



---

# ANNUAL REPORT

1990-1991

---

R O Y A L  
C A N A D I A N  
M O U N T E D  
P O L I C E

---

EXTERNAL  
REVIEW  
COMMITTEE

---

5

---

Canada

External review mechanisms serve to provide impartial advice and guidance on internal police management matters and on police interaction with the public

Joseph S. Stanford, Q.C.  
Deputy Solicitor General of Canada

*Police managers have an obligation to adapt to changing needs of society and ensure that their members are properly trained and stimulated to interact effectively with the public they serve*

Joseph S. Stanford, Q.C.  
Deputy Solicitor General of Canada

Police executives want their organizations to take a more activist role in responding to the social changes that are occurring

Norman D. Inkster  
Commissioner, RCMP

*Police are thus beginning to see themselves as agents of change rather than preservers of the status quo*

Norman D. Inkster  
Commissioner, RCMP

Dialogue among people with different viewpoints is always a good idea

Seminar Evaluation Questionnaire

**Equal partnership with the community is one of the principles of community-based policing, which police agencies across the western world are adopting.**

**Norman D. Inkster  
Commissioner, RCMP**

By favouring discussion between practitioners and academics, the Committee obviously fills a void in the field of management of police services

The Honourable Pierre H. Cadieux, P.C., M.P.  
Solicitor General of Canada

We all share a common interest and a common goal in creating more efficient and effective police forces, whether on a national, provincial or municipal level. We place heavy demands on our police forces, particularly in times of crisis, and we owe it to them and to society as a whole to assist them to perform at their optimum.

The Honourable Pierre H. Cadieux, P.C., M.P.  
Solicitor General of Canada

Changes in management philosophy to emphasize rewards are an important part of the future. Certainly this is the route taken by the most successful private companies.

Seminar Rapporteur

*The time has come for the police in Canada to be proud of their unique image internationally and look to human resource and discipline procedures that come from private companies that have established an equivalent image.*

*Seminar Rapporteur*

**STATEMENTS MADE AT AND ABOUT THE  
RCMP EXTERNAL REVIEW COMMITTEE SEMINAR**





---

# ANNUAL REPORT

1990-1991

---

R O Y A L  
C A N A D I A N  
M O U N T E D  
P O L I C E

---

EXTERNAL  
REVIEW  
COMMITTEE

---

5

---

**A summary of this report is  
available.**

**Fifth Annual Report 1990-1991  
Royal Canadian Mounted Police  
External Review Committee,  
P.O. Box 1159, Station "B"  
Ottawa, Ontario  
K1P 5R2**

**Catalogue Number JS74-1/1991  
ISBN 0-662-58406-6**

---

Royal Canadian Mounted Police  
External Review Committee



Comité externe d'examen de la  
Gendarmerie royale du Canada

CANADA

Chairman Président

June 14, 1991

The Honourable Doug Lewis, P.C., Q.C., M.P.  
Solicitor General of Canada  
340 Laurier Avenue West  
Sir Wilfrid Laurier Building  
Ottawa, Ontario  
K1A 0P8

Mr. Minister:

Pursuant to Section 30 of the *Royal Canadian Mounted Police Act*, I hereby transmit, for tabling in Parliament, the Annual Report of the Royal Canadian Mounted Police External Review Committee for fiscal year 1990-91.

Faithfully yours,

A handwritten signature in black ink, appearing to read "René J. Marin", written over a horizontal line.

Hon. René J. Marin





---

# COMMITTEE MEMBERS

---

*Chairman*

The Honourable René J. Marin, OMM, QC, LL.D.

*Vice-Chairman*

F. Jennifer Lynch, QC

*Members*

Joanne McLeod, CM, QC

William Millar

Mary Saunders, QC

---



---

# CONTENTS

---

## PART I

<b>Introduction</b>	Jurisdiction .....	1
	Relationship with the Force .....	1
	Offices of the Minister and Deputy Minister .....	2

## PART II

<b>The Year Under Review</b>	Cases .....	3
	Research Program .....	3
	a) Discussion and Consultation Papers .....	4
	i) Post-Complaint Management — Discussion Paper .....	4
	ii) Post-Complaint Management — Consulta- tion Report .....	4
	iii) Employee Assistance Programs — Discus- sion Paper .....	5
	iv) Employee Assistance Programs — Consulta- tion Report .....	6
	v) Disciplinary Dismissal — Discussion Paper ..	6
	vi) Upcoming Topics .....	6
	b) Seminar on Police Human Resource Management .....	8
	c) Communications .....	9
	d) Speeches, Visits and Conferences .....	10
	Administration .....	10
	a) Additional Jurisdiction .....	10
	b) Contracting Authority .....	11
	c) Rules of Practice and Procedure .....	11
	d) Workload and Resources .....	11

---

---

**PART III**

**Issues and  
Concerns**

General .....	13
Burden of Proof .....	13
Grievances .....	14
a) Language Issues .....	14
b) Informed Decision-Making.....	14
c) Timeliness .....	15
d) Standing of Grievor .....	15
e) Mootness .....	15
f) Force Policies versus Government-wide Policies ..	16
g) Medical Discharge .....	16
Discipline.....	17
a) The <i>Millbaven</i> Test.....	17
b) Discipline versus Performance.....	17
c) Appropriate Sanctions.....	18
d) Ordered Statements.....	18
e) Process .....	19
f) Wording of Allegations.....	20
Other Concerns .....	20
a) Paragraph 36(a) of the <i>RCMP Regulations</i> .....	20
b) Procedural Fairness .....	20
c) Commissioner's Decisions .....	21

---

**PART IV**

**Looking  
Back**

Delays .....	23
Meetings with RCMP .....	25

---

**PART V**

**Looking  
Ahead**

Effectiveness Review.....	27
---------------------------	----

---

---

**PART VI**

**Annexes**

- A. List of items which the Commissioner has included within the scope of paragraph 36(a) of the *RCMP Regulations* ..... 31
- B. Seminar on Police Human Resource Management ..... 33



---

# I INTRODUCTION

---

## JURISDICTION

Under the provisions of the *RCMP Act* (1986) (the *Act*), all cases resulting in formal discipline, discharge and demotion are referred to the Committee by the Commissioner, unless the member involved requests that they not be referred. In the case of grievances, the legislation is less clear; section 36 of the *RCMP Regulations* provides that grievances relating to the following matters are to be referred to the Committee:

- a) the Force's interpretation and application of government policies that apply to government departments and that have been made to apply to members;
- b) the stoppage of the pay and allowances of members made pursuant to subsection 22(3) of the *Act*;
- c) the Force's interpretation and application of the *Isolated Posts Directive*;
- d) the Force's interpretation and application of the *RCMP Relocation Directive*; and
- e) administrative discharge for grounds specified in paragraph 19(a), (f) or (i).

As reported in the last annual report, the Commissioner recognized that the RCMP's interpretation of paragraph (a) should be broadened, and advised the Committee that henceforth grievances relating to 17 subjects would be referred. Since then it appears that the one relating to claims against members has been

removed from the list. A copy of the list is included at Annex A.

The Chairman of the Committee, after reviewing a matter, has the following options:

- a) to agree with the disposition of the matter by the RCMP and so advise the parties and the Commissioner of the RCMP;
- b) to disagree with the disposition of the matter by the RCMP and advise the parties and the Commissioner of the Chairman's findings and recommendations; and
- c) to initiate a hearing to consider the matter. The Committee, following a hearing, will provide its findings and recommendations to the parties and to the Commissioner.

