

Submission Re: SECU hearings on Systemic Racism in Policing in Canada

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Christian Leuprecht is Class of 1965 Professor in Leadership at the Royal Military College of Canada, Director of the Institute of Intergovernmental Relations in the School of Policy Studies at Queen's University, senior fellow in defence and security at the Macdonald Laurier Institute, and a member of the Police Services Board of the City of Kingston. He has written three well-known studies on policing issues, is regularly consulted for my expertise on police governance, management and accountability, and have a forthcoming book on accountability.

Preamble

I recognize that as a white male tenured professor, I speak to this topic from a privileged position.

Context

The evidence about systemic racism in policing in Canada in the [Final Report by the National Inquiry into Missing and Murdered Aboriginal Women and Girls](#) (2019), the reports by the [Truth and Reconciliation Commission of Canada](#) (2018), the and the CRCC's [Report into Workplace Harassment in the RCMP](#) (2017) is unequivocal. The real question is: What does this mean and what are the implications? Systemic Racism represents the historical legacy that institutions have. As society evolves, so does its view of what is right and wrong. Society and policing have both evolved; but society has been and is evolving much faster than policing. So, the gap between civil society and policing has widened. Without a serious, meaningful commitment to holistic systemic and systematic reform, it will continue to widen, which will exacerbate tensions. While police bear some responsibility for that gap, the primary responsibility for civil-police relations lies with politicians who set the framework conditions and constraints for the delivery of police services. Police and police leadership have some but limit remit because many of the issues that need to be addressed as ultimately beyond their control. The RCMP is the case in point.

The RCMP and in some cases the Surêté du Québec (SQ) and Ontario Provincial Police (OPP) are left to pick up the pieces, of repercussions of society's failure and recalcitrant politics. Police are often the only government agency – whether regularly present on first nations land or responding to a call for service at 2:30AM in Edmonston, NB. Police are often the only government presence in communities suffering from economic hardship and pervasive social challenges. The education systems, health systems, social services etc. have failed those living in remote areas in general and in particular in many of our first nations. Lack of opportunities, education and structure often results in poverty, substance abuse, domestic and other violence, suicide, etc. The RCMP or provincial police are left to clean up a mess, which can manifest itself in violence, dysfunction and anti-establishment attitudes. When police are the only establishment left, police become the adversary.

My own study on [Force 2.0: Fixing the Governance, Leadership and Structure of the RCMP](#) (2017) contains a [41-page annex](#) detailing every recommendation made in 15 reports on the RCMP since 2007 – long before the current government came into power. That is, there is broad consensus on the problems that ail the RCMP and what to do about it. Some of these problems are legacy holdovers from inception, modelled on the Royal Irish Constabulary. The RIC's quintessentially colonial paramilitary paradigm was an intentional choice in structuring the Dominion's relationship with indigenous people. Some of these problems are of the RCMP's own making, such as shortcoming on accountability and transparency to which I shall return. Yet, others are outside of the RCMP's control and require political leadership, such as its structure, mandate, lack of separate employer status and compensation system. In other words, many of the issues in policing are systemic and complex beyond the remit of the organizations, and thus require political leadership at the municipal, provincial and federal levels. For a democracy, there is a notable power imbalance between ability of the uniforms to make their own decisions and the ability of the public to frame, influence, shape and change the parameters for police decision-making. In a democracy, the people should have the right to decide; but the current situation is as much a manifestation of systemic problems as it is a fundamental failure of political leadership. Famously, insanity is doing the same thing over and over and hoping for a different outcome. In Canada, politicians keep on replacing police chiefs or the RCMP Commissioner in the hopes of getting different outcomes. By now you think they would have realized that they need to change the framework conditions that constrain police leaders.

Recent examples to illustrate the pervasive institutional and systemic nature of the problem:

A disciplinary process in Vernon, B.C. found RCMP Cst. Valerie Little guilty of sexual assault against a fellow uniformed member while on duty. In other organizations, lesser sexual transgressions have resulted in the dismissal of employees. In other police services, some uniformed members are dismissed, eventually. If this case does not result in dismissal, what does it take to get dismissed in the RCMP? Despite multiple class action sexual harassment lawsuits against the RCMP and hundreds of millions of dollars in payouts... the behaviour prevails. It turns out, there is a pattern: uniformed members get dismissed for breach of trust (such evidence tampering by sleeping with a witness in the Surrey Six case) but not for breaching the code of conduct. Cst. Little's punishment was forfeiting 20 days pay and 10 days annual leave -- the maximum penalty currently allowed. (Ironically, the maximum penalty for senior officers is even less!). Cst. Little will not qualify for promotion for two years and will have to work under close supervision. Although the disciplinary report fails to mention this explicitly, since the offences took place in 2009 and 2010, Cst Little would have spent at least some of the time over those 10 years on leave – with full pay and benefits! As it turns out, in Canada it is almost impossible to suspend a uniformed member without pay, and even for members who are eventually found guilty and dismissed, most spend many years on leave without pay while their case drags on, with no ability for the taxpayer being able to recover salary and benefits that often exceed well in excess of \$1 million by the time a member is dismissed. I hold a public appointment to a police services board. I have first-

hand experience with this challenge. Instead of dismissing members, the RCMP will simply run out the clock until a member retires – often while on leave with pay for years on end.

