The strongest man in the world is he who stands most alone.
Ibsen, An Enemy of the People, V

Things do not change; we change.
Thoreau, Walden

Strength
O, it is excellent
To have a giant's strength; but it is tyrannous
To use it like a giant.
Shakespeare, Measure for Measure, II. 2

The administration of justice is the firmest pillar of government.
George Washington, Letter to Randolph, 1789

Civilian agencies cannot coerce change but must persuade, and to do that, must become rather knowledgeable about policing and make sensible recommendations which can achieve police respect. The difficulty is in achieving the required degree of knowledge through cordial and continuous exchange with the police without being co-opted.
Clare E. Lewis, Commissioner, Office of the Public Complaints Commissioner, Toronto, Ontario.
December 1986.

I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land... The responsibility for law enforcement lies on him.
I am more afraid of three newspapers than of 100,000 bayonets.
Napoléon

The world must be made safe for democracy.
Woodrow Wilson
Address to Congress, April, 1917.

I am also comforted by the remark of a wise man, "Failures are made only by those who fail to dare, not by those who dare to fail."
Leslie B. Pearson, 4 April, 1968.

While the idea of the law as the guardian of liberty comes last to one's mind, when it does come we realize it for the true end for which law exists.
R.L. Kellock, Royal Commissioner 1944.

No social repercussion, even if it consisted of a major economic contribution to the relief of human misery, could offset the least abuse of power in the application of the law.
It is to be hoped that the presence of citizens... will bring about such transparency that justice will not only be served, but will also be truly apparent.
Jacques Beaudoin, Director General
Quebec Police Force.
June 10, 1988

The Honourable James Kelleher, P.C., Q.C.
Solicitor General of Canada
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Mr. Minister:


Faithfully yours,

René J. Marin

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Chairman
The Honourable René J. Marin

Vice-Chairman
F. Jennifer Lynch

Members
Joanne McLeod
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1 THE REPORTING PROCESS

This Second Annual Report of the External Review Committee is the first to cover a full year. The first report covered two months from the appointment of the Chairman to March 31, 1987. This report deals with the Committee's activities for the period ending March 31, 1988.

The Chairman is required by Section 30 of the RCMP Act to submit a report of the activities of the Committee to the Solicitor General within three months after the end of the fiscal year. The Solicitor General then lays a copy of the report before each House of Parliament.
During the year under review, the question most often asked of the Committee has concerned the date on which the *RCMP Act* (1986) would be proclaimed, allowing the Committee to exercise its mandate fully.

The Committee was created by Parliament to fulfill a specific need. It has been established and ready to proceed. Delay in proclamation may encourage recourse by members of the RCMP to other avenues of redress. At the time of writing, it is expected that proclamation will take place in the near future, enabling the Committee to become fully operative.

Meanwhile, implementation of the Act requires both the RCMP and the Committee to have established the necessary infrastructure.

1) The Committee had to prepare its Rules of Practice and Procedure. After thorough consultation these Rules were completed in September, 1987, and have since been awaiting final approval and publication.

2) The amended *RCMP Act* (1986) requires the making of new RCMP Regulations and of a Code of Conduct. It was to be expected that the newly-appointed Commissioner, N.D. Inkster, would be involved in that process. The Commissioner proceeded soon after his appointment to complete the regulatory package for submission to the Governor in Council. The process of approval can be time-consuming, especially when regulations are complex and cover a broad range of issues. The process is, however, more than fully justified to ensure that the regulations meet the high standards expected.

A review body imposed on the RCMP for the first time in its long history must not interfere in an undue way with the primary purpose of the Force, which is law enforcement. Due process in dealing with human resource problems can never be disruptive; adequate preparation for the co-ordination of matters between the Force and the Committee will give the government and the people of Canada the assurance they have the right to expect.

An expression of appreciation is due the Solicitor General and the Deputy Solicitor General for their support. Without their assistance the Committee’s preparatory work would not have been able to proceed.
ESTABLISHING PRIORITIES

In its first report the Committee identified certain areas of particular interest it intended to pursue. The following are some of the activities and accomplishments of the Committee during the year ending March 31, 1988:

- establishing the two separate components of its Secretariat, namely: Grievances and Appeals, and Research;
- developing and submitting for approval the Committee's Rules of Practice and Procedure and Security and Confidentiality Regulations;
- formulating policy guidelines to assist Committee members and counsel;
- meeting with senior authorities of the RCMP and provincial or territorial Solicitors/Attorneys General, as well as with RCMP members, to explain the Committee's role, function and jurisdiction;
- implementing a communication plan including the distribution of the First Annual Report and a monthly Communiqué as well as the preparation of a Committee brochure and video;
- compiling information on human resource management in the private and public sectors to establish meaningful criteria for review;
- researching the implications of mediation in the framework of the amended RCMP Act;
- preparing for publication a research/discussion paper on suspension;
- retaining the services of legal counsel;
- assuring financial autonomy for the Committee to protect its independence;
- organizing, for members and counsel, a briefing and development session relating to the mandate of the Committee; and
- obtaining suitable accommodation for the Committee, including adequate systems to ensure the security of sensitive assets.
CONSULTATIONS

The RCMP provides contract policing services in all provinces and two territories with the exception of Ontario and Quebec, where its role is limited to federal policing. The Commanding Officers of RCMP Divisions in each province or territory where a policing contract exists liaise with the provincial Solicitor General or Attorney General on such matters as resource planning, general enforcement policy and the achievement of planned results. In other provinces, federal policing often requires joint forces co-operation; the interests of those provinces cannot be minimized.

Accordingly, the Chairman met with the Deputy Attorney General\(^1\) or Deputy Solicitor General\(^2\) of each province and shortly after year’s end with the Deputy Ministers of Justice in the territories. These meetings enabled the Committee to put into perspective provincial and territorial interests as they relate to RCMP policing in areas under the jurisdiction of the Committee. The meetings also gave the Committee an opportunity to explain its role and how it intends to proceed.

Discussions were held on the ability of a province or territory to appear as an interested party at a Committee hearing should the province or territory have a substantial and direct interest in the outcome of a grievance or appeal referred to the Committee.

