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le professionnalisme, la compassion, le respect et la responsabilisation

SEP 02 2020

PROTECTED "A"

Ms. Michelaine Lahaie
Chairperson
Civilian Review and Complaints Commission
for the RCMP
P.O. Box 1722, Station "B"
Ottawa, Ontario
K1P 0B3

Dear Ms. Lahaie:

I acknowledge receipt of the Commission's *Review of the RCMP's Policies and Procedures regarding Strip Searches* in accordance with subsection 45.34(1) of the *Royal Canadian Mounted Police Act*.

I have completed my review of the findings and recommendations set out in the Commission's report on this specified activity.

I agree with the finding that RCMP national *Operational Manual* chapter 21.2. "Personal Search" remains inadequate. In particular:

- Section 3.1.2.2.1., in reference to the removal of undergarments, is unclear;
- Section 3.1.2.4., regarding investigative purpose, is unclear;
- Section 5.1., as it relates to the removal of items prior to detainees being lodged in cells, is unclear; and,
- Sections 5.2. and 5.3., regarding the search and removal of a prisoner's bra, are inadequate, inappropriate, and inconsistent with established jurisprudence.

I support the recommendation that the RCMP amend the national *Operational Manual* Chapter 21.2. "Personal Search" to ensure adequacy, appropriateness, clarity, and consistency with established jurisprudence. I will direct our Contract and Indigenous Policing Branch to amend this policy, specifically sections 3.1.2.2.1., 3.1.2.4. and the entirety of section 5, to ensure greater clarity and ensure it clearly aligns with established jurisprudence.

In addition, I wish to inform the Commission that the Contract and Indigenous Policing Branch has already committed to supporting all divisions concerning compliance with personal search policies and procedures and to ensure that supervisors provide appropriate operational guidance to members on conducting strip searches consistent with established jurisprudence.

I agree with the finding that, although significant improvements have been made to the amended policy, by virtue of its reliance on the RCMP national *Operational Manual* chapter 21.2., "E" Division's policy related to strip searches is inadequate.

I agree with the finding that "F" Division policy section 5.3., directing members to have a second member present during a strip search, is inadequate, inappropriate, and inconsistent with established jurisprudence.

I agree with the finding that "G" Division policy sections 1.3. and 2.2. provide inappropriate and inadequate direction and are inconsistent with established jurisprudence.

I agree with the finding that, by virtue of its reliance on RCMP national *Operational Manual* chapter 21.2., "K" Division's strip search policy is inadequate, insufficient, and unclear.

I support the recommendation that the RCMP revise divisional policies subsequent to making the recommended amendments to national *Operational Manual* Chapter 21.2. "Personal Search."

The Contract and Indigenous Policing Branch will consult with all divisions on the revisions to the RCMP personal search policy. When the national revisions are finalized, "E", "F", "G", and "K" Division policies and other divisions with their own personal search division supplement policy will be updated to ensure they align with the national policy and the established jurisprudence. Division supplements are only required when there are unique circumstances in a division that are not covered by national policies, which is why some divisions do not have any division supplements to the national personal search policy.

I agree with the finding that strip-search training at Depot Division is inadequate and insufficient as it has not been enhanced to ensure that RCMP cadets are cognizant of the legal requirements, policies, and procedures.

I support the recommendation that Depot Division enhance basic training, including scenario-based training (online or in person), to ensure that cadets are aware of the legal requirements and relevant policies and procedures for all types of personal searches.

Depot Division has partially implemented the relevant recommendations from the Commission's 2017 *Final Report into Policing in Northern British Columbia*, with the exception of one recommendation, which is still in progress.

Depot Training Program Support and Evaluation has determined that it was feasible to add scenarios to Module 6 of the Cadet Training Program in which cadets are required to articulate grounds for conducting a strip search. This particular module has been rewritten this fiscal year. The revisions will address the remaining recommendation related to the 2017 Report.

I agree, in part, with the finding that RCMP mandatory national training for members and supervisors in relation to strip searches does not exist.

