview with Sergeant Lockhart, Mr. *Brown* said that *Mr. Wright* revealed that Mr. McCann had made a pass at him after he was released from the NBTS and while they were at a hotel in Saint John.

Constable James McAnany conducted a follow-up interview with *Mr. Wright* on 30 March 1993. He believed that *Mr. Wright* did not reveal to him everything that had happened during his time at the NBTS.[31] On

12 October 1993, Constable McAnany advised *Mr. Wright* that no charges would be laid due to the nature of his complaint.

Mr. Wright's name resurfaced when *Mr. Lewis* gave his statement to the RCMP on 20 January 1998. Constable Cole carried out the follow-up investigation. It was partially due to *Mr. Lewis*' persistence that the RCMP revisited *Mr. Wright's* allegations. As he had with *Mr. Lewis*, Staff Sergeant Dunphy requested on 15 January 2001 that "K" Division in Edmonton obtain a KGB statement from *Mr. Wright*.[32] Constable Kurt Kaiser of "K" Division obtained an audiotaped statement on 9 February 2001; *Mr. Wright's* lawyer was present during the taping.[33]

14.4.1 Investigation into *Wright* Complaint

On 1 May 2001, the team that was formed to investigate the NBTS and complaints against Mr. McCann met officially for the first time. Staff Sergeant Dunphy wrote a memorandum to Inspector Smith, the OIC OSS, on 4 May 2001 informing him that *Messrs. Wright* and *Lewis* had made complaints against Mr. McCann and that he would be investigating the complaints.[34] On 24 May 2001, Corporal Paulette Delaney-Smith spoke with *Mr. Brown*, who said that *Mr. Wright* had told him that nobody has done anything about his complaint against Mr. McCann.[35]

On 6 June 2001, Staff Sergeant Dunphy filed an Investigation Report that refers to *Messrs. Lewis* and *Wright*. In his report, he refers to the allegations against Mr. McCann[36] but does not detail what, if anything, he investigated. In examining the relevant documentation, it appears that Staff Sergeant Dunphy reviewed what had been done in previous years by the previous RCMP investigators. There is no indication that he conducted any further investigation of *Mr. Wright's* complaint. He does state that a court brief will be submitted to the Crown to obtain a written opinion on charges based on *Mr. Wright's* complaint against Mr. McCann.

On 13 July 2001, Staff Sergeant Dunphy met with *Mr. Wright* and his lawyer, Casey O'Byrne. Prior to the meeting, he met with *Mr. Brown*, who alleged that he was a victim of Mr. McCann. During their meeting, *Mr. Brown* said that *Mr. Wright* had related a different story to him about the alleged incident at a hotel since he had spoken to the RCMP in February 1993. He asked Staff Sergeant Dunphy to let *Mr. Wright* know that someone else was willing to come forward about Mr. McCann. As a result, during his meeting with Staff Sergeant Dunphy on 13 July 2001, *Mr. Wright* described acts of mutual masturbation and said that Mr. McCann had performed oral sex on him at the hotel.[37]

During the meeting of 13 July 2001, Staff Sergeant Dunphy explained to *Mr. Wright* and his lawyer that because *Mr. Wright* had not given full details during the investigation in 1993 of what had taken place between him and Mr. McCann, his credibility had become an issue.[38] However, in his Continuation Report of 13 July 2001, Staff Sergeant Dunphy stated that *Mr. Wright's* story of 13 July was basically the same as his 1998 story except for the acts of oral sex and mutual masturbation, which had not been mentioned previously. In a follow-up Continuation Report dated 30 October 2001, Constable Rogers wrote that *Mr. Wright* had said "that McCann had made 'joking' type threats to him while he was at YTC to the effect, 'Don't tell anybody or I'll kill you'."[39]

On 22 August 2001, Constable Rogers, as the File Coordinator, sent an e-mail to Constable Gervais asking him to review the *Wright* file, as well as others related to the complaints against Mr. McCann. Staff Sergeant Dunphy and Constable Rogers stated in an Investigation Report that the *Wright* file, as well as those of *Messrs. Charbonneau*, *Brown* and *Lewis*, was under investigation.

In a Continuation Report dated 30 September 2001, Constable Long itemized a list of things to do in relation to the *Wright* file, one of which was to obtain the pass records from the NBTS.[40] This appears to be the first indication that any additional investigation was being carried out in relation to *Mr. Wright's* complaint against Mr. McCann. On 23 October 2001, Judge H. Hazen Strange signed an order granting the RCMP access to the records in the Provincial Archives [41] and on 24 October 2001 Corporal Clive Vallis went there and obtained *Mr. Wright's* sign-out records. This is when the RCMP learned that, from February 1983 to June 1983, Mr. McCann had signed *Mr. Wright* out on 23 occasions.[42]

In a notebook entry on 13 January 2002, Staff Sergeant Dunphy wrote that Crown counsel Connell wanted Mr. McCann's biological son interviewed about an incident in a shower room at the YMCA that *Mr. Wright* had raised in his 1998 statement. According to *Mr. Wright*, Mr. McCann had laughed at his (*Wright*) penis and grabbed it jokingly.[43] However, Staff Sergeant Dunphy made what appears to be a unilateral decision not to interview Mr. McCann's son because there was no evidence to indicate he had seen anything.[44] Constable Long did not agree with his decision. In his interview with the CPC, Mr. Connell said that he thought that Mr. McCann's son should have been interviewed. However, he did not interfere in the investigation.[45]

Corporal Vallis continued to investigate the connection between *Mr. Wright* and Mr. McCann by interviewing former members of Mr. McCann's junior hockey team, RCMP officers who were members of the same racquetball club to which Mr. McCann allegedly took some of the boys from the NBTS, and probation officers who had access to *Mr. Wright's* file. His investigation continued from November 2001 until January 2002 and culminated with an interview with a probation officer on 25 January 2002. During the interview, the probation officer stated that he was not aware of any inappropriate behaviour on the part of Mr. McCann against any of the residents.[46]

During their meeting, Corporal Vallis was shown *Mr. Wright's* probation file. There was a comment in the file written by another probation officer dated 10 May 1984: "McCann continues to show an interest in *David*. His interest is beyond the call of duty."[47] Corporal Vallis questioned this probation officer about why he wrote the comment in the file. He replied that he could not remember, but that he must have been impressed with Mr. McCann's interest in *Mr. Wright*.[48] None of the interviews conducted by Corporal Vallis assisted the RCMP in obtaining evidence corroborating *Mr. Wright's* complaint.

14.4.2 *Wright* Investigation Complete

Four e-mails from Constable Rogers to the investigation team, dated 5 February 2002, 12 February 2002 18 February 2002 and 25 February 2002, indicated that the *Wright* file was complete and that a court brief would be prepared for the Crown.[49] However, even though the *Wright* file appeared to be completed, Constable Long continued to question people about their knowledge of events that may have taken place between Mr. McCann and *Mr. Wright*. One of the interviews she conducted took place on 24 April 2002 with *Ian Coburn*, who the McCanns had adopted from the NBTS. The CPC also interviewed *Mr. Coburn* on 6 November 2005 at his place of business in Saint John, New Brunswick. As in his interview with Constable Long, *Mr. Coburn* spoke very highly of Mr. McCann and denied that he was ever abused, or that he had ever heard of any abuse by Mr. McCann from any other resident of the NBTS.

14.4.3 Decision of the Crown

After receiving a brief of *Mr. Wright's* complaint and the ensuing investigation on 20 August 2002, Crown counsel Connell sent a letter to Staff Sergeant Dunphy on 30 January 2003, requesting additional information and further investigation into certain aspects of *Mr. Wright's* complaint. There were six issues that Mr. Connell

wanted addressed before he would make a recommendation.[50] Constable Long reviewed Mr. Connell's letter, replied to it on 4 April 2003 and finalized his request on 8 May 2003.

On 21 August 2003, Mr. Connell sent a seven-page letter to Staff Sergeant Dunphy outlining his reasons for not recommending laying charges against Mr. McCann in relation to *Mr. Wright's* complaint. He outlined the 1993 investigation by Constable McAnany and referred to *Mr. Wright's* audiotaped interview on 30 March 1993, highlighting a number of specific pages of the transcript of the audiotaped statement.[51]

He referred to several statements *Mr. Wright* made in the interview. These included his comment, made in response to prompting by his lawyer, that he was telling everything and not holding anything back; his observation of Mr. McCann while they were at a hotel that "I felt like he wanted to have sex with me"[52]; and the pages in which *Mr. Wright* stated that Mr. McCann had not sexually assaulted him and he described the patting of his "bum" and the snapping at his "balls" as a "joke around kind of thing."[53] He also referred to a nine-page written statement from *Mr. Wright* where, in answer to a question of whether Mr. McCann touched him in the groin area, *Mr. Wright* replied: "I can't remember if he did or not."[54]

Of the 1998 allegations investigated by Constable Cole, Mr. Connell identified changes *Mr. Wright* made to his original complaint of 1993, including that *Mr. Wright* told Constable Cole that he was never a victim of sexual assault at the NBTS. He then referred to *Mr. Wright's* change of heart when he advised Constable Cole that he would and did send him a statement. As Mr. Connell wrote in his response to Staff Sergeant Dunphy, "[w]ith these new and changing allegations, it is little wonder that on 6 May 1998, Constable Cole informed *Mr. Wright* that no indictable charges were warranted."[55]

Mr. Connell dealt with *Mr. Wright's* most recent allegations of 2001 by identifying the contradictions and additions made to the original 1993 complaint.

> The statement of actual sex having occurred at [a hotel] in Saint John is a new allegation. *Mr. Wright* had advised his friend, *Jason Brown*, that Mr. McCann had made a pass at him in the mid [1980s]. In 1993, he told Corporal McAnany that he suspected Mr. McCann had made a homosexual pass at him. *Mr. Wright* made the same assertions of a homosexual pass to both Constable Cole and Sergeant Hayes in 1998 and 2001. There had never been any mention of actual sex.
>
> The threats of being killed [are] another entirely new development. *Mr. Wright*, in his typed written statement of 30 March 1993 [at page 9 of the statement] declared that Mr. McCann never threatened or intimidated him. In 1998, he made no mention of any threats to Constable Cole. In 2001, when he gave the sworn statement to Sergeant Hayes [at page 10 of the transcript] he made no mention of threats concerning the last conversation he had with Mr. McCann in 1993.[56]

In summing up the reasons for his decision, Mr. Connell referred to a memorandum dated 4 April 2003 from Constable Long:

> A decision was made not to pursue charges, not because we question the validity of the fact that some kind of sexual abuse may have occurred; but because of his lack of remaining consistent in his disclosure, his several statements [in] which he [gave] many details and his ability to be forthright about the alleged sexual assaults which bring into question his credibility.[57]

Mr. Connell ended his seven-page summary of the evidence against Mr. McCann based on *Mr. Wright's* allegations:

> *Mr. Wright's* credibility is very poor. His criminal record, his alcoholism, his drug abuse and his growing, strengthening versions of sexual assaults are problematic. Because of the above observations, it is my recommendation of no criminal charges against Mr. McCann, concerning these allegations.[58]

The RCMP made the decision not to pursue charges against Mr. McCann in July 2001. Upon learning this, *Mr. Wright* made new allegations, which the RCMP looked into. However, on 4 April 2003, *Mr. Wright* was again notified, this time by Constable Long, that no charges would be laid against Mr. McCann. Even though the RCMP decided not to pursue charges against Mr. McCann, they prepared a brief and submitted to the Crown counsel Connell for his opinion.

14.5 Complainant *Jason Brown*

Jason Brown was a resident of the NBTS from 14 April 1981 to 19 June 1981 and again from 8 March 1982 to 24 June 1982. Records show that Mr. McCann took *Mr. Brown* out on passes on eight occasions during his second stay at the NBTS.

Mr. Brown first came to the attention of the RCMP on 7 December 1992.[59] The RCMP contacted and interviewed him, during which he denied that he was abused by anyone. On 7 October 1999, *Mr. Brown* attended an examination for discovery, a legal proceeding where testimony from witnesses is taken under oath, in relation to allegations of abuse by Mr. Toft. During the examination, he was asked, if anyone other than Karl Toft had taken him out of the NBTS on passes; he mentioned Mr. McCann's name. However, he did not divulge any abuse by Mr. McCann; instead, he said that Mr. McCann had treated him well.[60]

During the course of the RCMP investigation into the *Lewis* and *Wright* complaints, both individuals mentioned *Mr. Brown* as someone who had been taken out several times on passes by Mr. McCann. When Inspector Smith reviewed the file on 10 February 2000, he noted that *Mr. Brown* had not been contacted and requested that *Mr. Brown* be interviewed.[61] On 7 March 2000, Sergeant Eaton wrote a memorandum to Constable Cole asking whether *Mr. Brown* had been interviewed.[62]

In a 15 June 2000 Continuation Report, Corporal Delaney-Smith wrote that she had obtained information identifying *Mr. Brown* as a victim of Mr. McCann's and that she would contact *Mr. Brown's* mother for additional information.[63] On 23 May 2001, she spoke with *Mrs. Brown*, who said she had always been suspicious of Mr. McCann. *Mrs. Brown* said she would have her son contact Corporal Delaney-Smith.[64] On 24 May 2001, *Mr. Brown* contacted Corporal Delaney-Smith and told her that he was in counselling because of the things that happened to him at the NBTS and that he would call back soon.[65] As a result, Staff Sergeant Dunphy spoke with *Mr. Brown* on 28 June 2001 and arrangements were made to speak with him in Saint John. *Mr. Brown* said that he did not want to be interviewed at home or at the RCMP office.[66]

On 6 July 2001, Staff Sergeant Dunphy wrote in a Continuation Report that a preliminary meeting had taken place with *Mr. Brown*. "He seems to be a very credible individual who has had some troubles with the law in the past but in general he is a productive and responsible father and provider."[67]

Staff Sergeant Dunphy informed *Mr. Brown* during their meeting that if he decided to talk and the information consisted of only minor touching then no charges would be laid against Mr. McCann. *Mr. Brown* told him that

he knew the difference between summary conviction and indictable offences and that "If I decide to talk to you, Cliff McCann is going to jail."[68]

On 23 August 2001, Staff Sergeant Dunphy took an audiotaped statement from *Mr. Brown* in which he described, in detail, acts of masturbation, oral and anal sex that had occurred on several occasions. He also made it clear that he did not want to testify but that he would if it came to that.[69] Following the interview, Constable Gervais obtained a court order on 23 October 2001 enabling the RCMP to access *Mr. Brown's* archived records from his stay at the NBTS.[70] The records were retrieved from the Provincial Archives on 25 October 2001.

Corporal Vallis tried to corroborate a part of *Mr. Brown's* statement about a cheque that he said he received after he called Mr. McCann asking for money in 1986 or 1987. The cheque, which *Mr. Brown* said was signed by Mrs. McCann, was in the amount of $400 or $500. However, Corporal Vallis was told that, at that time, the bank records were only kept for six to seven years. *Mr. Brown* also said Mr. McCann had taken him out to play racquetball. Corporal Vallis checked with the ex-owner of the racquetball club (now closed) and was advised that all the records had been destroyed. Corporal Vallis was able to locate and interview RCMP members who played at the same racquetball club as Mr. McCann, as well as several people who played on or had some managerial role on the hockey team with which Mr. McCann had been associated. He also interviewed ex-NBTS employees and probation officers who knew *Mr. Brown* or who had access to his files. None of the people interviewed supplied any information that would corroborate *Mr. Brown's* complaint.[71]

14.5.1 Decision of the Crown

The information that was gathered in relation to *Mr. Brown's* complaint was sent to Crown counsel Connell, on 20 August 2002. Due to other commitments, Mr. Connell was unable to review any material until January 2003. On 30 January 2003, Mr. Connell sent a request to Staff Sergeant Dunphy for additional information and further clarification on *Mr. Brown's* complaint. Constable Long responded to Mr. Connell's requests on 4 April 2003 and finalized his request on 8 September 2003.

On 16 October 2003, Mr. Connell sent a seven-page letter of opinion to Staff Sergeant Dunphy stating that "an acquittal is more likely than a conviction,"[72] and, therefore, the Crown would not proceed with charges. His primary reason, as with the other files he reviewed, was almost totally based on the credibility of the complainant. In *Mr. Brown's* case, Mr. Connell referred to the three times that *Mr. Brown* was asked if he was abused by anyone while he was at NBTS and he had answered no. He also referred to the transcript of *Mr. Brown's* testimony at the discovery examination, which was taken under oath when he had said that Mr. McCann was "all right."[73]

He referred to Constable Rogers' follow-up statement taken on 24 January 2002:

> What is even more damaging here, is that *Mr. Wright*, in a statement on 30 March 1993 [page 25 of the Transcript], advised the Police that *Mr. Brown* denied any sexual assault on his person by Mr. McCann when they had their conversation.[74]

Mr. Connell also made statements about *Mr. Brown's* alcohol and drug abuse, which, he noted, *Mr. Brown's* mother confirmed during an interview with Constable Long, and added that *Mr. Brown* spent five months in rehabilitation. He referenced the fact that *Mr. Brown* was facing a second-degree murder charge in Fort McMurray, Alberta, which *Mr. Brown* apparently committed when he was intoxicated.

> *Mr. Brown's* abuse of alcohol and drugs has progressed to the point whereby he can take another human being's life. The impairment such abuse has done to his brain calls into question his ability to remember and rationalize.[75]

Mr. Connell stated that based on his criminal record, his drug and alcohol abuse, his previous denials, the inconsistencies in his statements and the pending second-degree murder charge, *Mr. Brown* did not have the credibility to support a prosecution.[76]

14.6 Complainant *Phillip Charbonneau*

Phillip Charbonneau was a resident at the NBTS from 21 April 1982 to 8 April 1983. The records show that Mr. McCann had taken *Mr. Charbonneau* out on passes on at least 57 occasions. Former resident *Michel Minto* was the first to bring up *Mr. Charbonneau's* name during an interview with Constable McAnany on 7 February 1992. *Mr. Minto* said that he was jealous of *Mr. Charbonneau* as he was always out with Mr. McCann.[77] As a result of the information, Constable McAnany began to check on *Mr. Charbonneau* and found that he was incarcerated at a federal penitentiary, in British Columbia.

On 23 March 1993, Constable McAnany interviewed *Mr. Charbonneau* at the penitentiary. Although *Mr. Charbonneau* described abuse by Mr. Toft, he denied that Mr. McCann had abused him. He stated that he had kept in touch with Mr. McCann and had spoken with him just three weeks before.[78] He supplied details of the abuse he suffered at the hands of Mr. Toft, which resulted in a charge being laid against Mr. Toft on 22 October 1993.[79] As has been reported in previous chapters, the Attorney General of New Brunswick stayed this charge, as well as 14 others laid against Mr. Toft, on 29 October 1993.[80]

In a Continuation Report dated 17 December 1993, Constable Rick Evans wrote that he received confidential information that Mr. McCann was a regular visitor of *Mr. Charbonneau's* during the time he was incarcerated at […] Penitentiary.[81] On 24 January 1994, Sergeant Lockhart wrote in a Continuation Report that "there is obviously something between McCann and *Charbonneau* as noted earlier in this report however no reported abuse is known of, for this reason this file is concluded."[82]

Mr. Charbonneau's name continued to surface during the 1998 investigation conducted by Constable Cole. As a result, Constable Cole contacted […] Institution on 13 February 1998 and asked the authorities whether *Mr. Charbonneau* would speak with the RCMP. Constable Cole received a message in return saying that *Mr. Charbonneau* had nothing to say to the police.[83] However, as a result of *Mr. Lewis'* complaint in February 2000, Inspector Smith directed *Mr. Charbonneau* to be interviewed. In June 2000, Corporal Delaney-Smith spoke with *Mr. Charbonneau's* mother, who said that her son never mentioned anything about being assaulted at the NBTS. She also confirmed Mr. McCann's connection and interest in her son.

On 9 June 2000, Corporal Delaney-Smith contacted *Mr. Charbonneau*. This time, he said that he had been sexually abused by Mr. McCann while he was at the NBTS in 1982 to 1983 and also while he was incarcerated at a federal penitentiary in Nova Scotia, in 1983 to 1984. He told Corporal Delaney-Smith that he had not been ready to tell anyone of the abuse when Constable McAnany interviewed him in 1993.[84]

On 11 January 2001, Corporal Delaney-Smith spoke to *Mr. Charbonneau's* mother and obtained a telephone number where *Mr. Charbonneau* could be contacted. She wrote that *Mr. Charbonneau* understood that investigations take time and that he would be willing to talk when it could be arranged.[85] During the month of January 2001, Constable Long interviewed *Mr. Charbonneau's* parents. Both said that they knew Mr. McCann. *Mr. Charbonneau's* father had been to the McCanns' home for supper when *Mr. Charbonneau* was living there, and *Mr. Charbonneau's* mother had spoken with Mr. McCann on the telephone on numerous

occasions. Neither had seen their son for a few years and they were unaware that he claimed to have been abused.[86]

On 22 January 2001, Staff Sergeant Dunphy sent a request to the CROPS Officer in "E" Division, British Columbia, to have an officer obtain a KGB statement from *Mr. Charbonneau*.[87] On 21 February 2001, Corporal Denis Durand of the MCU at the Mission Detachment, in British Columbia, sent an e-mail indicating that he would meet with *Mr. Charbonneau* and make arrangements to obtain the statement.[88] Corporal Durand eventually obtained a sworn KGB statement on 25 May 2001.[89] The time delay was partly the result of the Halifax police force making enquiries about *Mr. Charbonneau* and a murder investigation in which he was implicated as well as Corporal Durand going on leave.[90]

To confirm *Mr. Charbonneau's* claim that Mr. McCann visited him at the various penal institutions, the RCMP contacted the Institutional Preventive Security Officer (IPSO) at each institution. On 31 January 2002, Corporal Vallis interviewed a retired Correctional Officer who was the IPSO at […] Penitentiary. He confirmed that he knew Mr. McCann and that Mr. McCann visited *Mr. Charbonneau* while he was incarcerated there. He also confirmed that, during these visits, Mr. McCann would arrange for the use of his office for himself and *Mr. Charbonneau*.

On 14 February 2002, Constable Denise Potvin interviewed a former IPSO who worked at […] Institution. He confirmed that Mr. McCann was allowed to take *Mr. Charbonneau* out on passes, which had to be approved by the Temporary Absence Board. He indicated that Mr. McCann was probably able to do so on his recommendation to the Board, which was based on the fact Mr. McCann was an RCMP officer. He also confirmed that Mr. McCann would have been allowed to take *Mr. Charbonneau* out on unescorted passes because he was a police officer.

14.6.1 Investigation Summary

Mr. Charbonneau was incarcerated in 2001 when the RCMP was conducting its investigation into Staff Sergeant McCann. Both Staff Sergeant Dunphy and Mr. Connell indicated in separate reports (dated 6 June 2001 and 18 July 2003) that *Mr. Charbonneau* would be prepared to co-operate providing he was transferred to another facility.[91]

In his Investigation Report of 6 June 2001, Staff Sergeant Dunphy summarized the RCMP's attempts to contact and interview *Mr. Charbonneau*. "As on one occasion he [*Mr. Charbonneau*] stated that he couldn't speak with us while he was at the […] Institute and was attempting to gain a transfer that would be more suited to him cooperating with us."[92] He also wrote that "nothing of value has been learned from *Charbonneau* and I would suggest that his credibility would be of serious concern."[93] *Mr. Charbonneau* was either unwilling to speak with members of the RCMP Mission Detachment or was under disciplinary action. As indicated above, he also wrote that *Mr. Charbonneau* would only provide a statement if he was transferred to another facility. It should be noted that, in his KGB statement, *Mr. Charbonneau* gave specific details of the sexual assaults, as well as approximate times and locations, and that some of the details were eventually corroborated by other members of the investigation team.

Staff Sergeant Dunphy's conclusions about *Mr. Charbonneau* seem premature. On 15 June 2001, Corporal Durand, the officer who took *Mr. Charbonneau's* statement, sent an e-mail to Constable Rogers stating that he had completed the transcription and would be sending it as soon as possible.[94] The RCMP members in "J" Division received the KGB statement and Corporal Durand's Continuation Reports on 21 June 2001.

Willingness to Co-operate

Although Staff Sergeant Dunphy and Mr. Connell indicate in their respective reports of 6 June 2001 and 18 July 2003 that *Mr. Charbonneau* was unwilling to give a statement, the following events clearly illustrate that *Mr. Charbonneau* was willing to co-operate. The officers involved do not at any time describe *Mr. Charbonneau* as uncooperative.

Corporal Durand of the Mission Detachment's General Investigation Section (GIS) interviewed *Mr. Charbonneau* on 25 May 2001 and obtained a KGB statement from him. He sent the Fredericton GIS a copy of the interview transcript, his KGB statement, a signed KGB preamble, as well as a 13-page Continuation Report on 21 June 2001. Staff Sergeant Dunphy and his team received the package on 4 July 2001.

Corporal Durand made arrangements to speak with *Mr. Charbonneau* on 21 February 2001 at 10:27 a.m., at which time he made the following notations in his report:[95]

- [H]e continues to be willing to provide his statement by means of audio and video recording under oath.
- [A]t present he has voluntarily submitted himself into P/C [Protective Custody] at […] Institute because of some compatibility issues with other inmates (apparently concerned about the "rat" handle as a consequence of providing crown testimony in a homicide investigation in Nova Scotia).
- [H]e has concerns providing the requested statement at [the Institute] because of the present situation, however, feels that once he is transferred it would be easier for him to come out to provide his statement.[96]

Corporal Durand discovered that efforts were being taken to transfer *Mr. Charbonneau* but that it might take a few weeks; until that time, "*Charbonneau* remains in the 'hole' at […] on a voluntary basis." [97]

On 5 April 2001, Corporal Durand returned to the Institution, where he was taken to a segregation room to speak with *Mr. Charbonneau* on another matter involving *Mr. Charbonneau's* sister. Due to the urgency of the matter and the fact that no firm date had been set for *Mr. Charbonneau's* transfer, Corporal Durand indicated in his report that "*Charbonneau*, with little contemplation advised that as long as the [RCMP] escort [to the detachment] did not interfere with his transfer, he would be agreeable to the interviews at Mission Detachment."[98]

Prior to arrangements being made to record *Mr. Charbonneau's* interview at the RCMP detachment, in Mission, British Columbia, he was transferred to the […] Institution. Since he was still willing, he was interviewed on 25 May 2001.

Both Staff Sergeant Dunphy and Mr. Connell made reference to *Mr. Charbonneau* wanting a transfer before he would give a statement. In a letter dated 13 November 2003 and written to inform *Mr. Charbonneau* that no charges would be laid against Mr. McCann, Staff Sergeant Dunphy described *Mr. Charbonneau* as unwilling to provide a statement unless transferred to another institution. Based on the reports by Corporal Durand, however, such conclusions concerning *Mr. Charbonneau's* transfer were incorrect. Although Staff Sergeant Dunphy and Mr. Connell inferred that *Mr. Charbonneau* was holding out on making a statement until he received something in return, in this case, a transfer, it is evident from reading Corporal Durand's reports that such an assumption was false.

14.6.2 Investigation Continues

Despite Staff Sergeant Dunphy's 6 June 2001 remarks, the investigation into *Mr. Charbonneau's* complaint continued. The effort focused on trying to corroborate his claims. Corporal Vallis and Constables Gervais and Long carried out this effort over the next few months. They obtained a court order to gain access to *Mr. Charbonneau's* records for the period he was at the NBTS, as well as any records from other institutions in which he was incarcerated. Efforts were made to interview former hockey team members, as well as coaches, managers and RCMP officers who were members of the same racquetball club at which Mr. McCann played. A second interview was arranged with *Mr. Charbonneau* on 1 May 2002.[99] *Mr. Charbonneau* had been formally charged with first-degree murder on 28 February 2002 and was in Halifax to answer to the charge. On 14 April 2003, Constable Long was advised that *Mr. Charbonneau* had pled guilty to a lesser charge and was sentenced to five years.[100]

Mrs. McCann was interviewed by Corporal Delaney-Smith on 11 September 2002, and acknowledged that *Mr. Charbonneau* had stayed with them at their home for a few weeks but that he had to be sent back because her daughter knew *Mr. Charbonneau* was involved in drugs. Neither of the McCanns' children were interviewed because Staff Sergeant Dunphy refused to authorize the interviews. Mrs. McCann also said she was scared of *Mr. Charbonneau*.[101]

Constable Long prepared a court brief for Mr. Connell on the complaint from *Mr. Charbonneau* and delivered it to him on 22 August 2002. On 30 January 2003, Mr. Connell sent a letter to Staff Sergeant Dunphy with some follow-up investigative work to be done on all the files, including *Mr. Charbonneau's*.[102] Constable Long conducted the follow-up and sent a response to Mr. Connell on 4 April 2003.[103]

On 23 May 2003, after Constable Long told him she would no longer be working on the file; Mr. Connell sent a fax to Staff Sergeant Dunphy asking that an investigator be assigned to meet with him.[104] It appears from the relevant documentation that Corporal Delaney-Smith was asked to assist the Crown at this point since she had obtained the signed consent forms from *Mr. Charbonneau*, as well as provided information to Mr. Connell regarding *Mr. Charbonneau's* whereabouts.

On 18 July 2003, Mr. Connell sent a letter of opinion to Staff Sergeant Dunphy outlining his reasons for not proceeding with any charges against Mr. McCann. Staff Sergeant Dunphy sent *Mr. Charbonneau* a letter on 13 November 2003 informing him of the Crown's decision and of the fact that his file had been concluded.[105]

14.6.3 Decision of the Crown

Mr. Connell reviewed the briefs he received on 20 August 2002 and the follow-up material he received on 4 April 2003. As with all the other alleged victims of Mr. McCann, Mr. Connell came to "the conclusion that an acquittal is more likely than a conviction."[106] His reasons were detailed in an eight-page report, which made reference to the original investigation in 1993 when Constable McAnany interviewed *Mr. Charbonneau* at the […] Institution in British Columbia. According to Mr. Connell, in his interview, *Mr. Charbonneau* "made it absolutely clear that Mr. McCann did not abuse him."[107] Mr. Connell also mentioned that Constable McAnany reported that *Mr. Charbonneau* appeared "honest and very personable."[108]

Mr. Connell referenced a telephone call made to *Mr. Charbonneau* in 1998, during which he declined to be interviewed and said he had nothing to say about the NBTS. On 9 June 2000, after having spoken with his mother*, Mr. Charbonneau* advised the police that Mr. McCann had sexually assaulted him. Arrangements were made to have Corporal Durand of the MCU in Mission, British Columbia, interview *Mr. Charbonneau* on 21 February 2001. Again *Mr. Charbonneau* told Corporal Durand that Mr. McCann had sexually abused him. Mr. Connell then referenced a conversation that Corporal Durand allegedly had with *Mr. Charbonneau* on 5 April 2001, in which *Mr. Charbonneau* said he wanted a transfer from […] Institution, a medium-security facility, before he would give a statement.[109]

Mr. Connell identified five allegations *Mr. Charbonneau* made:

- In his first statement, which he gave to Corporal Delaney-Smith on 9 June 2000, he alleged sexual abuse by Mr. McCann while at the NBTS and also while an adult prisoner at […] Institution.
- In his second statement, he advised Corporal Durand on 20 February 2001 that, upon learning Mr. McCann was still victimizing others, he felt it was time to come forward. Mr. Connell repeated that *Mr. Charbonneau* had said he would give a statement upon receiving a transfer to another institution.
- His third statement was audio- and videotaped by Corporal Durand on 25 May 2001. Mr. Connell again noted that the KGB statement was taken after *Mr. Charbonneau* was transferred to another institution, as requested. Mr. Connell identified additional acts that *Mr. Charbonneau* said had taken place and pointed out that *Mr. Charbonneau* described them in more detail than in the previous two statements.
- His fourth statement was taken by Constables Potvin and Long on 1 May 2002. Mr. Connell pointed out details in this statement that differ from previous statements.
- His fifth statement, which Mr. Connell identified as the Notice of Action (giving notice of a civil suit being filed) against Mr. McCann dated 14 November 2002, details versions of events that differ from his earlier claims.

> *Mr. Charbonneau's* version of the allegations get stronger and stronger with facts being added to each new revelation. Defence counsel would be quick to pick up on these changing versions, questioning *Mr. Charbonneau's* motives, as to why he is now coming before the court to seek justice.[110]

Mr. Connell also described in detail *Mr. Charbonneau's* placement at the McCann household. He referred to *Mr. Charbonneau's* Notice of Action dated 14 November 2002:

> That while he was resident in the home of the Defendant McCann, that on a nightly basis at approximately 11:00 p.m. each evening he was forced to give and receive oral sex and hand sex by the Defendant McCann.[111]

Mr. Connell then referenced *Mr. Charbonneau's* statement of 25 May 2001; in it, *Mr. Charbonneau* does not make any mention of oral sex while living at the McCanns' home. He referred to a statement given to Constable McAnany 23 March 1993 in which *Mr. Charbonneau* said he ruined his placement himself by drinking and partying too much. He chose to go back to the NBTS after refusing to accept being punished. Continuing on in his assessment of *Mr. Charbonneau*, Mr. Connell then stated that Tom Richards, NBTS superintendent from 1979 to 1987, "pegged *Mr. Charbonneau* as being a smooth, remorseless, manipulative psychopath."[112]

Mr. Connell described in detail *Mr. Charbonneau's* criminal record:

> *Mr. Charbonneau* has spent the greater part of his life in jail. He is violent and arguably will go to a great extent to achieve his desired end. In considering his record and his recent conviction, no judge or jury could possibly find *Mr. Charbonneau* to be a savory, honest character.[113]

Mr. Connell identified several areas where *Mr. Charbonneau's* credibility could be called into question, relying on excerpts from the various transcripts and also on a statement from another former resident, who he also thought would have no credibility.

His recommendation on 18 July 2003 was that there was no reasonable prospect for conviction due to *Mr. Charbonneau's* criminal record, his manipulative character, his denial of sexual abuse in 1993, his changing versions and the evidentiary contradictions. He concluded that "*Mr. Charbonneau* does not have the credibility to support a prosecution."[114]

14.7 Three Other Alleged Victims

The following three former residents have not made any complaints to the CPC against the RCMP but were identified and did come forward with allegations against Mr. McCann during the investigation by Staff Sergeant Dunphy and his team.

14.7.1 *Mike Roy*

Mike Roy was a resident of the NBTS from 13 May 1982 to 27 August 1982, again from 4 December 1982 to 23 November 1983 and on a third occasion from 23 November 1983 to 26 January 1984. The records show that Mr. McCann took *Mr. Roy* out on passes on 24 occasions between 14 July 1982 and 10 February 1984. *Mr. Roy* was first identified in the 1992 to 1993 investigation into Mr. Toft and was interviewed about his contact with Mr. McCann. The efforts the RCMP took to obtain a statement from *Mr. Roy* in relation to Mr. McCann are detailed in Chapter 12, "Investigation by Sergeant Doug Lockhart (1992–1993)." *Mr. Roy* refused to co-operate with the RCMP back in 1992 and 1993.

