

Civilian Review and  
Complaints Commission  
for the RCMP



Commission civile d'examen  
et de traitement des plaintes  
relatives à la GRC

## Systemic Racism in Policing in Canada

Submission to the House of Commons  
Standing Committee on Public Safety and National Security

December 24, 2020

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Submission to the House of Commons Standing Committee  
on Public Safety and National Security

**Study of Systemic Racism in Policing in Canada**

Civilian Review and Complaints Commission for the RCMP (CRCC)

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### About the CRCC

The Commission is an independent agency created by Parliament to provide fair and independent civilian review of RCMP members' conduct in the performance of their duties. The Commission fulfills this role by receiving complaints from the public about the conduct of RCMP members, and monitoring the RCMP's investigation of such complaints.

Where a complainant is not satisfied with the outcome of the RCMP's response to a complaint, a request can be made to the Commission for an independent review of the members' conduct and the RCMP's handling of the matter. In reviewing complaints, the Commission may find that it is satisfied with the RCMP's handling of the complaint, or it may make findings and recommendations to the RCMP Commissioner and the Minister of Public Safety and Emergency Preparedness with respect to matters addressed in the complaint.

The Commission also has the mandate to conduct reviews of specified RCMP activities; conduct investigations when it is deemed in the public interest to do so, provide reports to provinces and territories that contract RCMP services; and conduct research, program outreach and public education.<sup>1</sup>

The CRCC reports through the Minister of Public Safety, and is separate and distinct from the RCMP.

### Public complaints and reviews

The Commission accepts complaints about the on-duty conduct of RCMP members from individuals:

- Directly involved;
- Who witnessed the conduct itself;
- Authorized to act on behalf of the complainant.

When a complaint is made, typically the RCMP carries out the initial investigation into the complaint and reports back to the complainant.

The Chairperson can also initiate a complaint. Chairperson-initiated complaints allow the Chairperson to set the scope of the investigation of a public complaint. These

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<sup>1</sup> Civilian Review and Complaints Commission *Departmental Plan 2020-2021*, Core responsibilities: planned results and resources/Independent Review of the RCMP/Description, online: <https://www.crcc-ccetp.gc.ca/en/departmental-plan-2020-2021#toc3> (accessed December 21, 2020)

complaints are investigated in the same manner as a complaint from a member of the public.<sup>2</sup>

If a complainant is not satisfied with the RCMP's handling of their complaint, they may request that the Commission conduct a review of the RCMP's investigation.

If the Commission is satisfied with the RCMP's investigation, the Chairperson issues a Satisfied Report, thereby ending the review process.

If the Commission finds the RCMP did not conduct a thorough investigation, the Chairperson can request that the RCMP make further enquiries.

Finally, if the Commission is not satisfied with the RCMP's handling of the complaint, the Chairperson will issue an Interim Report, outlining various findings and recommendations directed at the RCMP.

Once the Interim Report has been reviewed by the RCMP, the RCMP Commissioner gives notice, identifying which recommendations the RCMP will act on. If no action is to be taken, the Commissioner must provide reasons.

After receiving the Commissioner's Response, the Chairperson considers the RCMP's position and prepares a Final Report. This completes the Commission's review process.<sup>3</sup>

In 2019-2020, the public lodged over 3,600 complaints, of which the top allegations included:

- Neglect of duty
- Improper attitude
- Improper use of force
- Improper arrest
- Improper search of premises, and
- Irregularity in procedure.

In that same year, the Commission issued 394 reports further to requests for a review of the RCMP's handling of public complaints, including: 313 Satisfied Reports, 57 Interim Reports and 24 Final Reports.

### Strategic Reviews and Public Interest Investigations

In addition to the complaints and review process, the Commission has the authority to initiate two types of investigations: a strategic investigation (referred to as a review of a specified activity in section 45.34(1) of the RCMP Act) or a public interest investigation (reference section 45.66(1) of the RCMP Act).