In practice, even when he is in agreement with the disposition of the matter by the RCMP, the Chairman will provide the parties and the Commissioner with detailed findings and recommendations.

---

## RELATIONSHIP WITH THE FORCE

The Force's senior management has continued throughout the past year to relate to the Committee in an open and co-operative manner, resolving issues in an informal way where possible.

This has been accomplished through meetings and ongoing communication between the Chairman and the Commissioner and the Deputy Commissioner (Administration), who both also participated in

---

the Committee's Seminar. In addition, the Chairman was invited during the year to address Commanding Officers of the Force to discuss with them issues of importance and concern to the Committee.

Regular, informal meetings have also taken place between the staff of the Committee and the personnel of the Professional Standards Directorate, the Internal Affairs Branch, the External Review and Appeals Section and the Staff Relations Branch. These discussions have enabled the Committee staff and the personnel of the RCMP to bring to the table issues for discussion and resolution at regular intervals throughout the year.

As in previous years, the Committee staff has been assisted in its task by the Division Staff Relations Representatives, including their National Executive. Committee staff have informal meetings on an ongoing basis with these members who are always willing to provide assistance and information on how the membership of the RCMP perceive the Committee's work.

The Committee is also grateful for the assistance received from the Force in the distribution of its brochure to each member of the Force. This communication is important to ensure that Force members continue to be well informed about the activities of the Committee and the issues of importance to it.

---

#### OFFICES OF THE MINISTER AND DEPUTY MINISTER

---

In carrying out his responsibilities, the Chairman on occasion consults with the Solicitor General and his senior staff. Matters which have needed the Solicitor General's personal attention have been put before him and resolved very quickly. The Committee expresses its appreciation to the Solicitor General for this attention and for the interest he has shown in the work of the Committee.

Likewise, the Deputy Solicitor General and his staff have been very co-operative. The Deputy Solicitor General has made himself available with useful suggestions and helpful advice, and has offered the Committee the assistance and the experience of the Secretariat. The Committee expresses its appreciation to the Deputy Solicitor General and his staff for their co-operation during the past year.

Both the Solicitor General and the Deputy Solicitor General attended the Committee's Seminar on Police Human Resource Management and addressed the participants. Their support for the Committee and the Seminar is greatly appreciated.



---

## II THE YEAR UNDER REVIEW

---

### CASES

---

As a result of the Commissioner's decision, in December 1989, to refer grievances relating to an additional 17 areas to the Committee for review (see 1989-90 Annual Report), the 1990-91 fiscal year commenced with work being conducted in 17 files. During the year, a further 30 files were referred to the Committee; at the end of the year five files remained undecided. This represented an increase of nearly 75 per cent in the Committee's workload.

The cases considered by the Committee dealt with the RCMP's travel policy, its relocation directive, its policy on smoking in the workplace, its official languages policy, its method of discharging members for medical reasons, on- and off-duty misconduct. A more detailed discussion of some of the issues arising out of the Committee's review can be found in Part III.

Under section 34(1) of the *RCMP Act*, the Chairman of the Committee reviews each matter referred to the Committee in order to determine whether the RCMP's disposition of the matter was satisfactory. Where he is not satisfied with the Force's disposition, the Chairman may decide to institute a hearing to inquire further into the matter (s. 34(3)(b)). During the year under review, the Chairman determined that hearings were required into 10 grievances. Of the 10, one dealt with the Force's relocation directive and the rest with the Force's official languages policy. At

the end of the year, the relocation directive matter and four of the nine official languages grievances had been heard and recommendations sent to the Commissioner.

### RESEARCH PROGRAM

---

An important element of the Committee's work continues to be its research program.

As in previous years, the main component of the program has been a series of discussion papers and consultation reports on mandate-related issues of interest to the police community. The Committee first publishes a discussion paper, based on the work of a consultant, on a given topic. The discussion paper is then distributed to 165 individuals and organizations in Canada and abroad seeking their views. The distribution list includes police organizations, government departments, private corporations and individuals with an interest or background in human resource management. This ensures a broad range of responses and ideas. The main purposes of this consultation phase are to gather feedback on the form and content of the discussion paper, to verify the accuracy of the data and to learn of models or options which may have been overlooked, thus completing the examination of the issue. Comments received are published in a consultation report.

To ensure the effectiveness of this element of the Committee's work, the

---

Research Division maintains ongoing liaison with the RCMP, other police forces, police commissions and academics.

The research program also includes the publication of an annual information brochure, the dissemination of a monthly communiqué to RCMP Commanding Officers and Division Staff Relations Representatives, as well as an annual Seminar on police human resource management issues. The primary purpose of this seminar is to discuss and examine issues of relevance to cases referred to the Committee. In addition to preparing Committee members for their review of cases, the seminar provides a forum for a useful exchange of views among participants.

a) *Discussion and Consultation Papers*

i) Post-Complaint Management — Discussion Paper

The Committee's fourth discussion paper is entitled "Post-Complaint Management — The Impact of Complaint Procedures on Police Discipline". This paper examines the disciplining of members of police forces following complaints from the public. The paper suggests that the traditional approach of police management that responds to wrongdoing by assigning blame and applying punishment restricts the ability of police managers to make a fundamental move towards a truly remedially and structurally-oriented management system. Further, the paper asserts that the tendency to equate police man-

agement with discipline is strengthened when the issue initiating managerial response is a complaint since the traditional model responds to complaints by dealing with them through the discipline system.

The author comments that the traditional system of complaint investigation has been criticized on the grounds that it does not provide the basis for an objective examination of, and response to, complaints and that it does not accord appropriate recognition to the interests and motives of complainants. These criticisms have led to debates over the injection of an independent external element into public complaint processes. The paper discusses the available alternatives, and describes the complaint process that has been established for the RCMP.

ii) Post-Complaint Management — Consultation Report

When the discussion paper, "Post-Complaint Management — The Impact of Complaint Procedures on Police Discipline" was distributed for comment, the number of responses received, as well as the substantive nature of most of them, made it clear that the paper elicited a great deal of interest within the Canadian police community. In addition, responses such as the following indicated that the key points made by the author are critical issues in the discussion.

This is by far the most balanced and objective paper I have come across on the issue of police complaints and its candour on sensitive issues is refreshing.

---

The document on Post-Complaint Management raises several salient issues that may not be immediately apparent to Police Managers, but are critical factors in the administration of discipline.

I am confident that such a discussion paper will assist in developing alternative ways to deal with disciplinary issues, to the satisfaction of the public and the police forces.

While the respondents generally expressed agreement with the author that a punitive approach to discipline had been the preferred management style of the past, they tended to believe that police forces are now incorporating a remedial approach within their management styles. Some respondents were reluctant to withdraw entirely from the punitive approach to discipline, seeing a role for it in responding to more serious cases.

This consultation process demonstrated that the respondents have accepted the fact that public complaints systems are a reality and that they appreciate the need for them. The respondents believe that their organizations are adapting to new realities and new approaches to management theory. What remains unclear from this process is the degree to which the existence of a public complaint affects the discipline imposed on a member of a police force. As the discussion paper points out, regardless of the model of public complaint system under which a police force is operating, the credi-

bility of the system depends on a fine balancing of competing interests.

### iii) Employee Assistance Programs — Discussion Paper

The Committee's fifth discussion paper is entitled "Employee Assistance Programs — Philosophy, theory and practice". It is an abridged version of a comprehensive report prepared for the Committee on the development of employee assistance programs, which includes an extensive review of the models available to those wishing to establish such a program.