Mr. Roy's name surfaced again during the Miller Inquiry when, on 9 September 1994, Mr. Toft testified under oath that he had sexual relations with *Mr. Roy*.[115] However, it was not until 15 July 1996 that *Mr. Roy* signed an affidavit stating that Mr. Toft sexually abused him while he was a resident at the NBTS.[116] *Mr. Roy* gave a statement to his lawyer on 29 August 1996 regarding the abuse by Mr. Toft[117] and on 5 February 1997 attended an examination for discovery in relation to the abuse. This culminated in *Mr. Roy* signing a release on 21 November 1997 for a sum of money paid by the Province of New Brunswick as compensation for the abuse he suffered while at the NBTS.[118]

Mr. Roy's name resurfaced again on 20 January 1998 in a statement given by another former resident, *Brad Lewis*, as a possible victim of Mr. McCann.[119] As a result of *Mr. Lewis'* statement, other former residents were contacted. *David Wright* provided a handwritten statement on 2 March 1998 indicating that *Mike Roy* had told him that Messrs. McCann and Toft had oral sex with him.[120]

In a Continuation Report dated 15 June 2000, Corporal Delaney-Smith wrote that the telephone number in the file for *Mr. Roy* was incomplete and that she would try to obtain the correct number. She also wrote that information obtained from another former NBTS resident corroborated the allegation that Mr. McCann had sexual encounters with residents. She also wrote that *Mr. Roy* had always maintained that nothing happened and was very uncooperative in the past.[121]

On 4 June 2001, Constable Rogers reviewed the file on *Mr. Roy* and wrote:

> In light of the … attempts by investigators to get *Mr. Roy* to provide a statement in relation to YTC, I do not see where we have the right to continue to pursue this person when he has made it very clear that he wants to put this matter behind him. We have to respect his decision and move on.[122]

On 22 August 2001, Constable Rogers sent an e-mail to the investigation team members delegating various tasks. He assigned Constable Gervais to review the files dealing with Mr. McCann, including the *Roy* file. He also made a notation beside *Mr. Roy's* name: "This file is presently concluded but it wouldn't hurt to have a look at it."[123] Further to this e-mail, Staff Sergeant Dunphy and Constable Rogers submitted an update on the NBTS file on 24 September 2001, indicating that attempts would be made to contact *Mr. Roy* indirectly through his mother to see if he would offer any assistance in relation to the investigation.[124]

In a Continuation Report dated 12 October 2001, Constable Potvin, who was assisting in reviewing the files, observed that, back in 1993, *Mr. Roy's* family thought that perhaps *Mr. Roy* would receive a female officer better than a male officer.[125] As a result, Constable Potvin was asked to follow up. On 10 December 2001, Constable Potvin prepared an order to access *Mr. Roy's* NBTS files; she executed the order at the Provincial Archives on 12 December 2001.[126] Constable Potvin was unable to locate *Mr. Roy's* mother and, because of other commitments involving an investigation in Moncton, Corporal Vallis was asked to locate *Mr. Roy's* mother and deliver a letter to her from Constable Potvin.

On 23 January 2002, Corporal Vallis located her and during their conversation, she told Corporal Vallis that she caught her son performing oral sex on Mr. McCann in a car up the road from where they lived. She would not supply a statement until she spoke with her son. Corporal Vallis made arrangements to contact her after she had spoken with her son.[127]

Corporal Vallis and Constable Long obtained an audiotaped statement from *Mr. Roy's* mother on 6 March 2002. She described the time that she claims she caught her son engaged in a sexual act with Mr. McCann in a car. She was very clear on what she said she saw and said she confronted her son about it as soon as he got home. She also said that she told her son to tell Mr. McCann not to come around anymore.[128]

After several attempts, Constable Long contacted *Mr. Roy* on 18 September 2002 and he agreed to talk about Mr. McCann. She met with *Mr. Roy* on 3 October 2002[129] and obtained an audiotaped statement from him. On 6 November 2002, Constable Long gave a copy of the transcribed statement, as well as the tapes of the McCann interrogation, to Mr. Connell, who advised her that he had already begun to review the file.[130]

On 30 January 2003 Mr. Connell sent a request to Staff Sergeant Dunphy outlining 12 issues for which he wanted further clarification. Constable Long followed up on his requests and sent a response on 4 April 2003. In following up, she re-interviewed *Mr. Roy* on 20 March 2003 and supplied copies of the interview to Mr. Connell.

Corporal Delaney-Smith was assigned to follow up on Mr. Connell's requests following Constable Long's retirement.

Decision of the Crown

Mr. Connell reviewed the material presented to him by Constable Long and came to the conclusion that an acquittal was more likely than a conviction in *Mr. Roy's* case. He detailed his reasons in a nine-page letter of opinion dated 21 October 2003. He referred to the 1992 to 1993 investigation into Mr. McCann and the unsuccessful attempts made by Constables McAnany, Ken Legge and Lise Roussel to speak to *Mr. Roy*. "*Mr. Roy* had proved non-cooperative."[131]

He referred at length to the 1997 allegations, when *Mr. Roy* testified about the abuse he suffered throughout his life, not only at the NBTS. Mr. Connell made reference to his testimony at a hearing in Etobicoke, Ontario, on 5 February 1997, concerning *Mr. Roy's* claim for compensation. During the hearing, *Mr. Roy* testified that eight different people had sexually abused him, including Mr. Toft and even his own lawyer, but he never mentioned Mr. McCann. "*Mr. Roy's* failure to bring about his allegation of sexual abuse against Mr. McCann at this hearing seriously hurts his credibility."[132]

Mr. Connell commented at length on the confusion surrounding *Mr. Roy's* recollection of the two sexual acts involving Mr. McCann. He also referred to discrepancies in his mother's recollection of when she knew and what she saw in relation to her son and Mr. McCann.

> *Mrs. Clifton's* recent statement is most problematic. In 1992, she did not tell Constable McAnany that she had witnessed an actual sexual act between Mr. McCann and *Mr. Roy*. From her conversation with Constable McAnany, it was revealed that disclosure of Mr. McCann's activities were only made known to her by her son in 1992. *Mr. Roy* on 7 December 1992, advised Constable McAnany that his mother saw them once together and when confronted he just denied it; … *Mr. Roy* in his statement of 23 October 2002, stated [at page 22 of transcript] "She tells me now that she seen what happened. And that she knew what was going on and I got furious, like why the fuck didn't you take me there then, why didn't you say something then." *Mrs. Clifton's* credibility is in dire jeopardy here. Although there was some type of confrontation back in the 1980s between mother and son, they contradict each other. It was only in 1992, that she became aware of what was happening between Mr. McCann and her son, when they talked by phone. She obviously has forgotten about her conversation with Constable McAnany on 14 December 1992.[133]

He also referred to *Mr. Roy's* admitted drug abuse, pointing out that *Mr. Roy* has attended treatment programs in Minneapolis and Florida for his cocaine problems. He highlighted *Mr. Roy's* own words to describe his existence at that time: "It's been such a fog, up here."[134] Mr. Connell concluded that *Mr. Roy's* criminal record combined with his alcoholism and drug abuse would not make him a very credible witness. Mr. Connell recommended that no criminal charges be brought against Mr. McCann.

14.7.2 *Douglas Parsons*

Douglas Parsons was a resident of the NBTS on five occasions: from 25 November 1980 to 26 June 1981; 8 October 1981 to 18 June 1982; 20 September 1982 to 23 June 1983; 30 July 1983 to 29 July 1984; and from 25 March 1985 to 1 July 1985. Records show that Mr. McCann took *Mr. Parsons* out on passes on five occasions between 21 August 1983 and 10 March 1984.

Several other former residents mentioned *Mr. Parsons* as a possible victim of Mr. Toft. RCMP Constable Joe Peel of the London Detachment obtained a statement from him on 9 October 1991. At the time he denied any abuse by Mr. Toft.[135] However, *Mr. Parsons'* roommate informed Constable Peel that Mr. Toft had once sexually assaulted him. Neither Constable Peel nor *Mr. Parsons* mentioned Mr. McCann.

On 18 December 1992, Constable Evans reviewed the file and recommended that, because Mr. McCann had taken *Mr. Parsons* out on five occasions, *Mr. Parsons* be interviewed.[136] On 20 May 1993, Sergeant Lockhart noted in a report that *Mr. Parsons'* first statement was inadequate and that he should be re-interviewed.[137] However, it was not until 18 January 1994 that Sergeant Lockhart discovered that his request to have *Mr. Parsons* re-interviewed had not been carried out, so he sent Constable Peel a request to conduct the interview.[138] Constable Peel took a statement from *Mr. Parsons* in the presence of his brother on 21 January 1994.

On 2 November 2001, Constable Potvin was reviewing the McCann files and wrote that *Mr. Parsons* "should be re-interviewed in a more private setting."[139] The documentation shows that Corporal Vallis attempted to locate *Mr. Parsons* during February 2002. *Mr. Parsons* was eventually located in Woodstock, Ontario. Corporal Vallis contacted the Woodstock Detachment of the RCMP and requested that a statement be obtained from *Mr. Parsons*. On 5 March 2002, Corporal Vallis received an e-mail from Constable Renzo Carniato advising that a statement had been taken on 4 March 2002. This time, *Mr. Parsons* admitted to having been sexually assaulted by Mr. McCann.[140]

On 18 March 2002, Constable Long received a telephone call from *Mr. Parsons* offering to assist in any way he could; however, he did not know how much more detail he could provide as he had worked hard to forget his past. He had left New Brunswick because of his experience at the NBTS. Constable Long wrote in a Continuation Report: "He sounded very sincere but troubled and was well spoken."[141] On 26 March 2002, Constable Long spoke with two former NBTS employees who were now police officers: Constable Boyd Merrill of the RCMP and Constable Randy Reilly of the Fredericton Police Force. They both admitted to knowing *Mr. Parsons* very well. Constable Merrill said that if "*Douglas* said that he was abused, he would no doubt be telling the truth."[142] Constable Reilly confirmed what Constable Merrill had said about *Mr. Parsons*.

On 13 April 2002, Corporal Vallis obtained an audiotaped statement from *Mr. Parsons* in the presence of his girlfriend who also provided a statement that *Mr. Parsons* told her of the abuse by Mr. McCann in December 1988. In his statement, *Mr. Parsons* said that he did not recall telling anyone except his girlfriend about the abuse,[143] but as Corporal Vallis was leaving, *Mr. Parsons* remembered that he talked to a doctor at a hospital. He also said he would allow the RCMP to access his medical records. Corporal Vallis sent an e-mail to Constable Carniato to ascertain whether this doctor was in fact a staff member at the hospital mentioned by *Mr. Parsons*.[144] He received confirmation on 25 April 2002 that the doctor worked in the Psychiatric Department.[145] After this date, however, there is no documentation indicating what was done to obtain the medical release form needed to access *Mr. Parsons'* medical records.

Constable Long delivered an investigative brief to Mr. Connell on 20 August 2002. The investigators received his reply on 30 January 2003, requesting clarification on four issues pertaining to *Mr. Parsons'* file. Constable Long was assigned to follow up on Mr. Connell's requests. She responded to his information requests, including for *Mr. Parsons'* medical records, on 4 April 2003. She said that she had been unable to obtain *Mr. Parsons'* release and that she did not think it would be forthcoming. *Mr. Parsons* had told Constable Long that he would not return to New Brunswick to testify in court and that he was reluctant to disclose his alleged sexual abuse.[146]

Decision of the Crown

Mr. Connell reviewed the materials that he was sent on 20 August 2002, as well as the follow-up material sent by Constable Long on 4 April 2003. He responded with a five-page letter of opinion on 18 July 2003, in which he concluded, "an acquittal is more likely than a conviction,"[147] and recommended that no criminal charges be laid against Mr. McCann.

His reasons for not recommending any charges against Mr. McCann as a result of *Mr. Parsons'* allegations were based on *Mr. Parsons'* denial in 1994 of any wrongdoing by Mr. McCann and the absence of corroboration for the sexual assault allegations. "His Social Assistance fraud, his criminal record, his alcoholism, his addiction to cocaine, his reluctance to cooperate, the vagueness as to the alleged assaults and the inconsistencies in these allegations are problematic."[148]

He also made reference to a psychological assessment dated 9 March 1983 by a psychologist when *Mr. Parsons* was 14 years old.

> Because of a lack of structure and emotional support or because of a traumatic episode in the past, *Ms. Syliba* observed that *Mr. Parsons* was: (at page 2 of the Assessment) "reluctant to participate in social interactions, which in turn make him inaccessible to others thus maintaining his maladjusted performance and possibly causing depressive moods"—and later—"the need to express virility and all these conflicts between expression of and a control of sex drives result in ambivalent feelings which are not being explored. These conflicts become a threat and could possibly result in a collapse of Ego-control."
>
> These observations were made before *Mr. Parsons'* outings with Mr. McCann between 21 August 1983, and 10 March 1984. *Mr. Parsons'* alcoholism and addiction to cocaine may only exacerbate the concerns Ms. *Syliba* raised so many years ago. There appears to be little doubt that *Mr. Parsons* would not or could not come to Court.[149]

Mr. Connell also indicated that a jury would not be impressed with *Mr. Parsons'* criminal record and that "*Mr. Parsons'* credibility is very poor."[150]

Staff Sergeant Dunphy advised *Mr. Parsons* by letter on 13 November 2003 that the file was concluded and that no charges would be brought against Mr. McCann.

14.7.3 *Christopher Fanshaw* (formerly *Ryan*)

Christopher Ryan was a resident of the NBTS from 7 October 1983 to 30 June 1984. Records show that Mr. McCann took him out on passes on nine occasions between 20 February 1984 and 3 June 1984. He changed his surname to *Fanshaw* in 1986 for personal reasons and is referred to here as such.

Mr. Fanshaw was identified when the Fredericton Police Force (FPF) were investigating the NBTS and Mr. Toft in 1991. He was interviewed on 3 July 1991 while in custody at the York Country Jail in New Brunswick and denied that Mr. Toft had abused him. Both of the officers conducting the interview did not think he was telling the truth.[151]

Corporal Ray Brennan identified *Mr. Fanshaw* as a possible victim in a report dated 2 August 1991. His name was among a list of 54 possible victims identified by the RCMP during their investigation in 1991. Corporal Brennan indicated that the FPF interviewed *Mr. Fanshaw* and that he denied being abused by Mr. Toft.[152] Another former resident mentioned *Mr. Fanshaw's* name during an interview with Constable McAnany on 12 February 1992.[153]

On 14 December 1995, *Mr. Fanshaw* wrote a letter to the RCMP (addressed "to whom it may concern")[154] alleging sexual abuse by Mr. Toft while he was a resident at the NBTS. On 5 January 1996, *Mr. Fanshaw* received a letter from his lawyer requesting him to sign copies of medical release forms to be used in support of his claim against the government. On 22 May 1997, *Mr. Fanshaw* received a settlement from the province in relation to the claim he made against the Province of New Brunswick in relation to the abuse he suffered at the NBTS.

On 17 January 2002, a civilian employee acquainted with Mr. McCann advised Constable Long that she recalled seeing Mr. McCann at the old RCMP Headquarters building on Woodstock Road with a young boy named *Christopher Ryan*. The employee knew the boy's mother and where she worked. As a result, Corporal Vallis spoke with *Mr. Fanshaw*, who verified that Mr. McCann had taken him out but he did not like him and stopped going with him after a while. *Mr. Fanshaw* told Corporal Vallis that Mr. McCann would touch him in a personal place and that when changing at the YMCA he would look at him in the change room. *Mr. Fanshaw* said that he would contact his lawyer before he decided on providing a statement. *Mr. Fanshaw's* lawyer called Corporal Vallis and confirmed what *Mr. Ryan* had said about Mr. McCann, but added that, at this time, *Mr. Fanshaw* did not want to provide a statement. The lawyer advised Corporal Vallis that he would talk with his client again to see if he would co-operate.[155]

On 29 January 2002, *Mr. Fanshaw's* lawyer told Corporal Vallis that his client did not want to co-operate with the police at this time. As a result of the telephone call, Corporal Vallis reported that the file was concluded.

On 19 February 2002, *Mr. Fanshaw* contacted the RCMP and spoke with Constable Potvin. He advised her that he wanted to give a statement regarding Mr. McCann but told her he did not want his name associated with either *Phillip Charbonneau* or *David Wright's* civil suit. Constables Potvin and Long went to *Mr. Fanshaw's* residence and took a statement from him about Mr. McCann. In his statement he said that Mr. McCann had taken him to the former RCMP Headquarters to a cell with a cot and sexually assaulted him by performing oral sex on *Mr. Fanshaw*. "When he [Mr. McCann] was finished, he threatened him [*Mr. Fanshaw*] not to tell or he would make sure he spent time in jail as he got older."[156]

On 6 March 2002, Constable Long interviewed *Mr. Fanshaw's* mother. She said that her son never mentioned being abused by Mr. McCann, only Mr. Toft. She said did not know Mr. McCann but she knew that people who worked or volunteered at the NBTS had taken her son out on passes. She described a change in her son after he was released from the NBTS. He hated all male authority figures, including teachers and police officers. During visits to hospitals he would refuse to let male orderlies near him. She said he began taking alcohol and drugs and getting into trouble.[157]

Constables Long and Potvin worked on the file by obtaining records from the NBTS, obtaining a release form from a counsellor who was treating *Mr. Fanshaw* and obtaining a statement from the employee who mentioned *Mr. Fanshaw* to Constable Long in January 2002.

Decision of the Crown

On 20 August 2002, Constable Long submitted an investigative brief for *Mr. Fanshaw* to Mr. Connell. Mr. Connell sent his response to Staff Sergeant Dunphy on 30 January 2003 requesting more information on four issues dealing with *Mr. Fanshaw*. Constable Long sent a reply on 4 April 2003; Corporal Delaney-Smith sent a further response to additional requests on 18 July 2003.

Mr. Connell reviewed the material he had been sent and provided a detailed opinion on 18 September 2003, concluding that "an acquittal is more likely than a conviction" and would not recommend any criminal charges be laid against Mr. McCann.[158]

Mr. Connell referred to *Mr. Fanshaw's* claim that he was shown a cell at the Headquarters building and that Mr. McCann sexually assaulted him there. He also referred to a report from Constable Long indicating that the building had been renovated after the RCMP left and that RCMP members and employees who worked there did not remember any cellblock. He also referred to an employee who vaguely recalled a small room with some sort of cot in it. "There is no evidence of a cell or cellblock ever having been part of the building."[159] Mr. Connell also stated that "any evidence that a room existed which might resemble a cell, has been destroyed."[160]

Mr. Connell made reference to *Mr. Fanshaw's* claim made on 25 April 1996 in relation to Mr. Toft in a sworn affidavit in which he said that Mr. Toft had abused him while they were on a camping trip and stated: "This is the only time that *Christopher Ryan* was abused when he was at Kingsclear."[161]

In reference to *Mr. Fanshaw's* claim that he discussed the abuse by Mr. McCann with a psychologist in Saint John, Mr. Connell pointed out that she said they discussed Mr. Toft but made no mention of Mr. McCann. She also wrote a report on *Mr. Fanshaw* in 1988, stating that "*Mr. Ryan's* intellect was estimated to be within the low-average range. His MPI profile was reflective of someone exaggerating their problems possibly for some personal gain."[162]

Mr. Connell relied on other psychological assessments of *Mr. Fanshaw* as well. In 1988 there was a Dependency Assessment in October, which resulted in a claim that *Mr. Fanshaw* was heavily addicted to alcohol and drugs; and in November, a diagnosis of an "antisocial personality disorder."[163] In December 1982, another psychologist assessed him as "having a mild mental handicap"[164] while a speech pathologist who observed him said that *Mr. Fanshaw* "could not remember more than four consecutive digits and five consecutive unrelated words."[165]

Mr. Connell concluded that, based on his criminal record, his addiction to alcohol and drugs, his similar complaint against Mr. Toft and the contradictory evidence of the psychologist, all of which serve to undermine his assertions against Mr. McCann, "[h]is credibility is very poor."[166]

14.8 McCann Investigation of 2001 to 2003

14.8.1 Arrest Warrant for Staff Sergeant McCann

On 10 September 2002, Judge H. Hazen Strange signed an arrest warrant (Feeney Warrant) that had been prepared by Constable Long to enter Mr. McCann's residence and arrest him. However, the arrest warrant was never executed because Mr. McCann was not at home; he was subsequently arrested on a golf course without a warrant.

14.8.2 Search Warrant for McCann Residence

Constable Long had prepared an *Information to Obtain a Search Warrant* to enter and search Mr. McCann's residence, which was subsequently given to Mr. Connell for his approval. At the time, the process for obtaining search warrants required the police to first bring the search warrant to the Crown for approval before going to a judge. During their interview with the CPC, neither retired Staff Sergeant Dunphy nor retired Constable Long could remember whether Mr. Connell was given the *Information*. However, during his interview with the CPC, Mr. Connell was able to produce notes about the search warrant.

Mr. Connell informed the CPC that Constable Long dropped the warrant off for his review and that, on 9 September 2002, he met with her to inform her he was not going to authorize taking the warrant to a judge. He explained that he did not see any connection between the alleged criminal acts for which Mr. McCann was being investigated and his residence. He also said that Constable Long told him they were looking for evidence of pornography, although they were not investigating him for possession of pornography.

Mr. Connell said that, later, he received a call from Superintendent Glenn Woods, Criminal Investigative Analyst and OIC of the Behavioural Science Branch, in Ottawa. Superintendent Woods provided an affidavit that was subsequently attached to the search warrant request. He explained that the RCMP was looking for collateral evidence in the house to show a preference for sex with teenage boys.

Mr. Connell told the CPC that he checked with three other Crown counsel—William Corby, Hillary Drain and Cameron Gunn—who all agreed that there were no legal grounds for a search warrant. He also said that there was nothing stopping the RCMP from taking the *Information to Obtain* before a judge without his approval.[167]

Retired Staff Sergeant Dunphy told the CPC that it was normal practice for his officers to show him their *Informations* for search warrants and obtain his approval before submitting them to the Crown. He recalled that there was some controversy or discussion about requesting a search warrant for Mr. McCann's residence and that he did not feel they had any grounds to go to the Crown. Staff Sergeant Dunphy was not sure if the Information got beyond the drafting stage.

> I don't think it ever went to Kevin because I think we had a discussion with it, and I don't believe we had any grounds … I don't believe that it was ever considered past the drafting of the … information. 'Cause I don't believe … that the grounds were valid.[168]

Although, as mentioned above, the policy in New Brunswick at the time of Mr. McCann's arrest required police to seek Crown approval of the *Information to Obtain a Search Warrant* before going before a judge, the police had the authority to go before a judge independent of any Crown policy. The RCMP in this investigation relied on the Crown alone to make a decision for them about an important aspect of any criminal investigation without any discussion between the two.

14.8.3 Arrest of Clifford McCann

Mr. McCann was arrested on 11 September 2002. The RCMP had planned to arrest him at his home just outside of Fredericton, New Brunswick, and had obtained a warrant permitting them to enter his home and do so. Upon arriving at his house, Mrs. McCann advised them that Mr. McCann had left to go golfing at the Mactaquac Golf Course. The officers relayed the information to Staff Sergeant Dunphy, who told them to go to the golf course and arrest him. This was carried out by Constables Rogers, Cole and Long.

Corporal Delaney-Smith, who had gone to the McCann house with the other officers, stayed with Mrs. McCann for approximately three hours to explain the circumstances to her. Neither the documentation provided to the CPC by the RCMP, nor Corporal Delaney-Smith's notes, indicate that she made any attempt to obtain Mrs. McCann's permission to search the house and in fact, the house was not searched. Because Corporal Delaney-Smith would not agree to an interview, based on advice from her lawyer Mr. William Gilmour, the CPC has not been able to clarify any of the issues surrounding her participation in the attempt to arrest Mr. McCann.

Mr. McCann was taken to the Oromocto District office, where Sergeant Mike St. Onge, the RCMP polygraphist, interviewed him. The interview took place over a number of hours and, according to Sergeant St. Onge, Mr. McCann made no admissions or denials of any wrongdoing. Mr. McCann was subsequently released without charges being laid. According to Staff Sergeant Dunphy, it was his decision to release Mr. McCann. As he put it in his interview with the CPC, because Mr. McCann had made no admission, he did not feel they had reasonable and probable grounds to lay any charges. Asked about the timing of the arrest and the possible outcome, he stated:

> [W]e were pretty well at the end … of our string so far as the investigation was concerned. Members were being transferred to ah permanent units. They were only on loan to us. … most likely there were time constraints … on this as there are on anything else. I suspect we had … other priorities and homicides and that type of thing. … also trying to … fit everybody in to a time slot. Ah St. Onge, he's … an exceptionally busy guy. … when did he, when would it be convenient, or when could we work it into, I suspect there were all that statement.
>
> **Q.** [T]he day that you were arresting McCann … was it in your mind at that, on that day, …you had enough evidence to charge him?
>
> **A.** No. No.
>
> **Q.** So there was no preconceived … decision that at the end of this interview, he was going to be charged.
>
> **A.** No. Ah certainly there would have been if we'd got a confession from him. Certainly.
>
> **Q.** But other then getting a confession, you didn't feel that you had enough?
>
> **A.** No.[169]

Mr. Connell was sent investigative briefs on 20 August 2002, and on 11 September 2002 Mr. McCann was arrested. Mr. Connell responded to the investigative briefs on 30 January 2003 by asking for more investigation to be done in relation to certain issues involving six of the seven alleged victims. He received, for the most part, the additional information on 4 April 2003. After reviewing the information, he sent his recommendation not to lay charges on the basis of allegations made by the six alleged victims throughout the summer and fall of 2003.

14.8.4 McCann Behavioural Science Profile

Prior to Mr. McCann's arrest, Constable Long sent a package of material to the Behavioural Science Branch in Ottawa, in an effort to gather more information on the type of individual Mr. McCann was in relation to the alleged offences. On 12 June 2002, Superintendent Glenn Woods, whose expertise was in sexual assaults and sexually motivated homicides, and Corporal Pierre Nezan, Criminal Profiler Understudy, sent a detailed profile in relation to Mr. McCann. Included in the profile were some suggested interrogation techniques that they recommended using if Mr. McCann was arrested.

Superintendent Woods prepared an affidavit to be used in obtaining a search warrant for the McCann residence. Based on the documents that Constable Long sent him, he provided the following opinion about Mr. McCann in support of a search warrant:

> [A] collector of child pornography and has a sexual preference for adolescent aged boys, commonly referred to as a hebophile, based on the following:
>
> That it has been my experience and training that individuals who are preferential child molesters, are often ritualistic in that they keep or collect various items which reveal both their criminal and non-criminal sexual activities. These items are referred to as collateral materials and while they do not directly associate a person to a particular crime, they do provide authorities with information and insight into the sexual preferences, interests or hobbies of a person.[170]

In describing the type of materials that might be collected and their classification, Superintendent Woods described possible hiding places that "a preferential child molester" might use to conceal his "collateral material." In his opinion, Mr. McCann would be considered an "isolated collector."[171]

> That the *isolated collector* will often obtain the same materials as the closet collector, however also engages in the molestation of children. This subject will often collect pictures of those victims that have been molested.[172]

Superintendent Woods described the following typical hiding places:

> That for the reasons as stated in this affidavit, Clifford McCANN will have in his possession other child pornography and/or collateral materials, supportive evidence of his fantasies involving adolescent boys, and that the location where collections of this nature are hidden or stored will be dependent on the living arrangements of the individual. If living alone or with people that are aware of his interest in collecting child pornography and/or erotica, the collection will tend to be less concealed. When living with other family members who are not aware of the collector's interests, the collection will typically be better concealed behind false panels, in duct work, under insulation in attic etc. Typically the collection is within the subject's residence for easy and ready access or may be hidden away in an area that is under the control of the collector, such as an automobile, safety deposit box, outbuilding or rented storage locker. In the case of individuals who have an interest and ability to use computers and have access to internet, their collections would likely be found on their computer hard drives and or disks.[173]

Corporal Nezan provided suggestions of interrogation techniques for the profile they were creating of Mr. McCann:

1. One interrogator at a time, as it is harder for a person to confess to two people.
2. Experienced English-speaking male, preferably of an equal rank to McCann.
3. Should be "old-school mountie" to "old-school mountie," showing respect.
4. Create an aura of understanding, a non-judgmental approach.[174]

It was also suggested that his family be interviewed after his arrest. In her interview with the CPC, retired Constable Long said that she wanted to interview the children but that Staff Sergeant Dunphy would not allow them to do so.

During his interview with the CPC, Sergeant St. Onge said that Staff Sergeant Dunphy was to have started the interrogation, but at the last minute he decided not to do it and, as a result, he took the lead. The CPC asked retired Staff Sergeant Dunphy why the techniques that had been recommended were not followed:

> I do know that we took special, or not special, we took precautions to, not precautions, … we made an effort to treat him no worse or no better than anybody else.[175] … no I don't think there was any, there, obviously … well you were going to do the … you'll do the arrest for this reason, and you'll do this, for this reason and … whatever else. I don't know. … guess maybe I forgot about the …, about that suggestion. … that's a possibility. … possibility I discounted it. Don't know. …[176]

It appears that the suggestions made by the Behavioural Science Branch were underutilized.

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1 Witness statement of *B. Lewis* taken by S/Sgt. Ouellette and Sgt. Dunphy, 20 January 1998.

2 Officer notes, Cst. Cole, 25 August 1998.

3 Continuation Report, Cst. Cole, 11 September 1998.

4 Continuation Report, Cst. Cole, 14 September 1998.

5 Officer notes, Cst. Cole, 13 November 1998.

6 Officer notes, Cst. Cole, 25 January 2000.

7 Officer notes, Supt. Seguin, 4 February 2000.

8 Continuation Report, Insp. Smith, 8 February 2000.

9 E-mail to S/Sgt. Ouelette and Cpl. Delaney-Smith from Insp. Smith, 29 March 2000.

10 E-mail to *B. Lewis* from Insp. Smith, 28 March 2000.

11 Officer notes, Cst. Houle, 31 March 2000.

12 Memorandum to Insp. Williams from S/Sgt. Dunphy, 15 January 2001.

13 Memorandum to CO "K" Division OIC CROPS Branch from Supt. Payne, 16 January 2001.

14 Witness statement of *B. Lewis* taken by Cst. Kaiser, 20 February 2001.

15 Memorandum to OIC OSS from S/Sgt. Dunphy, 4 May 2001.

16 Investigation Report, S/Sgt. Dunphy, 6 June 2001.

17 Transit Slip to S/Sgt. Dunphy from Insp. Smith, 11 June 2001.

18 Continuation Report, S/Sgt. Dunphy, 20 June 2001.

19 Ibid.

20 E-mail to Cst. Gervais from Cst. Rogers, 22 August 2001.

[21] Investigation Report, S/Sgt. Dunphy, 24 September 2001.
[22] Letter to *B. Lewis* from S/Sgt. Dunphy, 30 October 2001.
[23] Continuation Report, Cst. Gervais, 29 November 2001.
[24] Letter to S/Sgt. Dunphy from K. Connell, 30 January 2003.
[25] Memorandum to K. Connell from Cst. Long, 4 April 2003.
[26] Letter to Insp. Skead from C. Gauthier, 2 June 2000.
[27] Transit Slip to Sgt. Eaton from Cst. Chamberland, 20 June 2000.
[28] Continuation Report, Cst. Cyr, 8 December 2003.
[29] Continuation Report, Cst. Rogers, 9 June 2004.
[30] Transit Slip to Supt. Nugent from S/Sgt. Dunphy, 21 June 2004.
[31] Continuation Report, Cst. McAnany, 30 March 1993.
[32] Memorandum to Insp. Williams from S/Sgt. Dunphy, 15 January 2001.
[33] Witness statement of *D. Wright* taken by Cst. Kaiser, 9 February 2001.
[34] Memorandum to OIC OSS from S/Sgt. Dunphy, 4 May 2001.
[35] Continuation Report, Cpl. Delaney-Smith, 24 May 2001.
[36] Investigation Report, S/Sgt. Dunphy, 6 June 2001.
[37] Continuation Report, S/Sgt. Dunphy, 6 July 2001; 13 July 2001; Witness statement of *D. Wright* taken by S/Sgt. Dunphy, 13 July 2001.
[38] Continuation Report, S/Sgt. Dunphy, 13 July 2001.
[39] Continuation Report, Cst. Rogers, 30 October 2001.
[40] Continuation Report, Cst. Long, 30 September 2001.
[41] Order for Access to Youth Records, Cst. Gervais, 23 October 2001.
[42] Continuation Report, Cpl. Vallis, 24 October 2001.
[43] Continuation Report, Cst. Rogers, 30 October 2001.
[44] Officer notes, S/Sgt. Dunphy, 13 January 2002.
[45] CPC interview notes of K. Connell, 18 April 2007.
[46] Witness statement of *Z. Alton* taken by Cpl. Vallis, 25 January 2002.
[47] Continuation Report, Cpl. Vallis, 25 January 2002.
[48] Ibid.
[49] E-mail to investigation team from Cst. Rogers, 5 February 2002; 12 February 2002; 18 February 2002; 25 February 2002.
[50] Letter to S/Sgt. Dunphy from K. Connell, 30 January 2003.
[51] Letter to S/Sgt. Dunphy from K. Connell, 21 August 2003.
[52] Ibid., p. 2.
[53] Ibid.
[54] Ibid.
[55] Ibid., p. 3.
[56] Ibid., p. 5.
[57] Ibid., p. 7.
[58] Ibid.
[59] Persons Report, Cst. McAnany, 7 December 1992.
[60] Examination for discovery of *J. Brown*, 7 October 1999, p. 48–49.
[61] Continuation Report, Insp. Smith, 10 February 2000.

