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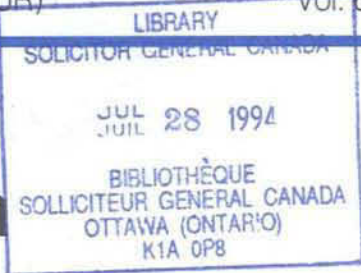
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DOSSIERS

FEDERAL LAW ENFORCEMENT UNDER REVIEW (FLEUR)

Vol. 6 No. 1 / March 1994



Royal Canadian Mounted Police Drawing from a fine tradition

The RCMP has a long and strong tradition of enforcing law for Canadians. For 121 years, Mounties and their families have contributed to community life in countless ways, from coaching hockey to teaching at the local Sunday school. It is this history of grass-roots involvement that now enables the RCMP to respond creatively to emerging operational and fiscal challenges.

In a recent interview with Commissioner Inkster, *DOSSIERS* learned of changes under way in the Force. As a starting point, the Commissioner described the "community-policing" model developed by the RCMP to provide appropriate and cost-efficient services to eight provinces, two territories and 200 municipalities across Canada.

Taking its cue from the Force's history of involvement with communities, this model is a far cry from the "crime control" approach of the late '60s and early '70s. In those years, "success" was measured largely in terms of response to crime rates — what mattered most was how quickly an officer could respond to a call and how many calls could be handled in a set time period.

But the "crime control" model greatly taxed the relationship between many officers and their communities. The first clue that all was not well came

when a new expression surfaced in the Aboriginal community — Mounties, rarely seen out of their cruisers, were dubbed "faceless or legless police officers." Says Commissioner Inkster, "There's no magic to police work. It's people telling you what's going on. If

you're not talking to them and they're not comfortable talking to you, you're going to find yourself isolated."

The community-policing concept is an attempt to restore respect for the Mounties and to earn the trust of those who rely on their services. To ensure that the Force is responding to commu-

nity needs, local committees have been established at the community level. This not only keeps officers in touch with the community pulse, but it gives residents a better appreciation of the various constraints under which the Force operates. As the Commissioner explains, the more aware people are regarding the availability of resources, the more realistic their expectations become. The harsh truth is that police forces can't do everything: maintaining security and safety is a shared responsibility.

Every community has different needs. That's why the input from local

committees is so important. And, as Commissioner Inkster points out, there have been a few surprises. A classic example comes from a small town in PEI. There, community representatives asked, not for police services to deal with family violence or break-and-enter crime, but for something to be done about the squealing tires on Saturday nights. They also hated the fact that it took four rings for their after-hours calls to the RCMP to be forwarded to the next largest town.

For Commissioner Inkster, effective cost-cutting means finding long-term solutions to community problems. He believes that rather than putting too much faith in what he describes as "crime displacement" strategies — better locks on doors, etc. — it's important for the Force to be more involved in "crime prevention" initiatives. This approach seeks to address the problems that underlie community crime, such as generational cycles of violence, abuse, poverty and illiteracy. Arresting Joe every Saturday night for drunk and disorderly conduct may, in the end, be futile — what makes more sense is to find ways of helping Joe break his pattern of substance abuse.

In the community-policing model, officers work alongside community ➤



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members to determine where the problem areas are and to pinpoint local resources. It's police work that calls for completely different skills from the ones needed in crime control. That's why today's new recruits are being trained as conciliators, problem-solvers and facilitators.

Going hand in hand with these changes at the field level is a new approach to corporate management. Field managers now have direct input into Headquarters, because they — like the members of the local committees — are the ones who know what's happening on the front lines. "The fact that you're on the other side of the mountains and in a different time zone doesn't remove responsibility," says the Commissioner. He concedes that some officers may see this new function as an added burden, but points out that it gives many field managers a greater sense of inclusion.

The image of a pyramid doesn't fit the RCMP's management structure any more — a circle is a better way of showing how regional field managers relate to Headquarters. Commissioner Inkster foresees a dramatic drop-off in the size of Headquarters staff in the next five years — from 3000 to perhaps 500 — as more and more staff move out to the regions.

"We're getting out of the business of file management," observes the Commissioner. To do this, there'll be a growing reliance on management



RCMP Community Policing

... is a partnership between the police and the community, sharing in the delivery of police services.