The discussion paper describes the history and definition of employee assistance programs, outlines the various models that have been developed and gives useful information to consider when implementing a program. In addition, it explains many of the special considerations involved in the establishment of employee assistance programs within police forces, and gives some practical suggestions that a police department can implement to assist its troubled officers.

The purpose of the discussion paper is not to recommend one model over another, but rather to describe the range of options available and to stress that the best model or combination of models for an organization to choose is that which meets its specific needs. Adjustments to the basic models are frequently necessary to ensure that the program provides the services required by the organization.

---

The paper concludes that there is a two-fold function for employee assistance programs, correction and prevention. The correction aspect has been fairly well developed, but the prevention side far less. Because of the fact that most organizations operate with limited resources, these programs need to demonstrate tangible results, as well as indications of cost-effectiveness, to prosper in organizations. While it is widely recognized that not all results of employee assistance program intervention can be measured precisely, it is generally agreed that the benefits outweigh the costs, assuming that the program is properly implemented and managed.

iv) Employee Assistance Programs —  
Consultation Report

There was an overwhelming response to this discussion paper: most respondents made substantive comments on the paper and several respondents requested copies of the unabridged document upon which the discussion paper was based.

The responses express general agreement on the value of employee assistance programs. While there are still many questions and issues that remain to be sorted out, respondents generally agree that the benefits outweigh the problems and obstacles. It is obvious from the responses that the implementation and maintenance of an employee assistance program is a process in which there is always something new to learn. Ongoing evaluation and adjustment are important to ensuring continued effective-

ness and continued support by both management and labour.

The following comments represent the tone of those received.

I found the Committee's report to be a very professional and well written document which represented the E.A.P. movement and of course Police Community E.A.P. in a positive educational manner.

---

It is immediately apparent from this paper that an immense amount of work has been accomplished by your committee, and I offer you my congratulations.

---

... your Committee's fifth discussion paper is an excellent document and could serve as a guide to any agency endeavouring to implement such a program.

v) Disciplinary Dismissal —  
Discussion Paper

The Committee's sixth discussion paper, "Disciplinary Dismissal — A Police Perspective", examines the characteristics and practices of disciplinary and non-disciplinary dismissal in Canadian police forces, and in selected private corporations. It comments on the labour relations issues involved, as well as outlining a range of options and models available for the development of future policies relating to police dismissal.

The conclusion reached is that management must consider the value of the employee when planning for the future. In other words, a balance must be maintained between the interests of the member, management and the public. This is particularly

---

true where the issue is one of public trust. Reality dictates that all of these interests must be accommodated to some degree to achieve a workable solution to the problems faced in the area of police discipline, and particularly disciplinary discharges.

While a consultation process bringing together management, employees and the public will go a long way to resolving the competing interests, the greatest benefit probably lies in basic changes in the way police forces view discipline, leading to the implementation of innovative managerial techniques to create a more flexible approach.

The consultation phase on this paper will be completed during the early part of 1991-92.

vi) Upcoming Topics

Research has recently been completed on the principles of sanctioning and off-duty conduct, and papers on these issues will be published early in 1991-92.

• **Principles of Sanctioning**

The discussion paper on principles of sanctioning will examine the general principles that should apply in sanctioning police officers for misconduct. The report will include a survey of practices in Canadian jurisdictions to determine what the considerations and criteria are in this field, and will also discuss the importance of mitigating and aggravating factors.

The paper on the principles of sanctioning is considered to be a very important one, and was chosen because of the wide variation which currently exists in the sanctions

imposed. While it is not expected that a discussion paper on this issue will lead to an elimination of all diversity, it is hoped that a discussion of the issues will lead to a certain degree of consistency which may eventually bring the sanctions imposed for various types of police misconduct into a reasonable range.

• **Off-Duty Conduct**

The paper on off-duty conduct will identify the broad principles defining the extent to which police forces are permitted to regulate the off-duty conduct of their officers and to discipline them for breaches of such regulations. It will examine the general areas of conduct which have been the object of such attempts at regulation and discipline, and describe changes which have been occurring in recent years and the extent to which trends are discernible. In addition, the discussion paper will compare, in a general way, the situation of police officers with that of other public and private sector employees, and will go on to consider what reforms are being suggested in this area, and the reasons why such reforms are needed.

Work is under way on two additional discussion papers which will be published later in the year, on the topics of special events and the evolution and future opportunities of police management.

• **Special Events**

The focus of the special events paper will be those events which entail the temporary reassignment of large numbers of police officers and the need for a comprehensive policy applicable

---

to these large-scale temporary reassignments.

- **Evolution and Future Opportunities of Police Management**

The paper on the evolution and future opportunities of police management will examine the development of models and ideas that guide police management. Particular attention will be paid to police reliance on discipline as their principal management tool. The paper will conclude with a consideration of the managerial opportunities available to police managers as they face the challenges of the 1990s.

- **1991-92 Plan**

The Committee is now in the process of completing its research plans for 1991-92. The following projects have been chosen:

- conflict of interest;
- secondary employment; and
- occupational health and safety.

- **Program Support**

The Committee appreciates the input of all those who gave generously of their time and expertise in the preparation and review of its research documents. It is as a result of their combined efforts that the research program continues to produce its useful series of papers.

The Committee also thanks the many members of police forces across the country who have helped the Committee's consultants by providing anecdotal and statistical information. This assistance has greatly facilitated the preparation of the research papers

while helping ensure their relevance to the intended readership.

- b) *Seminar on Police Human Resource Management*

The Committee held its annual Seminar on police human resource management issues in February 1991. The Seminar was very well attended, and there was good representation from senior levels of police forces from across Canada, including a large number of Chiefs and Deputy Chiefs. The program and the list of participating organizations can be found at Annex B.

The main goal of the Committee's Seminar is to provide a forum for open and frank discussion on police human resource management issues which are likely to come before the Committee in its review of cases referred to it by the Commissioner of the RCMP.

The Committee was honoured to have the Solicitor General, the Honourable Pierre H. Cadieux, PC, MP, open the Seminar and speak to the participants again this year. RCMP Commissioner Norman D. Inkster spoke to Seminar participants at the closing of the day's activities and the Committee appreciates his participation. The Committee would also like to express its appreciation to the Deputy Solicitor General, Joseph S. Stanford, QC, who also addressed the participants.

The format of the Seminar changed somewhat from previous years by taking a more practical look at issues of discipline, replacing the more general approaches formerly taken to issues relating to the Com-

---

mittee's mandate. Much of the discussion was based on research being conducted for the Committee. Topics addressed were labour relations in the police context, off-duty conduct and principles of sanctioning.

The following comments from Chiefs of Police attending the seminar are representative of the comments received by the Committee.

I wanted you to know that a Seminar like the one you have organized has a much greater impact than you could imagine.

---

The subject topics were most interesting; the Guest Speakers knowledgeable in the field; and, the free exchange of ideas from the floor provided much food for thought.

---

... it was enlightening and helpful to learn of trends in the area of Labour/Manager relations across the Country.

---

When one organizes a Seminar of this scope, it is sometimes difficult to know what impact it will have on the participants' organizations; I would like to provide that important feedback....

Discussion at the Seminar forms an important element of the production of discussion and consultation papers and also consolidates co-operative relationships among the organizations represented. The fact that the participants in the Seminar come from across Canada ensures that new ideas and different perspectives are presented on the issues being discussed.