[62] Memorandum to Cst. Cole from Sgt. Eaton, 7 March 2000.
[63] Continuation Report, Cpl. Delaney-Smith, 15 June 2000.
[64] Continuation Report, Cpl. Delaney-Smith, 23 May 2001.
[65] Continuation Report, Cpl. Delaney-Smith, 24 May 2001.
[66] Continuation Report, S/Sgt. Dunphy, 28 June 2001.
[67] Continuation Report, S/Sgt. Dunphy, 6 July 2001.
[68] Ibid.
[69] Witness statement of *J. Brown* taken by S/Sgt. Dunphy, 23 August 2001.
[70] Order for Access to Youth Records, Cst. Gervais, 23 October 2001.
[71] Continuation Report, Cpl. Vallis,16 November 2001.
[72] Letter to S/Sgt. Dunphy from K. Connell, 16 October 2003.
[73] Ibid., pp. 1–3.
[74] Ibid., p. 4.
[75] Ibid., p. 6.
[76] Ibid., p. 7.
[77] Witness statement of *M. Minto* taken by Cst. McAnany, 7 February 1992.
[78] Continuation Report, Cst. McAnany, 23 March 1993.
[79] Continuation Report, Cst. McAnany; Information of Cst. McAnany, 22 October 1993.
[80] Letter to Sgt. Lockhart from G. Abbott, 29 October 1993.
[81] Continuation Report, Cst. Evans, 17 December 1993.
[82] Continuation Report, Sgt. Lockhart, 24 January 1994.
[83] Continuation Report, Cst. Cole, 13 February 1998.
[84] Continuation Report, Cpl. Delaney-Smith, 9 June 2000.
[85] Continuation Report, Cpl. Delaney-Smith, 11 January 2001.
[86] Continuation Report, Cst. Long, 21 January 2001; 28 January 2001.
[87] Memorandum to CO “E” Division OIC CROPS Branch from S/Sgt. Dunphy, 22 January 2001.
[88] E-mail to Cpl. Delaney-Smith from Cpl. Durand, 21 February 2001.
[89] Witness statement of *P. Charbonneau* taken by Cpl. Durand, 25 May 2001.
[90] E-mail to Cpl. Delaney-Smith from Cpl. Durand and J. Anderson, 31 March 2001; 26 April 2001.
[91] Investigation Report, S/Sgt. Dunphy, 6 June 2001.
[92] Ibid.
[93] Ibid., p. 3.
[94] E-mail to Cst. Rogers from Cpl. Durand, 15 June 2001.
[95] Continuation Report, Cpl. Durand, 21 June 2001.
[96] Ibid., p. 5.
[97] Ibid., p. 6.
[98] Ibid., p. 9.
[99] Witness statement of *P. Charbonneau* taken by Cst. Long and Cst. D. Potvin, 1 May 2002.
[100] E-mail to Cst. Long from Cst. Lomond, 14 April 2003.
[101] Officer notes, Cpl. Delaney-Smith, 11 September 2002.
[102] Letter to S/Sgt. Dunphy from K. Connell, 30 January 2003.
[103] Memorandum to K. Connell from Cst. Long, 4 April 2003.

[104] Facsimile to S/Sgt. Dunphy from K. Connell, 23 May 2003.
[105] Letter to *P. Charbonneau* from S/Sgt. Dunphy, 13 November 2003.
[106] Letter to S/Sgt. Dunphy from K. Connell, 18 July 2003.
[107] Ibid., p. 2.
[108] Ibid.
[109] Ibid.
[110] Ibid., p. 3.
[111] Ibid., p.4.
[112] Ibid., p. 4.
[113] Ibid., p. 7.
[114] Ibid., p. 8.
[115] Miller Inquiry, Testimony of K. Toft, 9 September 1994.
[116] Affidavit of *M. Roy*, 29 August 1996.
[117] Statement of *M. Roy*, 29 August 1996.
[118] Compensation release form of *M. Roy*, 21 November 1997.
[119] Witness statement of *B. Lewis* taken by Sgt. Dunphy and S/Sgt. Ouellette, 20 January 1998.
[120] Statement of *D. Wright*, 2 March 1998.
[121] Continuation Report, Cpl. Delaney-Smith, 15 June 2000.
[122] Continuation Report, Cst. Rogers, 4 June 2001.
[123] E-mail to investigation team from Cst. Rogers, 22 August 2001.
[124] Investigation Report, S/Sgt. Dunphy and Cst. Rogers, 24 September 2001.
[125] Continuation Report, Cst. Potvin, 12 October 2001.
[126] Continuation Report, Cst. Potvin, 10 December 2001; 12 December 2001.
[127] Continuation Report, Cpl. Vallis, 23 January 2002.
[128] Witness statement of *S. Clifton* taken by Cst. Long and Cpl. Vallis, 6 March 2002.
[129] Continuation Report, Cst. Long, 18 September 2002; 19 September 2002; 23 September 2002.
[130] Continuation Report, Cst. Long, 6 November 2002.
[131] Letter to S/Sgt. Dunphy from K. Connell, 21 October 2003.
[132] Ibid., p. 4.
[133] Ibid., pp. 6–7.
[134] Ibid., p. 8.
[135] Witness statement of *D. Parsons* taken by Cst. Peel, 9 October 1991.
[136] Continuation Report, Cst. Evans, 18 December 1992.
[137] Continuation Report, Sgt. Lockhart, 20 May 1993.
[138] Continuation Report, Sgt. Lockhart, 18 January 1994.
[139] Continuation Report, Cst. D. Potvin, 2 November 2001.
[140] E-mail to Cpl. Vallis from Cst. R. Carniato, 5 March 2002.
[141] Continuation Report, Cst. Long, 18 March 2002.
[142] E-mail to Cst. Merrill from Cst. Long, 26 March 2002.
[143] Witness statement of *D. Parsons* taken by Cpl. Vallis, 13 April 2002; Witness statement of *T. Brady* taken by Cpl. Vallis, 13 April 2002.
[144] E-mail to R. Carniato from Cpl. Vallis, 17 April 2002.

145 E-mail to Cpl. Vallis from R. Carniato, 25 April 2002.
146 Memorandum to K. Connell from Cst. Long, 4 April 2003.
147 Letter to S/Sgt. Dunphy from K. Connell, 18 July 2003.
148 Ibid., pp. 4–5.
149 Ibid., p. 4.
150 Ibid.
151 Police Report, T. Kelly and Cst. Reilly, 3 July 1991.
152 Investigation Report, Cpl. Brennan, 2 August 1991; Persons Report, Cpl. Brennan, 16 July 1991.
153 Witness statement of *E. Badger* taken by Cst. McAnany, 12 February 1992.
154 Letter to Whom It May Concern from *C. Fanshaw*, 14 December 1995.
155 Continuation Report, Cpl. Vallis, 17 January 2002; 29 January 2002.
156 Officer notes, Cst. D. Potvin, 19 February 2002.
157 Witness statement of *S. Higgins* taken by Cst. Long, 6 March 2002.
158 Letter to S/Sgt. Dunphy from K. Connell, 18 September 2003.
159 Ibid., p. 2.
160 Ibid.
161 Ibid., p. 3.
162 Ibid.
163 Ibid., p. 4.
164 Ibid.
165 Ibid.
166 Ibid., p. 5.
167 CPC interview notes of K. Connell, 18 April 2007.
168 Transcripts, CPC interview of D. Dunphy, 27 October 2006, p. 22.
169 Ibid., p. 54.
170 Affidavit of Supt. Woods, undated.
171 Ibid., p. 5.
172 Ibid., p. 4.
173 Ibid., p. 5.
174 Interrogation Strategies for Clifford McCann, Cpl. Nezan, undated.
175 Transcripts, CPC interview of D. Dunphy, 27 October 2006, p. 53.
176 Ibid., pp. 53–54.

15. Concerns with the McCann Investigations

This chapter highlights five specific incidents which occurred during the RCMP's two investigations into allegations against Staff Sergeant Clifford McCann. Examples of the conduct of the RCMP regarding these specific incidents are germane to an important part of responding to the allegations of cover-up and inadequate investigation into the complaints against Staff Sergeant McCann.

In examining these incidents, the CPC attempted to locate and interview everyone involved, including members of the RCMP who served at Riverview Detachment prior to, during or shortly after the RCMP's investigation into Staff Sergeant McCann. The CPC interviewed the New Brunswick Assistant Crown counsel, who prosecuted the attempted murder (see Section 15.3), one senior officer, nine non-commissioned officers (NCOs), 17 constables, three civilian members and the victim. Retired Corporal Dan Arnett, an NCO, declined to be interviewed despite repeated requests. Two RCMP members, both retired NCOs, agreed to be interviewed as long as the interview would not be audiotaped. A serving constable also agreed to an interview but refused to have the interview audiotaped.

15.1 Investigations into Staff Sergeant McCann

The CPC examined the following five incidents that occurred during the RCMP investigations into Staff Sergeant McCann:

1. Transfer of Staff Sergeant McCann from Riverview Detachment back to "J" Division Headquarters in Fredericton in June 1992.
2. The disappearance of photographs seized from the home of an attempted murder victim that occurred in Riverview, New Brunswick, on 1 March 1990. The case was investigated by RCMP members from the Riverview Detachment where Staff Sergeant McCann was the Detachment Commander from September 1987 until June 1992. Some of the photographs allegedly depicted members of a hockey team involved in acts of a sexual nature; one person interviewed alleged that Staff Sergeant McCann was in one of the pictures.
3. A rumour circulating during Sergeant Doug Lockhart's investigation of Staff Sergeant McCann in 1993 that Staff Sergeant McCann had been caught in a washroom at a hockey arena in a compromising situation with a young hockey player.
4. A meeting between Sergeant Lockhart and Staff Sergeant McCann on 12 March 1992.
5. An interview with Mr. McCann conducted by Constable Pat Cole and Staff Sergeant Jacques Ouellette on 29 October 1998 at the McCann residence.

15.2 Transfer of Staff Sergeant McCann

In light of the fact that Staff Sergeant McCann's transfer from Riverview Detachment back to RCMP "J" Division Headquarters in Fredericton came when there was an ongoing criminal investigation into the NBTS,

the CPC conducted a closer examination of the process surrounding his transfer. This examination included interviews with the senior officers involved in the decision-making process and an examination of documents from Staff Sergeant McCann's service file.

15.2.1 Reputation in "O" Division

In a Personnel Interview Report dated 15 December 1971, Inspector G. A. Scott stated that then-Corporal McCann, who was in charge of the National Criminal Intelligence Unit (NCIU) working out of Hamilton, Ontario ("O" Division), was experiencing some difficulties with the Hamilton city police officer in charge of the vice squad. He further explained that the issues were a matter of record and that the difficulties were not seriously affecting his work.[1]

The CPC was able to contact Ray Vassalo, a former peer of Mr. McCann's in "O" Division. Mr. Vassalo said he was shocked when he heard about the NBTS allegations against Mr. McCann and could not believe them. One of Mr. McCann's previous supervisors from "O" Division, retired Staff Sergeant Peter Pallister, also expressed shock when he heard of the allegations.

The CPC attempted to locate retired members of the Hamilton police force's vice squad from the 1970s, but were informed that the two vice-squad officers who would be most likely able to assist in this query were now deceased.

A review of Mr. McCann's service record did not reveal any factual reason to suspect that he may have been involved in questionable activities. Prior to his promotion and transfer, his Commanding Officer (CO) in "O" Division, Assistant Commissioner H. P. Tadeson, stated that "I would regret losing Sgt. McCANN's services but would not stand in the way of a promotional transfer if a better candidate cannot be found in another Division for the "J" Division position" [2] Other senior officers in "O" Division made similar comments in the same Personnel Interview Report.

However, during an interview with the CPC, Constable Kathy Long (now retired) acknowledged she had heard a rumour when she was working in "J" Division that Staff Sergeant McCann was coming out of Ontario "under a cloud." This was the first time the CPC heard of this. She could not recall from whom, when or in what context she heard the rumour.

The CPC has reviewed all relevant documents and interview transcripts regarding this rumour and could find no evidence that would corroborate the rumour or other information that would make the rumour relevant to the allegations related to the Kingsclear investigation.

15.2.2 From Riverview Detachment to Headquarters

Staff Sergeant McCann's transfer back to RCMP "J" Division Headquarters is first mentioned in a document dated 3 January 1992 by Inspector Peter J. Miller, "J" Division Staffing and Personnel Officer. One of the recommendations was "[t]hat S/Sgt. MCCANN be transferred out of Riverview in the spring/summer of 1992 …" and was signed off by Superintendent Al Rivard, OC Moncton Subdivision on 15 January 1992, and by the CO of "J" Division, Chief Superintendent Herman Beaulac, on 17 January 1992.[3]

The actual transfer document (Transfer Form A22A), which was signed by both Staff Sergeant McCann and Superintendent Rivard, had the transfer destination box whited out with correction fluid. According to the transfer form, Staff Sergeant McCann was originally slated to be transferred to the Criminal Operations

(CROPS) Readers position[4], where he would come under the supervision of the CROPS Officer, Superintendent Giuliano Zaccardelli.[5]

The CPC interviewed three retired officers who worked in Staffing and Personnel during the time of Staff Sergeant McCann's transfer both to and from Riverview Detachment to determine if there was any significance to the alteration on the transfer form. The CPC also spoke with former Commissioner Zaccardelli about any involvement he may have had with the transfer, especially in light of Constable Long's comments that Superintendent Rivard told her that he had two conversations with Superintendent Zaccardelli about Staff Sergeant McCann.

15.2.3 Former Commissioner Giuliano Zaccardelli

The CPC discussed the issue of Staff Sergeant McCann's transfer with Mr. Zaccardelli, focusing on the procedure that would have been followed and whether the CROPS Officer would have or could have any say about it. Mr. Zaccardelli explained that if Staff Sergeant McCann had been under his direct command he would have had the authority to recommend a transfer. However, he would have to go through the Staffing and Personnel office and communicate his reasons for requesting the transfer to the CO, who would ultimately have to authorize it.

> [A]nd, in terms of his transfer, I did not know about it. I wasn't involved with it. I was not asked for my input into that. But that is not, that would be the normal thing because I wouldn't be involved in, you know, obviously, either Rivard and the Personnel Officer and the CO [Commanding Officer] would have dealt with that. I would have nothing to do. They never came to me and said, "Well, you know, what can we do here with this guy given the allegation." There was no discussion about the allegations. The CO obviously knew and, you know, so I'm surprised that, if Al Rivard says that he was not aware or apprised, like, this was, there was clearly knowledge, a clear knowledge at the senior levels.[6]

Mr. Zaccardelli was asked about a Continuation Report dated 20 March 2002 in which Constable Long wrote that Superintendent Rivard had told her his notebook entries indicated he had two conversations with Superintendent Zaccardelli about Mr. McCann in May 1992.[7] Mr. Zaccardelli told the CPC that he did not recall Superintendent Rivard ever coming to him with any issues involving Staff Sergeant McCann. He explained that Superintendent Rivard thought that he (Rivard) should have been the CROPS Officer. As a result, unless there had to be direct contact between his command and the CROPS office, Superintendent Rivard tended to avoid him. He also found it odd that Constable Long would say he had met with Superintendent Rivard as he had no recollection of any such meeting. He said that if Superintendent Rivard had met him in relation to the investigation of Staff Sergeant McCann, he would certainly remember. In his explanation of Constable Long's Continuation Report, he stated that

> referring to … the briefing note from Kathy Long. You know, I have no idea what this is about. Remember what I just said; he was in charge of Riverview Detachment. He reported to Superintendent Rivard. What I'm—you know, because he doesn't go into specifics here. Clearly, in my view, Rivard is upset. I got the impression Rivard is upset with how McCann is running the detachment. That's what he's frustrated with and, when he said he had any conversation with me, it could not have been in relation to what to do with him in terms of being in charge of the detachment because I would have no authority to do that.

> I did not have authority to intervene with Personnel, movement of people. I mean, I could make recommendations and so on because, in the structure, he would have to go, because he was responsible for McCann, he would have to go to the Commanding Officer and then talk to the officer in charge of Personnel whether or not he should be moved. He's clearly unhappy with him here. That's what I'm getting here, because he's got, the number two guys actually doing everything. But, so that's the only thing, but I can tell you there never was, I do not have any recollection of a conversation with Al Rivard where he said to me, "I'm concerned about McCann" and the concerns could be, obviously, of many things.
>
> But if we look at the two possible ones, first, "I want him moved because he's not managing well." I have never had any recollection of that and he certainly never said anything to me about "This guy is a potential suspect or I'm concerned about his behavior with kids" because that would have, again, absolutely then I would have remembered and I would have clearly directed that something… Absolutely, that never took place but I can tell from here what he's actually, what he's talking about. And there was never any follow-up. I never saw any documents that came in from Al Rivard about this. I never had the Commanding Officer, Herman Beaulac, never called me and said, "Look, we've got a problem. How are you dealing with this?" Remember, because it is only—if you notice from the correspondence, the issue of the allegations of his conduct with some of the inmates got to Herman Beaulac by me, not the other way around. So clearly, he probably didn't get any information from Al Rivard. I didn't get anything from the Staffing Officer, the Personnel Officer who at times would come to me and say, "Look, we've got a problem. Where do you think we could put him?" I never had anything like that. So I was surprised when I saw this and I don't know where Al Rivard is coming from.[8]

15.2.4 Retired Inspector Ken Kerr

The CPC spoke with several retired officers in Staffing and Personnel in reference to the transfer document and the process involved in transferring officers. They were able to explain what the document was used for, who had access to it and who had the final say in transferring individual officers.

Ken Kerr, whose name appears on Staff Sergeant McCann's Personnel Interview Reports, was interviewed on 9 May 2006, in Fredericton, New Brunswick. He said he remembered Staff Sergeant McCann but only through his involvement in the personnel interview process, which was performed every three to five years for all members. He recalled having to convince Staff Sergeant McCann to accept the transfer to Riverview Detachment in 1987, which he said came about after an audit of the Criminal Investigation Bureau. The audit, a routine police practice, identified certain people who had been in positions for too long.

He explained that the Staffing and Personnel section generally has the final say on transfers and that a Subdivision OIC cannot change the destination of a member's transfer. Inspector Kerr said that if there had been a concern on the part of the Subdivision OIC or anyone else for that matter, his section would listen to the concerns and make the appropriate decision. He also said that only Staffing and Personnel could make alterations to the transfer form (A22A).

After being shown the altered destination box on Staff Sergeant McCann's transfer form, Mr. Kerr said that from time to time, a change like that would occur but insisted it would have been done by someone in Staffing and Personnel, a section that reports directly to the CO. Normally, he said, a new transfer document (A22A)

would generally be completed. Because he retired in 1988, he did not have anything to do with Staff Sergeant McCann's transfer back to "J" Division Headquarters in 1992.

15.2.5 Retired Staff Sergeant Larry Cochrane

The CPC interviewed Larry Cochrane on 9 May 2006, in Fredericton, New Brunswick. He worked in Staffing and Personnel during Staff Sergeant McCann's time and was asked the same questions in relation to the transfer form. His explanation corroborated that of Inspector Kerr.

Mr. Cochrane was shown Staff Sergeant McCann's transfer document. He indicated that a change of transfer destination was not unusual but the way Staff Sergeant McCann's document was altered was "not normal" and "it would not be a common occurrence. I mean, you're dealing with something pretty serious when you're dealing with transfers. But it's not normal, put it that way."[9]

He said that he was in Staffing and Personnel during the time of Staff Sergeant McCann's transfer but did not remember the transfer specifically. He was adamant that no one other than Staffing and Personnel would be allowed, or have the authority to make a destination change, especially not Staff Sergeant McCann or Superintendent Rivard.

15.2.6 Assistant Commissioner Peter Miller

In an audiotaped interview with the CPC, Peter Miller confirmed that he was involved in Staff Sergeant McCann's transfer back to "J" Division Headquarters in 1992. He recalled that upon his arrival at RCMP "J" Division Headquarters as Assistant Staffing and Personnel Officer in the fall of 1989, the CO, Denis Farrell, had tasked him with auditing all of the staff sergeant positions in "J" Division to move incumbents and get some new blood into the positions. He said that Staff Sergeant McCann was moved from Riverview Detachment to Fredericton Headquarters as his was one of about ten members who were in positions that were identified and considered for movement to another posting. He said that at no time during his tenure in the Staffing and Personnel Section was he informed that Staff Sergeant McCann was the subject of a criminal investigation.

15.3 The Missing Pictures

On 1 March 1990, a 42-year-old male had been returning home from a night out in Moncton, New Brunswick, and had driven his vehicle around an area known to be frequented by homosexuals. He stopped on Main Street in Moncton to pick up a male person whom he had seen before, and who he thought was alone. When he stopped to pick up the individual, a second male appeared from some nearby bushes and both males got into his vehicle.

The two males wanted to be driven to a secluded area; however, the trio eventually went to the driver's home in Riverview, where the men attempted to murder him. It was approximately 11:30 p.m. The attempted murder victim managed to escape to a neighbour's house and called the RCMP. Constables Pat Hill and Luc Thibault from the RCMP Riverview Detachment attended the scene.

A short while later two male persons in their late teens were arrested by the Moncton City Police and subsequently charged with various offences, including attempted murder. According to court documents

obtained from the Fredericton office of the New Brunswick Attorney General's Crown counsel, both accused persons eventually pled guilty in court to lesser charges, including aggravated assault.

During an interview with RCMP investigator Constable Robert Rochon, the attempted murder victim acknowledged that he had stopped to pick up the lone male for a sexual encounter. His admission about his sexual orientation came about only after Constable Rochon produced Polaroid pictures of a sexual nature that had been seized from his house. Although this incident is not directly related to the NBTS, the CPC examined the investigation because the photographs, which were alleged to include a picture of Staff Sergeant McCann, had disappeared.

15.3.1 Investigation by the CPC

The missing photographs did not surface as an issue requiring investigation until 1992, when Sergeant Lockhart was already investigating Staff Sergeant McCann. As mentioned above, the RCMP had seized a number of Polaroid photographs of a sexual nature from the attempted murder victim's residence in 1990. It was alleged by Corporal Claude Tremblay of Riverview Detachment that Staff Sergeant McCann was in one of the pictures seized. These photographs disappeared some time later and, to this date, no one has been able to account for their disappearance.

Constables Hill, Thibault and Roger Cameron, as well as Corporal Arnett, the shift supervisor, attended the scene of the attempted murder. The morning after the murder attempt, Corporal Arnett assigned Constable Rochon as the investigator in charge of the case. The description of the photographs varied depending on who was being interviewed. Descriptions ranged from photos of young hockey players posing in the nude to graphic photos of young males in various sexual positions. Only one officer said he saw a picture of Staff Sergeant McCann with three young males in various states of undress but that they were between 17 and 19 years of age. Every other officer who was interviewed and admitted to having seen the photographs said the young males appeared to be 16 to 19 years of age. The other exception was retired Staff Sergeant Bill Burrows, who said that the age range may have been 13 to 15.

The CPC interviewed 31 people who had worked at Riverview Detachment before, during and after the attempted murder investigation, as well as the Assistant Crown counsel who was responsible for prosecuting the two teens who had been charged with the crime. Summaries of the interviews with the officers who were identified as having some knowledge of the pictures in question are provided here. The CPC considers these summaries to be the most relevant for determining the validity and extent of the allegations of a cover-up to protect Staff Sergeant McCann and the adequacy of the RCMP investigations.

1. Corporal Pat Hill Interview (24 July 2006)

Corporal Pat Hill was interviewed by the CPC in Montréal, Quebec. He was a constable at Riverview Detachment at the time and remembered responding to the scene at approximately 11:30 p.m. He had been working the afternoon shift and remembered that the incident happened towards the end of his shift. He did not recall whether Constable Thibault travelled with him to the scene or if they went in separate vehicles but he did remember Constable Thibault being there. He stated that, once at the scene, he realized it was a more serious incident than originally thought and requested a more senior officer to attend. Constable Cameron attended at the scene to assist. Corporal Hill did not remember if Corporal Arnett was at the scene but did recall that Corporal Arnett was the shift supervisor on duty that night.

Corporal Hill recalled searching the house for suspects and remembered seeing a picture of a young male lying on a bed; he was wearing blue underwear and had an erection. He recalled there being more than one picture but he did not see any pictures with Staff Sergeant McCann in them.

2. Constable Luc Thibault Interview (27 June 2006)

Constable Luc Thibault was interviewed by the CPC in Fredericton, New Brunswick. He remembered the attempted murder incident and stated that, to the best of his recollection, he did attend the scene with Corporal Hill. He searched the house for suspects and recalled that while searching the master bedroom, he saw a photograph of a nude male lying on a bed or sofa. He did not recall if he was shown the picture by someone or if he came across the picture himself. He said that he later heard rumours that there were several pictures but recalled seeing only one. He did not remember if Corporal Arnett was at the scene or whether, at a later time, he saw any photographs on Corporal Arnett's desk.

Constable Thibeault said he did not see any picture of Staff Sergeant McCann.

3. Sergeant Roger Cameron Interview (17 July 2006)

Sergeant Roger Cameron was interviewed by the CPC at CPC headquarters in Ottawa, Ontario. He was posted at Riverview Detachment as a constable from the fall of 1989 until February 1991. He said that prior to being transferred to Riverview Detachment he knew of Staff Sergeant McCann by name only.

Sergeant Cameron stated that on 1 March 1990 he was working the afternoon shift from 4:00 p.m. until 12:00 a.m. and recalled being summoned to the attempted murder scene, as he was the senior constable on the shift. He said that Corporal Arnett was the shift supervisor and was working that evening but he did not recall him going to the scene that night.

Sergeant Cameron did not recall seeing any photographs at the scene. However, when he returned the following day with Constable Rochon, who had been assigned as the investigator, he recalled seeing some Polaroid photographs. He said the pictures were of the attempted murder victim in the nude and appeared to have been taken by himself while in front of a mirror. He said he did not recall seeing any photographs of any young boys or women, and said he did not see any picture of Staff Sergeant McCann.

Sergeant Cameron told the CPC that he did not recall ever seeing the photographs on anyone's desk at the Detachment or ever hearing any rumours that Staff Sergeant McCann was in any of the pictures. Although he attended the preliminary hearing of the two teens charged with attempted murder, he did not have any recollection of Staff Sergeant McCann being in attendance during the preliminary hearing.

4. Retired Sergeant Cy Doucette Interview (16 March 2006)

Cy Doucette was interviewed by the CPC in Moncton, New Brunswick. The CPC did not audiotape the interview, as requested by Mr. Doucette; however, notes were taken of the conversation.

Mr. Doucette stated that he was transferred to the Riverview Detachment in 1984 and remained there until July 1991. Staff Sergeant McCann was in charge of the Detachment at the time Mr. Doucette was transferred out. He said that he met Staff Sergeant McCann some years prior to being posted to Riverview Detachment when they were both working at the previous "J" Division Headquarters building on Woodstock Road.

Mr. Doucette told the CPC that during his time at RCMP "J" Division Headquarters, he had instituted a community policing initiative that involved the NBTS. The police initiative, which was sanctioned by the

CO of "J" Division and the superintendent of the school, encouraged officers to become involved in sporting programs in the community. Although he could not recall the year, he remembered Staff Sergeant McCann telling him on one occasion that he was taking boys out from the NBTS. Because the community policing initiative was in place, he did not think anything of it.

During his time at Riverview, Mr. Doucette was the second-in-command (2i/c) and he had three corporals reporting to him. He thought they would have been Corporals Bill Trewin, Dan Arnett and Rolly McNeil; however, he was not sure in what order they might have served there. Originally, he was the exhibit custodian and was responsible for the bond room where the exhibits were stored. However, he believed that some time prior to 1990, Staff Sergeant McCann, as Detachment Commander, reassigned bond room duty to Corporal Arnett. He was positive he was not in charge of the bond room during the attempted murder investigation.

He remembered seeing a Polaroid picture of a nude male hockey player with an erection. When pressed, he said that Staff Sergeant McCann, the NCO-in-charge, looked at the pictures and must have told him he was a hockey player. He did not remember how or when the discussion took place. He said he did not see any picture with Staff Sergeant McCann.

He described the procedure for storing exhibits and said that, aside from the person in charge of the bond room, the only other person who would likely have had a key for the bond room was the Detachment Commander, in this case, Staff Sergeant McCann.

He said that during his time at the Riverview Detachment he had heard rumours about Staff Sergeant McCann but did not have any personal knowledge that would assist in validating or negating these rumours. He said Staff Sergeant McCann did take a special interest in the sexual assault files. He maintained that he had no knowledge of what could have happened to the pictures.

5. Second Interview—Retired Sergeant Cy Doucette (1 August 2006)

At the time of Mr. Doucette's first interview with the CPC, it was thought that the attempted murder file had been purged. As a result, the CPC could not verify certain aspects of his interview. Once it was determined that the file had not been destroyed and the CPC was able to obtain and review the file, a second interview was conducted with Mr. Doucette to clarify some of his earlier responses.

The CPC re-interviewed Mr. Doucette on 1 August 2006 to try and ascertain whom the exhibit custodian was at the time of the investigation into the attempted murder in March 1990. After being shown exhibit reports on which his signature appeared as the exhibit custodian, Mr. Doucette said he was obviously mistaken in his earlier claim that one of the corporals had been assigned the duty.

In addition to identifying his signature on the exhibit forms, Mr. Doucette described, to the best of his recollection, the procedure he followed for storing exhibits. He told the CPC that he could not remember if he would lock the key to the bond room in the vault in the Staff Sergeant 's office or keep it with him on his personal key ring. He said that no one other than the bond room custodian would have access to the room. He could not remember if Staff Sergeant McCann had a key or not, but said there was usually a spare key kept in the safe in the office of the Detachment Commander, who at the time, was Staff Sergeant McCann.

He was adamant that he had seen only one Polaroid picture of a nude male with an erection and thought that it was the day after the attempted murder. He remembered seeing it on a desk in the bullpen, the office where constables complete their paperwork. He did not recall seeing it again.

6. Retired Staff Sergeant Bill Burrows Interview (15 March 2006)

Bill Burrows was interviewed by the CPC on 15 March 2006, in Moncton, New Brunswick. He stated that from November 1988 to 17 September 1990, he was a section NCO for the southern part of Moncton Subdivision, which included Riverview Detachment. His responsibilities included conducting annual audits of all the detachments in the southern half of the subdivision to ensure operational efficiency. He remained in this position until he was assigned to a new position as Moncton Subdivision NCO, in September 1990.

He recalled that, sometime prior to his assignment in September 1990, he was sitting in Staff Sergeant McCann's office at Riverview Detachment conducting an audit, when he came across three photographs, which may have been Polaroid pictures. He said that the young males in the pictures were dressed in their underwear and their ages ranged from 13 to 15 years. He did not recall if the pictures were in Staff Sergeant McCann's desk drawer or if they were in a file he was auditing during this visit.

While he was looking at the pictures, Staff Sergeant McCann came into the office. When asked about the pictures, Staff Sergeant McCann said that they should not have been there and took the pictures from him. He did not recall ever hearing about the attempted murder incident and did not recall auditing a file at Riverview Detachment involving an offence of attempted murder.

Mr. Burrows was asked to identify a written statement about his knowledge of the missing pictures that he had given to Constables Long and Denise Potvin on 13 March 2002.[10] He said he did not write the statement but he had read and signed it at the time of the interview. He told the CPC he had heard rumours about Staff Sergeant McCann's sexual orientation but had refused to discuss them, as he did not deal in rumours. He had no specific information to offer about Staff Sergeant McCann's involvement with either the NBTS or minor hockey.

He said Superintendent Rivard did not inform him of everything that was occurring within the division and that at no time while he was in the position of subdivision NCO was he made aware that there was a criminal investigation being conducted into Staff Sergeant McCann. He said his transfer to replace Staff Sergeant McCann[11] at Riverview Detachment in June 1992 came as a complete surprise to him.

7. Second Interview—Retired Staff Sergeant Bill Burrows (1 August 2006)

Mr. Burrows was re-interviewed on 1 August 2006. He had been asked to verify the dates of his postings so he provided a list of his postings from 1984 until his retirement on 10 October 1994.

He confirmed that on 17 September 1990, Staff Sergeant Mason Johnston replaced him as Section NCO for the southern half of the Moncton Subdivision, which included Riverview Detachment.

He was again questioned about the statement he had given to Constables Long and Potvin on 13 March 2002, in which he had said that Staff Sergeant Johnston had told him that he was conducting an investigation involving Staff Sergeant McCann. Asked to confirm whether Staff Sergeant Johnston had mentioned such an investigation, he affirmed: "That's what he said." He went on to say that he did not know any details of the investigation.

The CPC asked about (and showed him) a notation in Constable Long's notebook for 5 April 2002, taken following a team meeting, about a conversation that Staff Sergeant Dave Dunphy had with Staff Sergeant Johnston. According to Constable Long's notes, Staff Sergeant Johnston apparently told Staff Sergeant

Dunphy that Staff Sergeant Burrows had asked him to conduct an investigation into Staff Sergeant McCann. Mr. Burrows said that he does not recall ever asking Staff Sergeant Johnston or anyone else to conduct an investigation into Staff Sergeant McCann in regard to any allegations of wrongdoing.

He said he did not see any pictures of Staff Sergeant McCann with the young males.

8. Retired Staff Sergeant Mason Johnston Interview (14 March 2006)

Mason Johnston was interviewed by the CPC on 14 March 2006 in Moncton, New Brunswick and agreed to it being audiotaped. He said he frequently interacted with Staff Sergeant McCann and that he knew him very well but only in a professional way. Mr. Johnston explained that from 1980 to 1982 he was in charge of the General Investigation Section (GIS) and was responsible for the Drug Section as well as other criminal investigations. Due to Staff Sergeant McCann's position at that time, he had a lot of interaction with him.

Mr. Johnston said that, when Staff Sergeant McCann was transferred to the Riverview/Moncton area, it was well known he was involved with the youth from the NBTS, as well as in minor hockey. He had not heard any rumours about Staff Sergeant McCann; however, he did think it strange that Staff Sergeant McCann was spending so much time with the youth from the school. He told the CPC he had observed Staff Sergeant McCann at the office with youth on many occasions.

> There was no doubt about it when you're travelling with a kid all the time and I assume sleeping down here at the Beausejour which was—somebody had said, "Yeah, they've got a room down there and Cliff stays with them," et cetera, et cetera, but nobody said anything.[12]

Mr. Johnston said that no one he knew suspected that anything criminal in nature had been taking place.

When questioned about whether Staff Sergeant Burrows had sent him to conduct an investigation into Staff Sergeant McCann, he said he never investigated Staff Sergeant McCann. He explained that as a section NCO, it was his responsibility to do yearly audits on the detachments in the southern half of the division, which included Riverview Detachment. He recalled doing an audit at Riverview Detachment on an unrelated file.

In response to a question about Staff Sergeant McCann's transfer, he said that Superintendent Rivard would have been responsible for transferring Staff Sergeant Burrows to Riverview Detachment to replace Staff Sergeant McCann. He remembered that Staff Sergeant Burrows was not happy with being transferred.

9. Second Interview—Retired Staff Sergeant Mason Johnston (3 August 2006)

Mr. Johnston was re-interviewed as a result of information that came to light during the course of other interviews. The CPC wanted to clarify certain issues and, when contacted, Mr. Johnston agreed to meet again.

He was asked about the entry in Constable Long's notebook dated 5 April 2002, which indicated that he told Staff Sergeant Dunphy that Staff Sergeant Burrows had sent him over to the Riverview Detachment to investigate Staff Sergeant McCann. After reading the entry in Constable Long's notebook, he replied, "never happened, the only file I looked at was the *Menard* file." He maintained that he never had anything to do with an investigation into Staff Sergeant McCann.

He said he did not recall ever having spoken with Superintendent Rivard about Staff Sergeant McCann or ever having attended any meetings at which Staff Sergeant McCann was discussed. He did recall that on one occasion Sergeant Lockhart had come to his office asking questions about Staff Sergeant McCann and the NBTS. However, at the time he did not know that there was an investigation being conducted into Staff Sergeant McCann.

He was asked questions related to the attempted murder investigation and initially indicated he did not know anyone by that name. After more detail was provided, he said he did recall that the attempted murder victim was involved in hockey, but did not recall the specific investigation.

