



**Canadian Police Association
Association canadienne des policiers**

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October 24, 2007

Task Force on
Governance and Cultural Change in the RCMP
Ottawa, Ontario
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Attention: Mr. David A. Brown, Q.C.

Dear Chair Brown and Members of the Task Force:

I am pleased to enclose our written submissions to the Task Force on Governance and Cultural Change in the RCMP. You will also find enclosed copies of reports and materials referenced in our submissions, which will also be of assistance to the Panel in your deliberations.

We look forward to the opportunity to present these materials to you in person, and discuss the opportunities to bring about effective and sustainable changes to the governance and culture of the Royal Canadian Mounted Police.

Yours sincerely,

Tony Cannavino
President

c.c. The Right Honourable Stephen Harper, Prime Minister of Canada
The Honourable Stockwell Day, Minister of Public Safety



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BRIEF

To the Task Force on
Governance and Cultural Change in the RCMP

**“INDEPENDENT POLICE ASSOCIATION FOR RCMP
MEMBERS
FAIRNESS, EQUALITY, ACCOUNTABILITY AND
TRANSPARENCY”**

Appearances: Tony Cannavino, President
David Griffin, Executive Officer
Dale Kinnear, Director of Labour Services

Date: October 24, 2007

Independent Police Association for RCMP Members

Fairness, Equality, Accountability and Transparency

Foreword

Our membership expects this task force to make recommendations that will address the problems that they face every day. We are the people most affected by the crisis in leadership and the Force's dysfunctional culture. We are the ones who strive to deliver professional policing services even as morale drops and faith in the Force's leadership disintegrates. We are the people who are the backbone of the Force, and we must be made part of the solution. Accountability will not be achieved through external agencies alone. History and the Chair's own experience in investigating the pension scandal has shown that outside agencies have had little success. Accountability must come from within, and the opportunity to ensure accountability must be given to the Force's largest stakeholders, its own members.

***Michel Funicelli, President
Mounted Police Professional Association of Canada***

EXECUTIVE SUMMARY

Accountability and transparency for RCMP senior managers begins with granting RCMP members the right to form, and participate in an independent, representative police association; a right bestowed to all other police officers in Canada.

Currently, members of the Royal Canadian Mounted Police are not entitled to the same fundamental workplace equality and labour rights as other police officers, and RCMP Management is not held to the same standard of accountability as other police managers. The internal discipline and grievance systems end with the Commissioner of the RCMP as the final level of appeal. That, coupled with the fact that the internal representation program is not independent from management, leaves many members of the RCMP vulnerable and exposed on workplace-management issues. The RCMP approach has been to deny, minimize, ignore, or cover up these concerns.

RCMP members have been forced to work within a regime that denies them the basic fundamental human rights that are afforded to every other police officer in Canada; Freedom of Association, including the right to bargain collectively with their employer on issues related to their compensation, health and safety, and working conditions.

Last year associations representing RCMP members in Ontario and B.C. launched a court action to obtain these rights for all members of the RCMP, which will begin this November at the Ontario Superior Court. The goal is simple:

The application is about being fair to the members, and according them due consideration and respect for the difficult job they do. In the affidavit material supporting the application, members speak of harassment and discrimination, as well as abuse of authority as rampant within the Force. The overarching common theme, however, is not so much the fact of these problems, as how the Force has dealt with them. (<http://www.dpylaw.com/rcmp.swf>)

While the Supreme Court of Canada has recognized the Charter right of RCMP members to form associations in *Delisle*, the Court did not extend this right to include the right to bargain collectively on behalf of their members.

However, on Friday June 8, 2007, the Supreme Court of Canada issued a landmark decision in a case dealing with Health Services and Support workers in British Columbia, which overturned the court's previous decisions and held that freedom of

association, under the Canadian Charter of Rights and Freedoms now includes the right to collectively bargain.

Unfortunately, we expect that the senior command of the RCMP and their political masters will seek to carve out some form of an exclusion or restriction that would continue to limit these rights for RCMP members. Over the years they have exhausted millions of dollars of taxpayers' money in the courts fighting to deny RCMP members their basic human rights.

On June 15, 2007, Mr. David Brown Q.C., the lead investigator appointed to conduct an independent investigation into the RCMP's response to allegations surrounding the RCMP pension and insurance plans, submitted his final report to the government. (The seventh investigation into this abuse) Mr. Brown found that RCMP management's response was neither appropriate nor timely. The report portrayed an autocratic and paramilitary chain-of-command governance model at the RCMP which does not fit with the expectations of a \$3 billion organization:

- The RCMP did not rectify the issue of returning monies to the pension and insurance plans on a timely basis.
- RCMP management has done little to remediate the cultural and governance problems that allowed these events to take place.
- The RCMP did an exceptionally poor job of communicating with those involved in uncovering the improprieties – which in part led to an escalation of concerns by these individuals.
- The RCMP's Code of Conduct is counter to a solid workplace disclosure policy and contains no protection for a whistleblower, and in fact can be used as a weapon in a war of personalities.

Mr. Brown found that former Commissioner Zaccardelli's "autocratic" leadership style set a "tone at the top" that encouraged similar management styles among his management team. He concluded that this was fundamentally damaging to the culture of the RCMP.

Mr. Brown recommended an urgent and immediate Task Force on Governance and Cultural Change for the RCMP that will develop an appropriate governance structure and culture for the \$3 billion organization. 31 days later, Public Safety Minister

Stockwell Day announced the appointment of such a Task Force on Governance and Cultural Change within the RCMP, with David Brown as the Chair. The mandate of the Task Force includes reviewing and making recommendations on the following issues:

- means by which a challenge and oversight function could be introduced into the internal management of the RCMP, including how such functions could be effectively integrated into the structure and culture of a modern police organization;
- means to ensure that senior management is held appropriately accountable;
- identifying a process to better ensure that the Commissioner and senior management establish and maintain an appropriate ethical structure based on the RCMP's Mission, Vision and Values;
- ensuring that the RCMP's workplace disclosure policy is appropriate, that mechanisms are in place to ensure protection from reprisal, and that appropriate, clear and decisive corrective measures are taken;
- ensuring compatibility between an effective workplace disclosure policy and the process for reporting possible breaches of the Code of Conduct;

New corporate governance standards and civilian oversight mechanisms will ensure greater transparency and accountability for RCMP managers, consistent with the standards already in place for almost all other Canadian police services, through provincial legislative schemes.

The Canadian Police Association has supported and applauds these efforts to restore the image of Canada's largest police institution. But there remains more that can, and should be done. With greater scrutiny and accountability comes the potential for increased zeal and abuse. Mr. Brown's report and recommendations have demonstrated that such a culture exists within the RCMP. RCMP members need, and deserve the protection of a truly independent association to represent their legitimate interests and protect them from harassment or abuse.

It is inconsistent with Canadian values to suggest that fundamental rights such as freedom of association and the right to collectively bargain are not available to all Canadians, including those sworn to protect. When police officers don their uniforms to start another tour of duty, they are mindful of their responsibilities to respect, without

exclusion or restriction, the fundamental rights and freedoms afforded to every Canadian. They deserve the same respect, without exclusion or restriction.

A system of democratic representation for RCMP members will significantly increase the efficiency, accountability and transparency of Canada's national police service; something the beleaguered institution could use right now.