The Committee expresses its appreciation to these provincial and territorial officials for their co-operation. The Committee will continue an exchange of views with all provinces and territories on the mandate of the Committee in relation to policing services provided by the RCMP.

The Committee also met with provincial ombudsmen\(^3\) and with the chairmen of provincial police commissions\(^4\). While these bodies do not generally deal directly with the RCMP, their experience in reviewing administrative actions was helpful in preparing the Committee’s own review process. The Committee was particularly interested in the way in which these bodies engage in mediation.

Canada has experienced and knowledgeable chiefs of police who head provincial\(^5\) and municipal police forces\(^6\); their experience not only in policing but in human resource management made it logical that the Committee would consult with them and with the Canadian Association of Chiefs of Police\(^7\). They have generously given of their time. The Committee is also indebted to the Canadian Police Association\(^8\) for the continuing discussions which have been pursued during the year in review.

1. see Annex IX
2. see Annex X
3. see Annex VI
4. see Annex VII
5. see Annex XI
6. see Annex V
7. see Annex I
8. see Annex II
The Committee was also fortunate to receive guidance on human resource management from Madame Huguette Labelle, Chairman of the Public Service Commission of Canada. Continuing dialogue and support through her staff will assist the Committee in improving the quality of its services.

The Committee met with the heads of large Canadian companies to seek an overall view of their human resources management policies. RCMP management policy, like that of any other organization, can benefit from comparisons to ensure that it remains valid and contemporary.

The Committee's first objective in holding these meetings was to identify and analyze human resource management policy that has evolved rapidly in the corporate system and is designed to deal with the same problems the RCMP must face. A comparative analysis of the management models was sought, for the purpose of identifying common techniques of human resource management.

Nine corporations in the public and private sectors were selected on the basis of the following criteria: the industrial sector, the company's size, diversification, organization structure, scope and geographical distribution and record of human resource management, the presence or absence of unions, and the level and quality of labour employed.

Interviews were conducted in each case with senior managers. Most of those interviewed were vice-presidents or their assistants specializing in human resource services. In general, the Committee learned that the corporate world is increasingly attuned to the needs and expectations of its employees. The use of modern management techniques appears to have had a beneficial effect on the organizational efficiency of the companies examined.

The Committee expresses its gratitude to the individuals concerned for their co-operation. All of those interviewed expressed appreciation at having been invited to assist the Committee. They expressed their admiration of the way the public service is administered and indicated a willingness to assist by continuing the dialogue initiated by the Committee.

LIAISON WITH THE RCMP

Throughout the year, the Chairman met and exchanged views with the Commissioner of the RCMP, the Deputy Commissioner, Administration and their senior officials.

The Committee sought their advice on its proposed Rules of Practice and Procedure and Security and Confidentiality Regulations. The manner in which the Commissioner will refer to the Committee grievances and appeals made prior to the proclamation date of the RCMP Act (1986) was discussed. It was agreed that upon proclamation all cases then being considered would, to the extent possible, be referred to the Committee.

9. see Annex XII
10. see Annex XIII
11. see Annex XIII
To explain the role and function of the Committee, the Chairman met the Commanding Officers and the Divisional Staff Relations Representatives of the Force's fifteen Divisions. Particular emphasis was placed upon the fact that the Committee will deal with issues through processes provided for in the Act. Members must exhaust all internal avenues before submitting their cases to the Committee; at that point all material relevant to a grievance or appeal is to be forwarded to the Committee. As a result of these meetings the Committee was able to identify issues which may be referred to it; this further assisted its research plan.

In the RCMP’s “C” (Quebec) and “E” (British Columbia) Divisions, the Committee met directly with members of the Force. The manner in which the Committee will operate, and what members may expect, were discussed. In both Divisions the Committee was well received.

It is evident to all parties that review by the Committee of cases referred to it may be based upon documentation which is more detailed and precise than that available to the initial decision-maker; based on different documentation, the review may well lead to a different conclusion. Parties and other interested individuals will want to ascertain the basis for findings and recommendations of the Committee. Publication of its findings and recommendations (while safeguarding the privacy of individuals) will serve that purpose.

The Committee has been granted the privilege of receiving most publications dealing with and issued by the RCMP. This will be of considerable assistance to the Committee in keeping abreast of contemporary issues.

POLICE TRAINING ESTABLISHMENTS

The selection, training and development of police officers is an issue of interest to the Committee; better trained recruits make better police officers.

During the year the Chairman visited the police training establishment of the RCMP at “Depot” Division in Regina. In reviewing the training curriculum, it was noted that less than one per cent of the training time was spent familiarizing recruits with rules of conduct, internal disciplinary procedure, or the grievance system.

The better the understanding members have of the rules of conduct and of their enforcement, the better will be their compliance with them. In this connection, the Chairman expressed hope that the new RCMP Act would, in future, figure more prominently in the training curriculum.

On another note, the Committee was pleased to learn that senior officials of “Depot” Division were fully bilingual. The Committee also noted that many recruits have university degrees and that they come from different ethnic and racial backgrounds.

12. see Annex XIII
13. see Annex VIII
To examine and better understand how training of police officers is handled in other jurisdictions, the Committee visited the Ontario Police College in Aylmer, Ontario, the C.O. Bick College of the Metropolitan Toronto Police and the Atlantic Police Academy, Holland College, in Charlottetown. Plans have been made to visit the Institut de Police du Quebec, in Nicolet, and the Police Academy of the Justice Institute of British Columbia in Vancouver.

**BRIEFING AND DEVELOPMENT SESSION**

Before commencing its review of certain types of grievances, disciplinary or discharge and demotion appeals arising from the RCMP, it was considered advisable to hold a briefing and development session for Committee members and legal counsel to become familiar with provisions of the *RCMP Act* (1986) and the quasi-judicial functions of the Committee.

The session was also designed to ensure that each of the participants would gain a general knowledge of the problems and issues to be referred to the Committee following the proclamations of the new *RCMP Act*.

Among the people who attended the session were representatives of the RCMP Public Complaints Commission, the Immigration Appeal Board and the Office of the Correctional Investigator. Their participation in the discussions that followed each presentation allowed the Committee to look at the issues raised by the guest speakers in a different light and to gain from their valuable experience.