10. Retired Superintendent Robert Rochon Interview (28 June 2006)

Robert Rochon was interviewed on 28 June 2006 at his office at the Department of Fisheries and Oceans in Moncton, New Brunswick. At the time of the attempted murder, he was posted to the Riverview Detachment. He recalled being at the scene the next day with the Identification Officer, Corporal Phil Legacy (now deceased). He said that he located and seized some photographs that were in the victim's bedroom. He described the pictures as fuzzy and said they depicted a male person in what appeared to be a mirror, taking a picture of himself. He thought it was a picture of the victim and said that he did not see any pictures of Staff Sergeant McCann.

Some time after seizing the pictures and returning to the Detachment, he was talking with Corporal Arnett when Staff Sergeant McCann asked to see the pictures that were seized. Staff Sergeant McCann pointed to a young male in one of the pictures and indicated he recognized him as a hockey player. Mr. Rochon said this was the last time he had a conversation with Staff Sergeant McCann about any pictures. He could not tell the CPC with any certainty what happened to the pictures, but said he would have exhibited them and that there should have been a report on file.

Mr. Rochon was transferred to RCMP Depot in June of 1990 and had nothing further to do with the file before he left Riverview Detachment. He told the CPC that he received a telephone call from Sergeant Lockhart while he was at RCMP Depot, asking about the photographs. He retrieved his notebook for the March 1990 time period from his home, brought it to his office at Depot, and called Sergeant Lockhart back and told him he did not have any notes pertaining to the pictures.

He was contacted during the 2001 re-investigation into the NBTS and Mr. McCann by Constable Potvin some years later but could not find his notebook and could only assume it was misplaced during his posting to RCMP Depot. He said that Staff Sergeant McCann was not in any of the pictures he seized.

11. Second Interview—Retired Superintendent Robert Rochon (3 August 2006)

It was not until the CPC interviewed the civilian manager of the Records Section for "J" Division that the CPC learned that if an incident was classified as an attempted murder, it would be archived in Ottawa. At the request of the CPC, she checked the archives in Ottawa and forwarded a full copy of the file.

Upon receipt of the attempt file, the CPC reviewed the file and determined that the pictures were never exhibited as Mr. Rochon had indicated. As a result, a second interview was scheduled with Mr. Rochon for 3 August 2006.

During the second interview, the CPC requested that Mr. Rochon go through the file page by page. After doing so, he was at a loss to explain why the pictures were not exhibited. He said he did not have any recollection of what happened to the photographs. He remained adamant of the fact that he had seized the pictures and had referred to them during the interview with the victim.

He again relayed how Sergeant Lockhart had asked him to check and see if he had any information in his notes relating to the attempted murder pictures. As he said in the first interview, when he brought the notebook to his Depot office from home, he called Sergeant Lockhart back and told him that there was nothing in his notes related to the pictures. He felt that this must be when he lost this notebook.

He was asked whether there was a picture that depicted Staff Sergeant McCann's face but he said that he did not see any picture with Staff Sergeant McCann's face in it or anyone else he recognized. He also stated that he never heard anyone talking about a picture with Staff Sergeant McCann in it or heard any rumours about any such photo.

12. Retired Sergeant Bill Trewin Interview (5 September 2006)

Bill Trewin was interviewed by the CPC on 5 September 2006 in Moncton, New Brunswick. Mr. Trewin informed the CPC that he retired in 1997 after serving 25 years with the RCMP. He also advised the CPC that he was recently diagnosed with an illness which has affected his memory to some degree.

He thanked the CPC for the package of documents that had been sent to him, saying it helped him focus on the information he supplied to Constables Long and Potvin during the original 2000 investigation. He said he was posted at Riverview Detachment in March of 1990 and that his recollection of the attempted murder incident was vague as he was not directly involved in the file.

He was asked about the rumours of the missing pictures from the attempted murder file. He said that he did not hear anything about any missing pictures during the time he was at Riverview. He said that if he had seen any pictures of Staff Sergeant McCann with nude boys he would have reported it to his immediate supervisor, Sergeant Doucette.

To the best of his recollection, during his time at Riverview Detachment, Sergeant Doucette was the custodian of the bond room and that no one else would have been allowed in without Sergeant Doucette being present.

13. Corporal Claude Tremblay Interview (15 June 2006)

Corporal Claude Tremblay was interviewed by the CPC on 15 June 2006. He said he was transferred to Riverview Detachment in December 1989 but he did not start there until January 1990. He remained there until 1995. He could not recall if Mr. McCann was the staff sergeant at Riverview when he arrived but said he thought Staff Sergeant McCann was there for the majority of the time.

Corporal Tremblay recalled that Sergeant Doucette, as well as Corporals Arnett and McNeil, were at Riverview Detachment during his posting. He described Staff Sergeant McCann as a touchy feely type of person, like a father figure.

When asked about the attempted murder, he said that he recalled the incident but not being at the scene. He had no knowledge of the original call until he read the documents during the interview. He recalled reporting for work the morning after the attempted murder incident and knew something big had happened overnight, as Corporal Arnett had been called out to the scene.

He was shown a copy of a Continuation Report by Constable Long, dated 10 January 2002, which related to an interview she had conducted with him.[13] After reading the report he said it was accurate. However, he did not know if, as she said, an exhibit report for the pictures had been made since he had nothing to do with the file. He was asked to clarify a statement in which he said he had not seen the photographs.[14] He replied that he saw only one picture, allegedly from the attempted murder scene, and that it was Corporal Arnett who had the group of photographs in his hand.

He was given a copy of a statement that he gave to Constable Long on 6 March 2002.[15] After reviewing the statement, he indicated that he agreed with the contents and said it was accurate as far as he could recall. When asked to explain a notation in the report, in which he is alleged to have told her that he estimated there were approximately 20 photographs,[16] he disagreed and said he recalled saying there may have been 5, 10, 15 or 20 pictures and that she obviously just put down 20.

When asked to explain the circumstances when he saw the picture in which Staff Sergeant McCann's head and shoulder appeared in, he said that he was alone in the detachment bullpen facing Corporal Arnett's office, the morning after the incident. He said he saw Corporal Arnett come into the Detachment holding a package of photographs in his hand but did not know then nor does he know now where Corporal Arnett obtained the pictures. He walked into Corporal Arnett's office and saw the pictures on his desk, at which time he picked up a single picture and saw Staff Sergeant McCann's head and shoulders, which were plainly visible in the bottom left portion of the photo. He said it looked as if Staff Sergeant McCann was "laughing his head off."

He went on to say that Corporal Arnett told him to "keep [this] quiet for now." He did not feel it was said in a way that was meant to conceal the matter; he just felt the NCOs were going to investigate the matter. He said he did not know then, or today, what happened to the photos, and added that he never discussed the photo again with anyone.

He described the picture he saw on Corporal Arnett's desk as a Polaroid picture of four males. One of the males was lying on a bed masturbating, one was seated on the left side of the bed and another was standing to the left. Staff Sergeant McCann's head and shoulders were in the bottom left corner of the Polaroid, as if he had popped his head in front of the camera at the last minute. He described the background scene as possibly a motel room.

He said he did not know of any investigation being conducted into Staff Sergeant McCann until Constable Long contacted him in January 2002. He saw the CBC documentary[17] pertaining to Staff Sergeant McCann after he had spoken to Constable Long. He added it did not surprise him to hear about Staff Sergeant McCann.

14. Retired Constable Yves Dorais Interview (2 March 2006)

Yves Dorais was interviewed on 2 March 2006 by the CPC at his home in Grand Falls, New Brunswick. Mr. Dorais retired from the RCMP in 2003 after serving 26 years, most of which were in New Brunswick.

Mr. Dorais said that he was transferred to Riverview Detachment sometime in 1988 and remained there until 1992. One thing he had noticed about Staff Sergeant McCann was that he only had an interest in sexual assault cases involving males. He said that about six months after Staff Sergeant McCann arrived at Riverview Detachment, he and Constable Cameron came to the conclusion that Staff Sergeant McCann was gay. They took it upon themselves to check the sexual assault files for the Detachment and discovered that the only files Staff Sergeant McCann reviewed were the ones that involved males.

He told the CPC about a file that he investigated involving a victim by the name of *Mario Menard*, and that Staff Sergeant McCann took a particular interest in it. He recalled going to the Crown with the *Menard* file and they came to a joint conclusion that *Mr. Menard* was a willing participant in an act of fellatio. Therefore, no charges were laid. After his meeting with the Crown, Staff Sergeant McCann came to see him and wanted to find out if there were other charges that could possibly be laid. According to Mr. Dorais, they could not find any that would be applicable in this case.

Mr. Dorais said that he was aware of the attempted murder file but was not personally involved. He did remember hearing about the pictures, but did not see any of them. He said that at some point in time he learned that some of the pictures from the attempted murder file went missing and recalled that he, along with the other officers, searched the Detachment looking for them. To the best of his knowledge they were never located. He said he could not recall who was involved in the search with him.

He said that he was not aware that Staff Sergeant McCann was taking boys out of the NBTS. He said that he had attended functions held at Staff Sergeant McCann's house in the past and did not notice anything strange during these events.

15. Retired Constable Gerry Lebel Interview (5 August 2006)

Gerry Lebel was interviewed by the CPC on 5 August 2006. He told the CPC that he had been forced to retire in January 2006 and was not at all happy with the RCMP. He said that he was posted to Riverview Detachment on 28 May 1990 and remained there until 25 January 1992, when he was transferred to Hillsborough Detachment. During the time he was posted at Riverview, he recalled having worked with NCO Sergeant Doucette and Corporals Arnett and Trewin.

Although the attempted murder investigation occurred prior to his arrival at Riverview Detachment, he recalled hearing rumours about some missing pictures. He said he never saw any photographs and he never heard anything about Staff Sergeant McCann being in any of the photographs.

He was asked to read a portion of a Continuation Report by Sergeant Lockhart dated 12 May 1993, where it was written, "Cst. Lebel saw photographs and states the youths were Nude with erections and one guy with shorts (underwear) on."[18] He said Sergeant Lockhart must have misunderstood him because he could not recall ever seeing any photographs.

He recalled being interviewed by Corporal Clive Vallis in Plaster Rock on 4 March 2002. He thought Corporal Vallis was a female officer and, even after he was informed of the gender of Corporal Vallis, he was still sure he had been interviewed by a female RCMP officer on that date.

He was shown an entry in Corporal Vallis's notebook, where it was written that Constable Lebel had observed Staff Sergeant McCann on Trites Road, in Riverview, in a vehicle with a young male and, upon confronting Staff Sergeant McCann, being told the young male was an informant.[19] Mr. Lebel said during his interview with the CPC that this was the third time he had caught Staff Sergeant McCann in the same area with young males in his vehicle. He also said the other two times were at a golf course close to Trites Road; on all three occasions Staff Sergeant McCann told Constable Lebel he was interviewing informants. Mr. Lebel has never told anyone else of the other two incidents.

Mr. Lebel was quoted in notes authored by Corporal Al Rogers dated 11 March 2002, as saying that the photos from the attempted murder investigation depicted acts of oral sex.[20] Upon reading his statement, he continued to deny seeing any such pictures and nowhere in any statement or information provided by him did he mention acts of oral sex.

The fact that Mr. Lebel is unable to clearly recall events reflects on the credibility of his evidence.

16. Retired Superintendent Al Rivard Interview (11 April 2006)

Al Rivard was interviewed by the CPC on 11 April 2006 at CPC headquarters, in Ottawa. He retired from the RCMP in 1999. In 1988, Mr. Rivard was an inspector, posted in Calgary, Alberta, when he was transferred to Moncton Subdivision and promoted to the rank of Superintendent. He told the CPC he did not know Staff Sergeant McCann prior to being transferred to "J" Division and recalled that Staff Sergeant McCann was the Riverview Detachment commander.

He was asked if he recalled an attempted murder case that occurred in Riverview in March 1990. He remembered the incident and recalled there were homosexual implications to the case. He was asked if he was ever made aware of the fact that exhibits from the investigation went missing. "Not that I can remember because that was one of my priorities when I did an annual inspection of the exhibits because that's usually what got you in trouble."[21]

He explained that when a serious incident occurred in his division, he or one of his section NCOs would be called and advised of the situation, then updated as the investigation proceeded. Updates would be given at meetings normally held each morning and for which briefing notes would be prepared for the CO and CROPS Officer. Section NCOs were responsible for ensuring that updates of the investigations were given.

Superintendent Rivard was briefed on the circumstances surrounding the missing exhibits in an attempt to jog his memory. When asked whether he had heard anything, he responded:

> No, because there would have been—there would be another criminal report there. If I had heard about it, they'd have to find it but it never left the detachment then because if the Section NCO would have heard, he would have told me or he would have reported it in some way, shape or form.[22]

In response to a series of questions about the claim that Staff Sergeant Johnston was sent to Riverview Detachment to investigate rumours surrounding Staff Sergeant McCann, he stated:

> I wonder if—see, Mason was known as an investigator at the time. I wonder if he wasn't on loan briefly to Fredericton. So maybe with Doug Lockhart you may be able to clarify whether Mason might have been attached to the task force for a while.[23]

When told that the CPC knew that Staff Sergeant Johnston was not a member of the 2000 investigation team in any official capacity, he said, "So I'm not sure why Bill is saying that Mason would have been there to investigate him. I really don't know why."[24]

It was evident that Mr. Rivard did not have any knowledge of any investigation alleged to have been conducted by Staff Sergeant Johnston into Staff Sergeant McCann.

17. Attempted Murder Victim Interview (2 August 2006)

The attempted murder victim was interviewed by the CPC on 2 August 2006 in Moncton, New Brunswick. He told the CPC during his interview that his association with Staff Sergeant McCann was in connection with hockey. He said he believes he first met Staff Sergeant McCann around the 1984–1985 hockey season. He believes Staff Sergeant McCann was the general manager of a team in the same league in which he was coaching at the time. He said the ages of the players in the juvenile leagues are between 17 and 19.

He maintained throughout the interview that his relationship with Staff Sergeant McCann was strictly hockey-related and that the only time he spoke with Staff Sergeant McCann on any other subject was after the 1 March 1990 incident. He went to see Staff Sergeant McCann at his office because he was afraid that his hockey career would be jeopardized if his homosexuality came out in the press as a result of the murder attempt on him. His private life had nothing to do with hockey or the players; he also told Staff Sergeant McCann that he had never been involved in any way with any of the players.

He recalled Staff Sergeant McCann being very supportive, but was surprised when Staff Sergeant McCann attended the court hearing. He told the CPC he never suspected Staff Sergeant McCann of anything and was surprised when the accusations surfaced pertaining to Staff Sergeant McCann and the NBTS.

He said that, when police interviewed him the day after the attempted murder, he was not going to mention the reason for picking up the males who had attacked him. However, when the officer showed him the pictures they had found at his home he admitted the truth about why he wanted to pick up the one male.

When asked about the Polaroid pictures, he admitted to having taken them. He stated he had taken advantage of some boys on his hockey team, during a party at his home one night after a game. Some of the boys got drunk and passed out and this is when he took advantage of their drunken state, and took some Polaroid shots of them in their underwear.

> [T]hey love their beer. And that's where I took advantage of the situation, you know? … with two or three but, as for having sex with any of them or having to touch … that's not my style.[25]

After first denying it, he said there may have been some nude photos of the boys. He was not proud of what he had done and kept saying he never crossed the line with the hockey players, as hockey was his whole life. When asked about the alleged picture with Staff Sergeant McCann, he was adamant that there was no such photograph, as he had not had anything to do with Staff Sergeant McCann in his private life. He said the pictures found in his suitcase were taken at his home.

> [B]ecause if ever I would have been caught, well that would of ruined … me, …I love the game too much for that. … they would have had to be totally passed out for me even to take a photo. Cause I would never have done that.[26]

He recalled getting some evidence back after the trial but did not specifically recall whether the pictures were included. He destroyed everything of a sexual nature as soon as he got the package of exhibits back to his apartment. In reviewing the attempted murder file, the CPC found exhibit forms with certain exhibits listed as returned and signed for by the victim. However, as was discovered in the interview with retired Superintendent Rochon, there was no exhibit report for the photographs in question.

The attempted murder victim was under no obligation to meet with the CPC but, when contacted, he did not hesitate to agree to an interview. The CPC found him to be forthright, sincere and honest about his past and current situation. He is still heavily involved in hockey and maintains that he would not do anything that would jeopardize his position within the hockey community.

Based on the evidence, the CPC is satisfied that the attempted murder victim does not have any reason to shield Staff Sergeant McCann from being discovered in any of the pictures that were taken from his residence on 1 March 1990 by the RCMP. The evidence shows that there were Polaroid pictures, that the RCMP seized them, that several officers admit to having seen some pictures and that only one officer says he saw Staff Sergeant McCann in one of the pictures. The victim has denied that Staff Sergeant McCann was in any of the pictures; he admitted that he took the Polaroids himself and that

it occurred at a party he held for his team at his residence. Retired Corporal Arnett, who has refused to be interviewed by the CPC, is the one person who may be able to clear up the conflicting evidence about the pictures and their disappearance.

15.4 Rumour of Compromising Behaviour

The third incident deals with the rumour alleging that Staff Sergeant McCann was caught in a compromising situation with a young hockey player in a hockey arena washroom. According to former Constable Lebel, who says he reported the matter to Corporal Arnett, the incident allegedly occurred during the hockey season between October and March of 1991 or 1992. During his interview with the CPC on 5 August 2006, Mr. Lebel could not remember the name of the officer who had told him of the incident; however, he did say that he gave the officer's name to Corporal Arnett at the time he reported it.[27]

15.4.1 Investigation by the CPC

The CPC interviewed the following members to determine whether the RCMP handled the investigation of the rumour in an adequate manner and if there was any evidence of a cover-up.

1. Corporal Pat Hill Interview (24 July 2006)

Corporal Hill was asked if he had any knowledge of an alleged incident in which Staff Sergeant McCann was seen in a washroom at a hockey arena with a young hockey player in a compromising position. He stated that he did not have any knowledge of any such incident and added that he would have remembered an allegation of that nature.

2. Constable Luc Thibault Interview (27 June 2006)

The CPC asked Constable Thibault whether he had any knowledge of or if he ever witnessed an incident in which Staff Sergeant McCann was in a compromising situation with a young hockey player in a washroom. He said he did not know anything about any such incident.

He told the CPC that he had heard a lot of jokes about Staff Sergeant McCann and recalled an incident when Staff Sergeant McCann told him that he had nice blue eyes. Staff Sergeant McCann had said this to him in front of other officers and from that point on, there were jokes made about it.

3. Sergeant Roger Cameron Interview (17 July 2006)

Sergeant Cameron recalled being told by Corporals Trewin and Arnett that they had received a complaint about Staff Sergeant McCann from a father of a young hockey player. Apparently, the father caught Staff Sergeant McCann and the father's young son in a compromising situation in a washroom at a hockey arena. Sergeant Cameron recalled that both Corporals Trewin and Arnett were very upset about the situation because the boy's father did not want the matter investigated. The father did not want his son to have to go through the experience of an investigation.

In response to an e-mail sent by the CPC on 14 February 2007 regarding the possible age of the boy, Sergeant Cameron stated: "I cannot pinpoint the exact age of the boy in question. I'm guessing when I suggest maybe 16 or 17? My recollection is that he was definitely under the age of 18." [28]

4. Retired Sergeant Bill Trewin Interview (5 September 2006)

Mr. Trewin was shown an e-mail dated 18 June 2002 from Sergeant Cameron to Constable Potvin. In it, Sergeant Cameron indicates that Corporals Trewin and Arnett told him of an allegation about Staff Sergeant McCann being caught in a washroom of a hockey arena with a young boy. They were both upset because the father of the boy involved did not want to pursue the matter.[29] Mr. Trewin stated that he had no recollection of such an incident and that he would remember the incident especially if his boss was involved.

5. Retired Constable Gerry Lebel Interview (5 August 2006)

At the time he was asked about the washroom incident rumour, Mr. Lebel was shown a handwritten statement dated 4 March 2002.[30] He immediately said the signature on the bottom of the statement was his but the actual handwriting in the statement was not. The statement pertains to comments allegedly made by Constable Lebel about Staff Sergeant McCann being caught in a washroom with a hockey player. He was asked to read the statement over and upon doing so, said he does recall the interview and to the best of his recollection, the statement is correct.

Mr. Lebel explained that another RCMP member told him of the washroom incident involving Staff Sergeant McCann. He did not recall who told him of this but thought it might have been Corporal Hill or Constable Thibault, as they were both hockey players. To the best of his recollection the incident occurred between October 1991 and March 1992, during the hockey season, but he was unsure of the exact year. He reported the incident to Corporal Arnett and recalled Corporal Arnett telling him he would look into the matter, but the fact that Corporal Arnett never took down any notes or asked him for a formal statement was a sure indication to him that nothing would be done. He said he gave Corporal Arnett the name of the individual who observed the incident when he reported it to him; however, he did not have any notes on his conversation with Corporal Arnett nor does he remember the name of the person at this time.

The alleged washroom incident, like the pictures, cannot be substantiated. Mr. Lebel, who alleges being told about the incident and then reporting it to Corporal Arnett, cannot recall who told him and has no documentation to support his statement. On the other hand, Sergeant Cameron has stated that he was told of this allegation by Corporals Arnett and Trewin. There is no reason to disbelieve either of the officers. However, Mr. Trewin has no recollection of this allegation and retired Corporal Arnett refuses to speak to the CPC.

15.5 The Lockhart–McCann Meeting

Sergeant Lockhart met with Staff Sergeant McCann on 12 March 1992 at Riverview Detachment before completing interviews with all 11 former residents identified in his Continuation Report of 31 January 1992 and despite the fact that none of the former residents he did interview made a complaint. The manner in which the meeting took place creates the perception that Staff Sergeant McCann was given special treatment and a warning or a heads-up regarding the rumours about him and the investigation. Like most of the RCMP members interviewed by the CPC, Sergeant Lockhart did not keep a detailed notebook in addition to his

Continuation Reports. Such a practice can result in the absence of accurate and reliable reporting. Sergeant Lockhart's description of the meeting with Staff Sergeant McCann is in fact less than adequate, especially for an investigator as experienced as Sergeant Lockhart.

15.5.1 Investigation by the CPC

The CPC confirmed through a review of documents that various RCMP officers conducted interviews with 17 former residents prior to Sergeant Lockhart's meeting with Staff Sergeant McCann, as Sergeant Lockhart had indicated in his Continuation Report, dated 12 March 1992. However, after carefully examining all the reports, the CPC found that six of the former school residents interviewed were at the NBTS prior to Staff Sergeant McCann's arrival in "J" Division in September 1977. Therefore, only nine of the seventeen former residents interviewed were actually at the NBTS during the time Staff Sergeant McCann was at "J" Division Headquarters.

The CPC spent a great deal of time questioning Sergeant Lockhart during his audiotaped interviews (on 24 and 25 November 2006) in an attempt to determine why he interviewed Staff Sergeant McCann on 12 March 1992. Sergeant Lockhart explained:

> [W]e never treated that guy any different than we did any other member …. I was very, very strict on things like that: is keep an open mind, and I used to harp about this all the time and say that …. "I want all of you to go and do a fair impartial investigation. When we feel, and only when we feel that we have reasonable and probable grounds to lay a charge, ... but if we feel that there's not reasonable and probable grounds to not lay a charge, we're not going to go and lay a charge, because ultimately it's Doug Lockhart or Mike Dunn or whoever is here, when you walk up before a judge and stick your hand on the bible and say "I have reasonable and probable grounds to believe that Cliff McCann has been sexually abusing children at the YTC" … that's how serious those investigations are at GIS.[31]

The CPC took Sergeant Lockhart through his Continuation Report of 12 March 1992 and asked him to explain his mindset at the time of his meeting. In reference to briefing the Moncton Subdivision OC who told the CPC that he did not know about the investigation, about his meeting with Staff Sergeant McCann, he said:

> … I remember going to Moncton subdivision and I spoke to—I remember speaking to Mason Johnston and if it was Al Rivard, it may have been quite short. See, Tom Robertson is my boss. He's the section NCO. Now, that's the Fredericton subdivision. This officer Al Rivard is in charge of Moncton subdivision …. And to say that I spoke right directly to Al Rivard—well, if I said here that I updated the OC that I was coming down to interview somebody at the detachment, I must have had some conversation with him, yeah.[32]

His recollection of speaking with Superintendent Rivard is vague and he cannot recall if he spoke with him or not, although, as the Officer Commanding, Superintendent Rivard should have been informed:

> Now, Al Rivard in his office or separate, I would take it that ... no, I just can't remember if I sat down personally and spoke to Al Rivard. I remember I personally spoke to Mason Johnston and Mason I would think may have told the OC. I just can't say that for certain. I know I didn't sit right in front of the OC but with Mason.[33]

Sergeant Lockhart was determined to explain why he interviewed Staff Sergeant McCann and, at one point, agreed with the CPC about how it could be perceived.

CPC:	And then he says—according to you he says, "Thank writer for telling him."
Sergeant Lockhart:	It doesn't sound good, does it?
CPC:	No.
Sergeant Lockhart:	Well, I can tell you, Mike—all I can tell you is that it was 14 years ago. I never went down to warn him that we were investigating him or anything like this here.[34]

Sergeant Lockhart told the CPC that he never considered Staff Sergeant McCann a suspect as they did not have any direct allegations against him, only innuendo and suspicion. He maintained that he just wanted to let Staff Sergeant McCann know that they were investigating the rumours and that he would not receive preferential treatment.[35]

He said that if he had thought Staff Sergeant McCann was a suspect, their meeting would have been different, in that he would have had another member with him and they would have taken him somewhere other than the Riverview Detachment for questioning. He remained steadfast and said that people would just have to take his word for it.

15.6 Interview by Constable Cole and Staff Sergeant Ouellette

Constable Cole and Staff Sergeant Ouellette interviewed Mr. McCann at his home just outside of Fredericton on 29 October 1998. The interview lasted approximately 45 minutes.

During separate interviews with the CPC, the officers contradicted one another in their description of the interview with Mr. McCann. Constable Cole said that Mrs. McCann did most of the talking and that he felt Mr. McCann should have been arrested and brought in for questioning. Retired Staff Sergeant Ouellette, however, said Mrs. McCann was quiet throughout the interview and he did not feel that they had enough evidence to arrest Mr. McCann.

The CPC finds that the way in which the interview was conducted was inadequate. Constable Cole had requested that Staff Sergeant Ouellette take the lead role during the interview. Neither officer took any detailed notes of the interview nor does it appear as if either of them had a prepared list of questions.

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1 Personnel Interview Report, Insp. Scott, 15 December 1971.

2 Personnel Interview Report, Insp. Corbiell, 10 May 1977.

3 Personnel Interview Report, Insp. Miller, 3 January 1992.

4 The position of Criminal Operations Reader is assigned to a senior NCO to review all cases.

5 Transfer and Change Report, Supt. Rivard, 1 June 1992.

6 Transcripts, CPC interview of G. Zaccardelli, 15 January 2007, p. 21.

7 Continuation Report, Cst. Long, 20 March 2002.

8 Transcripts, CPC interview of G. Zaccardelli, 15 January 2007, pp. 13–15.

9 Transcripts, CPC interview of L. Cochrane, 9 May 2006, p. 11.

[10] Witness statement of S/Sgt. Burrows taken by Cst. Potvin, 13 March 2002.

[11] Officer notes, Cst. Long, 5 April 2002.

[12] Transcripts, CPC interview of M. Johnston, 14 March 2006, p. 9.

[13] Continuation Report, Cst. Long, 10 January 2002.

[14] Ibid.

[15] Witness statement of Cst. Tremblay taken by Cst. Long, 6 March 2002.

[16] Continuation Report, Cst. Long, 6 March 2002.

[17] The CBC News two-part investigative documentary, “One of Their Own,” aired on 2 and 3 December 2003 and alleged an RCMP cover-up of sexual abuse at NBTS involving Staff Sergeant McCann.

[18] Continuation Report, Sgt. Lockhart, 12 May 1993.

[19] Officer notes, Cpl. Vallis, 4 March 2002.

[20] Officer notes, Cst. Rogers, 11 March 2002.

[21] Transcripts, CPC interview of A. Rivard, 11 April 2006, p. 30.

[22] Ibid., pp. 34–35.

[23] Ibid., p. 36.

[24] Ibid., pp. 36–37.

[25] Transcripts, CPC interview of attempted murder victim, 2 August 2006, p. 27.

[26] Ibid.

[27] CPC interview notes of G. Lebel, 5 August 2006.

[28] E-mail to M. Dunn from Sgt. Cameron, 14 February 2007; 15 February 2007.

[29] E-mail to Cst. D. Potvin from Cpl. Cameron, 18 June 2002.

[30] Witness statement of Cst. Lebel taken by Cpl. Vallis, 4 March 2002.

[31] Transcripts, CPC interview of D. Lockhart, 24 November 2006; 25 November 2006, pp. 86–87.

[32] Ibid., p. 91.

[33] Ibid., p. 94.

[34] Ibid., p. 105.

[35] Ibid., p. 108.

Part Four: Conclusions

16. Findings of the Kingsclear Investigation

The Commission for Public Complaints Against the RCMP (CPC) spent 22 months conducting its investigation into the RCMP's handling of allegations of sexual and physical assault at the New Brunswick Training School (NBTS). Terms of Reference for the Kingsclear public interest investigation were established to provide a framework and scope for the investigation. The term "cover-up" was defined in the Terms of Reference as

> an intentional or reckless disregard of evidence that has the effect, or potential effect, of interfering with or undermining internal or external accountability mechanisms. In accordance with the foregoing, a "cover-up" is not proven if the evidence solely or simply establishes negligence, carelessness, laziness, incompetence or lack of interest by RCMP investigators.

16.1 Overview of Findings

After examining the facts and verifying the evidence in accordance with its Terms of Reference, the CPC is satisfied that there is no substantiated evidence that members of the RCMP attempted to cover up alleged criminal actions of retired Staff Sergeant Clifford McCann or of sexual and physical assaults by former NBTS custodial and supervisory staff. However, the CPC did find inadequacies in the RCMP's criminal investigations of both the staff at the NBTS and Staff Sergeant McCann, some of which are serious enough to create the perception of a cover-up.

16.2 Public Perception

The public's perception has been influenced by rumours and what little information was available to the public during the almost 15-year series of investigations into former Staff Sergeant McCann and the NBTS staff. The public did not have access to information that was available to the CPC. Through its investigation, the CPC obtained and validated information that answered some of the questions the public has had over the years, and that explained the many misconceptions.

For example, the CPC learned during its investigation, that the RCMP was so determined to proceed with charges against Karl Toft that it was prepared to hire its own prosecutor had the Crown refused to go forward with charges, and that it even advised the provincial Director of Public Prosecutions that it would do so. Ultimately, the Director agreed to lay 15 additional charges against Mr. Toft in October 1993; however, the Attorney General of New Brunswick stayed the criminal proceedings a week later.

The CPC found that the RCMP's investigative efforts were not widely known by the public. For example, some former residents who lodged complaints with the CPC did not know that Weldon (Bud) Raymond had been charged and acquitted of criminal offences following two separate trials composed of a judge and jury, and that Hector Duguay was charged and convicted. Another CPC complainant was unaware that, during its investigation, the RCMP had arrested and interrogated Mr. McCann for several hours.

The complainants and their family members who were interviewed did not have a clear understanding or, in some cases knowledge, of the pre-charge screening system that is in place in New Brunswick, where the Crown's policy is to scrutinize and give their consent to all charges before they are laid by the police. This was yet another factor influencing the public's skepticism of the RCMP's investigations and their results. Before recommending whether the police or the RCMP should lay charges, the Crown counsel considers the strength of the evidence, the seriousness of the offence, the public interest, the credibility of an alleged victim when on the witness stand and the alleged victim's willingness to testify. Unless the Crown is convinced that a "conviction is more likely than an acquittal," he or she will not recommend laying criminal charges.

16.3 Difficulties Encountered in the RCMP Investigations

Sexual assault investigations, especially those involving pre-teen and teenaged youth, are different from any other criminal investigation. In these situations, investigators have to use different approaches to obtain information from the alleged victims. This was the situation the RCMP encountered during the investigations into the NBTS and Staff Sergeant McCann.

The majority of former residents were reluctant to get involved, which presented a significant obstacle to investigators. Because most of the victims had not come forward on their own initiative, the RCMP had to solicit their co-operation, adding to the length and complexity of the investigation. The fact that it was an historical investigation, especially one involving sexual assault, also presented major obstacles, including the passage of time, the trauma experienced by the victims and the effect of these two factors on the ability of potential witnesses to recall events accurately and credibly.

Initially, the RCMP encountered difficulties in accessing the NBTS records stored at the Provincial Archives of New Brunswick. After receiving legal advice, the provincial government took the position that Section 45.2 of the *Young Offenders Act,* which was in force at the time of the RCMP's inquiries, prohibited the release of any information on past or present residents of the NBTS. As a result, the RCMP spent valuable time dealing with Crown counsel, filing affidavits and appearing before the court. Although they were eventually successful in gaining access, they were restricted in the number of former NBTS residents they could collect information on at any one time. As well, because the court orders specified the name of the suspect about whom the RCMP could gather information, the RCMP had to obtain a new court order whenever the name of a new suspect came up, which caused further delays.

16.4 Findings Related to the NBTS Investigations

Few investigations, if any, are perfect, and the RCMP's investigations into the NBTS and Mr. McCann are no exception. The CPC identified a number of shortcomings with the RCMP investigations, which can be attributed to personality issues, the RCMP's allocation of resources and the fact that other important investigations were occurring in New Brunswick at the same time. These shortcomings can also be attributed in part to a lack of due diligence by some members and senior management of the RCMP. Moreover, rather than one investigation, the RCMP conducted a series of investigations into identical allegations over a period of 15 years.

16.4.1 Finding One

The due diligence of senior officers in relation to this investigation was lacking.

Analysis

The 1992 investigation of Staff Sergeant McCann provides an example of the lack of diligence on the part of senior officers. One of the most significant weaknesses of that investigation was the lack of appropriate involvement by the senior officers in "J" Division, in particular, their apparent lack of any specific or even general knowledge about the investigation. The only officers who admitted to knowing anything about the investigation into Staff Sergeant McCann were the Commanding Officer (CO), Chief Superintendent Herman Beaulac, and the Criminal Operations (CROPS) Officer, Superintendent Giuliano Zaccardelli. The Staffing and Personnel Officer, Inspector Peter Miller, who first initiated Staff Sergeant McCann's transfer in January 1992, and Superintendent Al Rivard, who was Staff Sergeant McCann's immediate superior, indicated that they did not know of any criminal investigation being conducted into Staff Sergeant McCann's activities at the time.

Several retired senior officers (all former Administration and Personnel [A&P] officers) advised the CPC that an internal investigation file is customarily opened at the outset of a criminal investigation of a member. Upon completion of the criminal investigation, the CO, usually in conjunction with the A&P Officer, would make a decision about whether an internal investigation would be conducted. Even if no criminal charges are laid, a decision should have been made to proceed with an internal investigation, at which point the file would have been examined to determine if there were any Code of Conduct infractions that could result in some form of internal discipline. However, the CPC has not received any documentation indicating that an internal file on Staff Sergeant McCann, who retired in April 1993, was opened at any time. The fact that further criminal investigations were conducted later, without an internal investigation being conducted or at the least a file opened, demonstrates the lack of involvement of senior officers.