INTRODUCTION

Canadian Police Association

The CPA is the national voice for Canada's police personnel, comprised of 172 member police associations representing approximately 56,800 police personnel stationed across Canada, at the federal, provincial and municipal levels.

The CPA is governed by its constitution and by-laws, and a board of directors representing the Western, Atlantic, Ontario, Quebec and Federal regions. Police associations designate delegates to elect the board of directors for a two-year term. The members of the board of directors are also members of their respective police services and associations; Vancouver Police Union, B.C. Federation of Police Officers, Edmonton Police Association, Calgary Police Association, Saskatchewan Federation of Police Officers, Winnipeg Police Association, Police Association of Ontario, Toronto Police Association, Ontario Provincial Police Association, Association des policiers provinciaux du Québec, Fédération des policiers et policières municipaux du Québec, Fraternité des policiers et policières de Montréal, New Brunswick Police Association, Prince Edward Island Police Association, Municipal Association of Police Personnel (Halifax), Royal Newfoundland Constabulary Association, Canadian First Nations Police Association, Mounted Police Association of Ontario, and Association des membres de la police montée du Québec.

The mission of the CPA is to:

- promote the professional interests of police personnel and the public they serve in the national legislative and policy fields;
- provide a collective support network for the police associations to successfully improve representation and conditions for their own members in collective bargaining, education and training, equipment, health and safety, and protecting members' rights;
- advocate for adequate and equitable resources for policing;
- identify key national issues which impact on member associations and facilitate the resolution of these issues;
- react and respond, upon request, to local policing issues that may have national ramifications; and

- liaise with the international policing community on issues affecting Canadian police personnel.

In order to reach its objectives, the CPA works regularly with the elected representatives of all political parties, on a non-partisan basis, to implement reforms that will enhance the security of all Canadians, including those sworn to protect our communities. The CPA also participates with government and legislative authorities. For example, the CPA has submitted a number of briefs before Standing Committees to the House of Commons and the Senate on proposed amendments to the Criminal Code, R.S.C., 1985, c. C-46.

The Mounted Police Association of Canada

CPA membership includes the Mounted Police Professional Association of Canada combining the interests and membership of three provincially based associations; the Mounted Police Association of Ontario, the British Columbia Mounted Police Professional Association and the Association des membres de la Police Montée du Québec.

Some perpetrate a myth that suggests that “RCMP Members don’t want an Association”, when, in reality a significant portion of RCMP members belong to Associations seeking to gain these rights. Together, these associations represent 2000 RCMP non-commissioned officers, which constitute a fair proportion of the overall force of approximately 16,000 non-commissioned officers, particularly given that these organizations lack recognition by the RCMP.

Unfortunately, many individual members are afraid to speak out or participate in these associations due to fear of retaliation and reprisals. This comes as no surprise, given the culture of intimidation and retaliation that exists within the RCMP. Persons holding office within the RCMP Associations have been denied the right to hold office within the Staff Relations Representation Program, or SRR Program, under Conflict of Interest provisions governing the elections promulgated by former Commissioner Zaccardelli and recently upheld by Commissioner Elliott. RCMP Association members who have had the courage to speak publicly about concerns within the RCMP have been the subject of gag orders, threats of discipline, and/or disciplinary action.

The RCMP associations have launched a constitutional challenge in the Superior Court of Ontario against the laws which prohibit their members from having an independent

association. The Canadian Police Association is seeking intervener status in these proceedings.

Advocacy

For more than two decades the Canadian Police Association and our member associations, including RCMP member associations, have been advocating for the fundamental labour rights of RCMP members to be recognized, as a means to improve accountability and transparency for the RCMP. These advocacy efforts have included:

- Meetings with Members of Parliament and Senators;
- Meetings with Ministers of the Crown and their officials; and,
- Submissions to Parliamentary committees;

More recently, the Canadian Police Association made submissions to the office of the Prime Minister of Canada, and, at the request of his officials, the CPA made presentations to Chairs and members of the regional government caucuses.

Research

Appended to these submissions is a report from Professor Michael Lynk, University of Western Ontario. Professor Lynk's report provides excellent background information and a historical perspective on the issue. It provides a legal critique of the SRR program and other aspects of employment relations in the RCMP. He compares police collective bargaining in provincial jurisdictions. We have also included a document from the Parliamentary Research Branch produced for Senator Nolin as part of a Private Member's Bill he submitted in 2003. It serves as a "second-opinion" legal and historical perspective on labour relations in the RCMP.

Other relevant information, including the member affidavits filed in support of the constitutional challenge, can be found at www.legaladvocates.ca.

We urge the members of the task force to review these materials and take them into consideration when considering your recommendations.

BACKGROUND

The name and the uniform make Canada's federal police force, the Royal Canadian Mounted Police, one of the most recognizable police departments in the world. The name and the uniform are synonymous with Canada. While the RCMP may not truly be a national police service, it truly is a national symbol.

Police departments worldwide recognize the RCMP as a top law enforcement agency. United Nations peacekeeping efforts recognize the RCMP as a lead agency to establish domestic police departments and train police officers in countries re-establishing democracy and citizen controlled policing.

By virtue of their training and domestic policing responsibilities, the RCMP is not distinctly different from any municipal or provincial police agency in Canada. More than 70% of their effort and expenditure is attributed to municipal and provincial contract policing. They do have some exclusive federal responsibilities that other police agencies in Canada are not tasked with. However these distinct responsibilities arise from our jurisdictional framework, not any special skill or requirement in qualification or training.

With one notable exception, the RCMP is not remarkably different from many other federal and national police agencies around the world or any other police agency in Canada. Police officers in the RCMP lack the legislated ability and authority to form an independent employee representative association and negotiate a collective agreement with their employer, the Government of Canada.

THE PROBLEM

I have heard from a great many people that the culture within the RCMP is in serious need of repair. I have heard the terms "poisoned work environment", "abusive work environment", a "culture of entitlement at the top". While these may be dismissed as merely opinions or observations that aren't subject to verification, the incidents that I have reported on in earlier sections of this report tend to lend at least some credibility. Signs of a deteriorating culture were evident as early as 2003. Surveys of RCMP members and public service employees conducted two years apart produced startling results. In general terms, the surveys showed that those in higher ranks had become more satisfied with their jobs while job satisfaction of those in the lower ranks had deteriorated significantly.

David A. Brown Q.C.
Report of the Independent Investigator
Into RCMP Pension and Insurance Matters

In his letter to the Task Force dated October 1, 2007, Mounted Police Professional Association of Canada President Michel Funicelli described the poisoned and abusive work environment within the RCMP, fostered by an institution lacking management accountability, with ineffective internal controls, an ethical void in senior ranks, and problems with the disciplinary and other schemes used to manage members' concerns:

- A poisoned culture which allows, if not encourages, management misconduct and fails to protect those members that raise issues of concern and advance legitimate grievances.
- Management's use and abuse of power to silence those who are willing and brave enough to speak out.
- Individual and systemic failures which permit a variety of conduct which eats away at the integrity of the Force and the morale of its members, including:
 - "A discipline system in disarray"; intimidation, retaliation, inefficiency, and conflicts of interest.