Members of the Royal Canadian Mounted Police pledge to:

TREAT all people equally and with respect;

UPHOLD the Canadian Charter of Rights and Freedoms;

SERVE and **PROTECT** the community;

WORK with the community and other agencies to prevent or resolve problems that affect the community's safety and quality of life.

information systems. These will give field officers all the information they need to solve problems and manage risks as they arise; similarly, they'll provide policy and program managers with access to any case-specific data they require to do their job effectively.

But, as the Commissioner is all too aware, field officers and managers can

quickly become "faceless" in such a system. To help address this problem, a new National Operations Centre will provide, among other things, state-of-the-art "teleconference" facilities. This Centre is due to open in April 1994.

Another dimension of the RCMP's work is providing law enforcement services to the "federal community." In this regard, Commissioner Inkster notes that the FLEUR initiative is timely and welcome. "All of us [in the federal government], despite our histories, must find ways to work together," he says. "We have to move beyond protecting our turf. If we don't take the initiative, the taxpayers will."

Understanding how the Force can best support and work with other federal agencies in discharging their respective law enforcement responsibilities is at the heart of the RCMP's work within FLEUR. The Mounties may have expertise in training peace officers, but where specific departmental issues are involved, it's important to remember that the department involved has the experts.

By listening — and doing so with respect — to the voices within Canadian communities large and small, by learning from them and working sensitively with them to determine how their needs can best be met, the RCMP is positioning itself to provide Canadians with efficient, appropriate and cost-effective policing services well into the 21st century. ☺



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Federal enforcement powers

A firmer footing for peace officers?

What do Fisheries Officers, Park Wardens, members of the Royal Canadian Mounted Police and Pilots in command of aircraft have in common? All are peace officers. But does this mean that they are all trained in the same way? Or that they are all charged with the same responsibilities, on and off duty, at all times and in all places? These are some of the issues being examined in a study of federal enforcement powers currently being undertaken by FLEUR.

The "Study of the Attribution of Federal Enforcement Powers" responds to questions raised in a report prepared over seven years ago entitled *Report on the Findings of the Federal Law Enforcement Under Review*. According to the 1986 report, the attribution of enforcement powers is at odds with the legal premise of the certainty of the law, and rife with potential for jurisdictional overlap and conflict. This could compromise the effective enforcement of federal laws.

FLEUR's study has two components: the first is a self-assessment, which is being undertaken by departments whose officers do not need any extraordinary powers to carry out their enforcement responsibilities — i.e., they don't have to rely on peace officer powers. The second is directed at departments which do rely on such powers to enforce the law. This component — dealing as it does with highly intrusive powers that impinge upon personal liberty and rights and raising a number of intertwined issues that involve jurisdictional boundaries — has required a comprehensive approach and in-depth consultations.

The status of "peace officer" may confer on an individual any of a number of extraordinary powers — for example, powers to arrest, search, detain or serve orders of process —

while at the same time creating exemptions and protection. Such powers are designed to support field officers in carrying out their functions — be it protecting public safety or property, preventing crime or conducting investigations. But it is imperative that officers and the public alike be absolutely clear about the extent and nature of their powers.

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these powers.***

For some federal enforcement functions, it's quite clear when and where these extraordinary powers may be used; for others, however, the situation is open to interpretation and the lack of certainty. It's one thing when an officer has general responsibilities to enforce the law; it's quite another to know how far a peace officer can go when his/her authority is derived from a narrow mandate in federal legislation.

As the situation currently stands, federal peace officers come from a broad array of backgrounds and serve a diverse range of purposes. Ensuring that all share similar basic qualifications is at the heart of the call for training standards. Such standards would require minimum training in several key areas — for example, duties, powers, jurisdictions, *Charter* obligations, use of force, limitations, exemptions and protection.

The FLEUR study began with a review of the mandates and requirements of a total of 15 federal departments and agencies. In the first phase of the consultation process, FLEUR interviewed key federal officials — those identified as being knowledgeable about the enforcement challenges facing their departments, and in a position to speak with authority. The interview results were summarized in a report, which, along with supporting documentation, is currently under review by a committee of senior federal law enforcement officials. The committee is looking at a number of options aimed at improving clarity and certainty. As a first step towards this objective, the committee has authorized a review of "first response" requirements by peace officer groups within the federal law enforcement community.