### c) *Communications*

The Committee distributed to all RCMP members an updated version for 1989-90 of its brochure entitled "Your Grievances and Appeals". This series of brochures is designed to explain the mandate and activities of the Committee. It includes a selection of cases examined by the Committee in the year under review and a series of questions and answers relating to the notions of evidence and the burden of proof in the RCMP grievance and discipline systems.

Distribution of this brochure has elicited an exceptionally good response from RCMP members across the country, including requests for additional information on the Committee's mandate, advice on how to proceed with grievances and requests for copies of the research documents and annual reports. The RCMP Training Academy has requested copies of the brochure for distribution to all recruits during their training period.

The Committee continues to distribute its monthly communiqué to Commanding Officers and Division Staff Relations Representatives (DSRRs) of the RCMP, thus providing them with an ongoing up-date on its activities. The DSRRs include copies of the communiqués in the newsletters sent to RCMP members in their jurisdictions, so that eventually the information included in the communiqués is disseminated to all members across the country. Information in the communiqués includes brief descriptions of grievances and appeals, recommendations relating to

---

them, conferences and meetings attended, as well as addresses given by the Chairman.

d) *Speeches, Visits and Conferences*

The Chairman addressed a number of organizations on issues relating to the mandate of the Committee. Audiences included:

- Canadian Association of Chiefs of Police Annual Conference, St. John's, Newfoundland;
- Canadian Association of Chiefs of Police Advisory Committee, St. John's, Newfoundland;
- Municipal Police Authorities, Ottawa, Ontario;
- Namibian Police Service, Ottawa, Ontario;
- Commanding Officers of the RCMP, Montebello, Quebec;
- Nelson Subdivision Regimental Dinner, Nelson, British Columbia.

The Committee was visited by Mr. David Landa, the Ombudsman for New South Wales, Australia in April 1990. Also visiting from New South Wales in November 1990 was the Honourable E.P. Pickering, MLC, Minister for Police and Emergency Services; he was accompanied by Commissioner Avery of the New South Wales Police and Judge B. Thorley, Chairman of the Police Board of New South Wales. Another visitor to the Committee during the year was Karamjit Singh, a visiting scholar on sabbatical from the Public Complaints Authority in London, England.

Members and representatives of the Committee attended the following conferences:

- the International Association for Civilian Oversight of Law Enforcement;
- the 6th Annual Conference of Canadian Administrative Tribunals;
- the RCMP Public Complaints Commission Annual Meeting;
- the 85th Annual Conference of the Canadian Association of Chiefs of Police;
- the National Conference of Ombudsmen.

---

## ADMINISTRATION

### a) *Additional Jurisdiction*

In December 1989, the Commissioner advised that he would be referring grievances to the Committee related to 17 additional subjects. As a result, the Committee experienced a significant increase in the number of cases referred to it, especially during the last few months of 1989-90 and the beginning of 1990-91. By the time the extent of the increase was known, the new fiscal year had begun and it was too late to change the Committee's Multi-Year Operational Plan, or its Part III Estimates. The Committee was required to make a submission to the Treasury Board for approval of Supplementary Estimates. This approval was granted and the Committee was able to complete the fiscal year with adequate human and financial resources to permit it to meet its increased workload and the significant costs associated with required hearings.



---

b) *Contracting Authority*

The Committee is designated as a department under section 1 of the *Financial Administration Act*. Since the creation of the Committee it had been generally assumed that the Committee, like other departments, derived its authority to enter into contracts from the *Government Contract Regulations*. Due to concerns raised by another agency, the Department of Justice had cause to review this assumption.

The Deputy Attorney General advised the Committee that in his opinion the *Government Contract Regulations* do not apply to the Committee as it is not an agent of Her Majesty the Queen. As a result, the Committee found itself without authority to enter into contracts.

A submission to the Treasury Board was made to correct this situation and approval was granted by the Board permitting the Committee to contract provided it adheres generally to the policies and procedures applicable to government departments. The Committee is grateful to the staff of the Solicitor General Secretariat and the Treasury Board Secretariat for their assistance in resolving this matter.

c) *Rules of Practice and Procedure*

Prior to the coming into force of Parts III, IV and V of the *RCMP Act* (which deal with grievances, discipline, and discharge and demotion, respec-

tively), the Committee had adopted the *RCMP External Review Committee Rules of Practice and Procedure* to complete the legislative scheme for the Committee's work. As a result of two years' experience with the *Rules*, and as a result of a review of the *Rules* by the Standing Joint Committee for the Scrutiny of Regulations, the Committee has made a number of housekeeping amendments which are designed to clarify the *Rules* and make them more easily understood by parties to the Committee's review. It is expected that these amendments will be published in the *Canada Gazette* in the near future.

d) *Workload and Resources*

As noted in previous Annual Reports, the Committee has little, if any, control over the number or nature of the cases referred to it. Until such time as the Committee and the RCMP have had sufficient experience with the grievance, discipline, and discharge and demotion processes established under the *Act*, predicting the Committee's workload and its resource requirements with any degree of accuracy will be difficult.

Without the Committee's dedicated professional and support staff, it would not be possible for it to fulfil its mandate granted by Parliament, especially given the additional workload the staff was required to handle during the past year.



---

## III ISSUES AND CONCERNS

---

### GENERAL

---

During the course of the year the Committee reviewed a number of grievances and disciplinary appeals, but has yet to receive its first discharge or demotion appeal under Part V of the *RCMP Act*.

The review of cases, combined with the research program and discussions with the Force, gives the Committee a unique opportunity to obtain an overall perspective on the activities of the Force related to the mandate of the Committee. In this manner the Committee is better able to put individual cases in perspective, reviewing them in the context of overall Force practice and policy. The Committee can then more easily identify areas of concern and formulate informed, and useful, recommendations to the Commissioner.

The following issues and concerns arose during the period under review.

#### *Burden of Proof*

In both grievance and discipline cases the burden of persuasion is on the balance of probabilities. Whoever has the onus of proof (the grievor in grievance cases, the Force in discipline cases) must present evidence, either on the record or at a hearing, which meets this requirement.

On questions of fact, the burden of persuasion can only be met by the presentation of evidence. Mere assertions and declarations are not sufficient. Where disparity of treatment or the uneven application of policy is

argued, facts are required to support the argument. If the action or decision of a third party is relevant, some evidence originating from the third party is normally required unless sufficiently persuasive evidence of another nature is presented.

On issues of law, the factual underpinnings also need to be established. For example, there must be at least *prima facie* proof of a *Charter* violation before the Force will need to respond: the mere claim that there has been a *Charter* breach does not meet the burden. If making a challenge under section 15 of the *Charter*, the members must establish that they were treated differently than other persons in the same situation, and that the different treatment constituted a breach of their rights granted by the *Charter*. Submissions based on case law must at the very least give the relevant references.

Neither the opposing party nor the Committee has an obligation to make the case for the party who has the onus of proof; if the burden is not met, the case will not succeed. This principle is doubly important on a reference to Level II or an appeal: the grievor or the appellant must first state the grounds on which the review is requested. The measure of success will be how well the evidence or submissions have been presented to support the case as it has been defined in the reference or statement of appeal. A mere statement that the Level I decision is unacceptable, or that the Adjudication Board was unfair, is not sufficient for a proper

---

review of the initial decision; the appellate level must know, and will be largely guided by, the grounds on which the review is requested.