- A grievance system “choked with grievances” big and small, being managed by a clumsy bureaucracy.
- “Harassment at will.” Confronting the problem means confronting a system which does not want to hear about problems. Acknowledging, much less championing harassment complaints can be career suicide for colleagues of the member, including Staff Relations Representatives, who at the end of the day often answer to the same people they are theoretically supposed to be able to challenge.
- Vulnerability: Senior members enjoy a variety of powers which, when exercised maliciously, or even neglectfully can harm a member’s career, and indeed their health:
 - Punitive transfers, or refusal to transfer;
 - Being assigned non-work;
 - Failure to promote;
 - Withholding training opportunities;
 - Forced overtime without pay, or removal of previously existing overtime opportunities;
 - Investigating / auditing without cause;
 - Inappropriate use of police resources, such as physical surveillance of a member, wiretapping a member, and running unauthorized computerized searches of a member;
 - Demeaning a member;
 - Ostracizing a member; and
 - Breaching a member’s privacy by accessing and using private health information without consent.

Public trust and confidence in the RCMP has been damaged as a result of the systemic culture of impunity and intimidation that was showcased in, but is not limited to the pension and insurance scandal.

Very serious and real concerns for officer safety, and public safety, are not properly addressed in an open and transparent manner which acknowledges and engages the

collective interests of RCMP members. Tough questions need to be asked concerning recurring safety issues dealing with officer and citizen fatalities within the RCMP:

- the investigation into the Mayerthorpe tragedy;
- staffing levels and back-up response at RCMP detachments;
- the deaths of civilians in police custody resulting in allegations against the lone police officers who did not have the benefit of back-up personnel and/or video recordings at RCMP detachments.

As will be discussed further in these submissions, the existing employer-managed system is inadequate in dealing with the legitimate and collective health and safety interests of RCMP members in an open and transparent manner.

THE SOLUTION

We contend that accountability begins with the introduction of an independent police association for RCMP members, statutorily designated in the *RCMP Act*, providing collective bargaining rights and access to independent and impartial, third party dispute resolution. Independent from the senior ranks of the RCMP, the Association would be comprised of members representing members; police officers representing police officers, paid for by the members. This is not revolutionary, but evolutionary. It is a tried and tested Canadian solution, working across the country and in many other parts of the world.

In our view, the preferred model for labour relations in the RCMP is the Newfoundland model and the Ontario model for municipal police personnel, where the provision and the detail are provided for in a separate part of the police statute. The Royal Canadian Mounted Police Act could be amended to provide for collective bargaining, neutral third-party grievance arbitration, binding interest arbitration and code of conduct and discipline appeals and to prevent strike and lock out. The arbitration and appeal process can be enshrined in the statute. Political activity rights and any other employment related issue, like whistleblower protection, could also be incorporated in similar fashion, as is the case in some provincial jurisdictions. Our alternative recommendation would be a stand-alone statute similar to the Alberta model and the Ontario model for the Ontario Provincial Police. If the *Public Service Labour Relations Act* has primacy over bargaining in the federal public service the Act can be amended to defer RCMP labour relations to the RCMP Act or a stand-alone statute.

WHY COLLECTIVE BARGAINING?

While the absence of a union or a similar labour body to represent the interests of RCMP members casts a pronounced shadow over the Force's grievance process, contrary to what one might expect, the consequences of being a non-unionized shop may work more to the detriment of management than to the detriment of the membership. That is, the absence of collective bargaining has contributed to some of the labour relations woes being experienced by the Force.

The relative number of grievances filed in the RCMP exemplifies this situation. The RCMP experiences far more grievances than other major Canadian police services. And the disparity is huge. Where the RCMP may have over 2,000 grievances underway at any one time, other major police services in Canada may have only a few dozen. Even when the size of the RCMP is taken into consideration, a huge disparity remains. In other major police services, there may be one outstanding grievance for every 100 or 200 or more members. In the RCMP, there may be as many as one grievance for every eight or nine members.

***Dr. David Sunahara
Healing the Workplace: The RCMP Experience
with Alternative Dispute Resolution***

CPA member associations have effective relationships with police services management, and contribute to the welfare and improved working conditions for their police association members across Canada. Member associations are able to function effectively within various imposed and restricted legislated labour relations regimes which allow for collective bargaining and for independent third party resolution of workplace disputes.

Collective bargaining defines and describes the rights and obligations of both the employer and association members with respect to workplace terms and conditions of employment. Both parties function within the framework of collective agreements in which there is set out well understood and recognized parameters for the working conditions under which the employer directs its workforce and the officers provide their services.

Through collective bargaining and independent third party interest arbitration, the working conditions, wages and benefits of association members have improved and are protected.

Most importantly, collective agreements provide employers with a clear understanding of their rights and obligations in relation to the day to day working conditions of employees. The collective agreements serve as a code of rights and obligations. They define the contours of the relationship between association members and management, and they assist the parties to both avoid and resolve disputes. When workplace disputes arise, collective agreements assist the parties to narrow the issues in dispute, and they provide clear dispute resolution mechanisms.

In a typical labour relations regime, where a dispute arises from the interpretation or application of the collective agreement, both the employee and the employer have access to a formal grievance process. Once individual police officers raise workplace issues with their police associations, the duty of fair representation requires that the association receive the grievance, investigate the circumstances and make a good-faith decision in the best interest of the employee and of the collective association membership. If a grievance is filed, the association generally maintains carriage of it. Consequently, grievances are not filed or proceeded with routinely or without due consideration, and expenses incurred by both the employer and the association are controlled.

Most of our police association members are committed to dispute resolution as early as possible and at the lowest possible level of the grievance process. Labour-management committees and open door policies assist police services and associations to resolve disputes about the interpretation or application of collective agreement provisions before a formal grievance is initiated. Associations interpret and communicate employer and management direction to their members, thus avoiding confusion or misinterpretation among employees.

An association is often able to obtain informal resolutions to workplace issues but, failing informal resolution, a formal grievance process is followed by the association and management, without interruption of service under the principle of “work now, grieve later”. The griever is represented by the association throughout the grievance process.

Formal grievance processes vary by jurisdiction but generally provide for some form of conciliation or mediation, followed by binding arbitration conducted by a neutral arbitrator or arbitration board fixed with the responsibility to resolve or determine disputes. Settlements and decisions rendered in dispute resolution processes under collective agreements or statutory processes are binding on the parties and the members. Usually they establish precedents for consistent application across the bargaining units.

Where numerous members of an association have the same workplace issue, the association may initiate a group grievance on behalf of the collective, thereby avoiding a multiplicity of proceedings.

In police bargaining units across Canada grievances are resolved responsibly without acrimony and unnecessary expense. Through their associations, bargaining unit members must incur the costs associated with the grievance and arbitration process and, therefore, associations have a financial interest to ensure that only grievances with merit and that are important, proceed through the formal resolution process to arbitration. Management has the same financial incentive to resolve disputes prior to arbitration, as it is obliged to share the costs associated with the process.

Neutral third party adjudication imposes a significant discipline on both associations and employees. It focuses their attention on disputes that require the parties to make a realistic assessment of their positions, and to moderate their positions accordingly, in order to find a sensible resolution of their differences.

Collective bargaining is not just about compensation and benefits; it is about fairness. It is about an effective dispute resolution and collective representation on all relevant issues, including officer safety. Collective bargaining will contribute to the modernization of the RCMP, and provide for greater transparency and accountability to the most important stakeholders; the Canadian public and RCMP members.

A designated or distinct bargaining unit of RCMP members representing themselves in negotiations with their employer, with neutral third-party resolution for interest and rights disputes, would be a fair, meaningful, and effective process. This process would both recognize the important role that police officers play in society, but also respect the right of officers to associate collectively to bargain and protect their legitimate working

conditions and terms of employment in a manner similar to all other police officers in Canada.