In June RCMP Cst. Joshua Grafton was charged with assault causing bodily harm, assault with a weapon, and obstruction of justice for a 2016 incident in Prince George, BC. A total of 8 Mounties have been charged in this and an unrelated 2017 incident. Even the National Police Federation – the RCMP’s quasi union – is upset that it took 50 months to bring charges. Cst. Grafton’s name comes up in at least two CRCC chair-initiated public complaints (2011 & 2013). In other words, in his now [16 years in the RCMP](#) this was not the first problematic incident involving Cst. Grafton – and there may well be more incidents of which the public is unaware. Yet, all RCMP members in these incidents, including Cst. Grafton, remain on duty.

Rhetorical question: Given such attitudes towards impunity and the nature of their job as a uniformed member, what do you think that member’s sense of “public service” is and how do you think it might affect the member’s interactions with the public?

These are a couple of incidents just from recent weeks. The pattern is reminiscent of recent cases in Alberta and the Northwest Territories with distinct racial overtones.

The RCMP’s response? Previous Commissioner Paulson ceased releasing results of discipline hearings to the public as had been past practice. Despite a [Ministerial Directive on the RCMP Disciplinary Process, requiring the RCMP to report annually, the last report on the RCMP website dates from 2017](#). Commissioner Lucki has over 180 CRCC reports on complaints sitting on her desk to action, dating back as far as 2016 (the number changes regularly as the Chairperson signs more reports). Not even under Commissioner Paulson did the backlog ever get this large or long. In other words, in response to growing concern... the RCMP has become less accountable and less transparent.

Diagnosis

1. Leadership alone cannot and will not fix the issue. We have over 40 years of research in political sociology to show that **bureaucracies** reproduce themselves; in the process, they also reproduce their **institutional culture** and problems.
2. Systemic racism in Canada does not imply gratuitous use of force or death at the hands of police. Concerns about illegal behaviour will generate higher call volumes for police. As a result, some communities end up being policed more heavily, which means that community has more interactions with police, and so the mere fact of being policed more heavily means members of those communities will have more negative perceptions of police. After all, nobody wants to be policed, but when those same people are the victim of a crime or people speed through their neighbourhood, they will call the police. There is a subset of communities in Canada who for a host of reasons distrust police. Should they? At over 10 million Calls for Service and many more encounters with the public across a Canadian population of almost 38 million, use of force is rare and the rate of death is tiny. Take the example of two forces for which data is readily available: in the 2018/2019 fiscal year, 0.02%

of interactions by the OPP, and a total of 757 in Winnipeg – about twice a day. [Between 2000-2017 Canadian police officers had fatal encounters with 461 people](#) – that includes deaths from natural causes, medical complications, overdoses etc.: 43 were identified as Black (10 unarmed), 69 were identified as indigenous (12 unarmed).¹ By contrast, about 10 Canadians a year are killed by lightning, in 2018 there were 249 homicides using a firearm, 1,922 people died from car accidents, and at 16 July 2020, 8,827 had died from COVID. How does the RCMP measure up? We do not know. Following the Winnipeg Police Service and the OPP, **the RCMP should be more transparent and regularly report their use-of-force data publicly**: they finally released some data – only [after the media ATIPed it](#).

3. **Professionalizing policing.** Policing supposedly a public service. The public has an expectation of professionalism. That expectation is higher of employees in the public service, and even higher for those donning the uniform – especially when, as I documented in my [2014 study on the costs of policing](#), uniformed members are as well paid as they are. They see police on par with other professionals such as teachers, nurses, engineers, lawyers, physicians, etc. Yet, the public is not seeing that level of professionalism in police. That is, a genuine “service” to the public would treat subjects of those interactions with equal dignity and respect, irrespective of phenotype, ethnicity or gender. Sec 2.1 of the RCMP Code of Conduct: “Members treat every person with respect and courtesy and do not engage in discrimination or harassment.” By way of example, many teachers will at one point or another have been insulted, spat at, hit, or otherwise assaulted in their career: but they don’t reciprocate – because that runs counter to their professional ethos. However, those incidents are the exception to the rule. When teachers go to work, they are not expecting to be viewed as the enemy by people who are determined to harm them just because they are teachers. The intensity level for potential violence a teacher faces pales compared to the risk police patrol officers