For more information on this study, contact Owen Davey, (613) 998-3606, Fax (613) 998-3717. ☺



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Working toward compliance

The negotiation option

The call for more responsive regulation by the House of Commons Standing Committee on Finance is the driving force behind two projects now under way within the Department of Justice and the Treasury Board Secretariat. Both are exploring the practical implications of using negotiation as a tool to achieve compliance.

It is not uncommon for front-line enforcement officers to try the negotiation route when faced with non-compliant behaviour. But it's usually done on an informal basis and without the support of a legal framework and clear guidelines. This can create uncertainty about the effectiveness of the solution reached — especially where there's no way of enforcing it. Moreover, departments may face a liability suit if someone suffers as a result of a decision not to enforce a regulation.

Basil Stapleton of the Department of Justice's Administrative Law Section states the problem succinctly: "Right now, for many of our regulators the only formal tools available are at two extremes — written warnings, or prosecutions. What we're trying to do is to bridge that gap, but without creating new dangers."

It is against this background that the Department of Justice is looking at the legal aspects of alternative dispute resolution (ADR). In particular, officials are addressing the challenges inherent in using negotiation to resolve regulatory — as opposed to civil or criminal — matters. Members of the project team are wrestling with some difficult and delicate questions — for example, how much authority and discretion can be delegated to a regulator without undermining Parliament's intentions, and, are regulators who get

involved in lengthy negotiations with non-compliant individuals or organizations exposing themselves to court action?

Basil Stapleton also observes that considering alternatives to the "command and control" approach to enforcement can be useful to look more broadly at what the term "negotiated solutions" can mean. According to him,



Negotiation can be valuable not only as a means of resolving disputes, but as a way of forestalling them.

negotiation can be valuable not only as a means of resolving disputes, but as a way of forestalling them. Regulators south of the border have accumulated considerable experience in this area. For example, the American Environmental Protection Agency uses approved

compliance plans to remove any uncertainty about what is required of regulatees. When disputes arise over regulatory compliance, a process of negotiation may be used to arrive at an enforceable voluntary compliance agreement.

Justice officials expect to release their final report in the fall of 1994. Meanwhile, they are gathering and analyzing legal and legislative precedents, and anticipating useful input from the Treasury Board project.

The latter is examining the federal government's experience with negotiating solutions in cases where a regulation has already been breached. This means talking with officials in a variety of federal departments and developing case studies on what works and what doesn't when negotiation is chosen as the approach to achieve compliance.

Besides contributing to the Justice project, these case studies will provide grist for a practical guide to help regulators and enforcers who view negotiation as a viable and cost-effective alternative.

For more information concerning the Justice project, contact Basil Stapleton, (613) 952-8757, Fax (613) 957-4697. For more on the Treasury Board project, contact Francis Savage at (613) 957-7935, Fax (613) 957-7875. ☺

Keep in Touch

This newsletter is for you and your colleagues. We've got lots of ideas but we need to hear from you, too. Your insights, experiences and anecdotes will help to keep readers in touch with developments in the field. Please telephone, fax or write: DOSSIERS, 340 Laurier Avenue West, 8th Floor, Ottawa, Ontario K1A 0P8, telephone (613) 998-3714, Fax (613) 998-3717.

P.S. Cartoons and photos welcomed too!



Best Practices in Enforcement

Regulatory Advisory Committee, FEARO Consulting the experts

Bringing industry representatives, environmentalists and two levels of government to consensus on environmental impact issues is no mean challenge. Yet the Federal Environmental Assessment Review Office (FEARO) has made a promising start through its Regulatory Advisory Committee (RAC).

FEARO established the group in 1991 to advise the federal Environment Minister on the content of draft regulations and guidelines for the new *Canadian Environmental Assessment Act*. This was in fulfillment of the government's commitment to consult with key interest groups before drawing up any regulations.

Four guiding principles guide the committee in its quest for consensus. The draft regulations must be:

- legal;
- technically feasible;
- administratively feasible; and
- take account of both the potential economic implications and the requirement that a Regulatory Impact Analysis be undertaken.