The Honourable Mr. Justice Ross Wimmer of the Court of Queen's Bench of Saskatchewan opened the proceedings by describing the labour relations climate in the RCMP from 1974 to 1976, while he was a Commissioner of the Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedure within the RCMP.

In a talk outlining the highlights of this period, he retraced the steps that led the Commission to recommend the establishment of an authority to be known as the Federal Police Ombudsman.

Mr. Justice Wimmer was followed by another former commissioner, Mr. Robin Bourne, now Assistant Deputy Minister of the Ministry of Justice of British Columbia responsible for police matters. Mr. Bourne discussed the changes proposed by the Commission of Inquiry in 1976 and described policy changes initiated by the RCMP in consequence of the Commission's recommendations.

The Commissioner of the RCMP and his Deputy Commissioner, Administration, spoke about the RCMP's efforts to continue to be a modern organization able to fulfil its mandate while meeting the needs of its members in the performance of their duties. The Commissioner indicated that upon proclamation of the remaining provisions of the *RCMP Act* (1986), those grievances or appeals already filed and not yet

14. see Annex VIII
resolved would, to the extent possi-
ble, be referred to the Committee for
consideration.

Two members of the national
executive of RCMP Divisional Staff
Relations Representatives, Sergeants
Ron Thurston of Vancouver and Reg
Trowell of Winnipeg, presented the
members' viewpoint on changes that
will result from the new RCMP Act.
Their presentation was followed by a
discussion that allowed the Commit-
tee to familiarize itself with the role
of divisional representatives in the
administration of the RCMP.

The Chief General Counsel,
Administrative Law Section, Depart-
ment of Justice of Canada, Mr. Henry
Molot, Q.C., discussed judicial review
by the Federal Court of Canada as it
relates to the decisions made by fed-
eral administrative or quasi-judicial
tribunals. Mr. Molot dealt with many
issues that specifically relate to the
Committee in the field of administra-
tive law.

Three professors from the Univer-
sity of Ottawa discussed issues
related to their particular area of
expertise. Marc Cousineau provided a
concise overview of the basic princi-
ples of administrative law, and in
particular the duty of administrative
tribunals to act fairly. His talk was
illustrated by legal precedents and
shed light not only on the pitfalls
most often encountered in this area
but also on some less familiar ones.
Edward Ratushny discussed the
effects that the Canadian Charter of
Rights and Freedoms has had and
might have on administrative tri-

bunals. Pierre-Yves Boucher dealt
with issues related to recent develop-
ments in labour law as they relate to
grievance procedures and disciplinary
or discharge appeals. The latest juris-
prudence on the employer's duty to
accommodate and the way in which
an employee's conduct outside the
workplace may affect his or her
employment was reviewed.

The ways in which different pub-
lic or private organizations handle
personnel management issues similar
to those facing the Committee were
also examined.

Mr. Jacques Beaudoin, Director
General of the Quebec Police Force,
discussed the challenges a chief of
police must meet to manage a modern
and effective police force. Mr. Wil-
liam Moher, Vice-President of Human
Resources, Imperial Oil Limited,
discussed the importance of manag-
ing a company's future intuitively.

General Paul Manson, C.M.M., C.D.,
Chief of the Defence Staff of the
Canadian Armed Forces, outlined the
grievance procedure in the military
and stressed that an individual could
ultimately have a grievance con-
sidered by the Governor in Council.

Madame Huguette Labelle, Chairman
of the Public Service Commission,
shared her thoughts on what an equi-
table promotion system in any organi-
zation should involve.

Mr. Jean-Pierre Kingsley, Assist-
ant Deputy Registrar General, dis-
cussed the government's conflict of
interest guidelines and their resulting
obligations. The Honourable Mr. Jus-
tice John J. Uriel of the Federal Court
of Canada, Appeal Division, discussed
legal ethics, the drafting of decisions
and collegiality among members of a
tribunal.
The Honourable Robert Kaplan, P.C., M.P., a former Solicitor General of Canada, spoke on what legislators would expect from the Committee and its members. He urged the Committee to stimulate ongoing discussion of issues related to its mandate.

The Honourable James Kelleher, P.C., M.P., Solicitor General of Canada, and Deputy Solicitor General John C. Talt Q.C., welcomed participants and discussed what they hoped to see the Committee accomplish.

The Committee expresses gratitude to all who contributed to the success of this session.

Comments received from participants and guests invited to the briefing, as well as police authorities consulted over the past year, stressed the necessity and usefulness of holding such sessions.

It is felt that further sessions dealing with issues that fall within the Committee's mandate should be held on a yearly basis. These sessions would provide a national forum for policing authorities to discuss contemporary issues as they relate generally to overview bodies, grievance policy and procedures, disciplinary offences and procedures, and discharge and demotion.

CONFERENCES AND SPEECHES

In August, 1987, the Chairman and the Executive Director attended the 82nd Annual Conference of the Canadian Association of Chiefs of Police in Quebec City. The Chairman addressed the delegates at this conference on the Committee's role in reviewing personnel management matters. During the week of August 30, the Chairman and Executive Director took part in the 39th Annual Conference of the Canadian Police Association in Vancouver. The Chairman presented a paper on "Discipline and the Police" and took part in an associated panel discussion. In October, they participated in a conference in Chicago of the International Association for Civilian Oversight of Law Enforcement. In November, in Ottawa, the Chairman addressed the annual conference of the Ontario Police Chaplains Association. In the same month he took part in a conference in Montreal organized by the American Society of Criminology and participated in a panel discussion. Also in November, he addressed the members of the RCMP "O" Division in Toronto and presented Long Service Medals at the ceremony. In March, 1988, he accepted an invitation to address the Metropolitan Toronto Police at the Distinguished Service Medal award ceremony at C.O. Bick College.

PUBLICATIONS

In 1987, the Committee published a brochure in both official languages explaining its mandate under the RCMP Act (1986). This brochure will be distributed to all RCMP members. The RCMP lent its support to the production of a video in which the Chairman emphasizes, in both official languages, the role of the Committee under the new Act. The intent of these two projects was to develop a

15. see Annex XIV
better understanding among members of the RCMP of the Committee and its role. In June, 1987, the Committee's 1986-87 Annual Report was tabled in both Houses of Parliament. The Report and its Annex were subsequently distributed to all RCMP Divisions and, on request, to other police forces in Canada and abroad. It was also mailed on request to police colleges, Associations of Chiefs of Police and the Canadian Police Association.