¹ Of the 10 unarmed people identified as Black that were killed by police in Canada:

- 3 were a result of a struggle with police in which tasers were used and the person later died (in each case the deceased had cocaine in their system). Police were cleared of wrongdoing in those cases
- 4 were the result of natural causes, cardiac arrest and cocaine ingestion after being arrested by police. No force or violence was cited in the summaries and police were not deemed responsible.
- 2 were a result of a physical struggle in which the officer punched/beat the person while subduing them. One of those cases resulted in the officer being charged with manslaughter, aggravated assault and that case is still in court.
- 1 was a result of a gunshot wound that was ruled accidental while a police officer struggled to arrest a male who had broken into a pharmacy. The SIU investigation into the police officer’s action says the subject was shot in the chest after grabbing the officer’s wrist which was holding the gun. The Officer was cleared of wrongdoing.

<https://www.ontario.ca/page/siu-directors-report-case-08-tfd-036>

https://www.thestar.com/news/gta/2008/03/13/man_shot_by_officer_identified.html

Of 69 people identified as indigenous killed by police in Canada, 12 were unarmed at the time of their death:

- 4 died as a result of an overdose and no force was used in the encounters;
- 5 died after a taser, beating or pepper spray was used during a forceful arrest. (Some of these summaries are troubling and it is unclear whether the officers were charged or cleared.)
- 3 died after being shot – one was shot after ramming a police vehicle with a vehicle, one after placing an officer in a headlock during a physical struggle in which a baton and pepper spray had no effect, one after several suspects ‘fanned out’ around a lone officer at a traffic stop. The officers were cleared of wrongdoing in these cases.

are faced with on every shift. Police are frequently as the “enemy” my select individuals and, at times, entire communities they police. Racist attitudes, overt acts of violence or excessive force suggest that the police officer has assimilated that solipsistic ("us and them") mentality, which has them to act aggressively rather than risk being hurt themselves. The lives of police across are threatened every day they go on patrol over their 25-30 year career.

4. Still, more has to be done to reduce the propensity for violence as a first resort. Three decades ago police had a plastic baton and a revolver; their use-of-force options have since expanded to include pepper spray and Electric Pulse Weapons (EPW, aka Tasers). Instead of talking or negotiating through a situation patiently, although deployed fairly rarely in Canada, these tools nonetheless create options for non-lethal resolutions to which police may be tempted to resort prematurely. Policing has become militarized and adversarial. Police in general and the RCMP in particular need alternative models.

Recommendations

1. The **leadership and management model** for Canada’s police services has not changed in decades: you start at the bottom and work your way up, in some cases, with no post-secondary education. In which other private or public sector is that still the model to develop senior management talent? We need to civilianize the senior leadership and management of police forces. Uniformed members should be running operations – but not ultimately in charge of the whole organization. Uniformed members should not have ultimate responsibility for specialized areas where they have no comparative advantage: HR, finance, policy, or communications. The health care sector offers an example on which to draw: physicians are in charge of care; they are not in charge of the hospital. In the federal government, the Department of National Defence and the Canadian Armed Forces are two distinct legal entities, with a DM in charge of money and policy, and the CDS is charge of operations.
2. In a [2019 study](#) I show that policing in Canada has been slow to **civilianize delivery of services** within their remit but that do not necessarily require an expensive uniformed generalist to respond. Civilianization has the ancillary benefit of making law enforcement organizations more diverse and representative of the communities they police more quickly, in part because many minority communities are reticent about joining the uniformed ranks (and we cannot really blame them given the discussion we are having here today!). Policing functions have grown as public expectations change and governments under-invest in social services. In the process, police have taken on a growing number of non-policing functions. Canada needs a better model for public and community safety. If we start by identify our public and community safety priorities and work backwards, we observe that police are neither a particularly efficient nor effective in meeting those aims; so, we need a different service delivery model. That requires holistic coordination of services and funding at the level of communities.