I agree, in part, with the finding that RCMP divisions do not have mandatory training for members and supervisors in relation to strip searches.

I support the recommendation that the RCMP introduce divisional-level mandatory training to ensure that members are cognizant of the legal requirements, policies, and procedures for strip searches, and that the RCMP include this training in the Operational Skills Maintenance Re-Certification.

It is accurate that, at the time the Commission was conducting its review, there was no mandatory training related to strip searches. After the 2017 Report, the RCMP National Integrated Operations Mandatory Sub-committee worked with the national Learning and Development branch. Material on conducting strip searches was added to the mandatory Operational Skills Training as part of the new Block Training initiative launched in April 2020. It is now standard for all members to receive it as part of their Operational Skills Maintenance Re-Certification.

The revised Block Training national standard includes a new section on police defensive tactics, including a module that focuses on personal searches. The personal searches module provides a review of policy and procedures in relation to strip searches, as well as personal and internal searches, with focus on ensuring proper care when searching a subject. In addition, the module includes discussions on law, jurisprudence, and RCMP policy to provide information about types of searches in various situations, notably in relation to sex and gender. A new lesson on searching transgender persons in custody has also been added to the Block Training syllabus. This builds upon prior learning provided in the Cadet Training Program.

I agree with the finding that RCMP national and divisional personal search policies do not address an appropriate means of recording and tracking strip searches or assessing compliance to facilitate internal or independent review.

I support the recommendation that the RCMP amend its national and divisional *Operational Manual* policies on personal searches to enhance transparency and accountability by ensuring that policies include an appropriate means of recording, tracking, and assessing compliance, thus facilitating internal evaluation and independent review.

The RCMP has amended Prisoner Report Form C-13 to include a checkbox for all types of personal searches. The form, which is to be completed in its entirety, has boxes that require the member to document the following information:

- search type;
- who conducted the search;
- strip search approval;
- reason for strip search;
- where strip search was conducted; and,
- supervisor's signature.

Updates also have been made to operational records management systems so that the prisoner booking application has the ability to electronically record, track, assess compliance, and retrieve data associated with personal searches. The prisoner booking application collects all fields from Prisoner Report Form C-13, ensuring fields pertaining to personal searches are mandatory. The information related to personal searches is available in the database in the event of an audit.

The RCMP, through the Contract and Indigenous Policing Branch, will continue to encourage appropriate resources be committed to make widespread use of this booking application to ensure it is used consistently across all divisions. *Operational Manual* Chapter 21.2. "Personal Search" will be amended to specify that a process must be created at the detachment level to record, track, and assess compliance of all files that result in a strip search.

I agree with the finding that the Iqaluit Detachment has significant member non-compliance with the RCMP's personal search policy and the relevant jurisprudence.

I support the recommendation that the RCMP, particularly in Nunavut, provide operational guidance to members with respect to the handling of vulnerable persons detained (as it relates, for example, to mental health issues and self-harm), and that it consider providing trauma-informed training.

Steps have already been taken to address this finding and the recommendation:

- The report and tasks specific to "V" Division and Iqaluit Detachment were sent to the divisional Commanding Officer and Criminal Operations Officer;
- A review of Iqaluit Detachment practices and procedures regarding personal search has been conducted;
- Iqaluit Detachment has adopted the national personal search policy for all removal of prisoner's undergarments;
- In July 2020, the online course "Using a Trauma Informed Approach" became mandatory for all members in "V" Division;
- A criminal operations communique was disseminated to all members in Nunavut on compliance with the personal search policy regarding appropriate practices and procedures, ensuring adequate supervision, procedures for handling vulnerable persons detained as it relates to mental health issues and self-harm; and,
- Revision of "V" Division policy with respect to personal searches, cell block searches, strip searches, and internal searches has commenced.

In addition, "V" Division will be providing training in mental health first aid with an Inuit-specific context to all members new to the division.