Managers of federal, provincial, municipal and public institutions, libraries as well as national and foreign universities, community colleges, and academic and business professionals, also received copies of the Report on request.

Recognizing the value of effective communication, the Committee commenced distributing a monthly Communiqué summarizing its current activities. The Committee wishes to maintain an open dialogue with members of the RCMP, thereby ensuring its role, mandate and independence continue to be understood.

CONFLICT OF INTEREST GUIDELINES

One of the foremost concerns of the Committee is the preservation of its integrity and independence; without them the Committee would lack the credibility it requires to function effectively. The Committee therefore has exercised great care to ensure that there will not be, nor appear to be, conflicts of interest. To that end Section 9 of the Committee’s Rules of Practice and Procedure specifically provides for immediate notification by a member, to the Chairman, of associations which might give rise to a conflict; the Chairman may request the member to withdraw from a hearing. A member may also request the Chairman to remove him or her from a given matter before the Committee.

The subject of conflicts of interest was given prominence during the briefing and development session for members held in Ottawa March 21 to 24, 1988. The first session, presented by the Assistant Deputy Registrar General, dealt with this topic. All Committee members have also received a copy of the Conflict of Interest and Post-Employment Code for Public Office Holders.

Committee staff, as public servants, are bound by conflict of interest guidelines issued by the Treasury Board.

COMMITTEE PERSONNEL

Over the past year all positions of employment with the Committee were filled. The selection process was slow and deliberate, to take account of the range of duties required.

Professionalism, teamwork, integrity and flexibility are the principles underlying the Committee’s mandate. The Committee relies on the judgment and ability of its employees. Throughout the year, it has been able to count on the staff’s ingenuity and devotion.

16. see Annex XV
FINANCIAL REPORT

The Committee’s resources for fiscal year 1987/88 comprised nine person-years and forecast operating expenses of $475,000.00.

It was difficult to project the financial needs of an organization with no previous case history. However, a portion of the operating expenses was based on an estimate of the number of cases the Committee could expect to receive upon proclamation of the remaining provisions of the *RCMP Act* (1986).

To complement the Committee’s statutory case review role and to help maintain its independence, impartiality and integrity, a research section was established. It is intended that through continued research into human resource management issues germane to the Committee’s mandate, the Chairman, Vice-Chairman and members of the Committee will be in a better position to review the cases referred to the Committee. In view of the significant impact of the research function on the Committee’s operating budget, it will be necessary to re-examine the budget once the *RCMP Act* (1986) is proclaimed to ensure that it can support both the research function and the case review and hearing process.
Interest in the accountability for police conduct is not new; after several conferences, meetings and interviews in the last year, it seems the issue in Canada and elsewhere has not yet been addressed to the satisfaction of all parties.

The mandate of the Committee does not position it for or against citizens' groups seeking redress for police action deemed to have been less than satisfactory. The debate, however, as to who is responsible for the discipline of the police is one that must be joined since this Committee faces the issue at the disciplinary level.

In at least two provinces this year the debate has been active and on occasion stirring. The model set out in the *RCMP Act* (1986) deserves to be reviewed briefly to better understand its underpinning and its possible evolution.

On one hand, in the United States, civilian review bodies operating totally outside police structures are advocated as the best way to ensure an equitable and valid measure of deterrence against unacceptable police conduct. The model found in the *RCMP Act* (1986), on the other hand, leaves to police administrators the right to deal with conduct and discipline, subject to comments, review and parliamentary input. The question is not which model is right or wrong but rather which model is more likely to balance the interests of the public, the RCMP and its members to ensure that justice is done.

The model found in the *RCMP Act* (1986) is designed to ensure fairness and achieve a balance of all competing interests through mutual accountability to Parliament. Other models seek to achieve the same result by different routes.

There have been suggestions in some quarters that no outside body is likely to enhance due process, and that review bodies are simply an interim imposition on police forces while other alternatives are sought.

Rules that govern the conduct and discipline of the police, and in some cases their private lives as well, are strict, even restrictive, and the standards required can be compared to those of other professions such as law, medicine, or accounting. It is argued that police are singled out and subjected to review by non-police bodies while other professions have their own disciplinary bodies to refer to when their conduct is criticized.

In essence there is only one reply, though it is seen as inadequate by some. A unique feature of the police is that they do not simply respond to the public's initiative to get involved with the police; the police possess an array of powers to interfere with the freedom of citizens. At the same time,
the police cannot effectively operate without the confidence and co-operation of the public.

That confidence can be strengthened through review mechanisms which, though imperfect at times, appear to be the only ones at hand. True, review bodies do not always appreciate all the intricate details of policing and its special demands; on occasion these bodies may fall short of their stated goal. The success of a system is not only assessed by the occasional failure, but by the success it is likely to achieve as it matures, gaining credibility and respect with both the public and the police as a result of wise and careful interventions.

To those who look upon outside review bodies as an intrusion, it may be said that legislators in their wisdom have decided on the process of intervention only after thorough debate and discussion. Public and political accountability is a method of evaluation whose time has come; those who sit on review bodies merely execute the will of those in a democracy who view policing as sufficiently important to seek a second, neutral opinion.

These few lines may not satisfy the skeptics. However, most countries under democratic rule have set up institutional review of the police, and despite possible flaws, this process will develop in the future, with or without police support.

More acrimonious is the debate as to who should discipline the police. If review of police action can arouse unanimity, the question of discipline is one that rarely does. There are those who view police discipline as the sole prerogative of a chief constable; others view it as self-serving and unfair unless there is public input. How does one legitimize one or the other, since both sides marshal considerable arguments in favour of their preferred model?

In the United States, the United Kingdom and elsewhere, several disciplinary models have been examined and tried out. A civilian review process with the power to impose discipline cannot be said to be unappealing: the process is open, enables the public to participate, and in some cases offers assurance that justice has been achieved through objectivity.