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<sup>2</sup> Civilian Review and Complaints Commission, *Annual Report 2019-2020*, online: <https://www.crcc-ccetp.gc.ca/en/annual-report-2019-2020> (accessed December 22, 2020)

<sup>3</sup> *Ibid.*

If the Chairperson is of the opinion that it would be in the public interest for the Commission to investigate a complaint instead of the RCMP, the Commission will conduct a Public Interest Investigation (e.g. investigation into the RCMP's investigation of the death of Colten Boushie<sup>4</sup>). That is to say, a Public Interest Investigation is a public (or Chairperson-initiated) complaint investigation conducted by the CRCC rather than the RCMP.

The Commission can also undertake a strategic investigation for the purpose of ensuring accordance with legislation, regulation, ministerial direction, or RCMP policies, procedures or guidelines. These investigations can be initiated by the Commission (e.g. *RCMP's Policies and Procedures regarding Strip Searches*<sup>5</sup>), or at the request of either the Minister of Public Safety (e.g. *Workplace Harassment in the RCMP: Follow-up*<sup>6</sup>), or a provincial minister responsible for policing in a province where the RCMP provides service. The goal of these investigations is to identify systemic issues and make recommendations to prevent recurrence.

Typically, the Commission makes broad-ranging recommendations regarding policies, procedures and training, with the ultimate goal of improving policing and enhancing RCMP accountability. The Commission's recommendations to the RCMP are remedial in nature and are non-binding. The RCMP Commissioner has the discretion to accept or reject the recommendations. However, if a recommendation is not accepted, the Commissioner must provide reasons.

### Systemic racism in policing

The Minister of Public Safety acknowledged to this Committee that Indigenous people, Black Canadians and other racialized people experience systemic racism and disparate outcomes within the criminal justice system. That system includes all police forces, including the RCMP.

Civilian review and complaints is part of the police accountability framework, providing independence and transparency.

In the Commission's 2017 investigation into policing in Northern British Columbia, members of Indigenous communities were asked why they do not make use of the complaints system. The Commission found that many Indigenous people are either unaware of the public complaint process or do not trust it. The process can be excessively bureaucratic and difficult to navigate. This was further confirmed in the 2019 report *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. The Final Report found:

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<sup>4</sup> See online: <https://www.crcc-ccetp.gc.ca/en/chair-initiated-complaint-and-public-interest-investigation-rcmps-investigation-death-colten-boushie>

<sup>5</sup> See online: <https://www.crcc-ccetp.gc.ca/en/review-rcmps-policies-and-procedures-regarding-strip-searches>

<sup>6</sup> See online: <https://www.crcc-ccetp.gc.ca/pdf/harassmentFinR-eng.pdf>

*Existing oversight and accountability mechanisms for police services are largely inadequate and fail to elicit the confidence of Indigenous Peoples.<sup>7</sup>*

The Commission has taken some action to improve the accessibility of the public complaints system including making the public complaint form available in 16 different languages. More recently, the Commission worked closely with the territorial government of Nunavut to ensure that the complaint form and additional materials on the complaints process were available in Inuktitut.

At the behest of Indigenous leaders in Northern British Columbia, the Commission, along with the RCMP, was involved in advancing an informal resolution process put forward by the Hereditary Chiefs. Although the Indigenous Justice Conference has yet to come to fruition, such initiatives are key to combatting systemic racism and restoring public trust, as they are respectful, culturally appropriate and responsive to communities.

The Commission established an internal advisory committee on inclusion, diversity and equity to provide advice to the Chairperson and Senior Management. The committee is currently examining the possible collection of race-based data. However, the Commission still needs to do more to ensure greater accessibility, trust and transparency in the complaints process.

Ultimately, the goal is for people to believe that they can file a complaint with the Commission and be treated fairly, without fear of reprisal. To achieve that, the Commission needs to consult Indigenous and racialized communities to identify and break down the systemic barriers that exist within the current system and implement *THEIR* suggested changes. The Commission and the RCMP must adopt a regime that better serves Indigenous and racialized communities.

In support of these efforts, the Commission would benefit from increased Indigenous and racialized representation, to foster a culturally responsive complaints system.

**Recommendation:** That the Government of Canada appoint an Indigenous person as a member of the Commission, and consider appointing a racialized person as well.