---

## GRIEVANCES

---

### a) *Language Issues*

A large number of grievances referred to the Committee have dealt with the issue of language requirements in the staffing of positions.

Language requirements can have a direct effect on members' careers, and therefore merit careful assessment and justification. The Force has developed an official languages policy which sets out the procedure to be followed in identifying language requirements. In the cases reviewed, this procedure was generally not followed and the members consequently questioned the fairness and justification of the resulting requirements. On the basis of the cases reviewed by the Committee, it is clear that neither the front-line managers, nor the members involved, understood the Force's official languages policy.

### b) *Informed Decision-Making*

The grievances reviewed during the year have often resulted from a lack of complete and accurate information being made available to the members of the Force, or a failure on the part of members to avail themselves of the information available.

Members assess their entitlements on the basis of the information available to them in the various manuals or from other members. There are

policy centres responsible for every policy; these are the competent authorities which must be consulted to determine an entitlement. Some policies may set out a consultation procedure which members must follow if the Force is to be bound by the resulting claims. In some cases reviewed by the Committee, members did not consult the appropriate provisions of applicable policy, or they constructed interpretations, without consulting the appropriate policy centre, which were subsequently disapproved by the Force.

On the other hand there are instances where the Force is under an obligation, set out in policy, to supply information to members. Where the Force fails to supply accurate, up-to-date information, or where it encourages members to obtain information through channels other than those specified in the policy, it must bear the consequences of decisions made on the basis of inadequate information.

Members generally have the responsibility of ensuring that they have the information they need to make informed decisions. Where they opt for the most favourable interpretation of a policy regardless of its source or validity, they do so at their own risk. Where the various manuals do not contain all the information they need, members must seek out the missing information.

The Relocation Directive is one example of the Force being under an obligation to provide information to members. The Force must devise procedures to ensure that the sending Division, which provides information

---

to the member being relocated, has up-to-date information. The Force must also ensure that, where relocation entitlements are to be paid by the receiving Division, it will honour the commitments made to a member by the sending Division.

c) *Timeliness*

The grievor must present a grievance within the prescribed time limits. It is possible for a grievor to seek an extension of these time limits, under section 47.4 of the *Act*. Such requests must, however, be considered in light of the public interest in the speedy resolution of administrative difficulties, so as to prevent their continuation or recurrence. Extensions will also postpone the determination of financial contingencies associated with potential grievances on similar issues.

Going hand in hand with the preceding, the Force must, to the extent possible, deal with grievances speedily. While there has been a marked improvement in this regard (see Part IV), there is still an unfortunate sentiment of unfairness among members of the Force generated by the fact that the Force will often hold members strictly to their time limits while not putting the same emphasis on the timeliness of its own responses.

d) *Standing of Grievor*

Section 31 of the *RCMP Act* entitles members of the Force to present a grievance where they are "... aggrieved by any decision, act or omission...." The meaning of aggrieved is more clearly explained in

the French text which refers to "...un membre à qui une décision, un acte ou une omission ... causent un préjudice...." This clearly requires that members incur costs or suffer a prejudice as a result of a particular decision, act or omission. Members must therefore establish their standing to present a grievance by setting out how they were aggrieved. For example, in order to grieve language requirements in staffing actions, members need to show that their applications were rejected or not considered, or that they were told not to apply, because they did not meet the language requirements. In grievances based upon monetary claims, the amounts claimed and the expenses incurred must be established.

Where a member has not established standing to present a grievance under section 31 of the *RCMP Act*, the grievance cannot be considered.

e) *Mootness*

The concept of "mootness" can be considered in the review of cases referred to the Committee, where the case raises an issue of pure principle, the resolution of which would have no practical effect, or where the lack of particulars in the claim effectively prevents a practical outcome to the grievance.

It is a generally recognized principle that in dealing with monetary claims arbitrators should be restricted to remedying the monetary loss and should not assess punitive damages: *Rexwood Products Ltd.*, (1981), 3 L.A.C. (3d) 83 (Brown); *C.P.R. Co.* (1964), 15 L.A.C. 160 (Laskin);

---

*Canada Post Corp.* (1984), 16 L.A.C. (3d) 283 (McKee). Brown and Beatty in *Canadian Labour Arbitration*, 3d ed. at paragraph 2:1410 conclude that in remedying monetary loss three "qualifying factors" must be met:

...In the first place, the loss claimed must not be too remote, that is, it must be "reasonably foreseeable". Secondly, the aggrieved party must act reasonably to mitigate his loss. Finally, the loss or damages must be certain and not speculative.

Where the information on the record does not permit an effective resolution of the grievance, the principle of mootness will be considered by the Committee. Such cases could arise where, for instance, a monetary grievance is neither quantified nor does it provide the means to establish an amount to be awarded. Mootness could also be considered where there is no indication of the member being "aggrieved", that is, having suffered injury or a loss.

The grievor has the onus of establishing the validity of the grievance, and will have had the opportunity of adducing all the relevant evidence prior to the matter being referred to the Committee for review. The Committee will generally consider that where the record contains no evidence in support of an assertion, such evidence is not available. Only in exceptional circumstances, therefore, will the Committee seek additional evidence. In all other cases where essential facts have not been proven, effectively rendering the case a hypothetical matter, the Committee will consider applying the principle of mootness.

f) *Force Policies versus Government-wide Policies*

Some of the grievances reviewed by the Committee arose from disparities between Force administrative policies and the government-wide policies on the same issues which are applicable to the RCMP.

The travel directive applicable to the Force is supposed to be the same as that which applies to the Public Service, save certain exceptions which recognize special circumstances within the Force. It is therefore unfortunate that grievances arose because the Force has published a "Travel Directive" which differs from that approved by the Treasury Board for the Public Service in areas which are not subject to the exceptions. The same problem arose where the Force adopted a distinct policy on smoking in the workplace rather than following Treasury Board policy.

By adopting distinct Force policies on matters covered by government-wide policy, the Force leaves itself open to grievances due to textual omissions, differing interpretations given to various terms of art, or the addition of provisions not contained in the operative government-wide policy. Such grievances are unfortunate because they could be avoided.

g) *Medical Discharge*

The Committee received the first medical discharge referrals during the past year, and it quickly became obvious that the medical discharge process was flawed.

---

The *RCMP Regulations* provide that where an “appropriate officer” has formed the opinion that the ability of a member to serve on the Force is impaired, that officer shall appoint a medical board. The appropriate officer will provide to the board material in support of the discharge. The board then reports to the appropriate officer, who makes the decision whether to discharge the member. Under the *Commissioner’s Standing Orders (Appropriate Officer)*, the “appropriate officer” was the same person at all stages of the process, with a resulting institutional bias.

The Commissioner has acknowledged the problem and undertaken to correct the process.

---

## DISCIPLINE

---

### a) *The Millhaven Test*

During the year under review it became necessary to clarify the criteria used to establish whether and when the Force is entitled to deal with disciplinary matters. In the past, a reliance on the criteria set out in *Millhaven* (1967), 1(A) Union-Management Arbitration Cases 328, applicable to off-duty conduct, had developed in order to establish contraventions of the Code of Conduct.

The Committee recast the *Millhaven* test in its proper context, namely the determination of whether off-duty conduct is properly of concern to the employer. The test is but one of the ways to assess the nexus between off-duty conduct and the employment relationship; the common law and arbitral jurisprudence

do not recognize a right to initiate disciplinary proceedings in the absence of a sufficient nexus. *Millhaven* is not meant to be a test to determine whether a contravention has been established, or to assess the proper sanction; other principles of general application come into play at these levels.