Regrettably, dissenters have focused only on the system's shortcomings. It has been criticized as vindictive, unfair to the police and most important, objectionable because it removes from police authority the first right to remedy and correct wrongdoing. It is also argued that civilians are poorly qualified to investigate trained police investigators. If one had to weigh all these arguments and decide on the merits of both sides, one would risk entering into an endless debate.

Another model has opted for independent review but with the assistance of the police at its initial stage; this model seems to have gained some success and a larger degree of respectability. The fact that its initial response is in the hands of the police, however, has drawn criticism. It is pointed out nonetheless that effectiveness is success, and more outside review bodies which rely on police assistance appear to
have survived than those which have not. The investigations are thorough, and while the police can be accused of being "too protective of their own", such charges have seldom been fully documented, although in some cases the allegations have been found to be established. If the investigation and adjudication process in the above model seems to have reached a threshold of "detente", the issue of discipline after adjudication has not. Many believe the discipline imposed on the police should be determined by an outside body when the behaviour under review has been adjudicated elsewhere, for example by a police complaint board.

The argument is not unattractive: the facts are known and the importance of correct police behaviour has been well canvassed. One may nonetheless ask whether the adjudication process is intended to deal with wrongdoing in a positive way and rehabilitate, or merely punish without input from the chief constable. The legitimacy of the process and the fairness expected from it require cool heads and objective minds.

All chief constables wish to be seen to run a good police force. To remove from the police the final say on discipline without even so much as a comment may make the police less, not more, accountable. A chief constable is only human and may make mistakes in analyzing facts; that is why the external review process is set up. The review may also result in closer scrutiny and improvements in the quality of decision-making. The process of review of discipline should benefit from the insight of the chief constable or risk more difficult dialogue in the future.

In the end, if rehabilitation and correction of conduct rather than punitive action is the goal, the best person to make this decision is one who is politically accountable. There is, however, a caveat: if a police force is unable or unwilling to accept outside advice, fails to show sensitivity to outside views and disregards the principles of equity, executory decision-making can always be resorted to.

The ombudsman model proposed under the RCMP Act (1986) permits an ex post facto review, a monitoring accountability and more important, responsibility through publicity and report to the government. Some have described it as mere window-dressing and ineffective despite the experience of the Scandinavian countries. If the review system proves ineffective, it is never too late to bring about corrective measures through the legislative process. The public must have faith in the gradual evolution of even the most time-honoured traditions. Such faith is based on dialogue, discussion, respect, mediation and avoidance of confrontation.

"But who would guard the guards themselves?"** is a question that has been asked for centuries. The RCMP Act (1986) provides one answer.

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* Juvenal (Satire VI line 347)
In the previous chapter we have explored various attempts at resolving disputes in an adversarial context. Conflicts between individuals and groups are a familiar aspect of human relationships. They are part of the process of interdependence that brings people together. A mechanism to resolve disputes is therefore required. Conflicts which are dealt with intelligently may lead to valuable results.

In the report of the Commission of Inquiry Relating to Public Complaints, Internal Discipline and Grievance Procedure within the RCMP there was clear preference for a system of conflict resolution based upon negotiation. Indeed, the recommendation that the Office of the Federal Police Ombudsman be created was in great part based upon the fact that, when ombudsmen are involved,

**Administrative hearings are rarely necessary and when they do occur, are likely to be informal and not adversarial in nature.** (p. 99)

Adversarial hearings can solve conflicts; however they do so at a cost. Hearings are expensive, time-consuming and may harm labour-management relationships. Moreover they may lead to the entrenchment of positions from which officials may have difficulty in retreating.

Mediation is generally faster, less expensive and more constructive, in part because parties retain flexibility. The give-and-take required of negotiations can lead to settlements which better address the particular situation without creating undesirable precedents of wide application.

Mediation leads to tailored solutions. It is less time-consuming to mediate than to prepare a case for adjudication. This may reduce a backlog of cases before the Committee and thus ease the pressure on the adjudicative system, bringing an earlier conclusion to each case. It could also help the parties to evaluate which cases can be disposed of at an early stage and which must go through the adjudicative process.

Mediation also has an impact on the relationship between the parties. By discussing potential solutions to a conflict the parties can come to understand why and how the conflict arose; this can lead to a fundamental improvement in their relationship. Finally, relevant information is informally examined, whether or not it would have been submitted or admissible at a formal hearing. The strengths and weaknesses of the parties' arguments can be candidly discussed.

In the end, mediation is beneficial even if it does not resolve all the issues, because it forces the parties to prepare their arguments and limits the scope of hearings to those issues which are truly contentious. Mediation is therefore a most useful component of the dispute resolution process.

However, it can only succeed if both parties agree that it might be
useful in settling the issue before them. Both parties may gain from mediation if they are ready to make concessions. Implied in this is the requirement that both parties deal in good faith and have authority to negotiate a settlement acceptable to the individual or the organization they represent.

That is why mediation is seen by the Committee as having a positive impact, and why the power to institute a formal hearing will only be used in exceptional circumstances. Wherever possible, the Committee will seek to avoid the adversarial atmosphere created by a hearing, and will rather attempt to mediate disputes and be a conciliatory force.

Mediation of grievances and appeals does not preclude adjudication. Mediation could, however, be a step in the process. It could be conducted by a third party. In certain systems in-house staff, outside counsel or professional mediators are called upon for such purposes.

The mediation process must be structured in such a way that the integrity and impartiality of the Committee will not be compromised. Mediation nevertheless holds such potential that the Committee will encourage its use as much as possible.

Because the Commissioner retains ultimate authority to decide the matter, and because the Committee proceeds by way of recommendations to the Commissioner, the mediation process employed would have to be slightly different from the one used in labour-management disputes involving collective agreements.

Because of the complexity and unpredictability of cases referred to the Committee, it will be necessary to identify the opportunities where the use of a mediator might be helpful, and to recommend the appointment of a mediator. If the parties are amenable to mediation, the Committee Secretariat will have the responsibility to initiate the process.

If mediation is successful and the parties come to a mutually agreeable solution, the Chairman would endorse the minutes of settlement and return them to the Commissioner.