The priority senior officers gave to the NBTS investigation in its early years was inconsistent. For instance, in their interviews with the CPC, former Commissioner Zaccardelli and retired Assistant Commissioner, Ford Matchim, the Officer-in-Charge (OIC) (Superintendent) of Fredericton Subdivision during that period, recalled the priority given to the investigation differently. On the one hand, Mr. Zaccardelli maintained that the investigation was always a high priority and that he reflected this in the directions he provided to Mr. Matchim. Mr. Matchim, on the other hand, indicated that for the investigators at the street level it was just another investigation, even though the senior officers, as he referred to them, thought differently. He further maintained that it was just another investigation on the list of many investigations being conducted by the Fredericton Subdivision General Investigation Section (GIS) at the time, which indicates that senior management was not involved at the appropriate level.

The lack of the due diligence expected in a large investigation of this nature may have impacted other areas that the CPC found problematic such as resourcing; the relationship with the Crown; note taking, reporting and documentation; and communication with the public. The impact of these problem areas on the investigations might have been lessened had senior management realized the importance and sensitivity of the allegations and been appropriately involved.

16.4.2 Finding Two

The resourcing for the investigations was inadequate.

Analysis

During its investigation, the CPC heard concerns about the adequacy of the RCMP's allocation human resources. These concerns were raised from all levels, including the senior officers in "J" Division. This was reflected in the early years of the investigation by the fact that individual officers, as opposed to teams, were assigned to the investigation. The system of officers working in pairs or as part of an investigative team was generally not practiced, exposing the investigation to problems such as delays and inconsistent investigative work when an officer was transferred to another investigation or to another division.

The availability of resources also affected workload allocation. Members assigned to the investigation were required to maintain their assigned files while diverting their attention to urgent cases, such as the lobster fishing dispute at Burnt Church and the Bischoff murder case. Various officers informed the CPC that after dealing with more immediate issues, they would return their focus to the NBTS investigation.

A number of members were rotated in and out of the investigations over the course of almost 15 years. Members would be assigned for a few months and then transferred to another position, leaving gaps in the investigations. If and when a new member came on board, he or she required time to become familiar with the status of that investigation. Such constant rotations can present a challenge to conducting a thorough and timely investigation. Responsibility for these types of resourcing challenges rests with the senior command in "J" Division.

16.4.3 Finding Three

The deference given to the Crown's office in pursuing charges affected the public's perception of the RCMP and may have affected the outcome of the McCann investigation.

Analysis

As noted by Justice LeBel of the Supreme Court of Canada in R. v. Regan [2002], 1 S.C.R. 297, under the Canadian criminal justice system, the police are responsible for conducting investigations and have the ultimate responsibility for deciding which charges should be laid. New Brunswick is one of three Canadian provinces which has a procedure in place that requires the police to engage with the Crown counsel in a pre-charge assessment as to the likelihood of a conviction at trial. The majority of RCMP officers interviewed erroneously believed that they could not lay criminal charges absent a positive Crown assessment.

Although it is recognized that cooperation and consultation between the police and the Crown counsel is essential to the proper administration of justice, it should be remembered that the police have the ultimate right to investigate and lay charges unimpeded by the Crown, just as prosecutors have the right to stay, withdraw or discontinue a prosecution once a charge has been laid by the police. This distinction is recognized in the New Brunswick *Public Prosecutions Operations Manual* (27 July 1999) that was received by the CPC in August 2005.

The various Crown counsel involved in the RCMP investigations over the past decade told the CPC that they do not instruct the police on how or what to investigate; they only make recommendations about which charges to proceed with. The Crown counsel acknowledged that, despite a recommendation not to lay charges, the police still have the authority to lay a charge, and the Attorney General has the authority to stay the charge.

It is evident to the CPC that the ultimate responsibility of the police in respect to laying criminal charges is not well understood by many RCMP officers in "J" Division. This misperception was enough of an issue that Superintendent Zaccardelli, while CROPS Officer for "J" Division, tried to clarify the matter by responding to a memorandum from Corporal Clive Vallis via a Transit Slip dated 13 February 1991:

> Whenever we refer to laying charges we should always indicate that … we will determine if charges should be laid after review of the evidence. The Crown of course is often consulted but only for their opinion. Too many members think that the Crown decides what charges should be laid. Or some members don't want to have to decide. They take the easy way out and let the Crown make the decision. From CROPS the message has to go out that members must make the decision after due consultation with supervisors, section NCOs, OCs, etc.

In interviews with the CPC, Crown counsel and members who served in "J" Division said that relations between the Crown and the police have always been close, professional and cordial. The CPC did not find any instance where the Crown was dissatisfied with RCMP briefs or reports. The pre-charge screening procedure was implemented in the province many years ago and still exists today. The investigators interviewed indicated that they rely on the Crown to a great extent for advice on cases they are investigating. The RCMP has rarely proceeded with charges after receiving a recommendation from the Crown not to do so.

16.4.4 Finding Four

Note taking, report writing and documenting by some RCMP members were inadequate.

Analysis

The quality of the notes kept by some RCMP members at crucial points during the investigation is a serious issue. The CPC found wide variation in the manner and comprehensiveness of officers' notes and reports. At one extreme are officers who document every action taken in various reports; at the other are officers who keep minimal notes, if any, and enter them only in a Continuation Report or an Investigation Report.

Examples

- At the conclusion of his investigation, Constable Tom Spink verbally discussed with Crown counsel Hilary Drain whether to proceed with charges against Mr. Toft. The only documentation the CPC received about the meeting was in a Continuation Report that briefly summarizes the decision. The CPC cannot confirm whether the parties discussed the findings and conclusions or other topics of concern, such as the allegations involving the Fredericton Police Force (FPF) and the NBTS that were set out in the letter from the Attorney General on 7 February 1990. Constable Spink did not prepare any documentation in advance of his meeting with Ms. Drain. It would appear from speaking with Ms. Drain and Constable Spink that this was, in fact, just a verbal briefing and that no documentation was given or received. He told the CPC that he would have consulted with his supervisor and peers before going to see Ms. Drain. However, there is no documentation that could support his recollection of the events.

- Sergeant Doug Lockhart's interview of Staff Sergeant McCann on 12 March 1992 is poorly documented. There is no documentation detailing the questions asked or indicating if Sergeant Lockhart briefed his superior officers before or after the interview, and what such a briefing may have contained.
- Staff Sergeant McCann's second interview on 29 October 1998 was not recorded, nor was there a formal statement taken. Following the interview, the officers, Constable Pat Cole and Staff Sergeant Jacques Ouellette, prepared very brief summaries noting that Staff Sergeant McCann's residence was visited and the names of those present. It is disconcerting that two experienced police officers would fail to record in any detail what was discussed in such an important interview.
- On 14 September 1998, according to Constable Cole, he spoke with Crown counsel Jim McAvity and Kelly Winchester regarding a complainant's file. According to Constable Cole, he had not prepared any documentation for the Crown counsel to review. The importance of the conversation became apparent a few years later when Staff Sergeant Dunphy needed to make a decision about whether to seek a written decision from the Crown counsel regarding potential charges against Staff Sergeant McCann. In his final response to the complainant, Staff Sergeant Dunphy indicated that he based his decision on Constable Cole's version of the conversation, in which he said that the two Crown counsel indicated that there was not enough evidence to proceed with charges. The CPC interviewed Mr. McAvity and Ms. Winchester, neither of whom could remember the events as recounted by Constable Cole. Both indicated that they would not have given a formal opinion on such a serious issue without a brief of some kind being given to them.

16.5 Findings Specific to the McCann Investigation

It is evident to the CPC that the treatment afforded Mr. McCann during the 1992 and 1998 interviews differed from what a civilian suspect would have received. In fact, given that both interviews were clearly inadequate, it is reasonable for members of the public to perceive that Mr. McCann did receive preferential treatment. Inadequacies that occur when the RCMP is investigating one of its own can become magnified when assessed through the eyes of the public. The rumours surrounding the missing pictures (it is alleged that Mr. McCann is depicted in one of the pictures with three young men in various states of undress), the alleged incident in the arena washroom and the speculation around his transfer in 1992 (the timing and the administration of his transfer has been put into question) had a significant effect on the public's perception about the impartiality of the RCMP investigation.

The CPC did not find any substantiated evidence to suggest there was a cover-up of the allegations made against Staff Sergeant McCann. However, the rumours and innuendo percolating throughout "J" Division while he was a senior Non-commissioned Officer (NCO) working in the Division, should have alerted all officers, especially the senior command, to treat the investigation with greater care.

16.5.1 Finding One

There is no credible evidence that the pictures were purposely destroyed as part of a cover-up to protect Staff Sergeant McCann.

Analysis

The CPC has concluded that retired Corporal Dan Arnett is the one person who should be able to clarify unresolved questions related to the missing pictures and the rumoured washroom incident involving Staff Sergeant McCann. Corporal Arnett was identified as the "go-to" person in the Detachment at the time. He was the shift supervisor on duty on 1 March 1990, the night of an attempted murder during which a number of pictures were seized from the victim's home. He was also one of the officers, according to some of the members interviewed, who attended the scene. Corporal Claude Tremblay, who was a constable at the time of the attempted murder investigation, said that on the morning after the incident, he saw Corporal Arnett in possession of some Polaroid pictures allegedly taken from the crime scene.

There are many aspects surrounding the matter that are troubling. For example, according to a report by Corporal Vallis, the original RCMP file on the matter was believed to have been purged. As a result, the officers assigned to the investigation team did not have the benefit of seeing the file. It was not until the CPC interviewed Records Clerk, Elaine Parker Brown, on 12 June 2006 that the CPC learned that an "Attempt Murder" file is never purged but is instead archived in Ottawa. As a result of receiving this information, the CPC requested, received and reviewed the file and discovered that there was no exhibit form that listed Polaroid pictures as an item seized from the victim's house, nor was there a copy of any of the involved officers' notebook entries.

The CPC interviewed 31 people who worked at the Riverview Detachment before, during and after the attempted murder investigation of March 1990, including the Assistant Crown Attorney responsible for prosecuting the two teenagers charged with the crime.

As with any investigation, especially one that is 15 years old, witnesses remember events with varying degrees of accuracy. There is ample evidence that Staff Sergeant McCann participated in activities with young boys, such as at the NBTS and with minor hockey programs. However, there is no evidence that would have supported the laying of any criminal charges against Staff Sergeant McCann at that time, nor is there any information to confirm whether the pictures were purposely destroyed, misplaced or returned to the victim. The CPC could also not determine whether there is any evidentiary value to the pictures. What the CPC does know is that an exhibit report for keeping track of seized exhibits does not exist in reference to the pictures from the attempted murder case.

Corporal Tremblay was the only officer to say he saw a photograph of Staff Sergeant McCann along with three other males in Corporal Arnett's possession. He was adamant about seeing the picture in January 2002 and again in March 2002 when he gave a written statement; he was just as adamant in 2006 when interviewed by the CPC. During his audiotaped interview, Corporal Tremblay told the CPC that he did not feel it was anybody's business what Staff Sergeant McCann was doing in the photograph because the young males in the photographs appeared to be of the age of consent. Most of those interviewed made similar estimates of the ages, suggesting that the young males in the photographs were between 17 and 19 years old.

The CPC examined the attempted murder investigation and the rumours that Staff Sergeant McCann was in one of the pictures found at the victim's house. The first thing to note is the fact that the attempted murder occurred on 1 March 1990, while the investigation into Staff Sergeant McCann did not start until 31 January 1992. There was no evidence of any kind that would have alerted the RCMP investigators who were investigating the attempted murder to the possibility that Staff Sergeant McCann was involved in any criminal or offensive conduct with young boys from the NBTS or elsewhere. However, some members found it strange that he was spending so much time at the NBTS. For instance, a retired staff sergeant told the CPC that, in the 1980s, he had told Staff Sergeant McCann that he did not think it wise for him to be spending so much time at the NBTS; but he also said that he never suspected that Staff Sergeant McCann was involved in anything inappropriate.

In the course of its investigation, the CPC confirmed that the RCMP seized, without a warrant, several pictures from the residence of the attempted murder victim. The majority of the people interviewed who saw the pictures have varying recollections about the age of the youth, how they were clothed and the actions depicted. The CPC has also confirmed that the photographs are missing. Their disappearance remains a mystery, as does whether they were returned to the victim along with other personal effects seized during the investigation. During his interview with the CPC, the attempted murder victim discused the Polaroid pictures the RCMP had removed from his home; however, he was unable to recall whether they had been returned to him. He was adamant that Mr. McCann was not in any of the pictures taken from his residence and informed the CPC that he, the victim, had taken the pictures himself.

16.5.2 Finding Two

There is no credible evidence of a cover-up with regard to the rumoured washroom incident.

Analysis

During the course of the 1992 investigation, Sergeant Lockhart was told of an incident or incidents in which Staff Sergeant McCann had allegedly been caught in a washroom with a young male hockey player. Sergeant Lockhart could not determine the validity of this rumour; the members involved indicated to Sergeant Lockhart that they either had no knowledge of it or they could not recall the specifics.

This rumour was circulating throughout Riverview Detachment. This was apparently brought to the attention of Corporal Arnett by one of his subordinates. The subordinate was interviewed and confirmed that he had heard the rumour and brought it to Corporal Arnett's attention, who, at the time, was his immediate supervisor. The subordinate said he did not know what, if anything, transpired thereafter.

Another member stationed at Riverview informed the CPC during an interview that Corporals Arnett and Bill Trewin had told him that a father had complained to them about catching Staff Sergeant McCann in a compromising position in an arena washroom with his son in late 1991 or early 1992. Corporals Arnett and Trewin were upset because the father did not want to continue with the complaint. The CPC interviewed retired Corporal Trewin who said he did not know anything about any alleged washroom incident involving Staff Sergeant McCann and that he did not recall ever having a conversation with another member about it.

A different version of the alleged incident that was circulating in the detachment held that one of two RCMP members who played hockey with Staff Sergeant McCann had witnessed the incident. During their interviews with the CPC, both members denied any knowledge of the event and indicated that if they had observed anything of this kind, they would have reported it.

The CPC did not find any evidence that an incident of the kind rumoured to have taken place between Staff Sergeant McCann and a young male had actually occurred. There were no known witnesses to any such event; when interviewed by the CPC, the officers identified as possible informants did not recall the events in question and denied knowing anything about it.

16.5.3 Finding Three

There is no evidence of an ulterior motive in the transfer of Staff Sergeant McCann.

Analysis

Through a review of the documentation and interviews with RCMP members, the CPC determined that the general investigation into the NBTS had been ongoing since February 1990. The reference to Staff Sergeant McCann's name in association with Mr. Toft began in the fall of 1991. He was identified for a transfer on 4 January 1992, which was approved by his immediate superior, Superintendent Rivard, on 15 January 1992, and signed off by the CO, Chief Superintendent Beaulac, on 17 January 1992. The RCMP's criminal investigation into Staff Sergeant McCann commenced on 31 January 1992. The timing of the transfer came at a time when the allegations against Staff Sergeant McCann were being investigated.

The CPC learned that the alteration that was made on the Transfer document (A22A) in the transfer destination box is not a normal occurrence, although it does occasionally happen. Based on all available evidence, including the interviews conducted with personnel in the Staffing and Personnel Branch, it appears that Staff Sergeant McCann's transfer from Riverview Detachment to "J" Division Headquarters in June 1992 may have been the result of routine business. However, on 3 April 2007, in a second interview with the CPC, retired Deputy Commissioner Beaulac stated that Staff Sergeant McCann might have been transferred because of the ongoing criminal investigation, although he had no specific recollection of that being the case.

The CPC cannot determine if the Transfer document of Staff Sergeant McCann was deliberately altered to affect his placement in the CROPS office or whether it was made during the course of an administrative review. Staff Sergeant McCann's transfer to "J" Division Headquarters in Fredericton had the effect of curtailing his interaction with the general public from the time of his transfer in June 1992 to his retirement in April 1993. It was during this time that the initial criminal investigation into allegations against him was conducted.

16.5.4 Finding Four

The interviews of March 1992 and October 1998 of Staff Sergeant McCann were inadequate.

Analysis

First Interview

In the opinion of the CPC investigators, Sergeant Lockhart's meeting with Staff Sergeant McCann on 12 March 1992 was premature. At the very minimum, all 11 former residents identified as having had contact with Staff Sergeant McCann should have been interviewed and all other avenues exhausted before Staff Sergeant McCann was confronted.

The CPC identified the following problems with Sergeant Lockhart's interview with Staff Sergeant McCann, any one of which could call into question an officer's motives:

- All potential victims were not interviewed prior to the meeting.
- Only one officer, who was of a lower rank than the potential suspect/person of interest, conducted the interview.
- The officer did not tape-record or keep detailed notes of the interview and did not prepare a detailed report of the discussion that took place.
- The meeting was held in Staff Sergeant McCann's office, which was not an appropriate location.
- There were no briefings with squad members or senior officers before or after the meeting.

Based on its review of all relevant Continuation Reports, witness statements and officer notebooks, as well as an interview with the officer involved, the CPC finds that the meeting was premature and inadequate. The possibility also exists that the timing of the meeting and the fact that Sergeant Lockhart was not in a position to lay criminal charges at that time, may have given Staff Sergeant McCann an opportunity to destroy potentially damaging evidence, such as pictures or diaries that may have been in his possession. As a result of the meeting and being told of the allegations, Staff Sergeant McCann could have used the opportunity to contact former residents to caution them against coming forward. (There is information that Staff Sergeant McCann contacted two of the former residents some time after his meeting with Sergeant Lockhart.)

Regardless of whether the individual is a suspect, a person of interest or even a witness, such an interview should be carefully orchestrated. However, the fact that Sergeant Lockhart continued his investigation into Staff Sergeant McCann after the interview on 12 March 1992 leads the CPC to conclude that he did not meet with Staff Sergeant McCann to give him a heads-up. He told the CPC that even though he did not have any evidence that would lead him to believe the rumours about Staff Sergeant McCann, he wanted him to be aware that the rumours were being investigated.

The CPC is aware from its review of the relevant material that RCMP officers tried on several occasions, though unsuccessfully, to convince an alleged victim of Staff Sergeant McCann to come forward and give a written statement after the interview with Staff Sergeant McCann. They even attempted to enlist the help of the alleged victim's mother, who eventually stated that she had seen her son engaged in a sexual act with Staff Sergeant McCann in his police car. She refused to give a statement at the time without her son's consent.

Second Interview

Retired Staff Sergeant McCann became the focus of an investigation again in 1998 after a complaint was lodged with the CROPS Officer in "J" Division. Once it was decided by the team that the investigation had reached the point at which Mr. McCann should be interviewed, Constable Cole, the lead investigator, enlisted the help of Staff Sergeant Ouellette, who was in charge of the Major Crime Unit, to conduct an interview of Staff Sergeant McCann. The interview was held on 29 October 1998.

The interview, which lasted less than an hour, was conducted in Mr. McCann's living room with his wife present. The interview was not recorded, even though, as they told the CPC, both officers considered him to be a suspect. Rather than take Mr. McCann into a detachment for questioning and obtain a formal statement, the RCMP gave the former RCMP member a consideration not generally accorded to suspects. Neither officer took any detailed notes nor made any reports about what they discussed during the interview. In their interviews with the CPC, Staff Sergeant Ouellette and Constable Cole gave conflicting accounts of their visit to Mr. McCann's home. According to Constable Cole, Mrs. McCann did most of the talking and Staff Sergeant Ouellette took the lead. However, Staff Sergeant Ouellette said that Constable Cole conducted the interview and that Mrs. McCann said very little.

The CPC finds the conduct of the interview to be inadequate. Experienced members conducted the interviews and should have followed established procedures for dealing with suspects. The lack of an interview strategy, detailed notes and reports, combined with the location of the interview, are all problematic and give the impression that the officers might have been going through the motions and not taking the investigation seriously. This lack of professionalism fuels public concern about the RCMP investigating themselves.

16.5.5 Finding Five

Due diligence on the part of Staff Sergeant Dunphy was lacking in regard to acting upon the recommendations from his team, the Behavioural Science Profiler and the Crown counsel in the lead up to the arrest and interrogation of Mr. McCann.

Analysis

After speaking with all members of the investigative team commanded by Staff Sergeant Dunphy, it was apparent that two different thought processes were at play during this investigation. Constables Kathy Long and Denise Potvin were of the opinion, which they shared with the CPC, that each time something controversial was raised, such as interviewing the family of Mr. McCann, Staff Sergeant Dunphy took the safe approach and backed off. Some other members interviewed stated that it was clear at the outset that Staff Sergeant Dunphy wanted to see the matter fully investigated and that he was determined to have Mr. McCann charged; however, they were confused by his behaviour when it came time to conduct certain interviews.

Examples

- Both Crown counsel Connell and Constable Long wanted interviews conducted with Mr. McCann's children. One complainant stated that the McCanns' son was present during a situation at a recreational club but was not sure if in fact the son would have seen anything that may have occurred at the time. This is an area that should have been taken up with Mr. McCann's son; even the Crown requested that an interview be conducted, but it was never done.
- Superintendent Glenn Woods of the Behavioural Science Branch suggested that the entire family be interviewed in conjunction with or shortly after the arrest of Mr. McCann. This was one of many recommendations ignored by Staff Sergeant Dunphy. When interviewed by the CPC, Mr. Dunphy stated that he did not want to divulge evidence during the course of the investigation; however, when prompted during her interview, Ms. Long said that he was more concerned about a civil suit.

- Staff Sergeant Dunphy refused to allow an interview to take place with the organization to which the McCanns were volunteering their time. It was discovered during the course of the investigation that Mr. McCann and his wife were volunteering at a community centre and that Mr. McCann was paying particular attention to a 13-year-old boy. Again, Constables Long and Potvin thought that the organization should be approached and at least cautioned about the allegations against Mr. McCann. Constables Long and Potvin wanted to warn the centre and interview the family in question and when they advised Staff Sergeant Dunphy of their plans, he refused to allow this to happen. Both Constables Long and Potvin decided to disobey Staff Sergeant Dunphy's instructions and conducted the interviews and warned the organization.
- Another officer, Constable Pierre Gervais, was so concerned about Mr. McCann spending time with the boy at the community centre that he did some sporadic surveillance to see what he was doing when in the company of the boy. Staff Sergeant Dunphy did not authorize dedicated and full-time surveillance, but he was aware of what Constable Gervais was doing and did not interfere in this part of the investigation.
- Staff Sergeant Dunphy appeared to refuse to act on suggestions in relation to the Behavioural Science Profiler's recommendations and suggestions concerning the arrest and interrogation of Mr. McCann. The idea of obtaining the profile was attributed to Constable Long, who provided the information to have the report compiled. The recommendations regarding the arrest of Mr. McCann were specific about the rank of the arresting officers, the means of conducting the interrogation and the roles certain officers should undertake. The recommendation that a member of equal or higher rank interrogate Staff Sergeant McCann was ignored. According to Sergeant Mike St. Onge, Staff Sergeant Dunphy was supposed to conduct the interrogation but at the last minute plans changed and Sergeant St. Onge commenced the interrogation.

During his interview with the CPC, retired Staff Sergeant Dunphy said that the profiler's report was a tool and that he does not recall specifically what was used in the interrogation of Mr. McCann.

The CPC could find no evidence to suggest that, had the recommendations by members of the team or the Behavioural Science Branch been followed, the final outcome would have been different. However, following the suggestions or taking that extra step would have erased any suggestions of an inadequate investigation or of a cover-up. Due diligence on the part of Staff Sergeant Dunphy was lacking, especially when compared to his investigators.

16.6 Findings Regarding Allegations of CPC Complainants

The CPC received 11 allegations, two of which are identical and thus are not repeated here. The allegations are presented below, along with the findings of the CPC in regard to each of them. The response to each allegation should be considered in conjunction with the *Kingsclear Investigation Report*, including the findings regarding the issues that are specific to the RCMP investigations into Mr. McCann.

16.6.1 First Allegation

RCMP Staff Sergeant Dave Dunphy misled, lied to, put down, deceived, yelled at, swore at and name-called *Mr. Shore* during telephone conversations.

Analysis	Findings
During their interviews with the CPC, RCMP members mentioned their frustration when dealing with *Gregory Shore* and their concern that his interruptions were having a negative impact on the investigation. Consequently, Corporal Paulette Delaney-Smith was assigned to be the RCMP liaison for *Mr. Shore*. For a detailed analysis, see Chapter 9, "Investigation by Staff Sergeant Dave Dunphy 2000–2003," in the *Kingsclear Investigation Report*.	The CPC finds that the allegation that Staff Sergeant Dunphy "put down," "yelled at, swore at" and called *Mr. Shore* names during telephone conversations is likely to have occurred. The CPC did not find evidence to substantiate the allegation that Staff Sergeant Dunphy "misled, lied to" and "deceived" *Mr. Shore*.

16.6.2 Second Allegation

Despite all the evidence that was presented to Staff Sergeant Dave Dunphy and/or the RCMP Task Force relating to the complaints of sexual abuse against Kingsclear staff members, inmates and RCMP Staff Sergeant Clifford McCann, no charges were ever laid.

Analysis	Finding
The CPC referred to the evidence provided by the File Coordinator, Constable Al Rogers, regarding the complaints investigated by the RCMP and the way the complaints were investigated. This evidence demonstrates the length investigators went to in order to locate and interview the alleged victims. There were very few new complaints brought to the RCMP's attention. In addition to what has been stated at length in the report, Constable Rogers confirmed that the RCMP's investigation of numerous Tip files only yielded charges related to the claims made by *Mr. Shore* and three other victims.	The CPC finds that comprehensive court briefs were prepared by the RCMP for six of the seven alleged offences. In 2002, Crown counsel Connell wrote letters indicating that he was not recommending that charges be laid against Messrs. Toft, Raymond or McCann.

16.6.3 Third Allegation

Unknown members of the RCMP engaged in a cover-up of the alleged criminal actions of the Kingsclear staff members, inmates and RCMP Staff Sergeant Clifford McCann.

Analysis	Finding
The CPC interviewed 150 witnesses, some of whom were re-interviewed to help clarify and corroborate events and evidence. During its review of relevant material, the CPC found that in October 1993 the RCMP had urged the Crown to lay additional charges against Mr. Toft and even considered hiring its own prosecutor upon learning that the Crown initially refused their court briefs. They also prepared court briefs relating to charges on other staff members at the NBTS that were not approved by Crown counsel. In relation to Staff Sergeant McCann, in 2003 the RCMP prepared and delivered investigative briefs to Crown counsel for review. Following a lengthy and detailed review, Crown counsel recommended against laying any criminal charges against Staff Sergeant McCann.	The CPC finds that there is no evidence of a cover-up as defined for the purpose of this investigation involving the RCMP members interviewed. In fact, the CPC finds that the RCMP pressed the Crown to lay additional charges against Mr. Toft and considered hiring its own lawyer to prosecute the charges.

16.6.4 Fourth Allegation

RCMP Commissioner Zaccardelli, who was Officer in Charge of Criminal Operations in New Brunswick in the early 1990s, knew that Staff Sergeant Clifford McCann was sexually abusing boys and did nothing to stop it.

Analysis	Finding
Sergeant Lockhart informed Superintendent Zaccardelli of the allegations against Staff Sergeant McCann in January 1992. During his interview with the CPC, Mr. Zaccardelli said that he told Sergeant Lockhart to get to the bottom of the allegations and instructed him to treat Staff Sergeant McCann like anyone else. Sergeant Lockhart confirmed in his interview with the CPC that Superintendent Zaccardelli gave him these instructions. He also said that he kept Superintendent Zaccardelli abreast of his progress throughout the McCann investigation. However, when questioned about Sergeant Lockhart's interview with Staff Sergeant McCann, neither could say with any certainty that they discussed it. Mr. Zaccardelli did recall being told that none of the complainants could provide any direct evidence and that there was no actual complaint. Both Mr. Zaccardelli and Sergeant Lockhart insisted that they would have laid charges against Staff Sergeant McCann if the evidence existed.	The CPC finds that Mr. Zaccardelli was aware of the allegations and the evidence confirms that he took the appropriate steps to ensure that the allegations were investigated.

16.6.5 Fifth Allegation

RCMP Staff Sergeant Dave Dunphy violated the *RCMP Act* on numerous occasions.

Analysis	Finding
In an effort to assess the validity of the allegations that Staff Sergeant Dunphy violated the *RCMP Act*, and in the absence of any specific allegation as to which section of the Act was violated, the CPC revisited the interactions between *Mr. Shore* and Staff Sergeant Dunphy. The CPC examined Staff Sergeant Dunphy's conduct, as well as that of all RCMP members involved in these investigations, in terms of their performance of duties or functions under the *RCMP Act*.	The CPC finds that Staff Sergeant Dunphy may have been less than professional with *Mr. Shore* on occasion in that it is likely that he swore, yelled at *Mr. Shore*, called him names, and put him down.

RCMP Staff Sergeant Dave Dunphy committed criminal offences, interfered in criminal police investigations and conspired to alter the outcome of these investigations.

Analysis	Finding
The CPC conducted 150 interviews and read and summarized over 50,000 pages of documents to determine if this allegation against Staff Sergeant Dunphy could be corroborated.	The CPC did not uncover any evidence to substantiate this allegation.

16.6.6 Sixth Allegation

That there was an inadequate investigation of sexual assaults alleged by the complainants and others and, as a result, there was a failure to lay charges against Staff Sergeant Clifford McCann.*

Analysis	Findings
The first interview with Staff Sergeant McCann was premature and ill advised, and the second interview was conducted at Staff Sergeant McCann's home in the company of his wife. In both instances, documentation of the interviews was inadequate.	The CPC finds that the interviews conducted by the RCMP officers with regard to Staff Sergeant McCann were inadequate. The CPC finds that there was a lack of due diligence on the part of Staff Sergeant Dunphy.
There were many factors contributing to the failure to lay charges, the most important of which was Crown counsel's decision not to lay charges. It is the CPC's conclusion that the RCMP did intend to lay criminal charges: Mr. McCann was arrested, held in the cell block and subsequently interrogated for several hours. The RCMP submitted seven briefs to Crown counsel all of which were rejected.	The CPC finds that while aspects of the investigations were inadequate, they did not result in the failure for charges to be laid against Staff Sergeant McCann.

* This allegation was repeated by another complainant.

16.6.7 Seventh Allegation

That there was a cover-up by unidentified members of the RCMP of the alleged criminal actions of Staff Sergeant McCann from the period of 1988 until the end of Staff Sergeant McCann's police career (which ended with his retirement).*

Analysis	Finding
Several RCMP members and NBTS employees were aware that Staff Sergeant McCann was heavily involved with the residents of the NBTS before the rumours began circulating about him in fall 1991. However, there is no evidence that would substantiate any allegation that there was a cover-up by the RCMP at any time during the course of its investigations into Staff Sergeant McCann's activities. Some RCMP members that the CPC interviewed indicated that they were not surprised when they heard about the rumours while others said they were shocked. All members who acknowledged that they were suspicious said they had no reason to believe that anything of a criminal nature was taking place.	The CPC finds that there is no substantiated evidence that members of the RCMP who were interviewed engaged in a cover-up in relation to the RCMP investigations into the allegations against Staff Sergeant McCann.

* This allegation was repeated by another complainant.

16.6.8 Eighth Allegation

That unknown RCMP members conducted an inadequate investigation into alleged criminal activities by Kingsclear staff and others.

Analysis	Finding
The lack of notes taken by some members and the poor quality of notes taken by others may have affected the conduct of the investigation when follow-up was required or the source information was unavailable, incomprehensible or inaccurate. Moreover, the poor quality of note taking influenced the CPC's perception of the officers' commitment to the investigation. It was not until the interviews were conducted that the CPC was able to confirm that the officers' commitment to the investigations was not problematic. It was known almost from the beginning that the investigation was sensitive, high-profile and had the potential to develop into a large-scale investigation, yet few dedicated resources were allocated to it. It should have involved greater scrutiny by management, and senior officers should have provided more direction and resources. With some exceptions, senior officers only became involved once there was media attention, when complainants communicated directly with them or when government officials enquired about the progress of the investigation. These are just a few examples of the inadequacies.	The CPC finds that the investigation by some members of the RCMP into the alleged criminal activities by NBTS staff and others were inadequate.

16.6.9 Ninth Allegation

That unknown members of the RCMP failed to adequately investigate his [*Daniel Trottier's*] allegations of sexual assault and, as a result, failed to lay charges against four Kingsclear staff members, Karl Toft, *Derrick Shaw*, *Ray Wilson* and *Andrew Duke*.

Analysis	Finding
Court briefs were prepared on several NBTS staff, including Mr. Toft who pled guilty and was sentenced to 13 years in prison. The Crown did not recommend any further charges be laid against Mr. Toft because of its previous decision regarding the totality of sentencing. The criteria used by both the RCMP and the Crown counsel in deciding whether to lay charges against other NBTS staff who were implicated and subsequently investigated by the RCMP included the lack of credibility of the complainants and witnesses, lack of corroboration of the allegations, seriousness of the alleged assaults (whether sexual or physical) and the category of offence to which the criminal charges applied (i.e., summary conviction or indictable). In most cases, the Crown did not recommend that charges be laid based on the above criteria. In a few cases the RCMP made the decision not to proceed without a review by Crown counsel based on the type of allegation made, the lack of corroborating evidence in relation to the allegation and the inability of the RCMP to prove the elements of a criminal offence. The CPC does not have any comment regarding the last three suspects named by *Mr. Trottier* as they were not staff members of the NBTS. The RCMP referred one of the allegations to the FPF as the alleged assault took place in that city. Another was considered a summary conviction offence and the time limit for prosecution had expired. *Mr. Trottier's* complaint against the last suspect was that he had made sexual innuendo; since no touching was involved, there was no applicable charge that could be laid. The additional complaint made by *Mr. Trottier* to the RCMP in relation to Staff Sergeant McCann was forwarded to the FPF for investigation as the alleged offence occurred in Fredericton.	The CPC finds that there were inadequacies in the NBTS investigation; however, the CPC finds that these inadequacies did not affect the possibility of additional criminal charges being laid against Mr. Toft or the other staff members at the NBTS.

17. Recommendations of the Commission for Public Complaints Against the RCMP

17.1 Recommendation One

The CPC recommends that the Commissioner of the RCMP and RCMP commanding officers ensure that a mechanism is in place to identify investigations that may become sensitive or of a large scale or both.

17.2 Recommendation Two

The CPC recommends that appropriate response and accountability mechanisms be put in place at the senior officer level to enable senior officers to monitor continuously the progress of any sensitive or large-scale investigation and assure the public of transparency, effectiveness and impartiality.