THE STAFF RELATIONS PROGRAM

In contrast to the structure provided for collective bargaining in all of the provinces, including Ontario, British Columbia, and Nova Scotia, there is no analogous collective bargaining process in the RCMP. The SRR Program is a management program designed expressly to deny access to a collective bargaining process by employee representatives who are independent of management. Rather, the SRR Program is an imposed alternative to meaningful collective bargaining.

The SRR Program provides a means for Staff Relations Representatives (SRR's) to participate in meetings with management. The role of the SRR is advisory only and does not constitute any form of arms length bargaining. Rather, SRR's are only participants in management led discussions with the RCMP Pay Council and with Treasury Board officials.

Pay Council was established by the RCMP in 1996 as an alternative to collective bargaining. It is mandated to make recommendations concerning working conditions of RCMP members. Pay Council consists of an independent chairperson, two RCMP management representatives, one SRR elected by Caucus, and one executive compensation specialist. SRR's can make recommendations to RCMP Pay Council and to RCMP management, who in turn make recommendations to the Treasury Board Secretariat, but SRR's have no formal ability to influence decisions or policies.

THE SRR PROGRAM IS BROKEN

Those responsible for maintaining the Staff Relations Representative program in its current form continue to promote the myth that the program is working. In reality, the program is controlled by the Commissioner. Members who have been victims of harassment or abuse of authority are left to pursue court challenges as they are not protected within the RCMP.

RCMP Officers Are The Only Police Officers In Canada To Be Excluded From Labour Relations Legislation And Denied Collective Bargaining.

The federal government has created internal mechanisms to adjust pay and working conditions, and to adjudicate internal discipline matters. This internal representative model; the or “company union” as referred to in labour arbitration and jurisprudence, leaves RCMP officers with inferior and far fewer employment rights than police officers across Canada. In particular, access to a statutory-protected independent voice that can represent their interests.

RCMP members are expressly excluded from the *Public Service Labour Relations Act*, the enabling statute for collective bargaining in the federal public service. They are also excluded from the collective bargaining provisions at Part I of the Canada Labour Code, the federal labour relations statute for businesses and operations deemed to be federal undertakings. RCMP members are included in Part II of the Canada Labour Code for occupational health and safety protections. These statutory exclusions were intended to deny RCMP members the ability to organize collectively and be recognized as the exclusive bargaining agent for RCMP officers.

The SRR Program Was Introduced as a Weak Substitute for Collective Bargaining

In the early 1970's, in response to employee discontent over some fundamental employment relationship issues, RCMP members expressed their frustrations at ad hoc meetings in several regions of the country. They discussed issues and concerns in their employment relationship and the lack of employee representation for discussions with senior management and the employer. Commissioner Nadon addressed the contentious issues to defuse the protests. As part of that solution, the Commissioner agreed to examine employee representation in other police agencies and consider a solution for RCMP officers. The result of this promise was the Divisional Staff Relations Representative Program, now the Staff Relations Representative Program (SRR).

Absent a properly constituted statutory regime for collective bargaining, the SRR Program cannot fulfill the role of bargaining agent or provide other fundamental employee representation services available to all other police officers in Canada.

The SRR Program is Controlled by the Commissioner

This management-designed system of representation provides a substitute form of association and representation that is inadequate and ineffective in dealing with fundamental employment issues. Members of the RCMP do not enjoy the same fundamental equality rights as other police officers, and RCMP management is not held to the same standard of accountability as other police managers. The internal discipline and grievance systems end with the Commissioner of the RCMP as the final level of appeal. That, coupled with the fact that the internal representation program is not independent from management, leaves many members of the RCMP vulnerable and exposed on workplace-management issues.

The SRR Program Has Proven Inadequate in Addressing Workplace Harassment

Women and minorities are disproportionately affected by the inability to form an association, and disproportionately vulnerable to abuses, harassment and discrimination. In affidavits filed with the Ontario Superior Court, RCMP members speak of harassment and discrimination, as well as rampant abuse of authority within the Force. The RCMP approach in dealing with these complaints is one of denial. Rather than addressing the situation, the problem is made worse by attempts to minimize it, ignore it or cover it up. That approach has led many members to such severe stress and depression that they can no longer function in the workplace. The RCMP requires a more accountable and transparent system of members representation, to hold managers accountable.

The Grievance System is Broken

The RCMP maintains policies and protocols defining in detail how concerns are to be addressed. There are directions for processing grievances, timelines for dealing with discipline, protocols for harassment, and standards for the consideration of nearly every possible request a member could make. Absent the ability to compel compliance and access independent and impartial adjudication, these policies have no meaning. It is not more systems that are required, but rather, an ability to make those systems work, through improvement, and more significantly, through accountability.

Because the grievance system is closed and individualized, there is no repository of decisions available for grievors to determine how their grievance might be handled, and whether they should even pursue it. An independent association would certainly take on that role. There is insufficient oversight of the adjudicator's decisions to ensure consistent, fair results. A dissatisfied member is left with the personally costly and usually unrealistic option of retaining a lawyer and seeking judicial review in Federal court. Further, grievance decisions are not made available to the membership generally for review and comparison. Knowing that, there is no motivation for adjudicators to make fair and consistent decisions.

Professor Lynk details in his report many of the failings with the RCMP/SRR labour relations, discipline and grievance administration programs. He points to a fact enumerated in the *Healing the Workplace* report by Dr. David Sunahara:

*Where the RCMP may have over 2,000 grievances underway at any one time, other major police forces in Canada may have only a few dozen. Even when the size of the RCMP is taken into consideration, a huge disparity remains. In other major police service, there may be one outstanding grievance for every 100 or 200 or more members. **In the RCMP, there may be as many as one grievance for every eight or nine members.** (emphasis added)*

The CPA recently surveyed our largest police associations and confirmed that grievances in their organizations continue to be much lower:

ASSOCIATION	MEMBERS	GRIEVANCES	RATE
Toronto Police Association	8013	15	1 / 534
OPP Association	7126	6	1 / 1188
Association des policiers provinciaux du Québec	4769	15	1 / 318
Fraternité des policiers et des policières de Montréal	4259	5	1 / 852

The SRR Program Lacks Independence

The SRR Program is both funded and administered by the Force. It cannot and does not do the work of an independent association. Its existence is mandated by legislation

and its scope and tools of influence are limited. The SRR Program is also regulated by the Force through administrative manual chap. 11.16. It is a management controlled system that offers non-commissioned officers limited and controlled consultation on policy and procedure. It is a system which is flawed, and unequal to the task of providing accountability and enhancing the trust and confidence of members in their organization.

While the SRR Program has many committed and industrious representatives who work to help their fellow members, such efforts cannot and do not overcome the limitations inherent in the system itself. This program of consultation is further circumscribed by a strict code of conduct regime, often used in an abusive fashion, within a culture of control and conformity. .

Through RCMP Conflict of Interest provisions adopted by the SRR Program and signed by former Commissioner Zaccardelli, dissenting voices are being driven out of the SRR Program through the imposition of rules requiring allegiance to the SRR Program, and specifically to the exclusion of the RCMP association members.

ASSOCIATION VS. UNION

Shirley Heafey, a lawyer who chaired the RCMP Public Complaints Commission for eight years until last October, agrees the RCMP should "absolutely" unionize. "It's rotting from the inside," she told The Province. "These managers and these rank and file had to go to MPs and a House committee to try and get some fairness? It's absolutely incredible that the RCMP would fight this."