If mediation fails to resolve the issue, the Committee Chairman would deal with the matter as if mediation had never taken place. Since the Chairman will have been shielded from the mediation process, the Chairman’s recommendation will not be influenced by representations made at that stage. However, the parties may want to agree on certain issues to shorten the proceedings, and the Committee would accordingly accept these issues as having been resolved.

The contribution that mediation can make in resolving grievances and appeals expeditiously, inexpensively and equitably cannot be ignored. While it is not intended to be a substitute for adjudication by the Committee, it does have more potential to bring about a mutually acceptable solution.

The concept of mediation has been discussed with senior officials of the RCMP, who have expressed a degree of interest. The Committee will continue to explore the issue.
ANNEXES

1. Canadian Association of Chiefs of Police
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ANNEX I

CANADIAN ASSOCIATION OF CHIEFS OF POLICE

Chief Constable
R. Stewart
President
D.N. Cassidy
Executive Director
CANADIAN POLICE ASSOCIATION

James M. Kingston
President

André Nadon
Vice-President
ANNEX III

CORPORATIONS

BELL CANADA
Montréal, Québec

H.J. Fleming
Director — Human Resources
Corporate Personnel

Robert Bourdon
Director, Industrial Relations (Research)

Louis E. Lapierre
Director of Personnel

Rita Bélanger
Section Manager, Employment Equity (Programs)

CANADIAN BROADCASTING CORPORATION (CBC)

Ottawa, Ontario

Pierre Racicot
Acting Vice-President, Human Resources

CANADIAN GENERAL ELECTRIC CO. LTD (CGE)

Toronto, Ontario

Harold Giles
Vice-President Corporate, Human Resources

FOUR SEASONS

Toronto, Ontario

John Young
Senior Vice-President, Human Resources
IMPERIAL OIL LTD

Toronto, Ontario

William P. Moher
Vice-President, Human Resources
T. Robert Clapp
Manager, Employee Relations

INTERNATIONAL BUSINESS MACHINES (IBM)

Markham, Ontario

Tom McNulty
Vice-President, Personnel

PROCTOR & GAMBLE INC.

Toronto, Ontario

E.G. Payne
Group Personnel Manager
Tammy M. Sturge
Personnel

SEARS

Toronto, Ontario

G.K. Griffin
National Manager
Employee Relations, Personnel Policies
and Benefits
Ross Ringney
National Manager,
Selection Placement and Training

THE ROYAL BANK OF CANADA

Montréal, Québec

C.J. Coveyduck
Vice-President, Corporate Personnel Services
A.K. Munholland
Manager, Employee Relations
ANNEX IV

LAW ENFORCEMENT REVIEW AGENCY

MANITOBA

Winnipeg

Hans Schneider
Commissioner
ANNEX V

MUNICIPAL POLICE FORCES

NEWFOUNDLAND

THE ROYAL NEWFOUNDLAND CONSTABLEY
St. John's
Chief of Police
D. Randell

ONTARIO

METROPOLITAN TORONTO POLICE

Chief of Police
John Marks
Deputy Chief of Police
Support Operations
Peter Scott
Superintendent
Bernard E. Nadeau
Staff Inspector
Robert Crampton
Staff Inspector
Duncan Wilson
Staff Sergeant
Andrew Leach
Staff Sergeant
Jim Saunders
Sergeant
Tom McNamara

QUÉBEC

MONTRÉAL URBAN COMMUNITY POLICE

Roland Bourget
Director
ANNEX VI

OMBUDSMEN

INTERNATIONAL OMBUDSMAN INSTITUTE

Dr. Randall Ivany, C.M.
Executive Director and Secretary

ALBERTA

Edmonton
Aleck Trawick
Ombudsman

BRITISH COLUMBIA

Victoria
Stephen Owen
Ombudsman

MANITOBA

Winnipeg
Gordon S. Earle
Ombudsman
Barry E. Tuckett
Assistant Ombudsman

NEWFOUNDLAND

St. John's
Ambrose Peddle
Ombudsman
Cyril J. King
Investigator
ANNEX VII

POLICE COMMISSIONS

MANITOBA
Winnipeg
Susan Devine
Chairperson

NEW BRUNSWICK
Fredericton
W.J. Hunter
Chairman

NOVA SCOTIA
Dartmouth
Murray J. Ritch
Acting Chairman

ONTARIO
Toronto
John MacBeth, Q.C.
Acting Chairman

QUÉBEC
The Honourable Judge Guy Tremblay
President

SASKATCHEWAN
Regina
Bob Mills
Executive Director
ANNEX VIII

POLICE TRAINING ESTABLISHMENTS

ATLANTIC POLICE ACADEMY

Charlottetown
Division of Holland College
  Chet Campbell
  Director

METROPOLITAN TORONTO POLICE COLLEGE

Toronto
C.O. BICK College
  Staff Inspector
  Ian Marr
  Director

ONTARIO POLICE COLLEGE

Aylmer
  Larry W. Godfree
  Acting Director

RCMP "DEPOT" DIVISION

Regina
  Chief Superintendent
  J.S.D. Lagassé
  Inspector
  J.E. H. Beaulac

DSRR Corporal
  J.M. Keyuk
ANNEX IX

PROVINCIAL- TERRITORIAL DEPARTMENTS OF JUSTICE AND ATTORNEYS GENERAL

BRITISH COLUMBIA

Victoria
Edward N. Hughes, Q.C.
Deputy Attorney General
Robin Bourne
Assistant Deputy Minister, Policing

MANITOBA

Winnipeg
Tanner F.D. Elton
Deputy Attorney General
John Guy
Assistant Deputy Attorney General

NEW BRUNSWICK

Fredericton
William B. Connor
Assistant Deputy Minister
Law Enforcement

NEWFOUNDLAND

St. John’s
Ronald Richards
Deputy Minister of Justice
Robert Hyslop
Associate Deputy Attorney General

NORTHWEST TERRITORIES

Yellowknife
Geoffrey Bickert
Deputy Minister of Justice
NOVA SCOTIA
Halifax
    Gordon F. Coles, Q.C.
    Deputy Attorney General
    Gordon S. Gales, Q.C.
    Director (Criminal)

PRINCE EDWARD ISLAND
Charlottetown
    Arthur Currie
    Deputy Minister of Justice and Deputy
    Attorney General

SASKATCHEWAN
Regina
    Brian Barrington-Foote
    Deputy Attorney General

YUKON
Whitehorse
    William Byers
    Deputy Minister of Justice
ANNEX X

PROVINCIAL DEPARTMENTS OF THE SOLICITOR GENERAL.