I support the recommendation that RCMP divisions provide operational guidance to members regarding strip search policies, proper articulation of the required reasonable grounds, documentation of the manner in which the search took place, and proper documentation of supervisory approval.

Contract and Indigenous Policing Branch has committed to supporting divisions by amending *Operational Manual* 21.2. "Personal Search" to ensure divisions and supervisors provide appropriate operational guidance for members to conduct strip searches by policy and in alignment with established jurisprudence.

Each divisional Commanding Officer and Criminal Operations Officer has been provided a copy of the report. They were tasked to determine how to increase their members' awareness of and compliance with *Operational Manual* 21.2. "Personal Search". They are also to ensure proper documentation on files for strip searches and adequate supervision of members conducting strip searches.

I support the recommendation that the RCMP consider the Prince George RCMP Detachment's cell block *Operational Manual* ("PRISONERS: Guarding Prisoners/Personal Effects") and Prisoner Report form ("Prisoner Report – Personal Searches [Strip Searches]") as good practice for relevant detachments Force-wide.

A copy of the Prince George RCMP Detachment's cell block manual and the form will be provided to the Contract and Indigenous Policing Branch to help inform amendments to the national policy.

I support the recommendation that the RCMP consider providing relevant detachments with copies of the "Strip Search Policy Advisory" poster utilized at the Surrey RCMP Detachment.

A copy of the Surrey Detachment poster will be provided to the Contract and Indigenous Policing Branch to ensure accuracy from a national perspective. They will seek to add a similar infographic as an appendix to the revised national policy to be available for all detachments to print and post in their cell blocks.

I agree with the finding that the overall supervision of members conducting strip searches, and the subsequent supervisory file review for policy compliance, was inadequate in most of the detachments examined by the Commission.

I do not support the recommendation that the RCMP develop specific supervisor training regarding duties and responsibilities in accordance with National Headquarters *Operational Manual* chapter 21.2. "Personal Search".

As already noted, all RCMP members, including supervisors, attend mandatory Block Training that includes material on personal searches in the module for police defensive tactics. This training provides the knowledge required to perform supervisory duties in relation to strip search, including the need for supervisor review and authorization of a strip search.

The RCMP Supervisor Development Program and Manager Development Program include modules on ethics and conduct and reiterate that RCMP policy must be followed. Ideally, newly promoted corporals attend the Supervisory Development Program shortly after they assume their supervisory position.

The RCMP Career Management Manual Policy requires that a member promoted to corporal after March 31, 2019, must successfully complete the Supervisor Development Program before applying for promotion to sergeant. A member who is promoted to sergeant after March 31, 2018, must successfully complete the Manager Development Program before applying for promotion to staff sergeant.

I support the recommendation that the RCMP provide clearer direction to divisions regarding the use of closed-circuit video equipment during strip searches in order for members to not infringe on the Charter rights of the person being searched.

When revising *Operational Manual 21.2. "Personal Search"*, the Contract and Indigenous Policing Branch will ensure policy gives clear direction to members on respecting the Charter rights of the person being searched while ensuring that an accurate record of the search is obtained. The policy will clarify when, where, and in what way closed-circuit video equipment can be used when conducting a strip search, subject to the technological limitations in detachments across the country.

I agree with the finding that the RCMP's implementation of the recommendations 1, 2, 3, 4, 5, 6, and 10 of the 2017 *Final Report into Policing in Northern British Columbia* is adequate.

I agree, in part, with the finding that the RCMP's implementation of the recommendations 7, 8 and 9 is inadequate.

Since the Commission completed its review, there have been changes to the Cadet Training Program specific to personal searches and further revisions are to be completed in this fiscal year. A revised Block Training initiative for operational skills maintenance was launched in April 2020. A new module on police defensive tactics includes material on personal searches. The national *Operational Manual 21.2. "Personal Search"* was last revised in March 2018 after the 2017 Final Report. However, as I have written in this response, further revisions of the national policy are required to address the related recommendations in this report.

Kindest regards,



Brenda Lucki
Commissioner