In all, some 15 regulations may be needed. The four that the committee began with are those that will identify which projects require environmental assessment and what level of assessment will be involved. RAC's extensive meetings and negotiating sessions concerning these regulations have been documented in Report No. 1, *Report of the CEAA Regulatory Advisory Committee* (April 1993).

It hasn't all been smooth sailing. Getting the right people to the table and then steering them collectively through the labyrinth of legal and technical uncertainty has challenged everyone involved. And *jurisdictional concerns*, coupled with the often conflicting views of industry and environmentalists as to what degrees of environmental impact are tolerable, continue to fuel the same sort of controversy that raged when the Act itself was being drafted. So, where opinions diverge, the committee is requested to set out the

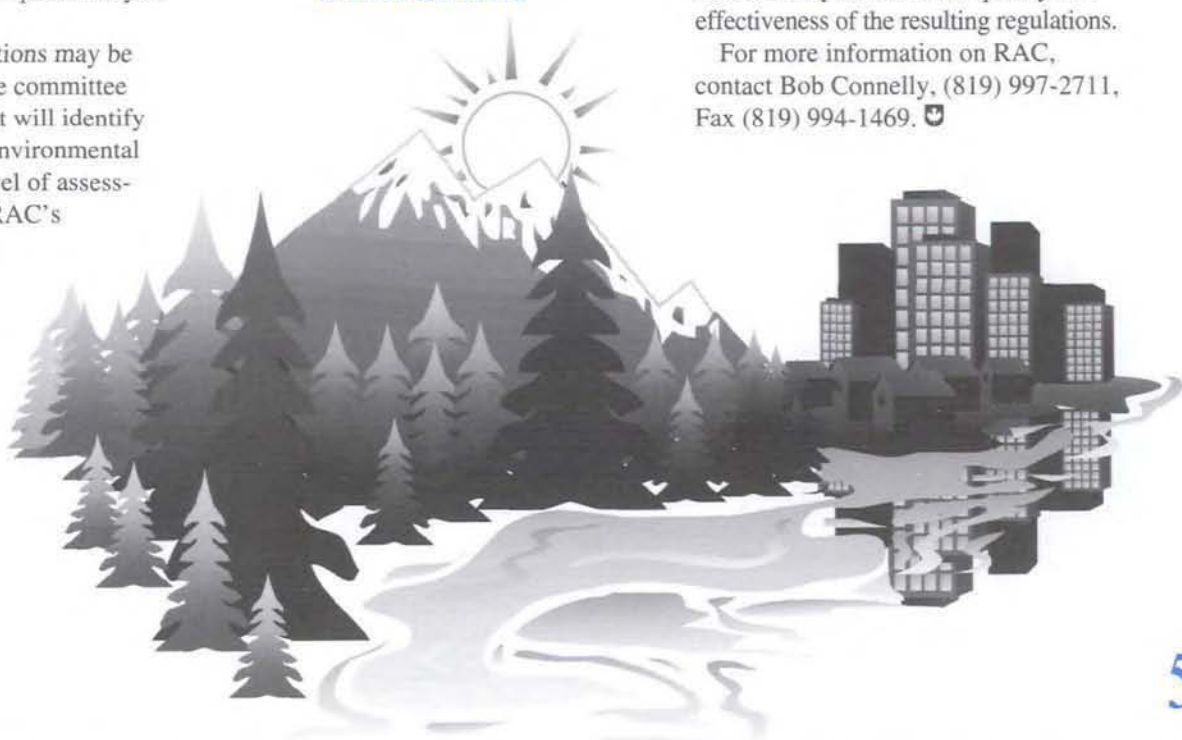
various views for the government, as an aid to understanding the implications of different options.

Committee members are keenly aware that RAC's advice will have far-reaching impacts. "These regulations touch virtually every federal department and every economic sector in Canada. They'll have important consequences for both the ecological sustainability and the competitiveness of Canada's economy," notes Bob Connelly, Vice President of Policy and Regulatory Affairs at FEARO.