It is evident to the CPC that the RCMP encountered challenges during its investigations into allegations against staff at the NBTS and Staff Sergeant Clifford McCann, in part because of the lack of appropriate involvement of senior officers. The RCMP investigations into the NBTS were initiated after a written request from the Attorney General of New Brunswick to the Commanding Officer (CO) of "J" Division. These investigations were conducted soon after the Mount Cashel investigations, which had generated intense media coverage and public outrage. The similarities to the NBTS investigation were immediately apparent and senior officers should have been more vigilant at the outset and increasingly thereafter. The effect of the lack of appropriate involvement of senior officers on the progress of the investigations included the following obstacles and shortcomings:

- *Lack of resources.* In most instances, officers who were interviewed by the CPC indicated that a lack of resources was a systemic problem not only for this investigation but for all investigations that they were involved with at "J" Division. Although senior officers complained about the lack of resources, it is not obvious that their involvement was intimate enough to realize how the issue was affecting their staff.
- *Lack of direction.* This lack of direction is especially evident in the confusion regarding the mandate of the first investigation led by Constable Tom Spink. The confusion of the officer and, to a lesser extent, his superiors may be one indication of the effect of the lack of appropriate direction.
- *Lack of clear and accurate documentation for internal records and for sharing information with outside individuals, such as Crown counsel*. This lack of documentation may be attributed to the fact that senior officers were not appropriately following the development of an investigation of this size and sensitivity, especially in the early stages.
- *Inadequacy of the two interviews with Staff Sergeant McCann*. Senior officers were not informed of the interviews with Staff Sergeant McCann before the interviews took place, nor were they made aware of the

content of the interviews afterwards. This may be partially attributed to the lack of appropriate involvement by senior officers, which should include reporting at defined major stages in a major investigation.

17.3 Recommendation Three

The CPC recommends that an assessment and follow-up be conducted to determine the actual resource needs of the RCMP "J" Division to ensure that any sensitive and large scale investigation is conducted without interruption and in a timely and professional manner.

With few exceptions, most officers have complained about the lack of resources during the investigations. Even the officers involved in the recent 2003 investigation commented about this. A lack of resources is not uncommon in the average police investigation; this is not an anomaly. However, officers located in other detachments were sporadically asked to help in the investigation into the NBTS, while officers working on the NBTS file were often asked to assist in other urgent issues. NBTS investigative plans proposed as late as the year 2000 were scaled down significantly or completely disregarded.

Although it may appear as if the lack of resources had little effect on the outcome of the investigations, they did add to the challenge of managing them. For example,

- consultation with Crown counsel and senior officers, as well as investigation documentation, may have been conducted more professionally had there been additional resources to accommodate the workload of the investigating officers and the associated administrative and managerial work;
- the investigation would have progressed more quickly had additional resources been available and had officers not been distracted from daily investigative tasks to accommodate other incidents and events that were deemed pressing by senior officers, especially in the early stages of the investigation; and
- the slow pace of the investigations may have influenced the public's perception of there being a possible cover-up.

17.4 Recommendation Four

The CPC recommends that the CO and senior members of the RCMP in a pre-charge screening province ensure that members clearly understand their role in the administration of justice vis-à-vis the Crown to preserve their independence.

Inconsistencies in the approach to the laying of charges are evident. Some officers, such as Inspector Mike Connolly, disagreed with the Crown's decision not to prosecute and opted to challenge the Crown's decision. Others chose to disagree yet do nothing; for instance, in the case of the incomplete request regarding the *Information to Obtain a Search Warrant*. These inconsistencies, along with statements made by two senior officers concerning the confusion between the roles of the Crown and the police, points out the possibility that the roles and responsibilities between the two are sometimes blurred, perhaps more often than is appropriate. Furthermore, the majority of RCMP members interviewed believe that they could not lay criminal charges absent a positive Crown assessment.

The principle of police independence was affirmed in the relatively recent case of R. v. Regan [2002], 1 S.C.R. 297. At page 23 of the decision, LeBel J., for the majority, in reviewing the need for separation between police and Crown functions, quoted the *Commissioner's Report: Findings and Recommendations* (vol. 1, 1989) of the Royal Commission on the Donald Marshall, Jr., Prosecution:

> [U]nder our system, the policing function—that of investigation and law enforcement—is distinct from the prosecuting function. We believe the maintenance of a distinct line between these two functions is essential to the proper administration of justice.

LeBel J. also noted that

> [t]he distinct line appears to be that police, not the Crown, have the ultimate responsibility for deciding which charges should be laid. This can still be true after the Crown has made its own pre-charge assessment, and when the two arms of the criminal justice system disagree on whether to lay charges.

Although it is recognized that co-operation and consultation between the police and the Attorney General's office is essential to the proper administration of justice, it should be remembered that the police have the right to investigate and lay charges unimpeded by the Crown, just as prosecutors have the right to stay, withdraw or discontinue a prosecution once a charge has been laid by the police.

17.5 Recommendation Five

The CPC recommends that the RCMP examine, amend and enforce the "Investigator's Notebook" policy and all policies related to note taking, report writing and documenting to ensure that the policies are operationally effective and that officers adhere to and are continuously trained according to the guidelines.

17.6 Recommendation Six

The CPC recommends that the RCMP examine the policy on notebook retention used by other police agencies to glean best practices applied across the country, especially for officers who are retired, transferred or who voluntarily resign.

17.7 Recommendation Seven

The CPC recommends that the various issues associated with note taking, report writing and documenting be addressed through various approaches, including training, policy revisions, internal oversight and monitoring.

Throughout the RCMP investigations, there were systemic problems affecting note taking, report writing and documenting, including vaguely worded policies that were inadequately enforced. One result was extreme inconsistencies in terms of the quality and comprehensiveness of notes and reports. The impact of incomplete

and deficient reports or notebooks is so great that the administration of justice may be affected as a result. With so many examples of inadequate reports or notes throughout the investigations, this is an issue that cannot be ignored.

The RCMP policy regarding notebook retention has been revised over the years. In 1990, it provided an overview but lacked guidance on matters of content, retention and destruction. In 1997, a major shift in the policy discouraged the use of notebooks other than in "exceptional circumstances." Members were instead instructed to record investigations directly in Continuation Reports. The 1997 version also made members responsible for the security, retention and destruction of their notebooks but did not give any guidelines on how to proceed. In 2000, the policy reverted almost entirely to what had been in use before 1997. Later versions of the policy, including the most recent one that came into effect in 2006, were expanded to specify notebook content, notebook use in team and major investigations, and guidelines on notebook retention and destruction. There is now a requirement to retain notebooks for a minimum period of two years in certain situations, although it remains the member's responsibility to retain and store his or her notebook safely. For example, Section 6.2 of Part 25.2, "Investigator's Notebook," states: "Notebooks will be retained and stored safely by each member, and will only be destroyed with the authorization of the appropriate commander." The policy does not deal with members who retire, are transferred or resign.

The current policy does not alleviate the problems associated with obtaining a member's notes. With control over the notebooks remaining with the individual member instead of the organization, the courts, the RCMP and the CPC would likely encounter similar challenges if a requirement to access these notes materialized today.

Most police departments in Canada are more stringent than the RCMP regarding notebook retention, requiring their members to hand in their notebooks prior to retirement. Some even require their officers to hand in their notebooks upon transfer. Other police services go as far as requiring their officers to hand in their notebooks, which are reviewed by a supervisor, before being given a new one, an activity that helps ensure complete and accurate notebook use and maintenance.

The retention and storage of RCMP member notebooks is a significant issue. There is a need to have the "Investigator's Notebook" policy amended and enforced to address it. This is crucial, not only in relation to oversight, but more importantly for cold cases that are reopened. Notebooks are issued by the RCMP and should be retained by the RCMP when a member completes a notebook, resigns, retires or is transferred out of the division. The rigour and clarity in the most recent policy with respect to notebook retention is insufficient.

17.8 Recommendation Eight

The CPC recommends that any sensitive or large scale investigation into allegations which impact on the community's trust in the RCMP should be tasked to another police service or, at the very least, to a team of RCMP officers from another region or province who would have the appropriate experience and who would be unfamiliar with the member under investigation. This would assist in limiting the perception of bias and ensure that public trust in the RCMP is maintained.

A criminal investigation into allegations against a member of the RCMP is sensitive and high profile and should be afforded the highest priority. Like any police force, the RCMP is restricted in the amount of

information it can divulge; however, this only adds to speculation that the matter is not being addressed as aggressively as it should.

In addition to being able to manage the investigations fairly, impartially, thoroughly and in a timely manner, the investigative team must also manage its relation with the media and, most importantly, with the affected community. As is evident from the various RCMP investigations into the NBTS and Staff Sergeant McCann, this is not easy. Although the public may not be aware of the inner workings of police investigations, it is the duty of the police to ensure that the public can understand the RCMP's actions. This can be achieved by assigning the investigation to an outside police agency or, at the very least, to an RCMP team from a different jurisdiction.

17.9 Recommendation Nine

The CPC recommends that the RCMP improve its internal and external communication strategies for any sensitive or large investigation, adopting a proactive communications approach using modern technologies to clearly demonstrate transparency and the RCMP's accountability to the public.

The CPC is unaware of any RCMP public communication strategy for the NBTS investigations, other than a few press releases in response to media articles. Although the RCMP continued to communicate with and be accommodating to the complainants, the CPC did not find any material other than these press releases that took wider public concerns into consideration. The CPC did not find evidence of a strategy employed by the RCMP to communicate with the public on a regular basis in its investigations into the NBTS and Staff Sergeant McCann. The RCMP's current policy, "Communications Services," does not provide clear guidelines on the lead roles and responsibilities in communicating with the public in a large-scale, high-profile investigation. Even in *The RCMP and the Media: A Spokesperson's Guide*, which includes a section on being proactive with the media, there are no guidelines on how to manage the public's expectations during an investigation of this size and sensitivity.

Appendices

Appendix A: List of Acronyms and Abbreviations

2i/c	Second-in-Command
A&P	Administration and Personnel
A/Comm.	Assistant Commissioner
A/OIC	Assistant Officer-in-Charge
AG	Attorney General
AOL	Away on Leave
Asst.	Assistant
CA	Crown Attorney
CBC	Canadian Broadcasting Corporation
CCS	Commercial Crime Section
CH or C/H	Concluded Here
Chief Supt.	Chief Superintendent
CIB	Criminal Investigation Branch
CIIS	Complaints and Internal Investigations Services
CISNB	Criminal Intelligence Service New Brunswick
CO	Commanding Officer
Comm.	Commissioner
CPC	Commission for Public Complaints Against the RCMP
CPIC	Canadian Police Information Centre
Cpl.	Corporal
CR	Continuation Report
CROPS	Criminal Operations
Cst.	Constable
D/Comm.	Deputy Commissioner
DC	Detachment Commander
Dept.	Department
Det.	Detective
DIO	Divisional Intelligence Officer
Div.	Division
DOJ	Department of Justice
EA	Executive Assistant

ERT	Emergency Response Team
FPF	Fredericton Police Force
FSS	Financial Services and Supply
GIS	General Investigation Section
HQ	Headquarters
i/c	In charge
Insp.	Inspector
IPSO	Institutional Preventive Security Officer
KGB	Sworn Audio/Video Recorded Statement
MP	Minister of Parliament
MCU	Major Crime Unit
NBTS	New Brunswick Training School
NCIS	National Criminal Intelligence Service
NCIU	National Criminal Intelligence Unit
NCO	Non-commissioned Officer
NFAR	No further action required
OC	Officer Commanding
OIC	Officer-in-Charge
OSS	Operational Support Services
PD	Police Department
PIRS	Police Information Retrieval System
QC	Queen's Counsel
RCMP	Royal Canadian Mounted Police
S/Sgt.	Staff Sergeant
Sgt.	Sergeant
SubDiv	Subdivision
SUI	Still under investigation
Supt.	Superintendent
ViCLAS	Violent Crime Linkage Analysis System
YTC	Youth Training Centre

Appendix B: Chronology of RCMP Investigations

20 November 1989 New Brunswick Training School (NBTS) Superintendent *Todd Sullivan* contacts the RCMP regarding possible sexual abuse by part-time Corrections Officer *Gerald Belanger.*

25 November 1989 Constable Joseph Lessard begins investigating the allegations.

30 January 1990 Constable Lessard submits Prosecutor's Information Sheets to the Crown counsel proposing three minor sexual assault charges with respect to three boys. He includes a note detailing an incident where *Mr. Belanger* ordered some boys to drop their pants as punishment for leaning against the wall during a clothing change.

7 February 1990 Attorney General James Lockyer asks the RCMP, in writing, to investigate the 1985 investigation of Karl Toft by the Fredericton Police Force (FPF). Mr. Lockyer's request comes as a result of a meeting between former NBTS youth counsellor David Forbes and news host Richard Robinson of the CBC. In his letter to the RCMP, Mr. Lockyer included Mr. Robinson's notes of his discussion with Mr. Forbes. These identified the names of four alleged victims who had confided in Mr. Forbes—three who had provided statements in 1985 and one, *Evan Sanders*, who had disclosed abuse to Mr. Forbes in 1981.

13 February 1990 Chief Superintendent Herman Beaulac advises Attorney General Lockyer that the matter has been referred to the appropriate RCMP section for investigation.

21 February 1990 Constable Tom Spink of the General Investigation Section is assigned the investigation.

14 March 1990 Constable Spink meets with and obtains a statement from Corporal Lillian Ulsh of the FPF.

April 1990 Constable Spink speaks with former NBTS superintendents Ian Culligan, who at the time is a provincial official, and Tom Richards. He later obtains statements from the two men.

10 May 1990 Crown counsel William Corby sends a response letter to Constable David Ward, who had replaced Constable Lessard while he was away. The letter indicates that the evidence in each of the three proposed cases does not warrant prosecution against *Mr. Belanger*. There is no mention of the pants-dropping incident.

13 May 1990 Constable Lessard and his superior, Staff Sergeant Ron O'Brien, indicate in a letter to the NBTS Superintendent that, based on the Crown's assessment, the case against *Mr. Belanger* is concluded without charges.

June–July 1990	Constable Spink speaks with the original three complainants who provided statements about Mr. Toft to Mr. Forbes in 1985. While they confirmed their original statements, only two would provide statements to Constable Spink.
16 July 1990	Constable Spink meets with and obtains a statement from Mr. Toft.
17 July 1990	Constable Spink meets and consults with Crown counsel Hilary Drain.
20 July 1990	Constable Spink concludes his investigation given the reluctance of the victims to testify.
28 September 1990	Hugh Robicheau, Director of Policing Services for the Province of New Brunswick, asks the RCMP why it has not contacted *Evan Sanders*, the fourth boy mentioned in Mr. Robinson's notes.
1 October 1990	Mr. Robicheau provides the RCMP with a new name, *Mike Roy*, which came up during his internal investigation as someone who may have information on several assaults.
10 October 1990	Corporal Spink (now promoted) writes that he did not contact the fourth boy mentioned in Mr. Robinson's notes because the other three would not come forward. He also indicates that the name mentioned by Mr. Robicheau was not uncovered during his investigation. Corporal Spink notes that if new names continue to come up "a decision will have to be made as to possibly reopening this investigation."
15 October 1990	Inspector Al Hutchinson reopens the NBTS investigation and Sergeant Gary McNeill, Officer-in-Charge (OIC) of the Fredericton General Investigation Section (GIS), assumes the role of lead investigator.
1991	*Marcel Beaupre*, who was a superintendent at the NBTS (its third) between 15 April 1964 and 14 May 1965, pleads guilty to sexually assaulting three young aboriginal boys between 1965 and 1971 in the Yukon.
25 January 1991	Mr. Robicheau forwards a letter to the RCMP from Tony Cameron, a former NBTS staff member, which lists the names of seven new possible victims of Mr. Toft.
11 March 1991	Mr. Robicheau sends the RCMP three additional names of possible Toft victims.
29 May 1991	Corporal Ray Brennan, working out of Saint John, is requested by Staff Sergeant Fred Fearon to assist in the growing NBTS investigation and takes over the bulk of the investigation work.
26 June 1991	FPF Constable Randy Reilly, a former NBTS employee, speaks to *Marc Wouters*, a former NBTS resident, who discloses that Mr. Toft sexually assaulted him. This leads to the opening of an FPF investigation into the NBTS.
16 July 1991	Constable Ed Paquet meets with FPF investigators and exchanges information while Corporal Brennan is on annual leave.
30 July 1991	Corporal Brennan meets with FPF investigators and obtains a list of 47 possible Toft victims, which was compiled by Constable Reilly based on his previous employment at the NBTS.

August 1991 Corporal Brennan learns that the *Young Offenders Act* is creating problems with accessing NBTS records from the Provincial Archives of New Brunswick, which is required to complete the RCMP's random sampling of former residents. The Act requires the consent of the subject of a file (or record) before it can be released.

20 August 1991 Corporal Brennan learns that FPF Detective Tim Kelly has been directed by his superiors to run the investigation separately from the RCMP's (i.e., there will be no joint-forces operation). They agree to exchange information pertinent to each other's jurisdiction.

September 1991 Corporal Brennan begins to receive complaints of abuse committed by Weldon (Bud) Raymond and Hector Duguay, other former NBTS employees.

5 September 1991 Crown counsel Corby calls Sergeant McNeill and informs him that he will be proceeding on 10 September with 27 charges against Mr. Toft based on the FPF's investigation. Sergeant McNeill advises him that the RCMP is not ready to lay charges. Later this same day, Sergeant McNeill learns from his superiors that the 27 FPF charges cover nine victims and 14 of the charges were in RCMP jurisdiction.

9 September 1991 An RCMP meeting results in decisions to

- complete a random sample of names for the tenure of Mr. Toft's employment at the NBTS (between 1965 and 1985) to determine how widespread his offences were;
- interview the 30 of the 60 names identified but not contacted by the FPF and any others that come forward as a result of the press release about Mr. Toft's arrest; and
- based on this information, have Sergeant McNeill compile a list of potential victims that Corporal Brennan and Constable Ken Legge will locate and interview.

9–10 September 1991 The FPF arrests and charges Mr. Toft with 27 sexual abuse charges.

13 September 1991 Sergeant McNeill meets with *Superintendent Sullivan* of the NBTS to get a list of admissions for 1965 to1985; he is advised that only current records are kept at the NBTS. Old records are sent to the Correctional Services Central Records Registry for seven years and then to the Provincial Archives for indefinite retention.

18 November 1991 Sergeant McNeill is transferred to the McAdam Detachment in Oromocto, New Brunswick. Sergeant Lockhart is moved into the Non-commissioned Officer (NCO)-in-charge (i/c) of GIS position.

18 December 1991 Superintendent Giuliano Zaccardelli and Inspector Rod Smith meet with Deputy Attorney General Paul LeBreton and Director of Public Prosecutions Robert Murray to discuss the difficulties the RCMP is having in obtaining the NBTS records from the Provincial Archives. They decide that Crown counsel Mary Beth Beaton will prepare a youth court application asking that the judge waive the subject consent requirement.

23 January 1992	The application for access to the records, prepared by Corporal Brennan, Ms. Beaton and others, is heard by Youth Court Judge G. William N. Cockburn. Justice Cockburn reserves his decision to conduct further study on the matter.
31 January 1992	Superintendent Ford Matchim requests Sergeant Doug Lockhart to investigate the rumours about Staff Sergeant Clifford McCann's involvement with youth at the NBTS, which surfaced during Corporal Brennan's investigation in the fall of 1991.
13 February 1992	Judge Cockburn approves the application for the RCMP to access the NBTS records held by the Provincial Archives. The application covers the period of Mr. Toft's tenure at the NBTS, 1965-1985.
18–21 February 1992	The RCMP completes the random sampling of the NBTS records held at the Provincial Archives. More sampling done on 25 and 27 March results in the names of a total of approximately 600 former NBTS residents being obtained from the Provincial Archives.
21 February 1992	Corporal Brennan gives Crown counsel Corby a court brief regarding possible RCMP charges against Mr. Toft, which is based largely on his and Constable Legge's success in locating, contacting and obtaining statements from those who disclosed abuse by Mr. Toft.
10–11 March 1992	Mr. Toft's preliminary hearing for the 27 FPF charges takes place. Provincial Court Judge Judy Clendenning commits Mr. Toft to stand trial by judge and jury on 25 of the 27 charges. On the second day of the hearing (11 March), Corporal Brennan lays 12 additional RCMP charges against Mr. Toft involving 10 victims.
12 March 1992	Sergeant Lockhart meets with Staff Sergeant McCann and advises him of the rumours; Staff Sergeant McCann denies them.
13 March 1992	Crown counsel Corby determines that the 12 RCMP charges will go directly to trial along with the FPF charges.
2 October 1992	Mr. Toft pleads guilty to 34 charges (laid by the FPF and the RCMP) involving 18 victims before Superior Court Judge David Russell.
28 October 1992	Mr. Robicheau comes across the concluded RCMP investigation into *Mr. Belanger* and asks the RCMP to revisit the case in light of the current investigation into the NBTS.
November 1992	The RCMP decides to go to the Provincial Archives to obtain a random sample of 100 youths during the tenure of Mr. Raymond, Mr. Duguay "or any other adult attached or connected as an employee or visitor at YTC [Youth Training Centre]."
2 November 1992	*Steve Finlay*, who had contacted the RCMP the previous month, is interviewed and provides a statement about *Mr. Beaupre*. He says that, in the 1960s, *Mr. Beaupre's* cottage was near his cottage, and that during this time he befriended a boy from the NBTS whom *Mr. Beaupre* had brought to the cottage. The boy told *Mr. Finlay* that he would go skinny-dipping and sleep in the same bed with *Mr. Beaupre*.
4 November 1992	After conducting a review of the *Belanger* case at the request of Mr. Robicheau, the RCMP forwards the investigation to Mr. Murray for "further assessment."

23 November 1992 Mr. Murray responds that the opinion of the Crown's office regarding the *Belanger* investigation has not changed; it remains convinced that there is "no reasonable likelihood of conviction."

3 December 1992 Sergeant Lockhart notes that he will complete any necessary follow-up from his current investigation into the NBTS regarding *Mr. Belanger*. He writes that there was adequate substance to charge *Mr. Belanger* and that an appeal of the Crown's decision should have been sought earlier; however, according to *Criminal Code*, Section 786(2) (formerly Section 721(2)), proceedings cannot be instituted more than six months after the date when the matter first arose.

4 December 1992 Mr. Toft is sentenced to 13 years in prison by Justice Russell.

7 December 1992 Constable James McAnany speaks to *Mr. Roy* twice. Initially, *Mr. Roy* vaguely discloses abuse by Staff Sergeant McCann and considers becoming involved. He provides the names of two possible victims of Staff Sergeant McCann. In a later telephone conversation, however, he indicates he is not willing to get involved. Constable Legge arrives in Toronto a few days later to take *Mr. Roy's* statement but *Mr. Roy* refuses.

14 January 1993 Reporter Phillip Lee of the *Telegraph Journal* visits Inspector Mike Connolly to talk about Mr. Lee's interview with an anonymous former NBTS resident. Mr. Lee states that according to his source, *Mr. Beaupre* took the former resident to a camp sometime between 1964 and 1966 and tried to get into bed with him, but the former resident asked *Mr. Beaupre* to get out. The former resident's mother advised Mr. Lee that, at the time, she called the RCMP in Minto, New Brunswick, about the incident but nothing was done. Mr. Lee ran the story a short while later.

17 February 1993 Constable McAnany speaks with *Malcolm Salenger*, the former Director of Corrections, by telephone. *Mr. Salenger* states that he was unaware of *Mr. Beaupre's* homosexual activities and that a lot of people who are dead are going to be hurt. *Mr. Salenger* says he had no suspicions of *Mr. Beaupre* abusing the NBTS residents.

March to June 1993 The RCMP attempts to locate the boy *Mr. Finlay* referred to in November 1992.

2 March 1993 Constable McAnany interviews *Mr. Salenger* who is adamant that he never heard or saw anything that led him to believe that *Mr. Beaupre* was sexually abusing youth. *Mr. Salenger* states that he recruited *Mr. Beaupre* from Probation Services to work at the NBTS and that *Mr. Beaupre* disagreed with his decisions regarding the funding of programs at the NBTS, and therefore, left the school and New Brunswick.

18 April 1993 Staff Sergeant McCann retires from the RCMP.

May 1993 Sergeant Lockhart speaks with several members at Riverview Detachment where Mr. McCann was NCO for several years about rumours, missing photos and an incident in a dressing room-washroom at a hockey arena. Constable Lise Roussel attempts to secure a statement from *Mr. Roy* in Toronto but is unsuccessful.

June–November 1993	Constable McAnany attempts to contact *Mr. Belanger*. *Mr. Belanger* is the possible suspect in allegations of sexual abuse filed by a former resident who could not recall the abuser's name.
21 June 1993	At a GIS staff meeting, an RCMP file on *Mr. Beaupre* is concluded, given that there are no allegations against *Mr. Beaupre.*
13–14 September 1993	Mr. Duguay goes on trial before Judge Russell on five charges regarding four victims. He is found guilty on four charges.
14 October 1993	Mr. Duguay is sentenced to a five-month concurrent sentence in a provincial jail.
22 October 1993	After some discussion with the Crown's office, Constable McAnany lays 15 additional charges, involving 13 victims, against Mr. Toft before Provincial Court Judge Patricia L. Cumming.
29 October 1993	Attorney General Edmond Blanchard instructs Crown counsel to withdraw its application to delay the Commission of Inquiry (known as the Miller Inquiry) and instead enters a stay of proceedings on the new RCMP charges against Mr. Toft, mainly because they were similar in nature to those for which he has already been convicted and sentenced.
16 November 1993	The investigation into *Mr. Belanger* is closed after Constable McAnany speaks to *Mr. Belanger's* lawyer who indicates that the leads against his client are "full of holes."
29 November 1993	The Miller Inquiry (named after the Commissioner of the Inquiry, the Honourable Richard L. Miller) commences hearings into the NBTS.
23 December 1993	Sergeant Lockhart writes a concluding report regarding Mr. McCann, noting that there are "no reasonable and probable grounds to support a criminal charge of any kind."
20–21 and 24 October 1994	Mr. Raymond goes on trial in Saint John before Judge John Turnbull on two charges; he is found not guilty for both.
14–17 November 1994	Mr. Raymond goes on trial in Fredericton before Judge Russell on five charges; he is acquitted on two counts and found not guilty on two other counts; the jury was hung regarding the last count.
2 March 1995	Attorney General Blanchard writes Chief Superintendent Roy Berlinquette for comments on two matters that surfaced during the Miller Inquiry: the finding that the Toft investigation was not a priority for the RCMP; and whether the RCMP investigated the complaint of a former resident regarding physical abuse.

15 March 1995 Chief Superintendent Berlinquette responds to Attorney General Blanchard's first comment that the Toft investigation was not a priority for the RCMP:

> This statement when read in context is referring to the summer of 1991, prior to the disclosure made to Constable Reilly and the publicity following the arrest of Toft.

Chief Superintendent Berlinquette says the complaint of physical abuse was investigated and that the tip would remain concluded.

27 March 1995 Superintendent Pierre Lange sends a letter to Mr. Murray asking whether the stay of proceedings on the 15 charges against Karl Toft will be lifted now that the Inquiry is complete.

26 April 1995 Mr. Murray responds to Superintendent Lange that the Crown will not be reinstituting the 15 charges.

1995–1997 Based on Mr. Murray's opinion, the RCMP decides not to investigate any further complaints regarding the NBTS. Complainants that come forward are to be provided the reasons why.

11 September 1997 Former NBTS resident *Gregory Shore*, who later became a complainant to the Commission for Public Complaints Against the RCMP (CPC), contacts the police regarding abuse at the NBTS by Mr. Toft and Mr. Raymond for the first time. His statement is given to the Metropolitan Toronto Police Division and forwarded to Constable Rick Evans in New Brunswick.

19 January 1998 *Brad Lewis* contacts "J" Division and reports, for the first time, that he was a victim of sexual abuse by Mr. McCann. *Mr. Lewis* is interviewed the next day by Staff Sergeant Jacques Ouellette and Sergeant Dave Dunphy. *Mr. Lewis* later became a complainant to the CPC.

February 1998 Constable Pat Cole makes contact with *David Wright* (another future CPC complainant) because *Mr. Lewis* had named him during their interview on 20 January 1998 as another possible victim of Mr. McCann. *Mr. Wright* had relayed a story of minor sexual abuse by Mr. McCann in an interview with Constable McAnany on 30 March 1993.

29 October 1998 Staff Sergeant Ouellette and Constable Cole interview Mr. McCann at his home in the presence of his wife. He again denies any sexual abuse of former NBTS residents, specifically *Mr. Lewis* and *Mr. Wright*.

5 March 1999 Glen Abbott, the Director of Public Prosecutions, sends a letter to Superintendent Michel Seguin, the OIC of Criminal Operations (CROPS), indicating that *Mr. Shore's* complaint involves allegations of abuse by staff members at the NBTS other than Mr. Toft. In December 1997, Inspector Seguin had initially advised *Mr. Shore* that his complaints would not be investigated because of the Attorney General's decision not to proceed with charges against Mr. Toft. Based on Mr. Abbott's letter, however, Inspector Seguin advises investigators to contact *Mr. Shore* about his complaints regarding persons other than Mr. Toft.

18 June 1999	Mr. Abbott clarifies again issues with respect to *Mr. Shore's* complaint in a letter to the RCMP, this time to Superintendent Lange. Mr. Abbott indicates that the Crown will review *Mr. Shore's* allegation that Mr. Toft ordered other boys to cut his penis because the allegation differs from those for which Mr. Toft had been convicted.
1999–2000	Corporal Paulette Delaney-Smith and Constable Phil Houle continue the investigation into allegations by *Mr. Shore*, *Joseph Rollins* and others.
February 2000	Due in large part to *Mr. Lewis*' persistence, the NBTS investigation, including an investigation into Staff Sergeant McCann, is reopened.
22 February 2000	Staff Sergeant Ouellette meets with Mr. Corby and advises him that they are reopening the investigation into the NBTS; however, there are many delays in getting the project running due to a lack of human and financial resources.
October 2000	Staff Sergeant Dunphy returns to the Major Crime Unit; his first job is to prepare a proposal for funding and resources for a task-force investigation into the NBTS.
26 October 2000	The *Telegraph Journal* releases an article entitled "RCMP Task Force to Deal with Kingsclear Allegations." Staff Sergeant Ouellette is quoted as saying that officers had been reviewing new allegations for the past year but that "this fall we're looking at putting together something that's going to make this thing move a little bit faster."
31 January 2001	Staff Sergeant Dunphy meets with Crown counsel Kevin Connell to discuss the business rules regarding the upcoming investigation into the NBTS, including that Mr. Toft would not be prosecuted for offences similar to those for which he has already been convicted and sentenced, and that, given that Mr. Raymond was found not guilty at trial, the "bar has been raised" in terms of what grounds would satisfy proceeding with charges against him.
8 February 2001	Staff Sergeant Dunphy writes a memorandum outlining a scaled-down version of the NBTS investigation plan for which he requests resources. The plan includes the investigation of 145 files that require follow-up—99 involve persons that were never contacted. While there is no formal note indicating the plan was accepted, this appears to be the plan that investigators followed.
1 May 2001	The task force meets for the first time. Participants include Staff Sergeant Dunphy, Corporal Clive Vallis and constables Kathy Long, Al Rogers and Pierre Gervais. Corporal Delaney-Smith is still on board as part of the team but does not attend the task-force meeting. In mid-August 2001, Constable Denise Potvin joins the team.
30 October 2001	Staff Sergeant Dunphy writes to *Mr. Lewis* to advise him that his file has been concluded. He provides as reasons the fact that the abuse he reported by Mr. McCann was minor and that the six-month limitation period for a summary conviction had passed (Section 786(2), formerly Section 721(2) of the *Criminal Code*).

8 February 2002	Mr. Connell writes to Staff Sergeant Dunphy to advise that he has reviewed the material relating to *Mr. Rollins* and *Mr. Shore* and that he does not recommend charges in either case. (The task force dropped *Mr. Rollins'* complaints of sexual assault against Mr. Toft because they did not differ from earlier charges in accordance with the Attorney General's decision about new charges.)
14 March 2002	Corporal Vallis and Constable Rogers report on the lack of co-operation from former and current Riverview Detachment members in an Investigation Report; the Report went to the Complaints and Internal Investigations Services (CIIS), but no action was taken against the one officer who was still active.
22 May 2002	Mr. Connell confirms his 8 February 2002 decision that there is "no reasonable expectation of a successful prosecution against either Karl Richard Toft or Weldon Michael Raymond, concerning *Mr. Shore's* allegations."
29–30 May 2002	Staff Sergeant Dunphy sends letters to *Messrs. Shore* and *Rollins* indicating that their files will be concluded without charges.
26 August 2002	Mr. Connell offers his opinion that there is "no reasonable prospect of a conviction" against Mr. Raymond regarding complaints of sexual abuse by victims *Roger Philippe* and *John Little*.
September 2002	A search warrant, instigated by the RCMP, is drafted for the McCann house. However, the CPC is unsure if the draft was sent to the Crown's office and while no formal response to it could be found in the relevant material, a copy was found with an unknown author's comments in the margins questioning what evidence the RCMP had to justify a search. The house was never searched.
2 September 2002	Staff Sergeant Dunphy writes to *Mr. Philippe* and *Mr. Little* to let them know that, following consultation with the Crown's office, their files had been concluded.
11 September 2002	Mr. McCann is arrested at a local golf course and taken to the Oromocto Detachment where he is questioned for several hours by Mike St. Onge, a polygraphist, and Staff Sergeant Dunphy. Mr. McCann does not admit any guilt and is released later that night.
29 November 2002	Given Mrs. McCann's comments to Corporal Delaney-Smith, Constable Long sends a note to Mr. Connell asking if they have grounds to request Mr. McCann's medical file. Mr. Connell responds on 30 January 2003 that it was "too much of a fishing trip."
July–October 2003	Mr. Connell sends letters to Staff Sergeant Dunphy detailing the results of his review on the six McCann victims. He determined that in each case "an acquittal is more likely than a conviction."
13 November 2003	Staff Sergeant Dunphy sends letters to the McCann complainants indicating that, based on consultation with the Crown's office, no charges will be laid due to a lack of "reasonable grounds" and that, therefore, their files were concluded.

Appendix C: Individuals Involved in RCMP Investigations

The following table lists the RCMP members who were involved in the investigations of the New Brunswick Training School (NBTS) and Staff Sergeant Clifford McCann, as well as some of the individuals that the Commission for Public Complaints Against the RCMP (CPC) interviewed. The table includes the names of some of the complainants and bystanders who were not implicated in the investigation.