The Vancouver Province, April 10, 2007

Like their counterparts in the USA, United Kingdom, New Zealand, and Australia, many police officers and their police association leaders consider themselves different from, and independent of trade unions. This may be attributed to several factors, including:

1. Several provincial jurisdictions prohibit police members from affiliating with trade unions. Police labour laws in some jurisdictions also create distinctions for police personnel, such as access to binding third party arbitration as opposed to the right to strike.
2. A culture of conservatism which tends to separate police personnel from the social justice objectives of the trade union movement.
3. Perceived professional status and a preference towards a professional association as compared to blue collar trade union.
4. Historical conflicts and animosity arising in situations where police have been called upon to keep the peace or quell disturbances at public demonstrations and picket lines involving organized labour. While police services have, in recent decades, become more sophisticated in their responses to these types of situations, there remain those within organized labour and police labour who consider the organizations at odds, despite their many common activities and interests.

The CPA advocates that RCMP officers require a professional association with collective bargaining rights, like their municipal and provincial counterparts. Police officers representing police officers, not affiliated with organized labour and with binding third-party dispute resolution as an alternative to the right to strike.

COMPARISONS

RCMP members are the only police officers in Canada to be excluded from labour relations legislation and they are the only officers of a significant police force in Canada who are not unionized. While their ultimate employer, the federal government, has created internal mechanisms to periodically adjust the pay and working conditions of the RCMP officers, and to adjudicate internal discipline matters, this statutory exclusion means that RCMP officers have an inferior and less robust basket of employment rights than police officers working elsewhere in Canada. Most of all, they lack access to a statutory-protected institutional voice that can independently represent their interests.

A review of the historical exclusion of RCMP members from labour relations legislation, and the ongoing arguments advanced to continue to support that exclusion, indicate that the primary purpose of the exclusion is to deny RCMP members the rights of meaningful association available to all other police forces in Canada, and to the vast majority of workers in Canada. Moreover, a review of the management designed system of representation for RCMP members shows that it was, and is, designed as a means to provide a substitute form of association for RCMP members that creates an inadequate and ineffective form of representation on employment issues.

It is the conclusion of this report that the exclusion of RCMP members from statutory access to unionization and collective bargaining, and the creation by RCMP management and the Government of Canada of a pale imitation of collective employee representation, is at fundamental odds with the commitment of modern liberal democratic societies, including Canada, to the right of employees to form and join a trade union of their choice, and to engage in collective bargaining. According to international labour law conventions and standards, to which Canada has agreed, this right is an intrinsic feature of the freedom to associate.

**Michael Lynk, Professor of Law
University of Western Ontario**

Canadian labour relations are divided into provincial and federal jurisdiction. The Canada Labour Code (CLC) governs federal works, undertakings or businesses and their employees. The Code also applies to all aspects of labour relations in undertakings of First Nations on reserves, as well as other key industries and certain Crown corporations. The CLC does not, however, apply to federal government employees;

who are subject to the Public Service Labour Relations Act (PSLRA). Members of the RCMP and the military are excluded from the CLC and PSLRA.

Nationally, the CN Police Association and CP Railway Police Association have the right to bargain collectively on behalf of police officer members under the *Canada Labour Code*. In recent years First Nations police personnel have successfully exercised union and collective bargaining rights under the Canada Labour Code. RCMP members remain prohibited, however, from forming a union and do not have collective bargaining rights.

The balance of labour relations in Canada is subject to provincial jurisdiction under their respective Labour Codes, Trade Union or Labour Relations Acts. British Columbia, Saskatchewan, Quebec, New Brunswick, Nova Scotia and P.E.I. provide collective bargaining for police officers and civilian employees through their provincial Labour Relations Act, Industrial Relations Act, Trade Union Act or Labour Code. British Columbia and Quebec have adopted essential services legislation to nullify strike and lock out provisions in their provincial labour relations statute. Newfoundland provides collective bargaining through the Royal Newfoundland Constabulary Act. Quebec provides collective bargaining to provincial police officers through the Quebec Police Act. Alberta has a specific statute for police bargaining, the Police Officer's Collective Bargaining Act. Ontario provides collective bargaining for municipal police officers and civilians through the Police Services Act and the Ontario Provincial Police Collective Bargaining Act for provincial police personnel.

Canadian police associations are the exclusive collective bargaining agents for police officers. Some of the police associations represent officers up to the rank of Superintendent. Police officers and police services, including most disciplinary procedures, are governed by provincial and federal legislation, such as the Royal Canadian Mounted Police Act, R.S.C. 1985, c. R.10, as am., the Alberta Police Act, R.S.A. 2000, c. P-17, as am., the British Columbia Police Act, R.S.B.C. 1996, c. 367, as am., the Manitoba Law Enforcement Review Act, R.S.M. 1987, C. 175, as am., The New Brunswick Police Act, S.N.B. 1977, c. P-9.2, as am., the Newfoundland Royal Newfoundland Constabulary Act, S.N. 1992, c. R-17, as am., Ontario Police Services Act, R.S.O. 1990, c. P. 15, as am., the Prince Edward Island, Police Act, R.S.P.E.I. 1988, cap. P-11, as am., the Quebec Police Act, 2000, c. 12, as am., and the Saskatchewan, the Police Act, 1990, S.S. 1990-91, c. P-15.01, as am.

While there are many consistencies within police labour relations, there remain exceptions in some jurisdictions:

- Most jurisdictions restrict representation of police officers to associations formed by the members. Only the provinces of New Brunswick, Nova Scotia and Prince Edward Island allow representation of police officers by external, non-police bargaining agents. Although bargaining units in these three provinces are not restricted to public sector union representation, the Canadian Union of Public Employees (CUPE) and the Nova Scotia Government Employees Union are currently the only outside agents representing police officers.
- Several jurisdictions have separate statutes to address police labour relations, while others have included labour relations in their policing statute.
- Several define the bargaining authority in the provincial Code or Act that governs all workers and employers and members are afforded all the protections therein. Those who are not may be restricted from unfair practice protection and other labour law tenets.
- Essential service designations, prohibitions on affiliation with outside labour groups, and restrictions on political activity are common clauses in statutes governing policing.
- Saskatchewan allows police the right to strike, albeit fettered, by advance notice to the employer, the ability of government to order conciliation or arbitration, and the authority to send in the RCMP to provide policing services during a labour dispute. The right to strike is still on the books in a couple of other provincial jurisdictions, but essential service designations and other legislative arrangements negate the option. The province of Nova Scotia recently replaced the right to strike with binding third party arbitration; a move that was supported and advocated by police associations in the province.
- In some provinces, such as Ontario, civilian employees of police services may be represented by the same police association that represents police officers; in other jurisdictions these employees may be represented by public service employee unions.

In our view, the preferred model for labour relations in the RCMP is the Newfoundland model and the Ontario model for municipal police personnel, where the provision and the detail are provided for in a separate part of the police statute.

The Ontario Model

There are 62 municipal and regional services, and a provincial police service, the Ontario Provincial Police, in Ontario. There are approximately 26,285 police officers and 5,222 civilian members employed with these services.

The collective bargaining structure for police officers in Ontario is governed by two statutes: the *Police Services Act*, R.S.O. 1990, c.P.15 and the *Ontario Provincial Police Collective Bargaining Act*, S.O. 2006, c.35 Schedule B.