Despite the difficulties, it's becoming clear that the committee approach offers some distinct advantages. For one thing, it makes more technical data available for decision-making, often within a shorter time. Also, having all the stakeholders at the same table means submissions can be challenged and new input given on the spot. But, most importantly, the RAC provides FEARO with direct access to valuable expertise and experience — something that can only enhance the quality and effectiveness of the resulting regulations.

For more information on RAC, contact Bob Connelly, (819) 997-2711, Fax (819) 994-1469. ☺

A *distinct advantage of the committee approach is that it makes more technical data available for decision-making, and often within a shorter time*



Canadian Seniors Packaging Advisory Council

Product safety for older consumers

Ever had trouble opening a pop can, cereal box or child-resistant medicine bottle? Many Canadians do — seniors, especially. Coming to grips with seniors' needs in this area is one of the goals of the Injury Prevention Program for Older Consumers, a voluntary, non-regulatory initiative that involves industry, seniors' groups, consumer groups and Health Canada's Product Safety Bureau. Products can also kill and injure people. Each year, 3000 older Canadians die and some 67 000 are hospitalized because of injuries, many of which result from poor product design.

The program has three key elements:

- a public awareness effort designed to prevent injuries caused by mishandling and misuse of products, and by lack of information about the dangers associated with particular products (through the distribution of safety information in exhibitions, workshops and by responding to public requests);
- promotion of the design and use of safer and better consumer products, by sensitizing industry and industrial designers to the product needs of seniors and

Canadians in general. (Initiatives have included the publication of a booklet entitled *Product Safety and Our Aging Society: Design Considerations for Manufacturers and Designers*); and

- the Canadian Seniors Packaging Advisory Council (CASAPAC), a voluntary group of industry associations, government departments and seniors' organizations, which is working to make the packaging and labelling of everyday consumer products safer and more accessible to older Canadians.

The CASAPAC component of the Program shows what a cooperative approach can achieve. It grew out of the consultations that preceded the development of the Consumer Chemicals and Containers Regulations (*Hazardous Products Act*). During those consultations it became clear that some of the problems seniors were having with packaging design were beyond the scope of the regulations. Industry wanted to respond to these concerns without adding to existing packaging requirements — these already included the use of both official languages, the listing of possible side-effects, the

itemization of product contents, etc. Given both the potential burden on industry and the limited ability of regulation to deal with design issues, an alternative approach was proposed in the form of CASAPAC.

In 1993, Health Canada's Ventures in Independence program awarded CASAPAC a grant of \$436,000 to examine the packaging needs of seniors over a two-year period. Several projects are already under way. One, called "Open Sesame," is the development of a multimedia learning kit that teaches seniors

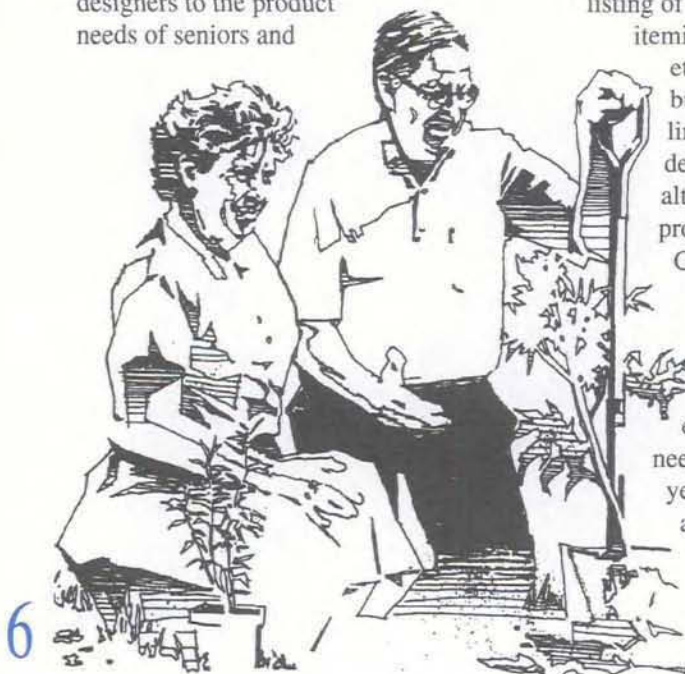
about opening difficult and child-resistant containers, understanding hazard warnings and ensuring that dangerous products are safely stored and disposed of.