3. Return to real **community policing**. When uniformed members do not live in the community, or not long-term, be that in the case of the RCMP, or the Toronto Police Service, that will affect the nature of policing and the way uniformed member treat the public with which they interact. This is particularly problematic for the RCMP: in many locations where the RCMP provides contract policing, uniformed members are neither members of the community they police, nor do they live in that community. For example, in Nunavut the RCMP is so short staffed that members from other divisions regularly do 6-weeks stints in the territory to fill vacancies: at considerable expense to the taxpayer – and to local communities. Ergo, the RCMP is not representative of many of the communities it is contracted to police. This is why systemic racism in the RCMP will be impossible to fix without getting the RCMP out of contract policing. The real obstacle here are federal politicians who do not want to give up federal assets in their jurisdiction. What difference does community policing make? In February of this year, the RCMP and OPP were both faced with enforcing injunctions in areas on or near reserves/dedicated Aboriginal land: on Wet'suwet'en territory in BC and Tyendinaga in Ontario. The RCMP's enforcement action largely discounting the costs to relations with the community; the OPP stood aside, monitored, but did not move in. The OPP had a long view to community relations; the RCMP did not (and destroyed a pilot project for community involvement in the process). Real community policing would see the RCMP act as a policing consultant rather than *the* answer to community problems. Prevention requires a wider suite of public sector agencies if it is to be successful.
4. In the process, **reduce the span of control of the RCMP**: remove criminal intelligence from the federal police force by emancipate the Criminal Intelligence Service of Canada as a stand-alone organization (following the Australian example); give the whole border to CBSA; make the RCMP a genuinely federal police force (like the Australian Federal Police) that can concentrate solely on genuinely federal priorities and law enforcement operations (and be civilian-led, as the AFP has always been!).
5. Give the RCMP **separate employer status** so it can better control its HR destiny.
6. **Remunerate members based on skills instead of seniority.**

Action Items

1. The Prime Minister recently referred to the RCMP's **management board** that its government had put in place. The Prime Minister was wrong. His government put in place a civilian advisory board: the RCMP Commissioner may or may not seek the boards advice, may or may not take the advice, and there is no transparency. Instead, the Prime Minister should make good on putting in place an actual civilian management board – and, in the process, absolve the Commissioner all responsibilities not directly related to actual police operations. Why? Because we now have decades and many Commissioners of evidence that the RCMP cannot and will not change on its own. To pretend that technological determinism such as resort to body cameras will effect real change amounts to serious obfuscation and a demonstrable unwillingness to commit to real reform that will have a lasting impact.
2. **Hold middle management responsible**: detachment commanders and their deputies. In Cst. Little's case, the Sgt or Staff Sgt appears not to have taken action –

despite the RCMP's clear messaging to employees since 2003 that harassment is unacceptable. That CAF had an analogous problem: Majors through Colonels were ignoring sexual harassment problems or laughing them off. In the wake of Justice Deschamps' report, to shift institutional culture, the CAF implement a requirement for middle management to report and action sexual harassment – or face dismissal. The CAF has dismissed middle management for failing to oblige; the RCMP should do likewise. That means putting breach of conduct on par with breach of trust.

3. **Bill C-3** is currently before Parliament. If you are serious about the conversation we are having here today, you must commit to passing this bill (which is a holdover from last Parliament and was reintroduced in this session). However, the Bill has serious flaws that must first be improved. Governments rarely open police acts, but since this Bill opens the RCMP Act, it's all the more important to get it right.
 - a. The CRCC now has a MOU that imposes a timeline of six months for the Commissioner to respond to Interim Reports (which consist of public interest investigations as well as individual complaints). That timeline should be enshrined in law.
 - b. Require the RCMP to make public all disciplinary decisions – as used to be past practice.
 - c. Require the Commissioner (or President) to report back on the *implementation* of any recommendation they accepted. The current system has the Commissioner accept recommendations – but the CRCC or public never hears back on implementation. The RCMP has a long track-record of accepting recommendations, then dragging its heels on implementation until the issue peters out. For instance, the [CRCC had to launch a follow-up investigation to its 2017 review of policing in Northern British Columbia to determine whether the RCMP implemented its recommendations related to Strip Searches](#). An annual statutory requirement to report on the status of implementation of recommendations would go a long way to improving accountability. The CAF's annual Sexual Misconduct Incident Tracking Report is an example.
 - d. Mandate a forum for community involvement in the complaints process. This could but needn't necessarily be enshrined in law.
 - e. The Hon. Ralph Goodale wants to add an appeal mechanism to the Bill. But there is already an appeal mechanism in the RCMP Act to access information. Perhaps Mr. Goodale wants to add a possibility to appeal a decision by the Chairperson (such as releasing an interim report after six months even if the Commissioner has not signed off). That would compromise the independence of the future PCRC and its ability to hold the RCMP to account. This proposal waters down accountability and could be abused to slow down the complaints and review process.

In short, systemic racism in policing in Canada in general, and in the RCMP in particular, requires *political* leadership and there are very concrete steps this committee and this government can take if they are serious and committed to genuine reform. The responsibility to diminish the gap between civilians and police lies, first and foremost, with politicians.