* Where the interview length does not provide the number of minutes or seconds, "xx" is substituted.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Abbott, Glen	01/25/2007	Fredericton, NB	01:38:24	Director of Public Prosecutions in Fredericton, NB, since May 1997. Served as a Crown counsel from 1975, working in Specialized Prosecutions from 1991 until being promoted in 1997.
Andrews, Craig	06/13/2006	Fredericton, NB	00:21:23	Corporal in "J" Division. Posted to Riverview Detachment as a constable beginning in September 1992 to 1998.
Anonymous Witness	04/21/2006	Telephone	02:16:xx	Did not have a role in the investigation.
Arnett, Dan (Refused to be interviewed)				Retired Corporal. Promoted and posted to Riverview Detachment as a corporal from January 1987 to August 1992.
Arseneau, Charlie	06/14/2006	Fredericton, NB	00:25:08	Civilian member in "J" Division. Posted to Riverview Detachment from December 1989 until 1992 as a constable. In 1992, he returned to being a civilian member and continues as such to this date.
Badeau, Lionel (Not interviewed)				NBTS employee from the opening of the school in December 1962 to October 1990. Held several positions at the NBTS, including Superintendent on occasion, but most often acted as Deputy Superintendent.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Beaton, Mary Beth (Interviewee did not want the interview recorded)	01/22/2007	Fredericton, NB	02:05:xx	Retired Crown counsel. Served as provincial Crown counsel in Fredericton from1980 to 1987. Promoted to Assistant Director of Public Prosecutions in 1987 and remained in this role until retiring in 2002.
Beaulac, Herman	04/10/2006 04/03/2007	Ottawa, ON	01:07:38, 00:34:xx	Retired Deputy Commissioner. Officer Commanding (OC) of Bathurst Subdivision between 1985 and 1989. Promoted to Chief Superintendent in 1989 and was Commanding Officer (CO) of "J" Division until 1993.
Belliveau, Gerry	03/04/2007	Fredericton, NB	01:13:30	Staff Sergeant in "J" Division. Posted as a corporal at Major Crime Unit (MCU) South in September 1995. Promoted to Sergeant in May 2002, and to Staff Sergeant in February 2005. Had little involvement with the NBTS investigation between March 1999 and September 2002.
Berlinquette, Roy	04/25/2006	Ottawa, ON	01:00:04	Retired Deputy Commissioner. CO of "J" Division from May 1993 to May 1997.
Bernard, Linda	05/08/2006	Moncton, NB	00:43:18	Civilian clerk at Riverview Detachment in the 1980s when McCann was transferred there.
Brennan, Ray	05/10/2006 05/11/2006	St. Andrews by-the-Sea, NB	05:16:xx	Retired Sergeant. From May 1991 to March 1992 he was a corporal working on the NBTS investigation out of Saint John, NB.
Brown, Jason	09/19/2005	Edmonton, AB	02:30:xx	CPC complainant and NBTS resident.
Burrows, Bill	03/15/2006 08/01/2006	Moncton, NB	00:38:20 00:12:58	Retired Staff Sergeant. Posted to Riverview Detachment between June 1992 and October 1994.
Cameron, Roger	07/17/2006	Ottawa, ON	01:26:08	Sergeant in "A" Division. Joined "J" Division in March 1975 and was posted to Riverview as a constable from May 1989 to February 1991.
Cameron, Tony (Not interviewed)				NBTS employee from November 1980 to January 1986. Provided names of possible victims of Karl Toft to Hugh Robicheau in January of 1991. Robicheau forwarded these names to the RCMP.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Cannon, Clive	02/14/2006	Fredericton, NB	00:45:21	Retired Sergeant. "J" Division member from 1978 to 1998. As a corporal in January 1993, he advised Constable Ken Legge that he had taken a statement from *Mike Roy* in 1984 regarding a number of outstanding minor crimes. He subsequently received a call from Staff Sergeant McCann, wondering if *Mr. Roy* had mentioned him.
Carlisle, Gordon (Mac) (Not interviewed/ Unable to contact)				Retired Chief. Chief of the Fredericton Police Force (FPF) during the FPF's NBTS investigation in 1985, when Corporal Lillian Ulsh completed a report based on contact from David Forbes, and in 1991, when the FPF investigated Mr. Toft for approximately two months, and then laid charges against him in September 1991.
Charbonneau, Phillip	09/22/2005	Winnipeg, MB	01:30:xx	CPC complainant. An NBTS resident from 21 April 1982 to 8 April 1983.
Chartrand, Phil	10/05/2006	Ottawa, ON	01:23:32	Retired Superintendent. Worked in Administration and Personnel (A&P) from October 1988 to July 1992.
Clark, Sharon	06/12/2006	Fredericton, NB	00:39:07	Administrative Assistant to the Officer-in-Charge (OIC) Criminal Operations (CROPS) of "J" Division from 1977 to the present.
Cochrane, Larry	05/09/2006	Fredericton, NB	00:32:03	Retired Staff Sergeant. In 1981, transferred to the Criminal Intelligence Service New Brunswick (CISNB) for five years under Staff Sergeant McCann. Finished his career in Staffing and Personnel, retiring in May 1998.
Cole, Pat	12/05/2006	Fredericton, NB	02:29:40	Constable in "J" Division. With the General Investigation Section (GIS) of the MCU from January 1993 to April 2002. Involved in the NBTS investigation from approximately January to December 1993, a little in May and June 1994 and between February 1998 and April 2002. Was involved in Staff Sergeant McCann's arrest in September 2002.
Connell, Kevin	04/18/2007	Fredericton, NB	01:05:xx	NB Crown counsel in Fredericton since 1986.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Connolly, Mike	01/12/2007	Fredericton, NB	03:53:25	Retired Inspector. Largely involved in the NBTS investigation as the Assistant OIC CROPS from approximately October 1992 to October 1994.
Corby, William	01/24/2007	Fredericton, NB	02:04:41	NB Crown counsel in Fredericton since 1988.
Cordeau, Michel	03/23/2006	Ottawa, ON	00:22:04	Retired Constable. A member in the Fredericton Detachment between 1992 and 2000. Mentioned in relation to the NBTS investigation in the relevant material the CPC received from the RCMP. He verified that he was not involved in the investigation.
Cormier, Paul J.	06/13/2006	Fredericton, NB	00:24:29	Staff Sergeant. Posted to Fredericton National Crime Intelligence Service (NCIS) from 1983 to 1984 as a constable. Staff Sergeant McCann was one of his direct supervisors.
Cowan, Patricia	08/31/2006	Cornwall, ON	01:04:38	Retired Constable. Posted to Riverview Detachment from 1987 to 1993.
Cranshaw, Randall James	11/08/2005	Renous, NB	00:56:03	CPC complainant and former NBTS resident.
Cranton, Frank	05/04/2006	Ottawa, ON	00:33:23	Retired Superintendent. An A&P officer in "J" Division from June 1992 until his retirement in July 1998.
Critchlow, Tom	06/12/2006	Fredericton, NB	00:36:03	Corporal. NBTS employee from 1984 to 1989. Joined the RCMP in 1989 as a constable in “J” Division and continues to serve there.
Culligan, Ian (Not interviewed)				Acting NBTS Superintendent between June 1974 and May 1975 and Superintendent between June 1975 and May 1977. Was the Executive Director of Correctional Services for NB from 1982 to 1995.
Daignault, Luc	08/31/2006	Cornwall, ON	00:42:xx	Constable in “O” Division. Constable of the Cornwall Detachment since 1996. Took a statement from CPC complainant *Daniel Trottier* in May 2000.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Delaney-Smith, Paulette (Refused to be interviewed on the advice of her lawyer, due to her involvement in another legal matter against the RCMP)				Corporal in "J" Division. With the MCU South since October 1999. Involved in the NBTS investigation from approximately January 2000 to May 2004.
Donelle, Sandra	08/02/2006	Moncton, NB	00:17:12	Civilian member in Codiac. Dispatcher at Riverview Detachment before and after Staff Sergeant McCann's arrival.
Dorais, Yves	03/02/2006	Grand Falls, NB	00:42:06	Retired Constable. Posted at Riverview Detachment between 1988 and 1992.
Doucette, Cy (Interviewee did not want either interview recorded)	03/16/2006 08/01/2006	Moncton, NB	02:23:xx 00:33:xx	Retired Sergeant. Posted as a constable at "J" Division Headquarters (HQ) from 1975 to 1984 and then to the Riverview Detachment as a sergeant until July 1991.
Drain, Hilary (Interviewee did not want interview recorded)	01/22/2007	Fredericton, NB	00:55:xx	Crown counsel. Served as provincial Crown counsel in Fredericton from 1988 to present.
Dugas, Alain	08/28/2006	Ottawa, ON	00:50:42	Corporal. Took complaints from CPC complainant *Daniel Trottier* in May 1999 and May 2000 while stationed at Cornwall Detachment.
Duguay, Hector (Deceased)				Convicted. A former NBTS employee between 1964 and 1970.
Dunphy, Dave	10/27/2006	Fredericton, NB	05:30:xx	Retired Staff Sergeant. Held various positions within "J" Division, including the lead of the 2000 investigation team as the Non-commissioned Officer (NCO) Inspector-in-Charge (i/c) of the MCU. Had some involvement with the NBTS investigation in 1995 and 1998, but the bulk of his involvement was between October 2000 and June 2004.
Durling, Burton	02/16/2006	Fredericton, NB	00:14:39	Retired Staff Sergeant. An RCMP member from 1960 to 1995. Spent the majority of his career in NB. Questioned regarding an incident at his retirement party that involved Mr. McCann.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Eaton, Mac (Deceased, May 2005)				Retired Staff Sergeant. With MCU South as a sergeant. Involved in the NBTS investigation from approximately March 2000 to March 2002.
Evans, Rick	11/06/2006	Ottawa, ON	02:23:05	Superintendent in "A" Division. Held various positions within "J" Division where he was involved in the NBTS investigation as a constable, and later a corporal. From approximately November 1992 to October 1997, he was a reader and reviewer in preparation for the Miller Inquiry.
Fearon, Fred	03/31/2006	Fredericton, NB	00:38:51	Retired Staff Sergeant. CROPS Reader in "J" Division from approximately 1988 to 1995.
Feeney, Tim	06/26/2006	Fredericton, NB	00:11:51	Sergeant. Was a casual employee at the NBTS from August 1986 to February 1987, after which he joined the RCMP as a constable in "J" Division.
Fitch, Shawn	12/08/2005	Fredericton, NB	01:30:xx	Investigator. Assisted in locating and interviewing persons of interest during the Miller Inquiry.
Fleming, Maurice	03/14/2006	Moncton, NB	00:29:07	Retired Sergeant. Posted to Riverview Detachment as a sergeant from July 1991 to April 1997.
Forbes, David (Unable to locate for interview)				NBTS employee from October 1984 to October 1985. Witnessed inappropriate conduct by Mr. Toft with a resident in October 1985 and pushed for action over the next several years, eventually leading to the Spink investigation in February 1990.
Gervais, Pierre	12/04/2006	Fredericton, NB	02:38:44	Corporal in "J" Division. Was on the 2000 investigation team from approximately May 2001 to April 2002.
Gray (Johnson), Linda	06/13/2006	Fredericton, NB	00:21:01	Corporal in "J" Division. Posted to Riverview Detachment between 1986 and 1989.
Griffiths, Brian	10/26/2006	Fredericton, NB	01:59:28	Retired Staff Sergeant. Held various positions in "J" Division during his career with RCMP from April 1968 to July 2004. Largely involved in the NBTS investigation as a CROPS Reader from approximately April 1991 to March 2003.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Hamilton, Troy	06/14/2006 09/07/2007	Fredericton, NB	00:39:32 00:30:xx	Constable. Met Staff Sergeant McCann in 1988 or 1989 through minor hockey and they became friends. Became an RCMP member in 2001.
Hill, Pat	07/24/2006	Montreal, QC	01:06:24	Corporal. Posted to Riverview Detachment as a constable from March 1989 to June 1992.
Houle, Phil	01/30/2007	Ottawa, ON	01:54:20	Constable. Moved to the GIS in May of 1994 and worked with the NBTS file from approximately June 1994 to September 1994 and again from July 1999 to August 2000.
Hovey, Dawson	07/11/2006	Ottawa, ON	00:39:31	Retired Assistant Commissioner. Was the OIC of Financial Services and Supply from July 1988 to July 1993. Had minimal involvement with the NBTS investigation in 1993.
Howatt, Jocelyn	02/14/2006	Fredericton, NB	01:04:19	NBTS employee for nine months in 1984 to 1985.
Hutchinson, Al	04/20/2006	Ottawa, ON	01:19:46	Retired Assistant Commissioner. Was moved to CROPS in 1989 as the Assistant CROPS Officer until spring of 1992 (also acted in place of the OIC CROPS during this time). Was responsible for reopening the NBTS investigation in October 1990.
Jardine (Wylie), Becky	08/08/2006	Red Deer, AB	00:37:45	Constable. Posted to Riverview Detachment from 1989 to 1991.
Johnston, Mason	03/14/2006 08/03/2006	Moncton, NB	00:40:29 00:18:16	Retired Staff Sergeant. Posted for his entire RCMP career, from 1965 to 1993, at “J” Division and worked with Staff Sergeant McCann, particularly at Riverview Detachment.
Kelly, Tim	12/09/2005	Fredericton, NB	02:00:49	FPF Staff Sergeant. Worked as an FPF detective who investigated abuse at the NBTS between June and September 1991.
Kerr, Ken	05/09/2006	Fredericton, NB	01:01:16	Retired Inspector. Was the Staffing and Personnel officer who signed off on some of Staff Sergeant McCann`s personnel files.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Keyes, William (Not interviewed)				NBTS Superintendent. Was at the NBTS from August 1971 to June 1974. Tried to have Mr. Toft removed from the NBTS based on his suspicions. Fired Weldon (Bud) Raymond from the NBTS in 1973 for lying about a medical matter and abandoning his post.
Kozij, Tony	03/21/2006	Orleans, ON	00:29:24	Retired Superintendent. Constable at Fredericton Detachment from August 1960 to January 1966. Questioned about whether he recalled returning a boy to the NBTS as per the statement of one CPC complainant. He did not recall the incident.
Lajoie, Bernie	05/30/2006	Charlottetown, PE	00:29:23	Staff Sergeant. Posted to Riverview Detachment as a corporal between 1992 and 1994.
Landry, Frank	05/24/2006	Halifax, NS	00:30:22	Sergeant. Transferred to RCMP HQ in Fredericton in 1989 as a staff representative (an elected position) where he remained until March 1991. Stayed at HQ for an additional six months until transferring to Riverview Detachment as a corporal in October 1991 and remaining there until August 1992.
Lange, Pierre	02/01/2007	Ottawa, ON	01:21:43	Retired Deputy Commissioner. OIC CROPS as an inspector, and later Superintendent. Involved in the NBTS investigation from approximately August 1993 to May 1995.
Lebel, Gerry	08/05/2006	Plaster Rock, NB	01:03:54	Retired Constable. Posted to Riverview Detachment from May 1990 to January 1993.
LeBlanc, Ron	03/05/2007	Bathurst, NB	00:34:15	Crown counsel. Served as a provincial Crown counsel in Moncton from 1982 to 2002. Asked by the RCMP in August 1993 to review a brief pertaining to allegations of abuse against a former NBTS Superintendent. Mr. LeBlanc recommended that no charges be laid in his September 1993 written decision.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Legge, Ken	09/18/2006	Ottawa, ON	02:17:xx	Staff Sergeant. Held various ranks in "J" Division since joining the RCMP in 1977. Involved in the 1990s investigation team as a constable with GIS/MCU from approximately September 1991 to January 1993, and again as a corporal from March 1999 to June 1999.
Lemay, Robert (Interviewee did not want interview recorded)	07/20/2006	Ottawa, ON	01:20:xx	Sergeant. Posted to Riverview Detachment from August 1988 to April 1991.
Lewis, Brad	09/20/2005	Edmonton, AB	01:30:xx	CPC complainant and NBTS resident in 1983.
Lockhart, Doug	11/24/2006 11/25/2006	Fredericton, NB	07:49:22 (Total)	Sergeant. Lead role in the NBTS and McCann investigations, first as the temporary and then as the permanent NCO i/c GIS. His involvement spanned approximately February 1990 to May 1994.
Lockyer, James	02/28/2007	Moncton, NB	01:14:31	Attorney General and Minister of Justice for NB from October 1987 to September 1991 and as Attorney General for NB from 1998 to 1999.
Long, Kathy	11/29/2005 12/14/2006	Halifax, NS	06:32:xx 02:30:xx	Retired Constable. Constable on the 2000 investigation team from May 2001 to April 2003.
Lordon (Wingate), Kathy	08/03/2006	Miramichi, NB	00:20:49	Crown counsel. Served as a provincial Crown counsel in Moncton from 1987 to approximately 1994. Assigned to the attempted murder case.
Matchim, Ford	09/09/2006	St. John's, NL	01:45:xx	Retired Assistant Commissioner. OIC of Fredericton Subdivision between June 1989 and November 1992. Involved in the NBTS investigation from approximately February 1990 to October 1992.
McAnany, James	01/09/2007 01/10/2007	Fredericton, NB	08:58:47 (Total)	Sergeant. On the 1990s investigation team as a constable from approximately November 1991 to June 1997.
McAvity, Jim	04/18/2007	Fredericton, NB	00:12:xx	Crown counsel. Served as a provincial Crown counsel in Fredericton since 1976.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
McCann, Clifford (Refused to be interviewed based on the advice of his lawyer)				Retired Staff Sergeant and a suspect.
McNeil, Rolly (Interviewee did not want interview recorded)	08/04/2006	Fredericton, NB	01:08:xx	Retired Inspector. Posted to the Riverview Detachment between August 1986 and October 1989.
McNeill, Gary	04/02/2006	Fredericton, NB	02:48:08	Retired Sergeant. The NCO i/c GIS from July 1990 to November 1991. Involved in the reopening of the NBTS investigation in October 1990 and the ensuing investigation until his transfer to McAdam Detachment in 1991.
McPhee, Ken	05/29/2006	Charlottetown, PE	00:22:46	Constable. Posted at “J” Division from 1976 to 2003. He never worked directly with Staff Sergeant McCann but had a confrontation with him at the mess hall in approximately 1995.
Merrill, Boyd	09/08/2006	St. John’s, NL	01:00:25	Corporal. An NBTS employee from 1982 to 1987. Became an RCMP member in 1988. Has never worked in “J” Division.
Michaud, Marielle	03/16/2006	Moncton, NB	00:25:xx	Retired Constable. Posted to Riverview Detachment from 1990 to 1992.
Miller, John Richard	06/28/2006	Moncton, NB	00:29:11	Retired Staff Sergeant. Posted to Fredericton Detachment from 1977 to 1979. Reported to Staff Sergeant McCann for approximately 18 months.
Miller, Peter	11/07/2006	Ottawa, ON	01:34:35	Retired Assistant Commissioner. Worked in Staffing and Personnel as Inspector (i/c). Involved in Staff Sergeant McCann`s transfer out of Riverview Detachment from August 1989 to November 1992. Involved in the NBTS investigation as the Acting OC of Fredericton Subdivision from approximately October 1992 to February 1993 and then sporadically until May 1995.
Morris, Keith	06/14/2006	Fredericton, NB	00:25:52	Staff Sergeant. Transferred to RCMP HQ in Fredericton as a CROPS Reader in 1985 where he met Staff Sergeant McCann.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Murphy, Solange	05/09/2006	Fredericton, NB	00:57:54	Employee. A civilian clerk during the 1990s investigation team at “J” Division.
Murray, Robert (Bob) (Audio problems during interview)	10/24/2006	Fredericton, NB	02:00:03	Crown counsel. Served the Director of Public Prosecutions from 1981 to 1996 and worked in Special Projects from June 1996 to March 1997. Returned to serving as a Crown counsel from 1997 to his retirement in Mach 2002.
Nugent, Dan	09/06/2006	Fredericton, NB	00:24:50	Superintendent. OIC Operational Support Services (OSS) since April 2003. Played a minor role in the latter stages of the NBTS investigation from approximately April 2003 to April 2004.
O’Brien, Ron	02/15/2006 09/06/2006	Fredericton, NB	01:18:05 00:29:xx	Retired Staff Sergeant. At “J” Division from 1979 to 1994. Worked under Staff Sergeant McCann for approximately 18 months.
Orem, Chuck (Interview was not recorded due to a technical problem)	08/10/2006	Regina Beach, SK	02:xx:xx	Retired Inspector. Member of the 1990s investigation team from approximately June 1992 to January 1996.
Ouellette, Jacques	12/06/2006	Fredericton, NB	01:47:07	Retired Staff Sergeant. Held various positions in “J” Division. Involved in the NBTS investigation from approximately May 1997 to October 2001.
Pallister, Peter (Could not be interviewed due to illness)				Retired Staff Sergeant. Mr. McCann`s supervisor while he was in "O" Division prior to 1977.
Paquet, Ed	10/25/2006	Saint John, NB	02:17:xx	Retired Corporal. With GIS from November 1986 to March 1993. Involved in the NBTS investigation from Saint John, NB, from approximately December 1990 to February 1993.
Parent, Yves	07/13/2006	Ottawa, ON	00:19:07	Sergeant. Posted to Riverview Detachment as a constable from July 1990 to August 1993.
Parker Brown, Elaine	06/12/2006	Fredericton, NB	00:31:36	Employee. Records Clerk in “J” Division from 1989 to the present.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Parnell, Roger	01/31/2007	Ottawa, ON	01:11:18	Retired Staff Sergeant. Held various positions in "J" Division from 1970 until retiring in late 1992. Minimal involvement in the NBTS investigation from approximately October 1990 to November 1992 when he acted as OC of Fredericton Subdivision.
Payne, Jim	03/02/2007	Fredericton, NB	01:13:17	Chief Superintendent. OIC CROPS from 2000 to present. Involved in the NBTS investigation from approximately December 2000 to January 2003.
Potvin, Denise	11/15/2006	Moncton, NB	03:07:05	Retired Constable. Member of the 1990s investigation team from approximately November 1992 to January 1993. Member of the 2000 investigation team from approximately August 2001 to July 2002.
Potvin, Rick	11/13/2006	Moncton, NB	03:05:57	Sergeant. Member of the 1990s investigation team as a constable from approximately November 1992 to May 1993.
Quigley, Tim	03/31/2006	Fredericton, NB	00:43:57	Retired Assistant Commissioner. Held various positions in "J" Division from 1974 to 1988 and knew of Staff Sergeant McCann. Was the CO of "J" Division from 1999 until his retirement in 2004.
Raymond, Weldon (Bud)	11/06/2005	Saint John, NB	01:xx:xx	NBTS employee from 1963 to 1973 and a suspect. Passed away four days after the interview.
Reilly, Randy (Refused to be interviewed)				FPF Corporal. Investigated abuse at the NBTS as an FPF Constable from June 1991 to September of 1991.
Richards, Tom (Not interviewed)				NBTS Superintendent from April 1974 to June 1974 and from April 1979 to July 1987.
Rivard, Al	04/11/2006	Ottawa, ON	01:08:17	Retired Chief Superintendent. OC of Moncton Subdivision from May 1988 to March 1994. Staff Sergeant McCann's supervisor when he was at Riverview Detachment.
Robertson, Tom	02/16/2006	Fredericton, NB	00:43:24	Retired Staff Sergeant. RCMP member from 1959 to 1995. Knew Staff Sergeant McCann and had some dealings with him.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Robicheau, Hugh	12/18/2006	Yarmouth, NS	01:50:39	Retired Superintendent. RCMP officer who spent his entire career in "J" Division from 1957 to 1989. Retired as the OIC CROPS and was Staff Sergeant McCann's supervisor for a long period. Following his retirement, he went to the Department of Justice of NB as the Executive Director of Policing Services for the province where he was involved in the NBTS investigation from approximately September 1990 to April 1993.
Robinson, Richard (Not interviewed)				New Brunswick CBC on-air radio news personality. David Forbes made contact with him, which led to the Spink investigation by the RCMP in February 1990.
Rochon, Bob	06/28/2006 08/03/2006	Moncton, NB	01:20:48 00:26:10	Retired Superintendent. Posted to Riverview Detachment from September 1989 to June 1990.
Rogers, Al	12/15/2006	Halifax, NS	03:30:xx	Corporal. Constable on the 2000 investigation team from approximately May 2001 to May 2004.
Roussel, Lise	11/09/2006	Fredericton, NB	02:59:19	Sergeant. Constable on the 1990s investigation team from February 1992 to June 1992 and a corporal when involved in the investigation from April 1993 to March 1994.
Roy, Leo	03/29/2006	Dunlop, NB	00:21:21	Retired Corporal. RCMP member from 1972 to 2000 who spent the majority of his career in NB.
Rushton, Roy	03/29/2006	Tide Head, NB	00:09:10	Retired Staff Sergeant. RCMP member who spent his career in eastern Canada from 1957 to 1988. Questioned about his recollection of returning a boy to the NBTS as per the statement of a former resident. He did not recall the incident.
Ryan, Shaun	03/28/2006	Dalhousie, NB	00:38:23	Retired Corporal. Constable on the 1990s investigation team from November 1992 to May 1993.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Ryan, Terry	05/26/2006	Halifax, NS	01:11:30	Retired Deputy Commissioner. Posted to "J" Division as an inspector from 1985 to 1989. Responsible for auditing detachments throughout the province. From 1988 to 1989, he was also the Acting CROPS Officer. In 1989 he was transferred to another division until 1997 when he returned to "J" Division as the Deputy Commissioner of the Atlantic Region until his retirement in 2003.
Seguin, Michel	09/27/2006	London, ON	05:30:xx	Assistant Commissioner. OIC CROPS of "J" Division. Involved in the NBTS investigation from approximately June 1997 to December 2000.
Shore, Gregory	03/28/2007	Toronto, ON	02:15:xx	CPC complainant and former NBTS resident.
Smith, Bill	03/08/2007	St. John's, NL	01:55:55	Chief Superintendent. Inspector and OIC OSS. Involved in the NBTS investigation from approximately February 2000 to August 2002.
Smith, Rod	01/29/2007	Ottawa, ON	01:12:18	Assistant Commissioner. Acted as the OIC CROPS in July of 1991. Involved in the NBTS investigation from approximately November 1991 to August 1993.
Snow, Gordon	02/15/2006	Fredericton, NB	00:26:40	Retired Staff Sergeant. Posted to "J" Division and involved in the NBTS investigation from approximately June 1990 to June 1992 in various positions.
Spink, Tom	02/28/2006 03/02/2007	Fredericton, NB	01:06:57 01:xx:xx	Retired Staff Sergeant. Completed the first RCMP investigation into the NBTS from February 1990 to July 1990 while a constable.
St. Laurent, Arlene	08/04/2006	New Maryland, NB	00:12:31	Retired civilian member. Dispatcher in "J" Division HQ from April 1979 to September 2002.
St. Onge, Mike	02/27/2007	Moncton, NB	00:53:50	Sergeant. Polygraphist at MCU North who interrogated Mr. McCann when he was arrested on 11 September 2002.
Sullivan, Todd (Not interviewed)				NBTS Superintendent from March 1988 to the closure of the school in 1998.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Theriault, Emile	09/05/2006	Moncton, NB	00:24:02	Constable. Posted to Riverview Detachment from January 1991 to October 1993.
Thibault, Luc	06/27/2006	Fredericton, NB	00:42:xx	Constable. Posted to Riverview Detachment from February 1990 to July 1995.
Toft, Karl	09/21/2005 08/08/2006	Edmonton, AB	01:xx:xx 01:xx:xx	Convicted. NBTS employee from January 1966 to October 1985.
Tremblay, Claude	06/15/2006	Fredericton, NB	00:59:36	Corporal. Constable posted to Riverview Detachment from December 1989 to June 1995.
Trewin, Bill	09/05/2006	Moncton, NB	00:42:08	Retired Sergeant. A corporal shift supervisor during the attempted murder matter.
Trottier, Daniel	09/06/2005	Ottawa, ON	01:30:xx	CPC complainant and former NBTS resident.
Turnbull, Rick	06/27/2006	Fredericton, NB	00:21:47	Corporal. Posted as a constable to Riverview Detachment from 1990 to 1995.
Ulsh (Ripley), Lillian (Not interviewed)	-	-		FPF Corporal. FPF police officer from 1989 to 1992. David Forbes took his initial complaint to her in 1985.
Vallis, Clive	01/08/2007	Fredericton, NB	02:12:57	Corporal. Corporal on the 2000 investigation team from approximately May 2001 to April 2002.
Vassalo, Ray	03/29/2007	Telephone	00:15:xx	Retired Sergeant. Worked with Corporal/Sergeant McCann while he was a constable in "O" Division.
Ward, John	04/12/2007	Telephone and e-mail		Staff Sergeant. Media Relations Officer in British Columbia.
Wawryk, Wayne	04/11/2006	Ottawa, ON	00:39:06	Retired Assistant Commissioner. Superintendent and the OIC of the Fredericton Subdivision from February 1993 to January 1994.
Welcher, John	06/13/2006	Fredericton, NB	00:26:42	Sergeant. Posted as a constable to Riverview Detachment from approximately 1989 to 1993.
White, Gloria	09/07/2006	Fredericton, NB	00:26:49	Employee. Administrative assistant to the CO of “J” Division from 1985 to 2004.
Wigmore-Mulder, Karen	08/04/2006	Fredericton, NB	00:25:24	Employee. Records clerk in “J” Division from 1989 to 2002.

Individual/ Interviewee	Date (mm/dd/yyyy)	Location of Interview	Length (hh:mm:ss)*	Title and Role During RCMP Investigation
Wilmot, Noella	05/08/2006	Moncton, NB	01:06:43	Employee. Administrative Assistant with "J" Division from 1966 to present. Worked for Al Rivard at Riverview Detachment in the 1990s and was there when Staff Sergeant McCann transferred in, in September of 1987, and when he left in June of 1992.
Wilson, Mary	09/06/2006	Fredericton, NB	00:28:40	Employee. Administrative support worker in GIS/MCU from 1986 to 2000.
Winchester, Kelly	04/18/2007	Fredericton, NB	00:08:xx	Crown counsel. Served as a provincial Crown counsel in Fredericton from 1988 to present.
Wright, David	09/20/2005	Edmonton, AB	02:xx:xx	CPC complainant and NBTS resident from 14 December 1982 to 13 June 1983.
Zaccardelli, Giuliano	01/15/2007	Ottawa, ON	03:27:52	Former Commissioner. Superintendent and OIC CROPS in "J" Division. Involved in the NBTS investigation from approximately February 1990 to January 1994. RCMP Commissioner from September 2000 to December 2006.

Appendix D: Process and Methodology of the Kingsclear Investigation

This section describes how the Commission for Public Complaints Against the RCMP (CPC) structured the Kingsclear investigation, conducted interviews and staffed the public interest investigation teams. It also describes the methods used to acquire and review original investigation documents and the process used to manage the large volume of documentation.

Structure of the Investigation

The Kingsclear investigation was organized into two investigative tracks:

1. The New Brunswick Training School (NBTS) staff and residents' investigation—which examines the conduct of the RCMP in relation to its criminal investigations into allegations of abuse by custodial staff and residents at the NBTS.
2. The McCann investigation—which examines the conduct of the RCMP in relation to its criminal investigations of Staff Sergeant Clifford McCann.

The two investigation tracks were further organized into a series of phases. In certain phases, the CPC overlapped the investigations to increase efficiency and eliminate unnecessary duplication.

NBTS Staff and Residents' Investigation

The investigation of staff and residents at the NBTS consisted of the following four phases:

1. Reviewing and summarizing the large amount of material pertinent to the investigation.
2. Analyzing the results of the document review.
3. Conducting a gap analysis, ensuring that all pertinent documents had been received and reviewed, and interviewing involved civilians and RCMP members.
4. Preparing and completing the final investigation report.

McCann Investigation

The CPC organized the McCann investigation into the following five investigative phases:

1. Interviewing the complainants and pertinent civilian witnesses.
2. Interviewing RCMP officers who had retired or left the force.
3. Interviewing current members of the RCMP who were involved in or associated with the investigation.

4. Interviewing current members of the RCMP (and members who had retired subsequent to the initiation of this investigation) who were involved in the investigation in either an investigative or supervisory capacity, as well as key government witnesses who had been involved in the investigations under review.
5. Preparing and completing the final investigation report.

Receipt of Investigation Material

RCMP Material

In June 2004, CPC staff travelled to the RCMP "J" Division Headquarters in Fredericton, New Brunswick, to obtain relevant material. The RCMP gave the CPC custody of 17 boxes of material containing original files and documentation. To ensure that all documents were accounted for both before and after the CPC's review, on-site CPC and RCMP staff took note of any files that appeared to be missing prior to the boxes being sealed for transport.

The documents included the investigative work of the RCMP teams, such as Tip files and numbers assigned to subjects during their investigations, and individual investigative files forwarded to the Crown as part of an information package for consideration of criminal charges. Upon their arrival at the CPC in Ottawa, the 17 boxes were secured in the vault of the Records Office. The CPC staff member who had witnessed their packaging in Fredericton verified that all seals were still intact.

The 18th box, which contained the investigative files regarding Staff Sergeant McCann, arrived separately from RCMP Headquarters in Ottawa, Ontario. CPC staff photocopied the contents of this box and, as requested, sent it to the RCMP "J" Division. While the documents were in the custody of the CPC, only authorized Records Office staff and members of the CPC's Kingsclear investigation team were allowed access. The team worked solely from photocopied documents.

Photocopies of relevant and other investigative material were kept secured in locked cabinets in a separate area of the CPC to guard against any possible breach of security by unauthorized personnel. As soon as the CPC obtained the required funding for the investigation, a separate workspace with a secure entrance was established for its expanding team. The new office space housed a secure file room for all investigative material, along with document scanning equipment. Access to the office was limited to members of the CPC team, as well as other authorized CPC staff members.

Miller Inquiry Material

In June 2004, the CPC obtained relevant documentation from the Miller Inquiry with the cooperation of the Provincial Archives of New Brunswick. This documentation was housed in secure cabinets in the CPC, along with the other Kingsclear investigation material. The documentation included public records, such as transcripts of hearings and exhibits, as well as documents not available to the public, such as the Inquiry's investigation files and interviews.

Attorney General Material

On 9 and 10 August 2005, the CPC team obtained copies of relevant material in the custody of the Public Prosecutions Branch of the Office of the Attorney General for New Brunswick. Before sending this material, the Public Prosecutions Branch photocopied briefs and packages of material that had been forwarded to them by the RCMP for prosecution consideration. With their co-operation, the CPC team checked the photocopied material against the original 10 binders of material relating to the McCann investigation that had been provided to the Public Prosecution Branch by the RCMP, and obtained copies of any relevant documents missed during the photocopying process. The CPC team removed three boxes of documents from the Public Prosecutions Branch. These documents were housed in secure cabinets at the CPC, along with other Kingsclear investigation material.

Review of Relevant Material

NBTS Staff and Residents

The addition of new team members enabled the CPC to begin reviewing and electronically summarizing the material related to the RCMP's investigations from the 1990s to 2003, while additional relevant material was requested from the RCMP as the documentation review progressed. Since the majority of the RCMP files reviewed were Tip files, the summaries of each file included whether

- the subject had been located and the extent of attempts to do so;
- the subject had been spoken to by telephone or interviewed in person; and
- a statement had been taken and what, if any, action had been taken regarding the information provided during the interview.

Each summary required extensive cross-referencing and follow-up, since the majority of the subjects interviewed by the RCMP provided names and leads regarding other potential victims or persons of interest. Investigators highlighted any anomalies or queries raised through the document review on the summaries and in the document management system to enable these issues to be systematically addressed or resolved by the time the investigation was complete.

Investigators also compiled lists of the names of relevant witnesses, potential victims, potential suspects, and RCMP members involved in the investigations.

Staff Sergeant McCann

The CPC started reviewing the material relevant to the RCMP's investigations of Staff Sergeant McCann by electronically summarizing the content and investigative significance of each document. Anomalies or questions raised by the document or any source under review were highlighted for further investigation.