The Committee also pointed out that where legislation sets out its own test to determine the existence of a nexus, that test will prevail. This is the case with section 39 of the *RCMP Regulations* which provides that it is a contravention of the Code of Conduct for a member to conduct himself or herself in a disgraceful manner that brings discredit on the Force.

### b) *Discipline versus Performance*

In some of the cases reviewed by the Committee there have been concerns as to whether the disciplinary process was appropriate for dealing with what appeared to be primarily performance problems. The cumulative effect of those cases indicates a need to deal with this issue.

In the application of Part IV of the *RCMP Act* on discipline it is important to distinguish between matters of discipline and matters of performance. Disciplinary measures may be taken for a breach of the Code of Conduct contained at sections 37 to 58 of the *RCMP Regulations*. Some of these provisions are quite broad, and care will be necessary to ensure the disciplinary process is properly used. To use a fictitious example, it may be the “duty” of members to arrange for the direct deposit of their paycheques, yet one would hardly

---

argue that failure to make such arrangements should lead to the disciplinary default of "...knowingly neglect[ing] ...any duty the member is required to perform" (s. 47, *RCMP Regulations*). A distinction must be drawn between the duties of a member as a "peace officer member of the RCMP", and those of a member as an "employee" in a large organization.

In cases where a member acting in good faith performs unsatisfactorily, a closer look at the institutional environment may be in order, to determine whether training, supervision or experience might be enhanced. It is always easier to take the disciplinary approach because it assumes that the member is to blame for the problem; it takes an enlightened manager to put in the extra effort, review the institutional environment and make whatever modifications may be required.

#### c) *Appropriate Sanctions*

Disciplinary referrals have often raised questions regarding the appropriateness of the sanction imposed. In some cases the sanction seems to have been based more on the type of disciplinary process chosen than on the seriousness of the contravention. Proceeding by way of formal discipline would seem to lead to formal disciplinary measures in some cases where the contravention is minor. It sometimes appears that the sanction imposed is more closely aligned with original allegations than with the findings of the Force's adjudication board; in such cases, the member may win the battle but lose the war when the sanction imposed reflects the

original allegations rather than the somewhat lesser findings.

Some disciplinary referrals have revealed the use of administrative measures, such as isolating members from their peers, as an adjunct to discipline. This seems to be more prevalent in situations where the Force can more closely control the activities of its members. Without addressing the propriety of such measures, it should be stressed that, if alternative measures are used, they should be taken into account when a sanction is finally imposed.

#### d) *Ordered Statements*

Prior to the proclamation, in June 1988, of the 1986 amendments to the *RCMP Act*, the *Act* did not deal specifically with ordered statements. However, a member could be charged under the old *Act* with the service offence of failing to obey a lawful command to answer a question. By way of administrative guidelines in relation to internal investigations, the member had no right to counsel while giving an ordered statement.

In one case the Committee's findings and recommendations reviewed the case law dealing with the right to counsel, and concluded that the implications (both in relation to possible sanctions and the member's career) of internal investigations, combined with the legal ambiguity inherent in determining the lawfulness of orders, warranted access to legal counsel prior to being ordered to make a statement.

Section 40 of the new *Act* provides that a member must, when required to do so, answer a question



---

asked by an internal investigator. The drafting of this section puts members in the same situation vis-à-vis an internal investigator as if they were called to testify in court. The section also provides that ordered statements can only be used against the member if they are false and given with the intent to mislead.

In one case the Force had taken two contradictory statements from a member. It was alleged that the first was false and the member was subject to discipline for deliberately having made a misleading statement. The only way this could be substantiated was by concluding that the second was true. There was no independent evidence to show which statement was correct. The Force based its argument on the truth of the second statement, even though the *Act* states that only false statements deliberately made may be used against the member making them. The Committee's recommendation to the Commissioner was to the effect that such a use of an ordered statement, not alleged to be false, was not permitted by section 40 of the *Act*.

In another case a distinction was made between an order to make a statement and an order to produce police notebooks. This led to a comparison of the old *RCMP Act* with the new one. The old *Act* had criminal connotations; the new one does not. Therefore, the criminal concept of self-incrimination is no longer relevant. In addition, police notebooks are not considered to be the same as a verbal statement. Consequently, the order did not amount to a violation of the right against self-incrimination.

#### e) *Process*

Some disciplinary proceedings have prompted comments from the Committee dealing with the process followed before internal adjudication boards.

Perhaps as a function of the application of the test in *Millhaven* which is a structured approach to the assessment of off-duty conduct, the Force has attempted to produce factual evidence of intangible concepts, such as morale within the Force and the Force's reaction to disgraceful conduct. This has led in some instances to a veritable parade of witnesses, none of whom were experts in the matter on which they were testifying. They could therefore only give evidence of their personal reaction, and from this adjudicators were expected to extrapolate the force-wide impact of conduct. This clearly was not conducive to either speediness or an informed decision, as both the Force and the member engaged in a numbers contest.

The Committee also commented that many issues on which "evidence" was being tendered were issues of law which could not be proved. In such cases it would be entirely proper for the parties to put forward witnesses to establish a factual foundation for the legal argument they would then make. Quality is better than quantity in matters of evidence.

Serious concerns were also voiced regarding the practice in certain divisions whereby criminal and internal investigations are conducted by the same member. Different rights and obligations attach to each type of

---

investigation, and there is a danger that members under internal investigation may not be satisfied that the information collected in the criminal process will not be used in the internal process.

f) *Wording of Allegations*

In more than one instance, allegations had to be amended, sometimes to correct numerous errors; this causes concern in light of the quality one would expect from the Force in such matters. There were many cases in which allegations were amended more than once to correct statements of fact. The Committee hopes the Force can bring the same degree of expertise to bear on the drafting of disciplinary allegations as it does regarding criminal charges.

---

OTHER CONCERNS

---

a) *Paragraph 36 (a) of the RCMP Regulations*

In the last Annual Report comments were made regarding the publication by the Force of a list of 17 items the Commissioner considered to fall within the ambit of paragraph 36(a) of the *RCMP Regulations*.

During the year the Force published Bulletin AM-1706 which notified members that claims against members, made pursuant to the Claims Regulations, would no longer be considered referable. The Force also announced, in the Federal Regulatory Plan 1991-92, its intention to propose an amendment to paragraph 36(a). In neither of these instances did the Committee receive

advance notice, let alone an opportunity to express its views. These issues are of great interest to the Committee, with direct implications for its grievance mandate. That the Force could proceed unilaterally further underscores the concerns previously expressed by the Committee regarding the limitations on its jurisdiction.

Further to concerns expressed by the Committee, the Force has now agreed to involve the Committee in any further developments on these matters.

b) *Procedural Fairness*

The issue of procedural fairness arose in a number of grievances. As previously noted, in medical discharges, the regulations called upon an appropriate officer initially to determine that a member's ability to serve was impaired, to appoint a Medical Board, to argue the case for medical discharge before the Board, to receive the Board's recommendations and to make the final decision. The *Commissioner's Standing Orders (Appropriate Officer)* appointed the same appropriate officer for all the steps in the procedure. The Committee found the process to be flawed.