Ontario's first *Police Act* was enacted in 1946. In 1947 the *Police Act* was amended to provide municipal officers with the right to bargain collectively. Thus, police officers in Ontario have had a distinct labour relations regime for over 60 years. The *Police Act* was further amended in 1964 to include the right to bargain about grievance procedures, and the right of a police association to be accompanied by legal counsel in bargaining sessions.

Since 1947, Ontario municipal police associations have operated within a traditional, yet restricted, labour relations regime. Similarly, the Ontario Provincial Police Association ("OPPA") is the exclusive collective bargaining agent for OPPA officers and civilian employees. Police associations are the legislatively imposed collective bargaining agents for police services, and police associations in Ontario are not permitted to be affiliated with trade unions.

Police officers in Ontario do not have the right to strike. The *Police Services Act* ("PSA") for municipal police officers and the *Ontario Provincial Police Collective Bargaining Act* ("OPPCBA") for OPP officers impose a dispute resolution mechanism that includes mandatory arbitration. Part VIII of the *PSA* dealing with Labour Relations is attached as Exhibit E. The relevant comparable provisions of the *OPPCBA* are attached as Exhibit E.

Section 117 of the *PSA* expressly prohibits police officers from obtaining membership in trade unions, except as required for secondary employment and with the consent of the chief of police.

Therefore, while Ontario has a police labour relations structure that expressly permits broad ranging collective bargaining by an association of police officers and police civilian employees that is entirely independent of management, it remains a modification to the traditional model of labour relations in that it restricts the right to strike, the right to belong to trade unions, or the ability to be affiliated with the broader labour movement.

The Royal Canadian Mounted Police Act could be amended to provide for collective bargaining, neutral third-party grievance arbitration, binding interest arbitration and code of conduct and discipline appeals and to prevent strike and lock out. The arbitration and appeal process can be enshrined in the statute. Political activity rights and any other employment related issue, like whistleblower protection, could also be incorporated in similar fashion, as is the case in some provincial jurisdictions. Our alternative recommendation would be a stand-alone statute similar to the Alberta model and the Ontario model for the Ontario Provincial Police. If the *Public Service Labour Relations Act* has primacy over bargaining in the federal public service the Act can be amended to defer RCMP labour relations to the RCMP Act or a stand-alone statute.

We believe the provincial models provided are the most suitable and workable examples of legislation and regulation. With an understanding of the history and the underlying reasons behind the existing legislated exclusions for labour relations in the RCMP, we hope you will agree that these exemptions are from another era and no longer relevant to the RCMP of 2006. A proper legislative solution will instil workplace democracy in the RCMP. This in turn will create other relevant accountability mechanisms long overdue in Canada's federal police service.

This is not a radical change that we are proposing. All other police officers in Canada, and many around the globe, have freedom of association and collective bargaining rights. Internationally, police officers in Great Britain, Europe, Australia, New Zealand, the United States, and South Africa have such rights.

SIMILAR POLICE DUTIES

The RCMP provides community policing under contract in all provinces except Ontario and Québec. According to Statistics Canada, in 2005, the RCMP had separate municipal policing agreements with 191 municipalities across Canada. Further, according to the Statistics Canada report, *Police Resources in Canada 2006*, over 70% of RCMP officers provide municipal and provincial contract policing services.

Ontario and Québec have their own provincial police forces. The Ontario Provincial Police (“OPP”) and the Surêté du Québec (“SQ”) operate in a similar capacity to RCMP contracted to police in the other provinces.

That is, both the OPP and the SQ provide contract policing to municipalities without municipal police forces in their respective provinces, provide general policing services throughout the province, respond to and redeploy officers in emergencies, and provide policing support to municipal services for special events.

By its nature, policing requires cooperation among various municipal, provincial, and federal police agencies. Police services must respond to public disorder, major incidents, and emergencies in addition to routine police duties. This is reflected in the provincial legislative provisions which govern and specify the adequacy of policing services required in the communities served.

For example, the OPP is required by law to “maintain investigative services to assist municipal police forces on the Solicitor General’s direction or at the Crown Attorney’s request” (s.19(1)(5) of the Ontario *PSA*).

The Ontario *PSA*, at s.13(1), also requires that every chief of police in Ontario establish procedures and processes in respect of joint forces operations.

The Ontario *PSA* Regulation that addresses the *Adequacy and Effectiveness of Police Services* (O.Reg 3/99) requires that police forces establish emergency response services including: tactical unit, hostage rescue team, major incident commanders, crisis negotiators, police explosive forced entry technicians, and explosive disposal technicians. Many smaller municipal police forces do not have the resources to provide all the required emergency response services and personnel. Consequently, they contract with the OPP or with other forces on a regional or cooperative basis to provide such services. Ontario Regulation 3/99 s.25(2) provides that the chief of police of each

police force is required to set out the circumstances under which each of the emergency response services will be deployed.

In summary, the policing legislation in Ontario, as in other provinces, creates a framework where joint police force operations, agreements to share specialized police resources, and the allocation of such resources as necessary to cope with security situations, are mandated as a requirement. This occurs within police services that are all covered by collective agreements between police employers and police associations.

Emergencies and Natural Disasters

In Ontario, the OPP and municipal police services have responded to numerous natural disasters and major incidents. The Mississauga Train Derailment in 1979, the First Nation blockade at Ipperwash Provincial Park in 1995, the Ice Storm of January, 1998, and more recently the First Nation occupation in Caledonia are but a few examples. Until the evacuation of New Orleans in 2005, the Mississauga Train Derailment was the largest peacetime evacuation in North America. Over 200,000 people were evacuated. The Ice Storm of January, 1998, displaced 4 million Canadians and left nearly 3 million households in Ontario, Québec, and New Brunswick without electrical power. Over six days, 100mm of freezing rain fell intermittently – Ontario and Québec declared the storm a disaster.

Similarly, the SQ has responded to natural disasters and political emergencies within the province of Québec, such as the crisis at Oka in 1990, the Ice Storm of January, 1998, and the recent floods in the Saguenay region.

Major incidents or natural disasters in Ontario and Québec require the OPP and the SQ to redeploy police resources as necessary, and to work in conjunction with both municipal police services and, from time to time, with the RCMP in order to maintain public security. Both the OPP and the SQ operate as provincial emergency police forces.

A poignant example of the role of the SQ as a provincial emergency force is the crisis at Oka in 1990. The Oka Crisis was rooted in a dispute between the Mohawks of the Kanasetake Reserve and the Municipality of Oka. In March 1990, the municipality voted to proceed with the expansion of a golf course on land that was subject to an outstanding land claim. The Mohawks claimed the land was sacred and set up a

roadblock. The municipality obtained an injunction which required the forcible removal of the roadblock. The SQ was the primary police agency to enforce the injunction. In July 1990, the RCMP sent police officers to Oka to support and assist the SQ. On July 11, 1990, while SQ officers attempted to forcibly remove the native blockade, SQ Cpl. Marc Lemay was fatally shot. On August 17, 1990, Québec Premier Robert Bourassa authorized the Canadian Armed Forces to intervene and assist both the SQ and the RCMP officers at Oka.

Special Events

Provincial forces such as the OPP and the SQ, and municipal forces across Canada, routinely provide policing services alongside RCMP officers during special events such as the Organization of American States (“OAS”) Summit in Windsor in 2000, the Summit of the Americas in Québec City in 2001, and the 2002 G8 Summit in Kananaskis, Alberta. These are known as joint forces operations or events. The OPP, SQ, and municipal forces redeploy resources as necessary to manage and provide assistance to police these large scale security events.

