

Systemic racism in policing in Canada and how to fix it

This commentary is based on Christian Leuprecht's written submission to the House of Commons Standing Committee on Public Safety and National Security on July 24, 2020.

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,¹ and the Civilian Review and Complaints Commission for the RCMP's (CRCC 2016) 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 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 limited remit because many of the issues that need to be addressed are 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 deal with the repercussions of society's failure and recalcitrant politics. Police are often the only government agency regularly present on First Nations land or responding to a call for service at 2:30AM in Edmundston, NB. Often, they are also the only government presence in communities suffering from economic hardship and pervasive social challenges.

The education systems, health systems, social services, among other institutions, 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 study Force 2.0: Fixing the Governance, Leadership and Structure of the RCMP (Leuprecht 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.² That is, there is broad consensus on the problems that ail the RCMP and what to do about it.

¹ A list of reports can be found at <http://nctr.ca/reports.php>.

² The annex is available at https://macdonaldlaurier.ca/files/pdf/MLILeuprechtRCMPPaper-08-17-ANNEX-F_Web.pdf.

Some of these problems are legacy holdovers from inception, modelled on the Royal Irish Constabulary – a quintessentially colonial paramilitary paradigm that 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 (CRCC 2020).

Others, however, are outside of the RCMP's control and require political leadership; these include its structure, mandate, lack of separate employer status and compensation system, for example. 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 the discretion police leaders have 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. As the famous adage goes, insanity is doing the same thing over and over while 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 recognized the need to change the framework conditions that constrain police leaders. Officers are not inherently business-savvy or steeped in administrative expertise; they learn management and leadership skills within the institution, which means they will manage the way they were managed. As a result, they lack the experience to bring about the change needed to meet the public's heightened expectations.

What can we learn from the current situation facing the police in Canada?

First, 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.

Second, we need to have Statistics Canada **systematically collect use-of-force data for policing across Canada, including the RCMP**. 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. 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. Of course, 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 percent of interactions by the OPP (Ontario Provincial Police 2019), and a total of 757 interactions of Winnipeg Police resulted in use-of-force.³

Between 2000-2017 Canadian police officers had fatal encounters with 461 people (Marcoux and Nicholson Undated) – that includes deaths from natural causes, medical complications, overdoses etc. Out of those, 43 were identified as Black (10 unarmed) and 69 were identified as Indigenous (12 unarmed).⁴ For comparison: about 10 Canadians a year are killed by lightning; in 2018 249 homicides were committed 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? Unfortunately, we do not know. Following the Winnipeg Police 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 (Freeze 2019).

Third, there needs to be greater emphasis on **professionalizing policing**. Policing is a public service; so, the public has an expectation of professionalism. Section 2.1 of the RCMP Code of Conduct says: “Members treat every person with respect and courtesy and do not engage in discrimination or harassment.” The public sees police on par with other professions such

³ On the latter, see <http://clkapps.winnipeg.ca/DMIS/ViewDoc.asp?DocId=19956&SectionId=&InitUrl=>.

⁴ Of the 10 unarmed people identified as Black that were killed by police in Canada:

- three 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.
- four 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.
- two 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.
- one 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.

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

and 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:

- four died as a result of an overdose and no force was used in the encounters.
- five 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.)
- three 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.

<https://www.theglobeandmail.com/canada/article-more-than-one-third-of-people-shot-to-death-over-a-decade-by-rcmp/>

For a better understanding of challenging situations that officers face, see this **video**:

<https://www.youtube.com/watch?v=yfi3Ndh3n-g>.

as teachers, nurses, engineers, lawyers, physicians, etc. Yet, the public is not perceiving that level of professionalism in police. The expectation of professionalism 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 (Leuprecht 2014), uniformed members are comparatively well paid.

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 are faced with on every shift.

Police are frequently seen as the “enemy” by 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 to 30-year career.

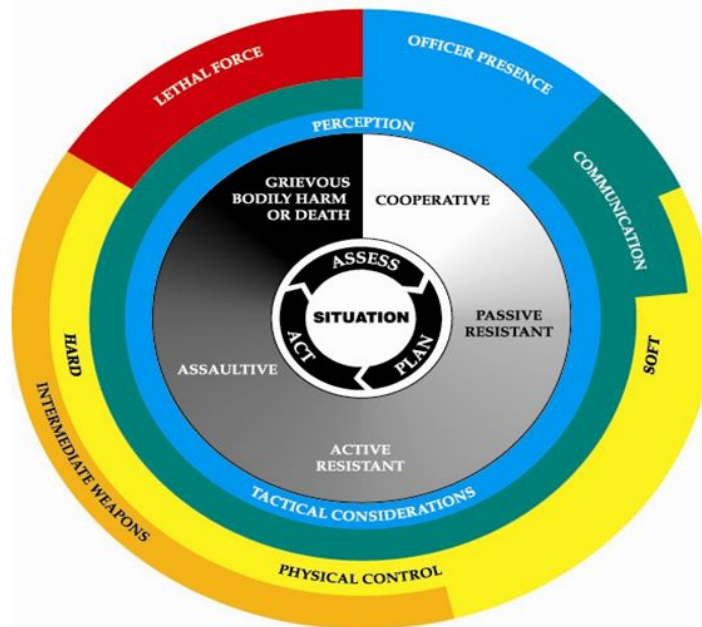
Lastly, more has to be done to reduce the propensity for violence: the CRCC has explicitly called out the RCMP for the ubiquity of its command and control approach (CRCC 2020). The resort to violence by police in Canada is governed by the National Use of Force Framework (Figure 1). This method governs when the use of violence is justified, and the type of violence that is justified given the circumstances. The full 12-minute video of Chief Allan Adam's arrest – and that of his partner for impaired driving -- merits watching as an illustration of the application of the National Use of Force Framework.⁵

Figure 1: National Use of Force Framework

⁵ See <https://www.youtube.com/watch?v=xch5MEmqaT8>.