Another project is called "Silver Market." To help make manufacturers, designers and packagers more aware of seniors' needs, project team members visit trade shows and seminars demonstrating some of the challenges seniors face. For example, CASAPAC had a booth at Pac-Ex '93, an international trade show for the packaging industry. Visitors to the show were invited to read packaging labels while wearing glasses smeared with vaseline and yellow food colouring.

The hope is that voluntary changes will occur in the packaging of consumer products as industry becomes more aware of the opportunities created by the growing seniors' market. Currently, CASAPAC is conducting a survey to help pinpoint the problems seniors face. The results are expected in the spring of 1994.

CASAPAC has enjoyed success with seniors and industry alike. Kathy Brazeau-Meahan, Seniors Program Coordinator in the Product Safety Bureau, attributes seniors' positive response to their involvement in the process. "They are the ones who know their own needs best," she observes. Industry is equally enthusiastic. It's not hard to see how insights gained from this exercise can help manufacturers, designers and packagers gain a competitive edge in the global marketplace.

For more information on the Injury Prevention Program for Older Consumers, contact France Pégeot, (819) 953-2455, Fax (819) 953-3857. For information on CASAPAC, contact Karen Cuggy-Murphy, CASAPAC, 2255 Sheppard Avenue East, Suite 407, Willowdale, Ontario M2J 4Y1, (416) 497-7511, Fax (416) 496-6160. ☺



The editors of DOSSIERS want to be sure that the newsletter is meeting readers' needs. With this in mind, it would be helpful if you could spare the time to answer the following questions.

DOSSIERS Now

1. DOSSIERS has been published four times a year for the past five years. Approximately how many issues of DOSSIERS have you received (including this one)?

- 1 to 3
4 to 10
11 to 20

2. We're interested in finding out how you read DOSSIERS. Do you generally read:

- the whole newsletter
only those articles that appear relevant to your work
articles of general interest
other (please elaborate)

What do you like most about the content of DOSSIERS?

What do you like least?

3. We'd like to know what you think about the writing style of DOSSIERS. In your opinion, is it generally:

- easy to read
uneven (e.g., some articles easy to read, others too bureaucratic)
too bureaucratic in style

What do you like most about the writing style?

What do you like least?

4. We'd like your opinion on the overall appearance of DOSSIERS (including design, layout, typeface, etc.). In your opinion, is it:

- very appealing
somewhat appealing
not at all appealing

What do you like most about the look of DOSSIERS?

What do you like least?

5. We need some information about the shelf-life of DOSSIERS. Generally, do you keep DOSSIERS after reading it?

- yes
no



6. If yes, for how long?

- less than one month longer than 12 months
 2 to 12 months

7. When you've finished with an issue, do you generally:

- throw it away (e.g., recycle it) pass it on to a colleague

8. Do you ever follow up on articles you read in *DOSSIERS*?

- yes no

If yes, in what way?

- discuss them with colleagues enrol in courses
 contact persons mentioned in the article implement the ideas in your own setting
 order publications other (please specify) _____

9. We'd like to know a bit more about our readers. How would you classify the work you do?

- front-line enforcement and investigation (e.g., park warden, investigation officer)
 program administration
 policy development
 other (please specify) _____

The Future

We're particularly interested in hearing how you think *DOSSIERS* might be improved.

10. In its current format, *DOSSIERS* does not have regular "sections." Would you be interested in seeing any of the following on a regular basis?

- provincial/municipal initiatives events and resources
 legislative update training opportunities
 recent court decisions risk management
 profiles of people in the field other (please specify) _____
 guest editorials

11. Do you have any suggestions about how *DOSSIERS* could be made more useful?

Changes to content: _____

Changes to format (including length): _____

Frequency of publication: _____

Thank you for taking the time to complete this questionnaire. We encourage you to keep us informed of your opinions, experiences and ideas on regulatory reform, including feedback on what you read in *DOSSIERS*.

Please mail or fax this questionnaire to

Jon Holland, Editor-in-Chief, FLEUR Secretariat, 340 Laurier Avenue West, 8th Floor, Ottawa, Ontario K1A 0P8, Fax (613) 998-3717.