CPC investigators compiled electronic lists of the names of persons identified in the material as potential victims, abusers, or witnesses, then cross-referenced the lists to assess the adequacy of the RCMP's investigations into the leads provided to them. Chronological lists were compiled for all interviews and statements taken by the RCMP during their investigations. A list was compiled of the names of witnesses that RCMP investigative documents had indicated would be contacted during their investigation, as well as the names of possible witnesses who warranted being interviewed and whether they had been interviewed.

Electronic lists were compiled of the names of all RCMP officers who either authored or were mentioned in the documents under review. This process was used to summarize and cross-reference the documents contained in all material relating to the RCMP's investigations of Staff Sergeant McCann during the 1990s.

When CPC investigators began reviewing the documents, they requested additional material from the RCMP as necessary, for example, to obtain additional officers' notes if not complete or not included with the original material received. The RCMP complied with the requests.

Miller Inquiry Documentation

CPC investigators reviewed and electronically summarized pertinent transcripts and documentation obtained from the Miller Inquiry in the same manner as the relevant RCMP material. They also continued to access and review additional documents from the Provincial Archives as the investigation progressed. As part of their efforts to assess the adequacy of RCMP investigations into the leads provided to them, CPC investigators paid particular attention to potential victims and suspects whose names had been forwarded to the RCMP by investigators in the Miller Inquiry.

Provincial Attorney General

Decisions about prosecutorial matters made by the Attorney General are outside the mandate of the CPC; however, determining the adequacy and thoroughness of RCMP reports to the Crown is within the scope of the CPC investigative mandate. Therefore, investigators believed it was important to as certain whether the Attorney General`s office had received all necessary documentation prior to making their determinations. This was achieved by comparing RCMP documents, which were originally forwarded to the Attorney General for prosecutorial review, with the original RCMP documents provided to the CPC. Using the CPC's document management system, investigators scanned fields of material in both sets of documents, noting such anomalies as whether the Attorney General had received documents from the RCMP that had not been subsequently provided to the CPC or vice versa.

Interviews

In September 2005, investigators began interviewing witnesses and members of the RCMP. All interviews were conducted by a team of two or, when necessary, three CPC investigators and were tape-recorded upon consent of the interviewee. The CPC adopted the practice of sending out information packages to most persons in advance of the interviews. This proved to be beneficial to both the person being interviewed and the CPC, for the most part, since the interviews would not have been as efficient or productive.

During the material review, investigators developed comprehensive plans listing the names and current status of all RCMP officers who have been involved in the investigation or may have witnessed alleged incidents relevant to the investigation. CPC investigators compiled the names of involved civilians, provincial employees, and other witnesses for interview consideration. The CPC provided a letter of notification in advance of interviews to all witnesses, including RCMP members who had been involved in investigations that had become subject to CPC review.

With the exception of a retired RCMP member and a serving RCMP member, who, on the advice of her lawyer, declined an interview due to a possible conflict with a pending civil action against the RCMP, every individual with whom the CPC requested a meeting agreed to be interviewed. Interviews ranged in length from 30 minutes to two days, depending on the volume of material and the time period under review. Some individuals were interviewed more than once to clarify particular issues or to explore new information received following their initial interview. An attempt was also made to interview retired Staff Sergeant McCann but his lawyer would not allow an interview to take place due to the civil action pending against him.

Document Management

The CPC implemented an electronic document management facility with full-text search and retrieval capability to provide a means of assimilating and analyzing the large volume of relevant material from the RCMP and other sources. The design incorporated all relevant data from the documents in the form of categories and subject fields.

The precision of the document management system's data fields provided investigators with fast, accurate, comprehensive and flexible access to the digitized information. An analysis support system was designed and implemented to record interview schedules and the results of investigative research and interviews. Coordination of the two systems enabled investigators and analysts to easily search for precise, chronological extracts of any and all relevant material and to conduct associated research in a flexible manner, including cross-referencing using Boolean search operators. With such a large volume of material to be reviewed, the system was crucial in the analysis of the evidence obtained during the investigation. The tools developed are easily adaptable to future investigations and reviews.

Since the initial focus of the CPC's investigative work was on Staff Sergeant McCann, the first material to be scanned was the RCMP's box of documents pertaining solely to him. It was thought that this material would benefit CPC investigators most since it would likely generate the majority of interviews to be conducted. All documents related to the McCann investigations were then culled from the other 17 boxes obtained from the RCMP and scanned into the CPC's document management system. Documents from the Attorney General related to the McCann investigations were then scanned. This was followed by a scan of the remaining RCMP and other relevant material.

Staffing

CPC staff members were initially seconded to the Kingsclear investigation while additional funding was sought from Treasury Board to enable more personnel to be hired. The initial secondments included a senior reviewer analyst with significant analytical experience and a complaints analyst with extensive experience in policing, both of whom were veteran CPC staff members.

In April 2005, an investigator with 34 years of police experience and 16 years of investigative experience with the CPC was brought in to assist with the review of relevant material. As well, a systems architect was hired to design, develop and implement a document management facility for the investigation.

In June 2005, a criminal defence lawyer, who was also a retired inspector with 32 years of experience with the Ottawa Police Service, was engaged on contract to replace the seconded complaints analyst and to lead the McCann investigative track. Also in June, a contract programmer was hired to scan the RCMP's relevant material into the newly implemented document library.

In September 2005, a director with extensive experience in project management and a background in security and intelligence was engaged to direct and facilitate the Kingsclear investigation. Prior to this, the investigation operated out of Legal Services and was supervised by the CPC's General Counsel.

In October 2005, a retired senior Crown counsel with 37 years of experience as a prosecutor of major crimes, such as sexual assaults and crimes of violence, became the lead of the NBTS investigative track. Shortly thereafter, the CPC engaged three additional investigators on contract, two with some 30 years' experience as police officers in areas such as forensic polygraphy, major crimes and professional standards. The third investigator was formerly the lead investigator for the Miller Inquiry and, as a result, was able to provide valuable knowledge regarding the archived Miller Inquiry material, as well as in-depth knowledge of the NBTS investigations. As the investigation progressed, some of the roles and responsibilities were re-assigned as required. A number of research and administrative staff were brought in to support the project during the course of the investigation. A full operational team consisting of 15 members was in place by November 2005.

Appendix E: Sexual Offences in Canada 1965–1995

The following table demonstrates the developments and changes to statutes regarding sexual offences in Canada from the years 1965 to 1995.

Criminal Code Sections	Provisions	Applicable Years
S. 147 Buggery or bestiality	Every one who commits buggery or bestiality is guilty of an indictable offence and is liable to imprisonment for fourteen years.	1965–1970
S. 155 Buggery or bestiality	Every one who commits buggery or bestiality is guilty of an indictable offence and is liable to imprisonment for fourteen years.	1971–1988
S. 160 Bestiality	(1) Every person who commits bestiality is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction. (2) Every person who compels another to commit bestiality is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction. (3) Notwithstanding subsection (1), every person who commits bestiality in the presence of a person who is under the age of fourteen years or who incites a person under the age of fourteen years to commit bestiality is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.	1989
S. 148 Indecent assault on male	Every male person who assaults another person with intent to commit buggery or who indecently assaults another male person is guilty of an indictable offence and is liable to imprisonment for ten years and to be whipped.	1965–1970
S. 156 Indecent assault on male	Every male person who assaults another person with intent to commit buggery or who indecently assaults another male person is guilty of an indictable offence and is liable to imprisonment for ten years and to be whipped.	1971–1972

Criminal Code Sections	Provisions	Applicable Years
S. 156 Indecent assault on male	Every male person who assaults another person with intent to commit buggery or who indecently assaults another male person is guilty of an indictable offence and is liable to imprisonment for ten years.	1973–1982
S. 149 Acts of gross indecency	Every one who commits an act of gross indecency with another person is guilty of an indictable offence and is liable to imprisonment for five years.	1965–1970
S. 157 Acts of gross indecency	Every one who commits an act of gross indecency with another person is guilty of an indictable offence and is liable to imprisonment for five years.	1971–1988
S. 151 Sexual interference	Every person who, for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of a person under the age of fourteen years is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.	1989–1995
S. 152 Invitation to sexual touching	Every person who, for a sexual purpose, invites, counsels or incites a person under the age of fourteen years to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the person under the age of fourteen years, is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction.	1989–1995

Criminal Code Sections	Provisions	Applicable Years
S. 153 Sexual exploitation	(1) Every person who is in a position of trust or authority towards a young person or is a person with whom the young person is in a relationship of dependency and who (*a*) for a sexual purpose, touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or (*b*) for a sexual purpose, invites, counsels or incites a young person to touch, directly or indirectly, with a part of the body or with an object, the body of any person, including the body of the person who so invites, counsels or incites and the body of the young person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years or is guilty of an offence punishable on summary conviction. (2) In this section, "young person" means a person fourteen years of age or more but under the age of eighteen years.	1989–1995
S. 158 Indecent acts	Every one who wilfully does an indecent act (*a*) in a public place in the presence of one or more persons, or (*b*) in any place, with intent thereby to insult or offend any person, is guilty of an offence punishable on summary conviction.	1965–1970
S. 169 Indecent acts	Every one who wilfully does an indecent act (*a*) in a public place in the presence of one or more persons, or (*b*) in any place, with intent thereby to insult or offend any person, is guilty of an offence punishable on summary conviction.	1971–1988
S. 173 Indecent acts	(1) Every one who wilfully does an indecent act (*a*) in a public place in the presence of one or more persons, or (*b*) in any place, with intent thereby to insult or offend any person, is guilty of an offence punishable on summary conviction.	1989–1995

Criminal Code Sections	Provisions	Applicable Years
S. 159 Anal intercourse	(1) Every person who engages in an act of anal intercourse is guilty of an indictable offence and is liable to imprisonment for a term not exceeding ten years or is guilty of an offence punishable on summary conviction. (2) Subsection (1) does not apply to any act engaged in, in private, between (*a*) husband and wife, or (*b*) any two persons, each of whom is eighteen years of age or more, both of whom consent to the act. (3) For the purposes of subsection (2), (*a*) an act shall be deemed not to have been engaged in private if it is engaged in a public place or if more than two person take part or are present; and (*b*) a person shall be deemed not to consent to an act (i) if the consent is extorted by force, threats or fear of bodily harm or is obtained by false and fraudulent misrepresentations as to the nature and quality of the act, or (ii) if the court is satisfied beyond a reasonable doubt that that person could not have consented to the act by reason of mental disability.	1989–1995
S. 173(2) Exposure	Every person who, in any place, for a sexual purpose, exposes his or her genital organs to a person who is under the age of fourteen years is guilty of an offence punishable on summary conviction.	1990–1995

Criminal Code Sections	Provisions	Applicable Years
S. 231 Punishment for common assault	(1) Every one who commits a common assault is guilty of (*a*) an indictable offence and is liable to imprisonment for two years, or (*b*) an offence punishable on summary conviction. (2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person is guilty of an indictable offence and is liable to imprisonment for two years.	1965–1970
S. 245 Punishment for common assault	(1) Every one who commits a common assault is guilty of (*a*) an indictable offence and is liable to imprisonment for two years, or (*b*) an offence punishable on summary conviction. (2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person is guilty of an indictable offence and is liable to imprisonment for two years.	1971
S. 245 Common assaults	(1) Every one who commits a common assault is guilty of an offence punishable on summary conviction. (2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person is guilty of an indictable offence and is liable to imprisonment for five years.	1972–1975
S. 245 Common assaults	(1) Every one who commits a common assault is guilty of an offence punishable on summary conviction. (2) Every one who unlawfully causes bodily harm to any person or commits an assault that causes bodily harm to any person (*a*) is guilty of an indictable offence and is liable to imprisonment for five years; or (*b*) is guilty of an offence punishable on summary conviction.	1976–1982

Criminal Code Sections	Provisions	Applicable Years
S. 246.1 Sexual assault	(1) Every one who commits a sexual assault is guilty of (*a*) an indictable offence and is liable to imprisonment for ten years, or (*b*) an offence punishable on summary conviction. (2) Where an accused is charged with an offence under subsection (1) or section 246.2 or 246.3 in respect of a person under the age of fourteen years, it is not a defence that the complainant consented to the activity that forms the subject-matter of the charge unless the accused is less than three years older than the complainant.	1983–1988
S. 271 Sexual assault	(1) Every one who commits a sexual assault is guilty of (*a*) an indictable offence and is liable to imprisonment for a term not exceeding ten years, or (*b*) an offence punishable on summary conviction.	1989–1995
S. 246.2 Sexual assault with a weapon, threats to a third party or causing bodily harm	Every one who, in committing a sexual assault, (*a*) carries, uses or threatens to use a weapon or an imitation thereof, (*b*) threatens to cause bodily harm to a person other than the complainant, (*c*) causes bodily harm to the complainant, or (*d*) is a party to the offence with any other person is guilty of an indictable offence and is liable to imprisonment for fourteen years.	1983–1987
S. 272 Sexual assault with a weapon, threats to a third party or causing bodily harm	(1) Every one who, in committing a sexual assault, (*a*) carries, uses or threatens to use a weapon or an imitation thereof, (*b*) threatens to cause bodily harm to a person other than the complainant, (*c*) causes bodily harm to the complainant, or (*d*) is a party to the offence with any other person, is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years.	1988–1995

Appendix F: “J” Division Organization Charts

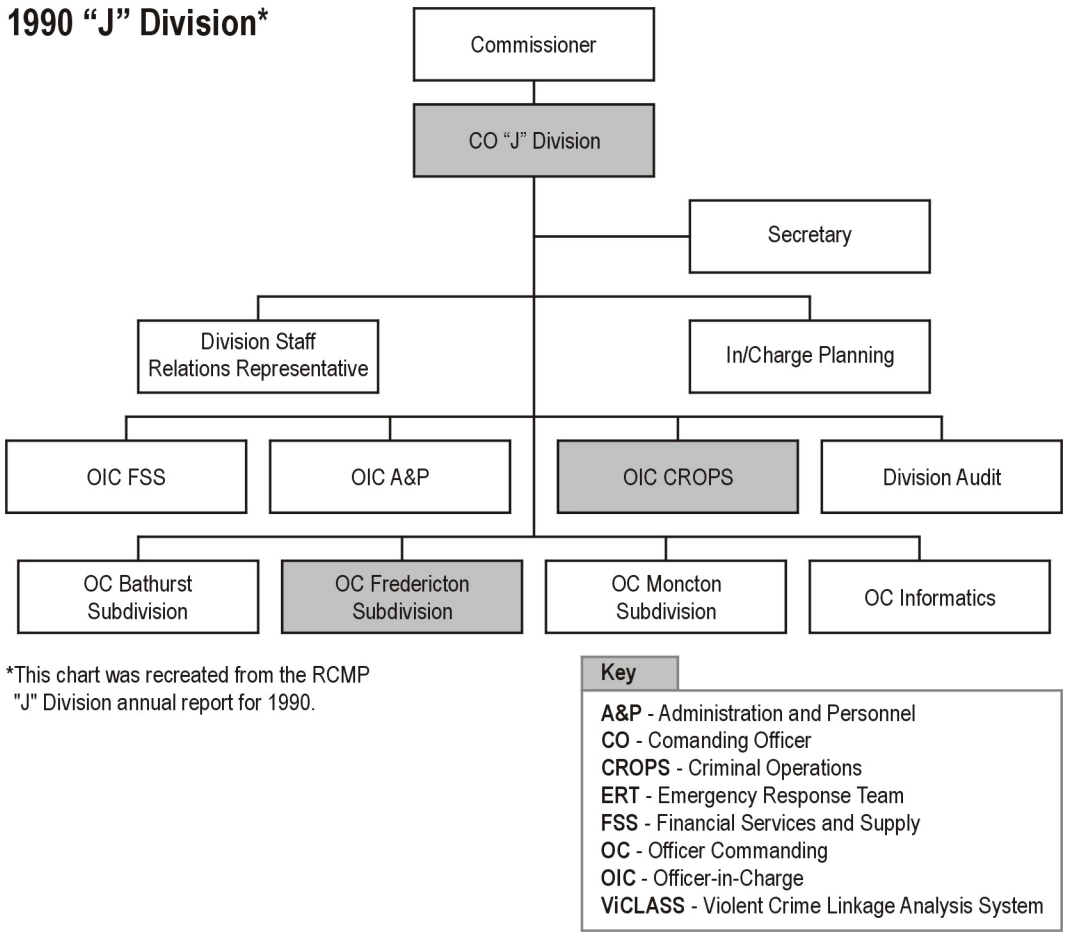
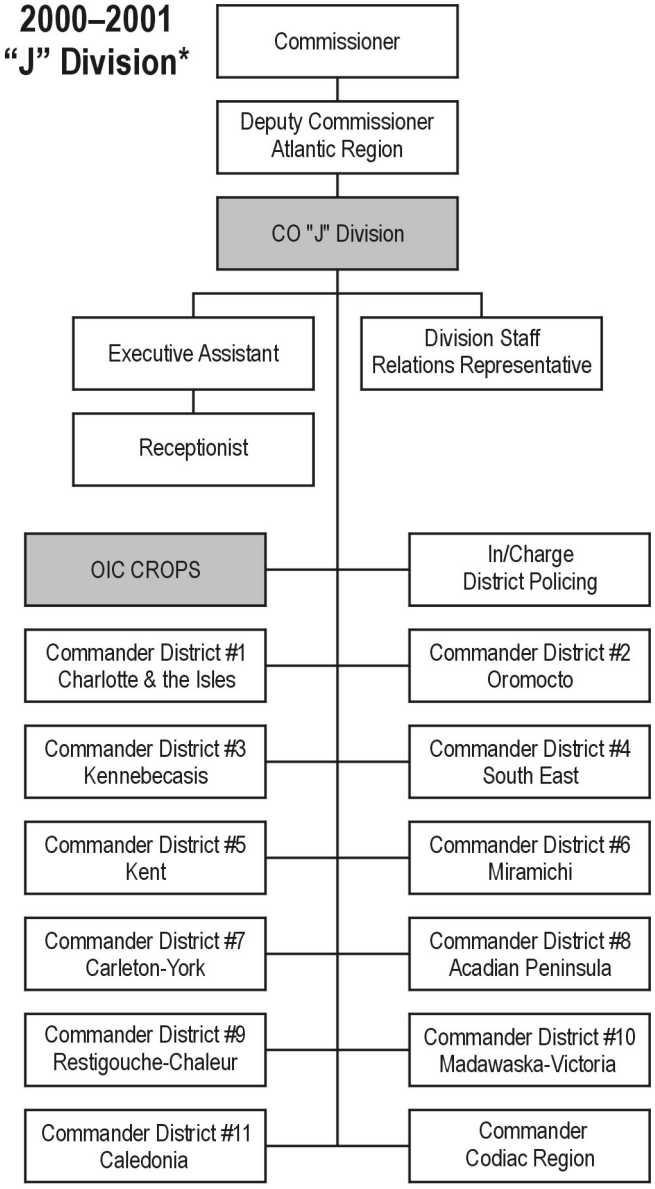
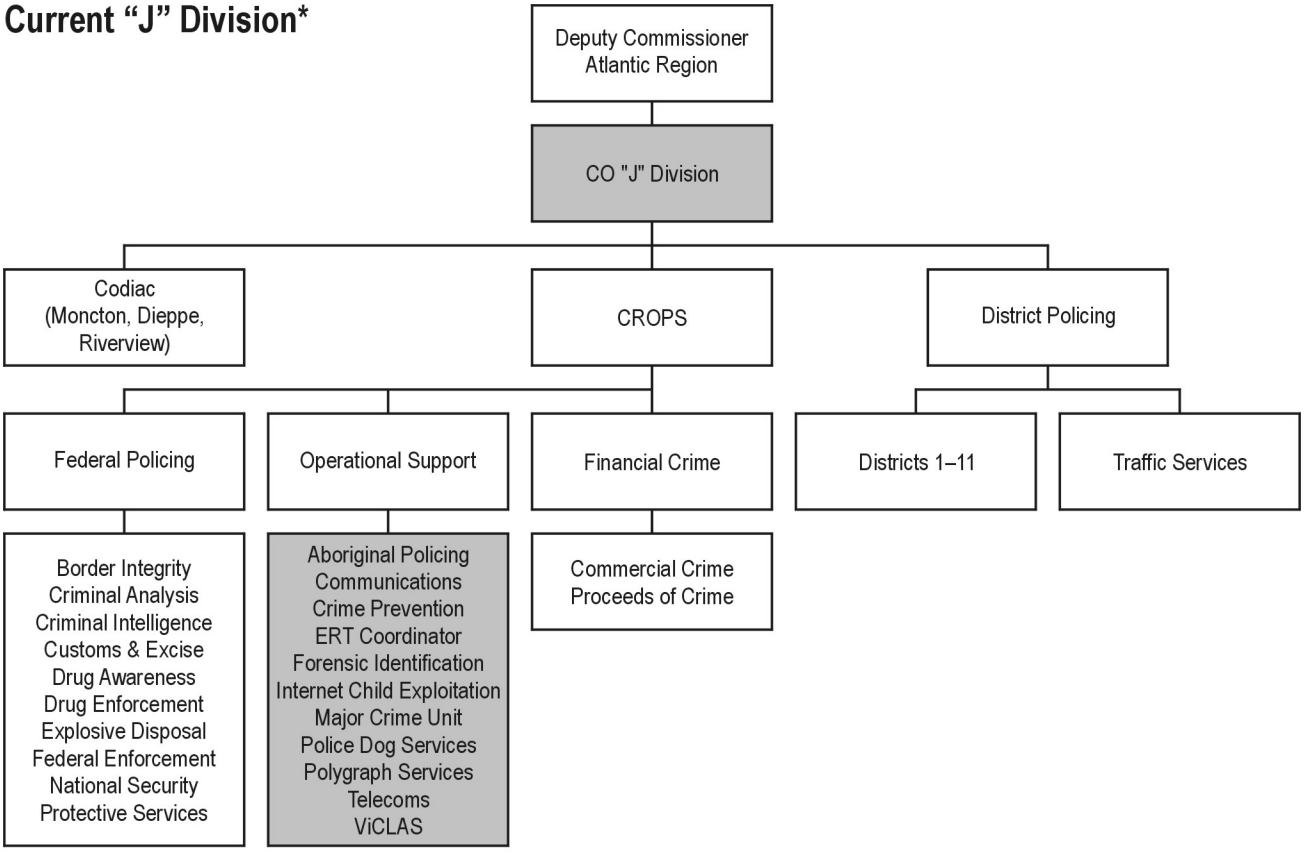


Figure F–1: 1990 “J” Division organization chart



*This chart was recreated from the RCMP "J" Division annual report for the 2000–2001 fiscal year.

Figure F–2: 2000–2001 “J” Division organization chart



*This chart was recreated from the RCMP website.

Figure F–3: 2007 “J” Division organization chart

Appendix G: Miller Inquiry

The Commission for Public Complaints Against the RCMP (CPC) was not given a mandate to review the Commission of Inquiry into the New Brunswick Training School (NBTS) during the Kingsclear investigation. However, since investigators involved in the RCMP investigations under CPC review testified at the Inquiry, the CPC found it necessary to review the Inquiry's findings as they relate to the RCMP.

Introduction

On 10 December 1992, the Government of New Brunswick appointed the Honourable Richard L. Miller as Commissioner of the Commission of Inquiry into the NBTS, which came to be known as the Miller Inquiry, to investigate how police and government officials handled allegations of sexual misconduct, including sexual abuse at the school. Justice Miller was not authorized to express any conclusions of law regarding civil or criminal responsibility. However, he was given responsibility for inquiring into, reporting and making recommendations in relation to the following issues:

(a) Whether persons held in custody in the NBTS are adequately protected against improper sexual and other related abusive conduct;
(b) Whether there is an adequate system in place to ensure that in the event of such improper conduct, complaints may be made, received and acted upon in a timely and effective manner;
(c) In relation to recent public concerns about allegations of sexual abuse against inmates and former inmates of the NBTS, to determine whether there are reasonable grounds to believe any department of the Government of New Brunswick or any of its officers or employees failed to take appropriate action to respond to allegations or circumstances that led or ought to have led to a concern that instances of sexual abuse might occur or have occurred; and
(d) Whether there are and during relevant periods there were in place appropriate mechanisms to ensure proper communications and follow-up between responsible departmental authorities and police agencies with respect to such allegations and complaints of sexual or other abuse. [1]

The Miller Inquiry was set up at the same time that the RCMP Fredericton General Investigation Section (GIS) was actively investigating allegations of sexual abuse made by former residents of the NBTS against Karl Toft, retired RCMP Staff Sergeant Clifford McCann, and several current and former employees of the NBTS. The RCMP investigation was ongoing despite the fact that, on 29 October 1993, the New Brunswick Attorney General had stayed the 15 additional criminal charges that the RCMP laid against Mr. Toft on 21 October 1993.

Concerns about the role of the RCMP in the provincially mandated inquiry led the federal Department of Justice to engage the services of David M. Norman, Queen's Counsel (Q.C.), to act as counsel on behalf of the RCMP. After some discussion with Mr. Norman and Bill Goss, Commission counsel, Justice Miller granted standing to the RCMP. As a condition, the RCMP was required to fully co-operate in disclosing any files in their possession. The RCMP assigned Constable Rick Evans to attend the hearing and to report on any testimony that made reference to the federal police force.

Testimony of RCMP Investigators

Inspector Mike Connolly, Corporal Tom Spink, and Corporal Ray Brennan—all of whom were serving members of the RCMP—were called to testify before Justice Miller. A Commission investigator travelled to Edmonton on 30 May 1994 to interview Inspector Tony Kozij, who was in a posting in western Canada; a portion of his interview was read into the record by Mr. Goss.

Constable Evans created a binder of documents that provided a chronology of the RCMP`s involvement in the NBTS investigation. Many of these documents were filed as exhibits with the Inquiry. Inspector Connolly's testimony made it clear that the RCMP's investigation began with a letter from Attorney General James Lockyer to Chief Superintendent Herman Beaulac on 7 February 1990. Prior to this, the RCMP did not have a file open on Mr. Toft or the NBTS. However, they had investigated individual complaints received from residents and staff of the NBTS.

Corporal Spink was called to testify on 30 August 1994. His testimony centred on the actions of Chief Gordon (Mac) Carlisle and Inspector Lillian (Ulsh) Ripley, both of the Fredericton Police Force (FPF) and both scheduled to testify after Corporal Spink.

Inspector Connolly was called to testify at the Inquiry on 13 September 1994, and was taken through the RCMP investigative process by Mr. Goss. In his testimony, which was lengthy and comprehensive, Inspector Connolly referred to a request, dated 10 September 1991, that was given to Ford Matchim, the Officer-in-Charge (OIC) of the Fredericton Subdivision, from Superintendent Zaccardelli, OIC of Criminal Operations (CROPS). Superintendent Zaccardelli asked that Sergeant Gary McNeill, the Non-commissioned OIC of Fredericton GIS, and Corporal Brennan give the investigation top priority and use all available assistance from the FPF.[2] Sergeant McNeil was not called to testify.

Corporal Brennan was called to testify on 13 September 1994. Like Inspector Spink, Corporal Brennan was taken step-by-step through his involvement in the investigation into the NBTS and Mr. Toft. He was cross-examined by counsel for the Commission and the FPF, as well as Justice Miller. Justice Miller's questions related to other ongoing investigations, a determination of who was in charge of the investigation into the NBTS and Mr. Toft, and Corporal Brennan's assignment prior to the NBTS and Toft case.

Miller Inquiry Findings

In his final report, Justice Miller did not subject Inspector Connolly's testimony to any negative comments. He commented on the RCMP in general terms rather than on any specific person. This was in contrast to his comments in relation to the FPF and Chief Carlisle and Inspector Ulsh.

Specific statements by Justice Miller of significance to the CPC Kingsclear investigation are as follows:

- The RCMP was not aware of the allegations that David Forbes made to the FPF in October 1985. Had now-Inspector Ulsh advised Mr. Forbes about the jurisdictional issue, "she would have noted the [appropriate notation] in her file. As a consequence, the appropriate police department was not involved in any investigation of the matter until the Attorney General referred the Richard Robinson interview notes to Chief Superintendent Beaulac on February 7, 1990 requesting an investigation and report."[3]
- In May 1991, Corporal Brennan was the only officer assigned to pursue the investigation.
- The RCMP began to aggressively investigate allegations of sexual assault at the NBTS once it became known that the FPF had already started their own investigation. Justice Miller wrote,

> Professional competition then entered the picture. The R.C.M.P. had been investigating for more than a year with no appreciable results. On the other hand, the Fredericton police had an advantage in having a member who was a former employee of the Training School. In a period of approximately six weeks, Reilly and Detective Kelly had gathered sufficient evidence to consider arrest and prosecution.[4]

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1 Report of a Commission of Inquiry Established by Order-In-Council 92-1022, The Honourable Mr. Justice Richard L. Miller, 1995.

2 Transit Slip to OC Fredericton Subdivision from OIC CROPS, 10 September 1991.

3 Miller Inquiry, Report, 17 February 1995, pp. 64-65.

4 Ibid., p. 66.

Appendix H: Glossary

The following key words and terms are used throughout the report:

Abuse	Physical or mental maltreatment. (*Black's Law Dictionary*, 7th ed.)
Acquittal	A judgement, by a judge or jury, that a defendant is not guilty of a charge.
Affidavit	A voluntary declaration of facts written down and sworn to by the declarant before an officer authorized to administer oaths. (*Black's Law Dictionary*, 7th ed.)
Assault	The *Criminal Code*, Section 265, stipulates that 1. A person commits an assault when (e) without the consent of another person, he applies force intentionally to that other person, directly or indirectly; (f) he attempts or threatens, by act or gesture, to apply force to another person, if he has, or causes that other person to believe upon reasonable grounds that he has, present ability to effect his purpose; or (g) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs. 2. This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.
Charge	A formal accusation of an offence as a preliminary step to a prosecution—also termed criminal charge. (*Black's Law Dictionary*, 7th ed.)
Complainant	1. A person who lodges or files a formal complaint. 2. Any member of the public who launches a complaint with the CPC against a member of the RCMP, whether or not he or she is affected by the conduct of the member.

Complaint	3. An allegation, or allegations, made orally or in writing by a member of the public, concerning misconduct of a public officer or of a contravention or violation of a statute. 4. A grievance made to the CPC from any member of the public who has concerns about the conduct of any member of the RCMP in the performance of his or her duties. *5.* A formal charge accusing a person of an offence. (*Black's Law Dictionary*, 7th ed.)
Continuation Report	A form (1624) used by RCMP members to record actions taken during an investigation.
Count	A charge in an "information" or indictment. (*Criminal Code*)
Court brief	A report prepared by investigators and given to Crown counsel. It details the evidence gathered and the results of the investigation. After reviewing the brief, Crown counsel then recommends whether charges should be laid against the suspect. Also referred to as an investigation brief.
Cover-up	In the context of the investigations into allegations of sexual abuse against former Staff Sergeant Clifford McCann and NBTS staff and residents, the term *cover-up* is "an intentional or reckless disregard of evidence that has the effect, or potential effect, of interfering with or undermining internal or external accountability mechanisms." Evidence that solely or simply establishes negligence, carelessness, laziness, incompetence or lack of interest on the part of the RCMP investigators is not proof of a cover-up.
Crown counsel	A person entitled to practice law in the jurisdiction and who is authorized to represent the Crown before the courts in relation to the prosecution of offences. Upon completion of an investigation, Crown counsel might also provide investigators with an objective assessment of the merits of their case and the likelihood of a conviction.
Diligence	Careful and persistent work or effort.
Disclosure	The act or process of making known something that was previously unknown. (*Black's Law Dictionary*, 7th ed.)
Indictable offence	Indictable offences are criminal offences of a more serious nature and have no time limit for which a prosecution may be commenced.

Indictment	An accusation in writing of a serious crime (i.e., an indictable offence), setting out the charges against the accused; each count therein must be comprised of only one transaction or offence. (*The Dictionary of Canadian Law*, 3rd ed.)
Information	A legal document that identifies an accused person and describes the offence the accused allegedly committed. The laying of an information before a justice is the means to commence a criminal proceeding. Anyone who, on reasonable grounds, believes that a person has committed an indictable offence may lay an information in writing under oath before a justice (*Criminal Code*, Section 504).
Oath of Office	Every member of the RCMP, before beginning the duties of his or her office, takes the oath of allegiance, the oath of office and the oath of secrecy.
Pre-charge screening	A provincially mandated policy, used in New Brunswick and two other provinces in Canada, whereby the police have to present the court brief to Crown counsel who will review the brief and recommend what charges should be laid, if any.
Preliminary hearing	The hearing, held in accordance with procedures set out in Part XVIII of the *Criminal Code*, in which a justice determines whether there is sufficient evidence to commit an accused for trial.
Public interest investigation	Under the authority of the *RCMP Act* (Subsection 45.43(1)), an investigation initiated by the Chairman of the Commission for Public Complaints Against the RCMP (CPC) into the conduct of any member of the RCMP on behalf of the public interest. This investigation may be the result of a complaint or complaints concerning any member or other person appointed or employed under the authority of this Act, whether or not the complaint has been investigated, reported on or otherwise dealt with by the RCMP.
Sexual abuse	An illegal sex act, especially one performed against a minor by an adult. (*Black's Law Dictionary*, 7th ed.)
Sexual assault	Sexual assault is an assault, within any one of the definitions of that concept in Section 265(1) of the *Criminal Code*, which is committed in circumstances of a sexual nature such that the sexual integrity of the victim is violated.
Statement	A written or oral communication detailing events that transpired and that may or may not be signed by the complainant or witness and given to the authorities.

Stay of proceedings	A process whereby the Attorney General or counsel instructed by him for that purpose may, at any time after any proceedings in relation to an accused or a defendant are commenced and before judgment, direct the clerk or other proper officer of the court to make an entry on the record that the proceedings are stayed by his direction. In the case of an indictable offence, the proceedings can be recommenced within one year of the stay. For summary conviction matters, the Crown must act before the expiration of the limitation period. Where notice of recommencement is given within these time limits, the proceedings will be continued on the original indictment or information. After the one-year period has elapsed, the Crown, if it wishes to proceed on an indictable matter, will have to start afresh. (*Criminal Code*, Section 579 (1))
Summary conviction offence	Section 786 (2) of the *Criminal Code* states that no proceedings shall be instituted more than six months after the time when the subject matter of the proceedings arose, unless the prosecutor and the defendant so agree. The majority of the charges that were alleged during the RCMP's investigations were of a summary nature; because the six-month time period had elapsed, they were barred from prosecution.
Tip file	An RCMP file that contains evidence, case updates and any information related to the subject of the file in relation to the case being investigated. Tip files are created for alleged victims, suspects and witnesses who are referred to during an investigation. Each tip file is cross-referenced with a unique Tip number assigned to each subject that is identified during the investigation.
Transit Slip	A document used for internal RCMP communication, which usually includes attachments with it.
Transmittal and Diary Date Request	A form used by RCMP members to assign and track investigation due dates and updates. It is also used to request extensions regarding such by investigators.