ALBERTA

Edmonton

R.J. King
Deputy Solicitor General

ONTARIO

Toronto

John D. Takach, Q.C.
Deputy Solicitor General

QUÉBEC

Québec

Robert Diamant, Deputy Minister and
Deputy Solicitor General
ANNEX XI

PROVINCIAL POLICE FORCES

ONTARIO

Toronto

Commissioner
R.A. Ferguson

Deputy Commissioner
R.S. Rose

Chief Superintendent
T. O’Grady

QUÉBEC

QUÉBEC POLICE FORCE
Montreal

Jacques Beaudoin
Director General

Jean Tellier
Assistant Director General

Paul Curzi
Comptroller General
ANNEX XII

PUBLIC SERVICE COMMISSION

OTTAWA

Dr. Huguette Labelle
Chairman

Ercel J. Baker
Executive Director

Len W. Slivinski
Director, Program Development (Staffing)
ROYAL CANADIAN MOUNTED POLICE

ALBERTA

Edmonton
"K" Division
   Assistant Commissioner
   M. Greig
   Superintendent
   M.K. Clegg
DSRR Sergeant
   Simon Chance

BRITISH COLUMBIA

Vancouver
"E" Division
   Deputy Commissioner
   D.K. Wilson
   Assistant Commissioner
   R.R. Schramm
   Chief Superintendent
   G.H. Powell
DSRR Staff Sergeant
   D.B. Sailer
   Sergeant
   R.C. Fawcett
   Sergeant
   D.D. Ferrel
   Sergeant
   R.W. Thurston
   Corporal
   K.D.H. Alexander
   Corporal
   D.B. Howarth
MANITOBA

Winnipeg
“D” Division

Assistant Commissioner
J.B.D. Henry

Chief Superintendent
Richard D. Crerar

Superintendent
Jack D. Lawson

DSRR Staff Sergeant
Bill McCrossin
Sergeant
Reg K. Trowell

NEW BRUNSWICK

Fredericton
“J” Division

Chief Superintendent
J.D. Farrell

DSRR Staff Sergeant
Marcel J.G. Audet

NEWFOUNDLAND

St. John’s
“B” Division

Chief Superintendent
R.C. Currie

DSRR Staff Sergeant
E.F. McCue
NORTHWEST TERRITORIES

Yellowknife
“G” Division
    Chief Superintendent
    R.H.D. Head
    Inspector
    B.G. Warner
    Inspector
    R.M. Swann
    Staff Sergeant
    W.C. Shupe
    Sergeant
    R.C. Colville

DSRR Staff Sergeant
    J.R.H. Scott

NOVA SCOTIA

Halifax
“H” Division
    Chief Superintendent
    C.J. Reid
    Superintendent
    J.H. MacLaughlan
    Inspector
    L.S. Robbins
    Inspector
    R.O. Turnbull

DSRR Corporal
    D.J. Fogarty
ONTARIO

Toronto
"O" Division
   Assistant Commissioner
   R.M. Culligan
   Chief Superintendent
   F. Palmer
   Superintendent
   H.G. Clarke
DSRR Staff Sergeant
   P.H. James

Ottawa
"A" Division
   Chief Superintendent
   J.A.M. Breau
   Superintendent
   J.R.Y. Boulanger
   Superintendent
   P. Pottier
DSRR Staff Sergeant
   J.W. Brennan

Ottawa
"HQ" Division
   Chief Superintendent
   J.E.A. Yelle
   Superintendent
   J.A. Lebel
DSRR Corporal
   A.J. Goodman
   Marie-Thérèse O'Sullivan
PRINCE EDWARD ISLAND

Charlottetown
"L" Division
   Chief Superintendent
   C.I.C. MacDonnell
   Staff Sergeant
   M.G. Hyde
   Staff Sergeant
   B.E. Stevenson
   Staff Sergeant
   J.F. Smith
DSRR Sergeant
   C.P. Stetson

QUÉBEC

Montréal
"C" Division
   Assistant Commissioner
   J.E.J. Julien
DSRR Staff Sergeant
   Gaétan Delisle

SASKATCHEWAN

Regina
"F" Division
   Chief Superintendent
   R.A. McGibbon
   Superintendent
   C.R. Latrémouille
DSRR Staff Sergeant
   Vic Pankratz
   Staff Sergeant
   Neil McLean
YUKON

Whitehorse
"M" Division

Chief Superintendent
A.J. Toews
Inspector
G. Droyer
Inspector
L. Gerritt
Staff Sergeant
T. Gervais

DSRR Corporal
R.D. Pond
Royal Canadian Mounted Police
External Review Committee

To All Members of the RCMP

This brochure is designed to assist the members of the Force in their understanding of the mandate and jurisdiction of the Committee.

The Committee is independent of the RCMP. However, any prescribed issue of grievances, discipline, discharge and demotion coming before the Commissioner, after all in-force remedies have been exhausted, shall be referred to the Committee.

I am pleased to assume the responsibility of Chairman and trust that both the Force and its members will draw a substantial benefit from the Committee's work.

Faithfully yours,

The Honourable
René J. Marin
Chairman
THE COMMITTEE

The RCMP External Review Committee consists of a Chairman, who is a full time member; a Vice-Chairman and not more than three (3) other members appointed by order of the Governor in Council, either on a full or part time basis.

Each member of the Committee holds office for a term not exceeding five (5) years and is eligible for reappointment on the expiration of that term. No member of the RCMP is eligible to be appointed to the Committee.

The Committee is supported by a Secretariat headed by an Executive Director. The Secretariat fulfills the administrative and research needs of the Committee. The officers and employees of the Committee are appointed in accordance with the Public Service Employment Act.