National Use of Force Model



The officer continuously assesses the situation and acts in a reasonable manner to ensure officer and public safety.

Recommendations

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 be 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. In the RCMP National Headquarters, these functions are led and largely staffed by public servants with significant government experience – but they report to the Commissioner. Why not invite them to testify?

The health care sector offers an example on which to draw: physicians are in charge of care; they are (generally) not in charge of the hospital. In the federal government, the Department of National Defence (DND) and the Canadian Armed Forces (CAF) are two distinct legal entities, with a Deputy Minister in charge of money and policy, and the Chief of the Defence Staff in charge of operations. This has not eliminated harassment or racism but it does provide greater bandwidth to address it and balance greater balance between uniformed and civilian perspectives.

In a 2019 MLI 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 (Leuprecht 2019). 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.

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.

The 2019 Annual Report of the National Security and Intelligence Committee of Parliamentarians (NSICOP 2020) reviewed inclusion and diversity in the security and intelligence community. That included the RCMP. The review looked at why a diverse and inclusive workforce was so important for the performance and operational success of these organizations. The NSICOP Report's statistics showed that visible minorities were underrepresented in the RCMP, including at the senior ranks. The Report also documents that resistance to diversity and inclusion was strongest at the level of RCMP NCOs, that is, uniformed members who are on the front lines and in middle management. The Committee should invite the RCMP's (new civilian) senior human resources official to testify as to what the RCMP is doing to address the issues the NISCOP study raises.

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 discounted the costs to relations with the community; the OPP, by contrast, moved in only after having exhausted all other options. 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.

The RCMP is too big and has too many roles, which makes it difficult if not impossible to govern. This leads to a number of specific recommendations for the RCMP. First, we need to get the RCMP out of contract policing, a proposal that also features in the lead article in this month's issue of Maclean's (Maher 2020). The real obstacle here are federal politicians who do not want to give up federal assets in their jurisdiction. Second, we should give the responsibility for our whole border to Canada Border Services Agency (CBSA), as opposed to the current approach in which CBSA shares responsibilities with the RCMP.

Third, criminal intelligence should be removed from the federal police force. This can be done by emancipating the Criminal Intelligence Service of Canada as a stand-alone organization (following the Australian example). Fourth, the RCMP should be turned into a genuinely federal police force, like the Australian Federal Police (AFP), which can then concentrate solely on genuinely federal priorities and law enforcement operations.

The RCMP could also benefit from a range of **reforms**: give the RCMP separate employer status so it can better control its HR destiny; remunerate members based on skills instead of seniority; completely overhaul the RCMP's training regimen at the RCMP Academy from the ground up, in order to avoid a paramilitary command and control mindset; create a completely separate career and professional development framework and path for officers, similar to the military; and underwrite a national 311NG (Next Generation) system to divert non-emergency calls from the 911 system.

Action items for reforming policing

In addition to these longer-term reforms, a number of specific action items for policing can also be identified. First, we need to **hold middle management responsible**: detachment commanders and their deputies. In the recent case of Cst. Little – who was allowed to keep her job after being found guilty of discreditable conduct for sexual assault of another uniformed member while on the job (Lindsay 2020) -- 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.

The 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. The jury is out on the impact of unionization in the RCMP on harassment and racism.

Second, 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 (RCMP 2019). Commissioner Lucki has over 180 Civilian Review and Complaints Commission (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 it is difficult to know what the RCMP is doing. Evidently, the RCMP needs to improve how it manages these issues.

Bill C-3 is currently before Parliament: the CRCC would morph into the Public Review and Complaints Commission and extend its scope to the Canada Border Services Agency, including triaging and reviewing complaints about CBSA officers. If we are serious about fixing policing, we must commit to passing this bill (which is a holdover from last Parliament where it did not clear the Senate in time 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.

For instance, 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. The bill should also require the RCMP to make public all disciplinary decisions – as used to be past practice – and require the Commissioner of the RCMP (or President of the CBSA) 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 example, as part of the class action harassment suit, the former RCMP Commissioner agreed to have all RCMP divisions and branches establish workplace culture committees and produce annual reports to be consolidated into one *comprehensive* report. One only needs to compare the RCMP current 1800-word report (RCMP 2020) to the CAF's detailed 20-page report by the Sexual Misconduct Response Centre (Department of National Defence 2019) to understand that the current way of doing things is not enough.

Equally revealing is the fact that 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.

We also need to mandate a forum for community involvement in the complaints process; this could be enshrined in law, though it need not necessarily. In addition, 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.

Third, 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 board's advice, may or may not take the advice, and there is no transparency. Instead, of an actual civilian management board, there is now an Associate Deputy Minister, Kevin Stringer, who was appointed as the Chief Administrative Officer. He provides the Commissioner with advice on operational administrative policy, strategic direction and the corporate operations of the RCMP.

In theory, this should allow the commissioner to focus on police operations. The Committee might call the ADM to testify. We 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.

In short, systemic racism in policing in Canada in general, and in the RCMP in particular, requires stronger and sustained **political leadership**. This committee and this government have an opportunity take immediate action 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.

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