Procedural fairness was also an issue in cases where evidence was considered by the Grievance Advisory Board and the Level I adjudicator without having been provided to the grievor. In one case, the Level I adjudicator had collected evidence on his own. This contravened both the *Commissioner's Standing Orders (Grievances)* and the principles of

---

natural justice. The Commissioner's decision pointed out these flaws to Level I adjudicators.

c) *Commissioner's Decisions*

During the period under review, the Commissioner made his decision in a disciplinary matter in which the Committee had received additional submissions pursuant to its *Rules of Practice and Procedure*. As noted in last year's Annual Report, the matter raised important legal issues which had not been fully addressed prior to review by the Committee.

The Force and the member chose not to attend the proceedings before the Committee; Committee counsel made submissions as to the state of the law and they were considered in the preparation of the recommendations.

The Commissioner took the position that the proceedings before the Committee had resulted in unfairness because the parties had not been present at the proceedings; he consequently set aside the Committee's recommendations, but ultimately adopted the same reasoning in his decision.

The Committee's role is to review the internal proceedings and processes of the Force and to provide the best possible recommendations to the

Commissioner. The Committee maintains that the procedure which was followed was both fair and consistent with the provision of proper advice.

In another matter the Force had disciplined a recruit for falsely claiming that he had completed some physical exercises. The review revealed that the member had been suspended for six months and had been segregated in barracks reserved for recruits facing discipline. Moreover an official memorandum had directed other recruits and instructors not to associate with the recruit. The Adjudication Board "wrestled" with the question of whether to dismiss the recruit; instead, it imposed a forfeiture of 10 days' pay and a reprimand.

The accumulation of the above factors is difficult to understand in such a minor case, particularly the treatment afforded the recruit at the Training Academy. The Committee recommended that the sanction be reduced to the reprimand alone; the Commissioner disagreed and supported the assessment of the conduct as being very serious for a recruit. In light of the submissions of the parties, however, he reduced the sanction to a forfeiture of three days' pay and a reprimand, as had been sought before the Board.



---

## IV LOOKING BACK

---

### DELAYS

---

Delays have long been of concern to those involved in the RCMP's discipline and grievance systems; this is understandable. It is trite law that justice delayed is justice denied, and while the ramifications of internal disciplinary proceedings are less severe than criminal charges, and grievances less so, it does not alter the fact that both can be stressful for individuals and debilitating for an organization.

Complete and accurate statistics are not available to the Committee as it only has information about the files it receives from the RCMP. What it does receive, though, has caused it to express concern on a number of occasions about the amount of time it takes to process both discipline and grievance cases. There have been improvements at certain stages of the process; however the overall time frames are still unacceptably long. The Committee recognizes that speed is not the only goal; other considerations, such as paying attention to the rights and interests of the members, are also important. However, the Committee is firmly convinced that, at almost all levels, there is a failure to treat discipline cases and, especially, grievances in a timely fashion.

Based on the information available to the Committee, the overall average time between an incident and its ultimate resolution is slightly less than two years in the case of both discipline and grievance matters. It is clear to the Committee that this is

greatly in excess of what Parliament intended when it adopted amendments to the *RCMP Act*, and is not acceptable in a modern, efficient labour relations environment.

Responsibility for minimizing delays cannot be ascribed to any single group. All participants in the grievance and discipline processes must share the responsibility: members, Grievance Advisory Boards, Adjudication Boards, Level I decision makers, the Committee, the Commissioner and the various offices responsible for co-ordinating the paper flow. Once a file arrives at the Committee, it is generally reviewed and recommendations issued within approximately 90 days, although the Committee believes it should be able to review the majority of cases within 60 days, and considers this to be its target. Unfortunately, when a hearing is necessary this can be considerably longer, given the need to co-ordinate various timetables, subpoena witnesses, etc.

As noted in Part III, members of the RCMP must remember that they have 30 days after they become aware, or should reasonably have become aware, of an act, decision or omission which affects them, in which to file a grievance. It appears that a tendency to ignore the specific provisions of the *RCMP Act* to this effect has developed within the Force. Members have the responsibility to meet the deadlines imposed by the *Act* and Level I adjudicators have the responsibility to enforce these deadlines. The other side of the coin, however, is that the

---

Force must improve its ability to process grievances and discipline cases more quickly, since holding the membership to strict deadlines while the Force is not held to any would be unfair.

It should be noted that the *RCMP Act* is not without a degree of flexibility. While the deadlines prescribed in it are clear and unequivocal, there is a mechanism by which the Commissioner may extend deadlines. It is the Committee's view, though, that extensions to the statutory deadlines should be the exception and not the rule. A request for an extension should set out a valid reason why it is or was impossible to meet the deadline, and should seek an extension for a limited period of time which should not normally exceed the original delay. A request for the extension of a deadline should not be arbitrarily denied, nor should it be automatically granted. The Commissioner or his delegate should review the circumstances of the matter and determine whether an extension is justified under those circumstances. The right to grieve or to appeal, which is granted by Parliament, should not be denied because of something beyond a member's control, nor should it be extended beyond Parliament's grant for frivolous reasons.

Both members and the Force must remember the purpose of deadlines: they are not arbitrary dates designed to trap or obstruct the unwary. They serve to delineate rights and place limits on authority. Part of their function in a human-resource management context is to permit the identification and resolution of prob-

lems in an efficient and effective manner, thereby allowing an organization and its employees to concentrate on fulfilling their primary activity without distraction.

The foregoing is not to say that the Committee's previous comments have fallen on deaf ears. There has been a noticeable improvement in the time being taken to process files within the RCMP.

Grievances are being processed more quickly at Level I and less time is required to refer them to the Committee. Formal discipline matters are also being handled more quickly. These improvements would not have been possible without the personal attention of the Commissioner, the Deputy Commissioner (Administration) and the Director of Personnel, nor would they have been possible without sustained effort on the part of the Professional Standards Directorate, the Internal Affairs Branch and the Staff Relations Branch, as well as field staff. The Committee is pleased to note these improvements.

All individuals and management should pay closer attention to their responsibilities under the *RCMP Act*. In the future, the Committee will be looking closely at adherence to statutory deadlines, and failure to adhere to them will result in recommendations that the grievance or the appeal in question be denied. Both members and management must remember that justice delayed is justice denied, and that it is in the interests of neither party to allow matters to fester indefinitely. In labour relations matters, there is a societal and an organizational interest in resolving differences

---

in an effective and efficient manner, and then moving on to new challenges.

---

#### MEETINGS WITH RCMP

---

The case review function of the Committee has been greatly facilitated by the excellent working relationship between the Grievances and Appeals Directorate and its counterparts in the RCMP.

Informal meetings are held with representatives of the Staff Relations Branch, Professional Standards Directorate and Internal Affairs Branch and

the Division Staff Relations Representatives. These are supplemented by frequent telephone conversations with both Force management and membership. The goal is to ensure an effective and efficient resolution of procedural and administrative issues as they arise, in order to allow all parties to concentrate on the substantive issues of real concern. Procedural problems are not allowed to detract from the work at hand; emerging concerns are addressed before they become ingrained.

This relationship has contributed to the formulation of practical recommendations to the Force.





---

# V LOOKING AHEAD

---

## EFFECTIVENESS REVIEW

---

In its last annual report, the Committee indicated that it would begin a process of consultation to enable it to conduct a review of its effectiveness. It was originally contemplated that this process would consist primarily of discussions with representatives of various government agencies, both federal and provincial, and with representatives of management and the membership of the RCMP. During the planning stages it became apparent that the Committee's review would be more effective if it were based on something more than the Committee's own perceptions of its status and user satisfaction.