MANDATE

The Committee is an independent entity. While the RCMP formulates policy, the Committee interprets such policies as they apply to its review of decisions.

The mandate of the Committee includes the review of certain types of grievances, formal discipline, discharge and demotion of members of the Force.

The “watchman” role granted to the Committee will guarantee that the rights of the members of the RCMP are respected and protected.

Accountability to Parliament each year ensures that the views of the Committee are fully aired and that contrary views, if any, are expressed and discussed.

Grievances

The Committee’s mandate in relation to grievances and a member’s ability to have his or her grievance reviewed by the Committee depends upon several factors:

(a) Although a member may grieve a decision, act or omission in the administration of the affairs of the Force, if another process for redress exists under the Act, regulations or Commissioner’s standing orders, the member will have no entitlement to have his case reviewed by the Committee;

(b) If a decision, act or omission is in relation to the appointment by the Commissioner to a position, as specified by the Governor-in-Council, “...that reports to the Commissioner either directly or through one other person”, then no grievance will lie;

(c) The Governor-in-Council may, pursuant to the Act, prescribe certain types of grievances that are to be referred to the Committee;

(d) Even if the grievance is in relation to a type of grievance that the Governor-in-Council has specified may be forwarded to the Committee, the member grieving may request the Commissioner not to refer the grievance. The Commissioner will then have to exercise his discretion whether or not to refer the grievance.
Duties and Functions of the Chairman

When a grievance is referred to the Committee, it is first reviewed by the Chairman, who may indicate his agreement with the disposition of the grievance and submit the issue to the Commissioner for final decision, and informing the member of that fact. Alternatively the Chairman may indicate his disagreement and his reasons therefor, or he may decide to institute a hearing. If a hearing is ordered, the Chairman assigns a member or members to it and sends a notice in writing to the Commissioner and the member.

Duties and Functions of the Committee

When the Chairman has decided to institute a hearing, the Committee will serve a notice in writing of the time and place of the hearing. The Committee’s power includes the ability to summon witnesses, administer oaths, and receive relevant evidence.

Upon completion of a hearing, the Committee prepares a report setting out its findings and recommendations. This report is sent to the parties.

Discipline

A member of the Force may appeal a decision of an adjudication board to the Commissioner on any ground. Before the Commissioner considers the appeal, the Act requires that the matter be referred to the Committee. The member appealing may, however, request the Commissioner not to refer the appeal to the Committee.

The Commissioner must then exercise his discretion and decide whether to refer the appeal to the Committee.

Duties and Functions of the Committee Chairman and the Committee

When the appeal on a decision of an adjudication board is referred to the Committee, the functions, duties and powers of the Chairman and the Committee are identical to those provided for with respect to grievances with such modifications as the circumstances require.

Discharge and Demotion

A ground for discharge and demotion includes the repeated failure to perform duties in a manner fitted to the requirements of the position, notwithstanding that the member has been given reasonable assistance, guidance and supervision in an attempt to improve the member’s performance. A member may appeal a decision of a Discharge and Demotion Board to the Commissioner of the Force on any ground.

Before the Commissioner considers the appeal, the Act requires that he refer the matter to the Committee. The member appealing may request the Commissioner not to refer the appeal to the Committee. The Commissioner then has to exercise his discretion and decide whether to refer the appeal to the Committee.
**Duties and Functions of the Committee Chairman and the Committee**

When an appeal is launched against a decision of the Discharge and Demotion Board, the functions, duties and powers of the Chairman and the Committee are identical to those provided for with respect to grievances with such modifications as the circumstances require.

**Travel, Living Expenses, Fees and Allowances**

Travel and living expenses for a member of the Force, his counsel or representative appearing before the Committee may, at the discretion of the Committee, be reimbursed at the rate fixed by the Treasury Board.

Witnesses summoned to attend a proceeding before the Committee will be entitled, at the discretion of the Committee, to receive the fees and allowances as if summoned to attend before the Federal Court of Canada.

**CONCLUSION**

It is important to stress that the Commissioner must, before considering certain types of grievances, formal discipline and discharge and demotion cases, refer them to the Committee for review.

The member, his representative or counsel may obtain a copy of the Rules of Practice and Procedure of the RCMP External Review Committee by writing to the offices of the Committee.

For further information, please write to:

Robert F. Benson
Executive Director
RCMP External Review Committee
P.O. Box 1159
Station B
Ottawa, Ontario
K1P 5R2
EXTERNAL REVIEW COMMITTEE'S OPERATIONAL CHART

PARLIAMENT
Sol. Gen.

EXTERNAL REVIEW COMMITTEE

SUPREME COURT OF CANADA

FEDERAL COURT

ROYAL CANADIAN MOUNTED POLICE

GRIEVANCE

FORMAL DISCIPLINE

DISCHARGE & DEMOTION

(1) The Commissioner shall refer any prescribed issue to the Committee.
(2) The Chairman or the Committee shall send a report in writing to the Commissioner and all parties.
(3) The Chairman shall submit to the Minister for transmission to parliament a report of the activities of the Committee during that year and its recommendations.
## RCMP External Review Committee Personnel

<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Director</td>
<td>Robert F. Benson</td>
</tr>
<tr>
<td>Secretary to the Chairman</td>
<td>Suzanne Gervais</td>
</tr>
<tr>
<td>Secretary to the Executive Director</td>
<td>Sylvie Savignac</td>
</tr>
<tr>
<td>Director, Grievances and Appeals</td>
<td>Jacques Courteau</td>
</tr>
<tr>
<td>Director, Research</td>
<td>Gisèle M.C. Parent</td>
</tr>
<tr>
<td>Secretary to the Directors</td>
<td>Diane Devine</td>
</tr>
<tr>
<td>Officer, Grievances and Appeals</td>
<td>Denis C. Kratchanov</td>
</tr>
<tr>
<td>Officer, Research</td>
<td>Yvonne Martin</td>
</tr>
<tr>
<td>Administrative Assistant</td>
<td>Lynn Ruiz</td>
</tr>
<tr>
<td>Clerk</td>
<td>André Paliquin</td>
</tr>
<tr>
<td>Articling Student</td>
<td>Bernadette Kaye</td>
</tr>
</tbody>
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