For example, at the OAS Summit in Windsor in June, 2000, security was provided by police officers from the RCMP, OPP, Peel Regional Police, Toronto, Chatham, and Windsor Police Services. A paper by Willem de Lint entitled “Public Order Policing in Canada: An Analysis of Operations in Recent High Stakes Events” details the numbers of officers provided to police the summit: the RCMP provided 1,400 officers while the other forces provided a total of 2,300 police officers. The RCMP, OPP, and municipal forces also worked together in planning the joint security operations for the Summit by gathering intelligence, participating in joint training, and developing standardized communications.

Mr. de Lint’s paper also outlines another example of joint forces policing of special events - the security operations for the G8 Summit in Kananaskis in June, 2002. Police personnel from Calgary, Edmonton, Vancouver, Saskatoon, and Ontario provided assistance to the RCMP. Calgary Police and the RCMP created a Joint Intelligence Group to receive intelligence from National Defence, Customs, the FBI, CSIS, and other law enforcement and national security organizations prior to the event. Police from many forces worked in conjunction with Canadian soldiers to maintain the security of

the Conference site. The joint operation focused largely on communication as a means to avoid violence: the Joint Intelligence Group was assisted by an Activist Liaison Team, an Aboriginal Liaison Unit, and a Community Relations Group. These were composed of representatives from the various law enforcement and security agencies involved in the operation.

Domestic integrated policing efforts

RCMP officers routinely work with other domestic police forces in their joint efforts to combat terrorism, organized crime, drug smuggling, and to protect the integrity of the Canadian border.

In the Toronto Region alone, the Integrated National Security Enforcement Team (“INSET”), Integrated Market Enforcement Team, Integrated Border Enforcement Team, and the Combined Forces Special Enforcement Unit, all work closely with the RCMP and municipal and provincial policing agencies to fulfil their mandate. INSET teams collect, share, and analyze national security intelligence and are composed of representatives from the RCMP, federal security agencies, and provincial and municipal police services.

A second example of this integrated policing effort is the Integrated Border Enforcement Teams (“IBETS”). IBETS is a joint Canadian – American law enforcement initiative whose core members include the RCMP, the Canada Border Service Agency, U.S. Customs and Border Protection, U.S. Bureau of Immigration and Customs Enforcement, and the U.S. Coast Guard.

The five core members of IBETS are national security organizations in Canada and the United States. However, IBETS works “together daily with other local, state and provincial enforcement agencies on issues relating to national security, organized crime and criminality transiting the Canada/US border between the Ports of Entry.”

In February 2006, the Windsor/Detroit IBET busted an international smuggling ring with the help of the Windsor Police Service, the OPP, and the Canadian Pacific Railway Police.

International Commitments

In addition to domestic commitments, members of the OPP, SQ, and various municipal forces routinely work alongside RCMP members to fulfil United Nations peacekeeping responsibilities. In fact, the International Peacekeeping Branch (“IPB”) of the RCMP

acknowledges that it relies “heavily on the cooperation and assistance of numerous provincial, regional and municipal partner agencies” to meet the demand for Canadian policing expertise abroad.

The RCMP IPB Review (Exhibit K) states that in 2004/2005 the RCMP partnered with over thirty domestic police forces to fulfil its mandate. Non-RCMP officers made up almost 60% of the total Canadian police peacekeeping deployments Canadian police officers are currently deployed through the IPB to: Sierra Leone, Afghanistan, Jordan, Ivory Coast, Haiti, Sudan, Bosnia, and Timor-Leste.

Police officers from the RCMP, provincial, and municipal forces routinely work together to protect the security of Canadians at both the local and national level. All Canadian police services are required to be flexible and innovative in their responses to public disorder, major incidents, and natural catastrophes. **The right of police officers to bargain collectively with their employer has not been an issue or problem for the OPP, the SQ, or the countless municipal police forces who have successfully and professionally worked alongside RCMP officers performing precisely the same police functions both nationally and internationally.**

GOVERNANCE AND OVERSIGHT

I believe that there is ample evidence that structural changes are required. The relationships between a chain of command structure and effective management must be sorted out. A proper management and oversight structure must be considered. Further analysis of these issues is urgently needed so that appropriate changes can be formulated and implemented.

David A. Brown Q.C.
Report of the Independent Investigator
Into RCMP Pension and Insurance Matters

The labour relations structure of many municipal police services in Canada has been compared to a three-legged stool; three distinct components discharging equally important responsibilities:

1. *Governance* – A Police Services Board, like the Board of Directors of a Private Sector Corporation, oversees the management of the police service, provides strategic governance through its policy-setting role, and represents the interests of its shareholders, in this case the community.
2. *Management* – Responsible for managing the operations of the police service and achieving the corporate vision established by the governors.
3. *Labour* – The association representing the interests of the front-line employees, as the collective bargaining agent.

For the system to function properly there needs to be a balance between these three legs, in discharging their respective roles and responsibilities. If any of these legs is weak, the other two carry a disproportionate share of the load. If any of the legs pushes up too far, the stool loses its balance.

It is important that the parties understand and respect each other's roles and responsibilities. There must be an environment of trust and mutual respect which permits each to carry out its responsibility with confidence and dignity. Today's leaders must focus on problem solving and dispute resolution, which begins with the process of identifying common ground. The three must work together wherever possible to find mutually agreeable solutions to complex issues and problems.

Policing is one of the most highly regulated professions in Canada. As enumerated by Mr. Paul Ceysens, Canadian police officers are subject to a variety of oversight mechanisms:

1. Supervision of Police Services by Ministers of the Crown, Municipal Councils, or Municipal Police Boards.
2. Failure to comply with the *Canadian Charter of Rights and Freedoms* may jeopardize prosecutions or expose police officers to civil proceedings.
3. The Civil Law Process.
4. Police Discipline Processes.
5. Public Complaints Processes.
6. Human Rights Law Processes. Allegations may be adjudicated before a tribunal under Human Rights Law, police discipline processes, civil law processes, criminal law processes and public inquiries.
7. The Criminal Law Process.
8. Coronial Law and Fatality Inquiries.
9. Provincial Police Commissions and Ministry Policy.
10. Public Inquiries.
11. Ombudsman Legislation.

In terms of appointment, police officers in Canada are generally considered to be “office holders”, as opposed to employees or agents of the state. As such, most police officers are subject to comprehensive procedural schemes and codes of discipline offences in statutes and regulations. In most instances employers cannot opt out of the disciplinary process or resort to other legal mechanisms to discipline or remove a police officer from office.

Accordingly, a set of basic principles applies to ensure that police officers are afforded procedural fairness and natural justice in the disciplinary process:

1. A formal notice must be served advising of the proposed action.
2. Reasons must be provided.

3. A meaningful opportunity must be provided to make representation before the decision is made. For probationary constables this may be limited to an opportunity to respond, orally or in writing. Otherwise, most police officers are afforded a formal administrative hearing with the right to be represented by legal counsel or an agent.
4. The decision must be made in good faith.

These distinctions which separate police officers from other professionals and workers have recognized the importance of independence and impartiality in the exercise of police duties.