As a result, an analysis of user satisfaction was undertaken. This involved the identification of distinct user groups, the identification of individuals within these user groups whose views could be sought, the identification of the manner in which their satisfaction could be tested and, above all, the establishment of a mechanism that would ensure the confidentiality of any individual consulted.

The results of this preliminary review have been encouraging. The Committee tested users' perceptions regarding three elements: the Committee's overall mandate, its case review function and its research function. Overall, results were positive. It is fair to say that the vast majority of users consulted viewed the Committee and its activities in a favourable or very favourable light. This is not to

say, though, that the process has not highlighted some areas which require attention:

- there is a substantial feeling that the Committee's role is not well understood by the majority of the members of the RCMP;
- there is a perception that the Committee sometimes takes too long to review cases;
- there is a strong feeling in some quarters that the Committee should be receiving grievances which it does not currently receive;
- there is a view that the roles of the Committee and the Public Complaints Commission are not sufficiently distinguished.

While the views expressed frequently reflect the backgrounds of the individuals consulted, they also point to the need for the Committee to continue its efforts to communicate its role and function within the RCMP and within the police community in general. There is also obviously a need to address institutional questions such as the formal mandate of the Committee, the type of grievances which should be referred to the Committee, the relationship between the Committee, the RCMP and the Public Complaints Commission and similar matters.

---

Now that the Committee is in possession of these views, it can undertake its more detailed consultations in a more focused and effective

manner. It is the Committee's intention to make specific comments, where they may be required, in its next annual report.



---

## VI ANNEXES

---

- A List of items which the Commissioner has included within the scope of paragraph 36(a) of the *RCMP Regulations*
- B Seminar on Police Human Resource Management



**List of items which the Commissioner has included within the scope of paragraph 36(a) of the *RCMP Regulations***

- 1 Classification of Civilian Member positions where the Public Service Classification Standards are utilized
- 2 Language profile of positions advertised in Job Opportunity Bulletins
- 3 R C M P Travel Directives
- 4 Civilian Member Dental Plan
- 5 Foreign Services Directive
- 6 Provision of Counsel and the Payment of legal fees and disbursements
- 7 Smoking in the Work Place
- 8 Living Accommodations Charges Directives
- 9 Conflict of Interest
- 10 Secondary Employment for Civilian Members
- 11 Harassment in the Work Place
- 12 Occupational Health and Safety
- 13 Parking Charges
- 14 Charter of Rights and Freedoms i.e. discrimination on the basis of age, religion, sex, retirement age, etc
- 15 Access to Information based on the collection, use and release of *information, i.e. personal information is released and member is penalized based on the information released*
- 16 Incentive Awards Program
- \* 17 Claims against members by the Force in connection with the loss or damage to property owned, leased, or in the care and control of the Force

\* removed from list by Bulletin AM 1706



*Seminar on Police Human Resource Management*

**Wednesday 20 February 1991**

**Opening of the Seminar**

**Welcome and Presentation of the Program**

The Honourable René J. Marin, O.M.M., Q.C., LL.D.  
Chairman, RCMP External Review Committee

**Opening Remarks**

The Honourable Pierre H. Cadieux, P.C., M.P.  
Solicitor General of Canada

Mr. Cadieux was first elected to the House of Commons in 1984. He was Minister of Labour from 1986 until 1989, then Minister of Indian Affairs and Northern Development until his appointment as Solicitor General in February 1990. Mr. Cadieux serves on the Cabinet Committees on Justice and Legal Affairs, Human Resources, Income Support and Health, Security and Intelligence and the Treasury Board. He is a graduate of the Université de Montréal and McGill University and is a member of the Barreau du Québec.

**Labour Relations, Performance vs. Discipline**

Professor George W. Adams  
University of Ottawa, Faculty of Law

George Adams is a Professor of Common Law at the University of Ottawa. Mr. Adams has an extensive background in private practice in employment and labour law. From 1979 to 1984 he was the Chairman of the Ontario Labour Relations Board. In addition, he spent many years as an adjudicator on both the Public Service Staff Relations Board and the Ontario Police Arbitration Commission. Mr. Adams will be sharing some of his views on performance and misbehaviour in labour relations.

**Panel Discussion**

The following three senior police officers will discuss the practical implications of the presentation on labour relations:

Deputy Chief Peter Scott, Metropolitan Toronto Police Force

A/Commissioner Ralph Culligan, Commanding Officer "O" Division,  
RCMP

Chief Inspector Serge Barbeau, Community Relations,  
Quebec Provincial Police



---

## **Off-Duty Conduct — When can the police employer react?**

Professor Philip Stenning  
University of Toronto, Centre of Criminology

Dr Philip Stenning is an Associate Professor at the University of Toronto's Centre of Criminology. He teaches undergraduate and graduate courses on the prosecution process, police and policing, legal issues in criminology, the administration of justice, and criminal law and procedure. He also lectures occasionally at the Canadian Police College. Dr Stenning has just completed research for the Committee on the subject of off-duty conduct. His work will form the basis of a Committee Discussion Paper.

### **Panel Discussion**

The following three senior police officers will discuss the practical implications of the presentation on off-duty conduct.

D/Commissioner Ronald Piers, Ontario Provincial Police  
A/Commissioner Gerry Leahy, Director of Personnel, RCMP  
Deputy Chief Ray Renaud, Gloucester Police Force

### **Principles of Sanctioning**

Professor Gerry Ferguson  
University of Victoria, Faculty of Law

Gerry Ferguson is a Professor in the Faculty of Law at the University of Victoria. He has been a consultant on criminal law and sentencing issues with the Law Reform Commission of Canada and the Department of Justice. Mr Ferguson has recently completed research for the Committee on principles of sanctioning. His work will form the basis of a Committee Discussion Paper.

### **Panel Discussion**

The following three senior police officers will discuss the practical implications of the presentation on the principles of sanctioning.

Chief Edward J. Coady, Royal Newfoundland Constabulary  
Deputy Chief Robert Claney, Edmonton Police Service  
A/Commissioner (ret'd), RCMP) G. McCully, RCMP Board of Inquiry

### **Review of the day**

Prof. George W. Adams  
Faculty of Law, University of Ottawa

The Committee has asked Professor Adams to act as Rapporteur for the day. He will provide an overview of the day's discussions in the broader labour relations context.

---

**Commentary**

Commissioner Norman D Inkster  
Royal Canadian Mounted Police

**Closing Remarks**

The Honourable René J Marin, O M M , Q C LL D

---

## **Participating Agencies**

### **Police Forces**

Calgary Police Service  
Durham Regional Police Services  
Edmonton Police Service  
Fredericton Police Force  
Gatineau Metro Police  
Gloucester Police Force  
Halton Regional Police Service  
Hamilton-Wentworth Regional Police Service  
Hull City Police  
Metropolitan Toronto Police Force  
Nepean Police Service  
Niagara Regional Police Force  
Ontario Provincial Police  
Ottawa Police  
Peel Regional Police  
Quebec Police Force  
Royal Canadian Mounted Police  
Royal Newfoundland Constabulary  
Windsor Police Service  
York Regional Police

### **Associations**

Alberta Federation of Police Associations  
British Columbia Federation of Police Officers  
Canadian Association of Chiefs of Police  
Canadian Police Association  
Metro Toronto Police Association  
National Executive, RCMP Division Staff Relations Representatives  
Police Association of Ontario

### **Others**

Canada Ports Corporation  
RCMP Public Complaints Commission  
Solicitor General of Canada