This would be a direct response to the Missing and Murdered Indigenous Women and Girls (MMIWG) Inquiry Call for Justice 9.2(iii):

*9.2 We call upon all actors in the justice system, including police services, to build respectful working relationships with Indigenous Peoples by knowing, understanding,*

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<sup>7</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*, 2019: Volume 1a, p. 690

*and respecting the people they are serving. Initiatives and actions should include, but are not limited to, the following measures:*

[...]

*iii. Ensure appropriate Indigenous representation, including Indigenous women, girls, and 2SLGBTQIA people, on police services boards and oversight authorities.<sup>8</sup>*

### Trust in the complaints system

Civilian review of policing is an essential aspect of maintaining the public trust in the nature and quality of policing in Canada. The only way that the public complaint process works is if people trust the system. Building that trust requires consultation, education and ongoing assessment of outreach efforts.

Public education and outreach is currently discretionary in the RCMP Act. Amending the Commission's mandate to make public education and outreach to Indigenous and racialized communities at statutory requirement, will ensure that the complaints process is better known, understood, and responsive.

<p><b>Recommendation:</b> Amend the RCMP Act to make outreach and public education to Indigenous and racialized communities statutory requirements.</p>
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### Effective oversight

Greater police accountability is achieved through effective oversight, not only for public complaints, but also through reviews of systemic issues, such as the Commission's review of workplace harassment in the RCMP and the recent review of the RCMP's use of strip searches.

Although the Commission has the authority to undertake such reviews, section 45.34(2) of the *Royal Canadian Mounted Police Act* stipulates that, in order to conduct a review on its own initiative, the CRCC must be satisfied that "sufficient resources exist for conducting the [specified activity] review and the handling of complaints under Part VII will not be compromised."

Consequently, the CRCC, faced with a year-over-year increase in the number of public complaints, must evaluate whether it has sufficient resources to undertake these vital examinations of RCMP activities.

Adequate funding of police oversight is an investment in public trust – an essential element of the Peel Principle of policing by consent. However, the Commission's current

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<sup>8</sup> *Ibid* Volume 1b, p.190

budget is a mere fraction of the RCMP budget. Ensuring public confidence in the complaint and review system requires sufficient resources.

**Recommendation:** Ensure the Commission is adequately resourced: to conduct systemic reviews and public interest investigations; undertake outreach and public education to Indigenous and racialized communities; and, be able to collect and analyse gender and race-based data.

#### Strengthen accountability framework

Accountability and transparency are key to addressing systemic issues and bringing about change. A strong accountability framework is essential to upholding the trust of citizens in policing and hence improving the effectiveness and efficiency of law enforcement.

A key element of the complaints system is the RCMP's response to Commission reports. The RCMP Act requires the Commissioner to respond *as soon as feasible*. In 2019, the Commission entered into a Memorandum of Understanding with the RCMP, which establishes that the Commissioner will provide the Chairperson with a written response within 6 months of the CRCC issuing a report.<sup>9</sup> However, responses to Commission interim reports now take an average of 17 months. As of December 15, 2020, there were 158 complaint review reports awaiting RCMP response.

Canadians have a right to know if the Commission's findings and recommendations have been accepted and indeed, if RCMP policies, procedures and training have been adjusted as a result. The old adage that justice delayed is justice denied is highly relevant in this situation.

**Recommendation:** Amend the RCMP Act to include statutory timelines for the Commissioner to respond CRCC reports.

To increase transparency of the complaints system and reassure Canadians that the RCMP is held to a high standard, it is imperative that the RCMP report on the implementation status of the Commission's recommendations. Without such reporting, the Commission is left with having to initiate a follow-up investigation, in order to determine if previous recommendations were sufficiently and appropriately implemented. Given the intent of the Commission's recommendations is to prevent recurrence, adequate implementation is important.

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<sup>9</sup> Civilian Review and Complaints Commission, 2019, *Memorandum of Understanding between the CRCC and the RCMP*: clause 75, online: <https://www.crcc-ccetp.gc.ca/en/mou-crcc-and-rcmp> (accessed December 22, 2020).

**Recommendation:** Amend the RCMP Act to include a statutory requirement that the RCMP report annually, either to the Minister or the Chairperson, on the implementation status of Commission recommendations.

### List of Recommendations

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