Over the past two decades there have been a series of changes in the police sector which have introduced new challenges in the workplace and affected the evolution of police labour-management relations. In some cases these issues have dramatically affected the manner in which police services are delivered.

The police profession in Canada has been confronted with extraordinary challenges and reforms that have dominated the agenda for profession. These include:

- Reform of Police Discipline and Public Complaints processes.
- Increased use of Criminal Consequences for Police Conduct (e.g. Special Investigations Unit)
- Impact of the *Canadian Charter of Rights and Freedoms*
- Increased Civil Litigation
- The impact of Human Rights Legislation on external and internal police practices, including Workplace Harassment
- Increased Occupational Health and Safety requirements, including prosecutions against police services.
- Downsizing, Fiscal Constraints and Budget Cuts, including government imposed wage restrictions.
- Political influence on police services

These issues have required all parties to introduce new approaches to labour-management relations and have dramatically affected the way in which police associations conduct their business. Police associations have been compelled to

expand the scope of services and representation afforded to members, including a significant increase in the use of legal representation.

Police employment issues are increasingly matters of public attention, not confined to traditional labour-management forums. Given the very public role of policing, the sometimes intrusive or invasive aspects of police duties and powers, and the potential consequences of police actions, it is not uncommon for police issues or actions to be the subject of intense public scrutiny, commentary and debate. In the extreme this places enormous pressure on decision makers which fuel disciplinary actions, as decision makers struggle to ensure that “justice is seen to be done”.

In order to promote the highest standards within the RCMP, and foster a culture that is respectful and consistent, a new equilibrium is required:

1. It must be recognized that fundamental rights afforded to all citizens are not negotiable. By treating police officers differently than other Canadians, placing limits or exceptions on the rights afforded police officers, we suggest that it is permissible to have limits or exceptions on the rights enjoyed by all citizens.
2. Practices relative to police conduct must be consistent with the fundamental human rights afforded to our citizens, including procedural fairness, natural justice, and access to independent and impartial adjudication.
3. The democratisation of policing for the public requires police to be afforded basic democratic freedoms. Democratic structures within police organization increase the accountability of police managers and those responsible for the governance of police services.
4. We must preserve the fundamental principles which preserve police independence and impartiality from further erosion. Police officers cannot feel threatened that their good faith efforts to uphold the law can result in punitive consequences. They should not believe that they may become scapegoats to a politically expedient resolution.
5. Police officers are exposed to a unique combination of risks and stressors not normally associated with most other occupations. These include systemic workplace stresses such as role ambiguity and role conflict and frustration with the courts, corrections and parole systems, and the justice system in general. Inequality

in the treatment of police officers only serves to exacerbate these stresses and the resulting cynicism and distrust.

6. Contemporary Canadian policing encourages police officers to be innovators and problem solvers. This is not without risk of failure. Policing needs to shift from a reactive disciplinary culture to a proactive learning environment. Police officers require the confidence that is fostered by fairness and equality.

As the accountability framework and oversight mechanisms for the RCMP evolve, RCMP members will require a more robust system of representation as is recognized for their federal, provincial, and municipal counterparts. Members are accountable to management, but it is time that management also became accountable to its members. The only way this can occur is through a strong and independent professional association.

CONCLUSION

WHEREAS there is a long tradition in Canada of labour legislation and policy designed for the promotion of the common well-being through the encouragement of free collective bargaining and the constructive settlement of disputes;

AND WHEREAS Canadian workers, trade unions and employers recognize and support freedom of association and free collective bargaining as the bases of effective industrial relations for the determination of good working conditions and sound labour-management relations;

AND WHEREAS the Government of Canada has ratified Convention No. 87 of the International Labour Organization concerning Freedom of Association and Protection of the Right to Organize and has assumed international reporting responsibilities in this regard;

AND WHEREAS the Parliament of Canada desires to continue and extend its support to labour and management in their cooperative efforts to develop good relations and constructive collective bargaining practices, and deems the development of good industrial relations to be in the best interests of Canada in ensuring a just share of the fruits of progress to all

Preamble of the Canada Labour Code R.S.C. 1985, c. L-2.

In order to sustain a police culture that respects and protects the fundamental human rights and dignity of Canadians, Canada must respect the fundamental human rights and dignity of police members.

In Canada, increasing social, cultural, political and economic pressures are being brought to bear on policing. These forces shape the way in which Canadian police services respond to, and accommodate the needs of citizens. While there is a heightened sense of insecurity in the wake of terrorist events around the globe and corresponding demands for increased public security, there remains a debate concerning the conflict between increased security measures and individual human rights. Police officers are the front-line instruments of domestic policy, situated at risk of criticism, complaints, discipline, and even criminal prosecution for their efforts to fulfill their domestic security activities.

Given the very public role of policing, the sometimes intrusive or invasive aspects of police duties and powers, and the potential consequences of police actions, it is not uncommon for police issues or actions to be the subject of intense public scrutiny, commentary and debate. In the extreme this places enormous pressure on decision makers which fuel disciplinary actions, as decision makers struggle to ensure that “justice is seen to be done”.

We contend that there are proven and reliable labour management systems in place in police services across Canada, that are appropriate for the RCMP. In fact, these are long overdue. In order to affect significant and lasting cultural change within the RCMP, a proper management and oversight structure which provides balance and equality for RCMP members is required. Members are accountable to management; it is time that management became accountable to its members. The only way this can occur is through a strong and independent professional association.

Police officers from the RCMP, provincial, and municipal forces routinely work together to protect the security of Canadians at both the local, provincial, national and international level. All Canadian police services are required to be flexible and innovative in their responses to public disorder, major incidents, and natural catastrophes. The right of police officers to bargain collectively with their employer has not been an issue or problem for the OPP, the SQ, or the countless municipal police forces who have successfully and professionally worked alongside RCMP officers performing precisely the same police functions locally, provincially, nationally and internationally.

Affording an independent association with collective bargaining rights for RCMP members increases the accountability of police managers and those ultimately responsible for the governance of RCMP services.

Collective bargaining is not just about compensation and benefits; it is about fairness. It is about an effective dispute resolution and collective representation on all relevant issues, including officer safety. Collective bargaining will contribute to the modernization of the RCMP, and provide for greater transparency and accountability to the most important stakeholders; the Canadian public and RCMP members.

A designated or distinct bargaining unit of RCMP members representing themselves in negotiations with their employer, with neutral third-party resolution for interest and rights

disputes, would be a fair, meaningful, and effective process. This process would both recognize the important role that police officers play in society, but also respect the right of officers to associate collectively to bargain and protect their legitimate working conditions and terms of employment in a manner similar to all other police officers in Canada.

RECOMMENDATIONS

We are asking the Task Force to provide RCMP members with a voice to represent RCMP members address concerns and improprieties, through an independent police association. This requires a recommendation to government for the following legislative initiative:

- (i) Amend the RCMP Act to provide association rights to RCMP members, through a statutorily designated representative police association.
- (ii) Enabling legislation is required to provide:
 - a. recognition of the association as the exclusive bargaining agent, formation of the bargaining agent, and development of the collective agreement.
 - b. access to binding, independent and impartial dispute resolution by a neutral third-party, with a grievance and interest arbitration process defined in the legislation.
 - c. an independent Civilian Commission for discipline appeals and service disputes, similar to the Ontario Civilian Commission on Police Services.

The labour relations schemes provided for in the *Ontario Police Services Act* or *Royal Newfoundland Constabulary Act* are proven examples which may assist the Task Force.